

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

**CHAPTER 1****INTOXICATING LIQUORS****SECTION**

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

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**8-101. Definition of alcoholic beverages.** As used in this chapter, unless the context indicates otherwise: Alcoholic beverages 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. (1970 Code, § 2-101, as replaced by Ord. #12-09, Jan. 2013, and Ord. #14-14, Jan. 2015)

**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 Greenbrier, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Greenbrier, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**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, section 301, for the Town of Greenbrier general fund to be paid annually as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Greenbrier on alcoholic beverages for consumption on the premises where sold. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**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 Town of Greenbrier 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. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-105. 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. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-106. Location restrictions.** It shall be unlawful for any person to operate an establishment that sells alcoholic beverages for on premises consumption in the Town of Greenbrier located in a zone that is not designated for such sales. All establishments shall be located within the CB zone on the official zoning map of the Town of Greenbrier on the date of application. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-107. Certificate of compliance.** After the issuance of a state license by the Tennessee Alcoholic Beverage Commission for on premise consumption, the licensee will provide a copy to the city recorder. The city recorder will issue a certificate of compliance valid for one year. Upon the payment of privilege tax each year, a new certificate will be issued. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-14, Jan. 2015)

**8-108. License from town to operate liquor store.** (1) After an applicant or applicant group receives a license from the State of Tennessee to operate a retail liquor store pursuant to Tennessee Code Annotated, § 57-3-101, et seq., he or she shall apply to the city recorder for a local liquor retailer's license to operate a retail liquor store pursuant to the following terms, conditions and restrictions.

(2) **Term renewal.** Each license shall expire on December 31 st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) **Display.** A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) **Transfer.** A licensee or co-licensee shall not sell, assign or transfer his or her license or any interest therein to any other person. No license shall be transferred from one (1) location to another location without the express permission of board of aldermen.

(5) **Fees.** A license fee of five hundred dollars (\$500.00) is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the

calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall be issued. In the event of co-licensees, only one (1) license fee is required. (as added by Ord. #12-09, Jan. 2013, and replaced by Ord. #14-16, Jan. 2015)

**8-109. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this municipality except as provided by Tennessee Code Annotated, title 57, by rules and regulations promulgated thereunder, and as provided in this chapter. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-110. Definitions.** Whenever used herein unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" 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, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight, or less.

(2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

(3) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(4) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(5) "Manufacturer" means and includes distiller, vintner and rectifier. "Manufacture" means and includes distilling, rectifying and operating a winery.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-3-101--57-3-110.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly the word "gallon" or "gallons" wherever used herein, shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

(10) Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural.

(11) The term "federal license" as used herein shall not mean tax receipt or permit. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-111. Selling prohibited within corporate limits.** No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits except to a duly licensed local city retailer, as provided herein. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-112. License required.** (1) Before any person or other legal entity (the "applicant") shall receive a license for the establishment of a retail liquor store, the applicant shall make application for a license for a specific location and be granted such license for such specific location by the board of mayor and aldermen as required by Tennessee Code Annotated, § 57-3-208. When the applicant which intends to obtain a liquor license is a legal entity owned, directly or indirectly, by a combination of persons and/or entities, the group of persons owning an interest, directly or indirectly, in the application is referred to herein as the "applicant group." The application for the license shall be filed with the city recorder giving the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the city;

(b) The name of the retail liquor store proposed;

(c) The address of the retail liquor store proposed and it's zoning designation;

(d) Number of years applicant and persons in applicant group have been residents in or have owned residential or commercial property within Greenbrier City Limits, zip code, urban growth boundary (minimum of two years required);

(e) The name of the licensee and the address of other retail liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group member holding each interest;

(f) Occupation or business and name and location of such business, of applicant and persons in applicant group and length of time engaged in such occupation or business;

(g) Whether or not the applicant or any persons in the applicant group has been convicted within the ten (10) year period immediately preceding the date of the application of any violation of any state or federal law or of any violation of any municipal ordinance (with the exception of minor traffic violations such as speeding or traffic signal violations, but not excepting alcohol related violations), and, if so, provide the details of such violation (i.e., charging entity, citation to and copy of law convicted of violating, copy of charge, etc.);

(h) If employed, the name and address of the employer;

(i) The name and address of the owner of the real property of the proposed location and the amount to be paid for rent or purchase, together with a letter from such owner affirming either (i) that the parties have reached a written agreement on the terms of a lease and setting forth the amount of the rent provided for in the agreement, or (ii) that the parties have reached a written agreement on the terms of a sale of the premises to the applicant;

(j) The amount of money invested or to be invested, and the source of funds to be used, and, if borrowed, the name of the person from whom borrowed, the name of the bank with which the applicant does business, and the name of any person who is aiding the venture financially, either by a loan or guaranty;

(k) The name of any person who will have any interest, direct or indirect, in the business of the applicant or in the profits thereof, and the nature and character thereof, and whether the person holds a wholesale or retail liquor license;

(l) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the business, and a certification that that individual has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application, and if the applicant is a corporation the identity of the officer or employee who will be in actual charge of the day-to-day operations of the business and that such officer or employee has not been convicted of a felony within a ten (10) year period immediately preceding the date of the application;

(m) Proof of citizenship of owner(s) and any person(s) employed by business

(n) A statement that the persons receiving the requested license to the best of their knowledge if awarded the license could comply with all the requirements for obtaining the required licenses under state law and the provisions of this chapter for the operation of retail liquor stores in the city; and

(o) The agreement of each applicant or each member of an applicant group, as appropriate, to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission and the City of Greenbrier with reference to the

sale of alcoholic beverages, and the further agreement of each applicant or each member of an applicant group as to the validity and the reasonableness of these regulations, inspection fees, and taxes provided in this title with reference to the sale of alcoholic beverages.

(2) Each application shall be accompanied by a non-refundable investigation fee of seven hundred fifty dollars (\$750.00) and an additional one hundred dollars (\$100.00) for each additional background check.

(3) Further documentation:

(a) The application shall be accompanied by six (6) copies of a site plan drawn to a scale of not less than one inch equals twenty feet (1" = 20') giving the following information:

(i) The shape, size and location of the lot which the retail liquor store is to be operated under the license;

(ii) The shape, size, height and location of all building(s) whether they are to be erected, altered, moved or existing upon the lot; and

(iii) The off-street parking space and off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street.

(b) A written certification by the applicant that the premises of the proposed retail liquor store are in full and complete compliance with the distance requirements of this chapter; and, that the applicant has taken steps to verify compliance with the distance requirements. To the extent that the applicant has documentation of such verification, or the process of verification, then applicant shall submit such documentation with the application.

(c) In the case where the applicant is a partnership, the application shall be accompanied by a copy of the partnership agreement and an indication of who are general partners and who are limited partners, if any, and for each partner the profit sharing percentage in the partnership;

(d) In the case where the applicant is a corporation or limited liability company, the application shall be accompanied by a copy of the corporate charter or the operating agreement and a list of shareholders/members with their ownership percentage, a list of officers/managers and a list of names and addresses of directors.

(4) Signature. The application shall be signed and verified by each person to have any interest in the retail liquor store either as an owner, partner, stockholder or otherwise.

(5) Misrepresentation-concealment of fact-duty to amend. If any applicant, member of an applicant group, or licensee either intentionally or innocently misrepresents or conceals any material fact in any application form or as to any other information required to be disclosed by this chapter, such applicant, member of an applicant group or licensee shall be deemed to have

violated the provisions of this chapter and his or her application may be disregarded or his or her license restricted or revoked as deemed appropriate by the board.

In addition, if an application submitted does not contain the information required by this chapter, it will not be deemed filed until all information has been submitted in writing. It shall be the duty of the applicant to determine and submit the information required.

(6) As of this date, two (2) liquor stores have been permitted and established within the city. In issuing the required license for the licensing of additional liquor stores in the city permitted by this chapter, the board will consider all applications filed before a closing date to be fixed by it and select from such applications the persons deemed by it in its sole discretion to have qualifications required by law and the most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of the city for the lawful operation of liquor stores without regard to the order of time in which the applications are filed. Such persons and only such persons so selected shall receive the additional licenses issued by the city. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-113. Limitations on issuance of license.** (1) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages when, in the opinion of the board of mayor and aldermen, expressed by a majority thereof, the carrying on of such business at the premises covered by the application for a license would be closer than three hundred feet (300') as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church, school, or library; a retailer's license issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the mayor, unless the location is approved in writing by the mayor. Said approval by the mayor must be authorized by approval of majority of board of mayor and aldermen.

(2) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages in a building structure that provides less than one thousand two hundred fifty (1,250) square feet of floor space.

(3) No license shall be granted for the operation of a retail store for the sale of alcoholic beverages on property not properly zoned for such use according to the Greenbrier Zoning Ordinance.

(4) No more than one (1) license will be issued in each sector of the city limits. The sectors are defined as follows:

North Sector - On Highway 41, Northern City Limit line to Industrial Drive



South Sector - On Highway 41, Industrial Drive to Southern City Limit line. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-114. Limitations on number of licenses.** (1) No more than one (1) license for each three thousand (3,000) population for the sale of alcoholic beverages shall be issued under this chapter. Further, that the population limitations and restrictions as provided for above shall not be decreased unless, first, a public notice of such proposed change is published at least one (1) time fifteen (15) days before the first reading on such proposed amendment.

(2) No license shall be issued to any person or persons unless such person or persons' legal residence has been within Greenbrier City Limits, zip code, urban growth boundary, or such person or persons has privately owned residential or commercial property within Greenbrier City Limits, for at least two (2) years prior to submittal of an application for retail license.

Likewise, no license shall be issued to any partnership or corporation unless the partnership's or corporation's principal place of business has been within the Greenbrier City Limits, zip code, urban growth boundary for at least two (2) years prior to submittal of an application for the retail license. Thereafter, any change in such residence(s) or place of business, whereby such would be outside this area, such change must be approved by a majority of the board of mayor and aldermen. However, in any event, such persons, partners' and stockholders' legal residence, and, in the case of a partnership or corporation, its principal place of business and office, must be within the State of Tennessee. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-115. Bonds of licensees.** Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee; bonds of retailers shall be five hundred dollars (\$500.00). Said bond shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-116. Retailer's license.** (1) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. The foregoing shall not apply to uncompensated appointees to municipal boards and commissioners where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages.

(2) No retailer shall be a person who has been convicted of a felony involving moral turpitude, within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction; and in the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee, and if not, the partnership, corporation or association with which he is connected shall immediately discharge him.

(3) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others, in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(4) No manufacturer, brewer or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(5) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the mayor and approved by him. Where such interests is owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(6) No person shall own or be employed in the sale of alcoholic beverages except a citizen of the United States.

(7) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(8) No retailer shall employ in the storage, sale or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be so convicted, he shall immediately be

discharged; provided, however, that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(9) The issuance of a license does not vest a property right in the licensee but is a privilege subject to revocation or suspension according to this chapter.

(10) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-117. Display of license.** Persons granted a license to carry on the business or undertaking contemplated therein shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-118. Transfer of permits restricted.** The holder of a license may not sell, assign or transfer such license to any other person unless same is approved by a majority of the board of mayor and aldermen and the state commissioner and said license shall be good and valid only for the calendar year in which the same was issued. Provided, however, that licensees who are serving in the military force of the United States in the time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-119. Expiration date of license.** Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-120. New license after revocation.** Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-121. Federal license, effect of.** The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (as added by Ord. #12-09, Jan. 2013, deleted by Ord. #14-14, 2015, and added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-122. Inspection fee.** The following shall apply regarding inspection fees:

(1) There is hereby imposed an inspection fee on all gross purchases of alcohol beverages made by licensees under this chapter. Said fee to be at the maximum amount as provided for in Tennessee Code Annotated, § 57-3-501.

(2) The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(3) Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the City of Greenbrier as hereinafter provided.

(4) Each wholesaler making sales to retailers located within the corporate limits of the City of Greenbrier shall furnish the City of Greenbrier a report monthly, which report shall contain the following:

(a) The name and address of the retailer;

(b) The wholesaler's price of the alcoholic beverages sold to such retailer;

(c) The amount of tax due under this section; and

(d) Such other information as may be required by the Board of Mayor and Aldermen of the City of Greenbrier. The monthly report shall be furnished to the city recorder of Greenbrier not later than the twentieth (20th) of the month following which the sales were made; and the inspection fees collected by the wholesaler from the retailers located within the City of Greenbrier shall be paid to the City of Greenbrier at the time the monthly report is made. Wholesalers collecting and remitting the inspecting fee to the City of Greenbrier shall be entitled to reimbursement for this collection service a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the City of Greenbrier.

(5) Each wholesaler who fails to collect and/or remit in a timely matter the inspection fee imposed hereunder shall be liable in addition to the tax for a penalty of ten percent (10%) of the fee due the City of Greenbrier which shall be payable to the City of Greenbrier.

(6) The City of Greenbrier shall have the authority to audit the records of all wholesalers subject to the provisions of this section in order to determine

the accuracy of said monthly report. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-123. Regulations for purchase and sale of intoxicating liquors.**

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-124. Solicitation.** No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such license receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-125. Regulation of retail sales.** (1) No retailer shall directly or indirectly, operate more than one (1) place of business in this municipality for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk nor shall any retailer selling alcoholic beverages sell, lend or give away to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retail store shall sell, give away, or otherwise dispense alcoholic beverages except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday.

(5) No retailer shall sell, lend or give away any alcoholic beverages upon Christmas Day, Thanksgiving Day, or Easter.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

(7) No retailer as herein defined shall own, store or possess upon the licensed premises any unstamped merchandise required by the laws of

Tennessee to have affixed thereto revenue stamps of said state, hereunder fails to account for or pay over to the finance director any inspection fee, or defaults in any of the conditions of his bond, the mayor and/or finance director shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such inspection fee. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-126. Failure to pay fees.** Whenever any of the persons licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the mayor shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-127. Mayor to determine if provisions are being complied with.** The mayor and/or designated agent thereof is authorized to examine the books, papers and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. The refusal to permit the examination of any such books, papers, and records, or the investigation and examination of such premises, shall constitute, sufficient reason for the revocation of a license or the refusal to issue a license. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-128. Violation and penalty.** Any violation of the terms of this chapter shall be punishable by a fine of not more than five hundred dollars (\$500.00); in such cases, suspension of said license by mayor for thirty (30) days shall be mandatory, and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

**8-129. Visible possession prohibited.** Visible possession of alcoholic beverages in unsealed container upon any public street or within any governmental building shall be a violation of this chapter. (as added by Ord. #18-05, June 2018 *Ch7\_12-2-19*)

## CHAPTER 2

### BEER<sup>1</sup>

#### SECTION

- 8-201. Beer board established.
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- 8-203. Record of beer board proceedings to be kept.
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- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
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- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Interference with public health, safety, and morals prohibited.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, their agents and/or employees.
- 8-213. Revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Violations.

**8-201. Beer board established.** There is hereby established a beer board to be composed of five (5) members. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. Board members shall each serve four (4) year terms, barring their conviction of any crime involving moral turpitude or their being removed from office by a simple majority vote of the board of mayor and aldermen. To qualify for appointment and continued service on the board, one must reside in the city for at least one (1) year prior to appointment and be registered to vote. (1970 Code, § 2-201, as replaced by Ord. #03-06, Sept. 2003)

**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. The board may adjourn a

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<sup>1</sup>State 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).

meeting at any time to another time and place. (as added by Ord. #03-06, Sept. 2003)

**8-203. Record of beer board proceedings to be kept.** The city recorder, or their designee, 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. (as added by Ord. #03-06, Sept. 2003)

**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 majority of the members present if a quorum is constituted. Any member present but not voting but shall be deemed to have cast a "nay" vote, however, a declaration of "pass" or "abstention" shall not be deemed a "nay" vote. (as added by Ord. #03-06, Sept. 2003, and replaced by Ord. #07-14, Sept. 2007)

**8-205. Powers and duties of the beer board.** The beer board shall have the power and 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. (as added by Ord. #03-06, Sept. 2003)

**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. (as added by Ord. #03-06, Sept. 2003)

**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), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Greenbrier. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. (as added by Ord. #03-06, Sept. 2003)



**8-208. 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, 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, to the City of Greenbrier, 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. (as added by Ord. #03-06, Sept. 2003)

**8-209. 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 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.

(1) **"On-premise" permit.** No on-premise permits will be issued authorizing the storage, sale, or manufacturing of beer unless the permittee meets the following qualifications defining a restaurant: a restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, each place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least seventy-five (75) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations, and periods of redecorating, and the serving of such meals shall be the principal business conducted; further, to qualify as a "restaurant" hereunder, receipts from the sale of food shall be at least sixty percent (60%) of the total gross receipts in any consecutive month period for the business establishment.

(2) **"Off-premise" permit.** No off-premises type permit will be issued authorizing the storage, sale or manufacturing of beer within one hundred (100) feet of any school (public or private) or church as measured on a straight line from the nearest point of the school or church to the nearest point of the building or structure where beer is stored, sold or manufactured, excepting that this provision shall not be applicable to the renewal of any existing permit. (as added by Ord. #03-06, Sept. 2003)

**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 manufacture or storage of beer, or the sale of beer within one hundred (100) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line 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 had been issued to any business on that same location as of January 1, 2003, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 2003. (as added by Ord. #03-06, Sept. 2003)

**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 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. (as added by Ord. #03-06, Sept. 2003)

**8-212. Prohibited conduct or activities by beer permit holders, their agents, and/or employees.** It shall be unlawful for beer permit holders, their agents and/or employee(s) to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Allow any person under eighteen (18) years of age to loiter in or around, or otherwise frequent any place where beer is sold at retail for consumption on the premises. This section does not prohibit the otherwise lawful patronage by minors of establishments whose primary activity is lawful activity other than the sale of beer or alcohol. Primary activity for purposes of this section means that at least seventy-five percent (75%) of the gross receipts of the establishment are the result of activity other than the sale of beer or alcohol. The beer permit holder shall furnish such documentation as may be required to the city to establish this percentage.

Beer permit holders whose primary activity, as defined above, is lawful activity other than the sale of beer or alcohol, may employ minors under eighteen (18) years of age. However, persons under eighteen (18) years of age who work in beer places shall not be allowed to touch, handle or move any glass, mug, can, bottle, package, carton, case, keg or other container in which beer is served, held or kept in storage. Persons under eighteen (18) years of age may work in beer places only between the hours of 6:00 a.m. and 10:00 p.m.

A violation of this subsection is unlawful. In addition, a violation of this subsection shall subject the beer permit holder to the penalties and procedures set forth in this chapter.

(3) Deleted.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow any person under twenty-one (21) years of age to loiter in or about his 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 drunk persons to loiter about his 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 weight.

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

(10) Allow gambling on his premises.

(11) Fail to provide and maintain separate sanitary toilet facilities for men and women.

(12) Allow beer to be distributed through sale or otherwise, from any vending apparatus or machine.

(13) Allow any loud, unusual, or obnoxious noises to emanate from his premises. (as added by Ord. #03-06, Sept. 2003, and amended by Ord. #14-15, Jan. 2015)

**8-213. Revocation of beer permits.** (1) 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.

(2) In the event a permit holder is a "responsible vendor" as defined in Tennessee Code Annotated, § 57-5-603, the beer board shall not revoke or suspend said responsible vendor's permit.

(3) Permanent revocation of beer permits shall be issued when the permit holder has at least two (2) violations within a twelve (12) month time period. (as added by Ord. #03-06, Sept. 2003, and amended by Ord. #08-02, Jan. 2008)

**8-214. Civil penalty in lieu of suspension.** The beer board shall impose the following civil penalties on a permit holder for each offense of making or permitting to be made any sales to minors or any other offense of the provisions of this chapter.

(1) For a violation of this chapter that is a first (1<sup>st</sup>) offense, permit holder shall be required to pay a civil penalty of one thousand five hundred dollars (\$1,500).

(2) For a violation of this chapter that is a second (2<sup>nd</sup>) offense, within a seven hundred sixty (760) day period from the first offense, the permit holder shall have his permit suspended for a period of seven (7) days which shall begin five (5) days from the hearing before the beer board

(3) For a violation of this chapter that is the third (3<sup>rd</sup>) offense, within a seven hundred sixty (760) day period for the first offense, the permit holder shall have his permit suspended for a period of fourteen (14) days which shall begin five (5) days from the hearing before the beer board.

(4) For a violation of this chapter that is the fourth (4<sup>th</sup>) offense within a seven hundred sixty (760) period of the first offense, the permit holder shall have his permit revoked. Permit holder shall have the option to reapply for apply for a new permit no sooner that three hundred sixty five (365) days from the date of the hearing before the beer board.

(5) In the event a permit holder is a "responsible vendor" pursuant to Tennessee Code Annotated, § 57-5-603, said board shall assess a civil penalty of one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors. (as added by Ord. #03-06, Sept. 2003, replaced by Ord. #06-06, May 2006, and amended by Ord. #08-02, Jan. 2008)

**8-215. Violations.** Except as provided in § 8-214, any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty clause of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #03-06, Sept. 2003)