

CHAPTER 2

BEER¹

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8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. The mayor shall be the chairman of the board. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

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 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. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

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).

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. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

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. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

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. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-206. "Beer" defined. The term "beer" shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101 subsection (b). (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010, and Ord. #2017-07-02, Aug. 2017)

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 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 Munford. 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. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a 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 1st to the City of Munford,

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. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-209. Classes of permits. There shall be three (3) classes of permits issued by the beer board, as follows:

(1) **Class A.** A manufacturer's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer. A manufacturer of beer shall be defined as one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of beer.

(2) **Class B.** An "off-site" permit to applicants whose place of business is a grocery store or convenience type market in the commercial areas of the City of Munford. Grocery store shall be defined as any commercial establishment which derives seventy-five percent (75%) of its gross sales from the sale of food or food products that are to be prepared and consumed off the premises. Convenience type market shall be defined as any commercial establishment which sells gasoline and/or diesel fuel and bread, milk and canned foods used for human consumption.

(3) **Class C.** An "on-site" permit to any person or legal organization engaged in the operation of a restaurant wherein the sale of beer is for consumption on the premises. A restaurant shall be defined as a business establishment whose primary business is the sale of prepared food to be consumed on the premises and less than forty percent (40%) of its gross sales is from the sale of beer and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty-eight (48) people at tables, and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. If any such establishment for which two (2) consecutive months or for any three (3) months in any calendar year has beer sales exceeding forty percent (40%) of its gross sales, the beer board shall conduct a hearing to determine if the on-site permit should be revoked or suspended for violation of this chapter. The City of Munford will require gross sales reports periodically to insure compliance with this chapter.

(4) A single permit may be issued for on premise and off premise consumption if all other requirements are met. (Ord. #98-01, March 1998, as replaced by Ord. #2002-09-03, Sept. 2002, and Ord. #2008-04-01, April 2010)

8-210. Sale of beer permitted only in specified zones. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the City of Munford, Tennessee, provided that permits authorized by this chapter

shall be issued for locations that are now zoned or may be in the future zoned as follows:

- (1) Class A Permits: Zoning Districts/Commercial and Industrial
- (2) Class B Permits: Zoning Districts/Commercial
- (3) Class C Permits: Zoning Districts/Commercial (Ord. #98-01, March 1998, as amended by Ord. #98-01, April 1998, and replaced by Ord. #2002-09-03, Sept. 2002, and Ord. #2008-04-01, April 2010)

8-211. 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, religious institutions, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, religious institution or other place of public gathering if a valid permit has been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

- (1) Distance requirements for Class A permit. None.
- (2) Distance requirement for Class B permit. No permit will be issued to a grocery store or convenience type market if the store or market property line adjoins any hospital, school, religious institution or public gathering place. The only exception shall be the establishments that have a valid permit to sell beer at the time of annexation into the City of Munford.

- (3) Distance requirements for Class C permit. No permit for on-site consumption will be issued authorizing the sale or storage of beer within three hundred feet (300') of any hospital, school, religious institution or other public gathering place. The distances shall be measured in a straight line from the nearest corner of the hospital, school, religious institution or other public gathering place and the nearest corner of the structure where the beer is to be sold.

- (4) (a) Notwithstanding the provisions of § 8-211(3), establishments that have current valid permits from the State of Tennessee to sell liquor by the drink on-premises may apply for and be granted permits to sell beer for on-premises consumption, provided that they meet all other requirements for the beer permit.

- (b) If an establishment secures an on-premises beer permit issued pursuant to § 8-211(4)(a) above, that permit shall automatically terminate effective at the time the establishment ceases to maintain a current valid state license to sell liquor by the drink.

- (5) (a) Notwithstanding the provisions of § 8-211(2) and (3), establishments that have current valid permits from the State of Tennessee to sell wine in retail food stores may apply for and be granted

permits to sell beer for off-premises consumption, provided that they meet all other requirements for the beer permit.

(b) If an establishment secures an off-premises beer permit issued pursuant to § 8-211(5)(a) above, that permit shall automatically terminate effective at the time the establishment ceases to maintain a current valid state license to sell wine in retail food stores. (Ord. #98-01, March 1998, and Ord. #2002-09-03, Sept. 2002, as replaced by Ord. #2008-04-01, April 2010, and amended by Ord. #2016-02-01, March 2016)

8-212. 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. No persons, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within that past ten (10) years. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-213. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any 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.

(3) Allow the sale of beer within the City of Munford, Tennessee between 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 12:00 noon on Sundays. All containers, glasses or other vessels of any type which have been used for serving and consumption of beer, shall be removed by licensee from the area or areas where the beer had been consumed and placed in areas not for access by patrons of the establishment no later than 3:15 A.M.

(4) Make or allow 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 feeble-minded, insane, or otherwise mentally incapacitated person.

(7) Allow drunk persons to loiter around his premises.

(8) Serve, sell, or allow the consumption on his premises of any alcoholic beverage as defined by Tennessee Code Annotated, § 57-3-101(1)(A)

without having a valid liquor by the drink permit issued by the Tennessee Alcoholic Beverage Commission.

(9) Allow any loud, unusual, or obnoxious noises to emanate from his premises or from any adjacent building or property owned, leased, controlled or in the possession of the permit holder.

(10) When a minor is seated at a table, there shall be no beer served at that table unless such minor is accompanied by one (1) of his parents or a legal guardian, and then only if served in conjunction with food. (Ord. #98-01, March 1998, as amended by Ord. #2002-09-03, Sept. 2002, replaced by Ord. #2008-04-01, April 2010, and amended by Ord. #2017-07-01, Aug. 2017)

8-214. Suspension and revocation of beer permits. The beer board shall have the power to suspend, revoke, or place on probation with or without a civil penalty 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 state law or whenever it shall satisfactorily appear that the premises of any person, firm, or corporation holding a permit under this chapter are being maintained and operated in such manner as to be detrimental to public health, safety, and morals. Except as hereinafter provided, 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 any member of the beer board or the chief of police. The beer permit holder must appear at the designated beer board hearing. Failure to appear may result in revocation of permit. The foregoing shall be in addition to any punishment imposed upon such holder by a court of law.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #98-01, March 1998, as amended by Ord. #98-01, April 1998, and Ord. #2002-09-03, Sept. 2002, replaced by Ord. #2008-04-01, April 2010, and amended by Ord. #2010-04-01, April 2010)

8-215. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty, not to exceed the maximum allowed by the laws of the State of Tennessee, for each offense of making or permitting to be made any sales to minors or, a civil penalty, not to exceed the maximum allowed by the laws of the State of Tennessee, for any other offense. The beer board may impose on a responsible vendor a civil penalty, not to exceed the maximum allowed by the laws of the State of Tennessee, for each offense of making or permitting to be made any sales to minors or 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 revocation or suspension by a 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 the city may impose. (Ord. #98-01, March 1998, as amended by Ord. #98-01 Amendment, April 1998, and replaced by Ord. #2008-04-01, April 2010)

8-216. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid, and the clerk may not reapply for a new certificate for a period for one (1) year from the date of the beer board's determination. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-217. Public notice. Before the beer board shall issue a permit, it shall cause to be published in a newspaper of general circulation a notice in which the name of the applicant and the address of the location for such permit and the date and the time of its meeting at which such application shall be considered. The notice shall be published not less than ten (10) days prior to such meeting. Such meeting shall be a published hearing for the purpose of hearing the statement of any person or his attorney on any application for license or permit. (Ord. #98-01, March 1998, as replaced by Ord. #2008-04-01, April 2010)

8-218. Violations. Except as provided in § 8-215, 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. (as added by Ord. #2002-09-03, Sept. 2002, and replaced by Ord. #2008-04-01, April 2010)

8-219. Standards of conduct on-premises of licenses. (1) In addition to the other duties imposed by the beer board or by the city, it shall be the duty of said board to enforce the provisions of this section and revoke or suspend the beer permit of any person, business, firm, corporation, syndicate or associate, upon notice and hearing, for violation of the provisions of this section.

(2) The following acts or conduct have been declared contrary to public policy by the General Assembly of the State of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission; and the same are hereby declared to be against the public policy of the city, and therefore, no beer permit shall be held at any premises where such acts or conduct are permitted:

(a) To permit any employee or person to wear such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(b) To employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (a).

(c) To encourage or permit any person on the premises of a permittee to touch, caress or fondle the breast, buttocks, anus or genitals of any other person.

(d) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(3) Acts or conduct on-premises licensed by the alcoholic beverage commission that have been deemed contrary to public policy by the General Assembly of the State of Tennessee are hereby declared against the public policy of the city, and therefore, no beer permit shall be held at any premises where such conduct or acts are permitted. Live entertainment is permitted on premises of a permittee except that:

(a) No permittee shall permit any person to perform acts of or acts which simulate:

(i) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(ii) The touching, caressing, or fondling of the breast, buttocks, anus or genitals.

(iii) The displaying of the pubic hair, anus, vulva or genitals.

(b) Subject to the provisions of subdivision (a) hereof, any entertainer who is employed in whole or in part of the permittee to dance at such permittee's premises shall perform only upon a stage at least

eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.

(c) No permittee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(d) No permittee shall permit any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus.

(4) The following acts or conduct have been declared contrary to public policy by the General Assembly of the State of Tennessee when such activities take place upon premises licensed by the alcoholic beverage commission, and the same are hereby declared to be against the public policy of the city and therefore no beer permit shall be held at any premises where such conduct or acts are permitted: The showing of film, still pictures, electronic reproduction, or other visual reproduction depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

(c) Scenes wherein a person displays the vulva or the anus or the genitals.

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above. (as added by Ord. #2008-04-01, April 2010)