

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. BEER.
2. ALCOHOLIC BEVERAGES OTHER THAN BEER.

**CHAPTER 1****BEER<sup>2</sup>****SECTION**

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**8-101. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be chairman of the beer board. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

<sup>2</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).

**8-102. 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. (Ord. #96-001, April 1996 as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-103. Record of beer board proceedings to be kept.** The town 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 recording 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. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-104. 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. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-105. 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 town in accordance with the provisions of this chapter. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-106. "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. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 *Ch2\_8-2-21*)

**8-107. Permit required for engaging in beer business; privilege tax; notice and collection.** (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making applications 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 fifty dollars (\$250.00). Said

fee shall be in the form prescribed by the town recorder and made payable to the Town of Thompson's Station, Tennessee. 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.

(2) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer, an 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 on January 1, 1994, and on or before each successive January 1, to the Town of Thompson's Station, 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.

(3) Notice and collection of the privilege tax. Pursuant to Tennessee Code Annotated, § 57-5-104(a)(3), the town shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to Jan. 1. Notice shall be mailed to the address specified by the permit holder on its permit holder on its permit application, or at such other address as provided by the permit holder to the town. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed by the town, whichever is later, then the town shall notify the permit holder by certified mail, return receipt requested, that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the town may suspend or revoke the permit or impose a civil penalty pursuant to Tennessee Code Annotated, § 57-5-108. (Ord. #96-001, April 2006, as replaced by Ord. #2020-022, Feb. 2020 **Ch2\_8-2-21**, and amended by Ord. #2021-006, April 2021 **Ch2\_8-2-21**)

**8-108. Beer permits shall be restrictive.** (1) All beer permits shall be restrictive as to the type of beer a business is authorized to sell under the permit. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. 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 which may be written into his permit authorized by the beer board.

(2) A beer permit issued hereunder shall be issued only in the name of the individual, manager or employee applicant. A permit, except as authorized stated in this chapter, shall continue to be valid so long as that individual, manager or employee is engaged in business at the location authorized in the permit. The individual, manager or employee is charged with compliance of this chapter at the permit location. A permit does not run with the land or business. (Ord. #96-001, April 2006, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**)

**8-109. Types of permits.** Permits issued by the beer board shall consist of five (5) types:

(1) Manufacturers. A manufacturer's permit to a manufacturer of beer, for the manufacture, possession, storage, sale, distribution, and transportation of the product of the manufacturer which product may be consumed upon the premises of the manufacturer to the extent permitted by state law of general application.

(2) Off-premises. An "off-premises" permit is required for any person, entity, or legal organization engaged in the sale of beer where it is not to be consumed by the purchaser upon or near the premises of the seller.

(3) On-premises. An "on-premises" permit is required for any person or legal organization engaged in the sale of beer where it is to be consumed by the purchaser or guests upon the premises of the seller; and provided beer may also be sold in hotel rooms of regularly conducted hotels and in regularly incorporated clubs and lodges upon their obtaining the required permit.

(a) Anyone applying for or obtaining an on-premises permit may also sell beer to go so a patron may take beer with him purchased at such place after consuming beer. This will be known as a "joint" permit and shall cost an additional two hundred fifty dollars (\$250.00) at the time the application is made, or at any subsequent time when it is sought to change the permit.

(b) No alcoholic beverage shall be consumed in the parking lot of any establishment possessing an on-premises permit, except that, with the prior approval of the beer board, through the application and approval of a special permit, as defined under this chapter, for special events no longer than three (3) consecutive calendar days, permittees may allow consumption of alcoholic beverages sold by the permittee within an area that is roped off or otherwise separated by a continuous fence or other type of barrier from the remaining portion of their parking lot, both ends of which terminate at the permittee's building, deck, porch, patio, or other such attached structure; and provided further, that such permittee provides for an adequate number of private security personnel, as regulated by the Town of Thompson's Station, to prevent unlawful use or possession of alcoholic beverages and to enhance public safety.

(c) Subsection (b) above notwithstanding, beer may be sold and/or consumed in parking lot or lots owned by the permit holder without a special permit; provided that:

(i) Said parking lot or lots, or designated portions thereof, are at least one hundred feet (100') from a public road; and

(ii) When alcoholic beverages are being consumed in the lot or lots, the permit holder provides for an adequate number of private security personnel to prevent unlawful use or possession of alcoholic beverages and to enhance public safety.

(d) All on-premises permit holders are required to serve food and non-alcoholic beverages at all times beer is sold.

(4) Special events permit. A "special events" permit is required for any person, entity, or organization engaged in the sale of such beverages where they are to be consumed by the purchaser or his guests upon the premises of the seller, including, but not limited to, any location the purchaser has rented for the purposes of the special event. The special events permit will be issued for the fee of one hundred dollars (\$100.00), after approval by the Town of Thompson's Station Beer Board. Prior notification must be made in writing thirty (30) days prior to the event, and such notification shall include the organization holding the event and location where the event is to be held, among other information required by the town recorder. Each permit will be issued for a specific date and a specific period of time, not to exceed three (3) days unless approved by the beer board. The specific period of time will not contradict any existing state or town ordinances or regulations.

(5) Caterer permit. A "caterer" permit to any person, entity, or legal organization conducting a food and beverage catering business who or which has been previously issued a liquor by the drink catering license, or other similar certificate, from the Tennessee Alcoholic Beverage Commission. The liquor by the drink catering license must be current and not expired or revoked at the time of the application for the caterer permit. The caterer permit will be issued for the fee of one hundred dollars (\$100.00), after approval by the Town of Thompson's Station Beer Board. (Ord. #96-001, April 1996, as amended by Ord. #08-012, June 2008, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**, and Ord. #2021-006, April 2021 **Ch2\_8-2-21**)

**8-110. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business(es) would cause congestion of traffic or would interfere with public health, safety and morals. In no event will a permit be issued authorizing the storage, sale or manufacture of beer by the permit holder within two hundred feet (200') of any school or church as measured in a straight line from the nearest corner of the school or church to the nearest corner of the structure where the beer is to be stored, sold or manufactured. (Ord. #05-004, March 2008, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**, amended by Ord. #2021-006, April 2021 **Ch2\_8-2-21** )

**8-111. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture or transportation of intoxicating liquor or any crime involving moral turpitude, within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or

transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (Ord. #96-001, April 1996, as replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**)

**8-112. Prohibited conduct or activities by beer permit holders.**

It shall be unlawful for any beer permit holder to:

- (1) Make or allow sale of beer between the hours of 12:00 midnight and 6:00 A.M.;
- (2) Allow any loud, unusual or obnoxious noises to emanate from the premises, which shall not include locations designed and used for live music;
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age;
- (4) Make or allow any sale of beer to any intoxicated person or to any mentally incapacitated person;
- (5) Allow drunk persons to loiter about the premises;
- (6) Serve, sell or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight, unless the permit holder has an active liquor license from the Tennessee Alcoholic Beverage Commission;
- (7) "Off-premises" permit holders shall not allow the consumption of alcohol in or about their premises whatsoever;
- (8) Allow gambling on the premises;
- (9) "On-premises and special event" permit holders shall not fail to provide and maintain sanitary toilet facilities; and/or
- (10) Allow an employee of the permit holder who is under the age of eighteen (18) years to sell beer. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007, replaced by Ord. #2020-002, Feb. 2020 **Ch2\_8-2-21**, and amended by Ord. #2021-006, April 2021 **Ch2\_8-2-21**)

**8-113. Suspension and revocation of beer permits.** (1) The beer board shall have the power to suspend or revoke 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 suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by any member of the beer board upon said member's written request to the chairman of the beer board. Said request shall be in writing, and a notice to the beer permit holder of the initiation of such proceedings shall be sent by certified mail. The notice shall include the basis of such initiation, and the date, time and location of any such public hearing for consideration of such suspension or revocation.

(2) 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. (Ord. #96-001, April 1996, as amended by Ord. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)

**8-114. 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. (Ord. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)

**8-115. Revocation 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. #07-009, Sept. 2007, as replaced by Ord. #2021-002, Feb. 2020 *Ch2\_8-2-21*)



## CHAPTER 2

### ALCOHOLIC BEVERAGES OTHER THAN BEER

#### SECTION

8-201. Authority and purpose.

8-202. Definitions.

8-203. Certificate of compliance.

8-204. Certificate valid at one location only; compliance with land development ordinance.

8-205. Application disclosures; misrepresentations; revocation.

8-206. Inspection fee.

**8-201. Authority and purpose.** This chapter is adopted pursuant to the powers enumerated in Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #2016-012, Aug. 2016 *Ch2\_8-2-21*)

**8-202. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Alcoholic beverage" or "beverage." All alcohol, spirits, liquor, wine, high alcohol content beer and other liquids included in the definition of "alcoholic beverage" contained in Tennessee Code Annotated, § 57-3-101(a), as the same may be amended, supplemented or replaced.

(2) "Certificate" or "certificate of compliance." The certificate required pursuant to Tennessee Code Annotated, §§ 57-3-208 or 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this chapter for issuance of such a certificate.

(3) "License." A license issued by the alcoholic beverage commission of the state pursuant to Tennessee Code Annotated, §§ 57-3-204 or 57-3-803, as the same may be amended, supplemented or replaced, provided that the issuance of licenses shall be subject to the restrictions set forth in this chapter.

(4) "Licensee." Any person to whom a license has been issued.

(5) "Retail sale." A sale to a consumer or to any person for any purpose other than for resale.

(6) "Retail food store." An establishment which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to Tennessee Code Annotated, title 57, chapter 3, part 8.

(7) "Wholesale." A sale to any person for purposes of resale, except that sales by a person licensed under Tennessee Code Annotated, § 57-3-204, to a charitable, non-profit or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale.

(8) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

(9) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by Tennessee Code Annotated, §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**)

**8-203. Certificate of compliance.** Any person intending to apply for a state license for the sale of wine at a retail food store shall first apply for a certificate of compliance from the town, pursuant to Tennessee Code Annotated, § 57-3-208. The application for a certificate shall be in writing on a form furnished by the town recorder. Upon verification that the applicant meets the requirements of Tennessee Code Annotated, § 57-3-208(b), the mayor may issue the certificate. Alternatively, members of the board of mayor and aldermen may sign the certificate and the certificate shall be issued when a majority of the members have signed it. The certificate shall be granted or denied within sixty (60) days after the application for the certificate is submitted to the recorder. A certificate of compliance for the sale of wine at a retail food store shall expire and become void if the applicant to whom the certificate was granted fails to apply for a license from the alcoholic beverage commission within six (6) months of the date of the certificate, or if the retail food store for which a certificate was granted is not in operation within twelve (12) months following the issuance of the certificate; provided, however, that the mayor or a majority of the board may, upon written request of the applicant, extend the expiration date of a certificate for up to three (3) additional months in the event of circumstances beyond the applicant's control. If a certificate becomes void, no new certificate may be issued to the same applicant unless a new application is submitted and all applicable requirements of this chapter are met at the time the new application is received. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**)

**8-204. Certificate valid at one location only; compliance with land development ordinance.** A certificate issued under this chapter for the sale of wine at a retail food store shall be valid only for the premises proposed in the application, and any change of location of the business shall be cause for immediate nullification of the certificate. No certificate of compliance shall be issued for the sale of wine at a retail food store where such store would be prohibited under the town's land development ordinance. (as added by Ord. #2016-012, Aug. 2016 **Ch2\_8-2-21**)

**8-205. Application disclosures; misrepresentations; revocation.**

(1) Each application for a certificate shall identify each person who is to be in actual charge of the business and, if a corporation, each executive officer and each individual in control of the business. For the purposes of this section,

an individual who owns at least fifty percent (50%) of the stock of a business is considered to be in control of the business.

(2) Misrepresentation of a material fact, or concealment of a material fact required to be shown in the application for a certificate, shall be a violation of this chapter. The town may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business, or if the interest of any person in the operation of the business is not truly stated in the application, or in case of any fraud or false statements by the applicant pertaining to any matter relating to the operation of the business.

(3) If the provisions of this section are alleged to have been violated, the town may revoke any certificate which has been issued, after first providing an opportunity for the applicant or licensee to refute such allegations and/or to show cause why the certificate should not be revoked. The mayor may revoke a certificate for the sale of wine at a retail food store; provided that the applicant or licensee may appeal the revocation to the board of mayor and aldermen which may reverse the mayor's action by majority vote. (as added by Ord. #2016-012, Aug. 2016 *Ch2\_8-2-21*)

**8-206. Inspection fee.** Pursuant to Tennessee Code Annotated, §§ 57-3-501, et seq., there is hereby imposed an inspection fee of five percent (5%) of the wholesale price of alcoholic beverages supplied by wholesalers to licensees under this chapter. This fee shall be collected by the wholesaler making such sales, who shall remit the fees to the town at such times and in such manner as provided in Tennessee Code Annotated, § 57-3-503, accompanied by such forms and other information as the town finance director may prescribe. Wholesalers collecting and remitting this inspection fee shall be allowed to deduct the collection fee authorized by the above statute. The failure of the wholesaler to remit the appropriate fees and documentation to the town may result in the suspension or revocation of the retail food store's certificate of compliance. (as added by Ord. #2016-012, Aug. 2016 *Ch2\_8-2-21*)