

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

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8-101. Definitions. Whenever used in this chapter unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverages" and "Intoxicating liquor" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine, and capable of being consumed by a human being, other than patented medicine, beer or wine, where the latter two contains an alcoholic content of five (5) percent by weight or less.

(2) "Person" means any natural person as well as any corporation, partnership, firm or association.

(3) "City" means the City of Algood, Tennessee.

¹State law reference

Tennessee Code Annotated, title 57.

(4) "City council" means the mayor and board of aldermen of the City of Algood, Tennessee. (Ord. #285A, April 1987)

8-102. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess and receive alcoholic beverages in the city unless the provision of this chapter and the law of the State of Tennessee and the Rules and Regulations of the Alcoholic Beverage Commission have been complied with. Nothing in this chapter regulates the transportation, storage, sale, distribution, possession or receipt of or tax upon any beverage of alcoholic content of five (5) percent by weight or less, and no ordinance related thereto is modified by this chapter. (Ord. #285A, April 1987)

8-103. State laws to be complied with. No person, firm, corporation, association or partnership shall engage in retail liquor business unless all the necessary state licenses and permits have been obtained. (Ord. #285A, April 1987)

8-104. Domicile. No person, member of a firm, corporation, partnership, or association shall own or operate a retail store for the sale of alcoholic beverages as herein defined if he shall not have been a resident domiciled in the corporate limits of the city for two years and have been a qualified voter in municipal elections in the city for a period of one year. This requirement as to domicile in the case of a corporation, firm, association or partnership shall apply to all of its officers, shareholders, directors, partners and members. (Ord. #285A, April 1987)

8-105. Location of retail store. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the City of Algood, Tennessee, unless the location of the liquor store is properly located on the Algood By-Pass of State Highway 42. (Ord. #285A, April 1987)

8-106. Retail store restrictions. No retail store shall be located except on the ground floor and it shall have one main entrance facing toward the highway and no other entrance for the use of the public. In addition, to the fullest extent consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the highway to the interior of the place of sale therein. Said building shall be of a permanent type of construction and no store shall be located in a mobile home or other moveable type of building. Said store shall have night lighting all around the outside of the premises and shall be provided with sufficient space on a paved surface for the parking of at least six (6) automobiles, exclusive of parking for employees of the store. All retail sales shall be confined to the premises of the licensee, and no

curb service shall be permitted nor shall there be permitted drive-in windows. (Ord. #285A, April 1987)

8-107. Number of stores. There shall be no more than one (1) retail liquor store for each two thousand (2,000) of the city's population by the 1980 or any subsequent United States Census. (Ord. #285A, April 1987)

8-108. Distance restriction. No retail store shall be located within three hundred (300) feet of a school or church, or other place of public gathering, measured using a straight line.

8-109. Inspection fee. The City of Algood hereby imposes an inspection fee in the maximum amount allowed by T.C.A., § 57-3-501, et. seq., on all retailers of alcoholic beverages located within the corporate limits of the city. (Ord. #285A, April 1987)

8-110. Contents of application to the City of Algood for certificate of good moral character. Each applicant for a certificate of good moral character shall file an application for same with the city. Each application shall be upon oath and contain the full name and address of each owner, partner, stockholder, director, officer, and any other person having any financial interest in and to said proposed liquor store, and shall be signed by each and his signature acknowledged. Each application shall specifically describe the location of the proposed liquor store and be accompanied by a true copy of the deed, lease, contract, or other instrument under which the applicant owns or possesses the location proposed. Each application shall contain or be accompanied by a sworn statement as to each person required to sign the application that he has not been convicted of a felony within a ten-year period immediately preceding the date of application. (Ord. #285A, April 1987)

8-111. Certificate of good moral character. A certificate of good moral character shall be signed by a majority of the city council while in session conditioned on the applicant fulfilling the following requirements:

(1) The applicant and all persons required to sign the application who are to be in actual charge of the business are known or determined by a majority of the city council to have good general character.

(2) The applicant or applicants have secured a location for the proposed liquor store which complies with all restriction of this chapter and all other applicable ordinances.

(3) The applicant or applicants meet the domicile requirements of this chapter.

(4) An application for certificate of good moral character must be submitted by all owners, partners, stockholders and directors of the applicant, and failure to reveal the financial interest of any person or corporation shall be grounds for denial of the certificate of good moral character. (Ord. #285A, April 1987)

8-112. Processing applications. All applications for certificates of good moral character shall be filed with the city recorder at least ten (10) days prior to a regular or special called meeting. The city council shall review the application and take appropriate action. (Ord. #285A, April 1987)

8-113. Penalties. Any violation of any section of this chapter upon conviction shall be punished by a fine of not less nor more than \$500.00. Each day such violation continues shall constitute a separate offense. (Ord. #285A, April 1987, as amended by Ord. #334B, Oct. 1993)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
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- 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.
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- 8-210. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-211. Prohibited conduct or activities by beer permit holders.
- 8-212. Revocation of beer permits.

8-201. Beer board established. There is hereby established a beer board to be composed of five (5) members appointed by the governing body. All members of the beer board shall be citizens of the municipality. They shall be appointed for five (5) year terms except that the first members shall be appointed for staggered terms so that the term of one (1) member shall expire each year thereafter. A chairman shall be elected annually by the board from among its members. Members of the beer board shall serve without compensation. (1974 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 gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1974 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

¹State 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).

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. (1974 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. (1974 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 municipality in accordance with the provisions of this chapter. (1974 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. (1974 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. 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. (1974 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. 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 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. (1974 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 three hundred (300) feet of any school, church or other such place of public gathering, measured using a straight line. (1974 Code, § 2-210, modified)

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 within the past ten (10) years. (1974 Code, § 2-211)

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 minor under eighteen (18) years of age 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) Make or allow any sale of beer between the hours of 3:00 A.M. and 8:00 A.M. during any night of the week; between the hours of 3:00 A.M. and 12:00 Noon on Sunday; or on election days before and while the polls are lawfully open.

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

(5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(6) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.

(7) Make or allow any sale 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 his premises.

(9) 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.

(10) Allow dancing on his premises.

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

(12) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1974 Code, § 2-212, as amended by Ord. #332A, March 1993, modified)

8-212. 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 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 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 member of the municipal governing body. (1974 Code, § 2-213)