

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS--OFF PREMISES CONSUMPTION.
2. INTOXICATING LIQUORS--ON PREMISES CONSUMPTION.
3. BEER.

CHAPTER 1

INTOXICATING LIQUORS--OFF PREMISES CONSUMPTION

SECTION

- 8-101. Adoption of state statutes by reference.
- 8-102. Definitions.
- 8-103. Alcoholic beverages subject to regulation.
- 8-104. Sale by licensee legalized.
- 8-105. Qualifications of applicant.
- 8-106. Application for certificate of good moral character and license.
- 8-107. Misrepresentation or concealment.
- 8-108. Restrictions on issuance of certificate of good moral character.
- 8-109. Filing fee.
- 8-110. Miscellaneous restrictions on licensees and employees.
- 8-111. Nature and revocability of license.
- 8-112. Location of liquor store.
- 8-113. Inspection fee.
- 8-114. Records to be maintained by wholesaler and retailer.
- 8-115. Effect of failure to report and pay inspection fee or allow inspections.
- 8-116. Use of funds derived from inspection fees.
- 8-117. Other violations by licensee.
- 8-118. Licensee's responsibility.
- 8-119. Violation and penalty.

8-101. Adoption of state statutes by reference. All pertinent and applicable provisions of Tennessee Code Annotated, title 57 are hereby incorporated by reference and made a part of this chapter as though specifically

¹Municipal code references

Driving under the influence: § 15-104.

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

State law reference

Tennessee Code Annotated, title 57.

set forth therein as said statutes are now enacted or as they may hereafter be amended or repealed, and where a conflict exists between this chapter and state statutes and regulations of the Tennessee Alcoholic Beverage Commission, the statutes and rules and regulations shall control. (1989 Code, § 8-101)

8-102. Definitions. Whenever used in this chapter, in addition to the definitions as set forth in Tennessee Code Annotated, § 57-3-101, the following terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Applicant" means the party applying for a certificate of good moral character and a license.

(2) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character and license.

(3) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(4) "Board" means the board of mayor and aldermen of the town.

(5) "Certificate of good moral character" means the certificate provided for in Tennessee Code Annotated, title 57, chapter 1, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(6) "Town" means the Town of Monteagle, Tennessee.

(7) "Clerk" means the clerk of the town.

(8) "Corporate limits" means the corporate limits of the town as the same now exist or may hereafter be changed.

(9) "Federal statutes" means the statutes of the United States now in effect or as they may hereafter be changed.

(10) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(11) "Person" shall mean and include an individual, partner, association or corporation.

(12) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverage, and also any delivery made otherwise than gratuitously of alcoholic beverage; the soliciting or receiving of an order for alcoholic beverage; the keeping, offering or exposing alcoholic beverage for sale.

(13) "State" means the State of Tennessee.

(14) "State Alcoholic Beverage Commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provision of Tennessee Code Annotated, title 57, chapter 8.

(15) "State rules and regulations" means all applicable rules and regulations of the State of Tennessee applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the

Local Option Liquor Rules and Regulations of the Tennessee Alcoholic Beverage Commission and Department of Revenue.

(16) "State statutes" means the statutes of the State of Tennessee now in effect or as they may hereafter be changed. (1989 Code, § 8-102)

8-103. Alcoholic beverages subject to regulation. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the town or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the town, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (1989 Code, § 8-103)

8-104. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes, state statutes, state rules and regulations, and the provisions of this chapter. (1989 Code, § 8-104)

8-105. Qualifications of applicant. To be eligible to apply for or to receive a certificate of good moral character, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license, and must have resided within the State of Tennessee for at least two (2) consecutive years immediately preceding the date when the application is filed with the board, in accordance with Tennessee Code Annotated, § 57-3-204. (1989 Code, § 8-105)

8-106. Application for certificate of good moral character and license.¹ Each applicant for a certificate of good moral character and license shall file with the board a completed questionnaire and application for license on such forms as are designated and compiled by the State Alcoholic Beverage Commission and by the board. The questionnaire and application form and other material to be filed by the applicant with the State Alcoholic Beverage Commission in connection with said application shall be filed in duplicate, and shall also be accompanied by two (2) sets of plans drawn to a scale of not less than one inch equals twenty feet (1" = 20'), giving the following information:

(1) The shape, size, and location of the lot upon which the liquor store is to be operated under the license;

(2) The shape, size, height, and location of all buildings, whether they are to be erected, altered, moved, or existing, upon the lot;

¹State law reference

Tennessee Code Annotated, § 57-3-208.

(3) The off-street parking space and the off-street loading and unloading space to be provided, including the vehicular access to be provided from these areas to a public street; and

(4) The identification of every parcel of land within three hundred feet (300') of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon and the use being made of every such parcel.

All forms shall be signed and verified as required by the State Alcoholic Beverage Commission by such person or persons who have an interest in the license, either as owner, partner, or stockholder, director, officer, or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of good moral character, no authorization to obtain a license shall be issued until an application and questionnaire has been filed with the board.

The recorder shall review all documents, note any apparent defects, errors and insufficiency and obtain correction of same. After all documents are in order, same shall be submitted to the board for consideration and action.

Unless an extension is otherwise granted in writing to each applicant, the certificate of good moral character shall be null and void unless within a period of one hundred twenty (120) days after a license is granted by the state, the applicant is actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application and upon such failure, the board shall request the state to revoke said license. (1989 Code, § 8-106)

8-107. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the State Alcoholic Beverage Commission together with the request that the State Alcoholic Beverage Commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (1989 Code, § 8-107)

8-108. Restrictions on issuance of certificate of good moral character. (1) No certificate of good moral character shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, state statute, state rules and regulations or federal statutes.

(2) The board shall not sign any certificate of good moral character for any applicant¹ until:

¹State law reference

Tennessee Code Annotated, § 57-3-208 requires the certificate of good moral character to be signed by the mayor or a majority of the board
(continued...)

(a) Such applicant includes in his application a statement that if he is granted a certificate of good moral character, he will open his liquor store with a minimum inventory of twenty thousand dollars (\$20,000.00) in wholesale value and that his liquor store will have at least one thousand two hundred (1,200) square feet of floor space;

(b) Such applicant's application has been filed with the board;

(c) The location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store as hereinafter set forth; and

(d) The application has been considered at a meeting of the board and approved by a majority vote of the entire board. (1989 Code, § 8-108)

8-109. Filing fee. Each application filed with the town, shall be accompanied by a one hundred dollars (\$100.00) filing fee, payable to the town for expenses incurred in the processing of the application and for investigation of the applicant. (1989 Code, § 8-109, modified)

8-110. Miscellaneous restrictions on licensees and employees.

(1) If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licensee shall have any interest as an owner, stockholder, officer, director, or otherwise in any business licensed to engage in the sale of wholesale or retail of alcoholic beverage in the state or in any other place;

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation or otherwise to any person who has not been a resident of the town for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(2) If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) consecutive work days, exclusive of mandatory closing days, then the recorder shall forthwith report such fact to the State Alcoholic Beverage Commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(3) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual, or

¹(...continued)
of mayor and aldermen.

a partner or corporate officer, if the licensee is a partnership or corporation. In every case where alcoholic beverage is sold to a licensee that is either a partnership or a corporation the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the clerk.

(4) No pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches or otherwise and no campaign material shall be placed, displayed or dispensed on the premises of any liquor store. (1989 Code, § 8-110, modified)

8-111. Nature and revocability of license. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by state statutes and state rules and regulations. In the event of any violation of state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, the recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission and shall take such action before the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (1989 Code, § 8-111)

8-112. Location of liquor store. Liquor stores may be operated and maintained on premises within the corporate limits, but only within areas designated by the board and in no event shall a store be operated and maintained in a residential area.

A liquor store shall not be located within three hundred feet (300') of any church, school or playground as measured in a direct line¹ from the center of the front door of the licensee's place of business to the nearest portion of the property line of the facility. To assure that these requirements are satisfied, no certificate of good moral character for an applicant for a license shall be issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store. (1989 Code, § 8-112)

8-113. Inspection fee. There is hereby levied on each licensee in the town an inspection fee in the amount of eight percent (8%)² of the wholesale

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.

²State law reference

price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the town. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon.

The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment or on credit or partly for cash and partly for credit. The inspection fee, computed as hereinabove provided, shall be paid by each wholesaler to the recorder as provided by the provisions of Tennessee Code Annotated, § 57-3-501. (1989 Code, § 8-113, modified)

8-114. Records to be maintained by wholesaler and retailer. Each wholesaler making sales to retailers located within the town and each licensee shall both maintain accurate records of the sales and purchases made and such records shall be subject to audit by the board or its designated agent. All such records shall be preserved for a period of at least two (2) years unless the board or its designated agent gives the wholesaler or licensee written permission to dispose of such records at an earlier time. (1989 Code, § 8-114)

8-115. Effect of failure to report and pay inspection fee or allow inspections. The failure to pay the inspection fee and to make the required reports accurately and within the time prescribed by law or to allow inspection and audit of the books, papers and records of the wholesaler or licensee shall, at the sole discretion of the board, result in a report of non-compliance being filed with the State Alcoholic Beverage Commission and which report may, at the discretion of the board, request revocation of the license of the wholesaler and of the license of the licensee. (1989 Code, § 8-115)

8-116. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the town. The town shall defray all expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the town in

²(...continued)

Tennessee Code Annotated, § 57-3-501.

investigating and inspecting licensees and in seeing all provisions of this chapter are observed; and the board finds and declares that the amount of the inspection fees is reasonable and that the funds expected to be derived therefrom will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (1989 Code, § 8-116)

8-117. Other violations by licensee. Any licensee who in the operation of such licensee's liquor store, shall violate any federal statute, state statute, or state rule and regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (1989 Code, § 8-117)

8-118. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent, or representative of a licensee shall constitute a violation of this chapter by such licensee. (1989 Code, § 8-118)

8-119. Violation and penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and shall be punished according to the general penalty provisions of this code. Any licensee violating any provisions of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by state statutes, or state rules and regulations. All police officers of the town are hereby empowered and required to take into possession any alcoholic beverages which have been received by, or are in the possession of, or are being transported by, any person in violation of state statutes, state rules and regulations, federal statutes, and this chapter; and such contraband alcoholic beverage shall be disposed of as provided by state statutes. (1989 Code, § 8-119)

CHAPTER 2

INTOXICATING LIQUORS--ON PREMISES CONSUMPTION

SECTION

- 8-201. Definition of alcoholic beverage.
 8-202. Privilege tax.
 8-203. Privilege license.
 8-204. Intoxicated persons prohibited on premises.
 8-205. Violation and penalty.

8-201. Definition of "alcoholic beverage." For the purpose of the interpretation and application of this chapter, the term, "alcoholic beverage," shall mean and include whiskey, vodka, wine, rum, gin, and all other alcoholic beverages, as defined by the provisions of Tennessee Code Annotated, § 57-3-101. (1989 Code, § 8-201)

8-202. Privilege tax. (1) Levy. It is hereby declared that every person who engages in the business of selling at retail, in the Town of Monteagle, alcoholic beverages for consumption on the premises, shall be exercising a taxable privilege.

(2) Amount. For the exercise of such privilege, the following taxes are levied, which shall be paid annually, to-wit:

(a)	Private club	\$ 300.00
(b)	Hotel and motel	\$ 1,000.00
(c)	Convention center	\$ 500.00
(d)	Premiere type tourist Resort.	\$ 1,500.00
(e)	Restaurant, according to seating capacity, on licensed premises:	
	(i) 75 - 125 seats	\$ 600.00
	(ii) 126 - 175 seats	\$ 750.00
	(iii) 176 - 225 seats	\$ 800.00
	(iv) 226 - 275 seats	\$ 900.00
	(v) 276 seats and over	\$ 1,000.00
(f)	Historic performing arts center.	\$ 300.00
(g)	Urban park center	\$ 500.00
(h)	Historic mansion house site	\$ 300.00
(i)	Historic interpretive center	\$ 300.00
(j)	Community theater	\$ 300.00
(k)	Zoological institution	\$ 300.00

- (1) Museum \$ 300.00
(1989 Code, § 8-202)

8-203. Privilege license. Every person desiring to exercise such privilege shall obtain from the town a privilege license upon the payment of the fee as set forth in § 8-202. The license shall be procured at the same time that the privilege license is obtained from the State of Tennessee and shall be renewed annually. (1989 Code, § 8-203)

8-204. Intoxicated persons prohibited on premises. No permittee shall permit any intoxicated person to be on or remain on the premises of any premises selling intoxicating liquors for on premises consumption. (1989 Code, § 8-204)

8-205. Violation and penalty. (1) For failure to pay privilege tax.

(a) The failure to pay the privilege tax shall result in a penalty being imposed in the amount of five percent (5%) for each month of delinquency or part thereof. In the event that any person fails to pay the privilege tax as required under this chapter, within a period of thirty (30) days, the privilege of selling alcoholic beverages for consumption on the premises shall be automatically revoked. Any person who, after said thirty (30) day period, continues to engage in the business after revocation of his privilege, shall be guilty of a misdemeanor, which shall be punishable according to the general penalty provisions of this code of ordinances. Each business day in which sales are made after the thirty (30) days shall constitute a separate offense.

(b) The town may file and maintain injunctive proceedings against any person for the purpose of enjoining him/her from doing business when said privilege has been revoked.

(2) Other violations of this chapter. Violations of this chapter shall be punished according to the general penalty provisions of this code of ordinances. (1989 Code, § 8-205)

CHAPTER 3

BEER¹

SECTION

- 8-301. Beer board established.
- 8-302. Meetings of the beer board.
- 8-303. Requirements for beer board quorum and action.
- 8-304. Powers and duties of the beer board.
- 8-305. "Beer" defined.
- 8-306. Permit required for engaging in beer business.
- 8-307. Privilege tax.
- 8-308. Beer permits shall be restrictive.
- 8-309. Interference with public health, safety, and morals prohibited.
- 8-310. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-311. Revocation or suspension of beer permits.
- 8-312. Civil penalty in lieu of revocation or suspension.
- 8-313. Loss of clerk's certification for sale to minor.
- 8-314. Violation and penalty.

8-301. 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. (Ord. #10-31, Nov. 2010)

8-302. 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. #10-31, Nov. 2010)

8-303. 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

¹Municipal code references

Public drunkenness, 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).

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. #10-31, Nov. 2010)

8-304. Powers and duties of the beer board.¹ 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. #10-31, Nov. 2010)

8-305. "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; provided however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol. (Ord. #10-31, Nov. 2010)

8-306. Permit required for engaging in beer business.² It shall be unlawful for any person other than a package store licensee 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, § 57-5-104(a), shall be accompanied by a nonrefundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Monteagle. 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. #10-31, Nov. 2010, modified)

8-307. Privilege tax.³ 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 each successive January 1 to the Town of Monteagle, 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

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #10-31, Nov. 2010)

8-308. 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 so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premise and off-premise 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 in his permit. (Ord. #10-31, Nov. 2010)

8-309. 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, residences, 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 three hundred feet (300') of any school, residence, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church or other place of public gathering.

No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (Ord. #10-31, Nov. 2010)

8-310. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(2) Make or allow the sale of beer between the hours of 12:00 midnight and 6:00 A.M. on weekdays and between the hours of 12:00 midnight Saturday and 12:00 noon on Sunday.

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

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

(5) Allow drunk persons to loiter about his premises.

(6) 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.

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

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(9) The on- and off-premises sale and the on-premises service or consumption of beer or other beverages with an alcohol content not to exceed five percent (5%), is prohibited between the hours of 2:00 A.M. and 6:00 A.M. (Ord. #10-31, Nov. 2010, as amended by Ord. #4-F-210, Jan. 2011)

8-311. Revocation or suspension 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. #10-31, Nov. 2010)

8-312. 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 or 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 town may impose. (Ord. #10-31, Nov. 2010)

8-313. 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. (Ord. #10-31, Nov. 2010)

8-314. Violation and penalty. Except as provided in § 8-315, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty of up to a five hundred dollar (\$500.00) maximum. Each day a violation shall be allowed to continue shall constitute a separate offense. (Ord. #10-31, Nov. 2010, as amended by Ord. #4-F-2010, Jan. 2011)