

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this town. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (2004 Code, § 8-101)

¹Municipal code reference

Drinking alcoholic beverages in public: § 11-201.

Minors in beer places: § 11-202.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (2004 Code, § 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (2004 Code, § 2-202)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in *Watkins v. Naifeh*, 635 S.W.2d 104 (1982).

Municipal code reference

Drinking alcoholic beverages in public: § 11-201.

Minors in beer places: § 11-202.

Tax provisions: title 5

record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (2004 Code, § 2-203)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. (2004 Code, § 2-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter. (2004 Code, § 2-205)

8-206. "Beer" defined. The term "beer" shall be defined by Tennessee state statute as codified at *Tennessee Code Annotated*, § 57-5-101. (2004 Code, § 2-206, modified)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a two hundred fifty dollars (\$250.00) non-refundable application fee.¹ Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. The application must be made in the name of an individual and the applicant must have a current privilege license issued in the same name as the name in which the beer application is made. The permit shall be prominently displayed in the place of business. Permits are not transferable. (2004 Code, § 2-207)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It

¹State law reference

Tennessee Code Annotated, § 57-5-104.

shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (2004 Code, § 2-208)

8-209. Types of consumption permits. Permits issued by the beer board shall consist of two (2) types:

(1) **On-premises permit.** An on-premises permit shall be issued for the consumption of beer both on and off the premises. To qualify for an on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place;
- (b) Be able to seat a minimum of twenty-five (25) people, including children, in booths or at tables, in addition to any other seating it may have; and
- (c) Have all seating in the interior of the building under a permanent roof.

In addition, the monthly beer sales of any establishment which holds an on-premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales shall have its beer permit revoked.

(2) **Off-premises permit.** An off-premises permit shall be issued for the consumption of beer only off the premises.

(3) **Special event permits.** A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days. To qualify for a special event permit, the applicant must, in addition to meeting all other requirements and restrictions for a beer permit in this chapter, be a bona fide charitable, non-profit, governmental, or political organization that has been recognized as exempt from federal taxes under section 501(c) of the United States Internal Revenue Code. (2004 Code, § 8-209)

8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer by an on-premises permit holder, within five hundred feet (500') of any hospital, school, church, or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be sold, manufactured or stored to the nearest point on the property line of the hospital, school, church or other place of public gathering. (2004 Code, § 8-210)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (2004 Code, § 8-211)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years;

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. on Monday through Saturday and between 12:00 midnight and 12:00 noon on Sunday; or on election days before and while the polls are lawfully open;

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises;

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age;

(5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business;

(6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person;

(7) Allow any person who appears to be intoxicated to loiter about his premises;

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight; or

(9) Purchase beer for resale from anyone other than an authorized wholesaler serving Fayette County. (2004 Code, § 8-212)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual

meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension. (1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

8-215. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606 sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

fifteen (15) days of determination of the sale. The certification shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

8-216. Violations and penalty. Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2004 Code, § 8-215)