

## CHAPTER 2: BEER

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### ***Cross-reference:***

*General business regulations, see Title 9*

*Offenses, see Title 13*

*Tax provisions, see Title 5*

### ***Editor's note:***

*This chapter was amended during both the February 12, 2008, "Change 1" and the June 9, 2009, "Change 2".*

### ***Statutory reference:***

*For a leading case in Tennessee on a municipality's authority to regulate beer, see the State Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982)*

## **§ 8-201 BEER BOARD ESTABLISHED.**

(A) There has been heretofore created and is hereby continued in full force and effect a Beer Board to be composed of all the members of the City Council.

(B) The Mayor, or in his or her absence the Mayor pro tem, shall serve as Chairperson of the Beer Board.

(1989 Code, § 8-201)

### **§ 8-202 MEETINGS OF THE BEER BOARD.**

(A) All meetings of the Beer Board shall be open to the public.

(B) The Board shall hold regular meetings in the city hall at times as it shall prescribe. When there is business to come before the Beer Board, a special meeting may be called by the Chairperson; provided, he or she gives a reasonable notice thereof to each member.

(C) The Board may adjourn a meeting at any time to another time and place.

(1989 Code, § 8-202)

### **§ 8-203 RECORD OF BEER BOARD PROCEEDINGS TO BE KEPT.**

(A) The City Clerk shall make a record of the proceedings of all meetings of the Beer Board.

(B) The record shall be a public record and shall contain at least the following:

- (1) The date of each meeting;
- (2) The names of the Board members present and absent;
- (3) The names of the members introducing and seconding motions and resolutions and the like before the Board;
- (4) A copy of each motion or resolution presented;
- (5) The vote of each member thereon; and
- (6) The provisions of each beer permit issued by the Board.

(1989 Code, § 8-203)

### **§ 8-204 REQUIREMENTS FOR BEER BOARD QUORUM AND ACTION.**

(A) 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.

(B) Matters before the Board shall be decided by a majority of the members present if a quorum is constituted.

(1989 Code, § 8-204)

### **§ 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 the city in accordance with the provisions of this chapter.

(1989 Code, § 8-205)

### **§ 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 8% by weight.

(1989 Code, § 8-206) (Ord. 1454, passed 9-9-2014)

### **§ 8-207 PERMIT REQUIRED FOR ENGAGING IN BEER BUSINESS.**

(A) 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 a form as the Board shall prescribe and/or furnish and pursuant to T.C.A. § 57-5-103. Each applicant must be a person of good moral character and certify that he or she has read and is familiar with the provisions of this chapter.

(B) (1) Applications from Classes A, B, C, and D (as described in § 8-209) shall be accompanied by a nonrefundable application fee of \$250. The fee shall be in the form of a check payable to the city or cash.

(2) Applications from Class E permits (as described in § 8-209) shall be accompanied by a nonrefundable application fee of \$100. The fee shall be in the form of a check payable to the city or cash. However, application fees for any bonafide charitable, non-profit or political organization will only be payable once every two year period at a single location. Additional locations can be added upon payment of a nonrefundable application fee of \$50.

(1989 Code, § 8-207) (Ord. 1326, passed 8-26-2011)

### **§ 8-208 RESPONSIBILITIES OF PERMITTEE.**

(A) Each permittee must furnish the Chief of Police with a list of the names and dates of birth of all persons to be employed in the place where beer is to be sold and must inform the Chief of Police within 72 hours of employment as to the names and dates of birth of any persons employed after the list has been originally submitted, and a current list shall be maintained by the Police Department. **EMPLOYEE** shall be defined in this section as any person engaged in the operations of the business to sell, stock, inventory or serve beer, or in any other fashion to come into contact with beer, regardless of the container or packaging, on the licensee's premises, whether or not they receive compensation from the business for the selling, stocking or serving of beer. The permittee shall be deemed responsible for the actions of all employees in regard to state and local legislation on the sale of beer. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of beer. It is also the responsibility of the permittee to immediately notify the City Clerk of any convictions or pleas for unlawful activity as defined in § 8-212 of the Municipal Code.

(B) This section shall not be deemed to obligate the permittee to the responsibilities of this section with regard to employees of wholesalers, as "wholesaler" is, or may hereafter be, defined in state statutes, who may be present on the premises of the permittee for stocking and inventory purposes in the normal course of business.

(1989 Code, § 8-208) (Ord. 1201, passed 11-6-2008)

### **§ 8-209 CLASSES OF PERMITS.**

(A) All beer permits shall be restrictive as to the type of beer business authorized under them. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by this permit. It shall likewise be unlawful for the permittee not to comply with any and all express restrictions or conditions which may be written into the permit by the Beer Board.

(B) There shall be five classes of permits issued under this chapter, as follows:

(1) Class A. A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer.

(2) Class B. An "off-premises" (package) permit to any person or legal organization engaged in the sale of beer where beer is not to be consumed by the purchaser upon or near the premises of such seller.

(3) Class C. An "on-premises" permit to any person or legal organization engaged in the sale of beer where beer is consumed by

the purchaser or guests upon the premises of the seller. Permits will only be issued to locations with an active on-going business.

(4) Class D. An "on- and off-premises" permit to any person or legal organization engaged in the sale of beer where beer is consumed by the purchaser or guests upon the premises of the seller or sold to be taken for consumption off or near the premises of such seller. Permits will only be issued to locations with an active on-going business.

(5) Class E. A "special events permit" to bonafide charitable, non-profit or political organizations for special events, not to exceed four events in any 12 month period. Such permit for special events shall not exceed three days in duration.

(a) No special event permit shall allow the consumption of beer off the premises of the special event. Beer at such special event shall be served in no larger than a 16 ounce nonbreakable container. Food items must be distributed on the premises or grounds of the special event during the entire time when beer is served.

(b) The special event permit applicant must furnish a certificate of insurance which lists the city as an additional insurer which covers the sale of beer with at least a \$1,000,000 liability limit and written permission for use of the property by the property owner.

(c) Failure of the permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Crossville shall result in the permittee being denied a special event beer permit for the sale of beer for a period of two years. The permittee shall also be subject to all other consequences provided by law.

(1989 Code, § 8-209) (Ord. 1326, passed 8-26-2011)

### **§ 8-210 INTERFERENCE WITH PUBLIC HEALTH, SAFETY AND MORALS PROHIBITED.**

No permit authorizing the sale of beer will be issued when the business would cause congestion of traffic or would interfere with schools or churches 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 500 feet of any public elementary, junior high or high school, or church, as measured in a straight line from the main entrance of the public elementary, junior high or high school or church and the main entrance of the structure where the beer is stored, sold or manufactured. The straight-line method of measurement from main entrance to main entrance shall apply only to future permit applicants and shall not revoke or eliminate by attrition or other means current permits which do not meet the main entrance to main entrance straight-line distance requirement.

(1989 Code, § 8-210)

#### ***Statutory reference:***

*The straight line method of measurement is required by the State Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982)*

### **§ 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 moral turpitude defined as premeditated murder, all sex related crimes, selling of Class 1 and 2 controlled substances illegally, and theft (embezzlement, false pretense, fraudulent conversion, larceny, receiving/concealing stolen property and other similar offenses) within the past ten years.

(1989 Code, § 8-211)

### **§ 8-212 PROHIBITED CONDUCT OR ACTIVITIES BY BEER PERMIT HOLDERS.**

It shall be unlawful for any beer permit holder to:

(A) Employ any person under 18 years of age in the sale, storage, distribution or manufacture of beer;

(B) It shall be unlawful for any person or persons, firm, corporation, joint stock company, syndicate or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding 8% by weight within the corporate limits of the city, between the hours of 3:00 a.m. and 8:00 a.m. on weekdays, and between the hours of 3:00 a.m. and 10:00 a.m. on Sunday. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverage with an alcoholic

content not exceeding 8% of weight is sold within the corporate limits of the city, in either bottle, glass or other container after 3:15 a.m. In addition, where the establishment licensed hereunder is exclusively or primarily engaged in the sale of beer as defined in this section, the following additional conditions shall apply between the hours of 3:15 a.m. and 8:00 a.m. on weekdays, and between the hours of 3:00 a.m. and 10:00 a.m. on Sunday:

(1) No customers, patrons or friends either of the operator or of any employee of the establishment shall be allowed to remain or be found on or about the premises;

(2) No open or closed containers of beer shall be permitted or found to remain on any tables, bars or in any other place where the persons customarily drink, and all containers, empty or otherwise, shall be required and found to be disposed of or placed in storage behind the bar or other proper storage place, where the persons do not ordinarily have access; and

(3) The only persons who shall be permitted to remain and be found on or about the premises shall be bona fide employees of the establishment or other personnel directly engaged in the operation, upkeep and maintenance of the business and/or the premises.

(C) Deliver beer to any purchaser or purchasers, except during those hours set out herein;

(D) Sell intoxicating liquor, except in establishments that have a state-issued "liquor by the drink" license. Patrons shall be permitted to enter beer establishments with bagged intoxicating liquors only under these conditions:

(1) The patron retains the bottle under his or her control and does all pouring and mixing of drinks, except however, in the case of cork-finished wine as defined by T.C.A. § 57-3-101(20), it is permissible for permit holder to both open and pour the wine while the bottle remains at patrons table; and

(2) The permittee may sell "set-ups" to the patron.

(E) Allow the possession of beer by any person, including permittee, within the permittee's place of business at a time when beer may not be legally sold; the possession shall constitute evidence of an illegal sale;

(F) Make or allow any sale of beer to a person under 21 years of age;

(G) Allow any person under 21 years of age to loiter in or about his or her place of business. The term **LOITERING**, within the meaning of this section, shall mean to be dilatory, to be slow in movement, to stand around, to spend time idly, to saunter, to delay, to idle, to linger, to lag behind. However, nothing in this section shall prohibit persons under the age of 21 from dining in establishments which have a beer permit, but whose exclusive or primary business is the sale of food. But these establishments shall ensure that all containers of alcoholic beverages, both open and closed, are not provided by customers, patrons or any other persons, to persons under the age of 21; shall immediately remove empty and partially empty containers of alcoholic beverages from the tables where persons under the age of 21 are seated unless accompanied by a parent or guardian; and shall store all alcoholic beverages behind the bar or other proper storage place not ordinarily accessible to customers or patrons; (See Hopper v. State, 253 S.W.2d 765 (1965) and McCoy v. State, 466 S.W.2d 540 (1971).)

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

(I) Allow drunk or disreputable persons to loiter about his or her premises;

(J) Allow customers, patrons or friends to remain in the permittee's place of business longer than 30 minutes past the time the permittee closes the place of business to the public. The only persons who shall be permitted to remain and be found on or about the premises shall be bona fide employees of the establishment or other personnel directly engaged in the operation, upkeep and maintenance of the business and/or the premises;

(K) Allow pool or billiard playing in the same room where beer is sold and/or consumed. In this division (K), **ROOM** is defined as having a minimum of four-foot high solid opaque walls on four sides, with no entrance wider than four feet and meeting all fire and building codes. No beverages or any other items are allow to placed on the top of the wall;

(L) Fail to provide and maintain separate sanitary toilet facilities for men and women; and

(M) Notwithstanding the foregoing prohibitions in division (J) above, customers, patrons, friends and other invitees of the permittee may remain in the improvement to property constituting the place of business of the permittee after the posted closing time of permittee's place of business until 12:30 a.m., but no longer; provided that:

(1) The permittee allows the customers, patrons, friends and invitees to remain after the posted closing time; and

(2) The permittee's posted closing time is 12:00 a.m. or earlier. In no event shall customers, patrons, friends and other invitees remain in the permittee's place of business past 12:30 a.m. where the permittee's posted closing time is 12:00 a.m. or earlier. For all permittees whose closing time is later than 12:00 a.m., the prohibitions and provisions of division (J) above, this section and chapter remain unchanged and in full force and effect, to be enforced as written.

(N) Violate, or knowingly aid or abet the violation of, City Codes and state and federal laws, statutes and regulations, regarding controlled substances and drugs, including, without limitation, the Tennessee Drug Control Act and Title 9 of the Crossville Code of Ordinances.

(1989 Code, § 8-212, modified) (Ord. 1136, passed 8-6-2007; Ord. 1201, passed 11-6-2008; Ord. 1342, passed 2-7-2012; Ord. 1454, passed 9-9-2014)

### **§ 8-213 EMPLOYEES REQUIRED TO HAVE IDENTIFICATION AND PROOF OF EMPLOYMENT.**

Each employee engaged in the operation to sell, stock or serve at an establishment licensed for off-premises beer sales who comes in contact with beer, regardless of the container or packaging, shall be issued a name badge by the establishment. The name badge must have the employee's first name clearly visible. Employees shall wear this name badge at all times during which they are on duty. Upon demand by any law enforcement officer, any and every employee in the operation to sell, stock or serve beer shall be required to immediately produce additional identification containing a current photograph and date of birth at any time the employee in question is on or about the premises.

(1989 Code, § 8-213) (Ord. 1201, passed 11-6-2008)

### **§ 8-214 REVOCATION AND SUSPENSION OF BEER PERMITS.**

(A) (1) The Beer Board shall have the power to revoke any beer permit issued under the provisions of this chapter, or to suspend same for a period not exceeding six months, 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. However, no beer permit shall be revoked or suspended until a public hearing is held by the Board after a minimum ten days notice to the permittee through service of process or by certified mail. Revocation or suspension proceedings may be initiated by the Police Chief or by any member of the Beer Board.

(2) Pursuant to T.C.A. § 57-5-608, the Beer Board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of T.C.A. § 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 T.C.A. § 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 12-month period. The revocation shall be for three years.

(B) Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one year from the date the revocation becomes final and effective pursuant to T.C.A. § 57-5-108(k).

(C) No new permit shall be granted at any location where a case is pending in court for an infraction of the beer laws of the state or the city.

(1989 Code, § 8-214) (Ord. 1136, passed 8-6-2007)

### **§ 8-215 SEPARABILITY.**

If any provision of this law or if any policy, or order thereunder of the application of the provision to any person or circumstances shall be held invalid, the remainder of this law, and the application of the provision of this law or of the policy, or order to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

(1989 Code, § 8-215)

## § 8-216 REPEALER.

All ordinances or rules and regulations previously adopted by the city which may be in conflict with this chapter are hereby repealed.

(1989 Code, § 8-216)

## § 8-217 PRIVILEGE TAX.

(A) (1) There is hereby imposed on Classes A, B, C, and D a privilege tax of \$100. Any person, firm, corporation, joint stock company, syndicate or association holding a Class A, B, C, or D permit shall remit the tax on January 1 of each year to the city. 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 there remaining until the next tax payment date.

(2) There is hereby imposed on Class E permits a privilege tax of \$25 per special event. Any person, firm, corporation, joint stock company, syndicate or association holding a Class E permit shall remit the tax upon issuance of the permit.

(B) Permits for Classes A, B, C, and D when issued, shall be good until surrendered by the permittee, until the business closes operation, until revoked by the Board, or terminated due to non-payment of privilege tax. Class E permits shall expire with the closing of the event.

(C) At the time of adoption of this section, any permits issued for a location without an on-going, active, business will be terminated at the end of the calendar year. Those permittees may re-apply for a special events permit, within two years, without payment of the application fee.

(1989 Code, § 8-217) (Ord. 1326, passed 8-26-2011)

## § 8-218 CIVIL PENALTY IN LIEU OF REVOCATION OR SUSPENSION.

(A) *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 State Alcoholic Beverage Commission under the State Responsible Vendor Act of 2006, T.C.A. §§ 57-5-601 et seq.

(B) *Penalty, revocation or suspension.*

(1) 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 \$2,500 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.

(2) The Beer Board may impose on a responsible vendor a civil penalty not to exceed \$1,000 for each offense of making or permitting to be made any sales to minors or for any other offense.

(3) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven days within which to pay the civil penalty before the revocation, nor suspension, shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

(4) 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.

(1989 Code, § 8-218) (Ord. 1136, passed 8-6-2007)

## § 8-219 ADVERTISEMENTS.

No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one sign, advertisement or display which makes reference to the fact that the establishment sells beer, but does not use brand names, pictures, numbers, prices or diagrams relating to beer. Any other advertising shall be confined to the interior of the premises for which the permit applies and permittees shall not place signs in the window which are visible to any persons outside the premises.

(1989 Code, § 8-219) (Ord. 1201, passed 11-6-2008)

**§ 8-220 LOSS OF CLERK'S CERTIFICATION FOR SALE TO MINOR.**

If the Beer Board determines that the clerk of an off-premises beer permit holder certified under T.C.A. § 57-5-606 sold beer to a minor, the Beer Board shall report the name of the clerk to the Alcoholic Beverage Commission within 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 year from the date of the Beer Board's determination.

(Ord. 1136, passed 8-6-2007)