

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within this city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101.

¹State law reference
Tennessee Code Annotated, title 57.

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

CHAPTER 2

BEER¹

SECTION

- 8-201. Sale of beer permitted only in specified zone.
- 8-202. Beer board created.
- 8-203. Beer not to contain more than eight percent alcohol.
- 8-204. Beer petition contents.
- 8-205. Permit required for engaging in beer business.
- 8-206. Permit may be suspended or revoked for cause.
- 8-207. Permit to be posted.
- 8-208. Permits not transferable.
- 8-209. Wholesalers to sell, etc. only to retailers.
- 8-210. Purchase of beer for or by minors, prohibited.
- 8-211. Operating hours of beer businesses.
- 8-212. Sale, etc. within 500' of church, etc. prohibited.
- 8-213. Privilege tax.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Inspection fee.
- 8-216. Violations and penalty.

8-201. Sale of beer permitted only in specified zone. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer of alcoholic content of not more than eight (8%)² by weight or other beverages of a like alcoholic content within the boundaries and corporate limits of the City of LaFollette, Tennessee. The corporate boundaries of the City of LaFollette, Tennessee shall embrace the territory as established by the charter of the City of LaFollette as well as all annexations duly approved and adopted by the City of LaFollette, Tennessee. Any license duly authorized by this chapter shall be within said corporate boundaries as described above that are now zoned or may in the future be zoned for business use and the same shall be subject to all of the regulations, limitations and restrictions as hereinafter provided. (Ord. #2013-01, Feb. 2013, as amended by Ord. #2017-01, March 2017)

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).

²State law reference

Tennessee Code Annotated, § 57-5-101.

8-202. Beer board created. There is hereby created a board, which shall be known and designated as the Beer Board of the City of LaFollette, Tennessee. Such board shall be composed of the Mayor and Councilmen of the City of LaFollette, Tennessee, or a board composed of five (5) members appointed by the mayor and councilmen. One (1) of whom shall be the vice mayor as elected by the city council. The vice mayor, by virtue of the office, shall serve as the chairman of the board herein created. (2000 Code, § 8-202)

8-203. Beer not to contain more than eight percent alcohol. No person shall engage in the selling, storing for resale, distributing or manufacturing of beer of alcoholic content of not more than eight percent (8%)¹ by weight or other beverages of a like alcoholic content within the corporate limits of the City of LaFollette, Tennessee until he shall receive a permit to do so from the Beer Board of the City of LaFollette, Tennessee, which permit shall at all times be subject to all of the limitations and restrictions herein provided. (2000 Code, § 8-203, as amended by Ord. #2017-01, March 2017)

8-204. Beer petition contents. Before any permit is issued by the beer board, the applicant therefor shall file with the beer board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

- (1) That the applicant is a citizen of the United States, or if a syndicate or association, that all of the members thereof are citizens of the United States;
- (2) The location of the premises at which the business shall be conducted;
- (3) The owner or owners of such premises;
- (4) That no person will be employed in the sale, storage for resale, distribution or manufacture of such beverages except those who are citizens of the United States;
- (5) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued permits to such applicant;
- (6) That no sale of such beverages will be made except in accordance with the permit granted;
- (7) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business;
- (8) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, manufacture or

¹State law reference

Tennessee Code Annotated, § 57-5-101.

transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years;

(9) That the applicant will conduct the business in person, for himself, or if he is acting as agent, the applicant shall state the person, firm, or corporation, syndicate, association or joint stock company or companies for whom the applicant intends to act;

(10) That said sworn petition shall be filed a minimum of fifteen (15) days prior to the meeting of the beer board at which said petition is considered. The secretary of the board shall furnish copies of said petition to all members of the board within one (1) day of the date said petition is filed; and

(11) That applicant shall pay a fee of one hundred dollars (\$100.00) with the filing of the application for a beer permit, said fee to cover the cost of investigation and processing of the application. (2000 Code, § 8-204)

8-205. 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*, § 57-5-101(b), and 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 a cashier's check payable to the City of LaFollette. 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. (2000 Code, § 8-205)

8-206. Permit may be suspended or revoked for cause. (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

(2) The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the Police Department of the City of LaFollette, Tennessee. The

notice shall be served upon the permittee at least ten (10) days before the date set for the hearing. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (2000 Code, § 8-206)

8-207. Permit to be posted. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (2000 Code, § 8-207)

8-208. Permits not transferable. Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase, or otherwise, of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (2000 Code, § 8-208)

8-209. Wholesalers to sell, etc. only to retailers. It shall be unlawful for any wholesaler, distributor 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 other than holders of valid retail permits and it shall be the duty of such wholesaler, distributor, or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (2000 Code, § 8-209)

8-210. Purchase of beer for or by minors, prohibited. It shall be unlawful for any minor to purchase or attempt to purchase any beverage regulated hereunder and it shall be unlawful for any minor to present or offer to permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to procure such beverage. It shall also be unlawful for any person to purchase beer for a minor. (2000 Code, § 8-211)

8-211. Operating hours of beer businesses.¹ No alcoholic beverage regulated by this chapter shall be sold, given away, served, or otherwise dispensed or distributed between 12:00 A.M. and 6:00 A.M. No permit holder shall allow such beverages to be consumed, or to be opened for consumption, on or about the premises licensed hereunder in either bottle, glass, or other

¹Charter reference: § 6(22).

container, between 12:15 A.M. and 6:00 A.M. Where the sale of such beverage is the only business or the primary business of the permit holder at the licensed premises, the premises shall be vacated of all customers and guests and closed between 12:15 A.M. and 6:00 A.M. Said hours shall be applicable to business hours for Monday through Saturday. Sunday sales are permitted starting at 10:00 A.M. Sunday through 12:00 A.M. (Ord. #2010-06, Jan. 2011, modified)

8-212. Sale, etc. within 500' of church etc. prohibited. No permit for the sale, storage for resale, distribution or manufacture of beer of alcoholic content of not more than eight percent (8%)¹ by weight or other beverage of a like alcoholic content shall be issued to an applicant whose location is less than five hundred feet (500') from a church, public school, public park or regulated public playground. In determining the distance from a church or public school, the distance shall be measured from the center of the nearest permanent entrance of the church or public school building being used for religious or educational purpose, following the usual and customary path of pedestrian travel, to the center of the main entrance of the potential permittee. The distance from a public park or regulated public playground shall be measured from the nearest boundary of said park or playground to the center of the main entrance of the potential permittee. (2000 Code, § 8-213, as amended by Ord. #2017-01, March 2017)

8-213. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of two hundred fifty dollars (\$250.00). 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, 2021, and each successive January 1, to the City of LaFollette, Tennessee. At the time of new permit 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 payment date. (Ord. #2020-01, July 2020)

8-214. 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 one thousand five 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

¹State law reference

Tennessee Code Annotated, § 57-5-101.

is paid within that time, the revocation or suspension shall be deemed withdrawn. (2000 Code, § 8-216)

8-215. Inspection fee. The City of LaFollette 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.

8-216. Violations and penalty. 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.

CHAPTER 3

WINE

SECTION

- 8-301. Certificate required; contents of application for retail food store wine licenses.
- 8-302. Appearance before council by applicant for certificate for retail food store wine license.
- 8-303. Persons ineligible for retail food store wine certificate.
- 8-304. Certification fee.
- 8-305. Inspection fee.

8-301. Certificate required; contents of application for retail food store wine licenses. (1) Before any person or business entity shall receive a retail food store wine license, the individual or business entity shall make application for and receive a certificate as required by *Tennessee Code Annotated*, § 57-3-806. The application for the certificate shall be in writing and must be filed with the alcoholic beverage inspector on a form provided by the city, giving the following information:

- (a) Name, age and address of the applicant (including the names of any person who will have an interest in the business of the applicant or in the profits thereof);
 - (b) The location of the proposed store for the sale of wine;
 - (c) The name and address of the owner;
 - (d) If the applicant is a partnership or corporation, the name, age and address of each partner or stockholder;
 - (e) A statement that no person prohibited from having any direct or indirect interest in the proposed store has such an interest; and
 - (f) A written statement or letter from the City of LaFollette Planning Commission stating the location for the business complies with all zoning laws adopted by the city, and that the zoning district provides that the sale of wine is a permitted use.
- (2) The application required in this section shall be verified by the oath of the applicant, and if the applicant is a partnership or corporation, it shall be verified by the oath of each partner or stockholder.
- (3) The applicant for a certificate for a retail food store wine license shall agree to comply with all federal and state laws and ordinances of the city and the rules and regulations of the alcoholic beverage commission.
- (4) The application must be filed not later than ten (10) days prior to the council meeting at which it is to be considered. (Ord. #2016-07, Jan. 2017)

8-302. Appearance before council by applicant for certificate for retail food store wine license. At the discretion of city council, an applicant

for a certificate for a retail food store wine license may be cited to appear in person before the council for such examination as may be desired by the council. The applicant shall furnish such relevant information as may be required. (Ord. #2016-07, Jan. 2017)

8-303. Persons ineligible for retail food store wine certificate. A certificate shall not be issued to:

(1) An applicant or applicants who, within the ten (10) years immediately preceding the date of the filing of the application, have been convicted of a felony; and

(2) A corporation, if within ten (10) years preceding the filing of the application, any of the executive officers or those in control of the corporation have been convicted of a felony. (Ord. #2016-07, Jan. 2017)

8-304. Certification fee. All applications for certificates shall be accompanied by a fee of one thousand dollars (\$1,000.00). Said fee shall be used in offsetting the expenses of investigating the applicant and verifying all zoning requirements. No portion of the fee shall be refunded to the applicant whether an application is approved or denied. Following payment of the initial fee for certification, all subsequent certificate renewals shall incur a fee of five hundred dollars (\$500.00). (Ord. #2016-07, Jan. 2017)

8-305. Inspection fee. For the purpose of providing a means of regulating wine sales within the city and to provide means for enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of eight percent (8%) on all alcoholic beverages sold to retailers in this city. The fee shall be measured by the wholesale price of the alcoholic beverage sold by each wholesaler and shall be eight percent (8%) of such wholesale price. The fee may be added by the wholesaler to invoices for alcoholic beverages sold to licensed retailers. The fees imposed under authority of this section shall be remitted to the city, not later than the 20th day of each month, for the preceding month. (Ord. #2016-07, Jan. 2017)