

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 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, "homebrew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. (Ord. #45-2005, May 2005)

¹Municipal code references

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

State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the board of mayor and aldermen. All members of the beer board shall be citizens of the town. They shall be appointed for five (5) year terms except that the first members shall be appointed for staggered terms so that the term of one (1) member shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (Ord. #45-2005, May 2005)

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

¹Municipal code references

Tax provisions: 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).

gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1992 Code, § 8-202)

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 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. (1992 Code, § 8-203)

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. (Ord. #45-2005, May 2005)

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. (1992 Code, § 8-205)

8-206. "Beer" defined. 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. (Ord. #45-2005, May 2005, 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 pursuant to Tennessee Code Annotated, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Surgoinsville. 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. The permit holder must have a direct financial connection to the business, either owner, partner, or manager. (Ord. #041095, May 1995)

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 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. (1992 Code, § 8-208)

8-209. Permits for the retail sale of beer. Permits for the retail sale of beer shall be restricted to the sale of beer to be consumed on and off the premises. The issuance of a beer permit in no way authorizes the sale of liquor. (Ord. #45-2005, May 2005)

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. (1992 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. (1992 Code, § 8-211)

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

- (1) Be within three hundred (300) feet of any church, school, or public gathering that would otherwise interfere with traffic, public health, safety, and morals.
- (2) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M. during any night of the week; except, on Sunday, make or allow between 3:00 A.M. and 10:00 A.M.
- (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 property.
- (8) 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.
- (9) Fail to provide and maintain unisex or separate sanitary toilet facilities for men and women.

(10) Fail to maintain proper visibility in the front windows at a height of at least five (5) feet from the pavement. (Ord. #041095, May 1995, as amended by Ord. #36-2003, Jan. 2004, Ord. #42-2004, Jan. 2005, and Ord. #45-2005, May 2005)

8-213. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke 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. A permit holder whose permit has been revoked by the beer board shall not be eligible to receive another beer permit for a period of ten years thereafter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (1992 Code, § 8-213)

8-214. Advertising the sale or distribution of beer. It shall be unlawful for more than one sign advertising the sale or distribution of beer or alcoholic beverages to be displayed in the front of any establishment conducting the sale or distribution of beer. It shall further be unlawful for the size of said sign indicating the sale or distribution of beer to be larger than twenty-four (24) inches by sixty (60) inches. The sign can be of flat or shingle type. The sign cannot advertise or display brand names, pictures, numbers, prices, or diagrams relating to beer and if illuminated, moving or flashing lights are prohibited. (Ord. #45-2005, May 2005)

8-215. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). 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 Surgoinsville, 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. (1992 Code, § 8-215)

8-216. 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 one thousand five hundred dollars (\$1,500.00) 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. 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.

The beer board may, at the time it imposes a revocation or suspension for making or allowing any sale of beer to a person under twenty-one (21) years of age, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars (\$1,500.00) for each offense nor to be less than two hundred dollars (\$200.00) for the first offense, less than five hundred dollars (\$500.00) for the second offense, less than five hundred dollars (\$500.00) and a ten (10) day suspension for the third offense, less than revocation for the fourth offense. The beer board shall have the authority and power to review each case individually and make adjustments. (Ord. #45-2005, May 2005)