

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 when he is lawfully acting pursuant to the authority of an applicable state law<sup>2</sup>, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the City of Ardmore. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than six percent (6%) of alcohol by weight. (Ord. #02-07-1991, Feb. 1991, as amended by Ord. #A0 99-03-08, March 1999)

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

<sup>2</sup>State law reference  
Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

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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).

8-201. "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 per cent (5%) by weight. (Ord. #02-07-1991, Feb. 1991)

8-202. Beer board established. There is hereby established a beer board to be composed of all the members of the governing body. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (Ord. #02-07-1991, Feb. 1991)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings following each regular meeting of the governing body at the city hall whenever there is business to come before the beer board. A special meeting of the beer board may be called by its chairman provided he gives a reasonable notice thereof and the board may adjourn a meeting at any time to another time and place. (Ord. #02-07-1991, Feb. 1991)

8-204. Record of beer board proceedings to be kept. The recorder shall make a separate 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 provision of each beer permit issued by the board. The recorder shall also maintain an up to date list of the names and addresses of all beer permit holders. (Ord. #02-07-1991, Feb. 1991)

8-205. Requirement 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. (Ord. #02-07-1991, Feb. 1991)

8-206. Powers and duties of the beer board. The board shall have the power and it is hereby directed to regulate the selling, distributing, or manufacturing of beer and the storing and distributing for sale within this municipality in accordance with the provisions of this chapter. (Ord. #02-07-1991, Feb. 1991)

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 and/or furnish, and pursuant to T.C.A. 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250). Said fee shall be payable to the City of Ardmore. 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. (Ord. #A0-93-09-3, Sept. 1993)

8-208. Application for retail permit. (1) Each application for a beer permit shall reflect:

(a) That the applicant is an adult citizen (21 years or older) of the United States.

(b) Those applying for a permit to sell beer for consumption on or off the premises must be a resident citizen of Giles County, Lincoln County, Tennessee or Madison County, Limestone County, Alabama for at least twelve (12) months preceding the date of the application. In the event an applicant has been a resident for only six (6) months, this provision may be waived if the application is accompanied by a certificate of moral character from three citizens of the area in which the applicant previously lived and a statement from the chief law enforcement officer located therein concerning the applicant's reputation for peace and quiet and for obeying the law.

(c) The location of the premises at which the business shall be conducted.

(d) The owner or owners of such premises.

(e) The names and addresses of all other persons or firms who have any financial interest whatsoever in the beer business proposed to be established.

(f) Whether the applicant will operate the business in person or by agent and, if by agent, the name and address of such agent.

(g) [Deleted.] This subsection was deleted by Ord. #A0 99-03-08, March 1999.

(h) That the applicant shall not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit to such applicant.

(i) That no sale of such beverage will be made except in accordance with the permit granted.

(j) That if the application is for a permit to sell "not for consumption on the premises" that no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof.

(k) That no sale will be made to minors and that the applicant will not permit minors or disorderly or disreputable persons to loiter around the place of business.

(l) That the applicant shall not allow any liquor with an alcoholic content greater than five percent (5%) to be consumed on the premises.

(m) That the applicant will require each employee to read and sign the portion of the city's beer ordinance, on a form supplied by the city, which applies to minors and the related penalties for violations. Such completed forms will be filed with the city. (Ord. #02-07-1991, Feb. 1991, modified, as amended by Ord. #A0 99-03-08, March 1999, and Ord. #A0 00-09-07, Sept. 2000)

8-209. Additional rules concerning application. (1) That the applicant must secure a certificate or a statement from the health department or health officer that the premises which the application covers meets the requirements as provided by the laws of the State of Tennessee and the other provisions of this chapter.

(2) The application shall be submitted to the city recorder for an amount of time sufficient to allow an investigation into the applicant, and, in no event, less than fifteen (15) days preceding the next succeeding board meeting. The beer board shall act upon the application at its next regular meeting following the fifteen (15) days. This provision may be waived only if there has been a sufficient amount of time for the chief of police to make his investigation.

(3) Permittee must be in full operation within six (6) months of approval of his application.

(4) The application must be signed by the chief of police indicating that he has checked into the background of the applicant and to the circumstances of the premises upon which the beer is to be sold.

(5) No permit shall be issued by the beer board until the application therefore shall have been subscribed to and approved in writing by the city attorney. However, the city attorney is only authorized to disapprove applications when there is a failure to comply with a city ordinance or state law governing the issuance of the permit. (Ord. #02-07-1991, Feb. 1991)

8-210. Permits not transferable. Beer permits shall not be transferable from one person to another or from one location to another. (Ord. #02-07-1991, Feb. 1991)

8-211. Duration of permit. Permits issued under the provisions of this chapter shall be issued until revoked or suspended by change of location, sale of business, death or incapacity of the permit holder, violation of the state or city laws and/or ordinances, abandonment of the business, or otherwise ceases to do business or goes out of business at the same location, or ceases to sell beer to the public as an ongoing and vital part of their business. (Ord. #2-0-1992, Feb. 1992)

8-212. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder together with all permits, licenses, and stamps as required by law. (Ord. #02-07-1991, Feb. 1991)

8-213. Number of licenses permitted per individual. A beer permit holder may hold more than one permit, provided, however, that no one individual shall hold more than one outstanding permit for an address only i.e. for subsequent locations the business must be in full operation before a permit for another location will be granted to that individual. (Ord. #02-07-1991, Feb. 1991, as replaced by Ord. #A0 00-06-01b, June 2000)

8-214. 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, nursing homes, funeral homes, or public parks or would otherwise interfere with the public health, safety and morals. (Ord. #02-07-1991, Feb. 1991)

8-215. Geographical limitations. (1) For the purpose of this section, a restaurant is defined as in § 8-221(1). All other permits for license to sell for consumption on the premises shall be defined as a tavern.

(2) No permit will issue for the sale of beer where the building housing a restaurant is within 350 feet of any building housing any church, school, hospital or nursing home approved by the Tennessee Health Facilities Commission, or playground, park or funeral home.

(3) No permit will issue for the sale of beer for the consumption on the premises in a building housing a tavern if the tavern is within 1000 feet of any building housing any church, school, hospital or nursing home approved by the Tennessee Health Facilities Commission, or playground, funeral home, or public park.

(4) No permit will issue where the building housing the retail outlet for consumption off the premises if the same is within 350 feet of any public playground, church, school, hospital, nursing home, funeral home or public park.

(5) The distances provided in this section shall be calculated by measuring the pedestrian distance from the front door of the beer establishment to the entrance of the playground or the nearest corner of the building housing the church, school, hospital, nursing home or funeral home.

(6) The provision of this section may be waived if the applicant can show reasonable cause for the waiver to be granted. (Ord. #02-07-1991, Feb. 1991)

8-216. Issuance of permits to persons convicted of certain crimes.

No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacturing or transporting of intoxicating liquors or any other drug or any crime involving moral turpitude within the past ten (10) years. (Ord. #02-07-1991, Feb. 1991)

8-217. Issuance of permits to hotels, clubs, etc.

It shall be lawful for the beer board to issue a permit for the sale of beverages coming within the provisions of this chapter to hotels, motels, clubs and lodges, subject to the limitations and restrictions contained in the state law covering this subject and the rules and regulations promulgated thereunder and subject to all limitations and restrictions contained in the permit provided for by this chapter. (Ord. #02-07-1991, Feb. 1991)

8-218. Retail off premises, restrictions.

(1) No permit to sell at retail coming within the provisions of this chapter shall be issued for the operation of any place except one with enough of the front enclosed in glass and of such design that the interior can be easily seen from the sidewalk or street or in front of such place. No curtains, drapes, shades, blinds, screens or other things shall be used in the front of any place that hinders a clear and unobstructed view of the interior of such place from the sidewalk or street in front of such place. No permit to sell at retail coming within the provisions of this chapter shall be issued for the operation of any place except one which is twelve hundred (1200) square feet or greater and on a permanent foundation.

(2) All places shall be adequately lighted.

(3) All such retail establishments shall have a telephone on the premises to the end that both customers and the owners and managers shall have quick access to the police.

(4) At no time shall the number of beer permits issued by the beer board and outstanding in the City of Ardmore for off premises consumption (package beer) exceed eight (8) with two (2) of these permits being limited to grocery stores.

(5) "Package beer" is defined as beer (§ 8-201) sold for off premises consumption.

(6) Two (2) of the permits for the off premises sale of beer shall be issued according to the following classes and limitations:

(a) Off premises where beer is sold at a grocery (food store).

Grocery shall mean a business establishment whose primary business is the retail sale of food merchandise and household items (a minimum of 51% of gross receipts). The building housing the grocery shall have a minimum of ten thousand (10,000) square feet of operating area. (Ord. #02-07-1991, Feb. 1991, as amended by Ord. #A0 99-03-08, March 1999)

8-219. On premises (taverns) restrictions. (1) Each outlet for on premises consumption shall have a seating capacity for at least fifty (50) patrons.

(2) Each retail outlet is required to have a telephone on the premises to the end that both customers and the owners and managers shall have quick access to the police.

(3) Each retail outlet must have a front and rear exit.

(4) Each outlet must list all employees with the city recorder's office within ten (10) days from the date of employment.

(5) Each retail outlet must provide off street parking for at least twenty-five (25) automobiles and must be on a lot at least one hundred (100) feet in width and with only one business on said lot.

(6) At no time shall the number of beer permits issued by the beer board and outstanding in the City of Ardmore for taverns exceed five (5).

(7) No gambling shall be allowed on the tavern premises. (Ord. #02-07-1991, Feb. 1991, as amended by Ord. #A0 99-03-08, March 1999)

8-220. Restaurants: definitions and resident requirements.

(1) A restaurant is defined as a retail establishment serving food prepared on the premises where seventy-five percent (75%) of the gross income as calculated from the sales tax receipts is derived from the sale and serving of food and where there is a seating capacity for fifty (50) customers.

(2) In the event a person not living in Giles, Lincoln, Limestone or Madison County for twelve (12) months desires to open a restaurant and secure a beer permit for consumption on the premises, the residence requirements may be waived upon the presentation of three certificates of good moral character from the community in which he lived prior to moving to Ardmore.

(3) At no time shall the number of beer permits issued by the beer board and outstanding in the City of Ardmore for on premises consumption exceed two (2), as defined under this section (restaurants).

(4) License holder shall be responsible for meeting with the appropriate city official with sufficient documentation to calculate annual revenue to show compliance with this section on or before Jan. 15 for the year immediately preceding. (Ord. #02-07-1991, Feb. 1991, as amended by Ord. #A0 99-03-08, March 1999)

8-221. Sanitation. Any person holding a permit under this chapter for sale for consumption on the premises shall keep and maintain the premises in a clean and sanitary, condition. The city health officer or any other properly authorized person is hereby authorized to enter the premises at all reasonable times for the making of such inspections as may be necessary. The determination of the sanitary condition is solely a question for the City of Ardmore. (Ord. #02-07-1991, Feb. 1991)



8-222. Minor, fraudulent evidence of age, etc., misdemeanor. It shall be unlawful for any minor to purchase, attempt to purchase or possess any such beverages covered under this chapter or for anyone to purchase such beverages for a minor. It shall be unlawful for any minor present to offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchases or attempting to purchase such beverages. Any minor who acts in violation of any one or more provisions of this section shall be taken before the juvenile judge for appropriate disposition. (Ord. #02-07-1991, Feb. 1991)

8-223. Investigation of applicant, agent, and/or employees. Applicants for retail permits under this section are subject to be investigated by municipal, county and state authorities and any agent of said applicant or his employees must register with the police department of the City of Ardmore prior to beginning work. The applicant must submit such information and records as the beer board may require and secure a permit from said police department for all employees and applicants. (Ord. #02-07-1991, Feb. 1991)

8-224. Prohibited conduct. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquors or drugs or any crime involving moral turpitude within the last given amount of years as set by the board. The board may at its discretion set the time, but in no event shall the time be less than one (1) year nor more than five (5) years. This amendment will be applied retroactively; meaning any persons not allowed to be employed under the old law will be subject to the new provision.

(2) To employ any minor under 21 years of age to assist in or make the sale, service, or dispensing of beer. This section has no application to employees working at a business which holds a permit which is only for off premises consumption.

(3) Make or allow any sale of package beer between the hours of 2 A.M. and Sunday and 6 A.M. on Sunday.

Make or allow any sale of beer for on premises consumption between the hours of 2 A.M. and 12 Noon on Sunday.

For point of clarification Sunday beer sales of package beer shall be allowed from 6 A.M on Sunday until midnight. The sale of beer for on premises consumption on Sunday will be allowed between the hours of 12 Noon and 12 Midnight on Sunday.

All times to be governed by the time zone applicable in Ardmore, Tennessee.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(6) Any minor under twenty-one (21) years of age to loiter and/or be in or around the business premises for any reason other than a valid business purpose at any time. The purpose of this provision is to insure that no person under twenty-one (21) years of age is to be in, on, or about the premises of an establishment which holds a permit for on premises consumption for any purpose other than a valid business reason. However, nothing herein shall prohibit a minor from being a patron or employee in a restaurant as defined in this chapter or an establishment which holds a permit for off premises consumption.

(7) Make or allow any sale of beer to any intoxicated person or to any feeble minded, insane, or otherwise mentally incapacitated person.

(8) Allow drunk or disreputable persons, or persons of questionable character to loiter about his premises.

(9) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five per cent (5%) by weight.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(11) It shall be unlawful for any person authorized to sell beer to erect or maintain more than one advertising or display sign outside of the building. The sign may use the word "beer". The advertising or display sign shall not exceed three (3) feet in depth and five (5) feet in length.

(12) The beverages regulated by this chapter shall not be sold, given away, served or otherwise dispensed to persons in automobiles or other motor vehicles. Subsections 11 and 12 of this section shall not apply to those establishments in existence at the time of adoption of this chapter; until such license is granted to a different individual for the establishment.

(13) Definitions.

(a) "Licensee." A person, partnership or corporation who holds a beer permit issued by the City of Ardmore.

(b) "Live performances." Shall be defined for the purpose of this chapter to mean any person who for consideration monetary or otherwise, performs in person on a licensed premises as a signer, musician, dancer, comedian or model.

(c) "Beer permit holder." Any person, partnership, or corporation who holds a permit from the City of Ardmore for the sale of beer or other alcoholic beverage of alcoholic content of not more than five percent (5%) by weight.

(14) Live performances/nudity prohibited. No live performances are permitted on a license premises which involve the removal of clothing, garments or any other costumes. Such prohibition does not include the removal of headwear or footwear; sweater or similar outer garment. Incidental removal for

purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. The restriction applies to all licensed premises.

(15) Entertainment restricted. No entertainment on a license premises shall contain:

(a) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation of any sexual acts which are prohibited by law;

(b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(c) The actual or simulated display of the pubic hair, anus, vulva or genitals, or the nipples of a female.

(16) Nudity prohibited. It shall be unlawful for any licensee, employee, agent or licensee, patron or guest of licensee to:

(a) Appear with his or her genitals or pubic region less than completely covered by an opaque substance or material;

(b) Appear with his or her buttocks less than completely covered by an opaque substance or material;

(c) Any female to appear with either or both of her breast less than completely covered by an opaque substance or materials below the uppermost or highest part of the areola.

(17) Films and pictures restrictions. It shall be unlawful for any licensee, any employee, or agent to permit or allow the showing of film, still pictures, electronic reproductions, or other visual reproductions depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(b) Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals;

(c) Scenes wherein a person displays the vulva, anus, or genitals; or

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in (a) through (c).

(18) License revoked or suspended. Any licensee violating these sections shall have its license revoked or suspended as provided by this chapter and it shall further be a ground for revocational suspension if there appears any false statements in the application.

(19) Penalty. Any licensee, employee, agent, or person violating these sections shall be guilty of a misdemeanor and punished in accordance with the penalty clause of the Municipal Code of the City of Ardmore. (Ord. #02-07-1991, Feb. 1991, as amended by Ord. #2-06-1992, Feb. 1992; Ord. #\_\_\_\_\_, May 1994, modified, and amended by Ord. #A0 00-06-01, June 2000)

8-225. Chain stores and restaurants. Nothing herein shall prevent a nonresident owner of a chain store or restaurant from presenting an application and having the same considered, so long as there is a responsible resident manager and so long as the other provisions of this law are complied with. In the event the resident manager is transferred and a new manager is employed, this fact shall be certified by the owner of the chain to the beer board and the application will be approved if all other aspects of this law are complied with.

This section includes 7-Eleven type markets and convenience stores. (Ord. #02-07-1991, Feb. 1991)

8-226. Restrictions upon granting permits. (1) No permits shall be issued to sell any beverage coming the provisions of this section:

- (a) In violation of any provision of the state law,
- (b) In violation of the zoning ordinance of the City of Ardmore.

(2) The judgment of the beer board on such matters shall be final except as same is subject to review at law under Tennessee Code Annotated, § 57-5-105. (Ord. #02-07-1991, Feb. 1991)

8-227. Suspension and revocation of beer permit. All permits issued by the beer board under the provisions of chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act; any provisions of this chapter; or any false representations made in the application. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board, and the beer board 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.

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 the provisions of the state beer act or any of the provisions of this chapter, the board is authorized 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 violations. 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 Ardmore. The notice shall served upon the permittee at least five (5) days before the date of 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 to review by the courts as provided in the state beer act.

When a permit is revoked, no new permit shall be issued hereunder for the sale of beer to the same person until the expiration of one (1) year from the date said revocation becomes final. (Ord. #02-07-1991, Feb. 1991)

8-228. Status of license pending charges. Any person charged with a criminal offense involving the sale of alcohol or drugs or the violation of state law with reference to alcohol or drugs or any crime involving moral turpitude may have his or her license suspended pending the outcome of those charges. (Ord. #02-07-1991, Feb. 1991)

8-229. Death of a permit holder. In the event of the death of a beer permit holder, the establishment shall not be allowed to sell beer, but his successors shall be given thirty (30) days to make formal application and have first option on the available license. (Ord. #02-07-1991, Feb. 1991)

8-230. 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 \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any 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. (Ord. #AO-93-09-3, Sept. 1993)

8-231. 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). 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 each successive January 1, to the City of Ardmore, 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. #AO-93-09-3, Sept. 1993)