

## TITLE 8

### ALCOHOLIC BEVERAGES<sup>1</sup>

#### CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

#### CHAPTER 1

### INTOXICATING LIQUORS

#### SECTION

- 8-101. Definitions.
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**8-101. Definitions.** "Alcoholic beverages" shall mean alcohol, liquor, spirits, wine, and every liquid containing alcohol, liquor, spirits, and wine 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. (2004 Code § 8-101, as replaced by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

**8-102. Scope of chapter.** This chapter shall govern the sale of intoxicating liquor through retail package stores and consumption on-premises (liquor-by-the-drink) of alcoholic beverages in the Town of Rossville. This chapter is to be read and interpreted in line with *Tennessee Code Annotated*, title 57, as well as the rules and regulations of the Tennessee Alcoholic Beverage Commission. If any provision of this chapter is found to exceed or be contrary to the authority provided in the same, said ordinance provision will be superseded. Nothing in this chapter regulates the distribution, possession, receipt of, sale, storage, tax upon, or transportation upon any beverage of alcoholic content of five percent (5%) by weight or less, and no ordinance related thereto is modified

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 57.

by this chapter. (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and replaced by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

**8-103. State laws to be complied with.** No association, corporation, firm, partnership, or person shall engage in the wholesale, retail or on-premises consumption ("liquor by the drink") liquor business unless all the necessary state licenses and permits have been obtained. (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and replaced by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

**8-104. Alcoholic beverages subject to regulation.** It shall be unlawful to engage in the business of selling, storing, transporting or distributing, or to purchase or possess alcoholic beverages within the corporate limits of the Town of Rossville, Tennessee except as provided by *Tennessee Code Annotated*, title 57. (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and replaced by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

**8-105. Specific rules governing retail package stores.**

(1) Application for certificate of good moral character. Before any character certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213, shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the town recorder on a form to be provided by the Town of Rossville, giving, *inter alia*, the following information:

- (a) Name, age and address of applicant.
- (b) Number of years residence in Fayette County.
- (c) Occupation or business and length of time engaged in such occupation or business.
- (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction.
- (e) If employed, the name and address of employer.
- (f) If in business, the kind of business and location thereof.
- (g) The anticipated location of the proposed store for the sale of alcoholic beverages.
- (h) The name and address of the management of the store.
- (i) If the applicant is a partnership, the name, age and address of each partner, and his or her occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degree of ownership of stock in the corporation.
- (j) Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00). An application for certificate of compliance must be submitted by all owners, partners, stockholders and directors of the store, whether same is a firm,

partnership or corporation and the failure to reveal the financial interest of any person or corporation shall be grounds for the denial of the certificate of compliance and/or the revocation of the certificate of compliance.

(k) No applicant shall apply individually, as a member of a partnership, or as a stockholder, officer or director on more than one (1) application, or hold any interest in more than one (1) permit at the same time. A copy of each application form, questionnaire, partnership agreements or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the town application form and shall become a permanent part thereof as if copied verbatim therein. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. All applications submitted in accordance with this chapter shall be filed with the town recorder at least ten (10) days prior to a regular or special called meeting.

(2) Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the town and rules and regulations of the alcoholic beverage commission of the state for sale of alcoholic beverages.

(3) Applicant to appear before board of mayor and aldermen: duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. Before the issuance of any character certificate or a renewal of the same, an applicant may be required to tender requested documentation for review and or inspection by the board of mayor and aldermen.

(4) Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the town recorder for review, who shall submit their findings to the board of mayor and aldermen. The mayor or a majority of the board of mayor and aldermen may, in its sole discretion, issue a certificate of moral character to any qualified applicant.

(5) Residency requirement. The applicant for a certificate of good moral character shall have been a bona fide resident of Fayette County, Tennessee, for a period of not less than two (2) years at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of Fayette County, Tennessee, or one (1) of the adjoining Tennessee counties for not less than two (2) years at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to *Tennessee Code Annotated*, § 57-3-204 for seven (7) consecutive years.

(6) Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the town. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise.

(7) Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the town except at locations zoned for that purpose. All packaged liquor stores must be located on Highway 57 between the Town of Rossville City limits to the west and Frazier Road to the east of the Rossville City limits.

(8) Limitation on number of retailers. No more than one (1) retail licenses for the sale of alcoholic beverages shall be issued by the Town of Rossville under this chapter. Should more than one application for certificate of good moral character be filed with the town, the applications shall be considered in the order they were received. Applications filed subsequent to the first filed application shall remain on file with the town and receive consideration when appropriate in the order of their filing.

(9) Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

(10) Inspection fee. The Town of Rossville hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the town. Said inspection fee shall be collected and administered in line with *Tennessee Code Annotated*, §§ 57-3-502 and 57-3-503.

(11) Violations. The license holders are responsible at all times for the conduct of their business and all are at all times directly responsible for the conduct of all employees. Any violation of this chapter or of Tennessee or federal law which regulates intoxicating liquors shall constitute a civil offense and shall, upon conviction, be punishable by a penalty as enumerated under the general penalty provisions of this code as well as state and federal law.

(12) Selection of qualified applicants. Whenever there has been determined to be more qualified applicants than licenses available, the licenses shall be issued in the order the applications were received.

(13) Hours and times of operation. The hours and dates of operation for retail licensees are controlled by *Tennessee Code Annotated*, § 57-3-406. A retail package store may only be open between the hours of 8:00 A.M. and 11 :00 P.M. on Monday through Saturday and between 10:00 A.M. and 11:00 P.M. on Sunday. Additionally, retail package stores must be closed for business on Christmas, Thanksgiving, and Easter.

(14) Regulations on premises. All retail establishments must comply with the Town of Rossville building and zoning codes.

(15) Regulations on square feet of display area. All retail establishments must have a minimum of one thousand (1,000) square feet of display/showroom space. (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and replaced by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

#### **8-106. Specific rules governing on premise consumption.**

(1) 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 the Town of Rossville, Tennessee. It is the intent of the mayor and board of alderman that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Rossville, Tennessee, the same as if said code sections were copied herein verbatim.

(2) Restriction on the hours for the sale of intoxicating liquors. There shall not be any intoxicating liquor sold between the hours of 3:00 AM. and 8:00 AM. on Monday through Saturday and between the hours of 3:00 A.M. and 12:00 P.M. on Sundays. All other times and dates of sales shall be as referenced in *Tennessee Code Annotated*, § 57-4-203.

(3) 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 amount levied by *Tennessee Code Annotated*, title 57, chapter 4, section 301, for the Town of Rossville 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 Rossville alcoholic beverages for consumption on the premises where sold.

(4) Annual privilege tax to be paid to the town 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 Rossville shall remit annually to the town recorder the approximate tax described in *Tennessee Code Annotated*, § 57-4-301. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the approximate tax when due shall be subject to the penalty provided by law.

(5) Club application. Any club, as defined in *Tennessee Code Annotated*, title 57, that seeks to obtain a license for on-premise consumption of liquor must make an application to and obtain a permit from the Town of Rossville. This application shall be made on such form as the town shall prescribe. Each applicant shall be of good moral character and certify that he has read and is familiar with the provisions of this chapter. Such application shall be in writing and must be filed with the town recorder on a form to be

provided by the town. Each application shall be accompanied by a non-refundable investigation fee of four hundred fifty dollars (\$450.00). A copy of each application form, questionnaire, partnership agreement or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the town application form and shall become a permanent part thereof as if copied verbatim therein. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. All applications submitted in accordance with this chapter shall be filed with the town recorder at least ten (10) days prior to a regular or special called meeting.

(6) Signage requirements. All establishments authorized under this section must comply with the Town of Rossville zoning code. (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and replaced by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

**8-107.--8-108. Deleted.** (as added by Ord. #2020-011, Dec. 2020 *Ch1\_02-13-24*, and deleted by Ord. #2023-001, Feb. 2023 *Ch1\_02-13-24*)

## CHAPTER 2

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

#### SECTION

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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.
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- 8-213. Suspension and revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Loss of clerk's certification for sale to minor.
- 8-216. Violations and penalty.

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the beer board. (2004 Code, § 2-201)

**8-202. Meetings of the beer board.** All meetings of the beer board shall be open to the public. 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 meeting at any time to another time and place. (2004 Code, § 2-202)

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The

<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).

Municipal code reference

Drinking alcoholic beverages in public: § 11-201.

Minors in beer places: § 11-202.

Tax provisions: title 5

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. (2004 Code, § 2-203)

**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. (2004 Code, § 2-204)

**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 this town in accordance with the provisions of this chapter. (2004 Code, § 2-205)

**8-206. "Beer" defined.** The term "beer" shall be defined by Tennessee state statute as codified at *Tennessee Code Annotated*, § 57-5-101. (2004 Code, § 2-206, modified)

**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 shall be accompanied by a two hundred fifty dollars (\$250.00) non-refundable application fee.<sup>1</sup> Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. The application must be made in the name of an individual and the applicant must have a current privilege license issued in the same name as the name in which the beer application is made. The permit shall be prominently displayed in the place of business. Permits are not transferable. (2004 Code, § 2-207)

**8-208. 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. 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

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-5-104.



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. (2004 Code, § 2-208)

**8-209. Types of consumption permits.** Permits issued by the beer board shall consist of two (2) types:

(1) On-premises permit. An on-premises permit shall be issued for the consumption of beer both on and off the premises. To qualify for an on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be primarily a restaurant or an eating place;
- (b) Be able to seat a minimum of twenty-five (25) people, including children, in booths or at tables, in addition to any other seating it may have; and
- (c) Have all seating in the interior of the building under a permanent roof.

In addition, the monthly beer sales of any establishment which holds an on-premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any such establishment which for two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales shall have its beer permit revoked.

(2) Off-premises permit. An off-premises permit shall be issued for the consumption of beer only off the premises.

(3) Special event permits. A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days. To qualify for a special event permit, the applicant must, in addition to meeting all other requirements and restrictions for a beer permit in this chapter, be a bona fide charitable, non-profit, governmental, or political organization that has been recognized as exempt from federal taxes under section 501(c) of the United States Internal Revenue Code. (2004 Code, § 8-209)

**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 hospitals, 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 by an on-premises permit holder, within five hundred feet (500') 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 sold, manufactured or stored to the nearest point on the property line of the hospital, school, church or other place of public gathering. (2004 Code, § 8-210)

**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. (2004 Code, § 8-211)

**8-212. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder 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) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M. Monday through Sunday;
- (3) Allow any loud, unusual, or obnoxious noises to emanate from his premises;
- (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 any person who appears to be intoxicated 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; or
- (9) Purchase beer for resale from anyone other than an authorized wholesaler serving Fayette County. (2004 Code, § 8-212, as amended by Ord. #2019-004 *Ch1\_02-13-24*)

**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. 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 in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a

certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

**8-214. Civil penalty in lieu of revocation or suspension.** (1)

Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.<sup>1</sup> The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

**8-215. Loss of clerk's certification for sale to minor.** If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606 sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification shall be invalid

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, § 57-5-108(2).

and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

**8-216. Violations and penalty.** 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 provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2004 Code, § 8-215)