

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Sale of intoxicating liquor prohibited.
- 8-102. Leasing building for sale or manufacture of intoxicating liquor prohibited.

8-101. Sale of intoxicating liquor prohibited. It shall be unlawful for any person to sell or offer for sale, as a beverage or otherwise, any whiskey, brandy, homebrew, beer, or other intoxicating liquor or beverage of an alcoholic content of more than five per cent (5%) by weight, within the city. (1982 Code, § 2-101)

8-102. Leasing building for sale or manufacture of intoxicating liquor prohibited. It shall be unlawful for any person to lease, rent, or let to any other person any building within the city to be used or occupied for the purpose of selling or manufacturing therein any of the intoxicating liquors or beverages named in § 8-101. (1982 Code, § 2-102)

¹State law reference
Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

- 8-201. Defined.
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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).

8-201. Defined. (1) As used in this chapter, the term "beer" shall mean any beer or ale of an alcoholic content of not more than five per cent (5%) by weight.

(2) Unless otherwise stated in this chapter, all references to the "board" shall mean The Alcoholic Beverage Board. (1982 Code, § 2-201)

8-202. Application of chapter. The transportation, storage, sale, distribution, possession, and manufacture of beer or sale of an alcoholic content of not more than five per cent (5%) by weight within the corporate limits of the city shall be subject to the regulations set out in this chapter. (1982 Code, § 2-202)

8-203. Board created. There is hereby created a board to be known and designated as the alcoholic beverage board of the City of McMinnville whose responsibilities will be to enforce the provisions of this chapter and applicable provisions of Tennessee Code Annotated, title 57, chapter 5, with respect to sale and distribution of beer within the City of McMinnville. (1982 Code, § 2-203)

8-204. Composition of board; appointment and term of members.

(1) Composition and appointment. The board shall consist of five (5) members appointed by the board of mayor and aldermen. One (1) shall be an alderman of the City of McMinnville and four (4) shall be domiciled citizens of the City of McMinnville.

(2) Terms. Terms shall be two (2) years, however, to provide for staggering terms of the domiciled citizens, the current domiciled citizen members shall serve until their present term shall expire, and the two (2) new additionally appointed members shall be appointed for one (1) and two (2) years respectively, so that one of the new members' terms will expire at the same time that the senior incumbent member's term expires September 29, 1998, and the term of the second newly appointed member of the board shall expire simultaneously with the expiration of the junior member's term, September 29, 1999. The term of the aldermanic members shall expire with his term of office on the Board of Mayor and Aldermen of the City of McMinnville unless sooner relieved. All terms shall officially begin on the 29th of September.

(3) Hold over. All qualified domiciled citizen members of the board shall continue to hold office until their successor is selected and qualified. (1982 Code, § 2-204, and replaced by Ord. #1277, Feb. 1998)

8-205. Organization and quorum of board. At all meetings of the board, a majority shall constitute a quorum, and the board shall act only by vote of a majority of all its members. The board shall elect a chairman from its membership each year who shall preside. (1982 Code, § 2-205)

8-206. General restriction on location of sales premises. No sale or distribution of beer shall be made except at places where such sale or distribution

will not cause congestion of traffic or interference with schools, churches, or otherwise interfere with public health, safety, and morals. No sale or distribution of beer shall be made at places within 300 feet of any school, public or private, kindergarten or churches.

Distances imposed by this section shall be measured in a straight line from the nearest entrance of the structure out of which the beer is being sold to the nearest entrance to the structure of the school, church or kindergarten. (1982 Code, § 2-206, as replaced by Ord. #1385, June 2001, and Ord. #1403, Oct. 2001)

8-207. [Deleted.] This section was deleted by Ord. #1431, Sept. 2002 (1982 Code, § 2-207, as replaced by Ord. #1385, June 2001, and deleted by Ord. #1423, July 2002, and Ord. #1431, Sept. 2002)

8-208. Sale or distribution prohibited between certain hours and on Sundays. (1) It shall be unlawful for any person, firm, partnership or corporation to sell or distribute beer or any alcoholic beverages within the corporate limits of the City of McMinnville between the hours of 12:00 o'clock midnight and 6:00 o'clock a.m., each day Monday thru Saturday.

(2) It shall be unlawful for any person to sell or distribute beer at any time on Sundays. (1982 Code, § 2-208)

8-209. Loud music, etc., prohibited on sales premises. No loud music, or unusual or obnoxious noise shall be allowed in any place where beer is sold or distributed. (1982 Code, § 2-209, as replaced by Ord. #1385, June 2001)

8-210. Consumption of other alcoholic beverages on sales premises. In any place of business where beer is sold or distributed, the consumption of any alcoholic beverage other than beer shall be unlawful. It shall be unlawful for the owner, manager, or any employee of such place of business to permit the violation of this section in such place. (1982 Code, § 2-210)

8-211. Sanitary facilities on sales premises. In every place of business where beer is sold or distributed and authorized for consumption on premises where sold or distributed proper sanitary facilities shall be provided separate for both sexes. (1982 Code, § 2-211)

8-212. Sale to intoxicated or mentally incapacitated persons. It shall be unlawful for any person to sell any beer, or allow any person to serve or give beer, to any person who is intoxicated or who is feeble minded, insane, or otherwise mentally incapacitated. (1982 Code, § 2-213)

8-213. Permit holders and employees not to consume alcoholic beverages while on duty. No person holding a permit under this chapter and no

employee of any such person shall consume any alcoholic beverage while on duty. (1982 Code, § 2-214)

8-214. Permit required; application fee. It shall be unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer or beverage governed by this chapter within the city without first obtaining a permit to do so from the Alcoholic Beverage Board.

The application shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by an application fee of two hundred fifty and no/100 dollars (\$250.00). No portion of the fee shall be refunded to the applicant notwithstanding whether an application is approved or denied.

Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. (1982 Code, § 2-215, as replaced by Ord. #1106, § 1, Feb. 1994)

8-215. Application for permit; approval or disapproval. Before any beer permit shall be issued from the alcoholic beverage board for the sale or distribution of beer, the person, firm, or corporation desiring such a permit for sale or distribution of beer shall file before the board a completed application form furnished by said board. If after consideration by the board it is determined that a permit should be allowed, said application shall be approved. Should the application be disapproved, the reason for disapproval shall be made upon the application and shall be final and binding upon all parties. However, applicants may appeal decisions of the alcoholic beverage board directly to the board of mayor and aldermen.

The application for the permit shall state distinctly whether the applicant will conduct the business in person, or whether he is acting as agent for any other person, corporation, or association, and shall also state specifically the name of the owner or owners of such business, and whether wholesale or retail sale distribution will be made, whether or not beer is for consumption on premises or in conjunction with other commodities for sale. The application shall show that neither the applicant nor any person employed by him in such distribution or sale has been convicted of any violation of the statutes of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors, or any other crime involving moral turpitude within the past ten (10) years.

The application filed pursuant to this section shall at all times be kept on file by the board and shall be open to inspection to the general public, and any person making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years thereafter. (1982 Code, § 2-216)

8-216. Not transferable. When any person shall move the location of the place of business where beer is sold, he shall be required to obtain from the alcoholic beverage board a new permit in the manner provided by this chapter.

Such permit, when issued, shall not be transferable to any other person. (1982 Code, § 2-217)

8-217. Suspension or revocation. The alcoholic beverage board is hereby vested with full power and authority to suspend or revoke any permit issued under this chapter, and, for this purpose, is fully authorized and empowered to hear and determine complaints brought for that purpose. Any violation of this chapter shall constitute sufficient grounds for the suspension or revocation of any such permit. (1982 Code, § 2-218)

8-218. Sale to twenty-one year olds; permitting twenty-one year olds to consume beer; permitting minors to loiter, etc. on premises. No person holding a permit under this chapter shall sell or permit the sale of any beer to any person under twenty-one (21) years of age or permit any such person to consume any beer on his or her premises. It shall be unlawful to permit any person under twenty-one (21) years of age to loiter on the premises, or employ any person under eighteen (18) years of age directly in the sale or distribution of beer.

Any person eighteen (18) years of age or older may transport, possess, sell, or dispense alcoholic beverages in the course of his or her employment. Persons under eighteen (18) years of age are not allowed to transport, possess, sell, or dispense alcoholic beverages in the course of his or her employment. (1982 Code, § 2-219)

8-219. Civil penalty in lieu of suspension. The Alcoholic Beverage 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. The holder's payment of a civil penalty shall not affect his ability to seek review of the civil penalty. (as added by Ord. #1106, § 2, Feb. 1994)

8-220. 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). 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 McMinnville, 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 due. (as added by Ord. #1106, § 2, Feb. 1994)