

**TITLE 8**

**ALCOHOLIC BEVERAGES<sup>1</sup>**

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

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**8-101. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Halls, Tennessee, except as provided by Tennessee Code Annotated, title 57 and this chapter. (1980 Code, § 2-101, as replaced by Ord. #07-01, Feb. 2007)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

**8-102. Application for certificate of good moral character.** Before any character certificate, as required by Tennessee Code Annotated, § 57-3-208, or a renewal, as required by Tennessee Code Annotated, § 57-3-213, shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant;
- (2) Number of years residence in the city;
- (3) Occupation or business and length of time engaged in such occupation or business;
- (4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction;
- (5) If employed, the name and address of the applicant's employer;
- (6) If in business, the kind of business and location thereof;
- (7) The exact location of the proposed store for the sale of alcoholic beverages;
- (8) The name and address of the owner of the store; and,
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees or percentages of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership, the application shall be verified by the oath of each partner; if the applicant is a corporation, the application shall be verified by the oath of the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of eight hundred and fifty dollars (\$850.00). (as added by Ord. #07-01, Feb. 2007)

**8-103. Applicant to agree to comply with laws.** The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages. (as added by Ord. #07-01, Feb. 2007)

**8-104. Applicant to appear before board of mayor and aldermen; duty to give information.** An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. (as added by Ord. #07-01, Feb. 2007)

**8-105. Action on application.** Every application for a certificate of good moral character shall be referred to the chief of police for investigation and

to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within thirty (30) days of the date each application was filed. The mayor or a majority of the board of mayor and aldermen may issue a certificate of moral character to any applicant. (as added by Ord. #07-01, Feb. 2007)

**8-106. Residency requirement.**<sup>1</sup> The applicant for a certificate of good moral character shall have been a bona fide resident of Lauderdale County, Tennessee for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Lauderdale County, Tennessee for not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to for seven (7) consecutive years and who is otherwise covered by Tennessee Code Annotated, § 57-3-204. (as added by Ord. #07-01, Feb. 2007)

**8-107. Applicants for certificate who have criminal record.** No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages or for the manufacture or vinting of wine shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #07-01, Feb. 2007)

**8-108. Only one establishment is to be operated by retailer.** No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. (as added by Ord. #07-01, Feb. 2007)

**8-109. Where establishments may be located.** It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose and, as applicable, at such locations whose plans have been

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-208(c).

approved by the planning commission, but in no event shall any establishment be located:

- (1) Adjacent to any residence; or,
- (2) Within one thousand (1,000) feet of a hospital, church, school, public park, public institution, or any other place of public gathering, measured in a straight line<sup>1</sup> between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the hospital, school, church, public park, public institution, or other place of public gathering; or,
- (3) At any location at which excessive congestion exists based upon traffic patterns existing in the city at the date upon which the application is made.

Any location at which any person proposes to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city must have adequate parking for the establishment. (as added by Ord. #07-01, Feb. 2007)

**8-110. Retail stores to be on ground floor; entrances.** No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (as added by Ord. #07-01, Feb. 2007)

**8-111. Limitation on number of retailers.**<sup>2</sup> No more than two (2) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (as added by Ord. #07-01, Feb. 2007)

**8-112. Sales for consumption on premises.** No alcoholic beverages shall be sold for consumption on the premises of the seller. (as added by Ord. #07-01, Feb. 2007)

**8-113. Radios, amusement devices and seating facilities prohibited in retail establishments.** No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such

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<sup>1</sup>State law reference, see *Watkins v. Naifeh*, 635 S. W. 2d 104 (Tenn. 1982) and other cases cited therein which establish the straight-line method of measurement.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-3-208(c).

place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (as added by Ord. #07-01, Feb. 2007)

**8-114. Inspection fee.** The Town of Halls, Tennessee hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. At the date of the initial passage of this chapter, the inspection fee is set at eight percent (8%) of the wholesale price of alcoholic beverages supplied to a retailer in the Town of Halls by any wholesaler. (as added by Ord. #07-01, Feb. 2007)

**8-115. Violations.** Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (as added by Ord. #07-01, Feb. 2007)

**8-116. Definitions.** (1) The terms used in this chapter shall have the definition given them in title 57 of the Tennessee Code Annotated, as may be amended from time to time.

(2) Wherever used in this chapter, "city" or "town" shall mean the Town of Halls, Tennessee.

(3) Whenever used in this chapter, "character certificate" or "certificate of good moral character" mean the certificate required of any applicant for a license for the retail sale of alcoholic beverages as a precondition of the license and which is defined in Tennessee Code Annotated, § 57-3-208(c). (as added by Ord. #07-01, Feb. 2007)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer business lawful but subject to regulation.
- 8-202. Beer board created.
- 8-203. Permit required for engaging in beer business.
- 8-204. Permit to be for off premises consumption only; exception.
- 8-205. Application for a permit.
- 8-206. Interference with public health, safety, and morals prohibited.
- 8-207. Suspension or revocation of permit; authority and procedure for; issuance of new permit.
- 8-208. Permit to be posted.
- 8-209. Permit not transferable.
- 8-210. Wholesalers, etc., to sell to licensed retailers only.
- 8-211. Sales not to be made to persons who are intoxicated, feeble-minded, etc.
- 8-212. Persons under twenty-one (21) years of age not purchase or attempt to purchase, or be sold beer, etc.
- 8-213. Hours and days of sale regulated.
- 8-214. Other prohibited conduct or activities by beer permit holders.
- 8-215. Violations.
- 8-216. Privilege tax.

**8-201. Beer business lawful but subject to regulation.** It shall hereafter be lawful to sell, store for resale, distribute, or manufacture beer of alcoholic content of not more than five per cent (5%) by weight or other beverages of like alcoholic content within the corporate limits of the Town of Halls, subject to all of the regulations, limitations, and restrictions hereinafter provided. (1980 Code, § 2-201)

**8-202. Beer board created.** There is hereby created a board, which shall be known and designated as the "Beer Board of the Town of Halls." Such board shall be composed of the mayor and aldermen of the Town of Halls, or a board composed of five (5) members appointed by the mayor and aldermen. (1980 Code, § 2-202)

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<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).

**8-203. Permit required for engaging in beer business.** No person shall engage in the selling, storing for resale, distributing, or manufacturing of beer of alcoholic content of not more than five per cent (5%) by weight or other beverages of like alcoholic content within the corporate limits of the Town of Halls until he shall receive a permit to do so from the beer board, which permit shall at all times be subject to all of the limitations and restrictions herein provided. (1980 Code, § 2-203)

**8-204. Permit to be for off premises consumption only; exception.** Permits issued for the retail sale of beverages coming within the provisions of this chapter shall be restricted to permits providing for off-premises consumption only. Provided, however, it shall be lawful for the beer board to issue a permit for on-premises sale and consumption of any beverage coming within the provisions of this chapter, to bona fide, recognized veteran's organizations subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder. (1980 Code, § 2-204)

**8-205. Application for a permit.** Before any permit is issued by the beer board, the applicant therefor shall file with the beer board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

(1) That the applicant is a citizen of the United States or, if a syndicate or association, that all the members thereof are citizens of the United States.

(2) The location of the premises at which the business shall be conducted.

(3) The owner or owners of such premises.

(4) That no person will be employed in the sale, storage for resale, distribution, or manufacture of such beverages except those who are citizens of the United States.

(5) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer permit board has issued a permit or permits to such applicant.

(6) That no sale of such beverages will be made except in accordance with the permit granted.

(7) That no sale will be made for consumption on the premises and that no consumption will be allowed on the premises thereof (unless applicant is a veteran's organization).

(8) That no sale will be made to any person under twenty-one (21) years of age and that the applicant will not permit such persons or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business.

(9) That neither the applicant, nor any persons employed or to be employed by him in such distribution or sale of such beverage, has ever been

convicted of any violation of any law prohibiting the sale, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(10) That the applicant will conduct the business in person, for himself, or if he is acting as agent, the applicant shall state the person, firm, or corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(11) A non-refundable fee of two hundred fifty dollars (\$250.00) shall be paid by the applicant when the application for a permit is filed. (1980 Code, § 2-205, as amended by Ord. of Feb. 7, 1983, and Ord. of Oct. 4, 1993)

**8-206. 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 storage, sale, or manufacture of beer at places within one thousand (1000) feet of any school, church, or other such place of public gathering, measured along street rights-of-way. (Ord. of Feb. 7, 1983)

**8-207. Suspension or revocation of permit; authority and procedure for; issuance of new permit.** All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

Complaints filed against any permit holder for the purpose of suspending or revoking his permit shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the

board in all such hearings shall be final, subject only to review by the courts as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1980 Code, § 2-206)

**8-208. Permit to be posted.** The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1980 Code, § 2-207)

**8-209. Permit not transferable.** Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase, or otherwise, of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (1980 Code, § 2-208)

**8-210. Wholesalers, etc., to sell to licensed retailers only.** It shall be unlawful for any wholesaler, distributor, or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any person other than holders of valid retail beer permits, and it shall be the duty of such wholesaler, distributor, or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (1980 Code, § 2-209)

**8-211. Sales not to be made to persons who are intoxicated, feeble-minded, etc.** It shall be unlawful and it is hereby declared to be a misdemeanor for any person, firm, corporation, or association, engaged in the business regulated hereunder, to make, or to permit to be made, any sales or distribution of such beverages to persons intoxicated or to sell or distribute such beverages to persons who are feeble-minded, insane, or otherwise mentally incapacitated. (1980 Code, § 2-210)

**8-212. Persons under twenty-one (21) years of age not to purchase or attempt to purchase, or be sold beer, etc.** It shall be unlawful for any person under twenty-one (21) years of age to purchase or attempt to purchase any beverage regulated hereunder and it shall be unlawful for any such person to present or offer to any permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to procure such beverage. It shall also be unlawful for any person to purchase beer for a person under twenty-one (21) years of age or for any person to sell beer to a person under twenty-one (21) years of age. (1980 Code, § 2-211, modified)

**8-213. Hours and days of sale regulated.** It shall be unlawful and it is hereby declared to be a misdemeanor for any person, persons, firm,

corporation, or association to sell or distribute any of beverages regulated under this chapter within the corporate limits between the following hours:

(1) Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, each day from 3:00 A.M. to 8:00 A.M.

(2) Sunday at 3:00 A.M. to 10:00 A.M. (1980 Code, § 2-212, as amended by Ord. #07-04, May 2007)

**8-214. Other prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Allow pool or billiard playing in the same room where beer is sold.

(2) Allow beer to be sold without placing such in paper bags or boxes so as to conceal the content before it is taken off the premises. (Ord. of Feb. 7, 1983)

**8-215. Violations.** Any person in violation of any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a penalty under the general penalty clause for this municipal code. In the case of a person seventeen (17) years of age or less, he shall be taken before the juvenile judge for appropriate disposition. (1980 Code, § 2-213)

**8-216. 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 Town of Halls, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. of Oct. 4, 1993)