

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

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8-101. Subject to regulations. (1) Pursuant to title 57 of the Tennessee Code Annotated and chapter 215 of the Public Acts of 1967 amending the same and a referendum held pursuant thereto in the City of Pulaski, Tennessee, on November 9, 1967, this chapter is enacted.

(2) It shall be unlawful to engage in the business of selling, storing, transporting, or distributing or to purchase or possess alcoholic beverages within the corporate limits of the City of Pulaski, Tennessee, except in accordance with the provisions of title 57, chapter 1, of the Tennessee Code Annotated and the rules and regulations promulgated thereunder and as provided in this chapter. (1977 Code, § 2-101)

8-102. Terms defined. Whenever herein used unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverages" means and includes alcohol, spirits, liquor, wine and every liquid containing alcohol other than patented medicine, beer, or wine, where the latter two contain an alcoholic content of five per cent (5%) by weight or less.

(2) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

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

(4) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.

(5) "Manufacturer" means and includes a distiller, vintner, and rectifier. "Manufacture" means and includes distilling, rectifying, and operating a winery.

(6) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(7) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of §§ 57-3-101 through 57-3-412, Tennessee Code Annotated.

(8) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharin, and seasonal conditions including champagne, sparkling and fortified wine of an alcoholic content not exceeding twenty-one per cent (21%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced or an artificial or imitation wine.

(9) The word "gallon" or "gallons" whenever used herein shall be construed to mean a wine gallon or wine gallons, of one hundred and twenty eight (128) ounces. The word "quart" whenever used herein shall be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" whenever used herein shall be construed to mean one-eighth (1/8) of a wine gallon.

(10) Words importing the masculine gender shall include the feminine and the neuter; and the singular shall include the plural.

(11) The term "federal license" as used herein shall not mean tax receipt or permit. (1977 Code, § 2-102)

8-103. Deleted. (1977 Code, § 2-103, as deleted by Ord. #6, 2012, Sept. 2012)

8-104. Deleted. (1977 Code, § 2-104, as deleted by Ord. #6, 2012, Sept. 2012)

8-105. License required for retail business. For the retail sale of alcoholic beverages a license may be issued as herein provided. Any person desiring to sell alcoholic beverages in sealed packages only and not for consumption on the premises shall make application to the city recorder for a retailer's license. The application shall be in writing on forms prescribed and furnished by the city recorder. Subject to the issuance of a retail license issued by the commissioner of finance and taxation of the State of Tennessee, a majority of the board of mayor and aldermen may issue such retailer's license. No license shall be issued except to individuals who are or become resident citizens of and owners of real property situated in Giles County, Tennessee prior to the approval of such license. (1977 Code, § 2-105, as amended by Ord. #4, 1999, May 1999, and Ord. #22, 2003, Dec. 2003)

8-106. Location restrictions on retailers. No license shall be granted the operator of a retail store for the sale of alcoholic beverages except on premises zoned "intermediate business" or "local business." However, no license shall be granted for the operation of such retail store to be located on the public square of the City of Pulaski, Tennessee, nor within one full or square block north, east, south, and west of the public square of the City of Pulaski, Tennessee. (1977 Code, § 2-106)

8-107. Limitation on number of retailers. No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued under this chapter. (1977 Code, § 2-107)

8-108. Restrictions on license holders and employees.

(1) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or she is concerned with which he is connected shall receive a license, provided, however, that this provision shall not apply to any person who has been convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction and in case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked, if such convicted felon be an individual licensee and if not, the partnership or association with which he is connected shall immediately discharge him.

(2) No license shall under any circumstance be issued to any person who within ten (10) years preceding application for such license or permit shall

have been convicted of any offense under the laws of the State of Tennessee or of any other state of the United States prohibiting or regulating the sale, possession, transporting, storing, manufacturing, or otherwise handling intoxicating liquors or who has during said period been engaged in business alone or with others in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they may exist thereafter.

(3) It shall be unlawful for any person to have ownership in or to participate, either directly or indirectly, in the profits of any retail business licensee unless his interest in said business and the nature, extent, and character thereof shall appear on the application, or if the interest is acquired after the issuance of a license unless it shall be fully disclosed to the city. Where such interest is owned by such person on or before the application for any 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 same is prepared by another; or if said interest is acquired after the issuance of said license, the burden of disclosure of the acquisition of such interest shall be upon the seller and purchaser.

(4) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages, shall be a person under the age of eighteen (18) years and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages or to permit any such person under age in its place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(5) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person, who, within ten (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(6) Each individual holder named in a license must devote a minimum of forty (40) hours per week to the operation of such retail store, except thirty (30) days within each calendar year will be exempt from this provision.

(7) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

(8) Misrepresentation of a material fact or concealment of a material fact required to be shown in the application for a license shall be a violation of this chapter. (1977 Code, § 2-108, as amended by Ord. #3, 2000, July 2000, Ord. #6, 2012, Sept. 2012 and Ord. #1,2016, March 2016)

8-109. Deleted. (1977 Code, § 2-109, as deleted by Ord. #1,2016, March, 2016)

8-110. License to be displayed. Persons granted a license to carry on the business or undertaking contemplated herein shall, before being qualified to do business, display and post and keep displayed and posted in the most conspicuous place in their premises such license. (1977 Code, § 2-110)

8-111. Transfer of license prohibited; term of license; use of agents. The holder of a license may not sell, assign, or transfer such license to any other person nor any other location and said license shall be good and valid only for the calendar year in which the same was issued, and at the location for which it was issued.

Provided, however, that licensees who are serving in the military forces of the United States in time of war may appoint an agent to operate under the license of the licensee during the absence of the licensee. In such instances the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of a licensee. No person who is ineligible to obtain a license shall be eligible to serve as the agent of a licensee under this section. (1977 Code, § 2-111)

8-112. Expiration and renewal of license. Licenses issued under this chapter shall expire at the end of the calendar year and, subject to the provisions of this chapter, may be renewed each calendar year. (1977 Code, § 2-112)

8-113. Deleted. (1977 Code, § 2-113, as deleted by Ord. #1,2016, March 2016)

8-114. Deleted. (1977 Code, § 2-114 as deleted by Ord. #1,2016, March 2016)

8-115. Inspection fees. The City of Pulaski does hereby impose an inspection fee upon all licensed retailers of alcoholic beverages, as defined by § 57-3-101 of the Tennessee Code Annotated, located within said municipality, of eight per cent (8%) on the wholesale price as supplied to said retailer by the wholesaler, as defined by said section of Tennessee Code Annotated; and said inspection fee shall be collected as follows:

(1) The inspection fee shall be collected by the wholesaler from the retailer following notice given the wholesaler by the municipality that an inspection fee has been imposed by this chapter upon the retailers located within the City of Pulaski, Tennessee. The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages.

(2) Each wholesaler making sales to retailers located within the City of Pulaski shall furnish the municipality a report monthly, which report shall contain a list of the alcoholic beverages sold to each retailer located within said

municipality, the wholesale price of the alcoholic beverages sold to each retailer, the amount of tax due, and such other information as may be required by the municipality. The monthly report shall be furnished the City of Pulaski not later than the twentieth (20th) of the month following which the sales were made. The inspection fees collected by the wholesaler from the retailer or retailers located within said municipality shall be paid to the municipality at the time the monthly report is made. Wholesalers collecting and remitting the above inspection fee to the municipality shall be entitled to reimbursement for this collection service, a sum not to exceed five per cent (5%) of the total amount of inspection fees collected and remitted, such reimbursement to be deducted and shown on the monthly report to the municipality.

(3) Failure to collect or timely report and/or pay the inspection fee collected shall result in a penalty of ten per cent (10%) of the fee due the municipality which shall be payable to the City of Pulaski. (1977 Code, § 2-115)

8-116. Regulations for purchase and sale of intoxicating liquors.

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages, defined herein, from any person, who does not hold the appropriate license under this chapter authorizing the sale of beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to any one other than a licensed retailer.

(3) No licensee shall sell intoxicating liquors at retail in connection with any other business or in the same store where any other business is carried on.

(4) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit or procure to be sold or delivered, any alcoholic beverages on credit.

(5) No alcoholic beverages shall be sold for consumption on the premises of the seller.

(6) 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 sale or dispensing of alcoholic beverages there sold or dispensed.

(7) No form of entertainment, including pinball machines, music machines, or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold, and no seating facilities shall be allowed in the public area.

(8) No advertising by licensees by use of signs, displays, posters, or designs, intended to advertise any alcoholic beverages is permitted within the corporate limits of the City of Pulaski, except a licensee may place upon the front of the premises, flat against the face of the building, a sign in letters not larger than eight (8) inches in height designating the premises as " _____ Liquor Store," or a neon or electric sign of the same description may be placed

inside the front glass of a retail store. The lettering on the permitted sign outside the building shall be paint, enamel, gold or silver leaf, or similar material used in sign painting. Electrically operated signs shall not be permitted outside the building. The use of the words "whiskey," "wine," "gin," "spirits" or any other word of similar connotation in a sign is prohibited. (1977 Code, § 2-116, as amended by Ord. #1,2016, March 2016)

8-117. Retailers not to solicit orders or make deliveries off their premises. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a customer for any alcoholic beverages at the residence or place of business of such consumer. This paragraph shall not be construed so as to prohibit the solicitation by a state licensed wholesaler of any order from any licensed retailer at the licensed premises. (1977 Code, § 2-117)

8-118. Regulation of retailers. (1) No retailer shall directly or indirectly operate more than one (1) place of business for the sale of alcoholic beverages and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest or otherwise.

(2) No retailer shall sell, lend or give away any alcoholic beverages to any person who is drunk, nor shall any retailer selling alcoholic beverages sell, lend or give away such beverages to any person accompanied by a person who is drunk.

(3) No retailer shall sell, lend or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retailer shall sell, lend or give away any alcoholic beverages between 11 o'clock p.m. on Saturday and 8 o'clock a.m. on Monday of each week and between 11 o'clock p.m. and 8 o'clock a.m. Monday through Saturday.

(5) No retailer shall sell, lend or give away any alcoholic beverages on Christmas or Thanksgiving Day. (1977 Code, § 2-118, as amended by Ord. #1,2016, March 2016)

8-119. Recorder authorized to examine books, etc., of licensees. The city recorder is authorized to examine the books, papers, and records of any dealer for the purpose of determining whether the provisions of this chapter are being complied with. Any refusal to permit the examination of any such books, papers, or records, or the investigation and examination of such premises, shall constitute sufficient reason for the revocation of a license or the refusal to issue a license. (1977 Code, § 2-119)

8-120. Visible possession of unsealed containers on streets etc., prohibited. Visible possession of alcoholic beverages in unsealed containers

upon any public street or within any governmental building or on other governmental property shall be a violation of this chapter. (1977 Code, § 2-120)

8-121. On-premises consumption of alcoholic beverages lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, and possess alcoholic beverages for on-premises consumption provided such activities are conducted by a person duly licensed by the State of Tennessee pursuant to title 57 of the Tennessee Code Annotated to sell alcoholic beverages for on-premises consumption. (as added by Ord. #21-2003, Dec. 2003)

8-122. Levied on retail sale of alcoholic beverages for consumption on premises. (1) Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax upon each and every person, firm, and corporation engaging in the business of selling at retail in the City of Pulaski alcoholic beverage for consumption on the premises where sold. For the exercise of such privilege, the following taxes are levied for the City of Pulaski general fund purposes to be paid annually:

Private club	\$150
Hotel and motel	500
Convention center	250
Premiere-type tourist resort	750
Restaurant, according to seating capacity, on licensed premises:	
75-125 seats	300
126-175 seats	375
176-225 seats	400
226-275 seats	450
276 seats and over	500

If a restaurant is licensed by the Alcoholic Beverage Commission to sell wine only under Tennessee Code Annotated, § 57-4-101(n), the privilege tax imposed shall be one-fifth (1/5) the amount specified above.

Historic performing arts center	150
Urban park center	250
Commercial passenger boat	375
Historic mansion house site	150
Historic interpretive center	150
Community theatre	150
Zoological institution	150
Museum	150
Establishment in a terminal building of a commercial	
air carrier airport	500
Commercial airline travel club	250
Public aquarium	150

(2) Every person, firm, and corporation engaging in the business of selling at retail in the City of Pulaski alcoholic beverage for consumption on the premises where sold shall, before commencing business, pay the privilege tax to the city and receive a license to be displayed at all times at the business location.

(3) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit or political organization selling alcoholic beverages at retail pursuant to a special occasion license. (as added by Ord. #20-2003, Nov. 2003)

8-123. City recorder's responsibility. It shall be the responsibility of the city recorder to insure that the city receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the commissioner of the Alcoholic Beverage Commission under Tennessee Code Annotated, § 57-4-301(c) and distributed to the state and its political subdivisions under Tennessee Code Annotated, § 57-4-306. (as added by Ord. #20-2003, Nov. 2003)

8-124. Employees liable for violation of chapter. Any employee of any holder of a state or local permit to sell alcoholic beverages who violates the provisions of this chapter or any provision of title 57, Tennessee Code Annotated, while so employed by such permit holder shall be guilty of a misdemeanor. (as added by Ord. #21-2003, Dec. 2003)

CHAPTER 2

BEER

SECTION

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8-201. Beer lawful but subject to regulation. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive or manufacture beer of alcoholic content of not more than such weight, volume, or alcoholic content as is allowed by the statutory laws of the State of Tennessee, or any other beverages of like alcoholic content, within the corporate limits of the City of Pulaski, subject to all of the regulations, limitations, and restrictions hereinafter provided, and subject to the rules and regulations promulgated by public officials or boards. (1977 Code, § 2-201, as replaced by Ord. #11, 2013, Dec. 2013)

8-202. "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 per cent (5%) by weight. (1977 Code, § 2-202, as replaced by Ord. #11, 2013, Dec. 2013)

8-203. Beer board established. There is hereby established a beer board to be composed of all of the members of the governing body. The mayor shall be its chairman and shall preside at its meetings. Its members shall serve without compensation. (1977 Code, § 2-203, as replaced by Ord. #11, 2013, Dec. 2013)

8-204. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings following each regular meeting of the governing body at the city hall whenever there is business to come before the beer board. A special meeting of the beer board may be called by its chairman provided he gives a reasonable notice thereof and the board may adjourn a meeting at any time to another time and place. (1977 Code, § 2-204, as replaced by Ord. #11, 2013, Dec. 2013)

8-205. Record of beer board proceedings to be kept. The administrator shall make a separate record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: 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 provision of each beer permit issued by the board. The administrator shall also maintain an up to date list of the names and addresses of all beer permit holders. (1977 Code, § 2-205, as replaced by Ord. #11, 2013, Dec. 2013)

8-206. Requirement for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1977 Code, § 2-206, as replaced by Ord. #11, 2013, Dec. 2013)

8-207. Powers and duties of the beer board. The board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1977 Code, § 2-207, as replaced by Ord. #11, 2013, Dec. 2013)

8-208. Permit required for engaging in beer business. No person shall engage in the storing, selling, distributing, or manufacturing of beer of alcoholic content of not more than five per cent (5%) by weight, or other beverages of like alcoholic content, within the corporate limits of the City of Pulaski, until he shall receive a permit to do so from the beer board of the City of Pulaski, which permit shall at all times be subject to all of the limitations and restrictions herein provided, and provided further that the applicant shall certify that he has read and is familiar with the provisions of this chapter.

(1) Wholesalers: There is hereby imposed an annual privilege tax of one hundred dollars (\$100.00) on all persons storing, selling, or distributing beer at wholesale under the authority of Section 3(b) Public Chapter No. 297 of the Acts of Tennessee for the year 1993. (1977 Code, § 2-208, as replaced by Ord. #11, 2013, Dec. 2013)

8-209. Restrictions upon granting permits. (1) No permit shall be issued to sell any beverage coming within the provisions of this section:

(a) In violation of any provision of the state law.

(b) In violation of the zoning ordinance of the City of Pulaski.

(2) The judgment of the beer board on such matters shall be final except as same is subject to review at law under § 57-5-105, Tennessee Code Annotated. (1977 Code, § 2-209, as replaced by Ord. #11, 2013, Dec. 2013)

8-210. Application for retail permit; requirements as to applicants; regulations to be followed and shown in the application. (1) Each application for a beer permit shall reflect:

(a) Deleted.

(b) The location of the premises at which the business shall be conducted.

(c) The owner or owners of such premises.

(d) The names and addresses of all other persons or firms who have any financial interests whatsoever in the beer business proposed to be established.

(e) Whether the applicant will operate the business in person or by agent and if by agent, the name and address of such agent.

(f) Deleted.

(g) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.

(h) That no sale of such beverages will be made except in accordance with the permit granted.

(i) That if the application is for a permit to sell "not for consumption on the premises" that no sale will be made for consumption on the premises; that no consumption will be allowed on the premises thereof.

(j) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons to loiter around the place of business.

(k) Deleted.

(2) The applicant must secure a certificate or a statement from the health department or health officer that the premises which the application covers meets the requirements of § 8-220 of this chapter.

(3) The application shall be submitted to the city administrator at least fifteen (15) days prior to the beer board meeting at which it is to be considered. The administrator shall, within five (5) days after receipt of an application, notify each member of the beer board of such application.

(4) No permit shall be issued by the beer board until the application therefor shall have been subscribed to and approved in writing by the city attorney. However, the city attorney is only authorized to disapprove applications when there is a failure to comply with a city ordinance or state law governing the issuance of permits.

(5) The City of Pulaski, prior to its consideration of an application to engage in the sale of beer under this section for consumption for on or off premises, shall collect an application fee of two hundred fifty dollars (\$250.00) for use in offsetting the expenses of investigating the applicant. Regardless of whether an application is approved or denied, any portion of the fee collected in excess of that actually used in investigation shall become the property of the City of Pulaski at the end of each calendar year, to be used at the discretion of the governing body, and the city shall not require periodic renewal of beer permits or licenses in conformity with § 57-5-108, Tennessee Code Annotated.

(6) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any firm, persons, corporation, joint stock companies, 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 City of Pulaski, 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.

(7) Penalty for failure to pay tax. 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 his permit application. If a permit holder does not pay the tax by January 31 or within thirty (30) days after written notice that 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 delinquency by certified mail, then the permit shall be void. (1977 Code, § 2-210, as amended by Ord. #3,

2000, July 2000, Ord. #21-2003, Dec. 2003, and Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-211. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit.

It is understood that any permit for the sale of on premises consumption has the right to sell beer for off premises consumption, but that any permit for the sale of beer for off premises consumption may not sell beer for on premises consumption. (1977 Code, § 2-211, as replaced by Ord. #11, 2013, Dec. 2013)

8-212. Permits not transferable. Beer permits shall not be transferable from one person to another or from one location to another. A new permit is required in the manner provided herein. (1977 Code, § 2-212, as replaced by Ord. #11, 2013, Dec. 2013)

8-213. Duration of permit. Permits issued under the provisions of this chapter shall be issued until revoked or suspended, by change of location, sale of business, or otherwise goes out of business at the same location.

Nothing herein shall prevent a non-resident owner from presenting an application and having the same considered, so long as there is a responsible resident manager, and so long as the other provisions of the law are complied with.

It is the legislative intent of this amendment to provide that, and to comply with, the new state law that new managers of chain-type restaurants or grocery stores not be required to have a new permit and a new inspection fee each time that a manager is replaced. The same rules would apply to a resident owner who employs a qualified and responsible resident manager, so long as the other provisions of the state law and this chapter are complied with. (1977 Code, § 2-213, as replaced by Ord. #11, 2013, Dec. 2013)

8-214. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder, together with all other permits, licenses, and stamps as required by law. (1977 Code, § 2-214, as replaced by Ord. #11, 2013, Dec. 2013)

8-215. [Deleted.] (1977 Code, § 2-215, as deleted by Ord. #3, 2000, July 2000, and replaced by Ord. #11, 2013, Dec. 2013)

8-216. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

No permit authorizing the sale of beer will be issued for any place of business located on the public square of Pulaski, or within an area of one (1) city block on all sides thereof, unless the applicant for such permit either

- (1) Is a nonprofit entity,
- (2) Is an event center with a business license issued by the city authorizing the business to host public events, or
- (3) Operates a restaurant meeting the following criteria:
 - (a) Having adequate and sanitary kitchen and dining room equipment and a seating capacity for at least fifty (50) persons at tables,
 - (b) Serving one (1) meal a day at least five (5) days a week with the exception of holidays and the serving of meals shall be the principal business conducted,
 - (c) Deriving at least fifty percent (50%) of its gross revenue from food sales,
 - (d) No outdoor sign, advertisement or display that advertises beer may be erected or maintained on the property nor in the window of the permit holder, and
 - (e) On or before January 1 of each year, the permit holder shall furnish the City Administrator of the City of Pulaski a certified breakdown of all revenue derived from the sale of food, the sale of beer and the sale of alcoholic beverages, respectively. Notwithstanding the foregoing, the board of mayor and aldermen may demand such receipts be furnished to the city administrator more frequently.

No permit authorizing the sale of beer for "on premises consumption" or "off premises consumption" will be issued for any place of business where the building is located within two hundred feet (200') of any public playground or building housing any church, school, or any successor state or federally recognized licensing agent. Said two hundred feet (200') limitation shall be calculated and measured from the nearest point of the building where the owner or lessee is seeking a beer permit to the nearest point in the building on a place where the church building is located or the school, or in the case of a public playground, from the nearest point of the building where the owner or lessee is seeking a beer permit to the nearest point of the property line of said playground.

The two hundred feet (200') distance limitation shall not apply to businesses who meet the qualifications to obtain a liquor by the drink permit from the Alcoholic Beverage Commission of the State of Tennessee, and the City of Pulaski shall grant a retail beer permit to those businesses who so qualify and

obtain a permit to sell liquor by the drink. Furthermore, the two hundred foot (200') distance limitation shall not apply to existing businesses. Provided, however, if any permit holder goes out of business for any reason and his place is closed for as much as ninety (90) days before a new purchaser takes over, then no new permit may issue to the subsequent purchaser. If a subsequent purchaser elects during that ninety (90) day period to make application for a retail beer permit, the fifteen (15) day waiting period provided for in this chapter will not be counted against him.

"Public playground" shall be defined as property owned by the City of Pulaski or the County of Giles upon which playground equipment or athletic facilities are located.

The two hundred foot (200') distance requirement prohibition shall not apply to an off-premises consumption permit for a retail grocery store operating in a facility of at least five thousand (5,000) square feet of retail floor space and generating at least fifty percent (50%) of its gross revenue from the sale of grocery items other than beer. Retail floor space does not include walk-in coolers, kitchen, bathroom, etc. Notwithstanding the foregoing, a retail grocery store holding an off-premises consumption beer permit shall conduct its business in a manner so as to avoid congestion of traffic or interference with schools, churches, or places of public gathering, nor have an adverse effect on public health, safety and morals.

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. The distance should measure from the edge of the patio, deck, or outside serving area.¹ (1977 Code, § 2-216, as amended by Ord. #4, 2006, Feb. 2006, Ord. #1,2008, March 2008, and Ord. #2-2010, April 2010, replaced by Ord. #11, 2013, Dec. 2013, and amended by Ord. #4,2018, June 2018, Ord. #5, 2018, June 2018, and Ord. #7,2018, July 2018)

8-217. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating beverages or any crime involving moral turpitude within the past ten (10) years.

It shall be the sole responsibility of the permit applicant to prove to the satisfaction of the beer board that said applicant has not been convicted of the aforesaid offenses within the past ten (10) years.

Permit holders who are convicted of any of the aforesaid offenses after having been issued a beer permit shall be obligated to report said conviction to the beer board. A hearing before the beer board shall be convened, at the beer

¹State law reference

Tennessee Code Annotated, § 57-5-103.

board's discretion, to determine the effect such a conviction shall have on the status of the permit holder's permit. A conviction under this section shall constitute grounds for the immediate revocation of convicted permit holder's beer permit. (1977 Code, § 2-217, as amended by Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-218. Issuance of permits to hotels, clubs, etc. It shall be lawful for the beer board to issue a permit for the sale of any beverage coming within the provisions of this chapter, to hotels, motels, clubs, and lodges, subject to the limitations and restrictions contained in the state law, and the rules and regulations promulgated thereunder, and subject to all the limitations and restrictions contained in the permit provided by this chapter. (1977 Code, § 2-218, as replaced by Ord. #11, 2013, Dec. 2013)

8-219. [Deleted.] (1977 Code, § 2-219, as deleted by Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-220. [Deleted.] (1977 Code, § 2-220, as deleted by Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-221. Minor, fraudulent evidence of age, etc., misdemeanor. It shall be unlawful for any minor to purchase, attempt to purchase, or to possess any such beverage covered under this chapter, or for anyone to purchase such beverage for a minor. It shall be unlawful for any minor present to offer to any permittee, his agent, or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase such beverages. Any minor who acts in violation of any one or more of the provisions of this section shall be taken before the juvenile judge for appropriate disposition. (1977 Code, § 2-221, as replaced by Ord. #11, 2013, Dec. 2013)

8-222. Investigation of applicant, agent, and/or employees. Applicants for retail permits under this section are subject to be investigated by municipal, county, and state authorities. (1977 Code, § 2-222, as amended by Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-223. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder, employee or any other person employed in the sale of beer to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating beverages, or any crime involving moral turpitude within the past ten (10) years unless such person is currently certified as a responsible vendor with the Tennessee Alcoholic Beverage Commission

pursuant to the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, *et seq.*

(2) Employ any minor under eighteen (18) years of age in the sale, service, or dispensing of beer at retail except in grocery stores where sales are made for off premise consumption.

(3) Make or allow any sale of beer between the hours of 3:00 A.M. and 6:00 A.M., during any day of the week or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(6) Allow any person under the age of eighteen (18) years of age to loiter in or about his place of business.

(7) Make or allow any sale of beer to any intoxicated person or to any feeble minded, insane, or otherwise mentally incapacitated person.

(8) Allow drunk or disreputable persons, or persons of questionable character to loiter about his premises.

(9) Serve, sell or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight unless the permit holder is properly licensed to do so by the Tennessee Alcoholic Beverage Commission.

(10) Definitions.

(a) "Licensee." A person, partnership or corporation who holds a beer permit issued by the City of Pulaski.

(b) "Live performances." Shall be deemed for the purpose of this chapter to mean any person who for consideration, monetary or otherwise, performs in person on a licensed premise as a singer, musician, dancer, comedian or model.

(c) "Beer permit holder." Any person, partnership, or corporation who holds a permit from the City of Pulaski for the sale of beer or other beverage of alcoholic content of not more than five percent (5%) by weight.

(11) Live performances - nudity prohibited. No live performances are permitted on a licensed premise which involve the removal of clothing, garments or any other costumes. Such prohibition does not include the removal of headwear or footwear; sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. The restriction applies to all licensed premises.

(12) Entertainment restricted. No entertainment on a licensed premise shall contain:

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

(b) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(c) The actual or simulated display of the pubic hair, anus, vulva or genitals; or the nipples of a female.

(13) Nudity prohibited. It shall be unlawful for any licensee, employee, agent of licensee, patron or guest of licensee to:

(a) Appear with his or her genitals or pubic region less than completely covered by an opaque substance or material;

(b) Appear with his or her buttocks less than completely covered by an opaque substance or material; or

(c) Any female to appear with either or both of her breasts less than completely covered by an opaque substance or materials below the uppermost or highest part of the areola.

(14) Films and pictures restrictions. It shall be unlawful for any licensee, any employee, or agent to permit or allow the showing of film, still pictures, electronic reproductions, or other visual reproductions depicting:

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

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

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

(d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above in (a) through (c).

(15) License revoked or suspended. Any licensee violating these sections shall have its license revoked or suspended as provided by this chapter.

(16) Penalty. Any licensee, employee, agent, or person violating these sections shall be guilty of a misdemeanor and punished in accordance with the penalty clause of the Municipal Code of the City of Pulaski.

(17) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1977 Code, § 2-223, as amended by Ord. #14, 1996, Dec. 1996, Ord. #3, 2000, July 2000, Ord. #6, 2003, March 2003, Ord. #7, 2003, March 2003, Ord. #21-2003, Dec. 2003, Ord. #3-2004, March 2004, Ord. #2, June 2007, and Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-224. Suspension and revocation of beer permit. All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

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

Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board, and the board is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked.

Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated the provisions of the state beer act or any of the provisions of this chapter, the board is authorized to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the police department of the City of Pulaski. The notice shall be served upon the permittee at least five (5) days before the date of the hearing. At the hearing the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject to review by the courts as provided in the state beer act. (1977 Code, § 2-224, as amended by Ord. #2, June 2007, and Ord. #2-2010, April 2010, and replaced by Ord. #11, 2013, Dec. 2013)

8-225. Employees liable for violations of chapter. Any employee of any permittee who violates the provisions of this chapter or any provision of the state beer act while so employed by such permittee shall be guilty of a misdemeanor. (1977 Code, § 2-225, as replaced by Ord. #11, 2013, Dec. 2013)

8-226. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #2, June 2007, and replaced by Ord. #11, 2013, Dec. 2013)

8-227. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (as added by Ord. #2, June 2007, and replaced by Ord. #11, 2013, Dec. 2013)

8-228. Temporary permits. Temporary beer permits may be issued to nonprofit applicants at the request of an applicant upon the same terms and conditions governing permanent permits. Temporary permits shall be issued as one (1) of two (2) types:

(1) A single event permit. A single event permit shall be valid for a maximum of ten (10) days, with the actual number of days to be determined by the beer board based upon the information provided by the applicant.

(2) A multiple event permit. A multiple event permit may be issued for a fixed number of events during a calendar year. The exact dates and locations of each event must be approved by the beer board at the time of issuance of the permit, or if exact dates are not known at the time of permit

issuance, subsequent approval at a future beer board meeting must be obtained prior to the event.

If the events covered by a temporary permit will be held on land not owned by the applicant, a written statement of approval from the landowner must accompany the temporary permit application. Such a temporary permit shall not allow the sale, storage or manufacture of beer on publicly owned property.

Notwithstanding, § 8-216 of the Pulaski Municipal Code, the beer board is authorized to place any and all restrictions it deems necessary on temporary permits, including but not limited to restricted hours of sale and limitations on the number of sale locations/stations or other time, place, and manner restrictions as deemed proper in consideration of minimum traffic interruption, public safety, health, welfare, convenience, peace or order. The following provisions shall also apply to temporary permit holders:

(a) Deleted.

(b) A temporary permit holder shall be prohibited from making or allowing any sale of beer between the hours of 3:00 A.M. and 6:00 A.M., during any day of the week or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday, pursuant to § 8-223(3) of this chapter.

(c) Temporary permits may be issued to applicants who intend to operate in a place that is temporary in nature. That is, there are no frontage, curtain, blind, or lighting requirements as provided for in § 8-219¹ of this chapter.

(d) A temporary permit holder shall not be subject to the annual privilege tax or application fee of § 8-210 of the municipal code. There is hereby imposed an application fee of fifty dollars (\$50.00) for applying for a temporary permit and all other provisions of § 8-210 governing the issuance of a permit shall apply.

(e) The application for a temporary beer permit shall set forth the following information:

(i) The name, address, and telephone number of the chairperson of the charitable or nonprofit organization seeking a temporary beer permit;

(ii) The name, address, and telephone number of the person responsible for beer sales under the permit;

(iii) The date and time when the event will be held;

(iv) The hours which beer sales will be conducted during the event; and

(v) The proposed location for beer sales. (as added by Ord. #7-2009, Sept. 2009, and replaced by Ord. #11, 2013, Dec. 2013)

¹§ 8-219 was deleted by Ord. #2-2010, April 2010.