

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

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8-101. Business unlawful except as regulated. It shall be unlawful to engage in the business of buying, selling, storing, transporting, or distributing alcoholic beverages within the corporate limits of the City of Decherd except as provided by *Tennessee Code Annotated*, title 57 inclusive, as amended, or as

¹State law reference

Tennessee Code Annotated, title 57.

hereafter amended, and by rules and regulations promulgated thereunder, and as provided by ordinances of this municipality. (1993 Code, § 8-101)

8-102. Definitions. Terms defined whenever used herein unless the context requires.

(1) "Alcoholic beverage" or "beverage." Includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine and capable of being consumed by a human being, other than patented medicine, beer, or wine, pursuant to *Tennessee Code Annotated*, § 57-5-101.

(2) "Commission." The Tennessee Alcoholic Beverage Commission, except as otherwise provided.

(3) "Distiller." Any person who owns, occupies, carries on, works, conducts, or operates any distillery either by himself or by his agent.

(4) "Distillery." Includes any place or premises wherein any liquors are manufactured for sale.

(5) "Federal license." As used in this chapter, shall not mean tax receipt of permit.

(6) "Gallon" or "gallons." Wherever used in this chapter, shall be construed to mean a wine gallon or wine gallons of one hundred and twenty-eight (128) ounces. The word "quart" whenever used in this chapter will be construed to mean one fourth (1/4) of a wine gallon. The word "pint" wherever used in this chapter, shall be construed to mean one eighth (1/8) of a wine gallon.

(7) "License." The license issued pursuant to this chapter; and "licensee" means any person to whom such license has been issued pursuant to this chapter.

(8) "Manufacturer." Includes a distiller, vintner, and rectifier. Manufacture means and includes distilling, rectifying, and operating a winery.

(9) "Municipality." An incorporated town or city having a population of one thousand (1,000) persons or over by the federal census of 1950 or any subsequent federal census.

Provided, however, that when any incorporated town or city by ordinance authorizes a census to be taken of such incorporated town or city and shall furnish to the commission a certified copy of said census containing the names, address, age, and sex of each person enumerated therein, and if said census shall show that said incorporated town or city has a population of one thousand (1,000) persons or over, the commission, upon verification of said census, may declare such incorporated town or city to be a "municipality" for all intents and purposes of this chapter.

(10) "Rectifier." Includes any person who rectifies, purifies, or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any imitation of, or compounds liquors for sale under the

name of, whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(11) "Retailer." Any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.

(12) "Retail sale" or "sale at retail." A sale to a consumer or to any person for any purpose other than for resale.

(13) "Vintner." Any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent.

(14) "Wholesaler." Any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.

(15) "Wholesale sale" or "sale at wholesale." A sale to any person for purposes of resale.

(16) "Wine." The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling, and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

(17) "Winery." Includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded, and also includes a winery for the manufacture of wine.

Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (1993 Code, § 8-102)

8-103. Manufacturing prohibited. The manufacture of alcoholic beverage is prohibited within the corporate limits of the city. (1993 Code, § 8-103)

8-104. Wholesaling prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of the city. (1993 Code, § 8-104)

8-105. State laws to be complied with. No person, firm, corporation, associations, or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained. (1993 Code, § 8-105)

8-106. Restrictions as to location. No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the council, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be in too close

proximity of a church, school, or public institution, or otherwise inimical to the public interest. A business license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the city council, unless the new location is approved in writing by the city council. (1993 Code, § 8-106)

8-107. License required for retail business. For the retail sale of alcoholic beverages, a license may be issued as in this chapter provided. Any person, persons, firm, or corporation desiring to sell alcoholic beverages to patrons or customers in sealed packages only, and not for consumption on the premises, shall make application for a certificate of good moral character by submitting in duplicate to the city recorder of the City of Decherd, copies of the appropriate application forms used by the Tennessee Alcoholic Beverage Commission, along with a copy of any supplemental or additional forms required by said commission, and shall request, in writing, that said certificate of good moral character be signed by the mayor or a majority of the city council if such signing of said certificate be determined by the provisions of the Charter of the City of Decherd relating to voting by the city council, certifying that the named applicant or applicants are of good moral character, and if the applicant for said certificate be a corporation, that the executive officers, all directors, all stockholders, and those in control are of good moral character. Said certificate shall be subject to the issuance of a retail license by the Tennessee Alcoholic Beverage Commission, and further subject of the issuance of such retailer's license by the City of Decherd. Said City of Decherd retailer's license shall not be issued unless and until the applicant or applicants therefor shall have paid to said city the minimum tax of fifteen dollars (\$15.00) due to be paid to said city by said applicant or applicants pursuant to the Tennessee Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-702 to 67-4-726) and shall thereafter comply with all other provisions of said Business Tax Act applicable to said applicant or applicants; and no such City of Decherd license for the sale of alcoholic beverages shall issue except to a person or persons who, to a firm the partners in which, or to a corporation the stockholder or stockholders or which, have been for at least two years a resident citizen or citizens of Franklin County, Tennessee. (1993 Code, § 8-107)

8-108. Bonds required. Bonds required herein shall be executed by a surety company duly authorized to do business in the State of Tennessee. Each retailer shall execute such bond upon granting of a license, in the amount of one thousand dollars (\$1,000.00), conditioned that the principal thereof shall pay any fine which may be assessed against such principal and/or taxes or inspection fees due from him to the City of Decherd, Tennessee. Each applicant for a certificate of good moral character shall, in the event of issuance of the same, furnish to the City of Decherd a corporate performance bond in the principal

amount of one thousand dollars (\$1,000.00), conditioned upon the use of said certificate within a one hundred twenty (120) day period of time after the issuance of said certificate of good moral character, and in the event said certificate of good moral character shall not have been used by the issuance of an appropriate license within said one hundred twenty (120) days period of time after issuance of said certificate of good moral character, the same shall be forfeited to the City of Decherd. (1993 Code, § 8-108)

8-109. Restrictions on license holders and employees. (1) The minimum tax and the total tax due to be paid to the city by the applicant or applicants for a license pursuant to the provisions of this chapter under the provisions of the Tennessee Business Tax Act (*Tennessee Code Annotated* §§ 67-4-702 to 67-4-726), shall be paid by the person, persons, firm, or corporation making application for such license and to whom it is issued, and no other person shall pay such taxes. In addition to all other penalties, a violation of this section shall authorize the revocation of such license, where such taxes are paid by another or others, and also the revocation of the license, if any, of the person, persons, firm, or corporation so paying such taxes.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county, nor to the father, mother, son, daughter, brother, sister, or the spouse of such public employee, or the spouses of such father, mother, son, daughter, brother, or sister. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien or to participate in the profits of any such business.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude with ten (10) years prior to the time he or the firm or corporation with which he is connected shall receive a license: provided, however, that this provision shall not apply to any person who has been convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction, and in case of any such conviction occurring after a license has been issued and received, said license shall immediately be revoked, if such convicted felon be an individual licensee and if not, the firm or corporation with which he is connected shall immediately discharge him.

(4) No license shall, under any circumstance, be issued to any person who within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state of the United States prohibiting or regulating the sale, possession, transporting, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they may exist thereafter.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person, firm, or corporation having a license issued pursuant to the provisions of this chapter, or in the fixtures of any such person, firm, or corporation.

(6) It shall be unlawful for any person to have ownership in or participate, directly or indirectly, in the profits or any licensed retail business, unless his interest in said business and the nature, extent, and character thereof shall appear on the application, or if the interest is acquired after the issuance of a license unless it shall be fully disclosed to the city. Where such interest is owned by such person, on or before the application for any license to see that this section is fully complied with, whether he, himself signs or prepares the application, or whether the same is prepared by another, or, if said, interest is acquired after the issuance of said license, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages, shall be a person under the age of nineteen (19) years of age for the physical storage, sale, or distribution of alcoholic beverages or to permit any such person under said age on its place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted, he shall immediately be discharged: provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgement of infamy has been removed by a court of competent jurisdiction.

(9) No retailer shall employ any person who is a city employee, either elective or appointive, and who receives any monetary compensation for his services from the city.

(10) The issuance of a license pursuant to the provisions of this chapter does not vest a property right in the licensee or licensees, but is a privilege subject to revocation or suspension under the provisions of this chapter.

(11) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license shall be violation of this chapter.

(12) No person, persons, firm, or corporation shall be qualified for an alcoholic beverage license or have an interest in a retail store who is delinquent in any taxes, whether it be real, personal, privilege, or any other kind of taxes due to the City of Decherd. (1993 Code, § 8-109)

8-110. Employee's permit. (1) Every retail licensee or licensees shall, before employing a person to dispense alcoholic beverages, secure from the city recorder an employee's temporary permit, authorizing such a person to serve as an employee in the place of business of the retailer. Such temporary permit shall

be submitted to the city council at the next regular meeting for rejection or approval. It is made the duty of the retailer to see that each person dispensing alcoholic beverages has an employee's permit as above required, which permit must be on the person of such employee or upon the premises of the licensee at all times, subject to inspection by the authorized agent of the city. The applicant for such employee's permit shall pay to the city the sum of one dollar (\$1.00) therefor.

(2) Duration of employee's permit. Employee's permits issued under the provisions of this section shall be issued at any time and shall expire twelve (12) months from date of issuance, and shall be subject to revocation or suspension by the city council for any violation of this section or any rule or regulation promulgated pursuant thereto. Application for renewal shall be made in the same manner as application for permit and upon the forms to be prescribed by the city recorder. Such permit shall not be transferrable and must be surrendered, to the city recorder, within seven (7) days from the date the holder thereof ceases to work for the employer, and it shall be the duty of the employer to notify the city recorder within seven (7) days of the termination of employment for which such permit was issued. (1993 Code, § 8-110)

8-111. License to be displayed. Any person, persons, firm, or corporation granted a license pursuant to the provisions of this chapter shall, before being qualified to do business, display and post, and keep displayed and posted, such license in the most conspicuous place on the premises covered by such license. (1993 Code, § 8-111)

8-112. Transfer of licenses prohibited; term of license; use of agents. The holder of a license may not sell, assign, or transfer such license to any other person nor to any other location, and said license shall be good and valid only for the calendar year in which the same was issued and at the location for which it was issued; provided, however, that the licensee or licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of such licensee or licensees, during the absence of such licensee or licensees. In such instances, the license shall continue to be carried and renewed in the name of the owner or owners. The agent of the licensee or licensees shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee or licensees under this section.

All licenses issued under this chapter shall expire at the end of the calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above mentioned minimum tax and total tax due to be paid to the city by the licensee or licensees under the provisions of the Tennessee Business Tax Act (*Tennessee Code Annotated*, §§ 67-4-702 to 67-4-726). (1993 Code, § 8-112)

8-113. New license after revocation. (1) Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.

(2) If the premises are owned by a person, firm, or corporation not the licensee, the commission may, in its discretion, waive the provision of subsection (1) or reduce the time within which no new license may be granted with respect to the same premises. (1993 Code, § 8-113)

8-114. Federal license as evidence of sales. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license, shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (1993 Code, § 8-114)

8-115. Inspection fees. The City of Decherd does hereby impose an inspection fee upon all licensed retailers of alcoholic beverages as deemed by *Tennessee Code Annotated*, § 57-3-501 located within said city of eight percent (8%) on wholesale price as supplied to said retailer by the wholesaler, as defined by said section of *Tennessee Code Annotated*, and said inspection fee shall be collected as follows.

(1) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the city that an inspection fee has been imposed by ordinance upon the retailers located within the particular city. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(2) Each wholesaler making sales to retailers located within the city imposing an inspection fee shall furnish the city a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within the city, the wholesale price of the alcoholic beverages sold to each retailer, the amount of tax due, and such other information as may be required by the city. The monthly report shall be furnished the city not later than the twentieth of the month following which the sales were made. The inspection fees collected by the wholesaler from the retailer or retailers shall be paid to the city at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report.

(a) Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten percent (10%) of the fee due, which shall be payable to the City of Decherd.

(b) The City of Decherd shall have the authority to audit the records of wholesalers reporting to them in order to determine the accuracy of said reports. (1993 Code, § 8-115)

8-116. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this state to buy any alcoholic beverages herein defined from any person who, to the knowledge of the buyer, does not hold the appropriate license under the laws of this state authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer, or a licensed wholesaler, provided that such alcoholic beverages sold by one (1) wholesaler to another wholesaler shall be transported by common carrier or by vehicle owned or leased and operated by either the consignor wholesaler or the consignee wholesaler.

(3) No manufacturer or distiller shall sell any alcoholic beverages to any person in this state except a licensed wholesaler and to another manufacturer or distiller, and no manufacturer shall hold a wholesaler's license.

(4) No alcoholic beverage for sale to the retailer, or his representative, shall be sold except by a licensed wholesaler, who sells for resale on his premises and who carries on no other business, directly or indirectly, and whose said wholesale business in alcoholic beverages is not operated as an adjunct to, or supplementary to, the business of any other person, either by way of lease of said wholesale premises or otherwise, for any business other than that permitted by the terms of his wholesale license.

(5) No licensee shall sell intoxicating liquors at retail in connection with any wholesale business, or as a part of or in connection with any other business or in the same store where any other business is carried on.

(6) No wholesale or retail store shall be located except on the ground floor, and it shall have one (1) main entrance opening on a public street and such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two (2) public streets, such wholesale or retail store may maintain a door opening on each of the public streets; provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public and, provided, further, that every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. Provided further, when the location of a wholesale or retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and said liquor store cannot and does not have a main entrance or door opening onto a public street, but said main entrance or door would open or front on a shopping center parking area, the commission in their discretion may approve the issuance of a liquor license to cover said location

within the shopping center or shopping mall, irrespective of the fact that said main entrance or door does not or would not open onto a public street.

(7) No holder of a license for the sale of alcoholic beverages for wholesale or retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit, except that holders of wholesale licenses may sell on not more than ten (10) days' credit.

(8) No alcoholic beverages shall be sold for consumption on the premises of the seller except as provided in *Tennessee Code Annotated*, §§ 57-4-101 to 57-4-203.

(9) To the fullest extent, consistent with the nature of the establishment, full, free, and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(10) The sale of and delivery of alcoholic beverages shall be confined to the premises of the licensee, and curbside service is not permitted.

(11) No form of entertainment, including pinball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold, and no seating facilities shall be allowed in public area, except that nothing herein shall be construed to prohibit the use of intercom music consistent with commercial business. (1993 Code, § 8-116)

8-117. Solicitation of business restricted. (1) It shall be unlawful for any representative, employee, or agent of any distiller, rectifier, or manufacturer to solicit business from anyone in this state except those holding a wholesaler's license to do business in this state.

(2) (a) No holder of a license issued under this chapter shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business for such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer.

(b) This subsection shall not be construed so as to prohibit the solicitation by a distiller, rectifier, or vintner of an order from any licensed wholesaler at the licensed premises of such wholesaler, nor to prohibit the solicitation by a licensed wholesaler of an order from any licensed retailer at the licensed premises. (1993 Code, § 8-117)

8-118. Regulation of retail sales. (1) No retailer shall, directly or indirectly, operate more than one (1) place of business, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall offer or make any discount in the sale or delivery of liquors in case quantities. No reduction in the standard price per case shall be made for sales in excess of one (1) case.

(3) No retailer shall sell any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell to any person accompanied by a person who is drunk.

(4) No retailer shall sell any alcoholic beverages to a person known to be a minor.

(5) No retailer shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday. Likewise, all retail liquor stores shall be closed for business on Thanksgiving Day, Christmas, Labor Day, New Year's Day, and the Fourth of July.

(6) No retailer of alcoholic beverages shall keep, or permit to be kept, upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store, or possess upon the licensed premises any unstamped merchandise required by the laws of Tennessee to have affixed thereto revenue stamps of said state.

(8) This chapter is governed by *Tennessee Code Annotated*, title 57 chapter 3, chapter 4, and chapter 5 relative to alcoholic beverages. All other sections of the Decherd Municipal Code is governed by these sections of *Tennessee Code Annotated* the Rules of the Tennessee Alcoholic Beverage Commission. (1993 Code, § 8-118, as amended by Ord. #412, Oct. 2018 *Ch1_6-19-19*)

8-119. Actions to recover unpaid license and inspection fees.

Whenever any person, persons, firm, or corporation licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney and he shall immediately institute the necessary action for the recovery of any such license or inspection fee. (1993 Code, § 8-119)

CHAPTER 2

BEER¹

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" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain offenses prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Revocation of beer permits.
- 8-213. Privilege tax.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Special event/temporary beer permits.

8-201. Beer board established. The city council is hereby designated as the city beer board. (1993 Code, § 8-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall be deemed to be in session at any time the city council is in session. When there is business to come before the beer board, a special meeting may be called by the mayor, provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1993 Code, § 8-202)

8-203. Record of beer board proceedings to be kept. The recorder shall keep a record of the proceedings of all meetings of the beer board along with the minutes of the city council. 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

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).

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. (1993 Code, § 8-203)

8-204. Requirements for beer board quorum and action. The requirements for a beer board quorum and action shall be the same as for the city council. (1993 Code, § 8-204)

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 of Decherd in accordance with the provisions of the state law of this chapter. (1993 Code, § 8-205)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

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), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Decherd. 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. (1993 Code, § 8-207)

8-208. 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. Permits are to be renewed annually on a calendar basis. (1993 Code, § 8-208)

8-209. 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 churches or other places of public gathering as determined by the Decherd Beer Board, and would otherwise interfere with the public health, safety, and morals, except at

public eating places. In no event will a permit be issued authorizing the sale of beer for on-premises consumption at places within three hundred fifty feet (350') of any church or other place of public gathering as determined by the Decherd Beer Board. The Decherd Beer Board will have total discretion of all beer sales and locations within the Decherd city limits. (1993 Code, § 8-209)

8-210. Issuance of permits to persons convicted of certain offenses prohibited. No beer permit shall be issued to any person who has been convicted for involvement with the illegal possession, sale, or transportation of intoxicating liquor, marijuana, drugs, or any other offense that a person was sentenced to serve five (5) months twenty-nine (29) days or more in a county jail or other detention place, within the past ten (10) years. (1993 Code, § 8-210)

8-211. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted under the provisions of § 8-210 as noted above;
- (2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer;
- (3) No licensee shall permit beer to be consumed or sold on the licensed premise between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.
- (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 minor under twenty-one (21) years of age to loiter in or about his place of business;
- (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 as defined in *Tennessee Code Annotated*, § 57-5-101.;
- (10) Allow dancing on his premises when the management/owner/operator has been officially warned on three (3) separate occasions of: not maintaining order (disorderly to the extent of being unsafe for customers); or not maintaining and enforcing safety standards in accordance with the fire prevention code and the life safety code; and/or
- (11) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1993 Code, 8-211, as amended by Ord. #410, Aug. 2018 *Ch1_6-19-19*)

8-212. 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. (1993 Code, § 8-212)

8-213. 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 on January 1, 1994, and each successive January 1, to the City of Decherd, 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. (1993 Code, § 8-213)

8-214. Civil penalty in lieu of suspension. The beer board will at the time impose a civil penalty for:

(1) First offense: impose a civil penalty of up to two thousand five hundred dollars (\$2,500.00) for sales to minors and up to one thousand dollars (\$1,000.00) for any other offense:

(2) Second offense: permit suspended for ninety (90) days: and

(3) Third offense: permit revoked permanently.

If the first/second offense involves serious injury or resulting in death, the beer permit will be revoked permanently.

Note: the chief of police will give a copy of this section to each permit holder acknowledging these changes and will get the permit holder to sign an affidavit provided by the city acknowledging these penalties. (Ord. #362, Jan. 2012, modified)

8-215. Special event/temporary beer permits. A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days in duration. An applicant for such a special event permit must meet all other requirements for a beer permit except such an event may be permitted without being located within a permanent structure. A special event nonrefundable permit fee in the amount of one hundred dollars (\$100.00) shall be paid upon application for such permit. A special event permit holder shall not be required to pay the privilege tax set out in § 8-213. Special event permit applications must:

(1) No more than two (2) permits will be issued for a single festival, celebration, or event.

(2) Permit applications must be submitted thirty (30) days prior to the start of the event for which a permit is requested.

(3) The following information must be submitted with an application for a special event permit.

(a) The party applying for the special event permit, contact person, address and phone number.

(b) Date(s) and time(s) of event.

(c) The sponsors of the event and the sponsor contact's address and phone number.

(d) The specific location where beer is to be sold and served.

(e) The individual(s) with such organization responsible for supervising the sale and dispensing of the beer.

(f) Plans for security and policing the area(s) where beer is to be sold.

(g) If the events covered by the "special event permit" will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the special event application.

(h) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Decherd will result in a denial of a special event beer permit for the sale of beer for a period of two (2) years.

(4) Permit applications are valid only for on-premises consumption inside an enclosed and/or fenced area with restricted ingress/egress points, subject to inspection and approval.

(5) If approved, the special event/temporary permit shall have affixed on its face the name of the proposed vendor(s) of beer, the specific location(s) and date(s) where such vendor is permitted to sell beer under the special event permit and the permit must be posted in plain view at site. (as added by Ord. #415, Jan. 2019 *Ch1_6-19-19*)

CHAPTER 3

ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES

SECTION

8-301. Privilege tax levied.

8-302. Recorder's responsibility.

8-301. Privilege tax levied. Pursuant to the authority of *Tennessee Code Annotated*, § 57-4-301, there is levied on every person who engages in the business of selling at retail in the City of Decherd alcoholic beverages for consumption on the premises, an annual privilege tax as follows:

- (1) Private club \$300
- (2) Hotel and motel 1,000
- (3) Convention center 500
- (4) Premier type tourist resort 1,500
- (5) Restaurant, according to seating capacity, on licensed premises
 - (a) 75-125 seats 600
 - (b) 126-175 seats 750
 - (c) 176-225 seats 800
 - (d) 226-275 seats 900

If a restaurant is licensed by the ABC to sell wine only under *Tennessee Code Annotated*, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified in subsection (5) above.

- (6) Historic performing arts center 300
- (7) Urban park center 500
- (8) Commercial passenger boat company 750
- (9) Historic mansion house site 300
- (10) Historic interpretive center 300
- (11) Community theater 300
- (12) Zoological institution 300
- (13) Museum 300
- (14) Establishment in a terminal building of a
commercial air carrier airport 1,000
- (15) Commercial airline travel club 500
- (16) Public aquarium 300

(1993 Code, § 8-301)

8-302. Recorder's responsibility. It shall be the responsibility of the recorder to ensure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of on alcoholic beverages sold at retail for consumption on-premises and collected by the commissioner of the Alcoholic Beverage Commission under *Tennessee Code Annotated*, § 57-4-301(c), and distributed to

the state and its political subdivisions under *Tennessee Code Annotated*,
§ 57-4-306. (1993 Code, § 8-302)