

**TITLE 8**

**ALCOHOLIC BEVERAGES**<sup>1</sup>

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except as authorized by applicable laws<sup>2</sup>, and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any beer within this town. "Beer" shall be defined to include all beers, ales, or malt liquor as defined in *Tennessee Code Annotated*, § 57-5-101.

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<sup>1</sup>State law reference  
*Tennessee Code Annotated*, title 57.

<sup>2</sup>State law reference  
*Tennessee Code Annotated*, § 39-17-701, *et seq.*

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

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**8-201. Creation, duties, and powers of the beer board.** There is hereby established a board, which shall be known and designated as the "Beer Board of the Town of Bulls Gap, Tennessee," hereinafter referred to as the "board." The board shall be comprised of all five (5) members of the Bulls Gap board of mayor and aldermen, who shall serve without additional compensation.

It shall be the duty and responsibility of the board to regulate and supervise the issuance of permits to manufacture, store for sale, distribute and/or sell beer and other similar beverages, as defined by this chapter of the Bulls Gap Municipal Code, to the persons and in the manner provided by the provisions of this chapter.

It is hereby declared that the manufacture, storage for sale, distribution and/or sale of beer within the municipality of Bulls Gap is a privilege and the board is hereby empowered with complete discretion to issue, revoke, and

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<sup>1</sup>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).

suspend all permits for purposes authorized under this chapter and to levy fines as authorized by this chapter.

The board may deny the issuance of any of any permit whenever the board determines that such issuance would be detrimental to the public health, safety and/or morals of the community. The board may likewise suspend or revoke the permit of any permit holder who violates any of the laws of the United States, the State of Tennessee, or the ordinances of the Town of Bulls Gap, or whenever, after notice and public hearing, it shall satisfactorily appear that the premises or business of any permit holder is being maintained and operated in such a manner as to be detrimental to the public health, safety and/or morals of the community.

Where a permit is revoked, no new permit shall be issued to such permit holder nor issued to any other applicant for the manufacture, storage for sale, distribution and/or sale of beer on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (1996 Code, § 8-201)

**8-202. Organization and meetings of the beer board.** All meetings of the beer board shall be open to the public. A chairman shall be elected annually by the board from among its members. The board shall hold meetings in the Bulls Gap Town Hall at such times as it shall prescribe. When there is business to come before the board, a special meeting may be called by the chairman, provided adequate notice is given to all board members and to the general public.

The recorder shall make a record of the proceedings of all meetings of the board. The record shall be a public record and shall contain at least the following: the date and time of each meeting; the names of board members present and absent; the names of 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 permit issued by the board.

The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by majority vote of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1996 Code, § 8-202)

**8-203. "Beer" defined.** The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

**8-204. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, and/or sell beer from a location in the Town of Bulls Gap 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 furnish 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 check or money order payable to the Town of Bulls Gap, Tennessee. Each applicant must be a person of good moral character and certify that he has read and is familiar with all the provisions of the applicable section of the Bulls Gap Municipal Code. (1996 Code, § 8-204)

**8-205. Application for beer permit.** (1) All persons, firms, corporations, or associations who shall desire to manufacture, store for sale, distribute and/or sell beer shall apply in writing to the board, under oath, on a form prescribed by it for a permit to manufacture, store for sale, distribute and/or sale beer within the corporate limits, in which written application shall be established the following:

(a) That neither the applicant nor any person or persons employed by the applicant in such manufacture, storage for sale, distribution and/or sale has been convicted of any violation of the beer or alcoholic beverage laws of the State of Tennessee or any crime involving moral turpitude within the past ten (10) years;

(b) That the permit shall not be for the manufacture, storage, distribution and/or sale of beer from any structure located within one thousand five hundred feet (1,500'), as measured in a straight line from the nearest point of each structure, of any school building (public or private) or any church;

(c) That the permit shall not be for the manufacture, storage, distribution and/or sale of beer from any structure located within one hundred fifty feet (150'), as measured in a straight line from the nearest point of each structure, of any residential dwelling if the owner of the dwelling, upon notification of the permit application, notifies the board of an objection to the issuance of the permit prior to the board's decision to issue the permit;

(d) That the permit applicant shall submit to the board a copy of the applicant's Tennessee Department of Revenue sales tax registration certificate;

(e) That no sale, distribution, or consumption of such beverages will be made at places where pool or billiards are played; provided, however, nothing in this section shall prevent the sale, distribution, or consumption of such beverages in the front of such room or place if a solid partition or wall separates the plate from the pool or billiard parlor;

(f) That no sale or distribution of such beverages will be made at places operating a dance hall in conjunction therewith, or where dancing is allowed or permitted;

(g) That no sale or distribution of such beverages will be made except at places where such sale or distribution will not cause congestion

of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, and morals;

(h) That in the place of business where such beverages will be sold or distributed, the consumption of any beverages other than beer and/or ale shall not be allowed;

(i) That in the place of business where such beverages will be sold or distributed proper sanitary facilities shall be provided;

(j) That the applicant is of good character and has a suitable location to conduct said place of business;

(k) That proper visibility in the front windows shall be maintained from a height from the pavement of at least five feet (5');

(l) 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, peaceable, and lawful manner.

(m) That the applicant is at least twenty-one (21) years of age.

(n) That the business location to be used for the purposes of selling beer or other such beverages shall be in an area zoned for business.

(2) The applicant shall state distinctly whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, firm, corporation, or association, and shall also state specifically the name of the owner or owners of such business and whether a wholesale or retail sale or distribution will be made.

(3) The application shall at all times be kept on file by the board and shall be open to inspection of the general public. Any person, firm, corporation, or association making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1996 Code, § 8-205)

**8-206. Approval and issuance of beer permit.** Upon the filing of a written application for a beer permit with the chairman of the beer board, it shall be carefully examined by the board, and a record of the action thereon shall be kept in writing as a part of the regular proceedings of the board. Upon favorable action by the board on any applications submitted to it, a permit shall be issued to the applicant. The permit shall bear the name of the chairman of the board and the date of its issuance.

The permit thus obtained shall remain in full force and effect until its revocation by the board in the manner prescribed in this chapter.

No permit to engage in the business regulated by this chapter shall be granted to any person, persons, firm, corporation, or association unless such applicant can comply with all of the provisions of § 8-205. (1996 Code, § 8-206)

**8-207. Privilege tax.** There is hereby imposed on the business of manufacturing, storing for sale, distributing and/or selling beer an annual privilege tax of one hundred dollars (\$100.00). Any permit holder shall remit the tax on January 1, 1994, and by each successive January 1, to the Town of Bulls Gap. At such time as a new permit is issued to any business or individual subject to the 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. (1996 Code, § 8-207)

**8-208. Restrictions on the use of beer permits.** (1) Beer permits when issued shall not be transferrable to any other person, firm, corporation, or association.

(2) When any person shall move the location of the place of business where beer is manufactured, stored, distributed and/or sold, then the permit holder shall be required to obtain a new permit in the manner provided in this chapter, including the payment of the application fee and the privilege tax.

(3) A separate beer permit shall be obtained for each location at which or from which any application is to manufacture, store, distribute, and/or sell beer.

(4) A permit holder shall return the permit to the board within fifteen (15) days of the termination of business, change in ownership, relocation or change in the business establishment's name. (1996 Code, § 8-208)

**8-209. Permits for the retail sale of beer.** Permits for the retail sale of beer shall be restricted to the sale of beer to be consumed off the premises and the number of retail permits for off premises consumption shall be limited to four (4). (1996 Code, § 8-209)

**8-210. Display of beer permits.** All permittees shall display and keep displayed their beer permits in a conspicuous place on the premises where they are licensed to conduct business. (1996 Code, § 8-210)

**8-211. Advertising the sale or distribution of beer.** It shall be unlawful for more than one (1) sign, advertising the sale or distribution of beer or alcoholic beverages, to be displayed in the front of and including the exterior of any establishment conducting the sale or distribution of beer. It shall further be unlawful for the size of said sign indicating the sale or distribution of beer to be larger than twelve inches by eighteen inches (12" x 18"). (1996 Code, § 8-211)

**8-212. Restrictions on the sale of beer.** (1) No manufacturer, distributor, or warehouseman shall sell to anyone except to a licensed beer dealer.

(2) It shall be unlawful for any person, firm, corporation, or association, engaged in the business regulated by this chapter:

- (a) To make or permit to be made any sales or distribution of such beverages to minors;
- (b) To employ minors directly in the sale or distribution of such beverages or permit minors to loiter on the premises;
- (c) To sell or distribute such beverages to persons intoxicated or under the influence of intoxicating beverages;
- (d) To employ any person in the sale, storage, manufacture, or distribution of such beverages except citizens of the United States;
- (e) To fail to provide proper sanitary facilities and visibility in front windows;
- (f) To sell or distribute such beverages at any place where pool or billiards are played unless the sale or distribution or consumption of such beverages is made in the front of such room or place where a solid partition or wall separates the place from the pool or billiard parlor;
- (g) To sell or distribute such beverages at any place where a dance hall is operated or where dancing is allowed or permitted;
- (h) To employ any person who has been convicted of any violation of the state statutes prohibiting the possession, sale, manufacture, or transportation of intoxicating liquor, or any other crime involving moral turpitude, within the past ten (10) years.

Provided, however, that nothing in this section shall prevent the sale and distribution of such beverages in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges. (1996 Code, § 8-212, modified)

**8-213. 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.

**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. (1996 Code, § 8-214)

**8-215. Regulation of the possession of beer.** It shall be unlawful for any person to possess within the corporate limits more than one case of beer without a permit. A case of beer, for purposes of this section, is defined as being the quantity contained in twenty-four (24) twelve (12) oz. cans, containers, or the equivalent thereof.

It shall be unlawful for any person to possess open cans, bottles, or containers of beer in motor vehicles or upon the public streets, sidewalks, or other public places within the corporate limits not otherwise permitted by this chapter. (1996 Code, § 8-215)

**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 under this chapter, and it shall be unlawful for any permittee to refuse to permit any such inspection during any such time that such place is open for business. (1996 Code, § 8-216)

**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.<sup>1</sup> 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.

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-5-108(2).



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.

**8-217. Violations and penalty.** Except as provided in § 8-217, 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.