TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.
3. PRIVILEGE TAX AND ALCOHOLIC BEVERAGES.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. State law incorporated by reference; alcoholic beverages subject to regulation.
8-102. Manufacture prohibited.
8-103. Wholesale business prohibited.
8-104. Certificate of moral character.
8-105. Location and size restrictions on retail business.
8-106. Limitation on number of retailers.
8-107. Inspection fee.
8-108. Bonds required.
8-109. Violations.

8-101. State law incorporated by reference; alcoholic beverages subject to regulation. (1) Pursuant to Tennessee Code Annotated, title 57, subsequent amendments, and a referendum held pursuant thereto in City of Lewisburg, Tennessee on August 3, 1972 this chapter is enacted.

(2) The general provisions in the state law relating to intoxicating liquors as contained in Tennessee Code Annotated, title 57 are hereby adopted as a part of this chapter and, incorporated herein by reference as if fully set out herein.

(3) The various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage Commission and the Department of

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[1]Municipal code reference
Drinking beer, etc., on streets, etc.: § 11-101.
Minors in beer places: § 11-102.
State law reference
Tennessee Code Annotated, title 57.

Revenue of the State of Tennessee regarding the sale of alcoholic beverages herein defined are hereby adopted as part of this chapter.

(4) It shall be unlawful to engage in the business of selling, storing, transporting, or disturbing or to purchase or possess alcoholic beverages within the corporate limits of the City of Lewisburg, Tennessee, except in accordance with the provision of Tennessee Code Annotated, title 57 and as provided in this chapter.

(5) It shall be unlawful to make or allow any sale of liquor to be consumed on premise between the hours of 12:00 midnight and 8:00 a.m. each and every day of the week including Sunday and, in addition, between the hours of 8:00 a.m. and 12:00 noon on Sunday. (1985 Code, § 2-101, as amended by Ord. #02-05, Aug. 2002)

8-102. Manufacture prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits of the City of Lewisburg, Tennessee. (1985 Code, § 2-102)

8-103. Wholesale business prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits of Lewisburg, Tennessee. (1985 Code, § 2-103)

8-104. Certificate of moral character. Every applicant for a retail business license to sell alcoholic beverages in sealed packages for off premise consumption pursuant to Tennessee Code Annotated, § 57-3-204 or for a renewal of said license pursuant to Tennessee Code Annotated, § 57-3-213 shall make an application to city council, on forms provided by the city, for a certificate of moral character stating:

(1) That the applicant or applicants who are to be in actual charge of said business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application; and further, that in the official's opinion the applicant will not violate any of the provisions of this chapter.

(2) That the applicant or applicants have secured a location for said business which complies with all restrictions of any local law, ordinance or resolution, duly adopted by the local authorities as to location within the city and that the applicant or applicants meet all residency requirements, if any, established by such local authority; and

(3) That the applicant or applicants have complied with all local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

A nonrefundable five hundred dollar ($500) investigation fee shall accompany each application for a certificate of moral character whether the

application relates to the acquisition of an initial retail business license or to its renewal.

Every application for a certificate of moral character shall be referred to the city manager for investigation and to the city attorney for review, each of whom shall submit his findings to the city council within thirty (30) days of the date each application was filed. (1985 Code, § 2-104)

8-105. Location and size restrictions on retail businesses.[1]

(1) No certificate shall be granted to the operators of a retail store for the sale of alcoholic beverages except on premises zoned "central business," "intermediate business," or "industrial" within the provisions of the zoning ordinance of the City of Lewisburg. No certificate shall be issued for the operation of any such retail store to be located in closer proximity to any school, public or private, or any church, than five hundred feet (500') measured from the retail store the aforesaid institutions or facilities by way of the shortest distance and straight line between same. Within the "central business" district, restaurants and food service establishments meeting the criteria in § 8-209(3)(a)(i) may be located within fifty feet (50') of the aforesaid institutions.

(2) No retail liquor store shall be closer than 1000 feet to another retail liquor store measured as set forth above.

(3) Any retail liquor store authorized by this chapter shall contain a minimum floor space of 1000 square feet. (1985 Code, § 2-105, modified, as replaced by Ord. #12-10, Nov. 2012)

8-106. Limitation on number of retailers.[2] No more than four (4) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1985 Code, § 2-106)

8-107. Inspection fee.[3] The City of Lewisburg 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 city. (1985 Code, § 2-107)

8-108. Bonds required. All bonds required by this chapter shall be executed by a surety company, duly authorized to do business in Tennessee;

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[1]State law reference
Tennessee Code Annotated, § 57-3-208(b)(2) and (c).

[2]State law reference
Tennessee Code Annotated, § 57-3-208(c).

[3]State law reference
Tennessee Code Annotated, § 57-3-501 through 57-3-504.

bonds of retailers shall be two thousand five hundred dollars ($2,500.00) conditioned that the principal thereof shall pay any fine which is assessed against such principal by any court of competent jurisdiction and/or taxes or inspection fees due from him to the City of Lewisburg.[1] (1985 Code, § 2-108, modified)

8-109. Violations. Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause for this municipal code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission, together with a petition that all licenses be revoked, pursuant to the provisions of said commission. (1985 Code, § 2-109)

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[1]State law reference
Tennessee Code Annotated, § 57-3-209.

CHAPTER 2

BEER[1]

SECTION

8-201. Definitions.
8-202. Beer board established.
8-203. Meetings of the beer board.
8-204. Record of beer board proceedings to be kept.
8-205. Requirements for beer board quorum and action.
8-206. Powers and duties of the beer board.
8-207. Permit required for engaging in beer business.
8-208. Privilege tax.
8-209. Beer permits restricted to certain businesses.
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.
8-213. Permit must be in name of person who owns business.
8-214. Permit to be posted.
8-215. Premises selling beer subject to inspection.
8-216. Revocation of beer permits.
8-217. Civil penalty in lieu of suspension.

8-201. Definitions. The following definitions are applicable to this chapter:

(1) "Beer" shall mean all beer or any other beverage with alcohol content of not more than five percent (5%) by weight.

(2) "Golf course" shall mean a public eighteen (18) hole golf course with clubhouse, pro shop and restaurant permitted to sell beer to be consumed on the premises.

(3) "Person" shall mean any citizen or legal alien of the United States, any partnership or association of persons all of whom are citizens or legal alien of the United States, and any corporation licensed to do business in the State of Tennessee.

(4) "Premises" shall be the interior of a building or structure including contiguous interior spaces which are not separated by a permanent solid wall from other portions of the building or structure under the same roof, and where applicable shall include the parking area adjacent to and servicing the premises

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[1]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).

and where applicable shall include a golf course. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #09-11, Dec. 2009)

8-202. Beer board established. There is hereby established a beer board ("board") to be composed of three (3) members appointed by the mayor, each of whom shall serve until his successor is appointed. The mayor shall serve as ex officio member of the board but shall have no vote except in the case of a tie. All members of the board shall be residents of the city and shall receive such compensation as is set from time to time by resolution of the city council. An annual organizational meeting of the board shall be held in July of each year and from its membership shall be elected a chairman and secretary. (Ord. #97-14, Sept. 1997)

8-203. Meetings of the beer board. All meetings of the board shall be open to the public. The board shall hold regular meetings in the city administration building at such times as it shall prescribe. When there is business to come before the board a special meeting may be called either by the chairman or by a majority of the members. Notice of the annual, regular or special meetings shall be given to each member of the board, parties in interest and the general public. (Ord. #97-14, Sept. 1997)

8-204. Record of beer board proceedings to be kept. The chairman shall see that a record of the proceedings of all meetings of the board is kept. 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 beer permit issued by the board. (Ord. #97-14, Sept. 1997)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (Ord. #97-14, Sept. 1997)

8-206. Powers and duties of the beer board. The board shall have the power and it is hereby directed to regulate the selling and storing for sale of beer within the City of Lewisburg in accordance with the provisions of this chapter. (Ord. #97-14, Sept. 1997)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell or store for sale beer without making application

to and obtaining a permit from the board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00). Said fee shall be in the form of a cashier's check payable to the City of Lewisburg. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #97-14, Sept. 1997, modified)

8-208. Privilege tax. There is hereby imposed on the business of selling beer an annual privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company syndicate, partnership or association engaged in the sale of beer shall remit the tax on January 1, to the City of Lewisburg, 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. (Ord. #97-14, Sept. 1997, modified)

8-209. Beer permits restricted to certain businesses. The board shall only issue or renew permits:

(1) To sell at retail in packages for off premises consumption and where the proceeds for the sale of beer do not exceed twenty percent (20%) of the total proceeds of the business operated at, on or in the premises; or

(2) To a local chapter of a nationally organized and recognized club or lodge wherein beer may be sold at retail to its members to be consumed on the premises of the club or lodge; or

(3) (a) (i) Permits shall be allowed to restaurants and eating establishments meeting all other criteria of this code where the serving of meals shall be the principal business conducted on the premises so long as no more than fifty percent (50%) of revenues derive from alcohol sales.

(ii) A special permit may be issued to sell at retail to be consumed on the premises for a hotel, motel, golf course, or bowling alley containing a minimum of twelve (12) lanes.

(b) All state and local health and sanitation requirements relative to the equipment for handling food and cleaning dishes, drinking glasses and other utensils must be strictly complied with.

(c) Premises must have a seating capacity for not less than 40 persons at tables and chairs, not more than 10 counter seats for each 40 seats at tables and chairs.

(d) Deleted. This subsection was deleted by Ord. #02-05, Aug. 2002.

(e) No signs or displays shall be on the exterior of the premises or signs and displays on the interior of the premises visible from the

exterior which indicate or advertise that beer may be purchased at the premises.

(f) Within 30 minutes after the time each day when sale of beer becomes unlawful, any person holding an on-premises permit shall remove or cause to be removed from all tables, counters and other places where beer is served or consumed all glasses and other containers with beer within therein and except for said 30 minute period he shall keep said containers properly stored during all hours when the sale of beer on the premises is unlawful.

(g) All premises shall be of such design that the interior can easily be seen from the exterior and no curtains, drapes, shades, blinds, screens or other thing shall be used to hinder a clear and unobstructed view of the interior of the premises from the exterior and such a design shall be approved by the beer board.

(h) All premises shall have adequate and separate toilet facilities for men and women. The toilet facilities shall be so arranged and of such construction that they can be maintained and kept in a clean and sanitary condition and state of repair.

(i) Premises shall have at least one (1) entrance which shall not be locked while beer is sold or consumed on the premises by any person and one (1) or more emergency exit(s) which shall be easily opened from inside the premises and have an obstructed pass through.

(j) Deleted. This subsection was deleted by Ord. #02-01, May 2002.

(k) Where consumption is permitted on a golf course beer, will be purchased either in cans at the restaurant or from the beverage cart.

(4) Dual permits to sell at retail in packages for off premises consumption and to be consumed on the premises may be issued provided the applicant satisfies requirements of both permits. (Ord. #97-14, Sept. 1997, as amended by Ord. #00-17, Feb. 2001, Ord. #02-01, May 2002, Ord. #02-05, Aug. 2002, Ord. #08-21, Jan. 2009, and Ord. #12-10, Nov. 2012)

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. (Ord. #97-14, Sept. 1997)

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. (Ord. #97-14, Sept. 1997)

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) Employing any person under the age of eighteen (18) years in the sale, storage, distribution, or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off premises consumption only.)

(3) Deleted. This subsection was deleted by Ord. #02-05, Aug. 2002.

(4) Allow any loud, unusual, or obnoxious noises to emanate from the premises.

(5) Make or allow any sale of beer to any person under the age of twenty-one (21) years of age. The holder of the beer permit shall be strictly accountable for the violation of this provisions and the burden of ascertaining age of such persons shall be upon the holder and operator, or their servants, of such place of business.

(6) Allow any person under nineteen (19) years of age to loiter in or about the place of business.

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

(8) Allow drunk or disreputable persons to loiter about the premises.

(9) Serve, sale, give or allow the consumption on the premises of any alcoholic beverage with an alcoholic content of more than 5% by weight.

(10) The playing of pool or billiards on the premises.

(11) Permit the consumption of beer on any parking lot which services and/or is adjacent to the premises which the permit holder has any interest in or control over. (Ord. #97-14, Sept. 1997, modified, as amended by Ord. #01-03, May 2001, and Ord. #02-05, Aug. 2002)

8-213. Permit must be in name of person who owns business. The permit issued by the board shall be in the name of the person owning the business rather than the manager, operator or employee of the owner. (Ord. #97-14, Sept. 1997)

8-214. Permit to be posted. Permits issued by the board shall be posted in a conspicuous place inside the premises. (Ord. #97-14, Sept. 1997)

8-215. Premises selling beer subject to inspection. All premises selling beer are subject to inspection by board members and city police during any hours the premises are open. (Ord. #97-14, Sept. 1997)

8-216. Revocation of beer permits. The 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 or any of the laws

of the State of Tennessee in regard to selling and storing for sale beer. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all known parties in interest, board members and the general public. Revocation proceedings may be initiated by the police chief, policeman, city attorney or by any member of the city council or board. (Ord. #97-14, Sept. 1997, modified)

8-217. Civil penalty in lieu of suspension. The board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed $1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed $1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of supervision by a permit holder shall be an admission by the permit holder of the violation so charged and shall be paid to the exclusion of any other penalty the city may impose. (Ord. #97-14, Sept. 1997, modified)

CHAPTER 3

PRIVILEGE TAX AND ALCOHOLIC BEVERAGES[1]

SECTION

8-301. Tax levied.
8-302. Remittance to city treasurer.

8-301. Tax levied. The following taxes are levied and to be paid annually to wit:

(1)	Private club	$ 300.00
(2)	Hotel and motel	1,000.00
(3)	Convention center	500.00
(4)	Premiere type tourist resort	1,500.00
(5)	Restaurant, according to seating capacity, on licensed premises:	
	(a) 75-125 seats	600.00
	(b) 126-175 seats	750.00
	(c) 176-225 seats	800.00
	(d) 226-275 seats	900.00
	(e) 276 seats and over	1,000.00
(6)	Historic performing arts center	300.00
(7)	Urban park center	500.00
(8)	Commercial passenger boat company	750.00
(9)	Historic mansion house site	300.00
(10)	Historic interpretive center	300.00
(11)	Community theater	300.00
(12)	Zoological institution	300.00
(13)	Museum	300.00
(14)	Establishment in a terminal building of a commercial air carrier airport	1,000.00
(15)	Commercial airline travel club	500.00

(as added by Ord. #00-18, Feb. 2001)

8-302. Remittance to city treasurer. The tax hereby levied shall be remitted by all operators of establishments subject to this tax to the Treasurer of the City of Lewisburg, Tennessee. (as added by Ord. #00-18, Feb. 2001)

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[1]State law reference
Tennessee Code Annotated, § 57-4-301.