

**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 when he is lawfully acting pursuant to applicable state laws<sup>2</sup>, it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this town. "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. (1983 Code, § 2-101)

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<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

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**8-201. Establishment of beer board.** (1) There is hereby established a beer board to be composed of the board of mayor and aldermen. The town secretary shall be the ex officio secretary of the board and shall have no vote.

(2) The board shall elect a chairman and vice-chairman to serve until the next town election, or until their successors are elected and qualified. Each member of the board shall have one (1) vote on any issue before the board. A tie vote shall mean that any motion, application, revocation, suspension or other action shall fail. (Ord. #89-2, Jan. 1989)

**8-202. Meetings and hearings of the beer board.** (1) All meetings of the beer board shall be open to the public and shall be held at the town hall. The board may hold such regular meetings as it shall prescribe and such special meetings as may be necessary. All special meetings may be called by the chairman or any two (2) members of the board within five (5) days of a request therefor to the secretary who shall immediately notify all members and cause a compliance with the Tennessee Open Meeting Law to be had (and cause a

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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).

notice to be published in the local papers prior to said meeting). Any meeting may be adjourned to another time for the continuation of business already before the board.

(2) At all hearings on issuance, revocation or suspension of permits, the board may require all matters presented to be by sworn testimony and any non-member with business before the board may be represented by an attorney. On all such hearings the town attorney will be present and shall represent the Town of Hollow Rock. (Ord. #89-2, Jan. 1989)

**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 record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board 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, revocation or suspension done by the board. The secretary shall keep minutes of the meetings and shall make a verbatim transcript of any hearing for the granting of any permit or the revocation of any permit either by stenographic or electrical audio tape recordings. The minutes and transcripts shall be permanently preserved. (Ord. #89-2, Jan. 1989)

**8-204. Requirements for beer board quorum and action.** The attendance of at least four (4) 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 member's present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. This section shall be considered in conjunction with § 8-201(2). (Ord. #89-2, Jan. 1989)

**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 municipality in accordance with the provisions of this chapter. (Ord. #89-2, Jan. 1989)

**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. (Ord. #89-2, Jan. 1989)

**8-207. Permit required for engaging in beer business.** (1) 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 forms as the board shall prescribe and/or furnish. 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.

(2) A final determination or any application shall be had within thirty (30) days of the filing with the secretary and the payment by the applicant of the two hundred dollars (\$200.00) filing fee. Such fee will not be refundable in any event.

(3) No more permits shall be issued under any circumstances than one (1) for each five hundred (500) population by any subsequent census by the United States Census Bureau. The current population is declared to be one thousand thirty-two (1,032). A person having more than one established location or place of business in the town shall obtain a separate permit for each location. (Ord. #89-2, Jan. 1989, modified)

**8-208. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual 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 Town of Hollow Rock, 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. #FY-93-94-2, Oct. 1993)

**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 will 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. (Ord. #89-2, Jan. 1989)

**8-210. Interference with public health, safety, and morals prohibited.** (1) 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 shall a permit be issued authorizing the storage, sale or manufacture of beer at places within three hundred (300) feet of any school, church or other such place of public gathering. All measurements shall be building to building measurements in a straight line to the nearest corner of buildings.

(2) In addition to the above requirements, no permit shall be issued to any location within three hundred (300) feet of any private residential property if the owner or occupant thereof objects thereto in writing to the board on or before the hearing. Notice must be given to the owner or occupant of any private residence by U.S. Mail addressed to the postal address of the property by certified mail posted not less than seven (7) days prior to the hearing on any application and shall cause to be published in a local paper in the county prior to the hearing a notice in which the name of the applicant and the address of the location for such license or permit and the date and time of the meeting of which such application shall be considered. Such notice shall be published not less than seven (7) days prior to such meeting. (Ord. #89-2, Jan. 1989)

**8-211. 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, transportation of intoxicating liquor or any crime involving dishonesty or moral turpitude within the past ten (10) years. (Ord. #89-2, Jan. 1989)

**8-212. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

(1) Employ any person 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 the off-premises consumption only.

(2) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week; at any time on Sunday.

(3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

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

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

(7) Allow drunk or disreputable persons to loiter about his premises.

(8) 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. (Ord. #89-2, Jan. 1989, as amended by Ord. #94-95-1, Oct. 1994, modified)

**8-213. Revocation 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. #89-2, Jan. 1989, as amended by Ord. #FY-93-94-3, Oct. 1993, modified)

**8-214. 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 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. #89-2, Jan. 1989, modified)

**8-215. 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.

**8-216. Violations.** Except as provided in § 8-215, 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. Each day a violation shall be allowed to continue shall constitute a separate offense.