

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 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 the Town of Whiteville. "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. (1979 Code, § 2-101)

¹Municipal code reference

Prohibiting drinking beer, etc., on the streets, etc.: title 11.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 6.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 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. Powers and duties of the beer board.
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- 8-208. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without additional compensation. (1979 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, the board of mayor and aldermen shall adjourn their regular meeting and shall reconvene as the beer board. The beer board shall hold its meetings on the same day and time as the regular board of mayor and aldermen meeting. (1979 Code, § 2-202)

¹State law reference

For a leading case in Tennessee on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104, 1982). 203 S.W. 2d 593.

Municipal code references

General business regulations: title 9.

Tax provisions: title 5.

Provisions prohibiting minors in beer places and prohibiting drinking beer on streets, etc.: title 11.

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. (1979 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. Any member present but not voting shall be deemed to have cast a "nay" vote. (1979 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 the Town of Whiteville in accordance with the provisions of this chapter. (1979 Code, § 2-205)

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. (1979 Code, § 2-206)

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 a form, prescribed by the beer board. Notice of application for beer permit must be published twice, with the first publication at least thirty (30) days prior to the beer board meeting. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. (1979 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. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. 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. Beer

permits are issued for one location only. No beer permit shall be subject to transfer or assignment. No permit will be issued to a spouse, child, relative, employee, or other person having any interest in the business of a licensee whose beer permit has been revoked in the past twelve (12) months. (1979 Code, § 2-208)

8-209. 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 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 storage, sale, or manufacture of beer at places within one hundred (100) meters of any school, church, or government office building measured along street rights of way. No permits shall be issued for an area zoned residential.

No permit shall be issued for sale of beer from any portable, mobile, or temporary type building, or any building of less than five hundred square feet.

Advertisements for beer visible outside any establishment are limited to one sign only and may not total more than twenty (20) square feet on both sides. (This provision does not apply to any advertisements existing at the time the provisions of this chapter were passed, or existing at the time of annexation of any establishment.) (1979 Code, § 2-210)

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 of violation of the liquor or drug laws, or any crime involving moral turpitude within the past ten (10) years. (1979 Code, § 2-211)

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 violation of the liquor or drug laws or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to stores whose gross revenue is derived at least 51% from the sale of foodstuffs).

(3) Make or allow any sale or distribution of beer on the premises between the hours of 12:00 midnight and 6:00 a.m. during any night of the week. On Sunday, the hours for making or allowing any sale or distribution of beer shall be from 12:00 noon until 12:00 midnight.

It is further prohibited to make or allow any sale or distribution of beer on election day before and while the polls are lawfully open.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

- (5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.
- (6) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.
- (7) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (8) Allow drunk or disreputable persons to loiter about his premises.
- (9) 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.
- (10) Allow gambling on his premises.
- (11) Allow dancing on his premises. (1979 Code, § 2-212, modified)

8-212. 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 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 proceedings may be initiated by the police chief or by any member of the board of mayor and aldermen. (1979 Code, § 2-213)