

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

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8-101. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise, alcoholic beverage s means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (Ord. #13, Jan. 2007)

8-102. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, Title 57, Chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Soddy-Daisy, Tennessee. It is the intent of the Board of Commissioners that the said Tennessee Code Annotated, Title 57, Chapter 4, inclusive, shall be effective in Soddy-Daisy, Tennessee, the same as if said code sections were copied herein verbatim. (Ord. #13, Jan. 2007)

8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, Title 57, Chapter 4,

¹State law reference

Tennessee Code Annotated, title 57.

Section 301,) for the City of Soddy-Daisy to be paid annually as provided in the chapter, upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Soddy-Daisy of alcoholic beverages for consumption on the premises where sold. (Ord. #13, Jan. 2007)

8-104. Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Soddy-Daisy shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #13, Jan. 2007)

8-105. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Soddy-Daisy, pursuant to Tennessee Code Annotated, Title 57, Chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #13, Jan. 2007)

8-106. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, Title 57, Chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #13, Jan. 2007)

CHAPTER 2**BEER¹****SECTION**

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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).

- 8-232. Prohibited conduct or activities by beer permit holders.
- 8-233. Suspension and revocation of beer permits.
- 8-234. Civil penalty in lieu of revocation or suspension.
- 8-235. Loss of clerk's certification for sale to minor.
- 8-236. Solicitations by home delivery services prohibited.
- 8-237. Permitted hours for sale of beer.
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8-201. Beer board established. There is hereby established a board of three (3) members to be known as "The Beer Board of the City of Soddy-Daisy, Tennessee." (1990 Code, § 2-201)

8-202. Term of office; vacancies; chairman. All members of the beer board shall serve at the pleasure of the board of commissioners. In event of a vacancy, the board of commissioners shall fill the same. A chairman shall be elected by the board from among its members. All members of the beer board shall serve without compensation. (1990 Code, § 2-202, modified)

8-203. 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 gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1990 Code, § 2-203)

8-204. Record of beer board proceedings to be kept. A record of the proceedings of all meetings of the beer board shall be kept. 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. (1990 Code, § 2-204)

8-205. 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. (1990 Code, § 2-205)

8-206. 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. (1990 Code, § 2-206)

8-207. "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. (1990 Code, § 2-207)

8-208. 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), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be payable to the City of Soddy-Daisy. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1990 Code, § 2-208)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax on 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 Soddy-Daisy, Tennessee. At the time a new 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. (1990 Code, § 2-209)

8-210. Applications for beer permits - - investigation; assistance by chief of police. The board shall make an investigation of each applicant for a permit to sell beer to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a license or permit and the location a suitable place within the area authorized as places for the sale of beer. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any applicant. It shall be the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. (1990 Code, § 2-210)

8-211. Granting of beer license. The beer board shall in its discretion, either grant or refuse a permit or license. All applications for the renewal of a license shall be made and referred to the beer board for its consideration upon an original application. (1990 Code, § 2-211)

8-212. Investigations of permit or license holders charged with certain violations; action by beer board. When any holder of a license or permit for the sale of beer is charged with the violation of any of the laws of the state, this code or other ordinances of the city or for any reasons set out in

section of this code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoena for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation and in its discretion, may either revoke or suspend the license of any licensee. (1990 Code § 2-212)

8-213. Notification of beer board when license is revoked. When a license for the sale of beer has been revoked, it shall be the duty of the city recorder to furnish the beer board with the name and location of the licensee. (1990 Code § 2-213)

8-214. Violations to be reported to beer board; police, etc., to cooperate with board. It shall be the duty of the police department and inspectors to report to the beer board any violations of the laws of the state, this code or other ordinances, rules and regulations of the city by any licensee. All police officers and inspectors and the recorder shall cooperate with and furnish all information requested by the beer board. (1990 Code, § 2-214)

8-215. Distribution, sale, etc., lawful. It shall be lawful to distribute, sell, transport, store and possess beer, including ales or other malt liquors of alcoholic content of not more than five percent (5%) by weight in the city, subject to all the regulations, limitations, and restrictions provided by Tennessee Code Annotated, title 57, chapter 5, and subject to the provisions of this title. (1990 Code, § 2-215)

8-216. 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 on and 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 which may be written into his permit by the beer board. (1990 Code, § 2-216)

8-217. Consumption permits. Permits issued by the beer board shall consist of two classes:

(1) On premises permit. An on premises permit shall be issued for the consumption of beer only on the premises.

(2) Off premises permit. An off premises permit shall be issued for the consumption of beer only off the premises. (1990 Code, § 2-217)

8-218. Sale of beer for both on premises and off premises consumption. A single permit may be issued to sell beer for both on premises and off premises consumption at the same location. (1990 Code, § 2-218)

8-219. Limitation on number of permits. There shall be no limit on the number of off premises permits. There shall be no more than one on premises permit issued and outstanding at any time for any single location. (1990 Code, § 2-219)

8-220. 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 manufacture or storage of beer, or the sale of beer within 500 feet of any hospital, school, church or other place of public gathering. Such distances shall be measured in a straight line from doorway entrance of the regular public ingress or egress of the building from which the beer will be sold, manufactured, or stored to the doorway entrance of the hospital, school, 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, church, or other place of public gathering if a valid permit has been issued to any business on that same location as of January 1, 1993. (1990 Code, § 2-220)

8-221. 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. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (1990 Code, § 2-221)

8-222. Approval or rejection of application. The beer board shall consider each application filed, and shall grant or refuse the license and permit, according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the board in granting or refusing a license and permit shall be final, except as it may be subject to review at law. (1990 Code, § 2-222)

8-223. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in the license, permit and application therefor. (1990 Code, § 2-223)

8-224. When recorder may issue license. The city recorder shall issue no license until the application therefor has been approved by the beer board and has been instructed by the board to issue same. (1990 Code, § 2-224)

8-225. Restrictions on certain licenses. (1) Hotels. Licenses may be issued to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

(2) Clubs and lodges. Licenses may be issued to clubs or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee, and which are organized and exist for purposes other than the sale of beverages under such licenses. (1990 Code, § 2-225)

8-226. Licenses to be displayed. The license issued under this chapter shall be posted in a conspicuous place on the premises of the licensee. (1990 Code, § 2-226)

8-227. Permit to be held by owner. A permit shall be valid:

(1) Only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(2) Only for a single location except where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all of such businesses pursuant to the same permit, and a permit cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business;

(3) Only for a business operating under the name identified in the permit application. (1990 Code, § 2-227)

8-228. Reports by police; hearings on violations. The chief of police and police officers shall notify the beer board of any violations of any of the provisions of this chapter by any person holding a license and permit, and shall notify any licensee violating any of the provisions of this chapter or other law or ordinance relating thereto to appear before the beer board following any such violation to show cause why license and permit should not be revoked. At such meeting such licensee shall be entitled to a public hearing and to introduce evidence in his behalf. The burden shall be upon the licensee at such hearing

to show that he has not been guilty of such violation or any other offense which would justify the revocation of the license and permit. (1990 Code, § 2-228)

8-229. Possession of federal license without city license. The possession by any person of any federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer in violation of the provisions of this chapter. (1990 Code, § 2-229)

8-230. Retailers to purchase from wholesalers licensed by city. It shall be unlawful for any person holding a license for the sale at retail of beer to purchase beer from anyone other than a wholesaler or distributor licensed to carry on business in the city. (1990 Code, § 2-230)

8-231. Return of permit after change in ownership. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of business name. (1990 Code, § 2-231)

8-232. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any minor under eighteen (18) years of age in the sale of beer for on premises consumption.
- (2) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (3) Allow any person under twenty-one (21) years of age to loiter in or about place of business.
- (4) Make or allow any sale of beer to 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) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1990 Code, § 2-232, modified)

8-233. Suspension and 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 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. Revocation 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-month period. The revocation shall be for three (3) years. (1990 Code, § 2-233, modified)

8-234. Civil penalty in lieu of 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 city may impose. (1990 Code, § 2-234, modified)

8-235. 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.

8-236. Solicitations by home delivery services prohibited. Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a delivery service of beer, and it shall be unlawful for any person engaged in the business of delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or deliveries except on calls or orders from customers. (1990 Code, § 2-235)

8-237. Permitted hours for sale of beer. Beer can be sold all hours of any day except between 3:00 A.M. and 6:00 A.M. and before 1:00 P.M. on Sundays. (1990 Code, § 2-236)

8-238. Unauthorized use or consumption of beverages on premises. No licensee whose license authorizes sale for consumption off the premises only shall sell for consumption on the premises. No licensee shall allow any liquors or other beverages of greater than five percent (5%) by weight to be brought on his premises or consumed thereon, nor shall the possession or sale of liquor be permitted on such premises. (1990 Code, § 2-237)