

TITLE 8**ALCOHOLIC BEVERAGES¹****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 the authority of an exemption provided state law,² it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Rogersville. "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. (1986 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

- 8-201. Creation, duties, and powers of the beer board.
- 8-202. "Beer" defined.
- 8-203. Permit required for engaging in beer business.
- 8-204. Application for permit.
- 8-205. Qualification for applicants.
- 8-206. Approval and issuance of permits.
- 8-207. License fees.
- 8-208. Permits and licenses.
- 8-209. Permits for the retail sale of beer.
- 8-210. Regulation of business hours.
- 8-211. Regulation of distributors, wholesalers, warehousemen, and manufacturers.
- 8-212. Regulation of advertising.
- 8-213. Sale of beer to certain persons prohibited.
- 8-214. Sale of beer to intoxicated persons prohibited.
- 8-215. Regulation of the possession of beer.
- 8-216. Inspection of beer businesses and premises.
- 8-217. Violations and penalties.
- 8-218. Special events permit.

8-201. Creation, duties, and powers of the beer board. There is hereby created a board, which shall be known and designated as the "Beer Board of the Town of Rogersville" hereinafter referred to in this chapter as the "board." The board shall be composed of three members appointed by the board of mayor and aldermen. One member shall be a member of the board of mayor and aldermen and two shall be citizens of the town. Members shall serve for two (2) year terms.

It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than one case, distribute, and sell beer to the persons and in the manner provided in this chapter.

It is hereby declared that the sale, storage, manufacture, and distribution of beer in the town is a privilege, and such board is hereby empowered with

¹State law reference

Municipal code reference

General business regulations: title 9.

Wholesale beer tax: title 5, chapter 2.

complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the town.

The board is empowered to elect its own chairman and other officers, and to make its own regulations with respect to meetings or hearings and shall deny the issuance of any permit or license whenever it determines that issuance would be in violation of this chapter or other applicable laws of the State of Tennessee or the United States. The board may likewise suspend or revoke the permit and license of any licensee who violates any laws of the United States, the State of Tennessee, or the Town of Rogersville, after notice and a public hearing.

Where a permit or license is revoked, no license or permit shall be issued to such permittee nor issued to any other applicant to permit the sale, storage, manufacture, or distribution of beer on the same premises until after the expiration of one year from the date the revocation becomes final and effective. (Ord. #01-13-04-1, March 2004)

8-202. "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. #01-13-04-1, March 2004)

8-203. Permit required for engaging in beer business. (1) 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 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 fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Rogersville. 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.

(2) 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 Rogersville, 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.

(3) 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 fifteen 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. #01-13-04-1, March 2004)

8-204. Application for permit. The application shall be in the following form:

APPLICATION FOR A BEER PERMIT

STATE OF TENNESSEE

TOWN OF ROGERSVILLE

Application for (check one)

ON PREMISES PERMIT

OFF PREMISES PERMIT

ON AND OFF PREMISES PERMIT

MANUFACTURER'S OR DISTRIBUTOR'S PERMIT

SPECIAL EVENTS PERMIT

I HEREBY MAKE APPLICATION FOR A PERMIT TO SELL, STORE, MANUFACTURE, OR DISTRIBUTE BEER OR OTHER BEVERAGES AUTHORIZED TO BE SOLD, STORED, MANUFACTURED OR DISTRIBUTED UNDER THE PROVISIONS OF TENNESSEE CODE ANNOTATE SECTION 57-5-101 ET SEQ. AND BASE MY APPLICATION UPON THE ANSWERS TO THE FOLLOWING QUESTIONS:

1. Full name of applicant (owner) _____
 Person _____ Firm _____ Corporation _____ Joint-stock Co. _____
 Syndicate _____ Association _____
2. List all persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a 5% ownership interest in the business (attach additional sheets, if needed).

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3. What is your present home address?

4. Previous address(es) (within last ten years)

5. Date of birth _____ Home telephone _____
Business telephone _____
6. Under what name will the business operate? _____

7. Location of business by street address or other geographical description and phone number of the business

- a.) Does your business provide food service for at least one (1) meal per day for a minimum of six (6) days per week to the general public or to its members, or to its members if a private organization, in a serving area upon the business premises that seats not less than fifty (50) people at one sitting. _____ yes _____ no
8. Specify the identity and address of the person to receive annual privilege tax notices and any other communication from the Town ____

9. Give name and address of property owner, if other than business owner.

10. Will the permit be used to operate two or more restaurants or other businesses under the same permit as permitted by Section 57-5-103(a)(4) within the same building? Yes _____ No _____. If so, please specify number _____. List names of the restaurants or other businesses and describe their location (use additional sheet if necessary)

11. Give name, date of birth, and address of any manager other than applicant _____

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12. Has any person having at least a 5% ownership interest, any of the managers listed in question 11, or any other employee of the business, been convicted of any violation of the beer and alcoholic beverage laws or any other crime (other than minor traffic violations) within the last ten (10) years? _____ if so, give particulars of each charge, court and date convicted.
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13. Has this owner or the owner's organization had a beer permit revoked, suspended, or denied in the State of Tennessee?
 Yes _____ No _____ If so, specify where, when and why.
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14. Give the name, relationship to applicant (if applicable) and address of the former beer permittee at this location.
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15. What is the name and address of the church (or other place of worship) nearest your business?
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(The Town of Rogersville has adopted a rule forbidding the sale, storage and manufacture of beer and like beverages within 250 feet of schools, churches and other places of public gathering)

16. What is the name and address of the school nearest to your business?
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I am knowledgeable of the laws prohibiting the sale of beer to minors. I hereby certify that no person having at least 5% ownership interest, nor any person to be employed in the distribution or sale of beer in my establishment has been convicted of any violation of the beer or alcoholic beverage laws or any crime involving moral turpitude within the past 10 years. I am also aware that I shall not be issued a permit or my permit shall be revoked if my business location causes traffic congestion or interferes with schools, churches, or other places of

public gathering, or otherwise interferes with public health, safety and morals. I further agree that I will comply with all laws of the United States, the State of Tennessee and all ordinances of the Town of Rogersville as may apply to the distribution and sale of beer or otherwise.

Signature of Applicant/Owner (or Authorized Corporate Officer)

Sworn to and subscribed before me this _____ day or _____, 20__.

Notary Public

My Commission Expires:

NOTICE: A non-refundable \$250.00 fee must accompany this application. If the application is approved you are required to provide documentation of sales tax registration to the town within ten (10) days of approval. Any applicant making false statement in this application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years.

A privilege tax or \$100.00 is imposed on the business of selling, distributing, storing or manufacturing beer in this town effective January 1, 1994 and each successive January 1. Any holder of a beer permit issued after January 1, 1994 shall pay a pro rata portion of this annual tax when the permit is issued. (Ord. #01-13-04-1, March 2004)

8-205. Qualifications for applicants. The applicant must agree in his application to comply with all laws of the United States, and of the State of Tennessee, and all ordinances of the Town of Rogersville.

No permit or license shall be issued except to persons who have not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, distributing, or possession of intoxicating liquors, or of any crime involving moral turpitude, within ten years of the date of application, nor shall any permit be issued to any firm, syndicate, joint stock company or association who have members, officers, stockholders, or employees who have had such convictions. (Ord. #01-13-04-1, March 2004)

8-206. Approval and issuance of permits. Permits shall be approved or disapproved by the board and if approved, a license shall be issued by the recorder upon payment of the license fees provided by law. (Ord. #01-13-04-1, March 2004)

8-207. License fees. All license fees shall be paid annually in advance and shall not be subject to refund in whole or in part. (Ord. #01-13-04-1, March 2004)

8-208. Permits and licenses. All permittees and licensees shall display and keep displayed their beer permits and beer licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(1) Permits and licenses shall not be transferable.

(2) A separate permit and license shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer, except as provided for in Tennessee Code Annotated § 57-5-103 (a)(4). (Ord. #01-13-04-1, March 2004)

8-209. Permits for the retail sale of beer. (1) Permits for the retail sale of beer issued by the board shall be of five (5) types:

(a) Off-premises permits for the sale of refrigerated or unrefrigerated beer to be consumed off the premises; and

(b) On-premises permits for the sale of refrigerated beer to be consumed on the premises;

(c) On and off-premises permits for the sale of refrigerated or unrefrigerated beer;

(d) Manufacturer's or distributor's permit;

(e) Special events permit.

(2) There shall be no more than twenty-five (25) off-premises permits in effect at any one time.

(3) There shall be no more than eight (8) on-premises permits in effect at any one time. On-premises permits may be issued only to a business whose location for sale serves regularly scheduled meals to the general public, or to its members if a private entity; serving at least one (1) meal per day not less than six (6) days per week and with a seating capacity of not less than fifty (50) persons at any one (1) sitting. However, the requirement for serving meals and seating capacity shall not apply to any not-for-profit organization, qualified as tax exempt by section 501 of the Internal Revenue Code of 1954, as amended.

(4) Permits shall be issued only to holders of a business license in the town, unless otherwise exempt.

(5) No permit for the retail sale of beer shall be issued to any person to sell beer from or at any place, premises, or location which constitutes a non-conforming use under the zoning laws and ordinances of the Town of Rogersville in effect at the time of application for such permit or license.

(6) No permits for the retail sale of beer shall be issued to any person who shall engage in the business of the retail sale of beer at a location within two hundred fifty (250) feet of any school, church, public playground or park. (Ord. #01-13-04-1, March 2004)

8-210. Regulation of business hours. It shall be unlawful for any person to sell beer on any weekday between the hours of 3:00 A.M. and 6:00 A.M., or from 3:00 A.M. to 12:00 Noon on Sunday. (Ord. #01-13-04-1, March 2004)

8-211. Regulation of distributors, wholesalers, warehousemen, and manufacturers. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen, and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

All distributors, wholesalers, manufacturers, and warehousemen of beer having a place of business within the corporate limits of the Town of Rogersville shall locate them in areas designated and zoned for manufacturing under the laws and ordinances of the town.

(2) It shall be unlawful within the corporate limits of the Town of Rogersville for any wholesaler, distributor, warehouseman, or manufacturer of beer, or any of their salesmen or representatives to sell or deliver beer en route, or from delivery vehicles, to any person or place other than holders of valid beer permits and licenses; and it shall be the duty of such wholesaler, distributor, warehouseman, or manufacturer and their salesmen or representatives to ascertain whether or not such person or place has been issued a valid retail beer permit or license by the town. (Ord. #01-13-04-1, March 2004)

8-212. Regulations of advertising. It shall be unlawful for any person authorized to sell beer to erect or maintain advertising or display signs except in conformity with the zoning laws or other applicable sign laws of the Town of Rogersville. (Ord. #01-13-04-1, March 2004)

8-213. Sale of beer to certain persons prohibited. It shall be unlawful for any person engaged in the sale of beer to make or permit to be made any sales of beer to any person under twenty-one (21) years of age except as authorized by law.

It shall be unlawful for any person to purchase beer for the purpose of selling or giving it to any minor, and any minor who purchases beer is subject to fine under the general penalty clause of this code.

It shall be unlawful to violate any of the provisions of Tennessee Code Annotated, § 57-5-101, et seq. (Ord. #01-13-04-1, March 2004)

8-214. Sale of beer to intoxicated persons prohibited. It shall be unlawful for any permittee or licensee to make, permit, or allow to be made any sale of beer to any person who is intoxicated. (Ord. #01-13-04-1, March 2004)

8-215. Regulation of the possession of beer. It shall be unlawful for any person to possess open cans, bottles, or containers of beer in motor vehicles. Except as may be provided for or permitted herein, it shall also be unlawful for

any person to possess open cans, bottles, or containers of beer upon the public streets, sidewalks, or other public places within the corporate limits. (Ord. #01-13-04-1, March 2004)

8-216. Inspection of beer businesses and premises. It shall be the duty of the police department or of any special police officers appointed by the mayor to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time said place is open for business. (Ord. #01-13-04-1, March 2004)

8-217. Violations and penalties. Any person violating any provisions of this chapter shall be guilty of a misdemeanor, and shall be fined in accordance with the general penalty clause of this code. Furthermore, any permittee or licensee violating any provision of this chapter shall be cited to the board for a suspension or revocation, or other sanctions as may be authorized, of the permit or license held by the permittee or licensee.

Each sale made in violation of any provision of this chapter shall constitute a separate offense. (Ord. #01-13-04-1, March 2004)

8-218. Special events permit. A special events permit for the retail sale of beer may be issued to current not-for-profit (as defined by subsection (1) herein) on-premises permit holders to be effective for periods of time not exceeding forty-eight (48) hours duration. Such permits shall be issued only for a community event designated as a special event by the board.

(1) A special event is defined as an event held or sponsored by a not-for-profit organization, qualified as tax exempt by § 501 of the Internal Revenue Code of 1954, as amended, held on public or private property (but in no event to be held on municipal park or school property), the proceeds of said event to be used solely for the benefit of the not-for-profit organization. The location of the event, if to be held on public property, must receive the prior approval of the board of mayor and alderman.

(2) The special events permit may provide for the sale and consumption of beer in public or private locations by individuals attending the special event but does not otherwise suspend the prohibitions of § 8-215 regarding motor vehicles. The special events permit shall provide the following:

- (a) The name of the permit holder;
- (b) The location of the retail sale of beer during the special event;
- (c) The name of the special event;
- (d) The duration of the permit.

(3) The application for the special events permit shall be filed with the beer board not later than thirty (30) days prior to the beginning date of the special event accompanied by the application fee set forth on § 2-203(a).

(4) The board shall designate the geographical location of a special event and any sale and consumption of beer, sold by a special event permit holder, in a public place, shall be subject to the provisions of this chapter. (Ord. #01-13-04-1, March 2004)