

**TITLE 8****ALCOHOLIC BEVERAGES<sup>1</sup>****CHAPTER**

1. INTOXICATING LIQUORS--PACKAGE STORES.
2. INTOXICATING LIQUORS--HOTELS, RESTAURANTS, ETC.
3. BEER.

**CHAPTER 1****INTOXICATING LIQUORS--PACKAGE STORES****SECTION**

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<sup>1</sup>Municipal code reference

Minors in beer places: § 11-202.

Drinking beer, etc., on the streets, etc.: § 11-201.

State law reference

Tennessee Code Annotated, title 57.

8-122. Licensee responsible for employees, etc.

8-123. License not transferable.

**8-101. Definitions.** Whenever used in this chapter, the following terms shall have the following meanings unless the context necessarily requires otherwise:

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

(2) “Federal statutes” means the statutes of the United States now in effect or as they may hereafter be changed.

(3) “State statutes” means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(4) “State alcoholic beverage commission” means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including the provisions of Tennessee Code Annotated, §§ 57-1-101 to 57-1-209.

(5) “State rules and regulations” means all applicable rules and regulations of the State of Tennessee applicable to alcoholic beverages, as now in effect or as they may hereafter be changed, including without limitation the local option liquor rules and regulations of the state alcoholic beverage commission.

(6) “State liquor retailer’s license” means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated, §§ 57-3-101 to 57-3-216) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(7) “Certificate of package sales” means the certificate mentioned in Tennessee Code Annotated, § 57-3-208, in connection with the prescribed procedure for obtaining a state liquor retailer’s license.

(8) “License” means a license issued under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at a retail or for consumption on the premises in the City of Gatlinburg.

(9) “Licensee” means the holder of a license.

(10) “License fee” means the annual fee a licensee is required by this chapter to pay at or prior to the time of the issuance of a license.

(11) “Applicant” means the party applying for a license.

(12) “Application” means the form or forms an applicant is required to file in order to obtain a license.

(13) “Liquor store” means the building or part of a building where a licensee conducts any of the business authorized by the license held by such licensee.

(14) “Board of commissioners” means the Board of Commissioners of the City of Gatlinburg.

(15) “City manager” means the City Manager of the City of Gatlinburg.

(16) “Director of finance” means the Director of Finance of the City of Gatlinburg.

(17) “Unlawful liquor” shall mean any intoxicating liquor which does not bear a federal and state revenue stamp upon its container, such stamps shall be evidence of payment of the alcoholic beverage tax.

(18) “Certificate of good moral character” means the certificate required by the legislative body of the City of Gatlinburg pursuant to its status as a premier type tourist resort municipality under Tennessee Code Annotated, § 57-4-102 (g)(2).

(19) “Certificate of compliance” means the certificate required in addition to the certificate of good moral character by the legislative body of Gatlinburg pursuant to its status as a premier type tourist resort municipality under the Tennessee Code Annotated, § 57-4-102(g)(2).

(20) “Certificate of occupancy” means the certificate referred to in § 1004 of the Gatlinburg Zoning Ordinance being Ordinance 830 or its successor, and in § 109 of the Standard Building Code. (1976 Code, § 2-101)

**8-102. Unlawful liquor.** It shall be unlawful for any person to manufacture, sell, barter, possess, store, transport or ship any unlawful liquor of any quantity within the corporate limits of the City of Gatlinburg. (1976 Code, § 2-102)

**8-103. Sale by licensee lawful.** It shall be lawful for a licensee to sell alcoholic beverages in a liquor store, provided all such sales are made in strict compliance with all federal statutes, all state statutes, all state rules and regulations and all provisions of this chapter. (1976 Code, § 2-103)

**8-104. Qualifications of applicant.** To be eligible to apply for or to receive a license, an applicant must satisfy all of the requirements of the state statutes and of the state rules and regulations for a holder of state liquor retailer’s license and must have been a resident of the State of Tennessee at least two years immediately preceding the date when the applicant is filed with the city manager or with the director of finance. (1976 Code, § 2-104, as amended by Ord. #2243, June 2001)

**8-105. Form of application for certificate for package sales.** Each applicant for a certificate for package sales shall file with the city manager a completed form of application, on a form to be provided by the city manager, and which shall contain the following information:

(1) The name and street address of each person to have any interest in the license as owner, partner, or stockholder;

(2) The name of the liquor store to be operated under the license;  
(3) The address of the liquor store to be operated under the license;  
(4) The statement that each applicant has been a resident of the State of Tennessee for at least two (2) years immediately prior to the time the application is filed;

(5) The agreement of each applicant to comply with the state, federal and city laws and ordinances and with the rules and regulations of the state alcoholic beverage commission with reference to the sale of alcoholic beverages, and the agreement of each applicant to the validity of and the reasonableness of the regulations, inspection fees, and taxes provided in this chapter with reference to the sale of alcoholic beverages;

(6) The statement that the applicant or applicants who are to be in actual charge of the liquor store have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

The application form shall be accompanied by a copy of each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with this same application. The application form shall be signed and verified by each person which is to have any interest in the license, as owner, partner, or stockholder. (1976 Code, § 2-105, as amended by Ord. #2458, Feb. 2013)

**8-106. Contents of certificate for package sales.** The certificate for package sales shall state:

(1) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(2) That in the opinion of the board of commissioners, the applicant or applicants will not violate any of the provisions of the Tennessee Code Annotated regarding the package sale of alcoholic beverages.

(3) That the applicant or applicants have secured a location for said business which has been approved by the board of commissioners, as a suitable location for the operation of a liquor store and that the applicant or applicants meet any and all residency requirements.

(4) That the issuance of a license to the applicant or applicants would not violate § 8-110 of this chapter regarding the maximum number of licenses. (1976 Code, § 2-126)

**8-107. Misrepresentation or concealment unlawful.** If any applicant misrepresents any material fact or conceals any material fact in any

application form filed for the purpose of complying with the requirements contained in § 8-105 such applicant shall be deemed to have violated the provisions of this chapter. (1976 Code, § 2-106)

**8-108. Basis for issuance of certificate for package sales.** (1) The mayor and the board of commissioners are authorized to refuse to consider the issuance of a certificate for package sales whenever the number of such previously issued and outstanding certificates for package sales, when added to the number of outstanding licenses, equals or exceeds the number of licenses authorized by this chapter.

(2) No certificate for package sales shall be issued unless a license issued on the basis thereof can be exercised without violating any provision of this chapter.

(3) No member of the board of commissioners shall sign any certificate for package sales for any applicant until:

(a) Such applicant's application has been filed with the city manager;

(b) The application has been considered at a meeting of the board of commissioners and approved by a vote of at least three members thereof. (1976 Code, § 2-107)

**8-109. Display of license.** The licensee shall display and post, and keep displayed and posted, his license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee. (1976 Code, § 2-108)

**8-110. Maximum number of licenses.** No more than six (6) licenses shall be issued and outstanding for each 5,000 persons, or any fraction thereof, residing in the City of Gatlinburg, according to the 1970 federal census or any subsequent federal census.

The retail sale of a product produced at a duly licensed distillery shall not count as a retail liquor package store in the numbers limitation set forth above so long as said distillery only sells those products produced at its distillery, even though issued a retail liquor package store license by the State Alcoholic Beverage Commission. No more than four (4) retail stores within distilleries shall be allowed in the City of Gatlinburg in addition to the six (6) regular retail liquor package stores. (1976 Code, § 2-109, as amended by Ord. #2457, Feb. 2013)

**8-111. Location of stores.** (1) No liquor store shall be located within four hundred fifty feet (450') of any church or school, except for C-1 zones which shall not be within 200 feet (200') of any church, and in all cases shall be measured in a straight line from property line to property line. No liquor store shall be located adjacent to property where any house used as a residence is

located. No liquor store shall be located at any place where excessive congestion is present or is likely to develop. Adequate off-street on-site parking space shall be available to any proposed liquor store and be in conformance with the Zoning Ordinance of the City of Gatlinburg. No liquor store shall be located on any property unless such property is in a commercial district as defined in the Gatlinburg Zoning Ordinance. No license shall be issued for any location until the city manager certifies to the board of commissioners that the plans submitted by the applicant are in conformance with the building code of the City of Gatlinburg. A majority of the members may then approve the proposed location of a liquor store after a public hearing and deliberate consideration of this matter at a meeting of the board of commissioners.

(2) Minimum distance required. No liquor store shall be located within one thousand feet (1,000') of any other liquor store. This distance shall be determined by measuring from property line to property line of each establishment.

(3) Distillery distance requirement. No distillery manufacturing distilled spirits shall be located within one thousand feet (1,000') of any other distillery manufacturing distilled spirits. This distance shall be determined by measuring from property line to property line of each distillery. The provisions of this subsection shall not apply to, or effect, any licensed distillery in operation and open to the public prior to April 12, 2016. A distillery that is exempt from this requirement shall remain exempt under this subsection upon the transfer of any ownership interest in the distillery to a successor in interest. (1976 Code, § 2-110, as amended by Ord. #2459, Feb. 2013, Ord. #2495, June 2016, and Ord. #2526, June 2018 *Ch14\_03-23-22*)

**8-112. Signs.** It shall be unlawful for any liquor store to erect or maintain any more than one (1) sign on the inside or outside of the building where the liquor store is located, advertising or display located upon or attached to such building or premises in which the name of any brand of alcoholic beverage or the type of any alcoholic beverage, as defined in this chapter, is used. Said advertising signs or display shall not exceed six (6) inches in height and the sign on the outside of the building shall be placed parallel with the building. (1976 Code, § 2-111)

**8-113. Hours, etc. business permitted to operate.** No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, Thanksgiving Day, or on Easter. On Monday through Saturday, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before eight o'clock A.M. (8:00 A.M.) nor after eleven o'clock P.M. (11:00 P.M.), nor on Sunday before the hours of ten o'clock A.M. (10:00 A.M.) nor after eleven o'clock P.M. (11:00 P.M.) In the event of an emergency, liquor stores shall be closed upon order of the city manager or the chief of police.

Effective January 1, 2019, no retail food store shall sell, give away, or otherwise dispense wine except between the hours of eight o'clock A.M. (8:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Monday through Saturday and between ten o'clock A.M. (10:00 A.M.) and eleven o'clock P.M. (11:00 P.M.) on Sunday. (1976 Code, § 2-112, as replaced by Ord. #2526, June 2018 *Ch14\_03-23-22*)

**8-114. Certain conduct prohibited on premises.** It shall be unlawful for any licensee to conduct his business in the following manner:

- (1) To sell or furnish any alcoholic beverage to a minor, intoxicated person or any person known to be a habitual drunkard;
- (2) To permit loitering on the premises; and
- (3) To permit any person to consume alcoholic beverage while in the store. (1976 Code, § 2-113)

**8-115. Inspection fee.** (1) There is hereby levied on each licensee an inspection fee of eight percent (8%) of the wholesale price of all alcoholic beverages sold by each such licensee including retail food stor wine licensees, except as set out in subsection (2) below, which inspection fee shall be collected and paid as provided by the statutes of the State of Tennessee, including the provisions of Tennessee Code Annotated, § 57-3-501.

(2) There is hereby levied on each manufacturer of high alcohol content beer that obtains a retail license to sell its product which are manufactured on the manufacturers premise, a fifteen percent (15%) inspection fee to inspect the retail store at which such products are sold by the manufacturer. Such inspection fee shall be imposed on the wholesale price of the high alcohol content beer supplied pursuant to § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to § 57-3-204(e)(7). (1976 Code, § 2-114, as amended by Ord. #2498, June 2016)

**8-116. Inspection fee reports.** Each wholesaler making sales to any licensee shall furnish the director of finance a monthly report of all such sales, which report shall contain all of the information required by said Chapter 538 of the Public Acts of the 85th General Assembly of the State of Tennessee, and all such additional information as may be reasonably required by the director of finance. Each such monthly report shall be filed with the director of finance not later than the twentieth (20th) of the month following the month in which the sales were made. (1976 Code, § 2-115)

**8-117. Payment of inspection fee.** Each wholesaler making sales to any licensee shall collect and remit the inspection fee (less any authorized reimbursement for the collection service, which reimbursement shall not exceed five percent (5%) of the amount of the inspection fee), the inspection fee to be

paid to the director of finance at the time the monthly report is made and in no event later than the twentieth (20th) of the month following the month in which the sales were made. A penalty of ten percent (10%) of the fee due shall be paid for each failure to file a timely report and/or to pay the required fee. (1976 Code, § 2-116)

**8-118. Inspections.** The city manager and the director of finance, or the authorized representative of either of them, are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city manager, director of finance, chief of police, and any police officer of the City of Gatlinburg is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store, shall be a violation of this chapter. (1976 Code, § 2-117)

**8-119. Failure to report and pay inspection fee.** It shall be unlawful for any licensee engaged in the sale of intoxicating liquors within the corporate limits of the City of Gatlinburg to violate the provisions of the chapter, fail to pay the prescribed inspection fees and to fail to submit to inspection report as required by the provisions of this chapter. (1976 Code, § 2-118)

**8-120. Disposition of funds derived from inspection fees.** All funds derived from the inspection fees imposed herein shall be used to defray expenses in connection with the enforcement of this chapter, including particularly the payment of the compensation of officers, employees or other representatives of the City of Gatlinburg in investigating and inspecting licensees and applicants, and in seeing that all provisions of this chapter are observed; and the board of commissioners finds and declares that the amount of these inspection fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. (1976 Code, § 2-119)

**8-121. Violation of relevant state and federal laws, rules and regulations.** Any licensee, who in the operation of such licensee's liquor store, shall violate any federal statute, any state statute, or any state rule or regulation concerning the purchase, sale, receipt, possession, transportation, distribution or handling of alcoholic beverages, shall be guilty of a violation of the provisions of this chapter. (1976 Code, § 2-120)

**8-122. Licensee responsible for employees, etc.** Each licensee shall be legally responsible for all acts of such licensee's officers, employees, agents and representatives, so that any violation of this chapter by any officer,



employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1976 Code, § 2-121)

**8-123. License not transferable.** A licensee shall not sell, assign, or transfer his license or any interest therein to any other person. No license shall be transferred from one location to another location without the prior written approval of the board of commissioners. (1976 Code, § 2-122)

**CHAPTER 2**

**INTOXICATING LIQUORS-HOTELS, RESTAURANTS, ETC.<sup>1</sup>**

**SECTION**

- 8-201. Privilege tax.
- 8-202. [Deleted.]
- 8-203. Certificate of good moral character required - contents - consent to investigate.
- 8-204. Grounds for denial of certificate of good moral character.
- 8-205. Certificate of compliance required - contents.
- 8-206. Minimum separation requirements.
- 8-207. Hours for sale of alcoholic beverages for on-premises consumption.
- 8-208. Exterior signs prohibited.

**8-201. Privilege tax.** It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this city, alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

(1)	Private Club . . . . .	\$ 300.00
(2)	Hotel (motel) . . . . .	\$1000.00
(3)	Restaurant, according to seating capacity on licensed premises:	
(a)	75-125 seats . . . . .	\$ 600.00
(b)	126-175 seats . . . . .	\$ 750.00
(c)	176-225 seats . . . . .	\$ 800.00
(d)	226-275 seats . . . . .	\$ 900.00
(e)	276 seats and over . . . . .	\$1000.00
(f)	'Wine Only' Restaurant with 50 or more seats . . .	\$ 120.00

The amounts of privilege taxes as set out herein shall be for one (1) year and each privilege license shall expire on the expiration of the sellers state license for that year. The privilege taxes as set out herein shall be paid to the director of finance of the City of Gatlinburg. All licensees already operating as of the effective date of this ordinance but which have less than one (1) year to the expiration date of their current license shall pay a pro rata portion of the applicable fees set out herein. (1976 Code, § 2-124)

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<sup>1</sup>State law references

For limitation on inspection fees: § 57-3-501.

For levy of privilege tax: § 57-3-301.

For issuance and suspension of privilege license see City of Lakewood vs. Tennessee Alcoholic Beverage Commission, 219 Tenn. 510.

**8-202. [Deleted.]**<sup>1</sup> (1976 Code, § 2-125, as deleted by Ord. #2459, Feb. 2013)

**8-203. Certificate of good moral character required - contents - consent to investigation.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must first obtain a certificate of good moral character, on a form provided by the city manager, signed by the mayor of the City of Gatlinburg. The certificate shall state:

- (1) That the applicant is personally known to the mayor and the board of commissioners and is a person of good moral character; or
- (2) That the applicant is not personally known to the mayor and the board of commissioners, but that the city has made careful investigation of the applicant's general character and from such investigation, has determined it to be good.

Consideration of each application for a certificate shall be undertaken at a regular or specially called meeting of the board of commissioners and approved by the vote of at least three members thereof.

Each applicant for a certificate of good moral character is deemed to consent, by virtue of his application, to an investigation of his general character including, but not limited to, the determination of any record of convictions. (1976 Code, § 2-127)

**8-204. Grounds for denial of certificate of good moral character.** It shall be grounds for denial of the certificate of good moral character that:

- (1) The applicant has been convicted of a felony or, if a corporation, that the executive officers or those in control have been convicted of a felony; or
- (2) The applicant has been convicted of a crime involving moral turpitude. (1976 Code, § 2-128)

**8-205. Certificate of compliance required - contents.** Each applicant for a license to sell alcoholic beverages for consumption on the premises of any hotel, restaurant or club must obtain, in addition to the certificate of good moral character, a certificate of compliance signed by the building official in the Department of Community Development. The certificate shall state:

- (1) That the proposed use is a permitted use or is existing legally and is allowable in the zone in which it is located; and
- (2) That the establishment for which the certificate is sought provides separate sanitary facilities, for men and women, conforming to the building code, located within the area where business is conducted; and

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<sup>1</sup>Section 8-202 was moved to § 8-111(2) by Ord. #2459.

- (3) [Reserved]; and
- (4) That the establishment for which the certificate is sought has a seating capacity at least equal to the minimum requirements set out in state statutes concerning the issuance of liquor-by-the-drink licenses; and
- (5) That the establishment for which the certificate is sought is no closer to a church or school than is permitted under the minimum separation requirements set forth in § 8-206 below; and
- (6) That the premises either have:
  - (a) A “certificate of occupancy” issued by the City of Gatlinburg;
  - or
  - (b) A memorandum signed by the building official in the Department of Community Development stating that the premises were constructed prior to the effective date of this chapter and does not have a certificate of occupancy; and that the city neither offers nor expresses an opinion as to the compliance (or lack thereof) of the premises with regard to any building, health or safety codes.

It shall be grounds for denial of the Certificate of Compliance that the applicant fails to meet each and every requirement of this section. (1976 Code, § 2-129, as amended by Ord. #2443, Oct. 2012)

**8-206. Minimum separation requirements.** No hotel, restaurant or club shall be issued a “Certificate of Compliance” unless it is separated from the closest church and/or school by the minimum distance of separation required for the zone in which the hotel, restaurant or club is located. The distance of separation in the C-1 Commercial zone shall be determined by the length of a line drawn between the front door of the school building via public sidewalk to the customer entry of the building for which the certificate is sought. The distance of separation shall be determined by the length of a straight line drawn between the closest points of the church or school building and the building for which the certificate is sought. The minimum distances of separation shall be as follows:

If the establishment seeking the certificate of compliance is located in the following	then the required minimum distance of separation from a	and the required minimum distance of separation from a
<b>ZONE</b>	<b>SCHOOL is:</b>	<b>CHURCH is:</b>
C-1	150 feet	0 feet

If the establishment seeking the certificate of compliance is located in the following	then the required minimum distance of separation from a	and the required minimum distance of separation from a
C-2	-----	10 feet <sup>1</sup>
Other Commercial	1000 feet	200 feet
All Residential Zones	1000 feet	1000 feet
Other Zones	500 feet	500 feet

(1976 Code, § 2-130, as amended by Ord. #2162, May 1998, Ord. #2470, Oct. 2013, and Ord. #2487, Nov. 2015)

**8-207. Hours for sale of alcoholic beverages for on-premises consumption.** No hotel, restaurant or club shall sell or give away alcoholic beverages, or wine for consumption on the premises between the hours of 1:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 1:00 A.M. and 12:00 Noon on Sundays. (1976 Code, § 2-131)

**8-208. Exterior signs prohibited.** It shall be unlawful to place any sign of any description or type on the exterior of a hotel, restaurant or club indicating that wine, or alcoholic beverages are sold for consumption therein. (1976 Code, § 2-132)

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<sup>1</sup>In addition to said distance, the establishment seeking the certificate shall be required to construct a permanent barrier consisting of a fence and/or landscaping or a combination thereof to prevent any vehicular or pedestrian passage between properties, if located within 200 feet of a church building. The barrier must be reviewed and approved by the Environmental Design Review Board. (Ord. #2162, May 1998)

## CHAPTER 3

### BEER

#### SECTION

- 8-301. Establishment of beer board.
- 8-302. Application for permit required.
- 8-303. Contents of application.
- 8-304. To whom permits may be issued.
- 8-305. Permits to be approved by beer board.
- 8-306. Privilege tax.
- 8-307. Types of permits.
- 8-308. Restrictions on issuance of permits.
- 8-309. Permit.
- 8-310. Special event permit.
- 8-311. Times when the sale of beer is prohibited.
- 8-312. Regulation of use of beer signs.
- 8-313. Selling to minors prohibited.
- 8-314. Loitering and sale to intoxicated persons.
- 8-315. Display of open beer containers prohibited.
- 8-316. Police department to inspect.
- 8-317. Hearings; revocations or suspension of permit; civil penalties.

**8-301. Establishment of beer board.** (1) There is hereby created a board, which shall be known and designated as the “Beer Board of the City of Gatlinburg”, hereinafter referred to in this chapter as the “board”. Such board shall be composed of the city manager and the five members of the board of commissioners of the City of Gatlinburg.

(2) It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store, distribute and sell beer.

(3) It is hereby declared that the sale of beer in the city is a privilege, and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits to sell beer in the city.

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

(5) Where a permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one year from

the date said revocation becomes final and effective. This limitation shall apply only if the premises owner is notified of the revocation hearing as well as the permittee.

(6) For purposes of this chapter beer is defined as any beer, ale, or other malt beverage, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, prior to January 1, 2017, and thereafter, eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1976 Code, § 2-201, as amended by Ord. #2497, June 2016)

**8-302. Application for permit required.** (1) It shall be unlawful for any person to sell or store for sale, or to distribute or manufacture beer within the city without having first obtained a permit as provided in this chapter. Before any person shall be authorized to sell or store, distribute or manufacture beer, he shall make application to the board, upon a form prescribed by it.

(2) The applicant must agree in the application to be solely responsible for the management and operation of the business for which the permit is granted.

(3) The applicant must agree in the application to comply with all laws of the United States, and the State of Tennessee, and all ordinances of the City of Gatlinburg. Said application shall be supported by an affidavit, affirmation, or oath that the facts stated therein are true.

(4) The applicant shall pay, prior to the consideration of the application, a fee of two hundred fifty dollars (\$250.00). Regardless of whether the application is approved or denied, the fee collected shall become the property of the City of Gatlinburg and shall be used for any purpose as the board of commissioners shall, in its discretion, deem appropriate.

(5) A permit is valid only for the owner of the business in whose name the permit is issued and cannot be transferred to another owner. If the owner is a corporation, joint venture, syndicate, limited liability company, or partnership, a change in ownership shall occur when control of at least fifty percent (50%) of the stock or interest in such entity is transferred to another person. (1976 Code, § 2-202, as amended by Ord. #2497, June 2016)

**8-303. Contents of application.** The application shall contain:

(1) The name and address of the applicant and how long the applicant has resided at that address;

(2) The particular place for which a permit is desired, designating the same by street and number, if practicable, and if not, such other apt description as definitely locates it;

(3) The type of permit desired;

- (4) The name and address of the owner of the premises upon which the business is located;
- (5) That the applicant has not had a permit for sale of legalized beer revoked;
- (6) That neither the applicant, nor any partner, or if a corporation, any officer or stockholder having at least a 5% ownership interest, has been convicted of any crime involving moral turpitude within ten (10) years preceding the filing of such application;
- (7) That no brewer or distiller of legalized beer has any interest in the business, financial or otherwise, or in the premises upon which the business is located; and
- (8) An oath, affirmation, or affidavit by the applicant or person signing the application that the facts set forth in the application are true and that the applicant is the owner of the business. (1976 Code, § 2-203)

**8-304. To whom permits may be issued.** Permits may be issued to individuals, corporations or associations. No permit shall be issued except to individuals of good moral character who have not been convicted of any violation of the laws against manufacturing, selling, transporting, storing, or possessing of intoxicating liquors, or of selling or possessing beer illegally, or of any crime involving moral turpitude, within ten years; nor shall any license be issued to any corporation or association which have members, officers, stockholders having at least a 5% ownership interest, or employees who have such convictions. (1976 Code, § 2-204)

**8-305. Permits to be approved by beer board.** Permits shall be approved or disapproved by the board and, if approved, a permit shall be issued by the director of finance for the City of Gatlinburg; provided, however, that no permit shall be issued until such time as the applicant has been issued a valid minimum business tax license under the provisions of Tennessee Code Annotated, § 67-4-701 et seq. (1976 Code, § 2-205)

**8-306. Privilege tax.** Each person, corporation, or association issued a permit by the city shall remit to the city finance director an annual privilege tax in the amount of \$100.00. Said tax shall be remitted by January 1 of each year. The city shall mail written notice to each permit holder of the payment date of the annual tax at least thirty (30) days prior to January 1. 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 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city 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 city may suspend or revoke the



permit or impose a civil penalty pursuant to Tennessee Code Annotated, § 57-5-108.

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. (1976 Code, § 2-206)

**8-307. Types of permits.** Permits issued by the beer board shall consist of five (5) types:

(1) On-premises permits shall be issued for the consumption of beer on the premises.

(2) Off-premises permits shall be issued for sale of beer to be consumed off of the premises.

(3) Combined on- and off-premises permit shall be issued for the consumption both on the premises and for beer to be consumed off of the premises.

(4) Special event permit. A special events permit shall be issued for events as provided in § 8-310.

(5) Caterer permit. A caterer permit authorizes a caterer who possesses a current liquor by the drink certificate from the Alcoholic Beverage Commission to sell beer whether beer is to be consumed by the purchaser or the purchaser's guest upon the premises of the catered event site. No caterer permit shall be issued to a person who does not hold a valid on-premises or combined retail permit for its permanent catering hall or restaurant. (1976 Code, § 2-207, as replaced by Ord. #2497, June 2016)

**8-308. Restrictions on issuance of permits.** No permit, except special event permits, shall be issued to the owner of any restaurant or eating place unless such restaurant or eating place is classified not less than grade 85 under the laws of the State of Tennessee, has facilities for the serving of a minimum of forty (40) persons at tables and booths, provides separate sanitary facilities for men and women, said sanitary facilities to be located within the area where the business is conducted. No person may be served for whom seating is not provided, and seating shall not be provided in excess of one (1) seat per ten (10) square feet exclusive of all bars, bandstands, service areas, dance floors and hallways. If a beer permit is issued to an applicant contingent upon receiving a grade of eighty-five (85) or above on a restaurant score, the applicant shall be permitted to operate until a grade has been received from the Sevier County Health Department. However an appropriate grade must be received by the applicant and provided to the city within thirty (30) days of the opening of the restaurant. Failure to do so will result in revocation of the permit.

On-premise permittees shall serve at least one meal per day, five days per week, where said service of meals is the principal business. At least 51% of business revenue shall be derived from the sale of food. Permittee shall have a

printed menu containing the price of food and drinks. Permittee shall also be required to have adequate kitchen facilities and staff. (1976 Code, § 2-208, as amended by Ord. #2497, June 2016)

**8-309. Permit.** Permits shall be issued to the owner of the business, whether a person, corporation, or association.

(1) A permit shall be valid:

(a) Only for the owner to whom the permit is issued and cannot be transferred to another 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.

(b) Only for a single location, except as provided in subsection (2), 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 business.

(c) Only for a business operating under the name identified in the permit application.

(2) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such businesses pursuant to the same permit.

(3) A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one permit.

(4) A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, however, that notwithstanding the failure to return a beer permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name. (1976 Code, § 2-209)

**8-310. Special event permit.** A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days in duration. An applicant for such a special event permit must meet all other requirements for a beer permit except such an event may be permitted without being located within a permanent structure and shall not have to comply with § 8-308. A special event permit fee in the amount of two hundred fifty dollars (\$250.00) shall be paid upon application for such permit. A special event permit holder shall not be required to pay the privilege tax set out in § 8-306. Special event permits may only be issued to bona fide charitable, non-profit, or political organizations. Special event permits shall be limited to four (4) times per year, per applicant. (1976 Code, § 2-210, as amended by Ord. #2497, June 2016)

**8-311. Times when the sale of beer is prohibited.** It shall be unlawful for any person to sell beer for on-premises or off-premises consumption

or special events between the hours of 1:00 A.M. and 6:00 A.M. on Monday through Saturday or between the hours of 1:00 A.M. and 12:00 Noon on Sundays. Within thirty (30) minutes after the time each day when the sale of beer becomes unlawful, any permittee holding an on-premise permit shall remove or cause to be removed from all tables, counters, and other places where beer is served, all containers with beer therein and all beer bottles and cans; and except for said thirty (30) minute period, he shall keep said containers from said places during all hours when the sale of beer on said premises is unlawful. (1976 Code, § 2-211, as amended by Ord. #2234, Feb. 2001)

**8-312. Regulation of use of beer signs.** It shall be unlawful for any person authorized to sell beer, either on or off-premises, to erect or maintain any more than one sign on the inside or outside of the building displaying the word "beer" or the name of any brand of beer. Said advertising sign or display shall not exceed six (6) inches in height and any sign on the outside of the building shall be placed parallel to the building. (1976 Code, § 2-212)

**8-313. Selling to minors prohibited.** It shall be unlawful for any person engaged in the sale of beer, either on-premise or off-premise, to make or permit to be made any sales of beer to minors. It shall also be unlawful to allow any minors to loiter about the place of business and the burden of ascertaining the age of minor customers shall be upon the owner or operator of such place of business. It shall also be unlawful for any person to purchase beer for the purpose of selling or giving to any minor. It shall also be unlawful for any minor to purchase beer. For purposes of this section, a minor is a person under 21 years of age. (1976 Code, § 2-213)

**8-314. Loitering and sale to intoxicated persons.** It shall be unlawful for any operator or owner to permit persons to loiter around their place of business or to make or permit the sale of beer to any person who is intoxicated. (1976 Code, § 2-214)

**8-315. Display of open beer containers prohibited.** It shall be unlawful for any person to possess or display open cans, containers, or bottles of beer upon the public streets, sidewalks, or other public places in the City of Gatlinburg. This restriction shall not apply to those portions of a permittee's location which are located on the exterior of the business as set out in § 8-309(1)(b). (1976 Code, § 2-215)

**8-316. Police department to inspect.** It shall be the duty of the police department of the City of Gatlinburg, or any special officers appointed by the city manager, to inspect the place of business and the premises of the holders of permits under this chapter, and it shall be unlawful for any permittee to

refuse to allow any such inspection during any time that such place is open for business. (1976 Code, § 2-216)

**8-317. Hearings; revocations or suspension of permit; civil penalties.** (1) Authority to revoke or suspend. The board is hereby granted the power to revoke or suspend any beer permit, or to refer to a hearing officer to adjudicate issues relating to the suspension or revocation of a beer permit and/or the issuance of fines, where the permit holder:

- (a) Has violated any of the provisions of this chapter; or
- (b) Has been found guilty of violating one (1) or more provisions of the Gatlinburg city code;
- (c) Is convicted of any violation of the laws of the United States or the state prohibiting or regulating the manufacture, sale, possession, storage, or transportation of beer or other alcoholic beverages; or
- (d) Is convicted of a crime involving moral turpitude.

The board is hereby authorized to engage a licensed attorney to act as a hearing officer on behalf of the board.

(2) Length of suspension; permanent revocation. (a) Discretion of board or board hearing officer. Except as otherwise provided by this article or state law, the board and the board hearing officer may exercise discretion in determining whether to suspend or revoke a permit and in determining the appropriate length of a suspension under the circumstances presented in each case. In making these determinations, the board or board hearing officer shall consider the effectiveness of any sanction previously imposed against the permit holder.

(b) Minimum and maximum suspensions. (i) First offense in a twelve (12) month period. Except as otherwise provided in this section, no permit shall be suspended for more than ten (10) days, if the violation is by the permit holder or the permit holder's manager, or for more than five (5) days, if the violation is by a permit holder's non-managerial employee, provided that neither the permit holder nor any of the permit holder's employees has committed another violation of this chapter in the previous twelve (12) months.

(ii) Subsequent offenses in a twelve (12) month period. Except as otherwise provided in this section, a permit shall be revoked or suspended for a minimum of three (3) days if either the permit holder, the permit holder's manager, or any of the permit holder's employees has committed another violation of this chapter in the previous twelve (12) months.

(c) Revocation. (i) Except as otherwise provided in this chapter, no permit may be revoked unless the permit holder has committed at least two (2) violations of this chapter in a twelve (12) month period.

(ii) Except as otherwise provided by this chapter or state law, the board or the board hearing officer shall revoke a permit holder's permit if either the board or the board hearing officer finds that beer has been sold on the permitted premises to persons under the age of eighteen (18) on two (2) or more occasions in a twelve (12) month period or on three (3) or more occasions in a twenty-four (24) month period.

(3) Exception; sale by a responsible vendor's clerk to person under the age of twenty-one (21).

(a) A permit shall not be revoked or suspended because of the sale of beer to a person under the age of twenty-one (21) if, at the time of the sale:

(i) The permit holder was a responsible vendor; and

(ii) The clerk who made the sale was a certified clerk, or had been employed by the permit holder for sixty-one (61) days or less.

(b) Notwithstanding subsection (a), if the commission revokes the permit holder's responsible vendor's certification pursuant to Tennessee Code Annotated, § 57-5-608(b) because the permit holder had knowledge of or should have known about the violation, or participated in or committed the violation, the permit holder shall be punished under this section as if the vendor were not certified as a responsible vendor at the time of the sale.

(4) Exception; sale by vendor not certified as a responsible vendor to person between eighteen (18) and twenty-one (21) years of age.

(a) A permit shall not be revoked because the permit holder or the permit holder's employee or agent 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 the minor is unknown to such person making the sale.

(b) In the case of an illegal sale such as that described in subsection (4)(a), a permit holder's 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.

(5) Civil penalty-responsible vendor. The board or the board hearing officer may impose a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of selling or permitting the sale of beer to a person under the age of twenty-one (21) or for any other violation of this chapter or applicable state law. A penalty imposed under this subsection shall be paid within seven (7) days of the imposition of the penalty. Failure to pay the penalty within seven (7) days shall constitute a violation of this chapter subject to prosecution under subsection (4) above.

(6) Civil penalty- vendor not certified as a responsible vendor. (a) The board or the board hearing officer, upon finding grounds for revoking or suspending a permit holder's permit, may offer a permit holder who is not certified as a responsible vendor the alternative of paying:

(i) A civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of selling or permitting the sale of beer to a person under the age of twenty-one (21); or

(ii) A civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

(b) If a civil penalty is offered as alternative to revocation or suspension, the permit 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. The permit holder's payment of a civil penalty shall not affect the holder's ability to seek review of the civil penalty pursuant to state law.

(7) Hearing required. No permit shall be revoked or suspended or penalty imposed until a public hearing is held either before the board or the board hearing officer after reasonable notice to all the known parties in interest. (1976 Code, § 2-217, as replaced by Ord. #2497, June 2016)