TITLE 8

ALCOHOLIC BEVERAGES[1]

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CHAPTER 1

MISCELLANEOUS

SECTION

8-101. Establishments permitting persons in a state of nudity etc.
8-102. Consumption of alcohol in municipal parks and playgrounds prohibited.

8-101. Establishments permitting persons in a state of nudity etc.

(1) Definitions. As used in this section, the following words shall have the following respective meanings:

(a) "Alcoholic beverage" liquor and every liquid containing alcohol, spirits and wine as used in this section shall mean and include alcohol, spirits and wine capable of being consumed by human beings other than patented medicine or beer, which has as alcoholic content of five percent (5%) by weight or more.

(b) "Beer" as used in this section shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight other than patented medicine.

(c) "Owner or operator" as used in this section shall mean any property owner, lease holder, manager or supervisor of any establishment wherein the hereinafter prohibited activity is permitted.

(2) Sale of beer, wine or alcoholic beverages prohibited. It shall be prohibited for any owner or operator to permit the sale of beer, wine or alcoholic beverages in any establishment where the customers, employees, bartenders, waitresses, performers or any other person are directed or permitted to present themselves in a state of nudity as defined in § 9-302(14).

(3) Advertisement of exposure prohibited. It shall be unlawful for any owner or operator of any establishment to advertise or permit the advertisement by sign, billboard, media advertisement or other public notice that customers,

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[1]State law reference
Tennessee Code Annotated, title 57.

employees, bartenders, waitresses, performers or other persons on said premises do or shall present themselves in a state of nudity as defined in § 9-302(14).

(4) Geographic location of establishment restricted. Any establishment wherein customers, employees, bartenders, waitresses, performers or any other person is permitted to present themselves in a state of nudity as defined in § 9-302(14) shall not be located within one thousand (1,000) yards of any establishment wherein the sale of beer, wine or alcoholic beverages are permitted to be sold, either wholesale or retail, nor within one thousand five hundred (1,500) yards of any school, church, playground or public park nor within one thousand (1,000) yards of the city hall or any other public building wherein the citizens of the city regularly travel or maintain access in the course of exercising their rights and duties of citizens of the City of Bartlett, Tennessee.

(5) Personal exposure prohibited. It shall be unlawful for any person to present himself in any establishment wherein beer, wine or alcoholic beverages are served or which advertises in violation of subsection (3) hereof or which is located in any prohibited geographic areas prescribed by subsection (4), in a state of nudity as defined in § 9-302(14).

(6) Penalties. Violation of any provision of this section shall subject the violator to a fine of not more than fifty dollars ($50.00) for each offense, each instance of exposure by separate offenders constituting a separate offense. (Ord. #77-2, Feb. 1977, modified)

8-102. Consumption of alcohol in municipal parks and playgrounds prohibited. (1) It shall be a violation of this chapter for any person to consume and/or possess alcoholic beverages, beer or wine in municipal parks and playgrounds.

(2) Penalty. Violation of this section shall be subject to the violator to a penalty not to exceed a fine of fifty dollars ($50.00) for each violation. (Ord. #02-05, May 2002)

CHAPTER 2

INTOXICATING LIQUORS

SECTION

8-201. Alcoholic beverages subject to regulation.
8-202. Definitions.
8-203. Application for certificate.
8-204. Renewal of certificate.
8-205. Applicant to agree to comply with laws.
8-206. Applicant to appear before board of mayor and aldermen; duty to give information.
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8-219. Hours of sale.
8-220. Inspection of business establishments.
8-221. Inspection fee.
8-222. Radios, amusement devices and seating facilities prohibited in retail establishments.
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8-201. 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.

8-202. Definitions. "Alcoholic beverage" or "beverage" as used in this chapter means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits and wine and capable of being consumed by a human being, other than patented medicines, beer or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight or less. (Ord. #68-1, April 1968)

8-203. Application for certificate. Before any certificate of compliance, 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, an application in writing shall be filed with the finance director or his or her designee 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 if each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of five hundred dollars ($500.00).

8-204. Renewal of certificate. Certificates of compliance shall be issued for twelve (12) month periods commencing on the effectiveness date. The licensee shall renew the certificate and pay the fee set forth in § 8-203.

8-**205. Applicant to agree to comply with laws**. The applicant for a certificate of compliance 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.

8-206. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board.

8-207. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review. If the application is approved, it shall be signed by the mayor.

8-208. Display of license. Persons granted licenses to carry on any of the businesses or undertakings contemplated by this chapter shall, before being qualified to do business, display and post and keep displayed and posted such license in a conspicuous place on the premises of such license. (Ord. #68-1, April 1968)

8-209. Duplicate license. When a license shall be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued by the tax clerk of the city only after such clerk has been furnished with satisfactory evidence of such loss without fault of the licensee; provided, however, that upon the issuance of such duplicate license the licensee shall be required to pay a fee of ten dollars ($10.00). (Ord. #68-1, April 1968, modified)

8-210. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of the City of Bartlett for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of the City of Bartlett not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years.

8-211. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, 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 compliance, 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.

8-212. 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.

8-213. Location. (1) Retailers. No person, firm or corporation shall locate an establishment for the warehousing, sale or manufacture of alcoholic beverages of alcohol content greater than five percent (5%) for off premise consumption closer than five hundred (500) feet to a church, school or other place of public gathering, said distance to be measured along a direct line from the closest point on the building of the alcoholic beverage licensee to the closest

point on the building of the church, school or other place of public gathering; provided, however, in that instance where the place of public gathering is a park or recreational facility the distance shall be measured from the property line of that place of public gathering.

(2) Licensee in proximity to residences prohibited. No person, firm or corporation shall locate an establishment for the warehousing, sale or manufacture of alcoholic beverages of alcoholic content greater than five percent (5%) for off premise consumption upon premises closer than five hundred (500) feet to any zoning district for limited residential purposes to include zones RS, RS-1, RS-1A, RTH and R-2 as designated on the official zoning ordinance[1] and map[2] of the City of Bartlett. (Ord. #77-2, Feb. 1977, as amended by Ord. #80-28, Nov. 1980, modified)

8-214. 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.

8-215. Number of licenses. The number of retail licenses issued and outstanding in the city at any time shall be restricted to three (3). The number of liquor stores in the City of Bartlett is limited to three (3). (Ord. #72-6, Jan. 1973, as amended by Ord. #93-18, ___)

8-216. Zoning restriction of alcoholic beverage retailers established. No person, firm or corporation shall locate an establishment for the retail warehousing, sale or manufacture of alcoholic beverages of alcohol content greater than five percent (5%) for off premise consumption in any zone except those designated O-C, C-H, SC-1, C-L, and C-G upon the official zoning map[2] and ordinance[1] of the City of Bartlett, or any country club or lodge with a special permit. (Ord. #80-28, Nov. 1980, modified)

8-217. On-premises consumption. Any country club or lodge with special use permit. (Ord. #68-1, April 1968, modified)

8-218. Sales to minors, etc. It shall be unlawful for any licensee to sell, furnish or give away any beverages to any person visibly intoxicated, or to any

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[1]The zoning ordinance is included in this municipal code as Appendix A.

[2]The Zoning Map is available in the office of the city clerk.

insane person, or to any minor, or to any habitual drunkard or persons of known intemperate habits. (Ord. #68-1, April 1968)

8-219. Hours of sale. Retailers may remain open for business between the hours of 8:00 A.M. and 11:00 P.M. each day; provided, however, that no retailer shall sell, give away or otherwise dispose of any alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M., Central Standard Time on the following Monday; provided, further, that no retailer shall sell, give away or otherwise dispose of any alcoholic beverage on a general or primary election day. (Ord. #68-1, April 1968)

8-220. Inspection of business establishments. The duly authorized representatives of the city shall have the right to inspect the premises of any business licensed under this chapter during the hours when such establishments are open for the conduct of business. (Ord. #68-1, April 1968)

8-221. Inspection fee. The City of Bartlett hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (Ord. #07-06, May 2007)

8-222. 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. #07-06, May 2007)

8-223. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision 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. #07-06, May 2007)

CHAPTER 3

BEER[1]

SECTION

8-301. Beer board established.
8-302. Meetings of the beer board.
8-303. Record of beer board proceedings to be kept.
8-304. Requirements for beer board quorum and action.
8-305. Powers and duties of the beer board.
8-306. "Beer" defined.
8-307. Permit required for engaging in beer business.
8-308. Beer permits shall be restrictive.
8-309. Issuance of permits to persons convicted of certain crimes prohibited.
8-310. Prohibited conduct or activities by beer permit holders.
8-311. Suspension, revocation and civil penalty.
8-312. Beer permit and application fee required.
8-313. Interference with public health, safety, and morals prohibited--on-premises permit distance.
8-314. Interference with public health, safety, and morals prohibited--off-premises permit--distance
8-315. Method of measuring location distance prohibitions.

8-301. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (Ord. #74-5, March 1974, Ord. #01-16, Sept. 2001, and Ord. #01-19, Dec. 2001)

8-302. 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 reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #74-5, March 1974)

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[1]Municipal code reference
Wholesale beer tax: title 5, chapter 4.
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).

8-303. Record of beer board proceedings to be kept. The city clerk shall be required to attend and 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:

(3) The date of each meeting;

(4) The names of the board members present and absent;

(5) The names of the members introducing and seconding motions and resolutions;

(6) A copy of each such motion or resolution presented;

(7) A vote of each member thereon; and

(8) The provisions of each permit issued by the board. (Ord. #74-5, March 1974)

8-304. 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. #74-5, March 1974)

8-305. 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, distribution for sale, and manufacturing of beer within the City of Bartlett in accordance with the provisions of this chapter, and it shall have the power to promulgate reasonable rules and regulations for the conduct of its business and the enforcement of this chapter. (Ord. #74-5, March 1974)

8-306. "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. #74-5, March 1974)

8-307. Permit required for engaging in beer business. (1) It shall be unlawful for any person to sell, store, distribute, or manufacture beer without having first exhibited a receipt for the taxes provided for in the state's "Business Tax Act"[1] and without first making application to and obtaining a permit from the beer board. The permit shall be applied for upon a form as prescribed by the beer board.

(2) Upon application being filed, the finance director or his designee shall cause same to be published in the official newspaper of the city at least one (1) week prior to its consideration by the beer board, the costs of publication to be paid by the applicant. If the application is for a place of business where beer

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[1]State law reference
Tennessee Code Annotated, title 67, chapter 4.

has not been sold in the last twelve (12) months, all property owners within one thousand (1,000) feet of the proposed location shall be notified by United States mail at least one (1) week before consideration by the beer board, giving the name of the applicant, type of permit requested and the time and date of the hearing. (Ord. #74-5, March 1974, modified)

8-308. 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 a beer permit holder to fail to comply with any and all of the express restrictions or conditions which may be written into his permit by the beer board. No beer permit shall be subject to transfer or assignment. No beer permit shall be issued to a spouse, child, relative, employee, or other person having any interest in the business of a licensee whose beer permit has been revoked in the past twelve (12) months. (Ord. #74-5, March 1974)

8-309. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted of any violation of state laws or local ordinances against the possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude within the past ten (10) years. Any such conviction shall likewise be grounds for revocation of any permit issued under this chapter. (Ord. #74-5, March 1974)

8-310. 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 2:00 A.M. and 6:00 A.M. during any night of the week; from 2:00 A.M. to noon on Sunday.

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

(12) Allow beer to be sold or consumed whenever the licensed premises are locked.

(13) Sell or dispense, or permit his agents, servants or employees to sell or dispense beer when the person selling or dispensing beer is drinking intoxicants of any kind or character. (Ord. #74-5, March 1974, as amended by Ord. #91-16, Oct. 1991, modified)

8-311. Suspension, revocation and civil penalty. (1) Revocation, suspension, or imposition of civil penalty may be made for any violation of any provision of this chapter or whenever it shall satisfactorily appear that the premises of any person, firm or corporation holding a permit or license under this chapter are being maintained and operated in such manner as to be detrimental to public health, safety or morals.

(2) The City of Bartlett Beer Board may, but is not obligated to, at the time it imposes a revocation or suspension, offer a permit or license holder the alternative of paying a civil penalty not to exceed one thousand five hundred dollars ($1,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars ($1,000.00) 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 imposed. If the civil penalty is paid within that time, the revocations or suspension shall be deemed withdrawn though it will continue on record for determining multiple offenses. The holder's payment of a civil penalty shall not affect the holder's ability to seek review of the civil penalty pursuant to Tennessee Code Annotated, § 57-5-108(d).

(3) The City of Bartlett Beer Board may at any time accept the payment of a civil penalty, not to exceed the amounts set forth in subsection (2) by a permit or license holder charged with a violation of this chapter which payment 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 city may impose.

(4) No permit or license shall be revoked on the grounds the operator or any person working for the operator sells beer to a minor over the age of eighteen (18) years if such minor exhibits an identification, false or otherwise, indicating the minor's age to be twenty-one (21) or over, if the minor's

appearance as to maturity is such that the minor might reasonably be presumed to be of such age and is unknown to such person making the sale. The license or permit may be suspended for a period not to exceed ten (10) days or a civil penalty up to one thousand five hundred dollars ($1,500.00) may be imposed pursuant to subsection (2). However, this shall not be construed in any way to relieve the minor from liability for making such illegal purchase as provided in Tennessee Code Annotated, § 57-5-301.

(5) Where a permit or license is revoked, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective. The board, in its discretion, may determine that issuance of a license or permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the license or any family member who could inherit from such individual under the statute of intestate succession. (Ord. #03-04, April 2003)

8-312. Beer permit and application fee required. Upon filing of an application for a beer permit the applicant shall pay to the tax clerk of the City of Bartlett an application fee of two hundred fifty dollars ($250.00) plus an additional sum equivalent to the publication cost of required newspaper publication, said fees to be non-refundable. (Ord. #83-26, Oct. 1983, as amended by Ord. #93-18, Sept. 1993)

8-313. Interference with public health, safety, and morals prohibited--on-premises permit distance. No permit authorizing the sales of beer for on-premises consumption will be issued when such business would cause congestion or traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the City of Bartlett. In no event will a beer permit be issued authorizing the storage for sale or sale of beer for on-premise consumption at places within two hundred and twenty-five (225) feet of any school or church. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, and Ord. #01-13, Aug. 2001)

8-314. Interference with public health, safety, and morals prohibited--off-premises permit--distance. No permit authorizing the sale of beer for off-premises consumption will be issued when such business would cause congestion or traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the City of Bartlett. In no event will a beer permit be issued authorizing the manufacture, storage or sale of beer for off-premises consumption at places within two hundred and twenty-five (225) feet of any school or church. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, and Ord. #01-13, Aug. 2001)

8-315. <u>Method of measuring location distance prohibitions</u>. Whenever in this chapter a distance is specified within which beer for on-premises or off-premises consumption is prohibited that distance shall be measured in a straight line from the closest point on the building of the school or church, to the closest point on the building of the permit applicant. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, and #Ord. #01-13, Aug. 2001)