TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally. Except when he affirmatively shows that he has express authority under the state law, it shall be unlawful for any person to receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "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. (1970 Code, § 2-101)

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1State law reference
Tennessee Code Annotated, title 57.

2State law reference
CHAPTER 2

BEER\(^1\)

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 council upon recommendation of the mayor. All members of the beer board shall have been residents of the city for at least one (1) year immediately next preceding their appointment. They shall be appointed for four (4)\(^2\) year terms except that the first members shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively, beginning on September 15, 1980, so that the terms of one (1) member shall expire each year. A chairman shall be elected annually by the board from among its members. Members of the beer board shall be compensated $50.00 per meeting, not to exceed $50.00 per month, and only if the member attends the meeting. Any member of the beer board may be removed by the council for cause. (1970 Code, § 2-201)

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\(^1\)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).

\(^2\)Ordinance #987 (March 1995) changed the term of office of beer board members from 5 to 4 years and provided further that "... this Ordinance shall not affect the term of office of any existing board members, but shall take effect with all future appointments."
8-202. Meetings of the beer board. All meetings of the beer board shall be opened to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. Where 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. (1970 Code, § 2-202)

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. (1970 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 board member present who passes or abstains from voting shall be termed to have cast a negative vote. (1970 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 this municipality in accordance with the provisions of this chapter and other applicable laws and ordinances. (1970 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 per cent (5%) by weight. (1970 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 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). Said fee shall be in the form of a cashier's check payable to the City of Rockwood. 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. All permits are to be issued in the name of the owner. (1970 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 this 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. (1970 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 three hundred (300) feet of any school, church, or other such places of public gathering. A place of public gathering means any place noncommercial, where people gather for education, recreation and instructional purposes. (1970 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 any violation of state laws or local ordinances against the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years. (1970 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 violating any state law or local ordinance against the possession, sale, manufacture, or transportation of intoxicating liquor or of 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 grocery stores selling beer for off premises consumption.
3. Make or allow any sale of beer between the hours of 3:00 A.M to 6:00 A.M. weekdays, 3:00 A.M. and 12:00 Noon on Sundays.
(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
(5) Make or allow any sale of beer to any person under the age of twenty-one (21) years of age.
(6) Allow any person 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, sale, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
(10) Dancing that involves nudity or partial nudity or is considered lewd or sexually suggestive will be prohibited.
(11) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
(12) Fail to provide and maintain separate sanitary toilet facilities for men and women. This shall apply only to on-premises consumption and shall not apply to off-premises consumption. (1970 Code, § 2-212, modified, as amended by Ord. #1051, Feb. 2002)

8-212. Revocation of beer permits. The beer board may revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of violation of any of the provisions of this chapter or if a permit holder shall discontinue business or ceases to be associated with the business on a day to day basis. (1970 Code, § 2-213)

8-213. Limitations of number of beer permits. There is hereby no limit on the number of beer permits which shall be issued by the beer board at any given time. However, the number of beer permits issued for on-premises consumption is hereby limited to six (6). (1970 Code, § 2-214, modified, as amended by Ord. #1051, Feb. 2002)

8-214. 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). 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 Rockwood, 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. (1970 Code, § 2-215, modified)

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 $1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to
exceed $1,000 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. (1970 Code, § 2-216)