

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. BEER.

CHAPTER 1

BEER²

SECTION

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8-101. Beer board established; power to revoke permits. There is hereby created a board to be known as the Beer Board of the Town of Kimball, Tennessee, said board to consist of the mayor and aldermen of said town. Said beer board shall be vested with full and complete authority to issue, suspend and/or revoke permits for the sale of beer or other beverages of like alcoholic content (hereinafter referred to as beer and referring to all such beverages) within the corporate limits of the Town of Kimball, Tennessee. (Ord. #78, Jan. 1991)

8-102. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture

¹State law reference
Tennessee Code Annotated, title 57.

²State 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).

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 (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Kimball, Tennessee. Each applicant must be a person of good moral character and he must certify that he/she has read and is familiar with the provisions of this chapter. (Ord. #97, June 1994)

8-103. License required. Each applicant granted a permit to sell, manufacture or distribute beer as provided herein shall, before engaging in such sale, manufacture or distribution, secure from the Town of Kimball, Tennessee, a license as provided in Tennessee Code Annotated, § 57-5-106. (Ord. #78, Jan. 1991)

8-104. Interference with public health, safety, and morals prohibited. No beer 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 public health, safety, and welfare concerns. In no event will a permit be issued authorizing the storage, sale, or manufacture of beer at places within one thousand (1,000) feet of any school, church or other similar place of public gathering. Said measurement shall be made along the nearest highway or street right of way. (Ord. #78, Jan. 1991)

8-105. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (2) Make or allow any sale or other distribution of beer to any person under twenty-one (21) years of age. The burden of ascertaining the age of a potential purchaser shall rest solely upon the permit holder.
- (3) Allow any minor person under twenty-one (21) years of age to loiter in or about the permit holder's place of business. The burden of ascertaining the age of such persons shall rest solely upon the permit holder.
- (4) Make or allow any sale of beer to any intoxicated, feeble-minded, insane, or otherwise mentally incapacitated person. The burden of ascertaining the condition of such persons shall rest solely upon the permit holder.
- (5) Allow drunk or disreputable persons to loiter about the premises of said permit holder. It shall be the permit holder's duty to ascertain the condition and reputation of such persons.
- (6) Serve, sell, or allow the consumption on his/her premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #78, Jan. 1991, modified)

8-106. Hours of sale. It shall hereafter be unlawful for any person, firm, corporation or association to sell or distribute beer for on-premise consumption within the corporate limits of the Town of Kimball, Tennessee, between the hours of 12:00 midnight and 6:00 A.M. on weekdays and Saturdays, and between the hours of 12:00 midnight and 12:00 noon on Sundays.

The sale of beer for off-premise consumption shall be allowed twenty-four (24) hours per day, seven days per week, by all properly permitted and licensed persons, firms, corporations or associations, within the corporate limits of the Town of Kimball, Tennessee. (Ord. #78, Jan. 1991)

8-107. 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 manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of Kimball, 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. (Ord. #97, June 1994)

8-108. 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 one thousand five hundred dollars (\$1,500.00) 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. 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. (Ord. #97, June 1994)

8-109. Revocation of permit. The beer board shall have the power to revoke any beer permit issued under this chapter upon a finding that any of the above sections have been violated by a permit holder. (Ord. #78, Jan. 1991)

8-110. Distance requirements. (1) No business or establishment selling liquor by the drink shall be located within one thousand feet (1,000') of any school, church, or other place of public gathering, measured along the nearest highway or street right-of-way, nor shall any such business or establishment be located at any site that may cause congestion of traffic or interfere with school, church, or other public, health, safety and morals.

(2) The board recognizes that licensing and regulation of businesses and establishments selling liquor by the drink are the responsibility of the State of Tennessee, Alcoholic Beverage Commission, and that said commission is urged and requested to honor and enforce said distance requirement. (as added by Ord. #199, March 2009)

8-111. Violation and penalty. Violations of any provision of this chapter shall be deemed a civil offense and, upon conviction, shall be punished by a civil penalty of not more than \$500.00 for each violation. Violation of more than one provision shall be deemed and punishable as separate offenses. (Ord. #78, Jan. 1991, modified, as renumbered by Ord. #199, March 2009)