

TITLE 8**ALCOHOLIC BEVERAGES^{1, 2}****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except when he is lawfully acting pursuant to applicable state laws³, it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this city. "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. (1973 Code, § 2-101)

¹For a leading case on a municipality's authority to regulate beer, see the 1947 Tennessee Supreme Court decision in Grubb et al. v. Mayor and Aldermen of Morristown et al., 185 Tenn. 114.

²Municipal code reference
Wholesale beer tax: § 5-401.

³State 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 all the members of the city council. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1973 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 following each regular meeting of the city council at the city hall unless the chairman announces in advance that there is no business to come before the beer board. A special meeting of the beer board may be called by its chairman provided he

¹Municipal code references

Drug and alcohol testing policy: title 4, ch. 4.

Minors in beer places: § 11-102.

Wholesale beer tax: title 5, chapter 4.

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).

gives a reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (1973 Code, § 2-202)

8-203. Record of beer board proceedings to be kept. The city recorder shall be required to attend and to make separate records 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 contents of each beer permit issued by the board. (1973 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. However, when a quorum is present the affirmative vote of only a simple majority of the members voting shall be required for affirmative action by the board. (1973 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 city in accordance with the provisions of this chapter. (1973 Code, § 2-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in the Tennessee Code Annotated, § 57-5-101. (1973 Code, § 2-206, as replaced by Ord. #700, March 2017 *Ch3_03-05-19*)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store 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, pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Lafayette. 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. (1973 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. 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. Beer

permits for retail sale of beer shall be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall likewise be unlawful for a beer permit holder not to comply with any and all express restriction or conditions which may be written into his permit by the beer board. (1973 Code, § 2-208)

8-209. 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 and restrictions 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, personal, and home care and cleaning articles, but may also sell gasoline.
- (3) Have been in continuous operation for a period of not less than thirty (30) days.

In addition, the monthly beer sales of any establishment which holds an off-premises permit shall not exceed twenty-five percent (25%) 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 beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (1973 Code, § 2-209)

8-210. 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 gatherings, 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 five hundred feet (500') of any school, church or other place of public gathering, defined as a public place which frequently has more than fifty (50) persons in attendance at a single time, event or gathering. The distance shall be measured in a straight line from the nearest public entrance of the building from which the beer will be manufactured, stored or sold to the nearest public entrance of the school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church or other place of public gathering if a valid permit has been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (1973 Code, § 2-211, as amended by Ord. #696, Sept. 2016, and replaced by Ord. #727, Sept. 2018 *Ch3_03-05-19*)

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. (1973 Code, § 2-212)

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 person 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 12:00 midnight and 6:00 A.M. during any night of the week; at any time on Sunday.

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

(5) Make or allow any sale of beer to a person under 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 persons to loiter about his premises.

(9) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with any alcoholic content of more than five percent (5%) by weight.

(10) Allow any type of arcade game, or pool or billiard games in the same building where beer is sold. (1973 Code, § 2-213)

8-213. Revocation 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 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 reputable local citizen upon the filing of an application with the beer board requesting such action. (1973 Code, § 2-214)

8-214. Limitation on reissue of permits for same location. Where a permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation became final and effective. (1973 Code, § 2-215)

8-215. Industry interest in permit prohibited. No permit shall be issued when a brewer, manufacturer, distributor or warehouseman of legal beer

has any interest in the business, financial or otherwise, or in the premises upon which the sale of beer is to be carried out. (1973 Code, § 2-216)

8-216. 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 manufacturing of beer shall remit the tax on January 1, 1996, and each year successive January 1, to the City of Lafayette, 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 payment date. (1973 Code, § 2-217)

8-217. Civil penalty in lieu of suspension. The City of Lafayette Beer Board shall follow the requirements of the 2006 Responsible Vendors Act, which went into effect on July 1, 2007. Beer permit holders within the City of Lafayette may participate in the Responsible Vendor Act by agreeing to submit all clerks to a training program within sixty-one (61) days of being hired. The training must be approved by the Alcoholic Beverage Commission, and the training must cover the sale of beer for off-premises consumption, methods of recognizing and dealing with minors who attempt to buy beer, and procedures for refusing to sell beer to minors.

Permit holders shall provide the Alcoholic Beverage Commission with the names and identifying information for all new clerks, allowing the Alcoholic Beverage Commission to keep a list of all certified in the State of Tennessee.

In exchange for complying with the program, a certified vendor shall receive reduced punishments for the illegal sale of beer to a minor. Instead of revocation or suspension of their permit for the first offense the permit holder shall only be subjected to a civil penalty not to exceed one thousand dollars (\$1,000.00) per offense, Tennessee Code Annotated, § 57-5-108(a)(C).

If a certified vendor has two (2) or more violations in a twelve (12) month period they shall be subject to a revocation or suspension of their permit. However nonparticipating permit holders will be subject to increased civil penalties. A nonparticipating permit holder guilty of a sale to a minor will be subject to a suspension or revocation of their permit and a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per offense, Tennessee Code Annotated, § 57-5-108(a).

The permit holder shall have seven (7) days within which to pay the civil penalty.

It shall be the responsibility of the permit holder to advise the chairman of the beer board in writing if they will be participating in the Responsible Vendors Act.

All participating vendors shall upon request from the chairman of the beer board or the chief of police shall make available for inspection all records pertaining to the Responsible Vendors Act.

For any other violation of this chapter the beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying the civil penalty not to exceed one thousand five hundred (\$1,500.00) for each offense, If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within to pay the civil penalty or revocation or suspension shall be deemed withdrawn. (1973 Code, § 2-218)