

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. BEER.

CHAPTER 1

BEER²

SECTION

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8-101. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. The board of mayor and aldermen shall serve

¹State law reference

Tennessee Code Annotated, title 57.

²Municipal code references

Minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

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).

on the beer board without compensation for the term of their election or until their successors shall take office. (Ord. #2001-02, Sept. 2002)

8-102. 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 each member of the board is given a reasonable notice thereof. The board may adjourn a meeting at any time to another time and place. (Ord. #2001-02, Sept. 2002)

8-103. 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 each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2001-02, Sept. 2002)

8-104. 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. #2001-02, Sept. 2002)

8-105. 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. #2001-02, Sept. 2002)

8-106. "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. #2001-02, Sept. 2002)

8-107. 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 non-refundable application fee of two hundred and fifty dollars

(\$250.00).¹ Said fee shall be in the form of a cashier's check payable to the Town of La Grange. Each applicant must be a person of good moral character and must certify that they have read and are familiar with the provisions of this chapter. (Ord. #2001-02, Sept. 2002)

8-108. Privilege tax. Effective with the passage of this chapter 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, of each year, to the Town of La Grange, 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. #2001-02, Sept. 2002)

8-109. 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 retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. The board shall also have the power and authority to make special restrictions on individual permits and to include such restrictions in the permits. 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. #2001-02, Sept. 2002)

8-110. Limitation on number of permits. There shall be no more than three (3) permits issued and outstanding at any time. (Ord. #2001-02, Sept. 2002)

8-111. 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, within one thousand feet (1,000') of any hospital, school, church or other place of public

¹State law reference

Tennessee Code Annotated, § 57-5-108(c).

gathering. The distances shall be measured in a straight line¹ from the nearest corner of the building from which beer will be sold, manufactured or stored to the nearest corner of the building of the hospital, school, church or other place of public gathering. (Ord. #2001-02, Sept. 2002)

8-112. 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. #2001-02, Sept. 2002)

8-113. 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 1:00 A.M. and 6:00 A.M. during any night of the week; and between 1:00 A.M. to 12:30 P.M. on Sunday; 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 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 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) Serve or sell or allow to be served or sold beer to any person in or on any motor vehicle or allow any person to consume beer while in a motor vehicle parked on his premises.

(10) Allow assaults, fighting, damaging of property and breaches of the peace occurring on or in the premises where beer is sold. (Ord. #2001-02, Sept. 2002)

¹State law reference

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

8-114. Suspension and revocation of beer permits. The beer board shall have the power to 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 suspended or 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 police chief or by any member of the beer board. (Ord. #2001-02, Sept. 2002)

8-115. Civil penalty in lieu of suspension or revocation. Pursuant to Tennessee Code Annotated, § 57-5-108(a)(2), the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars (\$1,500.00) for each offense of making or allowing sales to minors and up to one thousand dollars (\$1,000.00) for any other violation. The permit holder will have seven (7) days to pay the aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee. (Ord. #2001-02, Sept. 2002)