

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE BY THE DRINK; INSPECTION FEE AND PRIVILEGE TAX.
4. WINE IN RETAIL FOOD STORES.

CHAPTER 1

INTOXICATING LIQUORS²

SECTION

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Consumption of alcoholic beverages on-premises.
- 8-103. Privilege tax on the sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the recorder.
- 8-105. Concurrent sales of liquor by the drink and beer.
- 8-106. Advertisement of alcoholic beverages.
- 8-107. Violations and penalty.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, or distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by *Tennessee Code Annotated*, title 57. (Ord. #322-22-1C, March 2022)

8-102. Consumption of alcoholic beverages on-premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate

¹Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Employee and server permits: *Tennessee Code Annotated*, § 57-3-701, *et seq.*

limits of Townsend, Tennessee. It is the intent of the board of commissioners that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in the City of Townsend, the same as if said code sections were copied herein verbatim. (Ord. #322-22-1C, March 2022)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, section 301,) for the City of Townsend to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Townsend of alcoholic beverages for consumption on the premises where sold. (Ord. #322-22-1C, March 2022)

8-104. Annual privilege tax to be paid to the recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Townsend shall remit annually to the recorder the appropriate tax described in § 8-102. Such payments shall be remitted prior to December 31st of each calendar year. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #322-22-1C, March 2022)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate, or association which has received a license to sell alcoholic beverages in the City of Townsend, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall, notwithstanding § 8-215 of the Municipal Code of the City of Townsend, qualify to receive a beer permit from the city upon compliance of all Townsend beer permit requirements. (Ord. #322-22-1C, March 2022)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #322-22-1C, March 2022)

8-107. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision 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 or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #322-22-1C, March 2022)

CHAPTER 2

BEER

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. Special event/temporary beer permits.
- 8-209. Privilege tax.
- 8-210. Beer permits shall be restrictive.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of the city council. The vice-mayor shall be the chairman of the beer board.

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/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 adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place.

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; names of the board members present and absent; 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.

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.

8-205. Powers and duties of the beer board.¹ 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. The police officers of the City of Townsend shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, manufactured, transported, or otherwise dispensed or distributed or handled, whether or retail or wholesale, in the City of Townsend.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101.

8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture for sale 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, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Special event/temporary beer permits. Special event/temporary beer permits must comply with all other regulations found in title 8, chapter 2. Special event/temporary beer permits are permissible in the City of Townsend with the following additional requirements:

(1) Permits are valid for seventy-two (72) hours during city-sanctioned and/or sponsored festivals, celebrations, and events.

(2) No more than one (1) permit will be issued for a single festival, celebration and event.

(3) Permit applications must be submitted thirty (30) days prior to the start of the event for which a permit is requested.

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

(4) In addition to the permit application requirements described in § 8-207 the following information must be submitted with an application for a special event permit:

(a) The organization applying for the special event permit, contact person, address and phone number.

(b) Date(s) and time(s) of event.

(c) The sponsors of the event and the sponsor's contact person's address and phone number.

(d) The specific location where beer is to be sold or served.

(e) The individual(s) with such organization responsible for supervising the sale and dispensing of the beer.

(f) Plans for security and policing the area(s) where beer is sold.

(g) If the events covered by the "special event permit" will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.

(5) Permit applications are valid only for on-premises consumption inside an enclosed and/or fenced area with restricted ingress/egress points.

(6) The sponsors of the proposed event and the applicant shall send a representative or representatives to such City of Townsend Beer Board meeting to address any questions or issues arising out of the proposed special event/temporary permit.

(7) If approved the special event/temporary permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specific location(s) and date(s) where such vendor is permitted to sell beer under the special event permit. (as added by Ord. #289-17-1C, April 2017)

8-209. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 Townsend, 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.

8-210. 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

¹State law reference

Tennessee Code Annotated, § 57-5-104(b).

manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise 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 in his permit.¹

8-211. 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, residences, 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 manufacture or storage of beer, or the sale of beer within two hundred feet (200') of any school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, 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, residence, church, or other place of public gathering if a valid permit had 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.

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under Tennessee Code Annotated, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under Tennessee Code Annotated, § 16-18-302, city/town courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of Tennessee Code Annotated, § 57-5-301(a) a local offense.

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. Sunday through Saturday.

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.²

(4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.

(5) Allow drunk persons to loiter about his premises.

(6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (modified)

8-213. Revocation or suspension 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 or suspension proceedings may be initiated by the police chief or by any member of the beer board.

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 (12) month period. The revocation shall be for three (3) years.

¹State law reference

Tennessee Code Annotated, § 1-3-113(a).

²State law reference

Tennessee Code Annotated, § 57-5-106(a).

8-214. 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.¹ 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 sales to minors, 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 sales to minors or 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.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

8-215. Loss of clerk's certification for sale to minor.² 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.

8-216. Violations and penalty. Except as provided in § 8-215, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹State law reference
Tennessee Code Annotated, § 57-5-108(2).

²State law reference
Tennessee Code Annotated, § 57-5-607.

CHAPTER 3

WINE BY THE DRINK; INSPECTION FEE AND PRIVILEGE TAX

SECTION

- 8-301. Wine by the drink generally.
- 8-302. License and privilege license required.
- 8-303. Privilege tax upon persons selling wine by the drink at retail locations for consumption on the premises.
- 8-304. Inspection fee.
- 8-305. Sale, etc., to persons under twenty-one years old and certain other persons.
- 8-307. On-premises consumption.
- 8-306. Violations and penalties.

8-301. Wine by the drink generally. (1) The provisions of this section shall apply to the sale of wine by the drink at all businesses situated within the corporate limits of the City of Townsend, Tennessee and licensed by the State of Tennessee to sell wine by the drink. These provisions do not apply to the sale of beer, except high alcohol content beer as defined by Tennessee Code Annotated, § 57-5-106, as being beer with an alcohol content in excess of five percent (5%), or other alcoholic beverages.

(2) The manufacture, sale, receipt, possession, storage, transportation, distribution, or in any other manner of dealing in wine by the drink within the corporate limits of the City of Townsend shall be regulated in accordance with Tennessee Code Annotated, §§ 57-1-101, et seq., 57-2-101, et seq., 57-3-101, et seq., and 57-4-101, et seq.

(3) "Wine," as defined in Tennessee Code Annotated, § 57-3-101(a)(20), means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climactic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial imitation wine. (Ord. #239-08-1C, Feb. 2009)

8-302. License and privilege license required. (1) It shall be unlawful for any person, firm, or corporation to manufacture, barter, distribute, transport or in any manner deal in wine by the drink sales without having first obtained a "wine only" license from the Alcoholic Beverage Commission of the State of Tennessee, where one is required, for such privilege from the State of Tennessee.

(2) The licensee shall remain in compliance with all of the terms and conditions of said license and the laws, rules, and regulations of the State of Tennessee which are otherwise applicable.

(3) A "wine only" license issued by the State of Tennessee Alcoholic Beverage Commission will allow a restaurant to sell wine by the drink. The restaurant may not sell or otherwise dispense any other alcoholic beverages, except those businesses which lawfully and rightfully possess a valid beer permit from the City of Townsend Beer Board.

(4) The restaurant must otherwise qualify for wine by the drink by proceeding through the same steps and procedures as are otherwise applicable to unrestricted liquor by the drink licenses as promulgated by the State of Tennessee Alcoholic Beverage Commission, must have a minimum of forty (40) seats at tables, and the serving of meals must be the principal business conducted by the restaurant.

(5) Entities who possess a wine only license issued by the State of Tennessee Alcoholic Beverage Commission shall be permitted to sell high alcoholic content beer which exceeds five percent (5%) alcohol by weight as provided by Tennessee Code Annotated, § 57-4-106. (Ord. #239-08-1C, Feb. 2009)

8-203. Privilege tax upon persons selling wine by the drink at retail locations for consumption on the premises. (1) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling wine by the drink at retail locations for consumption on the premises. The wine by the drink privilege tax shall be levied in accordance with Tennessee Code Annotated, § 57-4-301. This privilege tax shall be levied upon any person, firm, corporation, joint stock company, partnership, syndicate, association or other entity engaging in the business of selling wine by the drink within the City of Townsend, Tennessee.

(2) Privilege taxes are payable annually to the city recorder. The amount of the privilege tax contained herein shall be for a consecutive period of twelve (12) calendar months beginning with the date of issuance to the applicant of the applicable state liquor license.

(3) Failure to pay to the City of Townsend the required privilege tax as set forth herein on or before the expiration date of the license (twelve (12) calendar months from the date of original issuance or renewal) shall result in a monthly penalty of five percent (5%) of the fee due the City of Townsend. The additional five percent (5%) monthly penalty is due as of the first day of each month on and after the day that the fee first became delinquent. (Ord. #239-08-1C, Feb. 2009)

8-304. Inspection fee. (1) For the purpose of providing a means of regulating the sale of alcoholic beverages within the City of Townsend and to provide means for enforcing the provisions of this section, there is hereby levied

and imposed an inspection fee of five percent (5%), pursuant to Tennessee Code Annotated, § 57-3-501(c), on all wine sold to retailers in the City of Townsend. The fee shall be measured by the wholesale price of the wine sold by each wholesaler and shall be five percent (5%) of such wholesale price. The fee may be added by the wholesaler to invoices for wine sold to licensed retailers. The fees imposed under authority of this section shall be remitted by the wholesaler to the city recorder not later than the twentieth (20th) day of each month for the preceding month. The wholesaler shall provide a monthly report with its payment as provided by Tennessee Code Annotated, § 57-3-503(a). Pursuant to Tennessee Code Annotated, § 57-3-503(b), failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent (10%) of the fee due the municipality which shall be payable to the municipality imposing the inspection fee.

(2) Collection of this inspection fee shall be made by the wholesaler or other source vending to the licensee at the time the sale is made to the licensee. However, nothing herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the city recorder. (Ord. #239-08-1C, Feb. 2009)

8-305. Sale, etc., to persons under twenty-one years old and certain other persons. (1) It shall be unlawful for any licensee, or for any agent or employee of any licensee, to sell, furnish or give away any alcoholic beverage to any person under twenty-one (21) years of age, unless otherwise permitted pursuant to applicable state law, or to a person visibly intoxicated.

(2) It shall be unlawful for any person under twenty-one (21) years of age, unless otherwise permitted pursuant to applicable state law, to purchase or attempt to purchase wine by the drink; and, it is further declared to be unlawful for any person under the age of twenty-one (21) years to exhibit false or forged identification to a licensee or his agent for the purpose of purchasing or attempting to purchase wine by the drink under this section. (Ord. #239-08-1C, Feb. 2009)

8-306. On-premises consumption. The provisions of this chapter shall only apply to the sale and consumption of wine by the drink on the premises holding the license. (Ord. #239-08-1C, Feb. 2009)

8-307. Violations and penalty. Any violation of the terms of this chapter may be punishable by a fine under the general penalty clause for this municipal code in addition to any other penalty herein provided and in addition to loss of license. Each separate occurrence shall constitute a separate violation. (Ord. #239-08-1C, Feb. 2009)

CHAPTER 4

WINE IN RETAIL FOOD STORES

SECTION

8-401. Inspection fee on retail food store wine licensees.

8-402. Application for certificate.

8-401. Inspection fee on retail food store wine licensees. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-3-501 *et seq.*, there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price of alcoholic beverages as defined in *Tennessee Code Annotated*, § 57-3-101(a)(1)(A) supplied by a wholesaler to a retail food store wine licensee. (Ord. #301-19-1C, Feb. 2019)

8-402. Application for certificate. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-806, shall be signed by the mayor, or by any commissioner, a request in writing shall be filed with the recorder giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence at applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
- (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner.

If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

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. (Ord. #301-19-1C, Feb. 2019)