

TITLE 8**ALCOHOLIC BEVERAGES**¹**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 and/or ordinances², it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of Huntsville. "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. (1984 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

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. Issuance of permits to aliens prohibited.
- 8-210. Classes of consumption permits.
- 8-211. Limitation on number of 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. Suspension and revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. (Ord. #91-92-03, ___)

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 town 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. (Ord. #91-92-03, ___)

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 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

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).

each member thereon; and the provisions of each beer permit issued by the board. (Ord. #91-92-03, ___)

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. (Ord. #91-92-03, ___, as amended by Ord. #97-98-02, _____)

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 town in accordance with the provisions of this chapter. (Ord. #91-92-03, ___)

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. #91-92-03, ___)

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 board of mayor and aldermen. The application shall be made on such form 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. (Ord. #91-92-03, ___, as amended by Ord. #97-98-02, _____)

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. It shall 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. (Ord. #91-92-03, ___, as amended by Ord. #97-98-02, _____)

8-209. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted to any person not a citizen of the United States nor to any syndicate or association unless all of the members thereof are citizens of the United States. (Ord. #97-98-02, ___)

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.

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 applications 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) Off Premises Permit. An Off Premises Permit shall be issued for the consumption of beer only off the premises. To qualify for an Off Premises Permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be a grocery store or a convenience type market; and
- (b) In either case, be substantially engaged in the sale of grocery, personal, and home care and cleaning articles, and may also sell gasoline; and

In addition, the monthly beer sales of any establishment which holds an Off Premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any establishment which for two consecutive months or for three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked. (Ord. #91-92-03, ___)

8-211. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Off Premises Permits. There shall be no more than three Class 2 On Premises Permits issued and outstanding at any time. (Ord. #91-92-03, ___)

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 hospitals, 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 by a Class 2 On Premises Permit holder, within three hundred (300) feet of any hospital, school or church; or authorizing the sale of beer by Class 1 On Premises Permit holders within one hundred (100) feet of any hospital, school or church. The distances shall be measured in a straight line from the nearest door of the building from which the beer will be sold, manufactured or stored to the nearest door of the hospital, school or church. (Ord. #91-92-03, ____, as amended by Ord. #97-98-02, ____)

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. (Ord. #91-92-03, ____)

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) Make or allow any sale of beer between the hours of 11:00 P.M. and 6:00 A.M. during any night of the week, or on election days before and while the polls are lawfully open.

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

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

(5) Allow any minor 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 intoxicated 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.

(9) Allow gambling on the premises.

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

(11) Employ any person under twenty-one (21) 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.)

(12) Make or allow any sale of beer to any intoxicated person.

(13) In the case of an On Premises Permit holder, fail to provide and maintain separate sanitary toilet facilities for men and women.

In addition, it shall be unlawful for any Class 2 On Premises Permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever. (Ord. #91-92-03, ___, as amended by Ord. #97-98-02, ___, and Ord. #11-10-02, Nov. 2011)

8-215. Suspension and revocation of beer permits. The beer board shall suspend or 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. Suspension or revocation proceedings may be initiated by the sheriff's department, police department or any other law enforcement official or by any member of the beer board. (Ord. #91-92-03, ___, as amended by Ord. #97-98-02, ___)