

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances², it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this town. "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. (1969 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

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8-201. Beer board established. There is hereby established a beer board to be composed of the Board of Mayor and Alderperson of the Town of Mason. The mayor shall be the chairperson and shall preside at its meetings. All members of the beer board shall serve without compensation. (Ord. #119, Oct. 1993)

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 chairperson provided they

¹Municipal code references

Minors in beer places: title 11, chapter 1.

Tax provisions: title 5.

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).

give a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #119, Oct. 1993)

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. (Ord. #119, Oct. 1993)

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. (Ord. #119, Oct. 1993)

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. (Ord. #119, Oct. 1993)

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. (Ord. #119, Oct. 1993)

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 (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Mason, Tennessee. 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. (Ord. #119, Oct. 1993)

8-208. Privilege tax. Effective January 1, 1994, there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, private entity, 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 Mason, 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. #119, Oct. 1993)

8-209. Notice of hearing for beer permit. Before any permit shall be issued to sell beer in the Town of Mason, the following notice shall be given by publication in a paper of general circulation in the Town of Mason: "Application has been made to the Beer Board of the Town of Mason by _____. Hearing on this application will be heard at _____ o'clock, __.M., on the _____ day of _____, 20____, at the town hall in Mason, Tennessee. Any citizen of the Town of Mason desiring to speak for or against the granting of this permit may come before the beer board at that time and place to be heard." (Ord. #119, Oct. 1993)

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 in or at retail, storing, distributing, and manufacturing establishments. Beer permits for 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 his permit. It shall likewise be unlawful for them not to comply with any and all express restrictions or conditions in which may be written into their permit by the beer board. A violation of any restriction, condition by a holder shall constitute a violation of this chapter and in addition thereto shall be grounds for revocation of the beer permit. (Ord. #119, Oct. 1993)

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, 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 (200) feet of any hospital, school, church or other such place of public gathering. The distances shall be measured in a straight line¹ 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

¹State law reference

See Watkins v. Naifeh, 625 S.W.2d 104(1982) and other cases cited therein which establish the straight-line method of measurement.

hospital, school, church or other place of public gathering. (Ord. #119, Oct. 1993)

8-212. 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. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #119, Oct. 1993)

8-213. 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) No minor under 21 years of age will be permitted to sell, store, distribute or manufacture beer in any establishment.

(3) Make or allow any sale of beer between the hours of 01:31 A.M. and 6:00 A.M. during any night of the week including Saturday; 01:31 A.M. and 12:00 (noon) on Sunday; or on election days before and while the polls are lawfully open. Lawful hours of beer sales in the Town of Mason for on premises and off premises consumption are 6:01 A.M. to 01:30 A.M. on any night of the week including Saturday; and 12:01 P.M. to 01:30 A.M. on Sundays.

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

(5) Allow any person under twenty-one (21) years of age to loiter in or about their place of business with a Class "A" permit.

(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 intoxicated persons to loiter about their 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 assaults, fighting, damaging of property and breaches of peace to occur on or in the premises where beer is sold.

(10) Fail to provide and maintain sanitary toilet facilities for men and women.

(11) Serve or sell or allow to be served or sold beer to any person in or on any motor vehicle or allow any person to consume beer or any other intoxicating liquor while in a motor vehicle parked on their premises.

(12) Allow any unusual or obnoxious music or noise to emanate from their premises.

(13) Fail to provide outside light in order to light entrance of the premises at night, at any location that has on premise consumption.

(14) Fail to display in the premises a valid town business license with proof that the current business tax has been paid.

(15) Fail to clearly post signs in and about the premises stating that no beer will be sold to anyone under twenty-one (21) years of age.

(16) Fail to report crimes in the premises or fail to cooperate with law enforcement officials at any time.

(17) Fail to have a telephone in working condition in which to report any disturbance or criminal acts to the law enforcement officials.

(18) Fail to keep premises' doors closed at all times at any location that has on premises consumption.

(19) Fail to remove intoxicated persons safely from the premises.

(20) Fail to have on file in those places that sell beer for on premises consumption, proof of the age on all employees who serve beer. (Ord. #119, Oct. 1993, as amended by Ord. #121, July 1995, and Ord. #131, Dec. 1997, modified)

8-214. Revocation and suspension of beer permits. The beer board shall have the power to revoke and 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 beer board after reasonable notice to all the known parties in interest. Revocation and suspension proceedings may be initiated by the police chief or by any member of the beer board. (Ord. #119, Oct. 1993)

8-215. Civil penalty in lieu of suspension or revocation. Pursuant to Tennessee Code Annotated § 57-5-108(a)(2), 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.

Payment of the civil penalty in lieu of 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 may impose. (Ord. #119, Oct. 1993)

8-216. Violations. Except as provided in § 8-215, any violation of this chapter shall constitute an ordinance violation and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. All violations can be enforced by any law enforcement authority in this state. The penalty will be assessed by the city court judge of the Town of Mason on the next available city court date. All violations will be reported to the beer board/board of mayor and alderperson during the next business meeting.

8-217. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to one. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of the ordinance comprising this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-218. Classes of permits. There shall be three (3) classes of beer permits issued by the beer board, as follows:

(1) Class "A". A permit for establishments that sell, store, and distribute beer for on premises consumption only, and do not have an established kitchen, dining room area for the primary sale of food, groceries or other consumable food products and that food sales do not meet or exceed at least seventy percent (70%) of its income. The establishment's primary purpose is for entertainment.

(2) Class "B" A permit for establishments that sell, store, and distribute beer for on premises consumption only, and do have an established kitchen, dining room area for the primary sale of food, groceries or other consumable food products and that food sales do meet or exceed at least seventy percent (70%) of its income.

(3) Class "C" A permit for establishments that sell, store, and distribute beer for off premises consumption only. No person shall be permitted to consume any beer on the premises by the consumer, seller or other persons.