

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

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<sup>1</sup>Municipal code references

Drinking beer on streets, etc.: see title 11, section 11-228.

Minors in beer places, etc.: see title 11, section 11-222.

8-101 Definitions. Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise. Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural.

(1) "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits or wine and capable of being consumed by a human being, other than patented.

medicine, beer or wine, where either of the latter has an alcoholic content of one percent (1%) by weight or less.

(2) "Applicant" means the party applying for a certificate or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate or a license.

(4) "Board of mayor and aldermen" or "board" means the Board of Mayor and Aldermen of the Town of Selmer.

(5) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(6) "Certificate" means the certificate provided for in Tennessee Code Annotated, title 57, chapter 3 in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "Corporate limits" means the corporate limits of the town as the same now exist or may hereafter be changed.

(8) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery, either by himself or by his agent.

(9) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

(10) "Establishments dealing in alcoholic beverages." Any business or commercial establishment (whether open to the public at large or where entrance is limited by cover charge or membership requirement) including those licensed by the state for sale and/or service of alcoholic beverages, and any bottle club; hotel; motel; restaurant; night club; country club; cabaret; meeting facility utilized by any religious, social, fraternal; or similar organization; business or commercial establishment where any substance, element, product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that the same will be or is intended to be mixed, combined with or drunk in connection or combination with an alcoholic beverage on the premises of said business or commercial establishment; or business or commercial establishment where the consumption of alcoholic beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcoholic beverages.

(11) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

(12) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(13) "License" means a license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the town.

(14) "License fee" means the fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(15) "Licensee" the holder of a license.

(16) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(17) "Manufacturer" mean and includes a distiller, vintner and rectifier of alcoholic beverages. "Manufacture" means and includes distilling, rectifying and operating a winery or any device for the production of alcoholic beverages.

(18) "Person" shall mean and include an individual, partner, association or corporation.

(19) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

(20) "Retail sale" or "sale at retail" means a sale of any alcoholic beverage to a consumer or to any person for any purpose other than for resale.

(21) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverages, and also any delivery made otherwise than gratuitously of alcoholic beverages; and soliciting or receiving of an order for alcoholic beverages; and the keeping, offering or exposing alcoholic beverages for sale.

(22) "State" means the State of Tennessee.

(23) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated, title 57, chapter 1.

(24) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, title 57, chapter 1) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(25) "State rules and regulations" mean all applicable rules and regulations of the State of Tennessee applicable to alcoholic beverages as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the state.

(26) "State statutes" mean the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

- (27) "Town" means the Town of Selmer, Tennessee.
- (28) "Town recorder" means the town recorder of the town.
- (29) "Vintner" means any person who owns occupies, carries on, works, conducts or operates any winery, either by himself or by his agent.
- (30) "Wholesale sale or sale at wholesale" means a sale to any person for purposes of resale.
- (31) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 1.
- (32) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including also champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced or unless designated as an artificial or imitation wine.
- (33) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the byproduct of wine or where cordials are compounded. (Code of 1977, § 2-101, modified, as amended by ord. #411, May 1992, and replaced by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-102. Federal, state and local regulations applicable. It shall be unlawful for any person either to engage in the business of selling, storing, transporting or distributing any alcoholic beverage within the corporate limits of the town, or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (as added by ord. #411, May 1992, and replaced by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the town. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-104. Granting of wholesaler's license; wholesalers located outside town conducting business in town. (1) Unless hereafter authorized by an ordinance of the town, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the town of any business for the sale at wholesale of any alcoholic beverage.

(2) Any wholesaler, whose business is located outside the town and who holds a valid state license, and who has paid to the town all privilege taxes and fees applicable to such wholesale business, may sell at wholesale any alcoholic beverage to a licensee in the town, and such licensee may purchase any

alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes and by this chapter. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-106. Qualifications of applicant for certificate. To be eligible to apply for or to receive a certificate, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license. If the applicant is a corporation, then such corporation shall be incorporated under the laws of the state. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-107. Application for certificate. (1) Each applicant for a certificate shall file with the town recorder a completed application, on a form to be provided by the town recorder, which shall contain the following information:

(a) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner or stockholder, director, officer or otherwise;

(b) The name of the liquor store to be operated under the license;

(c) The address of the liquor store to be operated under the license, the zoning applicable to such location, and a property tax map showing the location of the building;

(d) The names and addresses of at least three (3) residents of the county who have known each applicant for at least two (2) years;

(e) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages; and

(f) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within ninety (90) days after the license is granted to such applicant.

(2) The application form shall be accompanied by a copy of each application and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with this same application.

(3) The application form shall be signed and verified by each person to have any interest in the licensee either as owner, partner or stockholder, director, officer or otherwise.

(4) If at any time the applicable state statutes shall be changed so as to dispense with the requirement of a certificate, no original or renewal license shall be issued until an application in the same form has been filed with the town recorder.

(5) The town recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board of mayor and aldermen for consideration and action. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-108. Misrepresentation or concealment of material facts. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the town recorder shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-109. General restrictions on issuance of certificates. (1) No certificate shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) No certificate shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and provided, further, that in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

(3) No certificate shall be issued to any person who, within ten (10) years preceding application therefor, shall have been convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing or otherwise handling of alcoholic beverages, or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county or city of the United States; and provided

further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

(4) No certificate shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(5) The town recorder shall not sign and/or certify any certificate for any applicant until:

(a) Such applicant's application has been filed with the town recorder;

(b) The location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store; and

(c) The application has been considered at a meeting of the board and approved by the vote of at least three (3) members thereof. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-110. Application fee and application filing. A nonrefundable fee of three hundred fifty dollars (\$350.00) shall accompany the application for a certificate. An application must be received by the 15th of the month preceding the board of mayor and aldermen meeting at which the application will be considered to allow the town authorities time to conduct the proper background checks. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-111. Miscellaneous restrictions on licensees and their employees.

(1) Manufacturer's, wholesaler's interest in licensee's rental or revenues. It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(2) Disclosure of interest in business. It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director or officer, or to participate, either directly or indirectly, in the profits of, any business for which a license is granted hereunder, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall have been fully disclosed in writing by supplement to the application filed with the town recorder and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure

of the proposed acquisition of such interest shall be upon both the seller and the purchaser.

(3) Employment of persons under eighteen (18); permitting minors on premises. No licensee shall employ in the storage, sale or distribution of alcoholic beverages to a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(4) Employment of persons convicted of felony involving moral turpitude; discharge of convicted employee. No licensee shall employ in the sale of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted, he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(5) Soliciting, receiving orders. No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residences or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This subsection shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(6) Deleted.

(7) Location of liquor stores on ground level; requirements for ingress and egress. Liquor stores shall be located in the town on the ground floor level only. Each liquor store shall have only one (1) main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverages at retail; provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(8) Additional provisions applicable if licensee a corporation. If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in, or who is an officer or director in, such corporate licensee shall have any interest as an owner, stockholder, officer, director or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverages in the state or in any other place;

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.



(9) Recorder's duty upon licensee's failure to operate during normal business hours. If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the town recorder shall forthwith report such fact to the state alcoholic beverage commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(10) Management of liquor store. Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or by a partner or corporate officer, if the licensee is a partnership or corporation. In every case where any alcoholic beverage is sold by a licensee that is either a partnership or a corporation, the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the town recorder. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*, and amended by Ord. #684, Nov. 2020 *Ch8\_06-29-23*)

8-112. License deemed a privilege; revocation or suspension. (1) The issuance of a license hereunder shall vest no property rights in the licensee, and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations.

(2) In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee, or by any person for whose acts the licensee is responsible, then the mayor shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or its successor and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-113. Display of license. The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-114. Location of liquor stores in liquor and zoning districts. (1) A liquor store shall be located within a zoning district classified as either a B-1, B-2 and B-M District, as provided in the Zoning Ordinance of the Town of Selmer, Tennessee, and as shown on the Zoning Map of Selmer, Tennessee, as in effect on the date of any application for a license hereunder.

(2) All provisions of the Zoning Ordinance of the Town of Selmer, Tennessee, including but not limited to those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking,

which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No radios, televisions, record players, pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches or otherwise and no campaign material shall be placed, displayed or dispensed on the premises of any liquor store. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-115. Transferability of license. A licensee shall not sell, assign, give, pledge or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another location without the prior written approval of the board. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

8-116. Sales to underage persons and persons visibly intoxicated prohibited. It shall be unlawful for any licensee to sell, furnish or give away any alcoholic beverage to any person who is under twenty-one (21) years of age (hereinafter also referred to as "underage"), or to any person who is visibly intoxicated. It shall be unlawful for any underage or visibly intoxicated person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store, with the exception that an underage person may enter the store only when accompanied by a parent, legal guardian or spouse. It shall be unlawful for a licensee to knowingly allow any underage person, not accompanied by a parent, legal guardian or spouse, or any visibly intoxicated person to enter or remain in the licensee's liquor store or any part of the licensee's premises adjacent to the liquor store. It shall be unlawful for any underage or visibly intoxicated person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a person under twenty-one (21) years of age to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy an alcoholic beverage from any licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to an underage or visibly intoxicated person. Licensee shall have the authority, but shall not be required, to obtain the identification and ascertain the age of any person upon entering a liquor store or remaining on the licensee's premises adjacent to the liquor store. Licensee shall have the authority to require any underage or visibly intoxicated person to leave the liquor store and/or licensee's premises adjacent to the liquor store. Failure by an underage or visibly intoxicated person to leave the liquor store and/or licensee's premises

adjacent to the liquor store upon licensee's request shall constitute prima facie evidence of trespass. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-117. Consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store or on the premises used by the licensee in connection therewith, except as permitted under Tennessee Code Annotated, § 57-3-404(h). It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-118. Public drinking and display prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit or show an unsealed bottle containing any alcoholic beverage in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, theater, stadium, school or school ground. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-119. Inspection fee. Under the authority of Tennessee Code Annotated, § 57-3-501, there is hereby levied on each licensee of the town an inspection fee in the maximum amount allowed in § 57-3-501 of the wholesale price of alcoholic beverages supplied in the town. The inspection fee shall be collected and paid to the town as prescribed by Tennessee Code Annotated, §§ 57-3-502--503. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-120. Funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the town. The town shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the town in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-121. Violations of federal and state regulations by licensee deemed violation of chapter. Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages shall be guilty of a violation of the provisions of this chapter. (as added by Ord. #653, Feb. 2016 **Ch8\_06-29-23**)

8-122. Vintners and wineries excluded. Notwithstanding foregoing sections of this chapter, a vintner issued a valid winery license pursuant to the

Grape and Wine Law of the State of Tennessee as set forth in Tennessee Code Annotated, § 57-3-207 is exempt from the prohibitions and requirements of this chapter 1, title 8 of the Town of Selmer Municipal Code which regulates intoxicating liquors. The activities of such vintner shall be regulated by the Grape and Wine Law of the State of Tennessee and the state regulations promulgated in accordance therewith. (as added by Ord. #653, Feb. 2016 *Ch8\_06-29-23*)

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. Beer board; duties and powers.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Definitions.
- 8-206. Permit required for engaging in beer business; privilege tax.
- 8-207. Beer permits shall be restrictive.
- 8-208. Issuance of permits to aliens prohibited.
- 8-209. [Deleted.]
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Suspension and revocation of beer permits; civil penalty in lieu of suspension.
- 8-213. [Deleted.]
- 8-214. [Deleted.]
- 8-215. Surrender of beer license.
- 8-216. Permit for retail sale of beer and consumption of beer on the premises.
- 8-217. Enforcement.

8-201. Beer board; duties and powers. The board of mayor and aldermen shall serve as the city beer board to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the Town of Selmer, Tennessee in accordance with the provisions of the state law and this chapter. The mayor should act as chairman unless he appoints a member of the board to serve as chairman. (Code of 1977, § 2-201, as replaced by ord. #411, May 1992)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the town hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives a

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<sup>1</sup>Municipal code references

Minors in beer places, etc.: see title 11, chapter 2.

Tax provisions: see title 5.

State 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).

reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Code of 1977, § 2-202, modified, as replaced by ord. #411, May 1992)

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 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. (Code of 1977, § 2-203, modified, as replaced by ord. #411, May 1992)

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. (Code of 1977, § 2-204, modified, as replaced by ord. #411, May 1992)

8-205. Definitions. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight.

As used herein, when the context permits, the word person or persons shall be deemed to include natural persons as well as firms, corporations, joint stock companies, syndicates, associations, and any other type of business organization, as well as clubs, societies, and fraternities. (Code of 1977, § 2-206, as replaced by ord. #411, May 1992)

8-206. Permit required for engaging in beer business; privilege tax.

(1) 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 pursuant to T.C.A. 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250). Said fee shall be in the form of a cashier's check payable to the Town of Selmer. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter.

(2) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive

January 1, to the Town of Selmer, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Code of 1977, § 2-207, as replaced by ord. #411, May 1992 and ord. #425, June 1994)

8-207. Beer permits shall be restrictive. (1) 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.

(2) Subject to all the other provisions of this chapter, beer permits for the retail sale of beer shall be divided into two (2) types:

(a) permits may be issued by the board to authorize the sale of beer for on premises consumption.

(b) permits may be issued by the board to retail stores for the sale of beer exclusively for carry-out, off premises consumption.

(3) 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 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 board. (Code of 1977, § 2-208, modified, as replaced by ord. #411, May 1992)

8-208. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted to any person not a citizen of the United States or a resident alien who has legal status in the United States. (Code of 1977, § 2-208, modified, as replaced by ord. #411, May 1992, and Ord. #552, April 2007)

8-209. [Deleted.] (Code of 1977, § 2-210, as replaced by ord. #411, May 1992 and further replaced by ord. #421, June 1993, and deleted by Ord. #649, May 2014 **Ch8\_06-29-23**)

8-210. 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. (Code of 1977, § 2-211, as replaced by ord. #411, May 1992)

8-211. 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. during any night of the week or before 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 drunk persons 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.

(9) Allow gambling on his premises.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(11) Employ any minor under nineteen (19) years of age in the sale, storage, distribution, or manufacture of beer.

(12) Fail to have his place of business cleared of all customers by 12:15 A.M. This part is applicable only to beer permit holders who have a permit for on-premises consumption in accordance with § 8-216.

(13) Allow himself or anyone working for him to consume any intoxicating beverage while on duty at the establishment.

(14) Serve or sell or allow to be served or sold any beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on his premises.

(15) Allow assaults, fighting, damaging property and breaches of the peace occurring on or in the premises where beer is sold.

(16) Allow the sale or possession of beer on the premises on which the state beer barrelage tax and the city and county wholesale beer tax have not been paid.

(17) Allow the sale of beer to any person at any establishment licensed for the sale of beer without said person having proof of age on that person available to be shown on request of the holder of the beer permit or his agents and employees or upon request of law enforcement personnel of the Town of Selmer, Tennessee.

(18) To organize or promote, or allow the customers of the beer permit holder to organize or promote, for profit, advertisement or for the entertainment of its customers at any business location licensed for the sale of beer any intentional display of the unclothed, naked body or any part thereof or any intentional display of the naked body or any part thereof through opaque clothing.



(19) Allow his permit to be used by another. A beer permit is not transferrable and is null and void if used by anyone other than the permit holder. (Code of 1977, § 2-212, modified, as replaced by Ord. #411, May 1992, and amended by Ord. #554, May 2007, and Ord. #637, May 2014 *Ch8\_06-29-23*)

8-212. Suspension and revocation of beer permits; civil penalty in lieu of suspension. 1. Suspension and revocation 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, failing to pay any applicable taxes or license fee, or of violating any of the provisions of this chapter, or whenever it satisfactorily appears that the premises of any permit holder are being maintained and operated in a manner detrimental to public health, safety, or morals.

The beer board will suspend any beer permit for a period from ten (10) days to six (6) months for the first violation of this chapter and may revoke any beer permit on the second violation except for the sale of beer to minors which may cause the permit to be either suspended or revoked on the first offense. If the beer board determines that a suspension of a beer permit is the appropriate penalty for the first offense for sale of beer to minors, then such period of suspension shall be not less than thirty (30) days, it being the specific intent that a thirty (30) day suspension of a beer permit shall be the mandatory minimum penalty for such an offense. However, and notwithstanding this stated mandatory minimum, this shall not affect the right and authority of the beer board to impose a civil penalty in lieu of suspension as stated in § 8-212(2). However, no beer permit shall be revoked until a public hearing is held by the board with reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the chief of police, city judge or by any member of the beer board. The beer board shall have the power to adopt and prescribe the rules and regulations to be followed in such hearings. When a permit is revoked, the permit holder shall be ineligible to receive a permit for the sale of alcoholic beverages at any location until after the expiration of one (1) year from the date that the revocation becomes final and effective.

2. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed \$1,000 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. (Code of 1977, § 2-213, as replaced by Ord. #411, May 1992 and amended by Ord. #425, June 1993, Ord. #555, May 2007, and Ord. #635, May 2014 *Ch8\_06-29-23*)

8-213. [Deleted.] (as added by ord. #411, May 1992, and deleted by Ord. #683, Nov. 2020 *Ch8\_06-29-23*)

8-214. [Deleted.] (as added by Ord. #411, May 1992, and replaced by Ord. #532, May 2006, and Ord. #571, Feb. 2008, and deleted by Ord. #609, Dec. 2011)

8-215. Surrender of beer license. Anyone who is issued a beer license by the beer board agrees that he will voluntarily return it to the city recorder in the event the permit is revoked or if his use of the permit is either voluntarily or involuntarily terminated. (as added by ord. #411, May 1992)

8-216. Permit for retail sale of beer and consumption of beer on the premises. 1. No permit for the retail sale of beer and the consumption of beer on the premises shall be issued except to restaurants and clubs. For the purposes of this section the following definitions shall apply:

a. A restaurant is defined as a public place which is kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, and which is provided and equipped with adequate and sanitary facilities and a seating capacity indoors of at least twenty-five (25) people at tables, and having a sufficient number of employees to prepare, cook and suitably serve food for the guests.

Restaurants that hold beer permits must show that seventy-five percent (75%) of their gross sales of the business are from food and shall submit annually a certified statement that they are in full compliance of this section and that seventy-five percent (75%) of the gross sales are from food. The statement should be submitted to Town of Selmer Recorder no later than January 15th of each year.

b. "Club" means a nonprofit association organized and existing under the laws of the state of Tennessee, which has been in existence and operating as a nonprofit association at least two (2) years prior to the application for a license hereunder, having at least one hundred (100) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member.

2. All persons, partnerships or corporations who have a valid permit (license) for on premises sale and consumption of beer as of the date of the third (3rd)<sup>1</sup> reading of this ordinance shall be exempt from the provisions of this section. The permits currently held by on premises consumption permit holders

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<sup>1</sup>Ord. #422 from which these provisions were taken passed third reading Sept. 14, 1993.

shall immediately and automatically expire upon the happening of any one of the following events:

a. The permit holder dies, sells, gives away, or in any way whatsoever alienates all or a part of his interest in the business.

b. The permit holder for any reason whatsoever, including the suspension of his license, ceases for more than thirty (30) days in one calendar year to operate a business for which the on premises consumption permit was issued.

c. The permit holder's license is revoked for any violation of the beer ordinance of the Town of Selmer, Tennessee. (as added by ord. #422, Sept. 1993, and amended by Ord. #438, § 1, April 1995)

8-217. Enforcement. It shall be the duty of the Selmer Police Department to enforce all provisions of this chapter, state laws, and other rules or regulations set forth for permit holders. Officers may enter upon the premises of a permit holder any time during the normal operating hours for the purpose of enforcement. (as added by Ord. #553, April 2007)

## CHAPTER 3

WINE IN RETAIL FOOD STORES

## SECTION

8-301. Inspection fee on retail food store wine licenses.

8-301. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in Tennessee Code Annotated, § 57-3-501 et.al., there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be eight percent (8%) of the wholesale price of alcoholic beverages as defined in Tennessee Code Annotated, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (as added by Ord. #661, Dec. 2016 *Ch8\_06-29-23*)