

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

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2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

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8-101. 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 city except as provided by Tennessee Code Annotated, title 57. (Ord. 1012)

¹Charter references

Article II, section 18(12).

Municipal code references

Driving under the influence: section 15-104.

Public drunkenness, etc.: title 11, chapter 2.

State law reference

Tennessee Code Annotated, title 57.

8-102. Application for certificate of good moral character¹. 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,² an application in writing shall be filed with the city clerk on a form to be provided by the city, giving the following information:

- (1) Name, age and address of the applicant.
- (2) Number of years residence in the city.
- (3) Occupation or business and length of time engaged in such occupation or business.
- (4) 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 city ordinance, and the details of any such conviction.
- (5) If employed, the name and address of employer.
- (6) If in business, the kind of business and location thereof.
- (7) The location of the proposed store for the sale of alcoholic beverages.
- (8) The name and address of the owner of the store.
- (9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

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.

Each application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars (\$250.00). (Ord. 1012)

8-103. 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 city and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages. (Ord. 1012)

8-104. Applicant to appear before city council; duty to give information. An applicant for a certificate of good moral character may be required to appear

¹State law reference

Tennessee Code Annotated, § 57-3-208.

²State law reference

Tennessee Code Annotated, § 57-3-208 requires the certificate of good moral character to be signed by the mayor or a majority of the governing body.

in person before the city council for such reasonable examination as may be desired by the city council. (Ord. 1012)

8-105. 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 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.

The city council may issue a certificate of good moral character to any applicant, which shall be signed by the mayor or by a majority of the city council. (Ord. 1012)

8-106. Residency requirement. Residency is not a requirement as part of the certificate of good moral character (Section 8-105). (Ord. 1012, as replaced by Ord. #2000-14, Oct. 2000)

8-107. Applicants for certificate who have criminal record. No certificate of good moral character for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or vinting of wine, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of good moral character, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws. (Ord. 1012)

8-108. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. 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. (Ord. 1012)

8-109. 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 city except at locations zoned for that purpose, but in no event shall any establishment be located within five hundred (500) feet of a hospital, church or school, or any other place of public gathering, measured in a straight line¹ between the nearest point on the property line upon

¹State law reference

See Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.

which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the hospital, school, church, or other place of public gathering. (Ord. 1012)

8-110. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public. (Ord. 1012)

8-111. Limitation on number of retailers.¹ No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (Ord. 1012)

8-112. 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. (Ord. 1012)

8-113. Inspection fee. The City of Harriman hereby imposes an inspection fee in the amount of five percent (5%) on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (Ord. 1012)

8-114. Violations. Any violation of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine under the general penalty clause of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. 1012)

¹State law reference

Tennessee Code Annotated, § 57-3-208(c).

CHAPTER 2

BEER¹

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. Beer permits shall be restrictive.
- 8-209. Classes of consumption permits.
- 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. Revocation of beer permits.
- 8-214. Limitation on reissue of permits for same location.
- 8-215. Industry interest in permit prohibited.
- 8-216. Nonassignable.
- 8-217. Privilege tax.
- 8-218. Civil penalty in lieu of suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members, all of which are taxpayers for the City of Harriman and shall include one member of the Harriman City Council and one member of the Harriman Planning Commission. The chairman shall preside at its meetings. Its members shall serve without compensation for the staggered term of two (2) and four (4) year(s). The chairman is to serve a term of one (1) year and cannot be a member of the Harriman City Council. (Ord. 1008)

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 as follows: 4th Wednesday every month at 5:30 P.M.; unless the chairman announces in

¹Charter reference

Article 11, section 18(2).

Municipal code reference

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

advance that there is no business to come before the beer board. A special meeting of the beer board may be called by its chairman provided he gives ten (10) days notice thereof to each board member and to the public, and the board may adjourn a meeting at any time to another time and place. (Ord. 1008, as amended by Ord. #0314-01, March 2014)

8-203. Record of beer board proceedings to be kept. The city clerk shall be required to attend and to make separate record of the proceedings of all meetings of the beer board and the clerk shall be compensated the sum of \$50 for each meeting attended. 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 contents of each beer permit issued by the board. (Ord. 1008, as replaced by ord. 1022)

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. However, when a quorum is present the affirmative vote of only a simple majority of the members voting shall be required for affirmative action by the board. (Ord. 1008)

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 city in accordance with the provisions of this chapter. (Ord. 1008)

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. (Ord. 1008)

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, section 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 Harriman. 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. (Ord. 1008, as replaced by ord. 1022)

8-208. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Each permit shall be in the name of the corporation or owner designee. 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 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. (Ord. 1008)

8-209. Classes of consumption permits. Permits issued by the beer board shall consist of three (3) classes:

(1) Class 1 on-premises permit. A Class 1 on-premises permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 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; and
- (b) Be able to seat a minimum of thirty (30) people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) Have any and all such seating in the interior of the building or on an enclosed patio; and
- (d) Shall not have monthly beer sales exceeding fifty percent (50%) 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 fifty percent (50%) 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. To qualify for an off-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) Be a grocery store or a convenience type market; and
- (b) In either case, be primarily engaged in the sale of grocery, personal and home care and cleaning articles, but may also sell gasoline; and
- (c) Shall not have monthly beer sales exceeding fifty percent (50%) 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 fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(3) Special event permits for sale in certain areas. An application for a special events permit to sell beer, or any other beverage with an alcoholic content not exceeding five percent (5%) of weight, may be obtained from the city clerk for special events. An applicant for special events permit must meet all other requirements contained in title 8, chapter 2 of the Harriman Municipal

Code except such an event may be permitted without being located in a permanent structure as otherwise required in this section. A special events permit holder shall not be required to pay the privilege tax established in § 8-217 of this chapter.

(a) Emory Golf Course. Notwithstanding any other provisions of this section to the contrary, the beer board is hereby authorized and empowered in its discretion to permit the sale of beer at the Emory Golf Course, Map 026O, Group B, Parcel 011.00 and Map 026O, Group C, Parcel 012.00, at such times and events and under such terms, conditions, rules and regulations, including the temporary closure of public rights-of-way within the area with the express permission and cooperation of the city police department, as the beer board may establish which are not inconsistent with state law regulating the sale of beer.

(b) Harriman Industrial Park. The beer board is further authorized and empowered in its discretion to permit the sale of beer on the site of the Harriman Industrial Park, Map 018. Parcel 058.00, at such times and events and under such terms, conditions, rules and regulations, including the temporary closure of public rights-of-way within the area with the express permission and cooperation of the city police department as the beer board may establish which are not inconsistent with state law regulating the sale of beer.

(c) Any person, organization or other entity conducting a special event at Emory Golf Course or Harriman Industrial Park shall provide at least forty-five (45) days advance written notice to the chairman of the beer board, with a copy to the city clerk, of the intent to conduct such a special event. The notice required by this subsection shall include, but not necessarily be limited to, the following information:

- (i) Date(s) and time(s) of the event(s);
- (ii) The sponsor of the event;
- (iii) The specific location where any beer is to be sold;
- (iv) Any plans for proposed temporary closure of public rights-of-way;
- (v) Plans for security and policing of the event; and
- (vi) The anticipated number of persons attending the event.

Upon receipt of the notice as required herein, the proposed special event shall be posted and advertised and subsequently shall be placed on the beer board's agenda at its next regularly scheduled meeting following receipt of the notice and the sponsor of the proposed event shall send a representative or representatives to the beer board meeting to address any questions or issues arising out of the proposed special event.

The special permit shall not be issued for longer than a four (4) consecutive day period, subject to the limitations on the hours of sale imposed by law, except this provision shall not apply to special event

permits issued for the Harriman Industrial Park. The special permit for the Harriman Industrial Park shall not be issued for longer than forty-five (45) days in any twelve (12) month period, subject to the limitations on the hours of sale imposed by law.

(d) The fee for each special events permit shall be one hundred dollars (\$100.00).

(4) Special occasion permit. An application for a permit to serve but not sell beer, or any other beverage with an alcoholic content not exceeding five percent (5%) of weight, may be obtained from the city clerk for special occasions:

(a) The beer board of the city is authorized to issue special occasion permits to bona fide charitable, nonprofit or political organizations for special occasions. Special occasion permits to bona fide charitable, nonprofit or political organizations shall be limited to two (2) events per organization in any twelve (12) month period.

(b) The special occasion permit shall not be issued for longer than one (1) twenty-four (24) hour period, subject to the limitations on the hours of sale imposed by law. The application for the special occasion permit shall state whether the applicant is a charitable, nonprofit or political organization, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose for the request of the permit.

(c) The fee for each special occasion permit shall be fifty dollars (\$50.00).

(d) For purposes of this section: "Bona fide charitable organization" or "nonprofit organization" means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code. "Bona fide political organization" means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-101(a) or any political party as defined in Tennessee Code Annotated, § 2-13-101.

(e) No charitable, nonprofit or political organization possessing a special occasion permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided to state law.

(5) Existing permits. Existing permits granted prior to annexation shall be in full force and effect. (Ord. 1008, as replaced by Ord. #0314-01, March 2014)

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. (Ord. 1008)

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. 1008)

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. to 8:00 A.M. weekdays on Monday through Saturday or between the hours of 3:00 A.M. and 12:00 noon on Sundays.

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

In addition, it shall be unlawful for any Class 2 on premises permit holder to employ any person under the age of eighteen (18) on the premises in any capacity whatsoever. (Ord. 1008, modified, as amended by Ord. #0314-01, March 2014)

8-213. Revocation of beer permits. 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 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 reputable local citizen upon the filing of an application with the beer board requesting such action. (Ord. 1008)

8-214. Limitation on reissue of permits for same location. Where a permit is revoked, no new permit shall be issued to permit the sale of beer on

the same premises until after the expiration of one year from the date the revocation became final and effective. (Ord. 1008)

8-215. Industry interest in permit prohibited. No permits shall be issued when a brewer, manufacturer, distributor or warehouseman of legal beer has any interest in the business, financial or otherwise, or in the premises upon which the sale of beer is to be carried out. (Ord. 1008)

8-216. Nonassignable. Holders of permits may not assign permit to new owners of establishment, property or anyone else. (Ord. 1008)

8-217. 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, 1994, and each successive January 1, to the City of Harriman, 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. 1022)

8-218. Civil penalty in lieu of suspension. The beer 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.