

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

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

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinance², 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. (1977 Code, § 2-101)

¹State 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. Definitions. Whenever used in this chapter, unless context requires otherwise:

(1) "Agent, servant and employee" means the person who is employed by the applicant or permittee as defined in this chapter.

(2) "Alcoholic beverage" or "beverage" means beer or other beverages containing an alcoholic content of five percent (5%) by weight, or less.

(3) "Applicant" means the person, persons, firm, or corporation who or which shall be the owner of the business which beer shall be sold at retail.

(4) "Board" means alcoholic beverage control board (ABC board) hereby created by the ordinance comprising this chapter.

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).

(5) "Permit" means the instrument issued to authorize the sale of beer containing an alcoholic content of five percent (5%) by weight, or less.

(6) "Permittee" means the person in whose name the permit is issued, and who shall be responsible for the operation of the premises, along with the owner or owners.

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

(8) "Retailer" means any person who sells at retail any beverage for the sale of which a permit is required under the provisions of this chapter.

(9) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (Ord. # ____, Sept. 1985)

8-202. Lawful to transport, store, sell, etc. beer, etc. It shall hereafter be lawful to transport, store, sell, distribute, possess, or receive beer or alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the corporate limits of the Town of Sharon, subject to all of the regulations, limitations and restrictions hereinafter provided, and subject to the rules and regulations promulgated by authorized public officials or boards. (Ord. # ____, Sept. 1985)

8-203. Alcoholic beverage control board (ABC board) created; appointment and qualification of members; term. There is hereby created a board of five (5) members, to be known as the Alcoholic Beverage Control Board (ABC Board) of the Town of Sharon, Tennessee, consisting of the mayor, and the four (4) aldermen of the board of mayor and aldermen. The Chief of Police of the Town of Sharon, Tennessee, shall serve in an ex officio capacity and advisor of the board. Only members of the board are entitled to vote in proceedings of the board. In all matters where voting is required, there must be a majority vote of the entire board. The Sharon Police Department shall serve the board as an investigatory and an enforcement agency of the board, members of the board shall serve by virtue of their office of mayor and aldermen, each's term running concurrently with his elected office. (Ord. # ____, Sept. 1985)

8-204. Alcoholic beverage control board; authority to adopt rules. The ABC board is responsible for, and by this chapter is vested with, the authority to adopt all rules and regulations for the effective administration and enforcement of the provisions of this chapter, subject to the approval of the town board of mayor and aldermen. (Ord. # ____, Sept. 1985)

8-205. Alcoholic beverage control board (ABC board) oath. Members of the board shall, upon their appointment being duly approved by the town board of mayor and aldermen, take an oath before the city recorder to faithfully perform the duties imposed upon them without fear or favor, and in

full accordance with the Constitution and laws of the State of Tennessee, and the ordinances of the Town of Sharon. (Ord. #____, Sept. 1985)

8-206. Permit required. No person shall engage in the retail selling, retail distributing or storing of beer or other beverage of alcoholic content of not more than five percent (5%) of such weight, volume or alcoholic content or as allowable by the statutory laws of the State of Tennessee, or other beverage of like alcoholic content within the corporate limits of the Town of Sharon, until he/she shall receive a permit to do so from the ABC Board of the Town of Sharon, which permit shall at all times be subject to all of the limitations and restrictions herein provided. (Ord. #____, Sept. 1985)

8-207. Restrictions upon granting of permits. No permit shall be issued to sell any beverage coming within the provisions of this section:

(1) In violation of any provisions of the State of Tennessee law;

(2) In violation of the Zoning Ordinance of the Town of Sharon;

(3) Where such sales will cause congestion of traffic, or interference with schools, churches or other places of public gathering or otherwise interfere with public health, safety or morals, and the judgment of the board on such matters shall be final, except as same is subject to review at law;

(4) Where such premises are less than one hundred (100) feet from a school, church, or other public building used for public assembly. The determination of whether or not such premises are less than one hundred (100) feet shall be by the measurement from the building at which sales are made in a straight line to the building which is used for a school, church, or other public building for public assembly.

(5) There shall be two (2) types of permits issued, which are as follows:

(a) Type I. Retail grocery stores, food markets, and convenience stores which shall be only for off premises consumption.

(b) Type II. Private, recreational or social clubs, restaurants, lounges, bars, which will be for either on premises or off premises consumption, with the closing hours being 12:15 o'clock A.M., prevailing time.

(6) The number of permits issued by the ABC board shall not exceed one Type I permit per four hundred (400) residents of the Town of Sharon, Tennessee, and one Type II permit per sixteen hundred (1600) residents (or major fraction thereof) of the Town of Sharon, Tennessee, based on the Federal Census of 1980 and each subsequent census taken thereafter. (Ord. #____, Sept. 1985)

8-208. Application for permit; requirements as to applicants; regulations to be followed. Before any permit is issued by the board, the applicant therefore shall file with such board a sworn petition in writing on forms prescribed and furnished by the board and shall establish the following:

(1) That the applicant shall not be less than twenty-one (21) years of age; or, if an association, that all the members thereof are not less than twenty-one (21) years of age.

(2) That the applicant must submit information in support of financial responsibility and in such form and materiality as the board shall request.

(3) That the applicant or applicants own such premises or otherwise control the premises by lease for a period of not less than one (1) year.

(4) That no person will be employed in the storage or sale of such beverages except those who are citizens of the United States.

(5) That the applicant will not engage in the sale of such beverages except at the place or places for which the board has issued permit or permits to such applicant.

(6) That no sale of such beverages will be made except in accordance with the permit granted.

(7) That, if the application is for a permit to sell, not for consumption on the premises, no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof.

(8) That no sale will be made to persons under the age of twenty-one (21) years, and that the applicant will not permit persons under the age of twenty-one (21) years or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business.

(9) That the board may require the applicant to acquire a certificate or a statement from the town health officer that the premises which the application covers meets the requirements of § 8-218 of this chapter.

(10) That the applicant will not allow gambling or gambling devices on his premises.

(11) That the applicant will not allow any liquor with alcoholic content greater than five percent (5%) to be consumed on his premises.

(12) That neither the applicant nor any persons employed or to be employed by him/her in such distribution or sale of such beverage has ever been convicted of any violation of the law against any prohibited sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(13) That the applicant will conduct the business in person, for himself or herself, or, if he/she is acting as agent, the agent shall state the person, firm or corporation, or association whom and only for whom the applicant intends to act. (Ord. # ____, Sept. 1985, modified)

8-209. Revocation of permit; suspension of permit; hearing action of board final. All permits issued by the board under the provisions of this chapter shall be subject to the suspension or revocation by said board for the violation of any of the provisions of this chapter.

The board created by the ordinance comprising this chapter is vested with full and complete power to investigate charges against any permit holder and

to cite any permit holder to appear and show cause why his permit should not be revoked for the violation of the provisions of this chapter.

Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When such board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter, such board is authorized, in its discretion, to notify the permittee of said violation and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by certified letter or by a member of the Police Department of the Town of Sharon. The notice shall be served upon the permittee at least five (5) days before the date of the hearing. At the hearing, such board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, such board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by a court of competent jurisdiction. (Ord. #____, Sept. 1985)

8-210. Issuance of permits to clubs. It shall be lawful for the board to issue a permit for the sale of any beverage coming within the provisions of this section to clubs or lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all limitations and restrictions contained in the permit provided by this chapter and any ordinance amendatory hereof. (Ord. #____, Sept. 1985)

8-211. Permit fee. Each application for a permit shall be accompanied by the payment of two hundred fifty dollars (\$250.00). This fee of two hundred fifty dollars (\$250.00) shall be used to defray the costs of investigation of the applicant. If the application is approved, then such two hundred fifty dollar (\$250.00) fee shall also serve as the permit fee from the time the application is approved until the last day of the month of June next following such approval. No application shall be considered by the board unless it is accompanied by the payment of the aforesaid two hundred fifty dollar (\$250.00) fee. No sale of any beverage coming within the provisions of this chapter shall be made until the application has been approved by the board. (Ord. #____, Sept. 1985, modified)

8-212. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (Ord. #____, Sept. 1985)

8-213. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by

purchase, or otherwise, of the business for which the permit was issued; and, in either case, a new permit is required in the manner provided herein. (Ord. #____, Sept. 1985)

8-214. Sale to intoxicated persons prohibited; partitions, where required; proper sanitary facilities required. Hereafter, it shall be unlawful and it is hereby declared to be a misdemeanor for any persons, firm, corporation or association, engaged in the business regulated hereunder, to make, or permit to be made, any sales or distribution of such beverages to persons visibly intoxicated or known to habitually drink alcoholic beverages in excess; to sell or distribute such beverages to persons who are insane or mentally defective; to fail to provide proper sanitary facilities where such beverage is permitted to be consumed on the premises; or to sell or distribute beverages at any place where pool or billiards are played, unless the sale or distribution of such beverages is made in the front of such room or place where a partition wall separates the place from the pool or billiard parlor. (Ord. #____, Sept. 1985)

8-215. Fraudulent evidence of age, etc., misdemeanor. (1) It shall be unlawful for any person under the age of twenty-one (21) years to purchase or attempt to purchase or for any person to purchase for or on behalf of any person under the age of twenty one (21) years, any beverage regulated hereunder, and it shall be unlawful for any person under the age of twenty one (21) years to possess any such beverage upon the premises where on-premises consumption is allowed;

(2) It shall be unlawful for any person under the age of twenty one (21) years to present or offer to permittee, his agent, servant or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase or otherwise procuring or attempting to procure such beverage;

(3) Any person under the age of twenty one (21) years who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and shall be taken before the juvenile judge, if a juvenile, or the judge of a court of competent jurisdiction, if an adult, for appropriate disposition;

(4) Any other person who acts in violation of any one or more of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars (\$50.00). (Ord. #____, Sept. 1985)

8-216. Hours of sale. It shall be hereafter unlawful and it is hereby declared to be a misdemeanor for any person, persons, firm, corporation or association to sell or distribute any of such beverages regulated hereunder, within the corporate limits of the Town of Sharon between the hours of three o'clock (3:00) A.M. and ten o'clock (10:00) A.M. daily. No such beverage shall be

consumed or opened for consumption on or about the premises of the permittee in either bottle, glass, or other container after three fifteen (3:15) A.M. (Ord. #____, Sept. 1985, modified)

8-217. Sanitation for premises governed by a type II permit. Any person holding a Type II permit under this chapter (as defined in § 8-207 of this chapter), shall keep and maintain the premises in a clean and sanitary condition, the requirements of which shall be the equivalent of that required for a rating of Class "B" or better, as established by the Tennessee State Department of Conservation, Division of Hotel and Restaurant Inspections. The town health officer or any properly authorized person is hereby authorized to enter the premises of any Type II permittee, at all reasonable hours, for the making of such inspections as may be necessary. The determination of the sanitary conditions is solely a question for the board. (Ord. #____, Sept. 1985)

8-218. Penalty for violation. Each day's violation of each or any section of this chapter by a permit holder, or each sale made in violation of any provisions of this chapter shall constitute a separate misdemeanor which shall be punishable by fine of not less than one dollar (\$1.00) nor more than fifty dollars (\$50.00), or by suspension or revocation of the permit issued hereunder, or by such fine or suspension or revocation. (Ord. #____, Sept. 1985)