

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally except when in compliance with law.

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(1) Except when he is lawfully acting pursuant to the authority of an exemption under the state laws,² it shall be unlawful for any person to manufacture, receive, possess, store, sell, furnish, or solicit orders for any intoxicating liquor within this city. "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 volume.

(2) Nothing in this chapter shall be interpreted to limit or restrict the manufacture of beer or wine in a person's residence for personal consumption when such manufacturing is in compliance with state and federal laws. (1985 Code, § 2-101, as replaced by Ord. #96-1, March 1996)

¹Municipal code reference

Drinking beer, etc., on the streets, etc.: § 11-101.

State law reference

Tennessee Code Annotated, title 57.

²State law reference

Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

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8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of commissioners. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (1985 Code, § 2-201, as replaced by Ord. #96-1, March 1996)

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 gives a reasonable notice thereof to each member and to any permit holder whose business is to be considered by said board. Notice of meetings shall be posted on the doors of City Hall and in local newspapers, if time permits. Notice of meetings will normally be given three (3) working days before the meeting, except where unusual circumstances require more immediate meetings. The

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).

board may adjourn a meeting at any time to another time and place. (1985 Code, § 2-202, as replaced by Ord. #96-1, March 1996)

8-203. Record of beer board proceedings to be kept. The city 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. (1985 Code, § 2-203, as replaced by Ord. #96-1, March 1996)

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. (1985 Code, § 2-204, as replaced by Ord. #96-1, March 1996)

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 city in accordance with the provisions of this chapter. (1985 Code, § 2-205, as replaced by Ord. #96-1, March 1996)

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 volume. (1985 Code, § 2-206, as replaced by Ord. #96-1, March 1996)

8-207. Permit required for engaging in beer business; application fee. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer for nonpersonal use 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. Each applicant must be a person of good moral character and he must certify that the applicant has read and is familiar with the provisions of this chapter.

Each application for a beer permit shall be accompanied by a two hundred fifty dollar (\$250) nonrefundable application fee.¹ (1985 Code, § 2-207, modified, as replaced by Ord. #96-1, March 1996)

8-208. Beer permits shall be restrictive.² 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 the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises 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.

Beer permits shall be issued only to national chartered clubs, hotels/motels, restaurants, grocery or convenience stores and bars/taverns. Beer may be sold in hotels/motels, served in rooms of regularly conducted hotels/motels, restaurants, grocery or convenience stores, bars/taverns, and also in national chartered clubs within the corporate limits so long as the provisions of this chapter and the payment of the privilege tax as provided for in § 5-301, etc., are complied with.

Restaurants and hotels/motels must have seating for at least 50 and must derive over 60% of their gross sales from the sale of on site prepared food or rent of rooms in the case of hotels/motels. Application by a restaurant for a new beer license will be limited for 90 days and will not be renewed unless the restaurant can prove that the restaurant has, during the first 90 days, made over 60% of its gross sales from the sale of food. At the time of annual renewal of a restaurant's beer license, the restaurant shall henceforth submit, if requested by the city manager or his representative, proof that 60% of gross sales is due to the sale of food.

On premises consumption (as in hotels/motels, restaurants, bars/taverns, national chartered clubs) shall be limited to the interior of the building housing the business of the permit holder.

A beer permit is restricted to one building.

A beer permit is personal and not transferrable. It cannot be sold, loaned, rented, or leased to another person. If such action occurs then the permit is immediately void and must be returned to the beer board.

¹State law reference

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

²Municipal code reference

Consumption of beer on commercial premises: § 11-102.

A beer permit is issued only to the owner or manager of the business and such person must reside within ten miles of said business unless a waiver is granted by the beer board.

A beer permit is void if the business is closed for thirty days. This would not apply where the license was suspended for a period of time or if a building permit is granted to repair, remodel or rebuild. (1985 Code, § 2-208, as amended by Ord. #88-7, Oct. 1982; and as replaced by Ord. #96-1, March 1996)

8-209. Issuance of permits to aliens prohibited. No permit to engage in the beer business shall be granted by the beer board to any person not a citizen of the United States nor to any syndicate, partnership, corporation, or association unless all of the members thereof are citizens of the United States. (1985 Code, § 2-209, as replaced by Ord. #96-1, March 1996)

8-210. 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 three hundred (300) feet of any school, church, or other such place of public gathering. An exception or waiver of this restriction may be made in writing by the beer board for retail merchant beer permits, restaurants, and hotel/motel beer permits. (1985 Code, § 2-210, as replaced by Ord. #96-1, March 1996)

8-211. 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 a lack of moral turpitude within the past ten (10) years. (1985 Code, § 2-211, as replaced by Ord. #96-1, March 1996)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person in the sale, storage, distribution, or manufacture of beer if that person has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving a lack of moral turpitude with the past ten (10) years.

(2) Employ any minor under twenty-one (21) years of age in the sale, storage, distribution, or manufacture of beer. (This provision does not apply to retail merchants or restaurants holding beer permits.)

(3) 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.

(4) Make or allow any sale of beer to a minor under twenty-one (21) years of age, except when otherwise provided by state law.

(5) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business. Signs announcing the requirement to be 21 years of age to enter the premises shall be posted conspicuously on or adjacent to all entrances/exits. Holders of beer permits issued to hotels/motels, restaurants, and grocery or convenience stores are not subject to this restriction or requirement since persons under 21 years of age may be expected to be lawful customers, however, steps must be taken to make certain that under-age persons are not allowed to consume alcoholic beverages.

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

(7) Allow drunk or disreputable persons to loiter about the 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 volume. There shall be no "brown bagging" allowed on the premises, except where the premises has a restaurant beer permit, or could qualify for such a restaurant beer permit.

(9) Allow pool or billiard playing in the same room where beer is sold.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women, if beer is consumed on the premises.

(11) Allow any person (except a law enforcement officer) to enter the premises carrying a firearm, whether said weapon is visible or concealed. This shall not apply to guests in rooms of hotels/motels.

(12) Allow arguments and fights among patrons. It shall not be considered a violation of this section if the bartender, manager, owner, or other employee makes rapid/immediate contact with city police as soon as possible after an argument or fight erupts. (1985 Code, § 2-212, as replaced by Ord. #96-1, March 1996)

8-213. 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, and shall not be eligible for a permit for a period of ten (10) years thereafter. 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 of interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board. (1985 Code, § 2-213, as replaced by Ord. #96-1, March 1996)

8-214. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 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. (Ord. #96-1, March 1996)

8-215. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, partnership, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax to the City of South Fulton on the first business day after January 1st of each year. 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. #96-1, March 1996)