

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

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8-101. Definitions. Whenever used in this chapter unless the context requires otherwise:

¹State law reference

Tennessee Code Annotated, title 57.

Municipal code reference

Authorization for police officers to investigate violation of T.C.A., § 57-4-204: § 6-108.

(1) "Alcoholic beverage" or "beverages" or "intoxicating liquor" mean and include alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, and wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) have an alcoholic content of five percent (5%) by weight or less.

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

(3) "Retailer" or "dealer" means any person who sells at retail any beverage covered by this chapter.

(4) "Person" means any natural person as well as any corporation, partnership, firm, or association.

(5) "City council" refers to the city council of the City of Dickson.

(6) "City" means the City of Dickson, Tennessee.

(7) "Domicile" means and includes present and continuous actual physical residence with an established permanent residence.

(8) Words importing the masculine gender shall include the feminine and the neuter, and a singular shall include the plural. (1980 Code, § 2-101)

8-102. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess, or receive alcoholic beverages in the city unless provisions of this chapter and the laws of the State of Tennessee and the state rules and regulations of the alcoholic beverage commission have been complied with.

Nothing in this chapter regulates the transportation, storage, sale, distribution, possession, or receipt of or tax upon any beverage of alcoholic content of five percent (5%) by weight or less, and no portion of this code related thereto is modified by this chapter. (1980 Code, § 2-102)

8-103. State law controlling. No person, firm, corporation, association, or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1980 Code, § 2-103)

8-104. Restrictions. (1) No person or member of a firm, corporation, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he is a holder of a public office, either appointive or elective, or who is a public employee either national, state, city, or county. It shall be unlawful for any such person to have any interest in such 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.

(2) Domicile. No person or member of a firm, corporation, partnership, or association shall own or operate a retail store for the sale of alcoholic beverages as herein defined if he shall not have been a person domiciled for the last two (2) years in the County of Dickson; and in the case of a corporation,

firm, association, or partnership, this requirement as to domicile shall apply to all of its officers, and, in case of a partnership, to all the partners.

(3) Citizenship. No person shall own or be employed in the storage, sale, or distribution of alcoholic beverages except a citizen of the United States.

(4) Age limit. No retailer or any employee thereof engaged in any activity covered by this chapter shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer or employee to permit any such person under said age on his place of business to engage in the sale of alcoholic beverages. Further, it shall be unlawful for any minor to misrepresent his age in purchasing or attempting to purchase alcoholic beverages.

(5) Employees. No retailer shall employ in the sale, storage, or distribution 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 or of any law regulating intoxicating liquors, and in the case an employee should be so convicted, he shall immediately be discharged.

(6) Transfer on sale of license. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued.

(7) Restrictions cumulative. The provisions of this section shall be in addition to any other restrictions or conditions which may be contained elsewhere in the provisions of this chapter. (1980 Code, § 2-104, as amended by Ord. #1336, March 2014)

8-105. Privilege license required. The privilege license shall be levied on the business in accordance with the provisions of the "Business Tax Act" as enacted by the 87th General Assembly of Tennessee, by Chapter 387 of the Public Acts of 1971, as amended. (1980 Code, § 2-105)

8-106. Regulation of retail liquor stores. (1) No retailer shall, directly or indirectly, operate more than one (1) licensed retail business in this state. "Indirectly" means any kind of interest in such a retail business by way of stock ownership, loan, partner's interest or otherwise. A landlord shall be deemed to have an indirect interest in such a retail business when the lease agreement is based upon a percentage of profits or any other factor based upon sales of alcoholic beverages by the tenant as distinguished from being simply an interest in land for a period of time at a definite rate.

(2) No retailer shall offer or make any discount in the sale or delivery of liquors in case quantities. No reduction in the standard price per case shall be made for sales in excess of one (1) case.

(3) No retailer shall sell any alcoholic beverages to any person who is legally intoxicated, nor shall any retailer selling alcoholic beverages sell to any person accompanied by a person who is legally intoxicated.

(4) No retailer shall sell any alcoholic beverages to a minor.

(5) No retailer shall sell or give away any alcoholic beverages between eleven o'clock P.M. (11:00 P.M.) on Saturday and eight o'clock (8:00 A.M.) on Monday of each week. No retail store shall sell, give away or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday. The store may not be open to the general public except during regular business hours.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any merchandise unless the retailer shall also possess such documentation to demonstrate that the taxes imposed in this chapter have been paid.

(8) No retailer shall sell or give away any alcoholic beverages on the following holidays: Christmas, Thanksgiving, Labor Day, New Year's Day and the Fourth of July. (1980 Code, § 2-106, as replaced by Ord. #1081, Feb. 2001)

8-107. Sales locations to conform to zoning laws. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the City of Dickson unless the location of the liquor store shall be in either zone B-1, B-2, or B-3, as appears on the date of application on the official zoning map of the City of Dickson. In no event will a store be allowed when it is 950 feet to the nearest church or school. The distance to be measured is a straight line from the nearest corner of the store to the nearest corner of the church or school. Provided, further, that no certificate of good moral character shall be issued by the mayor and/or city council in any case until the location of said proposed liquor store has been approved by the city council. As a further limitation on the location of retail liquor stores for the sale of alcoholic beverages, no location for same shall be approved when in the opinion of the city council, expressed by a majority vote thereof, the operation of such liquor store at the location would be inimical to the public interest. Existing stores with licenses are exempted from the provisions of this section. (1980 Code, § 2-107)

8-108. Control of locations. No retail liquor store shall be located except on the ground floor, and the store shall have one main entrance opening on a public street and no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) streets, such retail store may maintain a door opening on each of the public streets. All liquor stores shall be of a permanent type construction and no store shall be located in a mobile home or other movable type building. All buildings shall be in compliance with the state regulations for the operation of retail liquor stores. (1980 Code, § 2-108)

8-109. Inspection fees. (1) There is hereby levied an inspection fee of eight percent (8%) on the gross purchase price of alcoholic beverages purchased by retail dealers in the City of Dickson for the purpose of resale.

(2) Collection. The inspection fee shall be collected by the wholesaler and transmitted to the city treasurer not later than the 20th day of each month for the preceding month. (1980 Code, § 2-109)

8-110. Contents of application for certificate of good moral character. Each applicant for a certificate of good moral character shall file an application for same on a form provided by the City of Dickson. Such application shall be accomplished by instructions thereon. A copy of each application form, questionnaire, partnership agreement, or any other form or material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this application shall be attached to the city application form and shall become a permanent part thereof as if fully and completely copied verbatim therein. The application form shall be signed and verified by each person to have any interest in the license either as owner, partner, stockholder, director, or otherwise. If at any time the applicable state statutes shall be changed so as to dispense with the requirement of a certificate of good moral character, no original or renewal license shall be issued until an application in the same form has been filed with the city recorder. (1980 Code, § 2-110)

8-111. Certificate of good moral character. A certificate of good moral character shall be signed by the mayor and a majority of the city council while in session and conditioned upon the applicant fulfilling the following requirements:

(1) The applicant or applicants who are to be in actual charge of the business are to be of good moral character and are to be personally known to a majority of the city council, or

(2) If a corporation, partnership, association, or firm, the executive officers of those in control are to be of good moral character and personally known to a majority of the city council, and

(3) The applicant has not violated any of the provisions of this chapter or the laws of the State of Tennessee and of the United States which regulate the control of intoxicating liquors, within ten (10) years prior to the date of this application, and

(4) Each applicant must furnish to the city council a financial statement before time of making an application. (1980 Code, § 2-111)

8-112. No restrictions on number of stores. There shall be no restriction on the number of stores for the sale of alcoholic beverages as herein defined. (1980 Code, § 2-112)

8-113. Processing applications. (1) Applications for renewal of license by the licensee will be processed in the same manner and under the same conditions as a new application.

(2) Application for employee's permit to serve as an employee in the place of business of a retail liquor store under the provisions of Tennessee Code Annotated, § 57-3-204, shall submit the name of such employee to the chief of police. (1980 Code, § 2-113)

8-114. Advertising. All advertising shall comply with the city municipal sign ordinance 524 Article IV. Section 11. (1980 Code, § 2-114, as replaced by Ord. #1144, May 2004)

8-115. Certificate of moral character revoked by non-use. Any applicant who has obtained a certificate of good moral character from the mayor and a majority of the city council, as provided hereinabove, must within six (6) months open a store for the retail sale of alcoholic beverages to the public or said certificate of good moral character will be automatically revoked by the passage of said time. A certification thereof will be forwarded immediately to the alcoholic beverage commission of the State of Tennessee, and the license issued to said applicant shall be considered to have been canceled and revoked. (1980 Code, § 2-115)

8-116. Violations. Any violation of the provisions of this chapter shall constitute a misdemeanor and upon conviction be punishable by fine in accordance with the general penalty clause for this code. In such instances, it shall be mandatory for the city judge immediately to certify said conviction, whether appealed or not, directly to the Tennessee Alcoholic Beverage Commission, together with petition that all licenses be revoked, pursuant to the provisions of the Tennessee Code Annotated, §§ 57-3-101 through 57-3-412, and the rules and regulations of said commission. (1980 Code, § 2-116)

8-117. Consumption of liquor in certain places unlawful. It shall be unlawful for any person or persons to drink whiskey, liquor, wine, and every liquid containing alcoholic spirits of over five percent (5%) while riding in or driving a motor vehicle, in a park, road, a public place, a public place being defined as any park, street, roadway, or right-of-way for same, or any private property which is used for public parking.

Where any person or persons are observed with open bottles or containers of any kind containing whiskey or any of the above defined substances, there shall be a prima facie case that the occupants of said vehicle, or the other places defined herein, have been drinking from such containers. (1980 Code, § 2-117)

8-118. Privilege tax on selling at retail alcoholic beverages for consumption on the premises. The City of Dickson, Tennessee is authorized

to collect privilege taxes from those who engage in the business of selling at retail alcoholic beverages for consumption on the premises pursuant to T.C.A., § 57-4-301. (As added by Ord. #914, Nov. 1995)

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. A beer board to be composed of the mayor and all the members of the city council is established. The mayor shall be the presiding officer of the beer board. (1980 Code, § 2-201, as replaced by Ord. #1244, Dec. 2007)

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 times as it shall prescribe. The mayor may call a special meeting of the beer board provided that the mayor gives reasonable notice to each member. The board may adjourn a meeting at any time to another time and place. (1980 Code, § 2-202, as replaced by Ord. #1244, Dec. 2007)

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 public record and shall contain at least the following:

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).

- (1) The date of each meeting;
- (2) Names of the board members present and absent;
- (3) Names of the members introducing and seconding motions and resolutions before the board;
- (4) A copy of each written motion or resolution presented;
- (5) The vote of each member;
- (6) The provisions of each beer permit issued by the board; and
- (7) Information regarding any other action of the board. (1980 Code, § 2-203, as replaced by Ord. #1244, Dec. 2007)

8-204. Requirements for beer board quorum and action. A majority of the members of the beer board constitutes a quorum for transacting business. Any action of the board requires a majority of the members voting if there is a quorum. (1980 Code, § 2-204, as replaced by Ord. #1244, Dec. 2007)

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 municipality in accordance with the provisions of this chapter and other applicable law. (1980 Code, § 2-205, as replaced by Ord. #1244, Dec. 2007)

8-206. "Beer" defined. The term "beer" as used in this chapter means all beers, ales, malt beverages, or any other beverage having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); but, no more than forty-nine percent (49%) of the overall alcoholic content of the beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1980 Code, § 2-206, as replaced by Ord. #1244, Dec. 2007)

8-207. Permit required for engaging in beer business. The application shall be made on a form prescribed by the board, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). This fee shall be in the form of a cashier's check payable to the City of Dickson. Each applicant must be a person of good moral character and must certify that she/he has read and is familiar with the provisions of this chapter. When an individual's application for a beer permit has been considered and denied by the beer board, the beer board shall not consider another application from the same individual to sell beer at the same location until the expiration of a twelve (12) month period. (1980 Code, § 2-207, as replaced by Ord. #1244, Dec. 2007, and Ord. #1272, Sept. 2009)

8-208. Privilege tax. There is 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 each successive January 1 to the City of Dickson, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall pay the privilege tax on a prorated basis for each month or portion of a month remaining until the next tax payment date. (1980 Code, § 2-208, as replaced by Ord. #1244, Dec. 2007)

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 are required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise consumption. It is unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It is likewise unlawful for any beer permit holder not to comply with any express restrictions or conditions in the permit. If beer is to be consumed on the premises, then the applicant is to be engaged regularly in either serving meals or lunches. (1980 Code, § 2-209, as replaced by Ord. #1244, Dec. 2007)

8-210. Limitation on permits. Provided that a permit holder complies with all requirements of this chapter, any existing permit for the sale of beer within the corporate limits of the city at the date of the passage of this ordinance shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment for which an existing permit has been issued for the sale of beer provided the purchaser complies with the provisions of this chapter. Any new permit issued for the sale of beer at the establishment must be restricted to the previous type permit issued for this establishment and must be restricted to the existing structure used by the former permit holder. (1980 Code, § 2-210, as replaced by Ord. #1244, Dec. 2007)

8-211. Interference with public health, safety, and morals prohibited. (1) No permit authorizing the sale of beer will be issued when the business would cause congestion of traffic or would interfere with schools or churches, 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 within four hundred feet (400') of any school or church. This distance restriction does not apply to an establishment having a license issued by the Tennessee Alcoholic Beverage Commission to sell alcoholic beverages for consumption on the premises and which is a restaurant as defined by the Tennessee Alcoholic Beverage Commission pursuant to Tennessee Code Annotated, § 57-4-101, et seq. The distance shall be measured in a straight line from the nearest point of the building from which the beer will

be manufactured, stored or sold to the nearest point of the church or school building. The applicant for a beer permit shall submit with his application a measurement made by a licensed surveyor certifying the accuracy of the distance. The city may at its option check and verify the accuracy of the survey. No permit shall be suspended, revoked or denied on the basis of proximity to a school or church if a valid permit has been previously issued to any business on that same location unless the sale, distribution or manufacture of beer at that location has been discontinued during any continuous six (6) month period.

(2) A church as referred to herein shall be a place where religious services are held at least once a week and the premises occupied for church purposes exclusively, and which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code. The city shall not suspend, revoke or deny a permit to a business engaged in selling, distributing or manufacturing beer on the basis of the proximity of the business to a school or church if a valid permit had been issued to any business on that same location as of January 1, 1993. This section shall not apply if beer is not sold, distributed, or manufactured at that location during any continuous six (6) month period after January 1, 1993.

(3) A school as referred to herein shall be a school operated by the public school system of Dickson County or a private school accredited or approved by the State of Tennessee. (1980 Code, § 2-211, as amended by Ord. #1149, June 2004, replaced by Ord. #1244, Dec. 2007, and amended by Ord. #1330, Dec. 2013)

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. (1980 Code, § 2-212, as replaced by Ord. #1244, Dec. 2007)

8-213. Prohibited conduct or activities by beer permit holders.
The holder of a beer permit shall not:

(1) Employ any person convicted of any offense regarding the possession, sale, manufacture, or transportation of intoxicating liquor, 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.

(3) Make or allow any sale of beer between the hours of 3:00 A.M. and 8:00 A.M., during any night of the week; and 3:00 A.M. and 12:00 P.M. on Sunday.

(4) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(5) Allow any minor 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.

- (7) Allow drunk disreputable persons to loiter about the premises.
- (8) Serve, sell, or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight unless the beer permit holder is also the holder of a State of Tennessee Liquor License.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.
- (10) Allow, use, employ or permit any sexual or pornographic conduct prohibited by Tennessee Code Annotated, § 57-4-204(b), (c), (d), (e).
- (11) Fail to post signs as required by Tennessee Code Annotated, § 57-5-301. Any violation of this section is grounds to revoke or suspend a beer permit. Except as provided in § 8-214. (1980 Code, § 2-213, modified, as replaced by Ord. #936, § 2, June 1996, and replaced by Ord. #1244, Dec. 2007)

8-214. Revocation or suspension of beer permits; responsible vendors. (1) The beer board may suspend a permit issued under this chapter when the holder of a permit fails to pay when due any tax or taxes owing to the City of Dickson, including the annual privilege tax, the business tax, real property taxes, or personal property taxes, or any other tax assessed against the premises for which the permit was issued, until the taxes, including any penalty and interest, are paid in full. The holder of the beer permit shall also possess a valid business license for the business at which beer is sold. The failure of the holder of the beer permit to obtain or to maintain a valid business license is grounds for suspension of a beer permit issued to the holder, until the holder of a beer permit obtains a business license.

(2) The beer board may revoke or suspend any beer permit issued under the provisions of this chapter when the holder is guilty of making a false statement or misrepresentation in the application or of violating any of the provisions of this chapter. The first violation of this chapter shall result in the revocation or suspension of the beer permit for a minimum period of fourteen (14) days, and the second violation shall result in a revocation or suspension for a minimum period of thirty (30) days. The periods of time for these revocations or suspensions do not include days on which the sale of beer is legally prohibited. The beer board may impose longer periods of suspension or revocation or may revoke a beer permit entirely if, in its opinion, that action is justified. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to the holder of the permit. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

(3) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a

certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve-month period. The revocation shall be for three (3) years. (1980 Code, § 2-214, as replaced by Ord. #900, June 1995, Ord. #1240, June 2007, and replaced by Ord. #1244, Dec. 2007)

8-215. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board, may at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sale to a minor, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sale to a minor or for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder has seven (7) days within which to pay the civil penalty before the revocation or suspension is imposed. If the civil penalty is paid within that time, the revocation or suspension is deemed withdrawn. Payment of the civil penalty in lieu of revocation or suspension by a permit holder is an admission by the holder of the violation charged and is paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #1244, Dec. 2007)

8-216. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #1244, Dec. 2007)

8-217. Violations. Except as provided elsewhere in this chapter, any violation of this chapter constitutes a civil offense and, upon conviction, is punishable by a penalty under the general penalty provision of this code. Each day a violation continues constitutes a separate offense. (as added by Ord. #1244, Dec. 2007)