

**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 as authorized by applicable laws<sup>2</sup> and 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. (1977 Code, § 2-101)

---

<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

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 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" and "intoxicating liquor" and "intoxicating beverage" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Classes of consumption permits.
- 8-211. Special events permits.
- 8-212. Interference with public health, safety, and morals prohibited.
- 8-213. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-214. Prohibited conduct or activities by beer permit holders.
- 8-215. Revocation of beer permits.
- 8-216. Sale, etc. outside of defined zone, prohibited.
- 8-217. Transfer of permits.
- 8-218. Civil penalty in lieu of suspension.

**8-201. Beer board established.** The beer board shall be the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (1977 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 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. The board may adjourn a meeting at any time to another time and place. (1977 Code, § 2-202)

**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

---

<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).

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. (1977 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. (1977 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 this city. (1977 Code, § 2-205)

**8-206. "Beer" and "intoxicating liquor" and "intoxicating beverage" defined.** For the purposes of the interpretation and application of this chapter, the term "beer" shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. The terms "intoxicating liquor" and "intoxicating beverage" shall mean and 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. (1977 Code, § 2-206, as replaced by Ord. #99-4, Dec. 1999)

**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 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 Copperhill. 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.

**8-208. 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, 1994, and each successive

January 1, to the City of Copperhill, 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. If the tax is not paid within 30 days, the permit shall be revoked.

**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, 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 premises 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 express restrictions or conditions which may be written into his permit by the beer board. (1977 Code, § 2-208)

**8-210. Classes of consumption permits.** Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be primarily a restaurant or an eating place; and
- (b) be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) have all seating in the interior of the building under a permanent roof; and

In addition, the monthly beer sales of any establishment which holds a Class 1 On premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(2) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(3) Class 3 Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. (as amended by Ord. #2000-1, April 2000)

**8-211. Special events permits.** (1) The beer board of the city is authorized to issue special occasion licenses to bona fide charitable, nonprofit or political organizations for special events within Area 4, which is the area on State Highway 68 as defined in 8-216 of this municipal code. Special occasion licenses to bona fide charitable, nonprofit or political organizations shall be limited to two (2) events per organization per month.

(2) The special occasion license shall not be issued for longer than one (1) forty-eight hour period, subject to the limitations on the hours of sale imposed by law. The application for the special occasion license shall state whether the applicant is a charitable, nonprofit or political organization, include documents showing evidence of the type of organization and state the location of the premises upon which beer shall be served and the purpose for the request of the license.

(3) The fee for each special occasion license shall be fifty dollars (\$50.00).

(4) For purposes of this section: Bona fide charitable or nonprofit organization means any corporation which has been recognized as exempt from federal taxes under section 501 (c) of the Internal Revenue Code.

Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-101 (a) or any political party as defined in Tennessee Code Annotated, § 2-13-101.

(5) No charitable, nonprofit or political organization possessing a special occasion license shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law. (as added by Ord. #97-4, § 2, June 1997, and amended by Ord. #97-6, §§ 1 and 2, Aug. 1997)

**8-212. 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 three hundred (300) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line<sup>1</sup> 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, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to

---

<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

a school, 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. (as renumbered by Ord. #97-4, § 1, June 1997)

**8-213. 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. (as renumbered by Ord. #97-4, § 1, June 1997)

**8-214. 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 eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(3) Make and allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week; between the hours of 12:00 midnight and 1:00 P.M. and between the hours of 7:00 P.M. and 12:00 midnight on Sunday. In addition, the following conditions shall apply to the time periods when the sale of beer is prohibited:

(a) No customers, patrons, visitors, or friends either of the operator or of any employee of the establishment shall be allowed to remain or be found on or about the premises,

(b) No open or closed containers of alcoholic beverages shall be permitted or found to remain on any tables, bars or in any other place where such persons customarily drink, and all such containers, empty or otherwise, shall be required and found to be disposed of or placed in storage behind the bar or other proper storage place, where such persons do not ordinarily have access,

(c) The only persons who shall be permitted to remain and be found on or about the premises shall be bona fide employees of the establishment or other personnel directly engaged in the operation, upkeep and maintenance of the business and/or the premises.

(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) Allow any person under twenty-one years of age to loiter in or about his or her place of business. The term "Loitering" within the meaning of this section shall mean "To be dilatory, to be slow in movement, to stand around, to spend time idly, to saunter, to delay, to idle, to linger, to lag behind."<sup>1</sup> However, nothing in this section shall prohibit persons under the age of twenty-one from dining in establishments which have a beer permit but whose exclusive or primary business is the sale of food. But such establishments shall insure that all containers of alcoholic beverages, both open and closed, are not provided by customers, patrons, or any other persons, to persons under the age of twenty-one, shall immediately remove empty and partially empty containers of alcoholic beverages from the bar, tables and other places where customers and patrons customarily drink, and shall store all alcoholic beverages behind the bar or other proper storage place not ordinarily accessible to customers or patrons.

(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 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 percent (5%) by weight.

(10) Allow dancing on his premises.

(11) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

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

(13) Be intoxicated or to allow any employee to be intoxicated in or about the premises, or to consume or to allow any employee to consume beer or any intoxicating liquor, while the establishment is open for business. Nothing in this provision shall be construed to allow any permit holder or employee of such permit holder to be intoxicated, or to consume beer or any intoxicating liquor in or about the premises, where such conduct is otherwise prohibited by any other provision of this municipal code, including this chapter, or by state law. (1977 Code, § 2-212, as amended by Ord. adopted Feb. 27, 1989, modified, renumbered by Ord. #97-4, § 1, June 1997, and amended by Ord. #98-1, April 1998; Ord. #99-3, July 1999; and Ord. #99-4, Dec. 1999)

---

<sup>1</sup>See Hopper v. State, 253 S.W.2d 765 (1965) and McCoy v. State, 446 S.W.2d 540 (1971).

**8-215. 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 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. (1977 Code, § 2-213, as renumbered by Ord. #97-4, § 1, June 1997)

**8-216. Sale, etc. outside of defined zones, prohibited.** It shall be unlawful and a violation of this chapter for any person, firm, or corporation to sell, manufacture or distribute beer at any place within the corporate limits of the city except within the zones described herein as follows:

(1) That area situated and bound on the north by the CSX Railroad Company tracks; on the south by the Ocoee River; on the east by Grand Avenue and on the west by Highland Avenue. There shall be no new Class 2 or 3 permits issued. Class 2 and 3 permits shall not be revoked to establishments with existing permits, however, should those establishments close or give up their permits, no new Class 2 or 3 permits will be issued. There shall be no limits on the number of Class 1 permits issued.

(2) That territory on Tennessee Avenue known as the Robert Williamson property embraced by the following boundary: On the north by Fightingtown Creek; on the south by Tennessee Avenue; on the east by Kenneth Cochran property; and on the west by H. C. Dickey property. Only one (1) Class 3 permit shall be issued. Class 1 and 2 permits shall not be permitted.

(3) That territory known as the old Colonial Hotel property, located at the intersection of Ocoee Street and Newtown Road, and now zoned for business (C-1) on Copperhill zoning map. Only one (1) Class 3 permit shall be issued. Class 1 and 2 permits shall not be permitted.

Any sale of beer permitted under the terms of chapter 2 of this code within the area described in the above subsection (3) shall be limited to the sale of packaged beer and said beer shall not be opened on the premises, and consumption of beer on said premises is hereby prohibited.

(4) That territory on State Highway 68 embraced by the following boundary: On the east by State Highway 68; on the north by the corporate city limits; on the west by a fourth fractional township property and on the south by Davis Mill Creek and now zoned for general commercial business (C-2) on the Copperhill zoning map. The two (2) existing Class 3 permits and the one (1) Class 2 permit shall be limited to those already in operation or already in council or beer board consideration at the dating of this ordinance.<sup>1</sup>

---

<sup>1</sup>This sentence refers to "the dating of this ordinance"; the sentence was added by Ord. #2000-1, April 2000.



(5) That property known as the Dickey-McCay Building, at the northeast corner of Ocoee Street and North Grand Avenue, in which Dickey-McCay Insurance Office and Grande Avenue Hair Gallery are located. This beer zone shall be for Class 1, On Premises only.

(6) Sale of beer at places where dancing allowed. (a) No beer shall be sold on premises upon any part of which dancing is allowed, unless the cleared area provided for dancing shall contain at least one hundred forty-four (144) square feet of floor space. In computing the cleared area of floor space, only the compact floor area used primarily for dancing shall be counted. No area upon which counters, table, chairs or obstructions are located, and no aisles used primarily for providing access to tables, shall be included for computing such cleared floor space.

(b) No beer shall be sold or consumed on premises upon any prt of which dancing is allowed unless the part of such premises where such beverage is sold and consumed is separated from the other part of the building or premises where dancing is allowed by a partition or wall, railing, rope or other definite means of separation approved by the beer board, and such beverage shall not be sold or consumed upon the space set apart for dancing.

(7) The area situated and bound on the north by Ocoee Street (TN. Highway #68), on the south by the Ocoee River, on the west by the intersection of Ocoee Street and Jackson Street, and on the east by Ferry Street. There shall only be Class 1 permits issued in this zone. Class 2 and 3 permits are prohibited. (1977 Code, § 2-214, modified, renumbered by Ord. #97-4, § 1, June 1997; and amended by Ord. #99-6, Jan. 2000; Ord. #2000-1, April 2000, Ord. #2000-3, Sept. 2000; Ord. #2001-1, April 2001; and Ord. #2001-2, April 2001)

**8-217. Transfer of permits.** There shall be no transfer of a beer permit from one licensee to another. (as renumbered by Ord. #97-4, § 1, June 1997)

**8-218. 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 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. (as renumbered by Ord. #97-4, § 1, June 1997)