TITLE 8

ALCOHOLIC BEVERAGES

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 town recorder.
8-105. Concurrent sales of liquor by the drink and beer.
8-106. Advertisement of alcoholic beverages.

8-101. Definition of alcoholic beverages. As used in this section, 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. (1969 Code, § 2-101, as replaced by Ord. #292, April 2015)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted by reference 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 Tazewell, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Tazewell, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #292, April 2015)

1State law reference
Tennessee Code Annotated, title 57.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in 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 Town of Tazewell 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 Town of Tazewell on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #292, April 2015)

8-104. Annual privilege tax to be paid to the town 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 Town of Tazewell shall remit annually to the town recorder 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. #292, April 2015)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the Town of Tazewell, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be entitled to sell beer after receiving a lawful beer permit from the Town of Tazewell. (as added by Ord. #292, April 2015)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #292, April 2015)

8-107. Zoning restriction. All alcoholic beverage sales are restricted to C-2 and C-3 zoned areas. (as added by Ord. #292, April 2015)
CHAPTER 2

BEER

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.
8-206. "Beer" defined.
8-207. Permit required for engaging in beer business.
8-208. Privilege tax.
8-209. Beer permits shall be restrictive.
8-210. Limitation on granting of permits.
8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
8-212. Revocation or suspension of beer permits.
8-213. Civil penalty in lieu of revocation or suspension.
8-214. Loss of clerk's certification for sale to minor.
8-216. Employees liable for violation.
8-217. Display of permit.
8-218.--8-222. [Deleted.]

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (1969 Code, § 2-201, as replaced by Ord. #292, April 2015)

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 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. #292, April 2015)

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).
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. #165, Oct. 1993, as replaced by Ord. #201, May 2001, Ord. #222, Aug. 2006, and Ord. #292, April 2015)

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. (1969 Code, § 2-204, as replaced by Ord. #201, May 2001, amended by Ord. #261, Nov. 2010, Ord. #263, June 2011, and replaced by Ord. #292, April 2015)

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. (1969 Code, § 2-205, as replaced by Ord. #201, May 2001, amended by Ord. #281, Aug. 2013, and replaced by Ord. #292, April 2015)

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 non-beverage ingredients containing alcohol. (Ord. #165, Oct 1993, as replaced by Ord. #292, April 2015)

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

---

1State law reference
Tennessee Code Annotated, § 57-5-106.

2State law reference
Tennessee Code Annotated, § 57-5-103.
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 and fifty dollars ($250.00). Said fee shall be in the form of cash or a cashier’s check payable to the Town of Tazewell. A special event/temporary beer permit request made by a business that already has a permit shall be exempt from an additional permit fee. 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. (1969 Code, § 2-207, as amended by Ord. #235, Oct. 2007, and replaced by Ord. #292, April 2015)

8-208. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 1 to the Town of Tazewell, 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. (1969 Code, § 2-208, as replaced by Ord. #292, April 2015)

8-209. 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

¹State law reference
Tennessee Code Annotated, § 57-5-104(b).
8-210. **Limitation on granting of permits.** No permit shall be issued to sell any beverage coming within the provisions of this chapter:

1. In violation of any provision of the state laws.
2. Any area of the town that is not zoned C-2 and C-3 commercial by the town zoning ordinances.
3. To any business that does not have other sales than beer, that will provide at least fifty one percent (51%) of the gross sales of the business receipts, (beer sales not to exceed forty nine percent (49%).
4. To any drive-in restaurant, restaurant's offering curb service or any outside areas for consumption on premises.
5. To any restaurant for consumption on premises unless the restaurant has a Class I rating from the State of Tennessee and has the capacity to seat and serve a minimum of one hundred (100) people.
6. To any premises unless said premises shall pass specifications in regard to the structure as prescribed in the building codes of the town and the beer sales area shall be under one roof with the other sales area of the business.
7. To any hotel or motel with less than twenty (20) rooms for rent, with the following additional requirements:
   a. The twenty (20) or more rooms are used for the sleeping of guests.
   b. Having one (1) or more public dining rooms with adequate and sanitary kitchen.
   c. Seating capacity of at least fifty (50) at tables.
   d. Where meals are regularly served to guests.
8. Special event/temporary beer permits. Special event/temporary beer permits must comply with all other regulations found in title 8, chapter 2 with the exception of §§ 8-208 and 8-210(2). Special event/temporary beer permits must comply with all express restrictions or conditions in his permit.¹ (1969 Code, § 2-209, as replaced by Ord. #292, April 2015)

¹State law reference

*Tennessee Code Annotated*, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.
permits are permissible in the Town of Tazewell with the following additional requirements:

(a) Permit applications must be submitted forty-five (45) days prior to the start of the event for which a permit is requested.

(b) In addition to the permit application requirements described in § 8-207, the following information must be submitted with an application for a special event permit:
   (i) The organization applying for the special event permit, contact person, address and phone number.
   (ii) Date(s) and time(s) of event.
   (iii) The sponsors of the event and the sponsors' contact person's address and phone number.
   (iv) The specific location where beer is to be sold or served.
   (v) The individual(s) with such organization responsible for supervising the sale and dispensing of the beer.
   (vi) The applicant and/or sponsor's plans for security and policing the area(s) where beer is sold.
   (vii) If the event covered by the "special event permit" will be held on property not owned by the applicant, a written statement of approval from the property owner must accompany the special event application.
   (viii) A town-approved and specific single beverage container for the event must be used during the event and used exclusively on the defined site and dates of the event.

(c) Permit applications are valid only for on-premises consumption inside an enclosed and/or defined area with restricted ingress/egress points.

(d) The sponsors of the proposed event and the applicant shall send a representative or representatives to such Town of Tazewell Beer Board meeting to address any questions or issues arising out of the proposed special event/temporary permit.

(e) If approved the special event/temporary permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specific location(s) and date(s) (not to exceed seven (7) continuous days) where such vendor is permitted to sell beer under the special event permit. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of this ordinance 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.

(Ord. #165, Oct. 1993, as amended by Ord. #235, Oct. 2007, and replaced by Ord. #292, April 2015)
8-211. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

1. Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
2. Make or allow the sale of beer between the hours outside of those established in Tennessee Code Annotated, § 57-4-203(d) regarding hours of sale for on-premises consumption. Make or allow the sale of beer for off-premises consumption during the hours of 12:00 A.M. to 6:00 A.M. Monday through Friday, from 3:00 A.M. to 6:00 AM. on Saturdays, and from 3:00 A.M. to 1:00 P.M. and 10:00 P.M. to 11:59 P.M. on Sundays or Christmas Day, with the exception of, the eve of the following holidays, they may make sales until 3:00 A.M. the next day, New Years, Memorial Day, Independence Day and Labor Day.
3. Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
4. Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
5. Allow drunk persons to loiter about his premises.
6. 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, with the exception of the permit holder possessing liquor by the drink permit also. (1969 Code, § 2-211, as replaced by Ord. #292, April 2015, and amended by Ord. #302, Aug. 2015)

8-212. 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. (1969 Code, § 2-212, as replaced by Ord.
#292, April 2015)

8-213. Civil penalty 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, 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 town may
impose. (1969 Code, § 2-213, as replaced by Ord. #201, May 2001, and Ord. #292,
April 2015)

8-214. 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 "responsible vendor," 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. (1969 Code, § 2-214, as replaced by Ord. #201, May 2001, and
Ord. #292, April 2015)

8-215. Violations. Except as provided in § 8-215, 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. (1969 Code, § 2-215, as deleted by Ord. #201, May 2001, and replaced by Ord. #292, April 2015)

8-216. Employees liable for violations. Any employee of any permittee, either retailer or wholesaler, who violates any provision of this chapter or any provision of the state beer law while so employed by such permittee shall be guilty of a misdemeanor which shall be punishable by a fine or penalty under the general penalty clause for this code. (1969 Code, § 2-216, as replaced by Ord. #292, April 2015)

8-217. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1969 Code, § 2-217, as replaced by Ord. #292, April 2015)

8-218.--8-222. [Deleted]. (as deleted by Ord. #292, April 2015)