

TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Prohibited generally.
- 8-102. Consumption of alcoholic beverages on premises.
- 8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-104. Annual privilege tax to be paid to the director of finance.
- 8-105. Sign restriction.
- 8-106. Responsibilities of licensee.
- 8-107. Unregulated and unlicensed possession and consumption of beer and alcoholic beverages.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances, it shall be unlawful for any person or legal entity, regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "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 pursuant to Tennessee Code Annotated, § 57-5-101. (1972 Code, § 2-101, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001)

8-102. Consumption of alcoholic beverages on premises. Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto 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 Athens, Tennessee. It is the

---

<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

intent of the city council that the said Title 57, Chapter 4, inclusive of the Tennessee Code Annotated and any amendment thereto, shall be effective in Athens, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #873, Jan. 2001)

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, and any amendment thereto, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated § 57-4-301, for the City of Athens General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., engaging in the business of selling at retail in the City of Athens alcoholic beverages for consumption on the premises where sold. (as added by Ord. #873, Jan. 2001)

8-104. Annual privilege tax to be paid to the director of finance. Any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens shall remit annually to the director of finance the appropriate tax described in § 8-103. Such payment 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 or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc., failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Athens. (as added by Ord. #873, Jan. 2001)

8-105. Sign restrictions. Notwithstanding any provision in Title 57, Chapter 4 of the Tennessee Code Annotated, no outdoor sign, advertisement or display that advertises alcoholic beverages may be erected or maintained on or about the property from which alcoholic beverages for consumption on the premises is made other than one sign, advertisement or display which makes reference to the fact that the establishment sells alcoholic beverages for consumption on the premises but does not use brand names, pictures, numbers, prices or diagrams relating to any particular type or brand of alcoholic beverages. (as added by Ord. #873, Jan. 2001)

8-106. Responsibilities of licensee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where alcoholic beverages are to be sold and must inform the chief of police within 72 hours of employment as to the names,

date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to alcoholic beverages, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of alcoholic beverages. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

8-107. Unregulated and unlicensed possession and consumption of beer and alcoholic beverages. This section shall make the unregulated and unlicensed possession and consumption of beer and alcoholic beverages in a business in the city unlawful.

(1) For the purposes of this section, the term "beer" shall mean all beers, ales, and other malt liquors having an alcoholic content of not more than five (5) percent by weight. For purposes of this section, the term "alcoholic beverages" shall mean alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being other than patent medicine or beer where the latter contains an alcoholic content of five (5) percent or less by weight. For the purposes of this section, an "open container" is a container, which has any opening through which its contents may pass in order to be consumed by any person. For the purposes of this section, "hotel" is as defined in Tennessee Code Annotated, § 67-4-1401, being any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(2) It is unlawful for any person to consume beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business in the city.

(3) It is unlawful for any person to possess an open container of beer or an alcoholic beverage not lawfully sold by the business on the premises of any business open for business.

(4) It is unlawful for any owner of a business open for business in the city, or the owner's agent or employee, knowingly or intentionally to permit any person to possess an open alcoholic container of beer or an alcoholic beverage not lawfully sold by the business or to consume beer or an alcoholic beverage not

lawfully sold by the business on the premises of any business. For the purposes of this section, notice to an agent or employee of a business shall constitute notice to the owner of the business.

(5) This section does not prohibit the sale of beer or alcoholic beverages by any business which possesses a valid beer permit or alcoholic beverage license during such hours authorized by the laws of the state and the ordinances of the city nor does this section prohibit any other conduct permitted under the laws of the state or the ordinances of the city. This section does not prohibit the owner of a business who resides on the premises of the business from consuming beer or alcoholic beverages at any time on the premises or from possessing an open container of beer or alcoholic beverages at any time on the premises. This section does not prohibit the consumption of beer or alcoholic beverages or the possession of an open container of beer or alcoholic beverages by any person within the confines of the person's individual room in any hotel within the city.

(6) The provisions of this section are severable. If any provision of this section or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this section which can be given effect without the invalid provisions or application. (as added by Ord. #888, Dec. 2001)

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.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Responsibilities of permittee.
- 8-209. Beer permits shall be restrictive.
- 8-210. Privilege tax.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders, agents, servants, employees or other persons engaged in the sale of beer.
- 8-214. Employees required to have identification and proof of employment.
- 8-215. Revocation and suspension of beer permits.
- 8-216. Possession or consumption of alcoholic beverages, wine, and/or beer on certain property prohibited.
- 8-217. Civil penalty in lieu of suspension.
- 8-218. Sign restriction

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the city council. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1972 Code, § 2-201, as replaced by Ord. #873, Jan. 2001)

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 following each regular meeting of the city council at the city hall whenever there is business to come before the beer board. An adjourned or special meeting of the beer board may be called by its chairman provided reasonable notice thereof is given to each board member of the board and there is a reasonable and just cause for such an additional session. Reasonable public notice shall likewise be given for any

---

<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).

adjourned or special meeting. (1972 Code, § 2-202, as replaced by Ord. #873, Jan. 2001, and amended by Ord. #925, Jan. 2005)

8-203. Record of beer board proceedings to be kept. The city clerk shall make a separate 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 or other actions taken. (1972 Code, § 2-203, as replaced by Ord. #873, Jan. 2001)

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. (1972 Code, § 2-204, as replaced by Ord. #873, Jan. 2001)

8-205. Powers and duties of the beer board. The beer board is hereby vested with all authority and power to administer this chapter to include the making of regulations and Tennessee Code Annotated, the taking of any action, not inconsistent with this chapter for clarifying, interpreting, carrying out, and enforcing the terms of this chapter and for ensuring the proper and orderly conduct of business licensees to include regulating the selling, storing, distributing and manufacturing of beer within the City of Athens and the issuance and revocation or suspension of licenses issued pursuant to this chapter. (1972 Code, § 2-205, and replaced by Ord. #873, Jan. 2001)

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 or any other beverage of alcoholic content as described in Tennessee Code Annotated, § 57-5-101. (1972 Code, § 2-206, as amended by Ord. #834, Sept. 1997, and replaced by Ord. #873, Jan. 2001)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person or legal entity regardless of its form of existence, i.e., corporation, limited liability company, partnership, etc. 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 authorize and furnish and shall be filed in the city manager's office, accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250). Said fee shall be in the form of a cashier's

check payable to the City of Athens. Each applicant, and if an entity, a person with ownership interest in the entity, must be a person of good moral character and certify that the applicant has not been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or any crime involving moral turpitude within the past five (5) years. Further, the applicant must certify that the applicant has read and is familiar with the provisions of this chapter. Upon receipt of the notarized application, the city manager's office will schedule the presentation of the application to the beer board and will notify the permittee or licensee of the date and time of such meeting. (Ord. #784, Nov. 1993, as replaced by Ord. #873, Jan. 2001)

8-208. Responsibilities of permittee. Each licensee must furnish the chief of police with a list of the names, date of birth, and social security number of all persons to be employed in the place where beer is to be sold and must inform the chief of police within 72 hours of employment as to the names, date of birth, and social security number of any persons employed after such list has been originally submitted. The list will be maintained by the police department at city hall. Employee shall be defined in this chapter as any person engaged in the operations of the business on a regular basis or who receives compensation from the business. Licensee shall be deemed responsible for the actions of all employees or agents in regard to state and local legislation related to beer, and a violation thereof by an employee or agent shall subject the licensee to appropriate sanction, including revocation or suspension of any license. Prior to January 1 of each year, it is the responsibility of permittee to pick up copies of any new legislation regulating the sale of beer. It is also the responsibility of the licensee to immediately notify the chief of police of any convictions or pleas for unlawful activity as defined in § 8-213 of the Athens Municipal Code. (as added by Ord. #873, Jan. 2001)

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 the retail sale of beer may be further restricted by the beer board 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 permit or license. It shall likewise be unlawful for the licensee not to comply with any and all express restrictions or conditions which may be written into the permit or license by the beer board. (1972 Code, § 2-208, as replaced by Ord. #873, Jan. 2001)

8-210. 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). To sustain a valid permit, any licensee shall remit the tax the 1<sup>st</sup> day of January of each year thereafter to the City of Athens,