

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except when he affirmatively shows that he has express authority under the state law<sup>2</sup> it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the Town of White Bluff. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1983 Code, § 2-101)

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<sup>1</sup>Municipal code references

Prohibiting driving under the influence: title 15.

Prohibiting minors in beer places, public drunkenness, and drinking beer in public: title 11.

State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
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**8-201. Beer board established.** There is hereby established a beer board to be composed of all the members of the town council. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (1983 Code, § 2-201)

**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

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<sup>1</sup>Municipal code references

General business regulations: title 9.

Prohibition of minors in beer places and drinking beer on streets etc.: title 11.

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).

gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1983 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 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. (1983 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. Any member present but not voting shall be deemed to have cast a "nay" vote. (1983 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 the Town of White Bluff in accordance with the provisions of this chapter. (1983 Code, § 2-205)

**8-206. "Beer" defined.** The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1983 Code, § 2-206)

**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 Town of White Bluff, Tennessee. Each applicant must be of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #138, Jan. 1993)

**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. Beer permits for the retail sale of beer shall be further restricted so as to authorize sales only for off premises 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. (1983 Code, § 2-208)

**8-209. 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 storage, sale, or manufacture of beer at places within one thousand four hundred (1,400) feet of any school, church, or other such place of public gathering, measured along street rights of way. (1983 Code, § 8-210, as amended by Ord. #179, April 1999)

**8-210. 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 for which the applicant has been convicted within ten (10) years prior to the filing of the permit application. (1983 Code, § 2-211, modified)

**8-211. 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) Employ any person under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.
- (3) Make or allow any sale of beer between the hours of 12:00 midnight and 6:00 A.M. during any night of the week. The sale of beer on Sunday shall not commence prior to 12:00 o'clock noon and shall terminate at 12:00 o'clock midnight, provided, however, that sales for off-premises consumption may be made on Sunday between the hours of 1:00 P.M. and 12:00 midnight.
- (4) Make or allow any sale of beer to anyone under the age of twenty-one (21) years.
- (5) Allow any minor 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 or disreputable 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 dancing, live entertainment or any musical performance on the premises.

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

(11) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1983 Code, §2-212, as amended by Ord. #153, April 1996, modified)

**8-212. Revocation of beer permits.** (1) 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 violating any of the terms of § 8-201, *et seq.* However, no beer permit shall be revoked or suspended until a public hearing is held by the beer board after reasonable notice to all known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the beer board.

(2) **Penalties.** The beer board may suspend a permit holder's license for a maximum of 30 days for first offenses. In the beer board's discretion, at the time it imposes a suspension, it may offer the permit holder the option of paying a civil penalty not to exceed \$1,500.00 for each offense of making or permitting to be made any sales to a person under 21 years of age, and for other violations, a civil penalty not to exceed \$1,000.00. If a civil penalty is offered as an alternative to suspension, the holder shall have seven (7) days within which to pay the civil penalty before the suspension may be imposed. If the civil penalty is paid within that time, the suspension shall be deemed withdrawn. Payment of the civil penalty in lieu of suspension by the 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 town may impose.

(3) **Multiple offenses.** If any permit holder is found guilty or pleads guilty to any violation of the provisions of this chapter, and has also had one (1) previous violation within the prior five (5) years, the license must be suspended for a period of no less than thirty (30) days. Permit holders who have been found guilty of any violation of the provisions of this chapter and have had more than one violation within 5 years prior to the date of a new violation, shall have their license revoked.

(4) **Violations.** 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. (1983 Code, § 2-213, as amended by Ord. #198, Sept. 2000, modified)

**8-213. Beer permits to be reviewed annually.** All beer permits issued as of January 1, 1975, shall be reviewed annually and will be issued based upon provisions contained in the municipal code of the town of White Bluff. (1983 Code, § 2-214)

**8-214. Beer permit applications shall provide documentation of registration for sales tax.** Before issuing a beer permit approved by the town council the recorder shall receive from the applicant for such permit such documentation issued by the State of Tennessee Department of Revenue demonstrating that the applicant is duly registered for the sales tax.

In the event the applicant fails or refuses to present the recorder with the above documentation, the recorder shall not issue the permit even though it has been approved by the town council. (Ord. #119, Aug. 1991)

**8-215. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the Town of White Bluff, 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. #138, Jan. 1993)

**8-216. Multiple offenses.** If any permit holder is found guilty or pleads guilty to any violation of the provisions of this chapter, and has also had one (1) previous violation within the prior five (5) years, the license must be suspended for a period of no less than thirty (30) days. (Ord. #198, April 2000)

**8-217. Violations.** Except as provided in § 8-213, 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. (Ord. #198, April 2000)