

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibit ed generally. Except as authorized by applicable laws² and/or ordinances it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1979 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2**BEER**¹**SECTION**

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8-201. Permit required for the sale of beer. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate or association to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Pigeon Forge. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provision of this chapter. (1979 Code, § 2-201)

8-202. 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 person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1 to the City of Pigeon Forge, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1979 Code, § 2-202)

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

8-203. Qualifications; application and application fee. (1) In order to qualify for a permit to sell beer, an applicant must at all times adhere to and comply with the following provisions:

(a) The applicant shall not engage in the transportation, storage, distribution, possession, receipt or manufacture of beer of alcoholic content of not more than five (5%) percent by weight, except at the place or places for which the Beer Board of Pigeon Forge, Tennessee, has issued a permit to such applicant.

(b) On premises permit. An on premises permit may be issued for the consumption of alcoholic beverages with an alcoholic content not exceeding five (5%) percent by weight only on the premises of the license in the following categories: a restaurant/eating place and special events.

(i) Restaurant/eating place. To qualify for an on premises permit-restaurant/eating place, the applicant and the establishment must, in addition to meeting all other provisions, regulations and restrictions in this chapter, meet the following requirements:

(A) Be a restaurant or an eating place regulated, monitored and rated by the State of Tennessee; and

(B) Be able to seat a minimum of 75 people, including children, in booths and at tables, which tables are for the seating of patrons for the consumption of food, in addition to any other seating it may have; and

(C) Have all of the above 75 seats in the interior of the building under a permanent roof and enclosed on all sides; and in the event the restaurant/eating place has adjoining and contiguous meeting rooms beer as defined herein may be served in said contiguous meeting rooms under all the requirements and conditions set forth herein.

(D) The restaurant or eating place shall be located in either a C-1, C-2, C-3 or C-4 Zone, according to the Pigeon Forge Zoning Ordinances and Zoning Map; and

(E) In the event that restaurant/eating place contains a bar or bar area, food service shall be equally available to the bar and bar area as it would be in other areas of the restaurant/eating place.

(F) In addition, the monthly beer sales of any establishment which holds an on premises permit shall not exceed twenty five (25%) percent of the gross sales of the establishment. Any such establishment for which two consecutive months or for any three months in any calendar year has beer sales exceeding twenty five (25%) percent of its gross sales shall have its beer permit revoked.

(G) No alcoholic beverage shall be consumed, or open for consumption on or about any premises licensed hereunder, in either bottle, glass, or other container after twelve fifteen (12:15) o'clock a.m.

Within thirty (30) minutes of the time for the sale of alcoholic beverages to cease in accordance with this chapter, all containers, glasses or other vessels of any type which have been used for serving and consumption of alcoholic beverages shall be removed by licensee from the area or areas whether the alcoholic beverage had been consumed and placed in areas not for access by patrons of the establishment.

(H) No sale shall be made under restaurant/eating place on premises permit except for on premises consumption.

(ii) Special event. To qualify for an on premises permit-special event, the applicant and establishment must, in addition to meeting all other provisions, regulations and restrictions in this chapter, except the same shall not be required to be a restaurant/eating place, meet the following requirements:

(A) Said applicant and the establishment must conduct any sale of alcoholic beverages pursuant to this permit in a permanent building or building addition designed for public conventions, conferences, meetings or receptions housing a minimum of 75 persons. The owner of said special event facility shall also be required to employ the services of a food caterer or restaurant for simultaneous food service with the sale of alcoholic beverages and offer food service throughout the entire time the permit holder sells beer pursuant to the special event permit.

(B) The on premises-special event permit shall be valid for no longer than seventy two (72) consecutive hours;

(C) The hours of beer sales under an on premises-special event shall be the same as are contained in the provisions herein for restaurant/eating places.

(D) The location of alcoholic beverage sales and consumption as defined herein, under an on premises-special event permit shall be limited to the interior of said structure designed for public conventions, conferences and/or meetings or receptions.

(E) The applicant shall complete and file with the city recorder, the city's application for special event on premises permit and pay the standard application fee for a beer permit with all of the foregoing to be done not less than

thirty (30) days prior to the requested date that the special event permit will go into effect.

(c) No sale of such beverages shall be made except in accordance with the permit granted.

(d) Neither the applicant nor any persons employed or to be employed by the applicant in such distribution or sale of such beverages shall have either been convicted of any violation of law regarding the possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

(e) The applicant shall not have had a license for the sale of alcoholic beverages of any kind or nature revoked by any city, county, or state.

(f) The property on which the business is operating or to be operated is within an area zoned by the City of Pigeon Forge as C-1, C-2, C-3, or C-4 as indicated by the zoning map of the City of Pigeon Forge and the applicant will not make sale of such beverages to minors and no sale of such beverages shall be made except in accordance with the permit granted.

(g) The business premises of the applicant is not located within 150 feet of any church or school, measured from the closest point of each of the respective buildings.

(h) The applicant will adhere to all representations and statements made by the applicant in the permit process required herein.

(2) Application/application fee. Before any permit is issued by the Beer Board of the City of Pigeon Forge, Tennessee, the owner of a business desiring to sell beer within the limits of the City of Pigeon Forge, must pay the application fee of \$250.00 to the City of Pigeon Forge and file with the board a written application, under oath, establishing:

(a) The name of the applicant;

(b) The name of the applicant's business;

(c) The location of the business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this chapter;

(d) The residential address of the applicant;

(e) Persons, firms, corporations, joint stock companies syndicates, or associations having at least a five (5%) ownership interest in the applicant;

(f) Identity and address of a representative to receive annual tax notices and any other communication from the City of Pigeon Forge or its beer board;

(g) The name of the owner or owners of the premises upon which the sale of the beer shall be conducted along with a copy of the deed and if held pursuant to a lease or rental agreement, a copy of any

and all documents evidencing either ownership or right to use of the premises.

(h) A site plan of the business premises certified by a registered land surveyor or engineer licensed to practice in the State of Tennessee.

(i) A statement that the applicant shall not engage in the sale of beer of alcoholic content of not more than five (5%) percent by weight, except at the place or places for which the beer board of the City of Pigeon Forge, Tennessee, has issued a permit or permits to such applicant.

(j) A statement that no sale of such beverages shall take place for the purpose of consumption on the business premises of the applicant unless the applicant seeks an on premises permit and qualifies as a restaurant/eating place.

(k) A statement establishing that no sale of such beverages shall be made except in accordance with the permit granted.

(l) A statement establishing that no person, firm, corporation, joint stock company, syndicate, or association having at least a five (5%) percent ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(m) No person employed by the applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(n) A statement that no sales shall be made to minors;

(o) A statement that the applicant has not had a license for the sale of alcoholic beverages of any kind or nature revoked by any city, county, or state.

(p) A statement that the applicant shall, unless the applicant seeks an on premises permit and qualifies as a restaurant/eating place, at all times, for the duration of the permit keep and maintain an inventory of no more than twenty-five (25%) of total dollar value of inventory in beer with an alcoholic content not exceeding five (5%) percent of weight.

(q) A statement that the business of the applicant, shall make no more than twenty-five (25%) percent of its total gross sales in beer to be determined monthly.

(r) A statement that a written report shall be filed on a monthly basis with the City Recorder of the City of Pigeon Forge, Tennessee, by the applicant as evidence that no more than twenty-five (25%) percent of gross sales are due to the sale of beer with an alcoholic content not exceeding five (5%) percent of weight.

(s) That unless the applicant seeks an on premises permit and qualifies as a restaurant/eating place or qualifies for a special event permit, a statement that a minimum of fifty thousand dollars (\$50,000.00) in inventory, measured by wholesale invoices which will be available to the city recorder after five (5) days prior written notice, shall be maintained at all times during the operation of the business by the holder of the permit.

(t) A statement that the business premises of the applicant is not located within 150 feet of any church or school, measured from the closest point of each of the respective buildings.

(u) A statement that the property upon which the business is operating is within an area zoned C-1, C-2, C-3 or C-4 according to the zoning map duly adopted by the City of Pigeon Forge, Tennessee.

(v) A statement that the applicant shall not advertise the sale of beer by any means, by billboard, television, exterior signage, radio or other communication, off the business premises and shall not advertise the prices for beer. Only one interior sign visible from the exterior of the business premises advertising the availability of beer shall be allowed, and such sign shall not exceed two feet by two feet. No outdoor sign, advertisement, or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one (1) sign, advertisement, or display which makes reference to the fact that the establishment sells beer but does not use brand names, pictures, numbers, prices or diagrams relating to beer.

(w) A statement that all city and county property taxes, license fees, or other charges by the City of Pigeon Forge, Tennessee, or Sevier County, Tennessee, are current and shall in the future be paid on or before the due date thereof.

(x) A statement that the applicant shall not, for the duration of the permit, allow the sale of beer by way of a drive-in window.

(y) The applicant shall execute an authorization enabling the City of Pigeon Forge to receive from each and every wholesale supplier to the holder of the permit, the dollar value and amounts of beer sold by the wholesale or distributor to the holder of the permit at such time or times as the city may request such information. This authorization shall be in full force and effect during the entire term of the permit.

(z) Such other relevant information as may be required by the Board of Commissioners of the City of Pigeon Forge, or the Pigeon Forge Beer Board. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application.

(aa) The premises of the applicant meets all fire safety standards of the City of Pigeon Forge relative to occupancy by the public and the

same has been inspected by the City of Pigeon Forge Fire and Building Inspection offices in conjunction with this application.

Any applicant making a false statement in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years. (1979 Code, § 2-203, as replaced by Ord. #707, July 2003, and amended by Ord. #718, Oct. 2003)

8-204. Issuance of permits by beer board¹. The beer board of the City of Pigeon Forge, Tennessee, is vested with full and complete authority to issue permits for the sale of beer and otherwise adopt rules and regulations governing the conduct of its meetings.

(1) Any person, firm, corporation, joint stock company, syndicate, or other association, lawfully authorized to sell beer within the corporate limits of Pigeon Forge, Tennessee, or in lawful operation at the time the business premises of the person, firm, corporation, joint stock company, syndicate, or other association is taken into the corporate limits of the City of Pigeon Forge, Tennessee, by annexation, shall be issued a permit to sell beer by the Beer Board of the City of Pigeon Forge, Tennessee, subject to the rules, regulations, guidelines and limitations of its permit and as otherwise authorized to act by the laws and ordinances of the State of Tennessee and Sevier County, Tennessee.

(2) Any person, firm, corporations, joint stock company, syndicate, or other association in lawful operation at the time the business premises of the person, firm, corporation, joint stock company, syndicate, or other association is taken into the corporate limits of Pigeon Forge, Tennessee, by annexation, it shall have five (5) years from the effective date of annexation within which to conform to the terms, covenants and conditions of the application for a permit to sell beer, as provided herein, and any other applicable provision of this chapter.

(3) All persons, firms, corporations, joint stock companies, syndicates, or other associations, shall conduct its business in compliance with the covenants, conditions and representatives of its application. (1979 Code, § 2-204)

8-205. Proof of purchase for resale. It is unlawful for any person to sell, distribute or manufacture beer without having a valid certificate indicating that purchase of beer by that person are "for resale" as defined in Tennessee Code Annotated, § 67-6-102(22)(a):

¹Ord. #728, March 2004 increased the number of members of the Pigeon Forge Beer Board to five (5) members who shall be appointed by the City Commission of Pigeon Forge, Tennessee, to an indeterminate term which shall expire at the discretion of the city commission.

Within ten (10) days after being issued a permit to sell, distribute, or manufacture beer, a person shall file with the city recorder and with each person from whom the person buys beer, a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is defined herein, and shall subsequently maintain at all times a valid resale certificate on file with the city recorder and with each person from whom that person buys beer.

The holder of the permit shall, in addition thereto, provide to the city recorder records indicating the amounts in dollar value of beer purchased and an accurate accounting of all dollar value retail sales of beer within each monthly period. (1979 Code, § 2-205)

8-206. Permits not transferable. Permits issued hereunder and shall remain in full force and effect until they are cancelled, revoked or suspended by the beer board of the City of Pigeon Forge, Tennessee.

(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 lease fifty (50%) percent of the stock of the corporation is transferred to a new owner;

(b) Only for a single location, and cannot be transferred to another location.

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

(2) A permit holder must return a permit to the City of Pigeon Forge within fifteen (15) days of termination of the business, change in ownership, relocation of the business, or change in 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 in the business's name.

(3) The city shall not suspend, revoke or deny a permit to a business engaged in selling beer on the basis of proximity of the business to a school, church or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 1993. This section shall not apply if the beer is not sold or distributed at that location during any continuous six (6) month period after January 1, 1993. (1979 Code, § 2-206)

8-207. Sales to minors or intoxicated person. It shall be unlawful to sell or offer for sale of beer to a person under the age of twenty-one (21) years or to a person who is in an intoxicated or partially intoxicated conditioned. (1979 Code, § 2-207)

8-208. Hours and days of operation. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or other association to offer for sale or sell beer within the corporate limits of the City of Pigeon

Forge, Tennessee, between the hours of twelve (12:00) o'clock midnight and six (6:00) a.m. on weekdays and between the hours of twelve (12:00) o'clock midnight on Saturday and twelve (12:00) o'clock noon on Sunday of each week.

There shall be no beer sold on Thanksgiving, Christmas, or on any day when voting precincts are open in the City of Pigeon Forge for any city, county, state or national election during hours when voting polls are open. (1979 Code, § 2-208, as amended by Ord. #707, July 2003)

8-209. Loitering. It shall be unlawful for the management of any place where beer is sold to allow any person under the age of twenty-one (21) to loiter about such place of business, and the burden of ascertaining the age of customers under the age of twenty-one (21) shall be upon the owner or operator of such place of business. (1979 Code, § 2-209)

8-210. Unlawful for minor to misrepresent age. It shall be unlawful for any person under the age of twenty-one (21) to purchase or attempt to purchase beer within the corporate limits of the City of Pigeon Forge.

Any person who purchases beer for or at the request of a person under twenty-one (21) years of age, upon conviction, shall be subject to a fine of fifty dollars (\$50.00).

It shall be unlawful for any person under twenty-one (21) years of age to knowingly make a false statement or exhibit false statement or exhibit false identification to the effect that he is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same.

It is unlawful for any person under twenty-one (21) years of age to have in his possession beer for any purpose except the same be in the course of his employment.

Any person younger than twenty-one (21) years of age who is found guilty of a violation of any, provision of this chapter shall be subject a find of fifty dollars (\$50.00) and the City Court of Pigeon Forge shall prepare and send to the Department of Safety, Drive Control Division, within five (5) working days of the conviction, an order of denial privileges for any such person younger than twenty-one (21) years of age, who is convicted of the purchase or attempt to purchase or of possession of beer in violation of this section.

Any person under twenty-one (21) years of age, found to have violated the provisions of the section shall, regardless of the final disposition of such violation, have the right to have the records of such violation destroyed after the passage of six (6) months from the date of the violation. Such destruction shall occur upon motion of the person to the court which heard the violation and shall be without cost to the person. (1979 Code, § 2-210)

8-211. Revocation. The beer board of the City of Pigeon Forge, Tennessee, is vested with the full and complete power and authority to suspend,

cancel or revoke permits to sell beer or impose civil penalties upon the following grounds:

(1) Any violation of the provisions of this chapter or the term, covenants, and conditions of the application for a permit.

(2) Any violation of any law now in existence in the State of Tennessee or hereinafter adopted regulating the sale, manufacture, or distribution of beer.

The board may, at the time it imposes a revocation or suspension, offer at permit holder the alternative of paying a civil penalty not to exceed fifteen hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (1979 Code, § 2-211)

8-212. Procedure. When the beer board for the City of Pigeon Forge shall have a reason to believe that any permit holder shall have violated any of the provisions of this chapter or any provision of the state law regulating beer, the board shall provide the holder of the permit notification of the nature of the alleged violation and give notice to the permit holder of the requirement to appear and show cause why his permit should not be suspended or revoked for the alleged violation. The notice to appear and show cause shall be served on the permit holder either by certified mail or by a member of the Pigeon Forge Police Department. The notice shall be served or mailed to the holder of the permit at least ten (10) days before the date scheduled for the hearing. The beer board shall, at a public hearing, allow evidence to be presented on behalf of the holder of the permit and thereafter in its discretion, either dismiss the charges or complaint, or suspend or revoke the permit or impose civil penalties. The action of the beer board of the City of Pigeon Forge, shall in all such hearings, be final, subject only to review by a statutory writ of certiorari as provided for in Tennessee Code Annotated, § 57-5-108.

Where a permit is revoked, no new license or permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective. (1979 Code, § 2-212)