

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

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, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Bell Buckle. "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 five percent (5%) of alcohol by weight. (1996 Code, § 8-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

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- 8-214. Revocation of beer permits.
- 8-215. Open containers.
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8-201. Beer board established. There is hereby established a beer board consisting of three (3) members to be appointed by the board of mayor and aldermen. Initially, one member shall be appointed for a one year term; a second member shall be appointed for a two (2) year term; and a third member shall be appointed for a three (3) year term. Thereafter, all appointments shall be for three-year terms. Only residents of the Town of Bell Buckle are eligible for appointment to the beer board. A chairman shall be elected annually by the beer board from among its members. All members of the beer board shall serve without compensation. (Ord. #02-003, _____)

¹Municipal code reference

Drinking beer on streets: § 11-101.

Taxes: title 5.

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 (1996).

8-202. Meetings of the beer board. All meetings of the beer board shall be conducted in accordance with the state's open meeting law. (Ord. #02-003, _____)

8-203. Record of beer board proceedings to be kept. The 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: Date of each meeting; names of the board members present and absent; names of the members introducing and seconding motions and resolutions before the board, and 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. #02-003, _____)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #02-003, _____)

8-205. Powers and duties of the beer board.¹ 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 the Town of Bell Buckle in accordance with the provisions of this chapter. The beer board shall not deviate, alter, and/or amend, for any reason, this chapter as it is presently written. (Ord. #02-003, _____)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #02-003, _____)

8-207. Permit required for engaging in beer business.² (1) It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer in the Town of Bell Buckle 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, § 57-5-104(a), shall be accompanied by a non-

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

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 Town of Bell Buckle. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

(2) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association.

(3) A permit shall be valid:

(a) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(b) Only for a single location and cannot be transferred to another location;

(c) Only for a business operating under the name identified in the permit application.

(4) Where an owner operates two (2) or more businesses within the same building, the owner may in the owner's discretion operate some or all such businesses pursuant to the same permit.

(5) A business can sell beer for only off-premises consumption.

(6) A permit holder must return a permit to the Town of Bell Buckle within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (Ord. #02-003, _____)

8-208. Privilege tax.¹ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00) per year. 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 of each year to the Town of Bell Buckle, 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. #02-003, _____)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, distributing, and manufacturing. (Ord. #02-003, _____)

¹State law reference

Tennessee Code Annotated, § 57-5-104(b).

8-210. Limitation on number of permits. The number of licenses for the sale of beer shall be limited to three (3). (Ord. #02-003, _____)

8-211. 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, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any hospital, school, residence, church, licensed day care in the State of Tennessee, or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (Ord. #02-003, _____)

8-212. 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. #02-003, _____)

8-213. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow the sale of beer between the hours of 12:00 Midnight and 6:00 A.M. on weekdays and between the hours of 12:00 Midnight Saturday and 12:00 noon on Sunday.

- (4) Make or allow any sale of beer to a person less than twenty-one (21) years of age.
- (5) Allow any person less than twenty-one (21) years of age to loiter in or about his place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow intoxicated persons to loiter about his premises.
- (8) Allow the consumption of any alcoholic beverage on the premises.
- (9) Allow pool or billiard playing in the same room where beer is sold.
- (10) Allow any open containers of alcoholic beverages on the said premises. (Ord. #02-003, _____)

8-214. Revocation of beer permits. The beer board shall have the power to 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 revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board, or mayor, and/or any alderman. (Ord. #02-003, _____)

8-215. Open containers. No open containers of an alcoholic beverage shall be permitted upon the Town of Bell Buckle's right of way, streets, or public properties. (Ord. #02-003, _____)

8-216. Violations. Any violation of this chapter shall constitute a civil offense, and shall, upon a finding of violation of this chapter, be punishable by a penalty of fifty dollars (\$50.00). Each violation of this chapter shall be considered a separate and distinct violation, and upon a finding of said violation, shall be punishable by a penalty of fifty dollars (\$50.00) per violation/occurrence, as well as other penalties enumerated herein; this chapter, as well as, any action may be taken that is applicable by the operation of law. (Ord. #02-003, _____)