

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

1. INTOXICATING LIQUORS.
2. BEER.
3. MISCELLANEOUS.

**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 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 which contain more than five percent (5%) of alcohol by weight.

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<sup>1</sup>Municipal code reference

Minors in beer places, etc.: title 11, chapter 1.

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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**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (Ord. of Dec. 16, 1991)

**8-202. 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 city 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 and to the public. The board may adjourn a meeting at any time to another time and place. (Ord. of Dec. 16, 1991)

**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: The date

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<sup>1</sup>Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

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. (Ord. of Dec. 16, 1991)

**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. (Ord. of Dec. 16, 1991)

**8-205. On-premises consumption.** From the effective date of this section, no further beer licenses shall be issued within the corporate limits of the City of Bells for the sale of beer for on-premises consumption. (Ord. of Dec. 16, 1991, as amended by Ord. of April 18, 1994)

**8-206. Off-premises consumption.** No licenses shall be issued for packaged sales of beer for off-premises consumption EXCEPT AS HEREINAFTER SET OUT:

(1) One who purchases, or is purchasing, a business as a going concern from a present holder of beer license in good standing may make application to the beer board for a new license to sell beer for off-premises consumption at said business at the same location, and, in the event the beer board finds that the applicant meets the qualifications for such a license, and are satisfied that the safety, health and morals of the citizens of the city will not be adversely affected, a new license may be issued to such an applicant, subject to the terms and conditions of the beer ordinance, this amendment and the state laws relating to the possession, sale, distribution and manufacture of beer. In the event any license is issued to the new owner-applicant, the license of the seller is thereby automatically revoked.

(2) After any legitimate retail business has been operating in the City of Bells for a period of at least six (6) months, in a respectable manner, the owner thereof may make application for a license to sell beer for off-premises consumption. The applicant must be a reputable adult citizen of the United States of America, must meet all requirements of the beer ordinance, this amendment thereto, and of the state law. No license will be granted for a location where such sale would cause congestion of traffic or interference with churches, schools, or other places of public gatherings, or otherwise interfere with public health, safety and morals. In no event will a license be granted to a business located within seven hundred fifty (750) feet of any school, church, or industrial plant. Industrial plant shall be defined in this section as a private manufacturer or producer of goods or services which employs over two hundred (200) employees on a full-time basis.

Such an applicant must be at least 21 years of age, and shall not employ any person in the storage, sale, distribution or manufacture beer who is not at least 21 years of age and a citizen of the United States of America. The applicant shall be disqualified from receiving a beer license if he or she has been convicted of any violations of the laws concerning possession, sale, manufacture or transportation of beer or other intoxicating liquors, has been convicted of an assault and battery, or any crime involving violence or moral turpitude within the past ten (10) years, and applicant shall commit himself to the beer board that he will not employ any person who has been so convicted. (Ord. of Dec. 16, 1991, as amended by Ord. of April 18, 1994)

**8-207. Gross receipts from beer sales limited.** The sale, distribution for sale of, or the purchase of, beer shall be lawful only at a duly licensed place of business at least 75% of the gross receipts of which are from sources other than the sale of beer. (Ord. of Dec. 16, 1991)

**8-208. Powers and duties of the beer board.** The beer board shall have the power and duty to revoke or suspend any beer permit when the holder thereof has been guilty of making a false statement or misrepresentation in his application or guilty of violating any of the provisions of this chapter or any law of the State of Tennessee regulating, the storage, sale or manufacture of beer, is convicted for possession, sale, manufacture or transportation of intoxicating liquors or controlled substance as defined in Tennessee Code Annotated or any crime involving moral turpitude or has had another beer permit revoked. However, no beer permit shall be revoked until a public hearing is held by the board after notice of at least 72 hours is given to the permit holder, or, if such holder is not to be found, then such notice to be served upon his agent, representative or person found in charge of his business giving notice of the date, time and place of said hearing. Revocation proceedings may be initiated by the police chief or any member of the mayor and board of aldermen. (Ord. of Dec. 16, 1991)

**8-209. Permits not transferable.** Permits 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. (Ord. of Dec. 16, 1991)

**8-210. "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. of Dec. 16, 1991)

**8-211. 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 Bells. 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.

**8-212. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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, to the City of Bells, 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. of Jan. 10, 1994)

**8-213. Prohibited conduct or activities by beer permit holders.** 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 18 years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 11:00 P.M. and 6:00 A.M. during any night of the week; at any time on Sunday.

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

(5) Allow any person under 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 drunk persons to loiter about his premises.

(8) Allow another person to operate on the permit holders license. The permit holder must physically and materially participate in the operation of the business;

(9) When any person who holds a license fails to operate his or her business for a period of thirty (30) days, such license shall automatically become null and void, unless the failure to operate the business was caused by circumstances beyond the control of such license holder. (Ord. of Dec. 16, 1991)

**8-214. Civil penalty in lieu of suspension.** At the time the beer board imposes a revocation or suspension under section XII above, the beer board may

offer a permit or license holder the alternative of paying a civil penalty not to exceed \$1,500.00 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed \$1,000.00 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The holder's payment of a civil penalty shall not affect the holder's ability to seek review of the civil penalty pursuant to Tennessee Code Annotated, § 57-5-108(2)(d) which, by reference, is made a part hereof as fully as if copied here verbatim. (As replaced by Ord. #10-96A, Nov. 1996)

**8-215. Violations.** Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

**CHAPTER 3****MISCELLANEOUS****SECTION**

8-301. Brown bagging prohibited.

**8-301. Brown bagging prohibited.** (1) No owner, operator or employee of any restaurant, club, or any other business of any kind or description, shall permit or allow any person to open, or to consume inside or on the premises, a bottle, can, flask or container of any kind or description, of beer or other alcoholic beverages.

(2) For the purposes of interpreting this section, the term "alcoholic beverages" shall mean and include alcohol, spirits, liquor, wine and every liquid containing alcohol, other than patent medicine, or beer where the latter contains an alcoholic content of five percent (5%) by weight or less. The term shall also include any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content, including, but not limited to, "home brew" and "moonshine".

For the same purposes, the term "beer" shall mean all beers, ales and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. of May 26, 1992)