

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. PACKAGED LIQUOR.

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 Burns. "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. (1980 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

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.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Issuance of permits.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Revocation of beer permits.
- 8-214. Applicant to present recorder with sales tax documentation.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of commissioners. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (1980 Code, § 2-201)

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 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 gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1980 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.,

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. (1980 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. (1980 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 Burns in accordance with the provisions of this chapter. (1980 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. (1980 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 within the Town of Burns without first making application to and obtaining a permit from the beer board. The 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.

An applicant for a beer permit shall be required to pay a non-returnable application fee of \$250.00, which shall be turned in along with the application. If the application is granted or denied, the fee will not be returned, it will be deposited in the general fund of the town.

There is imposed a \$100.00 per year privilege tax on the business of selling, distributing, storing, or manufacturing beer. Revenues from this tax go to the general fund to be used for any town purpose. The tax is due on January 1 of each year. The city recorder must mail written notice to each permit holder of the payment date at least 30 days before January 1. If the permit holder does not pay by January 31, the city recorder must again notify the permit holder that payment is due. If the permit holder does not pay within 10 days after receiving the notice, the permit is void. (Ord. #85, Nov. 1993)

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 so as to authorize sales only for off premises consumption or only for on-

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. (1980 Code, § 2-208)

8-209. Issuance of permits. Permits shall be issued to owner of the business and shall be displayed in a visible area of the business. Transfer of the permit from one owner to another is prohibited. A permit holder is required to return the permit within 15 days of the termination of the business, change in ownership, relocation, or change of business name. (Ord. #85, Nov. 1993)

8-210. Interference with public health, safety, and morals prohibited. The sale of beer shall not be permitted at any location unless it is more than 500 feet from a public school or church, the distance to be measured in a straight line from the nearest corner of the building where beer is to be sold to the nearest corner of the church or school. The applicant for a beer permit shall submit with his application a measurement made by a licensed surveyor and the distance certified as being correct. The work of the surveyor shall be checked and verified by the building inspector.

A church as referred to herein shall be a place where church is held at least once a month and the premises occupied for church purposes only. Provided, however, that where a church or school has been built or established within 500 feet of an existing establishment where beer is legally sold, such church or school building shall not be considered in prohibiting the sale of beer within 500 feet of same as set out above.

A school as referred to herein shall be a school operated by the public school system of Dickson County. A church or school shall be limited to structures within the corporate limits of the Town of Burns. (1980 Code, § 2-210)

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. (1980 Code, § 2-211)

8-212. 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) Employ any minor under twenty-one (21) years of age in the sale, storage, distribution, or manufacture of beer except as permitted by Tennessee Code Annotated, § 57-5-301(e)(1).

(3) No beer shall be sold for on-premises consumption between the hours of 3:00 A.M. and 8:00 A.M., Monday through Saturday. No beer shall be sold for on-premises consumption between the hours of 3:00 A.M. and 12:00 (Noon) on Sunday. Beer sold for off-premises consumption is permitted at all times during the week, except between the hours of 3:00 A.M. and 12:00 (Noon) on Sunday.

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

(5) Allow any minor 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 or disreputable persons to loiter about his premises.

(8) 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.

(9) Allow dancing, live entertainment, or any musical performance on the premises, unless specifically permitted in his permit.

(10) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(11) Fail to provide and maintain separate sanitary toilet facilities for men and women where beer is being sold for on premises consumption.

(12) Allow anyone under the age of twenty-one (21) in his/her place of business where beer is being sold for on premises consumption. (1980 Code, § 2-212, modified, as amended by Ord. #99, Feb. 1996)

8-213. Revocation or suspending of beer permits. The beer board shall have the power to 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 revoked 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 beer board.

The beer board may offer as an alternative to revocation or suspension of a beer permit a civil penalty of up to \$1,500.00 for each offense of making sales to minors or a civil penalty of up to \$1,000.00 for other offenses. If the civil penalty is offered as an alternative, the permit holder has seven (7) days to pay before the revocation or suspension is imposed. The beer board may not revoke, suspend, or deny a permit to a beer business on the basis of its

proximity to a church, school, or other place of public gathering if a valid permit has been issued to the business as of January 1, 1993. If beer is not sold for six continuous months, this protection does not apply. (Ord. #85, Nov. 1993)

8-214. Applicant to present recorder with sales tax documentation. Before issuing a beer permit approved by the board of commissioners the recorder shall receive from the applicant for such permit such documentation issued by the State of Tennessee Department of Revenue demonstrating that the applicant is duly registered for the sales tax.

In the event the applicant fails or refuses to present the recorder with the above documentation, the recorder shall not issue the permit even though it has been approved by the board of commissioners. (1980 Code, § 2-214)

CHAPTER 3

PACKAGED LIQUOR

SECTION

- 8-301. Alcoholic beverages subject to regulation.
- 8-302. Application for certificate of good moral character.
- 8-303. Applicant to agree to comply with laws.
- 8-304. Applicant to appear before the mayor and board of commissioners and duty to give information.
- 8-305. Action on application.
- 8-306. Residency requirement.
- 8-307. Applicants for certificate who have criminal record.
- 8-308. Only one establishment to be operated by retailer.
- 8-309. Where establishments may be located.
- 8-310. Retail stores to be on ground floor; entrances.
- 8-311. Limitation on number of retailers.
- 8-312. Sales for consumption on premises.
- 8-313. Radios, amusement devices and seating facilities prohibited in retail establishments.
- 8-314. Inspection fee.
- 8-315. Violations.

8-301. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57. (as added by Ord. #126, Aug. 1999)

8-302. Application for certificate of good moral character. No license shall be issued to a public employee, national, state, county or city, or holder of public office whether elected or appointed. Before any character certificate, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any commissioner, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.

- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation.

Each occupant shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). [Tennessee Code Annotated, § 57-3-208, 57-3-210, 57-3-213] (as added by Ord. #126, Aug. 1999)

8-303. Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (as added by Ord. #126, Aug. 1999)

8-304. Applicant to appear before the mayor and board of commissioners and duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and commissioners within thirty (30) days of the date each application was filed.

The board of mayor and commissioners may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and commissioners. (as added by Ord. #126, Aug. 1999)

8-305. Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and commissioners within thirty (30) days of the date each application was filed.

The board of mayor and commissioners may issue a certificate of good moral to any applicant, which shall be signed by the mayor or by a majority of the board of mayor and commissioners. (as added by Ord. #126, Aug. 1999)

8-306. Residency requirement. The applicant for a certificate of good moral character shall have been a bona fide resident of the State of Tennessee for not less than two (2) years at the time his application is filed. If the

applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of the State of Tennessee not less than two (2) years at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years. (as added by Ord. #126, Aug. 1999)

8-307. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #126, Aug. 1999)

8-308. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly" as used in this section shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. (as added by Ord. #126, Aug. 1999)

8-309. Where establishment may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, but in no event shall any establishment be located within five hundred (500) feet of a school or church measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the school or church. Provided further that only schools or churches within the corporate limits of the town shall be considered in applying this restriction. (as added by Ord. #126, Aug. 1999)

8-310. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (as added by Ord. #126, Aug. 1999)

8-311. Limitation on number of retailers. No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued initially under this chapter. Thereafter, one permit shall be allowed for each 500 of the population of the Town of Burns as provided by census records or other official government records of population. (as added by Ord. #126, Aug. 1999)

8-312. Sales for consumption on premises. No alcoholic beverages shall be sold for consumption on the premises of the seller. (as added by Ord. #126, Aug. 1999)

8-313. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #126, Aug. 1999)

8-314. Inspection fee. The city hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #126, Aug. 1999)

8-315. Violations. Any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal. (as added by Ord. #126, Aug. 1999)