

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Sale of intoxicating liquor for consumption off premises prohibited.
- 8-102. Leasing building for sale or manufacture of intoxicating liquor for consumption off premises prohibited.

8-101. Sale of intoxicating liquor for consumption off premises prohibited. It shall be unlawful for any person to sell or offer for sale, as a beverage or otherwise, for off premises consumption any whiskey, brandy, homebrew, beer, or other intoxicating liquor or beverage of an alcoholic content of more than five per cent (5%) by weight, within the City of McMinnville, Tennessee. (1982 Code, § 2-101, as replaced by Ord. #1442, Nov. 2002)

8-102. Leasing building for sale or manufacture of intoxicating liquor for consumption off premises prohibited. It shall be unlawful for any person to lease, rent, or let to any other person any building within the city to be used or occupied for the purpose of selling or manufacturing therein any whiskey, brandy, homebrew, beer, or other intoxicating liquor or beverage of an alcoholic content of more than five percent (5%) by weight, for off premises consumption within the City of McMinnville, Tennessee. (1982 Code, § 2-102, as replaced by Ord. #1442, Nov. 2002)

¹State law reference
Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Defined.
- 8-202. Application of chapter.
- 8-203. Board created.
- 8-204. Composition of board; appointment and term of members.
- 8-205. Organization and quorum of board.
- 8-206. General restriction on location of sales premises.
- 8-207. [Deleted.]
- 8-208. Sale or distribution prohibited between certain hours.
- 8-209. Loud music, etc., prohibited on sales premises.
- 8-210. Consumption of other alcoholic beverages on sale premises.
- 8-211. Sanitary facilities on sales premises.
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- 8-213. Permit holders and employees not to consume alcoholic beverages while on duty.
- 8-214. Permit required; application fee.
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- 8-216. Not transferable.
- 8-217. Suspension or revocation.
- 8-218. Sale to twenty-one year olds; permitting twenty-one year olds to consume beer; permitting minors to loiter, etc. on premises.
- 8-219. Civil penalty in lieu of suspension.
- 8-220. Privilege tax.
- 8-221. Special events beer permit.

8-201. Defined. (1) As used in this chapter, the term "beer" shall mean any beer or ale of an alcoholic content of not more than five per cent (5%) by weight.

(2) Unless otherwise stated in this chapter, all references to the "board" shall mean The Alcoholic Beverage Board. (1982 Code, § 2-201)

8-202. Application of chapter. The transportation, storage, sale, distribution, possession, and manufacture of beer or sale of an alcoholic content of not more than five per cent (5%) by weight within the corporate limits of the

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).

city shall be subject to the regulations set out in this chapter. (1982 Code, § 2-202)

8-203. Board created. There is hereby created a board to be known and designated as the alcoholic beverage board of the City of McMinnville whose responsibilities will be to enforce the provisions of this chapter and applicable provisions of Tennessee Code Annotated, title 57, chapter 5, with respect to sale and distribution of beer within the City of McMinnville. (1982 Code, § 2-203)

8-204. Composition of board; appointment and term of members.

(1) Composition and appointment. The board shall consist of five (5) members appointed by the board of mayor and aldermen. One (1) shall be an alderman of the City of McMinnville and four (4) shall be domiciled citizens of the City of McMinnville.

(2) Terms. Terms shall be two (2) years, however, to provide for staggering terms of the domiciled citizens, the current domiciled citizen members shall serve until their present term shall expire, and the two (2) new additionally appointed members shall be appointed for one (1) and two (2) years respectively, so that one of the new members' terms will expire at the same time that the senior incumbent member's term expires September 29, 1998, and the term of the second newly appointed member of the board shall expire simultaneously with the expiration of the junior member's term, September 29, 1999. The term of the aldermanic members shall expire with his term of office on the Board of Mayor and Aldermen of the City of McMinnville unless sooner relieved. All terms shall officially begin on the 29th of September.

(3) Hold over. All qualified domiciled citizen members of the board shall continue to hold office until their successor is selected and qualified. (1982 Code, § 2-204, and replaced by Ord. #1277, Feb. 1998)

8-205. Organization and quorum of board. At all meetings of the board, a majority shall constitute a quorum, and the board shall act only by vote of a majority of all its members. The board shall elect a chairman from its membership each year who shall preside. (1982 Code, § 2-205)

8-206. General restriction on location of sales premises. No sale or distribution of beer shall be made except at places where such sale or distribution will not cause congestion of traffic or interference with schools, churches, or otherwise interfere with public health, safety, and morals. No sale or distribution of beer shall be made at places within 300 feet of any school, public or private, kindergarten or churches.

Distances imposed by this section shall be measured in a straight line from the nearest entrance of the structure out of which the beer is being sold to

the nearest entrance to the structure of the school, church or kindergarten. (1982 Code, § 2-206, as replaced by Ord. #1385, June 2001, and Ord. #1403, Oct. 2001)

8-207. [Deleted.] This section was deleted by Ord. #1431, Sept. 2002 (1982 Code, § 2-207, as replaced by Ord. #1385, June 2001, and deleted by Ord. #1423, July 2002, and Ord. #1431, Sept. 2002)

8-208. Sale or distribution prohibited between certain hours. It shall be unlawful for any person, firm, partnership or corporation to sell or distribute beer or any alcoholic beverages within the corporate limits of the City of McMinnville between the hours of 3:00 a.m. and 8:00 a.m. each day Monday thru Saturday and from 3:00 a.m. until 12:00 noon on Sundays. (1982 Code, § 2-208, as replaced by Ord. #1442, Nov. 2002)

8-209. Loud music, etc., prohibited on sales premises. No loud music, or unusual or obnoxious noise shall be allowed in any place where beer is sold or distributed. (1982 Code, § 2-209, as replaced by Ord. #1385, June 2001)

8-210. Consumption of other alcoholic beverages on sale premises. In any place of business where beer is sold or distributed, the consumption of any alcoholic beverage other than beer shall be unlawful unless the owner has a consumption on premises license from the State of Tennessee and the City of McMinnville. (1982 Code, § 2-210, as replaced by Ord. #1442, Nov. 2002)

8-211. Sanitary facilities on sales premises. In every place of business where beer is sold or distributed and authorized for consumption on premises where sold or distributed proper sanitary facilities shall be provided separate for both sexes. (1982 Code, § 2-211)

8-212. Sale to intoxicated or mentally incapacitated persons. It shall be unlawful for any person to sell any beer, or allow any person to serve or give beer, to any person who is intoxicated or who is feeble minded, insane, or otherwise mentally incapacitated. (1982 Code, § 2-213)

8-213. Permit holders and employees not to consume alcoholic beverages while on duty. No person holding a permit under this chapter and no employee of any such person shall consume any alcoholic beverage while on duty. (1982 Code, § 2-214)

8-214. Permit required; application fee. It shall be unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer or beverage governed by this chapter within the city without first obtaining a permit to do so from the Alcoholic Beverage Board.

The application shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by an application fee of two hundred fifty and no/100 dollars (\$250.00). No portion of the fee shall be refunded to the applicant notwithstanding whether an application is approved or denied.

Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. (1982 Code, § 2-215, as replaced by Ord. #1106, § 1, Feb. 1994)

8-215. Application for permit; approval or disapproval. Before any beer permit shall be issued from the alcoholic beverage board for the sale or distribution of beer, the person, firm, or corporation desiring such a permit for sale or distribution of beer shall file before the board a completed application form furnished by said board. If after consideration by the board it is determined that a permit should be allowed, said application shall be approved. Should the application be disapproved, the reason for disapproval shall be made upon the application and shall be final and binding upon all parties. However, applicants may appeal decisions of the alcoholic beverage board directly to the board of mayor and aldermen.

The application for the permit shall state distinctly whether the applicant will conduct the business in person, or whether he is acting as agent for any other person, corporation, or association, and shall also state specifically the name of the owner or owners of such business, and whether wholesale or retail sale distribution will be made, whether or not beer is for consumption on premises or in conjunction with other commodities for sale. The application shall show that neither the applicant nor any person employed by him in such distribution or sale has been convicted of any violation of the statutes of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors, or any other crime involving moral turpitude within the past ten (10) years.

The application filed pursuant to this section shall at all times be kept on file by the board and shall be open to inspection to the general public, and any person making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1982 Code, § 2-216)

8-216. Not transferable. When any person shall move the location of the place of business where beer is sold, he shall be required to obtain from the alcoholic beverage board a new permit in the manner provided by this chapter. Such permit, when issued, shall not be transferable to any other person. (1982 Code, § 2-217)

8-217. Suspension or revocation. The alcoholic beverage board is hereby vested with full power and authority to suspend or revoke any permit issued under this chapter, and, for this purpose, is fully authorized and

empowered to hear and determine complaints brought for that purpose. Any violation of this chapter shall constitute sufficient grounds for the suspension or revocation of any such permit. (1982 Code, § 2-218)

8-218. Sale to twenty-one year olds; permitting twenty-one year olds to consume beer; permitting minors to loiter, etc. on premises. No person holding a permit under this chapter shall sell or permit the sale of any beer to any person under twenty-one (21) years of age or permit any such person to consume any beer on his or her premises. It shall be unlawful to permit any person under twenty-one (21) years of age to loiter on the premises, or employ any person under eighteen (18) years of age directly in the sale or distribution of beer.

Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages in the course of his or her employment. Persons under eighteen (18) years of age are not allowed to transport, possess, sell, or dispense alcoholic beverages in the course of his or her employment. (1982 Code, § 2-219)

8-219. Civil penalty in lieu of suspension. The Alcoholic Beverage 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. The holder's payment of a civil penalty shall not affect his ability to seek review of the civil penalty. (as added by Ord. #1106, § 2, Feb. 1994)

8-220. 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). 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 City of McMinnville, 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 due. (as added by Ord. #1106, § 2, Feb. 1994)

8-221. Special events beer permit. (1) Purpose. The Alcoholic Beverage Board of the City of McMinnville, Tennessee is authorized to issue a

special event beer permit to bona fide charitable, non-profit organizations for special events.

(2) Resolution. The Board of Mayor and Aldermen of the City of McMinnville must pass a resolution which specifically sanctions the special event for which the special event beer permit is to be issued.

(3) Length of permit. The special event beer permit shall not be issued for longer than one (1) seventy-two (72) hour period, subject to the limitations on the hours of sale imposed by this chapter.

(4) Consumption of beer. No special event beer permit shall allow the consumption of beer off the premises of the special event. Beer at such special event shall be served in no larger than a sixteen (16) oz. plastic cup.

(5) Food. There must be food items distributed on the premises or grounds of the special event during the entire time which beer is served.

(6) Nonrefundable application fee. The nonrefundable application fee for such special event permit is one hundred dollars (\$100.00).

(7) Applications. Applications submitted for such special event beer permit shall state the date and location of the special event. Applications submitted for such special event beer permit shall state the name of the organization and agent applying for the permit and shall include documentation showing recognition of its status as a non-profit organization. Applications submitted shall also include the mailing address of the organization and its agent, the names of its officers, the purpose for the request, the person or persons responsible for such event, the persons, groups or entities benefitting from such event and such other information as the alcoholic beverage board requires. If the event premises is not a building, a map and description of the boundaries of the grounds shall be attached to the application.

(7) Insurance. The special event beer applicant must furnish a certificate of insurance which lists the city as an additional insurer which covers the sale of beer with at least a one million dollar (\$1,000,000.00) liability limit.

(8) Failure of the permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of McMinnville shall result in the permittee being denied a special event beer permit for the sale of beer for a period of two (2) years. The permittee shall also be subject to all other consequences provided by law.

(9) For the purposes of this section a bona fide charitable or non-profit organization means any corporation or group chartered by a corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(10) Sections 8-209, 8-220 and 11-101 of the City of McMinnville Municipal Code shall not apply to this section. (as added by Ord. #1611, March 2010)

CHAPTER 3

ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

- 8-301. Definition of "alcoholic beverages."
- 8-302. Consumption of alcoholic beverages on premises.
- 8-303. Alcoholic beverage board to have local authority and oversight.
- 8-304. General restrictions on location of consumption on premises.
- 8-305. Codes department to be responsible for measuring distances and zoning regulations.
- 8-306. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-307. Annual privilege tax to be paid to the city recorder.
- 8-308. Advertisements.

8-301. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and that in intended to be consumed by a human being, other than patented medicine or beer, where the latter contains and alcoholic content of five percent (5%) by weight, or less. (as added by Ord. #1442, Nov. 2002)

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, is hereby adopted so as 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 limits of McMinnville, Tennessee. It is the intent of the Board of Mayor and Aldermen of the City of McMinnville, Tennessee that Tennessee Code Annotated, title 57, chapter 4, shall be effective in McMinnville, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #1442, Nov. 2002)

8-303. Alcoholic beverage board to have local authority and oversight. The alcoholic beverage board as established in title 8, chapter 2, § 8-203, shall have local authority and oversight to enforce the provisions of this chapter and applicable provisions of Tennessee Code Annotated, title 57, chapter 4, with respect to the consumption of alcoholic beverages on premises in the City of McMinnville, Tennessee. (as added by Ord. #1442, Nov. 2002)

8-304. General restrictions on location of consumption on premises. Sales of alcoholic beverages for on-premises consumption shall not be made at places within 300 feet of any school, public or private, kindergarten or churches. Distances imposed by this section shall be measured in a straight line from the nearest entrance of the structure out of which alcoholic beverages

are being consumed to the nearest entrance to the structure of the school, public or private, church or kindergarten. (as added by Ord. #1442, Nov. 2002)

8-305. Codes department to be responsible for measuring distances and zoning regulations. It shall be the responsibility of the codes department to measure distances that apply in § 8-304 and also to make sure that all zoning regulations are met. They shall furnish the city recorder and the alcoholic beverage board a written report regarding distances and zoning. (as added by Ord. #1442, Nov. 2002)

8-306. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to 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 McMinnville general fund to be paid annually as provided herein this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of McMinnville alcoholic beverages for consumption on the premises where sold. (as added by Ord. #1442, Nov. 2002)

8-307. Annual privilege tax to be paid to the city 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 McMinnville shall remit annually to the city recorder the appropriate tax described in 8-306. Such payment shall be remitted within thirty (30) days following the end of each twelve (12) month period from the original date of the license. 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. (as added by Ord. #1442, Nov. 2002)

8-308. Advertisements. Any person, firm, corporation, joint stock company, syndicate, or association holding a lawful and valid permit as authorized in this chapter, or who holds a valid beer permit from the City of McMinnville, Tennessee, and a valid liquor license from the State of Tennessee for retail sale of beer or alcoholic beverages for consumption on the premises shall only have on the premises one sign advertising the place of business and/or advertising beer or other alcoholic beverages as being sold on the premises, and the size of the sign at the place of business so advertising shall not exceed 24 sq. ft. in size. No other signs of any type or kind shall be erected on the premises advertising beer or other alcoholic beverages or various brands of beer or other alcoholic beverages for sale in said premises. The holder of any other permit for the retail sale of beer or other alcoholic beverages provided herein shall have no outside advertising of any type or kind whatsoever advertising that beer or other

alcoholic beverages is sold on the premises or advertising the various brands of beer or other alcoholic beverages which are sold on the premises. Any other advertising shall be confined to the interior of the premises for which the permit applies and permittees shall not place signs in the windows that are visible to any persons outside of the premises. (as added by Ord. #1442, Nov. 2002)