

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the city clerk.

8-101. 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 capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as replaced by Ord. #427, March 2002)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, 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 Clinton, Tennessee. It is the intent of the mayor and council that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Clinton, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #427, March 2002)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code

¹Municipal code references

Driving under the influence: section 15-104.

Minors in beer places, public drunkenness, etc., title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57.

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 Clinton General Fund to be paid annually as provided in 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 Clinton alcoholic beverages for consumption on the premises where sold. (as added by Ord. #427, March 2002)

8-104. Annual privilege tax to be paid to the city clerk. 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 Clinton shall remit annually to the city clerk the appropriate tax described in § 8-103. Such payments shall be remitted not less than 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. #427, March 2002)

CHAPTER 2

BEER¹

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.
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- 8-211. Sale of beer permitted only in specified zones.
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- 8-218. Transfer of permits prohibited; notice to board of transfer of beer business ownership required.
- 8-219. Temporary permit; application issued by city recorder.
- 8-220. Expiration of permit; surrender to board.
- 8-221. Civil penalties in lieu of revocation or suspension.
- 8-222. Loss of clerk's certification for sale to minor.
- 8-223. Violations.
- 8-224. -- 8-226. [Deleted.]

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

¹Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.
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).

beer board. All members of the beer board shall serve without compensation. (1969 Code, § 2-201, as replaced by Ord. #141, and Ord. #570, April 2010)

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 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 reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1969 Code, § 2-202, as replaced by Ord. #141, and Ord. #570, April 2010)

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 members thereon; and the provisions of beer permit issued by the board. (1969 Code, § 2-203, as replaced by Ord. #141, and Ord. #570, April 2010)

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. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

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. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

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, except wine as defined in Tennessee Code Annotated, § 57-3-101(a)(20); provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (as added by Ord. No. 141, and replaced by Ord. #350, Sept. 1993, and Ord. #570, April 2010)

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, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in form of a cashier's check payable to the City of Clinton. 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. (as added by Ord. #141; amended by Ord. #329; Ord. #350, Sept. 1993; and Ord. #485, Feb. 2006, and replaced by Ord. #570, April 2010)

8-208. Application; time for filing; requisites. All applications for a beer permit shall be made on a form prescribed by the board in conformity with the requirements of this section.

Before the beer board shall issue a license or permit under this section, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such license or permit and the date and time of the meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting. Such meeting shall be a public hearing for the purpose of hearing the statement of any person or his attorney on any application for a license or permit.

All applications for any permits required hereunder shall be verified by oath and affidavit and shall establish the following:

(1) That no person or persons will be employed by the applicant who is not citizens of the United States;

(2) That neither the applicant nor any person or persons employed by him/her in such distribution or sale has been convicted of any violation of the statutes of Tennessee or any other state prohibiting the possession, sale, manufacture or transportation intoxicating liquors, or any other crime involving moral turpitude in the past ten years. This section would not be applicable to servers with a certification from Alcoholic Beverage Commission as per Tennessee Code Annotated, § 57-5-106.

(3) That no sale shall be made to any person under the age of twenty-one (21) years, nor shall any person under the age of eighteen (18) be employed directly in the sale distribution of such beverages.

(4) That no person under the age of twenty-one (21) shall be allowed to loiter about the applicant's premises; provided, that persons under the age shall be allowed a reasonable amount of time to consume their meals and non-alcoholic beverages.

(5) That no sale shall be made to persons intoxicated or who are feeble minded, insane or otherwise mentally incapacitated;

(6) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business;

(7) That in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed, and that the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner;

(8) That there shall be no signs or other advertising display promoting the sale of beer in general, or of a specific beer or beers, outside of the building, in windows, or other places visible from outside the building to advertise beer. All such advertising and signs shall be limited to inside the building so as not to be visible outside the building.

(9) That, if the application is for an "on-site" permit, the primary business of the applicant on the premises for which the beer permit is requested is the sale of prepared food to be consumed on the premises and that less than thirty percent (30%) of the applicant's income on the premises will be from the sale of beer. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-209. Application to be filed; open to inspection; forfeiture of permit for false statement. The application shall at all times be kept on file by said board shall be open to inspection of the general public, and any person, firm, corporation or association making any false statement of the material facts in the application shall forfeit the permit, and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (as added by Ord. #141, amended by Ord. #329, and replaced by Ord #570, April 2010)

8-210. Classes of permits. There shall be three (3) classes of permits issued by the beer board, as follows:

(1) Class "A" a manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer of beer shall be defined as one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of beer.

(2) Class "B" An "off-site" permit to any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class "C" An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises and less than thirty percent (30%) of its income is from the sale of beer.

(4) Class "D" An "on-site" permit to any person or legal organization engaged in the operation of any hotel/motel that does not sell food or beverages and that receives ninety percent (90%) of its revenue from the sale of room rentals may serve beer to patrons of such hotel/motel without a charge. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-211. Sale of beer permitted only in specified zones. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the City of Clinton, Tennessee, provided that permits authorized by this chapter shall be issued for locations that are now zoned or may be in the future zoned as follows:

- (1) Class "A" Permits: Zoning Districts M-1 and M-2.
- (2) Class "B" Permits: Zoning Districts B-1, B-2, and B-4.
- (3) Class "C" Permits: Zoning Districts B-1, B-2, and B-4. (as added by Ord. #141, amended by Ord. #329, and Ord. #428, March 2002, and replaced by Ord. #570, April 2010)

8-212. Class B and Class C permits prohibited within certain areas.

(1) No Class "B" or Class "C" permits shall be issued to an applicant whose location:

(a) Is upon property having a common boundary line with the property upon which a church, school, public park, or public playground is located.

(b) Is upon property any portion of which is perpendicularly across any street from property upon which a church, school, public park or public playground is located.

(2) No Class "B" permit shall be issued to an applicant whose location is within five hundred feet (500') from any church, school, public park or public playground.

(3) No Class "C" permit shall be issued to an applicant whose location is within five hundred feet (500') from any church, school, public park or public playground.

(4) In determining the distance under this section, measurement shall be from the center of the nearest entrance of a structure, or facility, in case of a public park or public playground following a straight line, to the center of the main entrance of the potential permittee.

(5) The foregoing prohibitions shall not apply where the applicant has received a license or permit under the provisions of chapter 1 of this title.

No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or public park or playground if a valid permit had been issued to any business on that same location prior to the existence of a school, church or public park or playground unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (as added by Ord. #141, amended by Ord. #329, Ord. #485, Feb. 2006, and Ord. #550, June 2009, and replaced by Ord. #570, April 2010)

8-213. Posting of permit. The permit showing the payment of the permit fee issued shall be conspicuously posted in the house, building, room or place where the business authorized by the permit is conducted. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-214. Privilege tax. There is hereby imposed on the business of selling, distribution, storing or manufacturing beer a 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 each successive January 1st to the City of Clinton, 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. (as added by Ord. #141, amended by Ord. #428, March 2002, and replaced by Ord. #570, April 2010)

8-215. 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 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. (as added by Ord. #141, amended by Ord. #350, Sept. 1993, and replaced by Ord. #570, April 2010)

8-216. Legal hours of sale. The legal hours of sale for all classes of permit holders shall be the same as the legal hours of sale of beer authorized by the Tennessee Alcoholic Beverage Commission for certain counties and municipalities, as defined in Tennessee Code Annotated, § 57-5-301(b)(4), which are the following hours:

Monday through Saturday 8:00 AM to 3:00 AM

Sunday 12:00 noon to 3:00 AM

The City of Clinton elects to opt out of any extensions of hours granted by the State of Tennessee Alcoholic Beverages Commission. (as added by Ord. #141, and replaced by Ord. #350, Sept. 1993, and Ord. #570, April 2010)

8-217. 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. (as added by Ord. #141, amended by Ord. #350, Sept. 1993, and replaced by Ord. #570, April 2010)

8-218. Transfer of permits prohibited; notice to board of transfer of beer business ownership required. The transfer of a beer permit to any other person firm or corporation is prohibited. However, any person, firm or corporation holding a beer permit under this chapter who proposes to sell or otherwise transfer the business to another person, firm or corporation with the intention or expectation that the buyer or transferee will engage in the business of selling beer at the same location shall be required to notify the beer board of his or her intention to sell or transfer the business. (as added by Ord. #141, amended by Ord. #350, Sept. 1996, and replaced by Ord. #570, April 2010)

8-219. Temporary permit; application issued by city recorder. In the event a proposed buyer or transferee acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer or transferee obtains a regular beer permit, the buyer or transferee may obtain a temporary permit from the city recorder upon the determination of the city recorder that the buyer or transferee is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the beer board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than twenty-one (21) days from the date of issuance. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued, except for premises for which the beer permit has been issued to another owner or operator at the time application is made for

such temporary permit. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-220. Expiration of permit; surrender to board. Any permit issued for the sale of beer under this chapter shall become invalid and void at twelve (12:00) o'clock midnight of the date on which any holder of a permit ceases to operate the business for which said permit was issued. This provision shall not apply to temporary absences of the permittee, but shall apply when said permittee permanently ceases operations under his permit. Said permittee shall within five (5) days from the date on which he ceases to do business under the permit surrender said permit to the city recorder. (as added by Ord. #141, amended by Ord. #329, and replaced by Ord. #570, April 2010)

8-221. Civil penalties 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, Councilman *et seq.*

(2) Penalty, revocation or suspension. 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 may impose. (as added by Ord. #141, and replaced by Ord. #570, April 2010)

8-222. Loss of clerk's certification for sale to minor. 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. (as added by Ord. #141, and replaced by Ord. #415, July 2001, and Ord. #570, April 2010)

8-223. Violations. Except as provided in § 8-214, 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. (as added by Ord. #141; amended by Ord. #329, and replaced by Ord. #350, Sept. 1993, and Ord. #570, April 2010)

8-224. -- 8-226. [Deleted.] (as added by Ord. #141, and replaced by Ord. #570, April 2010)