

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definition of alcoholic beverages.
- 8-102. Consumption of alcoholic beverages on premises.
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- 8-105. Certificate of good moral character.
- 8-106. Possession of open containers in motor vehicles and public places, etc., prohibited.
- 8-107. Alcoholic beverage restrictions on persons under twenty-one (21).

8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise: Alcoholic beverages means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contained an alcoholic content of five percent (5%) by weight, or less. (2003 Code, § 2-101, as replaced by Ord. #13-457, April 2013)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Church Hill, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Church Hill, Tennessee, the same as if said code sections were copied herein verbatim. (2003 Code, § 2-102, as replaced by Ord. #13-457, April 2013)

¹State law reference

Tennessee Code Annotated, title 57.

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, § 301, for the City of Church Hill General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Church Hill alcoholic beverages for consumption on the premises where sold. (2003 Code, § 2-104, as replaced by Ord. #13-457, April 2013)

8-104. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Church Hill shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #13-457, April 2013)

8-105. Certificate of good moral character. Whenever an applicant for a license issued pursuant to Tennessee Code Annotated, title 57, chapter 4, is required by law to provide to the state alcoholic beverage commission a certificate of good moral character, the applicant shall apply, in writing to the alcoholic beverage board for a certificate of good moral character, to be executed by the mayor of the city. The alcoholic beverage board with the cooperation of the chief of police shall perform the necessary investigation to advise the mayor as to the moral character of the applicant. (as added by Ord. #13-457, April 2013)

8-106. Possession of open containers in motor vehicles and public places, etc., prohibited. It shall be unlawful for any person to possess open cans, bottles or containers of beer or intoxicating liquors in motor vehicles in the city or upon the public streets, sidewalks, or other public places not otherwise permitted by this chapter. (as added by Ord. #13-457, April 2013)

8-107. Alcoholic beverage restrictions on persons under twenty-one (21). It shall be unlawful for any person under twenty-one (21) years of age to purchase, possess, transport, or consume alcoholic beverages, wine, or beer, with the following exceptions:

Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages, wine, or beer in the course of his employment in accordance with municipal code § 8-224(c). (as added by Ord. #13-457, April 2013)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
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- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
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- 8-209. Privilege tax.
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- 8-211. Permits for retail sale; types designated, multiple types prohibited.
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- 8-214. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
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- 8-225. Loss of clerk's certification for sale to minor.
- 8-226. Inspection of premises permitted.
- 8-227. Violations.
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8-201. Beer board established. There is hereby established a beer board to be composed of the mayor, one alderman to be appointed by the mayor,

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).

and three citizens from the municipality, preferably one from each ward, also to be appointed by the mayor, the director of public safety, and the city recorder. All members' terms shall run concurrently with the term of the mayor. The mayor shall preside at its meetings. The members shall serve without compensation. (2003 Code, § 2-201)

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 following each regular meeting of the governing body at the city-county building 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 to each board member, and the board may adjourn a meeting at any time to another time and place. (2003 Code, § 2-202)

8-203. 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 provisions of each beer permit issued by the board. (2003 Code, § 2-203)

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. (2003 Code, § 2-204)

8-205. 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 the city in accordance with the provisions of this chapter. (2003 Code, § 2-205)

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; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (Ord. #07-425, Sept. 2007)

8-207. Sales, storage, manufacture, distribution as privilege. The sale, storage, manufacture, and distribution of beer in the city is a privilege, and

the beverage board shall have complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture or distribute beer in the city. (2003 Code, § 2-207)

8-208. 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, § 57-5-104(a), shall be accompanied by a nonrefundable 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 Church Hill. 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. (Ord. #07-425, Sept. 2007)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 each successive January 1 to the City of Church Hill, 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. #07-425, Sept. 2007)

8-210. Beer permit 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, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premise consumption. 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 expressed restrictions or conditions which may be written into his permit by the beer board. (2003 Code, § 2-209)

8-211. Permits for retail sale; types designated, multiple types prohibited. Permits for the retail sale of beer shall be of two types:

(1) On-premise permits. On-premise permits shall be issued for the consumption of beer on the premises.

(2) Off-premise permits. Off-premise permits shall be issued for the sale of both refrigerated and unrefrigerated beer to be consumed off the premises.

(3) No person shall be issued both types of permits for the same location.

(4) Only natural persons shall apply for, and, when, appropriate, be granted off-premise permits for retail sale of beer. If a corporation owns and operates a merchandising business, the principal office shall make applications for the permit. If a partnership or syndicate operates a merchandising establishment, the general partner in charge of the day-to-day business operations of the business shall make application for the beer permit. (2003 Code, § 2-210)

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

(1) The name and residence of the applicant and the length of time the applicant has resided there;

(2) The particular place for which the permit is desired, designating the same by street and number, if practicable, and if not, by such other apt description;

(3) The type of permit desired;

(4) The name of the owner of the business premises;

(5) A statement that no person will be employed in the storage, sale, manufacture or distribution of such beverages except those who are citizens of the United States or aliens lawfully residing in the United States;

(6) A statement that the applicant will not engage in the sale, storage, manufacture or distribution of beer except at the place or places for which the license or permit is issued to such applicant, and that no sale, storage, manufacturing or distribution of such beverage will be made except in accordance with the permit or license granted;

(7) A statement that no sale will be made to persons under the age required by state law, that the applicant will not permit minor persons or disorderly or disreputable persons, or individuals heretofore connected with the violation of the liquor laws, to loiter around the place of business, and that no minors shall be employed in the direct sale, storage, manufacture or distribution of beer;

(8) A statement that the applicant has not had revoked any license or permit for the sale, storage, manufacture or distribution of beer;

(9) A statement that neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture or sale of beer has ever been convicted of any violation of the liquor and beer laws or of any crime involving moral turpitude;

(10) A statement that the applicant will be conducting the daily business in person;

(11) A statement that no brewer, manufacturer, distributor or warehouseman of legalized beer has any interests in the business, or business premises;

(12) A statement that the applicant is willing to be fingerprinted by the police department of the City of Church Hill and to be investigated by municipal, county, state and federal law enforcement agencies;

(13) A statement by the applicant that he agrees to comply with all of the laws of the United States, the State of Tennessee and the Ordinances of the City of Church Hill;

(14) An oath or affidavit by the applicant that the facts represented in the application are true;

(15) Any application which does not contain affirmative responses to all representations requested therein shall not be considered by the beer board. (2003 Code, § 2-211, modified)

8-213. 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, 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 one thousand two hundred (1,200) feet of any school, church 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 school, 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, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #07-425, Sept. 2007)

8-214. 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, employee or person engaged in the sale of beer to:

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

(2) Make or allow the sale of beer between the hours of 12:00 Midnight and 8:00 A.M. Monday thru Saturday and between the hours of 12:00 Midnight Saturday and 8:00 A.M. on Monday

(3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

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

- (5) Allow drunk persons to loiter about his premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.
- (7) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (8) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #07-425, Sept. 2007)

8-215. Compliance with zoning as permit prerequisite. No retail permit shall be issued to any person to sell beer from or at any place, premises or location which constitutes a nonconforming use under the zoning laws and ordinances of the city in effect at the time of application for such permit or license. (2003 Code, § 2-214)

8-216. Separate permit required for each location. A separate permit shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute or sell beer. (2003 Code, § 2-215)

8-217. Display of permit. All permittees hereunder shall display and keep displayed their beer permits in a conspicuous place on the premises where they are licensed to conduct such business. (2003 Code, § 2-216)

8-218. Transferability of permits. Permits for the sale, storage, manufacture or distribution of beer hereunder shall not be transferable. (2003 Code, § 2-217)

8-219. Restrictions upon distributors, wholesalers, warehousemen, manufacturers. (1) All distributors, wholesalers, warehousemen and manufacturers of beer shall be duly licensed under the law to do business in the state.

(2) All distributors, wholesalers, manufacturers and warehousemen of beer having a place of business within the city shall locate same in areas designated and zoned for manufacturing under the ordinances of the city.

(3) It shall be unlawful for any wholesaler, distributor, warehousemen or manufacturer of beer, or for any of their salesmen or representatives to sell or deliver beer en route, or from delivery vehicles, to any person or place other than holders of valid retail beer permits.

(4) It shall be the duty of such wholesaler, distributor, warehouseman or manufacturer, their salesmen or representatives to ascertain whether or not such person or place has been issued a valid retail beer permit by the city. (2003 Code, § 2-218)

8-220. Restrictions on issuance of retail permits. (1) Permits issued for the retail sale of beer for on-premises consumption of beer shall be limited to sale for consumption in and to be served to and consumed by members and guests in the rooms of a building designated and occupied by a regularly incorporated non-profit lodge or patriotic organization or to customers in an operating restaurant as defined in subsection (1)(b) below.

(a) Prior to applying for an on-premises beer permit, any lodge or patriotic organization requesting a permit shall have been in existence for at least one (1) year prior to its applying for the permit and shall have been granted a charter by the Secretary of State or by authority of an Act of Congress of the United States. The building used by said lodge or patriotic organization and must be owned or leased for a term of years by the organization.

(b) The owner or manager of any restaurant doing business, or intending to do business, within the corporate limits or the city, may apply for a permit for the on-premises retail sale and consumption of beer if the restaurant meets the following criteria:

"Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with an adequate and sanitary kitchen, with a separate dining room with suitable equipment and a seating capacity of at least fifty (50) people at tables or booths, and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its customers. At least two (2) meals per day shall be served on at least six days a week, with the exception of holidays, vacation, and periods of redecorating. The serving of such meals shall be the principal business conducted on the restaurant's premises. No signs advertising the sale of beer for on-premises consumption shall be erected or allowed on the restaurant premises.

(2) Off-premises permits may be issued only to bona fide merchants in the retail grocery business who have been conducting said grocery merchandising business on and from property zoned for business purposes in the City of Church Hill. "Bona-fide merchants" shall mean persons regularly operating and conducting a grocery merchandising business that is stocked with grocery items and merchandise and have been for at least one (1) year on-going concerns operating to serve the public on a regular basis, with regular established business hours of operation at some location within the State of Tennessee. Successor owners and operators of a grocery merchandising business may apply for a beer permit so long as the business has been operating for more than one (1) year at the same location under prior owners. The structure from which said merchants operate must be of a permanent wooden or brick construction.

(3) Each merchant applicant for a beer permit must exhibit to the beer board his proposed plans showing where beer will be stored and displayed. Area devoted to the sale of beer must not exceed twenty-five percent (25%) of the floor space and storage area used in the business.

(4) Those persons who have valid beer permits but who are not grocery merchants at the time of the passage of the ordinance comprising this chapter are exempted from the requirements of this section. All new applicants must conform to the requirements of this section unless they are purchasers of a continuing business whose owners are current beer permit holders. (2003 Code, § 2-219)

8-221. Disposition of application. Each application for a beer permit under this chapter shall be filed with the city recorder, and no final action shall be taken by the beer board until sixty (60) days after the filing of said application. (2003 Code, § 2-221)

8-222. Number of retail permits limited. The number of retail beer establishments for the City of Church Hill, Tennessee, shall be no more than ten (10) off-premises and five (5) on-premises establishments. There shall be no more than fifteen (15) permits issued and outstanding for the sale of beer at retail at any time. (2003 Code, § 2-222)

8-223. Advertising signs. It shall be unlawful for any person authorized to sell beer, either for on-premises consumption or off-premises use, to erect or maintain more than one advertising or display sign to be placed either inside or upon the outside of the building. Said sign may use the word "beer" or the name of any brand of beer. Said advertising or display sign shall not exceed four (4) inches in height and eighteen (18) inches in length. If on the outside of the building, the sign shall be placed parallel with the building. (2003 Code, § 2-223)

8-224. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend 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 or suspension proceedings may be initiated by the police chief or by any member of the beer board.

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. #07-425, Sept. 2007)

8-225. Loss 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. #07-425, Sept. 2007)

8-226. Inspection of premises permitted. It shall be the duty of designated police officers of the City of Church Hill to inspect the place of business and premises of the holders of permits and licenses under this chapter. It shall be unlawful for any permittee to refuse to permit any such inspection during any such time that such place is open for business and refusal of inspection shall be grounds for revocation of permit. (2003 Code, § 2-226)

8-227. Violations. Except as provided in § 8-224, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provisions of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #07-425, Sept. 2007)

8-228. 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 city may impose. (Ord. #07-425, Sept. 2007)

CHAPTER 3

WINE

SECTION

8-301. Inspection fee.

8-302. Wholesaler's retention.

8-303. Reporting period/frequency of payments.

8-304. Late payment penalty.

8-301. Inspection fee. There shall be imposed on each retail food store wine licensee located within the City of Church Hill an inspection fee of eight percent (8%) of the wholesale price of wine sold to aforesaid licensees, to be collected by the wholesalers from the retailer during distribution. (as added by Ord. #16-481, May 2016)

8-302. Wholesaler's retention. Each wholesaler referenced in § 8-301 shall be entitled to retain five percent (5%) of the amount collected for performing the collection. (as added by Ord. #16-481, May 2016)

8-303. Reporting period/frequency of payments. Each collection period shall be a full month, beginning with the 1st day of the month, and payments shall be remitted to the municipality by the 20th of the following month. (as added by Ord. #16-481, May 2016)

8-304. Late payment penalty. Pursuant to Tennessee Code Annotated, § 57-3-503(b), a penalty of ten percent (10%) is assessed for any payment made after the 20th of each month. (as added by Ord. #16-481, May 2016)