

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 this municipality. "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. (1976 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. Requirements necessary to be eligible for a beer permit.
- 8-209. Interference with public health, safety, and morals prohibited.
- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Grandfather clause.
- 8-213. Revocation of beer permits.
- 8-214. Privilege tax.
- 8-215. Transfer of permits.
- 8-216. Notice of violations.

8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the governing body. All members of the beer board shall be citizens of the municipality. They shall be appointed for five (5) year terms except that the first members shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. All members presently serving are hereby appointed to continue in their capacity of members of the Smithville Beer Board until the expiration of their terms. Any member of the beer board may be removed by the governing body with cause. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

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 city 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

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).

gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-203. Record of beer board proceedings to be kept. The secretary 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. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

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. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

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, and manufacturing of beer within this municipality in accordance with the provisions of this chapter subject to the provisions contained herein. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

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. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

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 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 by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Smithville. 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. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-208. Requirements necessary to be eligible for a beer permit.

Before a beer permit is issued to any applicant, the applicant must show proof of ownership of twenty-five thousand dollars (\$25,000.00) (WHOLESALE VALUE) in grocery stock, excluding all tobacco products, gasoline, petroleum products, antifreeze, and beer. Further, should a beer permit be granted to an applicant, the then beer permit holder must maintain at all times on the premises where beer is to be sold a minimum grocery stock of twenty-five thousand dollars (\$25,000.00) (WHOLESALE VALUE), excluding all tobacco products, gasoline, petroleum products, antifreeze, and beer. The holder of a beer permit must provide at least one (1) inventory per year to the Smithville Beer Board, said inventory to be submitted no later than April 15 of each year. Moreover, the inventory submitted annually to the Smithville Beer Board by the permit holder shall be performed by a business entity whose principal or predominant business is that of conducting inventories. Further, the accuracy of said inventory shall be sworn to and affirmed before a notary public by the agent or employee of the business entity retained to conduct the inventory. Moreover, the Smithville Beer Board shall have the authority to request additional inventories during the year, and each holder of a beer permit shall be obligated to provide the Smithville Beer Board with any requested inventory. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-209. 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 four hundred (400) feet of any school, church, or other such place of public gathering. The term "place of public gathering" as used herein shall include, but not be limited to, all such places as defined by applicable state law. Further, such definition shall include any and all public buildings, whether such public buildings are owned by a governmental entity or agency or leased by a governmental entity or agency, a church, or school. The distance requirement contained herein shall be measured in a straight line from the primary entrance of the establishment seeking a permit to sell beer to the primary entrance of the school, church, or other place of public gathering. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-210. 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, illicit drugs, or any crime involving moral turpitude within the past ten

(10) years. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-211. 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, illicit drugs, or any crime involving moral turpitude within the past ten (10) years;

(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, and at any time on Christmas Day;

(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 or her 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 the consumption on his premises of any beer whether sold from his premises or elsewhere;

(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 dancing on his premises;

(10) Allow pool or billiard playing in the same room where beer is sold;

(11) Advertise within the business establishment in any manner visible from off the premises of said establishment the price or location of beer on the premises of the establishment;

(12) Violate any other law or ordinance. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-212. Grandfather clause. No beer permit holder shall be precluded or prohibited from selling beer at the beer permit holder's business establishment where a school, church, or other such place of public gathering becomes located within four hundred (400) feet of the primary entrance of said business establishment at any time subsequent to the issuance of the permit holder's beer permit. (as added by Ord. #361, June 2004)

8-213. Revocation of beer permits. The beer board shall have the power to 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 or her application or of violating any of the provisions of this chapter, or upon being convicted of any violation of state law regarding

the sale, storing for sale, distribution for sale, or manufacturing of alcoholic beverages. However, no beer permit shall be revoked until public hearing is held by the board after at least five days' notice, exclusive of the date of service, to all the known parties in interest. Revocation proceedings may be initiated by the police chief, the city attorney, any member of the municipal governing body, or the Smithville Beer Board. Upon the finding of any violation by any permit holder, the punishment for the first offense shall be a minimum suspension of the beer permit for a period of ninety (90) days. Upon any permit holder committing a violation a second time, the punishment shall be the revocation of the beer license. Nothing contained herein shall prevent the beer board from revoking the license for any first offense violation of this chapter. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-214. 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 City of Smithville, 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. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-215. Transfer of permits. There shall be no transfer of a beer permit from one licensee to another. Further, in the event that a permit holder ceases to conduct business, whether by selling the business or otherwise, the permit holder shall surrender his or her beer permit within three (3) consecutive business days after ceasing to do business. Further, the permit holder shall surrendered the permit directly to the chief of police, the city attorney, the mayor, or the chairman of the beer board. (Ord. #249, Nov. 1993, as replaced by Ord. #308, Nov. 2000, and Ord. #361, June 2004)

8-216. Notice of violations. Whenever any permit holder shall be deemed by the Smithville Beer Board to have violated any of the provisions of this chapter, that permit holder shall be notified by certified, return-receipt mail. This notice shall set forth the allegations against the permit holder and shall inform the permit holder of the date, time, and place of the meeting where said violation will be adjudicated by the Smithville Beer Board. (as added by Ord. #308, Nov. 2000, and replaced by Ord. #361, June 2004)