

TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

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8-101. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Alcoholic beverage" or "beverage" means and includes all alcohol, spirits, liquor, wine, high alcohol content beer and other liquids included in the definition of "alcoholic beverage" contained in Tennessee Code Annotated, § 57-3-101(a), as the same may be amended, supplemented or replaced.

(2) "Certificate" or "certificate of compliance" means the certificate required pursuant to Tennessee Code Annotated, §§ 57-3-208 or 57-3-806, as the same may be amended, supplemented or replaced, and subject to the provisions set forth in this article for issuance of such a certificate.

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<sup>1</sup>Municipal code references

Driving under the influence: section 15-104.

Minors in beer places, public drunkenness, etc.: title 11 chapter 2.

State law reference

Tennessee Code Annotated, title 57.

(3) "License" means a license issued by the alcoholic beverage commission of the state pursuant to Tennessee Code Annotated, §§ 57-3-204 or 57-3-803, as the same may be amended, supplemented or replaced, provided that the issuance of licenses shall be subject to the restrictions set forth in this article.

(4) "Licensee" means any person to whom a license has been issued.

(5) "Majority owner" means any person who owns fifty-one percent (51%) or more of the business.

(6) "Manufacturer of intoxicating liquors" means one who employs a minimum of twenty-five (25) full-time employees in the manufacturing of alcoholic beverages.

(7) "Near" means any portion of the property containing the business, any portion of another property which adjoins the property containing the business, or any portion of another property which is located within two hundred feet (200') of the property which contains the business.

(8) "Retail sale" means a sale to a consumer or to any person for any purpose other than for resale.

(9) "Retail food store" means an establishment which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to Tennessee Code Annotated, title 57, chapter 3, part 8.

(10) "Retail liquor store" or "retail package store" means any business which is required to have a license for the retail sale of alcoholic spirituous beverages, including beer and malt beverages, under the provisions of Tennessee Code Annotated, title 57, chapter 3, part 2.

(11) "Wholesale" means a sale to any person for purposes of resale, except that sales by a person licensed under Tennessee Code Annotated, § 57-3-204 to a charitable, nonprofit or political organization possessing a valid special occasion license for resale by such organizations pursuant to their special occasion license shall not be construed as such a sale.

(12) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57, chapter 3.

(13) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, as further defined by Tennessee Code Annotated, §§ 57-3-101 and 57-3-802, as the same may be amended, supplemented or replaced. (as replaced by Ord. #05-08-05, Oct. 2005, and Ord. #16-03-02, March 2016)

8-102. Scope of chapter. This chapter shall govern the manufacture of intoxicating liquor, retail package stores, retail food stores and consumption on-premises (liquor-by-the-drink) of alcoholic beverages in the Town of Atoka.

Nothing in this chapter regulates the distribution, possession, receipt of, sale, storage, tax upon, or transportation upon any beverage of alcoholic content of five (5) percent by weight or less, and no ordinance related thereto is modified

by this chapter. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-103. State laws to be complied with. No association, corporation, firm, partnership, or person shall engage in the wholesale or retail sales unless all the necessary state licenses and permits have been obtained. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-104. Classes of permits. It shall be unlawful for any corporation, firm, partnership, or person to distribute, sell, or manufacture any intoxicating liquor without first making an application to and obtaining a permit from the Town of Atoka. This application shall be made to the town recorder on such form as the town shall prescribe and shall be accompanied by a non-refundable deposit of two hundred fifty dollars (\$250.00). Each applicant shall be of good moral character and certify that he has read and is familiar with the provisions of this chapter.

There shall be three (3) classes of permits issued by the board of mayor and alderman.

(1) Class A. A manufacturer's permit to any association, corporation, firm, partnership, or person engaged in the manufacturer of intoxicating liquors to distribute, manufacture, possess, sell, store, and transport the product of the manufacturer. The product may not be consumed by the purchaser upon or near the premises of such manufacturer.

(2) Class B. A retail package store, retail food store or "off-site" permit where the beverages are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(3) Class C. A consumption or "on-site" or "liquor-by-the-drink" permit to any association, corporation, firm, partnership, or person engaged in the sale of intoxicating liquors for consumption on the premises. (as added by Ord. #05-08-05, Oct. 2005, and amended by Ord. #16-03-02, March 2016)

8-105. Restrictions. (1) Zoning. It shall be lawful to distribute, manufacture, sell, or store for resale intoxicating liquors in the Town of Atoka provided that permits authorized under this chapter shall be issued for locations that are zoned as follows:

- (a) Class A permits: Zoning district M.
- (b) Class B permits: Zoning districts M and G-C.
- (c) Class C permits: Zoning districts M, G-C, and N-C.

(2) Proximity restrictions. No retail package store or retail food store shall be permitted except on property in an industrial or general commercial zone within the Town of Atoka, Tennessee. No retail package store or retail food store shall be allowed when it is two hundred feet (200') or nearer from of any church or school. The distance shall be measured in a straight line from the nearest corner of each structure. If any property applying for a retail license

shall be contiguous to another property classified as a hospital, school, church, or other place of public gathering, but meets the distance requirement of two hundred feet (200') feet, then before the permit may be issued, a solid fence of eight feet (8') in height must be erected and properly maintained along the adjoining property line at the expense of the applicant for the retail liquor license. The fence shall be substantially opaque and serve as a visual barrier between the adjoining properties. The fence shall be constructed of masonry, durable hardwoods, or a combination of masonry and durable woods.

(3) Limitation on number of retail package stores. There shall be no more than one (1) retail liquor license issued under this chapter for every five thousand (5,000) persons within the town, according to the last federal or official supplementary census.

(4) Hours for the sale of alcoholic beverages. There shall not be any alcoholic beverages sold on any Sunday between the hours of 3:00 A.M. and 12:00 P.M.

(5) Inspection. The town administrator or his designee shall have the right to inspect the premises of any licensee under this chapter any time the building is occupied. (as added by Ord. #05-08-05, Oct. 2005, and replaced by Ord. #16-03-02, March 2016)

8-106. Certificate of compliance. A certificate of compliance is required for all retail package stores and retail food stores prior to the issuance or renewal of a license by the state alcoholic beverage commission.

(1) Requirements. (a) An application for certificate of compliance must be submitted by all owners, partners, stockholders or directors of the store, whether same is a firm, partnership or corporation and the failure to reveal the financial interest of any person or corporation shall be grounds for the denial of the certificate of compliance and/or the revocation of the certificate of compliance. No applicant shall apply individually, as a member of a partnership, nor as a stockholder, officer or director on more than one (1) application, nor hold more than one (1) permit at the same time.

(b) A copy of each application form, questionnaire, partnership agreements or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the town application form and shall become a permanent part thereof as if copied verbatim therein. The town recorder shall review the applications and notify the applicants and the board of mayor and aldermen of any errors and insufficiencies based on the application. The application shall be signed and verified as to all owners, partners, stockholders, directors, or otherwise and shall reflect the names of all persons having any financial interest in and to the proposed liquor store. No sale, transfer or gift of any interest of any nature, either financial or otherwise, shall be made without first

obtaining a permit from the Town of Atoka and the State of Tennessee Alcoholic Beverage Commission.

(2) Issuance. Before any certificate as required by Tennessee Code Annotated, §§ 57-3-208 and 57-3-806 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 town recorder on a form to be provided by the town, giving the following information:

(a) Name, age and address of the applicant.  
(b) Number of years residence in the town.  
(c) Occupation or business and length of time engaged in such occupation or business.

(d) 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 town ordinance, and the details of any such conviction. If a corporation, then whether or not the executive officers or those in control have been convicted of a violation of any state or federal law or of the violation of this code or any town ordinance, and the details of any such conviction.

(e) The location of the proposed store for the sale of alcoholic and verification that said location complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business

(f) The name and address of the owner of the property.

(g) 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.

(3) Filing and processing. All applications submitted in accordance with this chapter shall be filed with the town recorder at least ten (10) days prior to a regular or special called meeting. The board of mayor and aldermen shall receive the applications and take appropriate action in accordance with this chapter.

(4) Investigation fee. All applications for issuance of a certificate of compliance shall be accompanied by a non-refundable fee of two hundred fifty dollars (\$250.00).

(5) Certificate approval. A certificate of compliance shall be authenticated as any other resolution of the board of mayor and aldermen if the board of mayor and aldermen, while in session, shall find that the applicant fulfills the following requirements:

(a) The applicant or applicants who are to be in actual charge of the business are of good moral character and are personally known to the board of mayor and aldermen, or it is found that the applicant's general character is good.

(b) The applicant has not violated any of the provisions of this chapter or the laws of the State of Tennessee and of the United States

which regulate the control of intoxicating liquors, within ten (10) years prior to the date of this application.

(c) The applicant has not been convicted of a felony within ten (10) years prior to the date of application.

(d) In the opinion of the board of mayor and aldermen the applicant is not likely to violate the law regarding sales of alcoholic beverages.

(e) The applicant or applicants meets all the other requirements of this chapter.

Should the board of mayor and aldermen fail to grant or deny the certificate within sixty (60) days of the filing of the application with the town recorder, the certificate shall be deemed as granted under Tennessee Code Annotated, §§ 57-3-208 or 57-3-806. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #13-09-01, Sept. 2013, and replaced by Ord. #16-03-02, March 2016)

8-107. Inspection fees. (1) Inspection fee. There is hereby levied and imposed an inspection fee of five percent (5%) on all purchases of alcoholic beverages by the retailer.

(2) Collection by wholesaler from retailer. The inspection fee shall be collected by the wholesaler from the retailer at the time of the sale or at the time the retailer makes payment for delivery of the alcoholic beverages.

(3) Fees to be held until paid to town. Every such wholesaler shall hold the fees imposed under the authority of this section until paid to the Town of Atoka as hereinafter provided.

(4) Monthly report and payment. Each wholesaler making sales to retailers located within the corporate limits of the Town of Atoka shall furnish the Town of Atoka a report monthly, which report shall contain the following:

- (a) The name and address of the retailer;
- (b) The wholesale price of the alcoholic beverages sold to such retailer;
- (c) The amount of tax due under this section; and
- (d) Such other information as may be required by the town recorder.

The monthly report shall be furnished to the town recorder not later than the twentieth (20th) of the month following which the sales were made; and the inspection fees collected by the wholesaler from the retailers located within the town shall be paid to the Town of Atoka at the time the monthly report is made. Wholesalers collecting and remitting the inspecting fee to the Town of Atoka shall be entitled to reimbursement for this collection service a sum not to exceed five percent (5%) of the total amount of inspection fees collected and remitted such reimbursement to be deducted and shown on the monthly report to the town.

(5) Failure to report and remit fees. Each wholesaler who fails to collect and/or remit the inspection fee imposed hereunder shall be liable in addition to the tax for a penalty of ten percent (10%) of the fee due the town which shall be payable to the town.

The Town of Atoka shall have the authority to audit the records of all wholesalers subject to the provisions of this section in order to determine the accuracy of the monthly report.

(6) Disposition of fee. The town recorder shall deposit all funds collected hereunder in the general fund. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #13-09-01, Sept. 2013, and replaced by Ord. #16-03-02, March 2016)

8-108. Penalties. The license holders are responsible at all times for the conduct of their business and are at all times directly responsible for the conduct of all employees. Any violation of any section of this chapter, upon conviction, shall be punished according to Tennessee Code Annotated, § 57-3-412. The board of mayor and alderman, at the time it imposes a revocation or suspension request to the alcoholic beverage commission, may offer a permit holder the alternative of paying civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense. This alternative is at the sole discretion of the mayor and board of alderman. If a civil penalty is offered as an alternative to revocation or suspension, the license holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension request is sent to the alcoholic beverage commission. (as added by Ord. #05-08-05, Oct. 2005)

8-109. Specific rules governing retail package stores. (1) Store requirements. No retail liquor store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail store is located on the corner of two (2) streets, such retail store may maintain a door opening on each of the public streets. In addition, to the fullest extent consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of the sale or dispensing of alcoholic beverages there sold or dispensed. Said building shall be of a permanent type of construction and no store shall be located in a mobile home or other moveable type building. The store shall have night lighting surrounding the outside of the premises of at least two (2) foot candles, shall be equipped with a monitored burglar alarm system and panic alarm system on the inside of the premises, shall be equipped with an operating twenty-four (24) hour color video recording system on the inside and outside of the premises, and shall be of a minimum size of one thousand (1,000) square feet. All retail sales shall be confined to the premises of the structure and no curbside service or drive-through window service shall be permitted.

(2) Residency requirement. No association, corporation, firm, partnership, or person may obtain a retail liquor license unless the majority owner is a citizen of the United States of America and has been a full-time resident of Tipton County, Tennessee for a minimum of two (2) years. The majority owner of the liquor license must submit to the Town of Atoka proof of residency on an annual basis. If the majority owner moves out of the corporate limits of Tipton County, he must notify the town immediately and surrender his license.

(3) Government employees prohibited from obtaining permit. No person, member of a corporation, firm, or partnership shall operate a retail store for the sale of alcoholic beverages herein defined if he is a holder of a public office, either appointed or elected, or who is a public employee of either a national, state, county, or town government except uncompensated appointed members of boards of commissioners who have no duties covering the regulation of permit holders under this chapter. It shall be unlawful for any such person to have any interest in such retail business directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(4) Employees. No retailer shall employ in the distribution, sale, or storage of alcoholic beverage any person who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony or of any law regulating intoxicating liquors, controlled substances, or moral turpitude and in case an employee should be so convicted after becoming employed he shall immediately be discharged.

(5) Transfer or sale of license prohibited. The holder of a license may not sell, assign, or transfer such license to any other person, and the license shall be good and valid only for the calendar year in which the same was issued and at the location specified in the license.

(6) Undisclosed interest prohibited. It shall be unlawful for any person to have ownership in or to be a director, officer, partner, or stockholder, or to participate directly or indirectly in the profits of any business for which a license is granted hereunder, unless his interest in the business and the nature, extent and character thereof shall appear on the application; or if the interest is acquired after the issuance of the license unless it shall have been fully disclosed in writing by supplement to the application filed with the commissioner of finance and revenue and approved in writing by him before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure of the proposed acquisition of the interest shall be upon both the seller and the purchaser. (as added by Ord. #05-08-05, Oct. 2005, amended by Ord. #07-09-01,



Oct. 2007, Ord. #10-02-01, May 2010, and Ord. #11-10-01, Nov. 2011, and replaced by Ord. #16-03-02, March 2016)

8-110. Specific rules governing on-premise consumption. Privilege license required. (1) Before any person shall engage in the sale of alcoholic beverages, a privilege license must be obtained from the town recorder. There shall be a five hundred dollar (\$500.00) fee for said license. The town recorder shall not issue said license until the applicant has qualified as the licensee under the state statutes and state rules and regulations and has exhibited to the town recorder the state retailer's license issued to the applicant by the alcohol beverage commission.

The board of mayor and aldermen may alter this fee at any time.

(2) It shall be unlawful for any person to engage in the retail sale of alcoholic beverages for on-premise consumption in the Town of Atoka without having first obtained a permit evidencing payment of the aforesaid privilege fee which shall be renewed annually. (as added by Ord. #05-08-05, Oct. 2005)

CHAPTER 2

BEER<sup>1</sup>

SECTION

- 8-201. Beer board established.
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- 8-212. Issuance of permits.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Restriction on hours for the sale of beer.
- 8-215. Suspension and revocation of beer permits.
- 8-216. Privilege tax.
- 8-217. Civil penalty in lieu of suspension.

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 beer board. (Ord. No. 89-11A, sec. 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 town 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. (Ord. No. 89-11A, sec. 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 record

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<sup>1</sup>Municipal code references

Public drunkenness, minors in beer places, etc.: title 11, chapter 2.

Tax provisions: title 5.

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).

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. No. 89-11A, sec. 2-203 as amended Code 1992)

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. (Ord. No. 89-11A, sec. 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 town in accordance with the provisions of this chapter. (Ord. No. 89-11A, sec. 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. (Ord. No. 89-11A, sec. 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, and pursuant to T.C.A. 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 Town of Atoka. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. No. 89-11A, sec. 2-207, as replaced by Ord. #93-11-01, § 1, Dec. 1993)

8-208. 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 any person or legal organization engaged in the sale of such beverages where they are not to be consumed by the purchaser or other persons upon or near the premises of such seller.

(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 thirty percent (30%) of its income 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 thirty (30) people at tables, and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

An "on-site" permit to any person or legal organization that has been granted a liquor by the drink license by the State of Tennessee.

(4) No manufacturer, legal organization or person may hold more than one class of permit at the same location. (Ord. #89-11A, § 2-208, as replaced by Ord. #02-05-03, Aug. 2002, and amended by Ord. #03-03-01, April 2003)

8-209. Sale of beer permitted only in specified zones. It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer in the Town of Atoka, 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 M.
- (2) Class B Permits: Zoning Districts GC and NC.
- (3) Class C Permits: Zoning Districts GC and NC. (Ord. #89-11A, § 2-209, deleted by Ord. #98-10-02, Nov. 1998, and replaced by Ord. #02-05-03, Aug. 2002)

8-210. Publication 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. No. 89-11A, sec. 2-210)

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 hospitals, 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 sale of beer within two hundred (200) feet of any hospital, school, church or

other place of public gathering. The distances shall be measured in a straight line<sup>1</sup> from the nearest corner of the school or church and the nearest corner of the structure where the beer is sold, manufactured or stored. If any property applying for a beer permit shall adjoin another property that is classified as a hospital, school, church, or other place of public gathering, but meets the distance requirement of 200 feet, then before the permit may be issued, a solid fence of eight feet in height shall be erected along the adjoining property line at the expense of the applicant for the beer permit. The fence which shall be substantially opaque and serve as a visual barrier between the adjoining properties shall be composed of masonry, durable woods, or combination of masonry and durable woods. (Ord. #89-11A, § 2-212, as replaced by Ord. #00-04-01, April 2000, and Ord. #05-02-01, Feb. 2005)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. (1) 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.

(2) All individuals holding at least a five percent (5%) ownership interest in the applicant must present proof that they have been citizens or lawful residents of the United States for not less than one (1) year immediately preceding the date upon which application is made to the Town Recorder. Applicants may satisfy this requirement by presenting any of the following official documents for inspection by the town recorder:

- (a) A U.S. Passport or Passport Card;
- (b) A Permanent Resident Card ("Green Card"); or
- (c) A birth certificate issued by:
  - (i) The United States government; or
  - (ii) The government of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States. This requirement shall not apply where no individual holds at least a five percent (5%) ownership interest in the applicant. (Ord. No. 89-11A, sec. 2-211, as replaced by Ord. #15-10-02, Oct. 2015)

8-213. 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.

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<sup>1</sup>State law reference

See Watkins v. Naifeh, 625 S. W. 2d 104 (1982) and other cases cited therein which establish the straight line method of measurement.

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

(3) Make or allow any sale or gift of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person, or any person under twenty-one (21) years of age.

(4) Allow intoxicated persons to loiter about his premises.

(5) Serve, sell, give away, or allow the consumption on his premises or in adjacent buildings of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight.

(6) Allow gambling on his premises.

(7) Allow consumption of any alcoholic beverage on the premises or in or on adjacent buildings or property owned, leased, controlled or in the possession of the beer permit holder.

(8) Allow any open beer to be carried from the building. (Ord. No. 89-11A, sec. 2-214)

8-214. Restriction on hours for the sale of beer. No beer shall be sold within the corporate limits of the Town of Atoka, on Monday through Saturday between the hours of 3:00 a.m. and 5:00 a.m. No beer shall be sold in the Town of Atoka on Sundays between the hours of 3:00 a.m. and 12:00 noon. (Ord. #89-11A, § 2-215, as amended by Ord. #02-05-03, Aug. 2002, and Ord. #11-11-01, Dec. 2011)

8-215. Suspension and revocation of beer permits. The beer board shall have the power to suspend or 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 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. The foregoing shall be in addition to any punishment imposed upon such holder by a court of law. (Ord. #89-11A, § 2-216, as amended by Ord. #02-05-03, Aug. 2002)

8-216. 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). 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 Town of Atoka, 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. #93-11-01, § 1, Dec. 1993)

8-217. 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. (Ord. #93-11-01, § 1, Dec. 1993)