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TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

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8-101. State law incorporated by reference; alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, as amended, or as hereafter amended, and by the rules and regulations promulgated thereunder, all of which are incorporated by reference as if fully set out herein, and as provided by this chapter. (1984 Code, § 2-101)

8-102. Manufacture prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits. (1984 Code, § 2-102)

8-103. Wholesale business prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits. (1984 Code, § 2-103)

8-104. Certificate of moral character. Every applicant for a retail business license to sell alcoholic beverages in sealed packages for off premise

1State law reference
Tennessee Code Annotated, title 57.
consumption pursuant to Tennessee Code Annotated, § 57-3-204 or for a renewal of said license pursuant to Tennessee Code Annotated, § 57-3-213 shall make an application to board of commissioners, on forms provided by the city, for a certificate of moral character/compliance.

Every application for a certificate of moral character shall be referred to the city manager for investigation to the city building inspector for verification of compliance with all zoning and building ordinances and/or regulations, and to the city attorney for review, each of whom shall submit his findings to the board of commissioners within thirty (30) days of the date each application was filed.

A majority of the board of commissioners may issue a certificate of moral character pursuant to Tennessee Code Annotated, § 57-3-208(b) to an applicant or applicants if the investigation shows:

1. That the applicant or applicants who are to be in actual charge of said business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter.

2. That the applicant or applicants have secured a location for said business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city or county, and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

3. That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

Provided, however, that no certificate of moral character shall be issued to any applicant or applicants who are not and have not been for at least two (2) years resident citizens of the County of Maury. (1984 Code, § 2-104, as amended by Ord. #88-695, Aug. 1988)

8-105. Limitation on number of licenses. The number of licenses for the retail sale of alcoholic beverages within the corporate limits of the City of Mount Pleasant, Tennessee shall be limited to thereof one for each one thousand (1,000) or major fraction thereof population. The population to be ascertained

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1See Tennessee Code Annotated, § 57-3-208(c).

2See Tennessee Code Annotated, § 57-3-208, particularly subparagraph (b)(3) and subparagraph (c).
8-106. **Location restrictions on retail businesses.** No certificate of moral character shall be granted the operator of a retail store for the sale of alcoholic beverages except on premises; provided, however, no retail store shall be permissible where the proposed location thereof is within five hundred (500) feet of a church or school or municipal, state or federal office or building of public assemblage. (1984 Code, § 2-106, as amended by Ord. #88-695, Aug. 1988)

8-107. **Inspection fee.** The City of Mount Pleasant hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (1984 Code, § 2-107)

8-108. **Violations.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause for this municipal code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to the provisions of said commission. (1984 Code, § 2-108)

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1See **Tennessee Code Annotated**, § 57-3-501 through 57-3-504.
CHAPTER 2

BEER

SECTION
8-201. Beer board established.
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8-217. Civil penalty in lieu of revocation or suspension.
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8-201. **Beer board established.** There is hereby established a beer board to be composed of three (3) residents of the City of Mount Pleasant over the age of eighteen (18) years, who shall be appointed by the mayor and approved by the board of commissioners. The members of said board shall hold office for one (1) year or until their successors are appointed and qualified. (Ord. #2007-880, Jan. 2008)

8-202. **Meetings of the beer board.** All meetings of the beer board shall be open to the public. The board shall meet as necessary. The time for said meeting shall be set by the unanimous vote of members of the beer board.

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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).
A meeting of the beer board may be called by its chairman provided he gives reasonable notice thereof to each board member, and the board may adjourn a meeting at any time to another time and place. (Ord. #2007-880, Jan. 2008)

8-203. **Record of beer board proceedings to be kept.** The city manager of the City of Mount Pleasant shall furnish a stenographer who shall attend all meetings of the beer board. The stenographer shall make a separate record of the proceedings of all meetings of the beer board. This record shall be a public record and shall contain at least the following: The day of each meeting; the names of the board members present and absent; in cases of hearings before the beer board, a record of evidence introduced and testimony heard before the board; the provision of each permit issued by the board as to whether it is a permit for the sale for off-premises consumption or for sale for on-premises consumption. The stenographer shall also obtain a list of the names and addresses of all holders of beer permits, which list shall be kept on current basis. (Ord. #2007-880, Jan. 2008)

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. #2007-880, Jan. 2008)

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 city in accordance with the provisions of this chapter.

The beer board is hereby given broad powers of investigation, and it shall have the authority to inspect the premises of any applicant and at all reasonable hours may investigate the premises of all permit holders. (Ord. #2007-880, Jan. 2008)

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; 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. (Ord. #2007-880, Jan. 2008)

8-207. **Permit required for engaging in beer business; filing and publication requirements.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer (which does not relate to, nor have effect upon the ordinances relating to and regulating the sale of liquor)
without first filing an application with the city manager 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 nonrefundable 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 City of Mount Pleasant.

The application shall be filed no less than fifteen (15) days prior to the regular meeting of the Beer Board of the City of Mount Pleasant, Tennessee, as hereinafter defined, and said application shall be published in the Columbia Daily Herald on at least one (1) occasion not less than ten (10) days prior to the regular meeting of said beer board before any action shall be taken thereon. 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.

In no event shall a permit be issued without the approval in writing of a majority of the beer board. (Ord. #2007-880, Jan. 2008)

8-208. Contents of application. Each application shall contain the following statements, all properly sworn to by the applicant:

1. That the applicant will manage and operate the business in person.
2. That applicant will not sell nor permit the sale of beer or other beverage included in the provisions of this chapter to any person under the age of twenty-one (21) and that it will be the responsibility of the applicant and his employees to ascertain the age of any person seeking to buy beer at such premises, or elsewhere if from applicant.
3. The applicant will not give, lend, or permit any minor (under twenty-one (21)) to have beer, ale or other beverage included within this chapter, and will not permit any person under twenty-one (21) years of age to loiter upon such licensed premises.
4. That neither the applicant nor any person employed or to be employed by applicant has been convicted in any court of any offense against the laws on possession, transportation, storage, sale, or manufacture of intoxicating liquor, or of any crime involving moral turpitude within ten (10) years last past.
5. The application shall state specifically whether the person applying for a license will conduct the business for himself or as the agent for some other person or organization.
6. The exact location where said business is to be conducted, designating same by street number, if there is one, and by other adequately descriptive language as will enable any person of ordinary intellect to locate the premises.
7. Applicant shall also declare that appropriate licenses and permits will be obtained from the proper county and state authorities as are required. (Ord. #2007-880, Jan. 2008)
8-209. **Privilege tax.** 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 City of Mount Pleasant, 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. #2007-880, Jan. 2008)

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 at retail, storing, distributing, and manufacturing. Beer permits for the 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. (Ord. #2007-880, Jan. 2008)

8-211. **Limitation on number of permits.** Licenses shall be issued as follows:

(1) Across the counter--licenses for on-the-premises consumption only.

(2) Packaged--licenses for consumption of off-the-premises only.

(3) Combination across the counter and packaged--licenses for both on- and off-the-premises sales.

(4) The maximum number of retail across the counter beer licenses at any time shall be ten (10).

(5) The maximum number of retail packaged beer licenses at any time shall be fifteen (15).

(6) The maximum number of retail combination across the counter and packaged beer licenses at any time shall be three (3).

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. (Ord. #2007-880, Jan. 2008)

8-212. **Restrictions as to issuance of licenses; location, arrangement and use of premises.** Licenses and/or permits for the retail sale of beer shall not be granted under the following circumstances:
(1) When the issuance of such licenses and/or permits would cause the number then issued and outstanding to exceed the applicable maximum set forth in § 8-211 of this chapter.

(2) When the applicant or any person employed or to be employed by the applicant has been convicted in any court of any offense against the laws on possession, transportation, storage, sale or manufacture of intoxicating liquor or of any crime involving moral turpitude within the last ten (10) years past.

(3) Where the proposed location of the business is within five hundred (500) feet of any church, one thousand (1,000) feet of any school, or two-hundred fifty (250) feet of any municipal, state or federal office or other building of public assemblage.

(4) The business premises where the selling of beer, ale or other alcoholic beverages within the scope of this chapter is to be licensed is not so arranged that the front of said building provides an unobstructed view of the entire part of the premises where sales are made or customers served or where the premises does not comply with zoning or building code ordinances or regulations of the city.

(5) At any location where the business premises is located or to be located that would cause congestion of traffic, interference with schools, churches or other places of public gathering, or otherwise interferes with public health, safety and morals or is a hazard to public traffic, whether pedestrian or vehicular. (Ord. #2007-880, Jan. 2008)

8-213. 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, storage or sale of beer within five hundred (500) feet of any church, one thousand (1,000) feet of any school, or two hundred fifty (250) feet of any municipal, state or federal office or building of public assemblage.

The measurement shall be from the front door of any proposed establishment that will be permitted to the front door of the church, school, municipal, state or federal office or building of public assemblage closest nearby following the reasonable and ordinary route one would travel to go from one place to the other, such as a sidewalk, crosswalk and front walk. This measurement shall be verified and certified by the city office of code enforcement and/or the Mount Pleasant Police Department in writing, which certification shall be provided to the beer board and made a part of the application file of any beer permit applicant. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that
location during any continuous six-month period. (Ord. #2007-880, Jan. 2008, modified)

8-214. **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 of 3:00 A.M. and 6:00 A.M. on weekdays and between the hours of 3:00 A.M. Sunday and 12:00 noon on Sunday. Any beverage sold before 3:00 A.M. for consumption on the premises shall be consumed prior to 3:15 A.M. and any person consuming beer on the premises after such hour and until 6:00 A.M. Monday through Saturday and 12:00 noon on Sunday shall be guilty of a misdemeanor.
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.
7. Allow pool or billiard playing in the same room where beer is sold and/or consumed.

8-215. **Licenses not transferable; issued only to individuals, not to clubs, etc.** Every license to engage in the business of selling, storing, and receiving beer and ale and other beverages encompassed in this chapter, shall be issued to an individual, and shall be in his name. No license may be issued to a club, association, firm, or corporation, but shall be issued to the person who will be immediately and directly responsible for the operation of the premises, and no such license shall be transferred, assigned, or used by any other person to conduct said business.

No license shall be effective for any premises other than the premises for which said license is issued.

No person shall be permitted to move or change the address of the licensed premises. If a license is issued for the ground floor of any structure within the corporate limits, the same may not be used in the event the place of business is changed to a basement under said premises, or to an upper floor above said designated location, nor shall such license permit the use of any adjacent, adjoining, or additional building.
When any person licensed hereunder as the owner, operator, or manager sells, rents, leases, transfers, or assigns his property rights in the licensed premises, the license issued to him or her shall be surrendered to the city manager at the city hall, and when any change in location of the premises shall occur, the licensee shall surrender his said license to the city manager as of the day of the change. (Ord. #2007-880, Jan. 2008)

8-216. **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-month period. The revocation shall be for three (3) years. (Ord. #2007-880, Jan. 2008)

8-217. **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 city may impose. (Ord. #2007-880, Jan 2008)

8-218. 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. (Ord. #2007-880, Jan. 2008)

8-219. Violations. Except as provided in § 8-220, 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. (Ord. #2007-880, Jan. 2008)