

TITLE 8**ALCOHOLIC BEVERAGES**¹**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, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Bluff City for the purpose of sale or resale. "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. (1980 Code, § 2-101, as amended by Ord. #2000-001, March 2000)

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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8-201. Business prohibited. It shall be unlawful for any person to sell, store for sale, distribute for sale, or to manufacture beer within the corporate limits of the city except as authorized under the conditions hereinafter prescribed in chapter 2. (Ord. #91-041, Nov. 1991)

8-202. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen.

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).

The mayor shall be the board's chairman and shall preside at its meetings. Board members shall serve without compensation. (Ord. #91-041, Nov. 1991)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold its regular meetings following each regular meeting of the board of mayor and alderman at the municipal building whenever there is business to come before the beer board. Such business shall be scheduled for the regular meetings whenever possible. A special meeting of the beer board may be called by the chairman upon his giving reasonable notice thereof to each beer board member. The board may adjourn a meeting at any to another time and/or place. (Ord. #91-041, Nov. 1991)

8-204. Record of beer board proceedings to be kept. The city recorder shall make a separate record of the proceedings at all beer board meetings. 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 before the board; a copy of each such motion or resolution presented; the vote of each board member thereon; and the provisions of each beer permit issued by the board. (Ord. #91-041, Nov. 1991)

8-205. 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 beer board shall be decided by a majority of the members present if a quorum is constituted. The chairman shall have a vote in all matters before the beer board. Before any motion or resolution can be adopted it, must receive the approving vote of the majority of members present. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-04, March 2000)

8-206. 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, distribution for sale, and manufacturing of beer within the town in accordance with the provisions of this chapter. (Ord. #91-041, Nov. 1991)

8-207. "Beer" defined. The term "beer," as used in this chapter, shall mean and include all beer, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #91-041, Nov. 1991)

8-208. Sales, storage, manufacture, and distribution as privilege. The sale, storage, manufacture and distribution of beer in the town is a privilege, and the beverage board shall have complete discretion to issue, revoke, and suspend any permits or licenses to sell, store, manufacture, or distribute beer in the town. (Ord. #91-041, Nov. 1991)

8-209. Permit required. It shall be unlawful for any person or corporation to have beer for the purpose of sale, to possess, receive, or transport beer for the purpose of sale, to keep beer in stock, or to store or possess beer in any warehouse, place, business, residence, or other location, when same is intended for the purpose of present or future sale, either wholesale or retail and whether intended to be sold for redelivery at the place of sale or to be shipped or otherwise transported for delivery at another place, without a permit having been issued by the beer board. It shall also be unlawful for any person or corporation to conduct promotional or gratuitous distribution of beer or intoxicating beverages to the public at his place of business during the course and scope of the business without first having obtained a permit from the beer board. (Ord. #91-041, Nov. 1991)

8-210. Beer permits shall be restrictive. A beer permit issued under the terms of this chapter shall be restrictive as to the type of beer business authorized. A separate permit shall be required for selling at retail, for storing, for distributing, and for manufacturing. Any permit for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for a 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 a permittee to fail to comply with any and all expressed restrictions or conditions which may be written into his permit by the beer board. (Ord. #91-041, Nov. 1991)

8-211. Types of permits for retail sale designated. Permits for the retail sale of beer shall be of one type:

(1) Off-premises permits. An off-premises permit shall be issued for the sale of both refrigerated and unrefrigerated beer to be consumed off the business premises.

(2) Only a natural person shall apply for and, when appropriate, be granted a permit for the retail sale of beer. If a corporation or other business organization recognized by the State of Tennessee owns and operates a merchandising business, the principal officer shall make application for the permit. If a partnership or syndicate operates a merchandising establishment, the general partner in charge of the day-to-day operations of the business shall make application for the beer permit. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-212. Permit application. The person desiring a beer permit required by the provisions of this chapter shall apply in writing to the beer board upon a form approved and prescribed by the beer board. Such application shall contain the following information:

- (1) Name of the applicant (the owner of the business);
- (2) Name of the business;

(3) Location of the business by street address or other geographical description sufficient to determine conformity with applicable requirements;

(4) If the applicant desires to sell beer at 2 or more restaurants or other businesses within the same building under the same permit, a description of each of the businesses;

(5) All persons, firms, corporations, joint-stock companies, syndicates or associations having at least a five percent (5%) ownership interest in the applicant (owner of the business);

(6) Identity and address of a representative to receive annual tax notices and any other communication from the beer board;

(7) That no person, firm, joint-stock company, syndicate or association having at least a five percent (5%) interest in the applicant nor any person to be employed in the distribution or sale of beer has 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;

(8) A statement that the applicant submits to a criminal background check;

(9) Any other information as may reasonably be required by the beer board. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-213. Application fee. The application for a beer permit shall be accompanied by certified or cashier's check in the amount of \$250.00 which shall constitute an application fee for a beer permit and shall be applied to pay the beer board's expenses while processing the application. The application fee is not refundable under any conditions. (Ord. #91-041, Nov. 1991, as amended by Ord. #2000-001, March 2000)

8-214. Display of permit. A permittee hereunder shall display, and keep displayed, their beer permit in a conspicuous place on the premises where he is licensed to conduct such business. (Ord. #91-041, Nov. 1991)

8-215. Non-transferability of beer permits. A permit for the sale, storage, manufacture, or distribution of beer hereunder shall not be transferable to any other corporation or individual. The successor owner/operator of a business at which beer has been permitted for sale must apply for and be granted a beer permit in his own name in order to continue selling beer at the premises. (Ord. #91-041, Nov. 1991)

8-216. Separate permit required for each location. A separate permit must be obtained for each location at which and from which any applicant is to manufacture, store, distribute, or sell beer. (Ord. #91-041, Nov. 1991)

8-217. Restrictions upon distributors, wholesaler, warehousemen, and manufacturers. (1) All distributors, wholesalers, warehousemen, and manufacturers of beer who do business in the Town of Bluff City shall be duly licensed under the law to do business in the state.

(2) It shall be unlawful for any wholesaler, distributor, warehouseman or manufacturer of beer, or for any of their salesmen or representatives to sell or deliver beer enroute, or from delivery vehicles, to any person or place other than to the holder of a valid retail beer permit. (Ord. #91-041, Nov. 1991)

8-218. Restrictions on the issuance of retail permits. No permits for the retail sale of beer shall be issued in the territory of the Town of Bluff City which lies south of the Norfolk Southern Railroad track in and to the area between said railroad track and the existing Bluff City limits as of March 2, 2000 as shown in the area outlined on the map which is attached to this ordinance as exhibit #1.¹ Pursuant to the powers conferred by Tennessee Code Annotated, § 57-5-101(a). (Ord. #91-041, Nov. 1991, as replaced by Ord. #2000-001, March 2000)

8-219. [Repealed.] This section was repealed in its entirety by Ord. #2000-001, March 2000. (Ord. #91-041, Nov. 1991, as repealed by Ord. #2000-001, March 2000)

8-220. Dealing with persons under twenty-one years of age.

(1) It shall be unlawful for any person to make or permit to be made any sales of beer to any person known to be under twenty-one (21) years of age except as allowed by the laws of the State of Tennessee. It shall also be unlawful for to permit any minor to loiter about the place of business, and the burden of ascertaining the age of such minor shall be upon the permittee or licensee of such place of business.

(2) It shall be unlawful for any person to purchase beer for the purpose of selling or giving the same to any person under twenty-one (21) except as allowed by the laws of the State of Tennessee.

(3) The provisions of this section shall not prohibit persons eighteen (18) years of age or older from selling or dispensing beer in the usual course and scope of their employment. (Ord. #91-041, Nov. 1991)

8-221. Sales to intoxicated persons. It shall be unlawful for any person or club holding a beer permit to make or allow to be made any sale of beer to any person who is intoxicated. (Ord. #91-041, Nov. 1991)

¹This attachment is of record in the office of the recorder.

8-222. Inspection of the premises of the permittee by town police officers. It shall be the duty of designated police officers of the Town of Bluff City to inspect the place of business and premises of the holder of any permit or license under this chapter. It shall be unlawful for any permittee to refuse to allow any such inspection during any time that the premises is open for business and any such refusal of inspection shall be grounds for revocation of the beer permit. (Ord. #91-041, Nov. 1991)

8-223. Violations. (1) An person violating any provision of this chapter shall be guilty of an offense, and in addition to being subject to the financial penalties imposed for the violation of the municipal code, shall suffer suspension or revocation of his beer permit. The violation of any of the laws of the State of Tennessee by any permittee shall also be sufficient grounds for the revocation of the beer permit.

(2) When an alleged violation of any law or ordinance by a permit holder is brought to the board's attention, the board shall schedule a hearing and give written notice of the hearing to the permit holder at least five (5) days in advance.

(3) At the hearing, the board shall hear any evidence of the alleged violation and any defense presented by the permit holder. Formal rules of evidence shall not apply at the hearing but the permit holder may be represented by an attorney.

(4) At the conclusion of the proof, and after any public discussion deemed necessary among the board members, the board shall, by a majority vote of the members present, determine whether suspension of the permit for a definite period of time, or revocation of the permit, is appropriate and shall announce its decision. The board may, at its discretion, continue the hearing to a later date in order to allow the introduction of additional, material proof before announcing its decision. The permit holder's acquittal on any state criminal charges may be considered by the board but shall not be conclusive as to whether the permit should be suspended or revoke. (Ord. #91-041, Nov. 1991)

8-224. Effect of suspension or revocation of permit. When a beer permit is suspended, no permit shall be issued to the offending permittee nor issued to any other applicant to permit the sale, storage, manufacture or distribution of beer on any premises until after the expiration of the period of suspension. In the even of a permit revocation, the offending permittee and anyone in business with him shall be ineligible from future consideration as a permit applicant. No permit shall be issued to anyone for the sale of beer at the same premises until after the expiration of one (1) year from the date of final revocation. The cessation of business by a permittee at the designated premises shall result in an immediate revocation of his beer permit. (Ord. #91-041, Nov. 1991)