

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws, and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish or solicit orders for any intoxicating liquor within the Town of Erwin. "Intoxicating liquor" shall be defined to include whiskey, wine, home brew, moonshine, and all other intoxicating, spirituous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (Ord. #561, March 1997)

¹Municipal code reference

Minors in beer places: § 11-202.

Wholesale beer tax: title 5, ch. 4.

State law reference

Tennessee Code Annotated, title 57.

CHAPTER 2

BEER¹

SECTION

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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).

- 8-229. All sales by wholesalers to be for cash.
- 8-230. Price reductions or adjustments by wholesalers for breakage, etc., restricted.
- 8-231. Gifts and reduced prices prohibited.
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- 8-233. Sales on certain holidays prohibited.
- 8-234. Violations.
- 8-235. Penalty for violations.
- 8-236. Privilege tax.
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- 8-238. Civil penalty in lieu of suspension.
- 8-239. Applicability to private clubs.

8-201. Beverage board; creation, membership, duties, powers, organization; issuance, suspension, and revocation of permits. (1) There is hereby created a board, which shall be known and designated as the "Beverage Board of the Town of Erwin" hereinafter referred to in this chapter as the "board." This board shall be composed of all the members of the Town of Erwin Board of Mayor and Aldermen.

(2) It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than five (5) gallons, distribute and sell beer, and other beverages of an alcoholic content of not in excess of five percentum (5%) by weight, hereinafter referred to as beer, to the persons and in the manner provided in this chapter.

(3) It is hereby declared that the sale, storage, manufacture and distribution of beer in the town is a privilege and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the town including the sole right to determine the suitability and approve the general appearance of the proposed structure.

(4) The board is empowered to elect its own chairman and other officers, to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit or license whenever it determines that such issuance would be detrimental to the public health, safety or morals. The board may likewise suspend or revoke the permit and license of any licensee who violates any of the laws of the United States, the State of Tennessee, or the Town of Erwin, or whenever it shall satisfactorily appear that the premises or business of any permittee or licensee is being maintained and operated in such manner as to be detrimental to the public health, safety and morals.

(5) Where a permit or license is revoked, no new license or permit shall be issued to such permittee for a period of five years. (Ord. #561, March 1997)

8-202. Permit required for engaging in beer business. (1) New beer permits for "off premise sales" shall be issued only to applicants who offer substantial other commodities for sale, such as variety and convenience stores.

(2) Beer may not be sold through any "drive-through" window.

(3) Beer permits for "on-premise sales" may be issued, in the discretion of the Beverage Board of the Town of Erwin, to restaurants and dining facilities, provided that:

(a) At least sixty percent (60%) of the total annual business receipts of the restaurant are received from the sale of food. When applying for a beer permit, the applicant must certify in its application, a reasonable expectation that at least sixty percent (60%) of its total annual business receipts will be from the sale of food. Prior to renewing the beer permit, (and in no event later than January 31 of each calendar year), the restaurant or dining facility must file with the Town of Erwin a sworn affidavit setting out its total annual business receipts, total dollar food sales, and total beer sales for the prior calendar year. No beer permit for a restaurant or dining facility may be renewed until this annual affidavit is filed with the city recorder's office. The city recorder shall review the affidavit to confirm that the requirements of this section have been met. The definition of "food" and "food sales" shall include food and non-alcoholic beverages.

(b) The restaurant or dining facility must have a minimum seating capacity of at least forty (40) persons, as verified by the Building Inspector of the Town of Erwin.

(c) All other provisions and requirements of the Town of Erwin Beer Ordinance, including all distance and other requirements, must be met.

(4) Grandfather clause. Individuals and entities who presently hold (as of December 9th 2002), a valid beer permit to sell beer within the Town of Erwin, may continue to hold their present beer permits as long as they remain in compliance with the Town of Erwin Beer Ordinance. If and when these existing beer permits lapse, any new applicants granted a beer permit after December 9, 2002, must meet the new requirements set out herein. (Ord. #601, Jan. 2003)

8-203. Applicant must agree to comply with laws. The applicant must agree in the application to comply with all of the laws of the United States and the State of Tennessee, and all ordinances of the Town of Erwin, and said application shall be supported by an affidavit or oath that the facts therein stated are true. (Ord. #561, March 1997)

8-204. Contents of application. The application shall be on a form provided by the Town of Erwin and shall contain:

(1) The name and residence of the applicant and how long the applicant has resided there;

(2) The particular place for which a license is desired, designated by street and number, if practicable, and if not, by such other apt description as finitely locates it;

(3) The kind of permit desired, whether an "on premise," an "off premise," or "both on and off premise" beer permit;

(4) The name of the owner of the premises upon which the business licensed is to be carried on;

(5) A statement that the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit was issued to such applicant; and that no sale, storage, manufacture or distribution of such beverage will be made except within the permit granted;

(6) No sale of beer will be made to any person under twenty-one (21) years of age. No person under eighteen (18) years of age may be employed in the direct sale, storage, manufacture, distribution or serving of beer.

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked;

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution, usage, or transportation of intoxicating liquor or of any crime involving moral turpitude within the past ten years preceding the filing of such application;

(9) A statement that the applicant will conduct the business in person for himself or if he is acting as agent the applicant shall state the person, firm or corporation, syndicate, association, or joint stock company for whom the applicant intends to act;

(10) That no brewer, manufacturer, distributor or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on;

(11) A statement that the applicant is willing to be fingerprinted by the police department of the Town of Erwin and is willing to be investigated by municipal, county, state and federal law enforcement agencies concerning the applicant's background and record, and that the applicant will sign a general release for such investigation to be made;

(12) That if the applicant is a partnership, the names and address of all partners in the business;

(13) That if the applicant is a corporation, the names and address of the officers of the corporation, and the names and addresses of shareholders who hold more than a ten percent (10%) interest in the corporation;

- (14) An oath or affidavit by the applicant that the facts set forth in the application are true;
- (15) The date of the application;
- (16) The signature of the applicant;
- (17) A statement that the applicant acknowledges receipt of a copy of the Town of Erwin Beer Ordinance, and that the applicant has read and understands the same. (Ord. #561, March 1997, as amended by Ord. #601, Jan. 2003, modified)

8-205. Additional application requirements; effect of false statements; action of board on application; issuance of permit; term of permit. The applicant shall state distinctly whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, corporation, or association, and shall also state specifically the name of the owner or owners of such business, and whether a wholesale or retail sale or distribution will be made.

The application shall at all times be kept on file by said board and shall be open to inspection by the general public, and any person, firm, corporation or association making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of five years thereafter.

Upon filing of such written application with the chairman of said board, it shall be carefully examined by the members of said board and its action thereon shall be kept in writing as part of the regular proceedings of said board. The board may, in its discretion, take favorable or unfavorable action on an application. If the applicant has requested both "on premise" and an "off premise" beer permit, the board may, in its discretion, grant both permits, or grant one permit (and not the other), or deny both permits. If favorable action is taken, a permit shall be issued to the applicant, describing the type of permit issued, and bearing the name of the chairman of said board and date of its issuance. The permit thus obtained shall entitle the applicant to obtain from the Town of Erwin a license to sell, store, and/or distribute such beverage, but no license shall be issued by the Town of Erwin until and unless a permit has been regularly issued to the applicant by the (beer) board. (Ord. #561, March 1997)

8-206. Waiting period on new applications; temporary permits. New applications must lay in wait with the board for thirty (30) days before final action can be taken on the beer permit. A temporary permit for thirty (30) days can be granted upon the discretion of the board. (Ord. #561, March 1997)

8-207. Discretionary powers of board; no permits for premises near churches or schools or with living quarters. All beer permits for the sale of beer in the Town of Erwin shall be issued at the discretion of the board and the board

shall issue such permits to such applicants for the sale of beer as said board in the exercise of its discretion feels shall serve the best interest of the Town of Erwin. No permit for the sale of beer shall be issued to any person or establishment whose place of business is within two hundred (200) feet of any established church or school building.

No permit for the sale of beer in the Town of Erwin shall be issued to any person or establishment which has any entrances directly from the business into living quarters within the building or doors or other openings from the business into any area used for living quarters. (Ord. #561, March 1997)

8-208. Issuance of permit. Applications for beer permits that are complete and accompanied by the required fee, shall be acted upon by the board and either be approved or disapproved. If the applicant has requested both an "on premise" and an "off premise" beer permit, the board may, in its discretion, grant both permits, or grant one permit (and not the other), or deny both permits. If approved by the board, a licensee shall be issued by the city recorder for the Town of Erwin upon payment of the privilege taxes set out herein. If the application is denied, the application becomes null and void, cannot be later considered, and shall not receive any priority in the granting of any future beer permits. Applications for beer permits do not "lie in wait" for future consideration. (Ord. #561, March 1997)

8-209. Payment of privilege taxes; display of permit; sales by manufacturers, etc.; permits not transferable; separate permit required for each location; term of permit; permits to be restrictive. All privilege taxes shall be paid annually in advance and shall not be subject to refund in whole or in part. All permittees and licensees shall display and keep displayed their beer permits and licenses in a conspicuous place on the premises where they are licensed to conduct such business.

(1) No manufacturer, distributor or warehouseman shall sell beer or alcoholic beverages to anyone except a licensed beer dealer.

(2) Permits and licenses shall not be transferable.

(3) A separate permit and license shall be obtained for each location at which and from which any applicant is to manufacture, store, distribute or sell beer.

(4) All beer permit shall be restrictive as to the type of beer business authorized under them, stating whether it is a permit for on-premise consumption, off-premise consumption or both. 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 expressed restrictions or conditions which may be written into his permit by the board.

(5) A permit may, in the discretion of the board, be issued to the owner of the business, whether a person, firm, corporation, joint stock company,

syndicate or association. A permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to any other owner. If the owner is a corporation, a "change in ownership" shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.¹

(6) A permit is valid only for a single location and cannot be transferred to another location. A permit shall be valid for all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the same business.

(7) A permit is valid only for a business operating under the name identified in the permit application.

(8) A permit holder must return a permit to the Town of Erwin within fifteen (15) days of termination of the business, or a change in ownership, or a relocation of the business or a change of the business's name; provided that notwithstanding the failure of the permittee to return his beer permit, the beer permit and license shall automatically expire on a termination of the business, a change in ownership, a relocation of the business or a change of the business name, unless otherwise provided herein.

(9) It is unlawful for any person or entity to sell, distribute or manufacture beer without having a valid certificate indicating that purchases of beer by that person are "for resale" as the term used in Tennessee Code Annotated, § 67-6-102(22)(A). Within ten (10) days after being issued a permit to sell, distribute or manufacture beer, a person shall file with the Town of Erwin and with each person from whom the person buys beer, a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is used in Tennessee Code Annotated, § 67-6-102(22)(A) and shall subsequently maintain at all times a valid resale certificate on file with the Town of Erwin and with each person from whom the person buys beer.² (Ord. #561, March 1997)

8-210. Hours of sale restricted. It shall be unlawful for any person to sell beer on any weekday, Monday through Friday, between the hours of 11:30 P.M. and 8:00 A.M. the following day, and between 12:00 midnight Saturday night until 8:00 A.M. Monday. (Ord. #561, March 1997)

8-211. Miscellaneous regulations for distributors, wholesalers, etc. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

¹State law reference

Tennessee Code Annotated, § 57-5-103.

²State law reference

Tennessee Code Annotated, § 57-5-103.

All distributors, wholesalers, manufacturers, and warehousemen of beer having a place of business within the corporate limits of the Town of Erwin shall locate same in areas designated and zoned for manufacturing under laws and ordinances of the Town of Erwin, Tennessee.

(2) It shall be unlawful within the corporate limits of the Town of Erwin for any wholesaler, distributor, warehouseman or manufacturer of beer or for any of their salesmen or representatives to sell or deliver beer enroute or from delivery vehicles to any person or place other than holders of valid retail beer permits and licenses; and it shall be the duty of such wholesaler, representative, etc., to ascertain whether or not such person or place has been issued a valid retail beer permit and license by the Town of Erwin. (Ord. #561, March 1997)

8-212. Persons underage. It shall be unlawful for any person engaged in the sale of beer to make or permit to be made any sales of beer to any person under twenty-one (21) years of age. The burden of ascertaining the age of each patron shall be upon the permittee or licensee of such place of business. Customers must have on their person a valid photo ID which lists their correct birth date. (Ord. #601, Jan. 2003)

8-213. Dancing. Dancing is permitted in establishments that hold "on premise" beer permits or licenses. However, all dancers must be fully clothed. (Ord. #561, March 1997)

8-214. No consumption of other alcoholic beverages permitted. In the place of business where such beverages will be sold or distributed, the consumption of any alcoholic beverages other than beer and/or ale shall not be allowed. (Ord. #561, March 1997)

8-215. For "off premise" permits, no beer may be consumed on the premises. If a business hold an "off premise" beer permit, no beer may be consumed inside the premises, outside the door of the premises, nor at any place on the property owned or rented by the holder of the "off premise" permit. (Ord. #561, March 1997)

8-216. Proper sanitary facilities required. In the places of business where such beverages will be sold or distributed, proper restrooms shall be provided. (Ord. #561, March 1997)

8-217. Visibility through front required. Proper visibility through the front of the establishment shall be maintained, to the result and effect that the interior of the establishment shall be visible to investigating officers. (Ord. #561, March 1997)

8-218. Lighting of establishment. All establishments who hold licenses to sell beer within the corporate limits of Erwin, Tennessee, shall maintain clear visibility within the said establishment. The use of black lights or strobe lights or any other type of lighting which restricts clear vision or which could restrict the identity of persons within the establishment is prohibited. (Ord. #561, March 1997)

8-219. No live entertainment permitted without prior approval. In the place of business where such beverages will be sold or distributed, live entertainment is permitted only by prior approval of the board. All entertainers must be fully clothed. In all such establishments, no loud music, unusual or obnoxious noises shall be allowed, and the applicant shall conduct such place of business otherwise in an orderly, peaceable and lawful manner. Live entertainment as used herein shall mean the performance in person by an entertainer or entertainers on the premises. (Ord. #561, March 1997)

8-220. Permits not transferable. When any person shall move the location of his place of business or there is any change in the ownership of the business where such beverages are sold, (whether voluntary or involuntary) then in all cases he shall be required to apply for a new permit in the manner herein provided by said board therefor.

A permit shall be valid only for the individual person, owner or applicant to whom the permit was issued and cannot be transferred to any other person or entity. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.¹

A permit is valid only for a single location and cannot be transferred to another location. A permit is valid only for a business operating under the specific name identified in the permit application.

A permit holder must return the beer permit to the Town of Erwin within fifteen (15) days of termination of the business, a change in ownership of the business, a relocation of the business to a different location or address, or a change of the business's name; provided that notwithstanding the failure to return a beer permit to the town, the beer permit shall automatically expire if there is a termination of the business, a change in ownership of the business, a relocation of the business, or a change of the business name. (Ord. #561, March 1997)

8-221. Bond required. Every person, firm, corporation or association, before being issued a license to sell at retail within the corporation limits of the

¹State law reference

Tennessee Code Annotated, § 57-5-103.

Town of Erwin any of such beverages permitted to be sold hereunder, shall make and deliver to the Recorder of the Town of Erwin, who shall be entitled to demand and receive a fee of ten dollars (\$10.00) therefore, a joint and several bond in the penalty of five hundred dollars (\$500.00) payable to the Town of Erwin. Said bond shall be signed by some solvent surety company authorized to carry on a general surety business within the State of Tennessee, or by solvent personal sureties, and shall be conditioned that the principal therefor will pay any fine which may be assessed against such principal by any court of competent jurisdiction of any violation of the provisions of this chapter. At the end of the first twelve (12) months, and every twelve (12) months thereafter, said bond shall be renewed and a fee of ten dollars (\$10.00) paid to the recorder for taking and renewing said bond. (Ord. #561, March 1997)

8-222. Purchases for or by underage persons prohibited. It shall be unlawful for any person to purchase beer for the purpose of selling or giving same to any person under the age of twenty-one (21) years. Any person under the age of twenty-one (21) years who purchases beer is subject to fine under this chapter. (Ord. #561, March 1997)

8-223. Loitering and sales to certain persons prohibited. It shall be unlawful for any permittee or licensee to allow persons to loiter around the place of business, and it shall be unlawful for any such permittee or licensee to make, permit or allow to be made any sale of beer to any person who is intoxicated, feeble-minded, insane, or otherwise mentally incapacitated. (Ord. #561, March 1997)

8-224. Possession of more than five (5) gallons restricted. It shall be unlawful for any person to possess in the Town of Erwin more than five (5) gallons of beer without permit or license, or bill of sale or invoice of bill of lading showing the date of purchase of shipment, the true name and exact address of the seller or consignor and the true name and exact address of the purchaser or consignee. (Ord. #561, March 1997)

8-225. Possession of open beer restricted. It shall be unlawful for any person to possess open cans, bottles or containers of beer in motor vehicles in the Town of Erwin or upon the public streets, sidewalks, or other public places in the Town of Erwin, not otherwise permitted by this chapter. (Ord. #561, March 1997)

8-226. Delivery of beer restricted. It shall be unlawful for any holder of a retailer permit or license to sell beer or deliver beer away from the premises designated and described in the license. It shall further be unlawful for any owner or operator of a public conveyance to purchase or deliver beer or to any person not presently therein. (Ord. #561, March 1997)

8-227. Permits for nonconforming premises prohibited. No retail permit or license shall be issued to any person to sell beer from any place, premises, or location which constitutes a nonconforming use under the zoning laws and ordinances of the Town of Erwin in effect at the time of application for such permit or license. (Ord. #561, March 1997)

8-228. Inspections. It shall be the duty of the Police Department of the Town of Erwin or of any special police officers appointed by the board of mayor and aldermen to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time that such place is open. (Ord. #561, March 1997)

8-229. All sales by wholesalers to be for cash. In order to efficiently collect the tax levied by this act all sales of beer by wholesalers to retailers or any other person, except sales to duly licensed wholesalers, shall be for cash only. The intent of this section and provision is that the wholesale sale transaction, and any maneuver, devise, or method of extending credit, is expressly prohibited. (Ord. #561, March 1997)

8-230. Price reductions or adjustments by wholesalers for breakage, etc., restricted. In order to accurately determine the tax to be paid, no wholesaler shall make any reduction or adjustment for shortages or broken bottles, including chips and flats, except at the time of sale and delivery. All beer shall be inspected and accepted by the retailer or any other person at the time of delivery and no adjustment or refund for merchandise damage, breakage or shortage shall be made by any wholesaler subsequent to the time of delivery. (Ord. #561, March 1997)

8-231. Gifts and reduced prices prohibited. In order to determine the exact amount of tax and to facilitate the collection thereof, no wholesaler or licensee shall make any gift of beer or any other type of gift to any retailer or patron nor shall any deal be made with the retailer or any person whereby the wholesale price of beer shall be reduced below the list price as an inducement to said retailer or any other person to make larger purchases. (Ord. #561, March 1997)

8-232. Taxes. The tax rate established by this chapter is the maximum allowed by statute which will be levied on and paid by the wholesaler or distributor and precludes any other fee or tax except the privilege license fee now authorized by acts of the General Assembly of Tennessee on the sale of beer, either at retail or wholesale. (Ord. #561, March 1997)

8-233. Sales on certain holidays prohibited. It shall be unlawful to sell beer within the city limits of Erwin on Thanksgiving day, Christmas Day and New Year's Day. (Ord. #561, March 1997)

8-234. Violations. Any person violating any provision of this chapter shall be subject to a penalty under the general penalty clause for this code. Furthermore, any permittee or licensee violating any provision of this chapter may, in the discretion of the board, be cited to the board for a hearing to determine whether the beer permit and/or license should be suspended or revoked.

Each day's violation of any provision of this chapter by any permit holder or license, and each sale made in violation of any provision of this chapter shall constitute a separate offense. (Ord. #561, March 1997)

8-235. Penalty for violations. a finding by the board that an establishment has violated any section of this chapter, which prohibits the illegal sale of beer, shall permit the board, upon first offense, to invoke up to a ninety (90) day suspension of the establishment's beer license or licenses. For a second offense, the board may invoke up to a one hundred eighty (180) day suspension of the establishment's beer license or licenses. For a third offense, there shall be a mandatory revocation of the establishment's license or licenses. (Ord. #561, March 1997)

8-236. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax, which shall be the maximum amount set out in Tennessee Code Annotated, § 57-5-104(b), but shall be no less than one hundred dollars (\$100.00) annually for each permit. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax for the calendar year by January 1st of that year, to the Town of Erwin, 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 pro-rated basis for each month or portion thereof remaining until the next tax payment date. No beer permit(s) may be renewed until any property taxes, business taxes or fines imposed by the state, county or city governments, and which are due, are paid. (Ord. #561, March 1997)

8-237. Notices of privilege tax. The Town of Erwin shall mail written notice to each permit holder of the payment date of the annual privilege tax at least thirty (30) days prior to each January 1st. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31st, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the Town of Erwin shall notify the permit holder by certified mail that the tax payment is past due.

If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the beer permit shall automatically terminate without further hearing before the board. (Ord. #561, March 1997)

8-238. Civil penalty in lieu of suspension. The 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 one thousand, five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to person who are underage, 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 of license, 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. #561, March 1997)

8-239. Applicability to private clubs. Private clubs which hold a valid state permit from the Tennessee Alcoholic Beverage Commission, allowing said club to sell wine or other alcoholic beverages for consumption on the premises, are exempt from Erwin Municipal Code §§ 8-211, 8-215, 8-218, 8-221 and 8-235; and from the "loitering" provisions contained in code §§ 8-213 and 8-225. (Ord. #561, March 1997)