

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 city. "Intoxicating liquor" is defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101. (1995 Code, § 8-101)

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. Beer board established. There is hereby established a beer board to be composed of the Waynesboro Board of Commissioners. The mayor shall be the chairman of the beer board. (1995 Code, § 8-201)

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 city 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 reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1995 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.,

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).

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. (1995 Code, § 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. Any member present but not voting shall be deemed to have cast a "nay" vote. (1995 Code, § 204)

8-205. Powers and duties of the beer board. The beer board shall regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this city in accordance with the provisions of this chapter. (1995 Code, § 8-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (1995 Code, § 206)

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*, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Waynesboro. 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. (1995 Code, § 8-207)

8-208. 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 to the City of Waynesboro, 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. (1995 Code, § 8-208, modified)

8-209. 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. (1995 Code, § 8-209)

8-210. Types of consumption permits. Permits issued by a the beer board shall consist of one (1) type.

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Off-premises permit. An off-premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off-premises permit, an establishment must, in addition to meeting the other regulations in this chapter:

- (1) Be a grocery store or a convenience type market; and
- (2) In either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline; and
- (3) Have been in continuous operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment that holds an off-premises permit shall not exceed seventy percent (70%) of the gross sales of the establishment. Any establishment which for two (2) consecutive months or for three (3) months in any calendar year has sales exceeding seventy percent (70%) of its gross sales, shall have its beer permit revoked. (1995 Code, § 8-210, as amended by Ord. #795, June 2014)

8-211. 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 at places within two hundred fifty feet (250') of any school, church or other place of public gathering measured in a straight line¹ 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. (1995 Code, § 8-212, as amended by Ord. #797, June 2014)

¹State law reference

See *Watkins v. Naifeh*, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

8-212. 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. (1995 Code, § 8-213)

8-213. 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 sales of beer between the hours of 12:00 Midnight and 6:00 A.M. on Monday through Saturday, and between the hours of 12:00 Midnight and 6:00 P.M. on Sundays, or on election days before and while the polls are lawfully open. In no event will on-premises sales of beer on Sundays be allowed;

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

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

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

(6) Allow drunk persons to loiter about his premises;

(7) Allow dancing on his premises, except for "Grandfathered" establishments;

(8) Allow pool or billiard playing in the same room where beer is sold;
or

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

In addition, it shall be unlawful for any permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever. (1995 Code, § 8-214, as amended by Ord. #787, June 2013)

8-214. Suspension and revocation of beer permits. The beer board may 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. 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. (1995 Code, § 8-215)

8-215. 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. (1995 Code, § 8-216)