

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.
3. LIQUOR BY THE DRINK.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Subject to regulation.
- 8-103. Manufacture prohibited.
- 8-104. Wholesalers.
- 8-105. Sale by licensee legalized.
- 8-106. Qualification of applicant.
- 8-107. Content of application for certificate of good moral character.
- 8-108. Misrepresentation or concealment.
- 8-109. Restrictions on issuance of certificate of good moral character.
- 8-110. Amount of investigation fee.
- 8-111. Miscellaneous restrictions on licensees and their employees.
- 8-112. Nature and revocability of license.
- 8-113. Display of license.
- 8-114. Location of liquor store.
- 8-115. Maximum number of licenses.
- 8-116. License not transferable.
- 8-117. Limited time of operation.
- 8-118. Minors, persons visibly intoxicated and habitual drunkards.
- 8-119. No consumption on premises of liquor store.
- 8-120. Public drinking and public display of alcoholic beverage prohibited.
- 8-121. Inspection fee.
- 8-122. Inspection fee reports.
- 8-123. Records to be kept by licensee.
- 8-124. Inspections.

¹Municipal code references

Driving under the influence: § 15-104.

Minors in beer places: title 11, chapter 1.

State law reference

Tennessee Code Annotated, title 57.

- 8-125. Effect of failure to report and pay inspection fee.
- 8-126. Use of funds derived from inspection fees.
- 8-127. Other violations by licensee.
- 8-128. Licensee's responsibility.
- 8-129. Penalties.
- 8-130. Separability.
- 8-131. Section headings.
- 8-132. Repeal of other ordinances.
- 8-133. Initial applications.

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

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

(2) "Applicant" means the party applying for a certificate of good moral character or a license.

(3) "Application" means the form or forms an applicant is required to file in order to obtain a certificate of good moral character or license.

(4) "Bottle" means any container, vessel, bottle or other receptacle used for holding any alcoholic beverage. "Unsealed bottle" means a bottle with the original seal, cork, cap or other enclosing device either broken or removed, or on which the federal revenue strip stamp has been broken.

(5) "Board" means the board of mayor and commissioners of the city.

(6) "Certificate of good moral character" means the certificate provided for in Tennessee Code Annotated, § 57-3-208, in connection with the prescribed procedure for obtaining a state liquor retailer's license.

(7) "City" means the City of South Pittsburg, Tennessee.

(8) "City recorder" means the city recorder of the city.

(9) "Corporate limits" means the corporate limits of the city as the same now exist or may hereafter be changed.

(10) "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either by himself or by his agent.

(11) "Distillery" means and includes any place or premises wherein any alcoholic beverage is manufactured for sale.

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

(13) "Inspection fee" means the monthly fee a licensee is required by this chapter to pay, the amount of which is determined by a percentage of the gross sales of a licensee.

(14) "License" means a license issued by the state under the provisions of this chapter for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail in the city.

(15) "Licensee" means the holder of a license.

(16) "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.

(17) "Liquor store" means the building or the part of a building where a licensee conducts any of the business authorized by his license.

(18) "Manufacturer" means and includes a distiller, vintner, and rectifier of alcoholic beverage. "Manufacture" means and includes distilling, rectifying and operating a winery or any device for the production of alcoholic beverage.

(19) "Person" shall mean and include an individual, partner, association or corporation.

(20) "Rectifier" means and includes any person who rectifies, purifies or refines any alcoholic beverage by any process other than as provided for on distillery premises, and also any person who, without rectifying, purifying or refining an alcoholic beverage, shall, by mixing an alcoholic beverage with any other material, thereby manufacture any imitation thereof, or who compounds an alcoholic beverage for sale under the name of: whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.

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

(22) "Sale" or "sell" means and includes the exchange or barter of alcoholic beverage, and also any delivery made otherwise than gratuitously of alcoholic beverage; the soliciting or receiving of an order for alcoholic beverage; the keeping, offering or exposing of alcoholic beverage for sale.

(23) "State" means the State of Tennessee.

(24) "State alcoholic beverage commission" means the Tennessee Alcoholic Beverage Commission, provision for which is made in the state statutes, including without limitation the provisions of Tennessee Code Annotated §§ 57-1-101--57-1-209.

(25) "State liquor retailer's license" means a license issued under the state statutes (including the provisions contained in Tennessee Code Annotated §§ 57-2-101--57-2-105) for the purpose of authorizing the holder thereof to engage in the business of selling alcoholic beverages at retail.

(26) "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.

(27) "State statutes" means the statutes of the State of Tennessee now in effect or as they may hereafter be changed.

(28) "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery, whether by himself or by his agent.

(29) "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, saccharine and seasonal conditions; including also champagne, sparkling and fortified wine of an alcoholic content not to exceed 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 unless designated as an artificial or imitation wine.

(30) "Winery" means and includes any place or premises wherein wine is manufactured or brandies are distilled as the by product of wine or where cordials are compounded.

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

(32) "Wholesaler" means any person who sells at wholesale any alcoholic beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, §§ 57-2-101--57-2-105.

(33) Words importing the masculine gender shall include the feminine and the neuter, and the singular shall include the plural. (1994 Code, § 8-101)

8-102. Subject to regulation. It shall be unlawful for any person either to engage in the business of selling, storing, transporting, or distributing any alcoholic beverage within the corporate limits of the city or to sell, store, transport, distribute, purchase or possess any alcoholic beverage within the corporate limits of the city, except as provided by the state statutes, by the state rules and regulations, by the federal statutes and by this chapter. (1994 Code, § 8-102)

8-103. Manufacture prohibited. It shall be unlawful for any person to manufacture any alcoholic beverage within the corporate limits of the city. (1994 Code, § 8-103)

8-104. Wholesalers. Unless hereafter authorized by an ordinance of the city, no wholesaler's license shall be granted to any person for the operation within the corporate limits of the city of any business for the sale at wholesale of any alcoholic beverage. Any wholesaler whose business is located outside the city and who holds a valid state license, and who has paid to the city all privilege taxes and fees applicable to such wholesale business, may purchase any alcoholic beverage from such wholesaler, but only as provided by the state statutes, the state rules and regulations, the federal statutes, and by this chapter. (1994 Code, § 8-104)

8-105. Sale by licensee legalized. It shall be lawful for a licensee to sell any alcoholic beverage at retail in a liquor store, within the corporate limits, provided such sales are made in compliance with applicable federal statutes,

state statutes, state rules and regulations, and the provisions of this chapter. (1994 Code, § 8-105)

8-106. Qualification of applicant. To be eligible to apply for or to receive a certificate of good moral character, an applicant must satisfy the requirements of this chapter, and of the state statutes and state rules and regulations for a holder of a state liquor retailer's license. (1994 Code, § 8-106)

8-107. Content of application for certificate of good moral character. Each applicant for a certificate of good moral character shall file with the board of mayor and commissioners a completed form of application, on a form to be provided by the board of mayor and commissioners, and which shall contain the following information:

(1) The name and street address of each person to have any interest, direct or indirect, in the licensee as owner, partner, or stockholder, director, officer, or otherwise;

(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 and zoning designation applicable to such location;

(4) The statement that each applicant has either resided within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed, or has owned real estate situated within the corporate limits of the city as the same now exist during the two (2) consecutive years immediately preceding the date the application is filed. However, this residency requirement does not apply to any applicant who has been continuously licensed in South Pittsburg for seven (7) consecutive years;

(5) The names and addresses of at least three (3) residents of the city who have known each applicant for at least two (2) years;

(6) If any applicant seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence, then each such applicant shall furnish the board of mayor and commissioners with a legal description of such real estate, owned by the applicant for the required two (2) year period and also the book and page number in the Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to the applicant is recorded; each partner of a partnership and each stockholder, director, and officer of the corporation who seeks to meet the requirements of § 8-106 herein through ownership of property for the required two (2) year period rather than by residence then each such partner of a partnership, stockholder, director and officer of the corporation shall furnish the board of mayor and commissioners with a legal description of such real estate owned by such person for the required two (2) year period and also the book and page number in the

Register's Office of Marion County, Tennessee, where the deed or other instrument conveying title to such real estate to such person is recorded;

(7) The agreement of each applicant to comply with the state statutes, federal statutes, this chapter and with the state rules and regulations with reference to the sale of alcoholic beverages;

(8) The agreement of each applicant that he will be actively engaged in the retail sale of alcoholic beverages at the liquor store described in the application within one hundred and twenty (120) days after the license is granted to such applicant. The application form shall be accompanied by a copy of each application, and each questionnaire form and other material to be filed by the applicant with the state alcoholic beverage commission in connection with the same application, and shall also be accompanied by five copies of a plan drawn to a scale of not less than one (1) inch equals twenty (20) feet, giving the following information:

(a) The shape, size, and location of the lot upon which the liquor store is to be operated under the license;

(b) The shape, size, height, and location of all buildings, whether they are to be erected, altered, moved, or existing, upon the lot;

(c) The off-street parking space and the off-street loading and unloading space to be provided including the vehicular access to be provided from these areas to a public street; and

(d) The identification of every parcel of land within three (300) hundred feet of the lot upon which the liquor store is to be operated indicating ownership thereof and the locations of any structures situated thereon and the use being made of every such parcel.

The application form shall be signed and verified by each person to have any interest in the licensee either as owner, partner, or stockholder, director, officer or otherwise. If, at any time, the applicable state statutes shall be changed so as to dispense with the requirements of a certificate of good moral character, no original or renewal license shall be issued until an application in the same form has been filed with the board of mayor and commissioners.

The recorder shall review each application, note any apparent questions, errors and insufficiencies and submit same to the board for consideration and action. (1994 Code, § 8-107)

8-108. Misrepresentation or concealment. A misrepresentation or concealment of any material fact in any application shall constitute a violation of this chapter, and the board shall forthwith report such violation to the state alcoholic beverage commission together with the request that the state alcoholic beverage commission take action necessary to revoke or refuse to grant or renew a license to an applicant guilty of such misrepresentation or concealment. (1994 Code, § 8-108)

8-109. Restrictions on issuance of certificate of good moral character. (1) No certificate of good moral character shall be issued unless a license issued on the basis thereof to such applicant can be exercised without violating any provision of this chapter, the state statutes, the state rules and regulations or the federal statutes.

(2) The board of mayor and commissioners shall not sign any certificate of good moral character for any applicant until (a) such applicant includes in his application a statement that if he is granted a certificate of good moral character he will open his liquor store with a minimum inventory of ten thousand dollars (\$10,000.00) in wholesale value and that his liquor store will have at least one thousand (1000) square feet of floor space, (b) such applicant's application has been filed with the board, (c) the location stated in the certificate has been approved by the board as a suitable location for the operation of a liquor store, and (d) the application has been considered at a meeting of the board and approved by a majority vote of the entire board. (1994 Code, § 8-109)

8-110. Amount of investigation fee. Before any person shall engage in the sale of alcoholic beverage, an investigation fee of \$250.00 per calendar year shall be paid, but when due after July 1, in any calendar year, the investigation fee shall be \$125.00 for the remainder of such calendar year. (1994 Code, § 8-110)

8-111. Miscellaneous restrictions on licensees and their employees. (1) No certificate of good moral character shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county; and it shall be unlawful for any such person to have any interest in the liquor retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(2) No certificate of good moral character shall be issued to a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the legal entity with which he is connected files application therefor, 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; and provided, further, that in the 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, corporation, or association with which he is connected shall immediately discharge him as an employee, and such convicted felon shall forthwith divest himself of all interest in the business of the licensee, either as a partner, officer, director, stockholder or otherwise.

(3) No certificate of good moral character shall be issued to any person who, within ten (10) years preceding application therefor shall have been

convicted of any offense under the state statutes, state rules and regulations, the federal statutes, this chapter or of the statutes of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverage or who has, during said period, been engaged in business alone or with others in violation of any of the state statutes, state rules and regulations, the federal statutes or the laws, rules and regulations of any other state, county, or city of the United States; and provided further that in case of any such conviction occurring after a license has been issued and received, it shall be recommended that the said license shall immediately be revoked.

(4) It shall be unlawful for any manufacturer or wholesaler to have any interest in the licensee's rental or revenues.

(5) It shall be unlawful for any person to have ownership in, or to be a partner in or a stockholder, director, or officer, or to participate, either directly or indirectly, in the profits of any business for which a license is granted hereunder, 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 have been fully disclosed in writing by supplement to the application filed with the board and approved in writing by the board before such interest is acquired. Where such interest is owned by any person on or before the application for a license, the burden shall be upon such person to see that this section is fully complied with, whether, he, himself, signs or prepares the application, or whether the same is prepared by another; or if such interest is acquired after the issuance of the license, the burden of the required disclosure of the proposed acquisition of such interest shall be upon both the seller and the purchaser.

(6) No licensee shall employ in the storage, sale, or distribution of alcoholic beverage a person under the age of eighteen (18) years, and it shall be unlawful for any licensee to permit a minor in its place of business to engage in the storage, sale or distribution of alcoholic beverages.

(7) No licensee shall employ in the sale of alcoholic beverage, 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 judgement of infamy has been removed by a court of competent jurisdiction.

(8) It shall be unlawful for a licensee to advertise by signs, window displays, posters, or any other designs intended to advertise any alcoholic beverage within the corporate limits of the city except by signs approved by the board, not larger in area than fifty-five (55) square feet, designating the premises as " _____ Package Store." Only two such signs, one free standing and one attached to the structure, shall be permitted and the signs shall contain

no animation or flashing. Nothing contained herein shall prohibit any manufacturer or wholesaler from advertising in news media.

(9) No licensee shall employ or otherwise use the services of any canvasser, agent, solicitor, or representative for the purpose of receiving an order from a consumer for any alcoholic beverage at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This paragraph shall not be construed as to prohibit the solicitation by a state licensed wholesaler of any order from any licensee at the licensee's premises.

(10) All retail sales shall be confined to the premises of the licensee. No curb service shall be permitted, nor shall there be permitted drive-in windows.

(11) No liquor store shall be located in the city on any premises above the ground floor. Each liquor store shall have only one main entrance for use by the public as a means of ingress and egress for the purpose of purchasing alcoholic beverage at retail, provided, however, that any liquor store adjoining the lobby of a hotel or motel may maintain an additional entrance into such lobby so long as said lobby is open to the public.

(12) If a licensee is a corporation, then in addition to the other provisions of this chapter:

(a) No person owning stock in or who is an officer or director in such corporate licensee shall have any interest as an owner, stockholder, officer, director, or otherwise in any business licensed to engage in the sale at wholesale or retail of alcoholic beverage in the state or in any other place;

(b) No stock of such corporate licensee shall be transferred by sale, gift, pledge, operation of law or otherwise to any person who has not been a resident of the city for the two (2) consecutive years immediately preceding the date of any such transfer; nor shall any of said stock be so transferred to any person who would not be otherwise qualified as an original stockholder of an initial corporate applicant for a license hereunder.

(13) If any licensee, for any reason, shall not be actively engaged in and keep open its liquor store during normal business hours for a period of fifteen (15) work days in any calendar year, then the city recorder shall forthwith report such fact to the state alcoholic beverage commission and take such other action as may appear necessary or proper to have the license of such licensee revoked.

(14) Each liquor store licensed hereunder shall be personally and actively managed by the holder of the license, if the licensee is an individual or by a partner or corporate officer, if the licensee is a partnership or a corporation. In every case where alcoholic beverage is sold by a licensee that is either a partnership or a corporation the name and address of the managing partner or the corporate officer who will be in active control and management of the liquor

store shall be designated in the application, and any future changes in such manager shall be reported forthwith in writing to the city recorder. (1994 Code, § 8-111)

8-112. Nature and revocability of license. The issuance of a license hereunder shall vest no property rights in the licensee and such license shall be a privilege subject to revocation or suspension as provided by the state statutes and state rules and regulations. In the event of any violation of the state statutes, state rules and regulations, federal statutes or of the provisions of this chapter by a licensee or by any person for whose acts the licensee is responsible, then the city recorder shall forthwith report such violation to the Tennessee Alcoholic Beverage Commission or other appropriate state board to have the license of such licensee suspended or revoked as provided by law. (1994 Code, § 8-112)

8-113. 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. (1994 Code, § 8-113)

8-114. Location of liquor store. Liquor stores may be operated and maintained on premises fronting on U.S. Highway 72 within the corporate limits, but only within the following listed zones as defined in the Zoning Ordinance of the City of South Pittsburg, as set out on the Zoning Map of the City of South Pittsburg, Tennessee, as in effect on the date of any application for a license hereunder:

- C-1 (Central Business) District
- C-2 (General Commercial) District
- C-3 (Local Highway-Limited) District

All provisions of the Zoning Ordinance of the City of South Pittsburg, Tennessee, including but not limited to those provisions relating to the required yard area, off-street loading and unloading of vehicles and off-street parking, which are applicable to the zoning district in which a liquor store is authorized to operate hereunder, shall be complied with by each licensee as a condition precedent to the operation of any liquor store authorized by this chapter. No pinball machines or other amusement devices and no seating facilities other than for employees shall be permitted in any liquor store. No political advertising of or for any candidate or party by poster, card, matches, or otherwise and no campaign material shall be placed, displayed, or dispensed on the premises of any liquor store. A liquor store shall not be located within 300 feet of any church edifice or school as measured in a direct line from the center of the front door of the licensee's place of business. To assure that these requirements are satisfied, no original or renewal license and original or renewal certificate of good moral character for an applicant for license shall be

issued for any location until a majority of the members of the board have approved the proposed location as being suitable for a liquor store after a consideration of this matter at a meeting of the board. (1994 Code, § 8-114)

8-115. Maximum number of licenses. No more than five (5) licenses shall be issued and outstanding at any time under the provisions of this chapter. No person shall make application for, nor shall any person have on file and pending at any time, an application for more than one (1) certificate of good moral character or for more than one (1) license to operate a liquor store. (1994 Code, § 8-115)

8-116. License not transferable. A licensee shall not sell, assign, give, pledge, or otherwise transfer his license or any interest therein to any other person. No license shall be transferred from the licensee by operation of law through any proceedings in bankruptcy, insolvency, or receivership, or by execution, garnishment or other similar proceedings. No license shall be transferred from one location to another without the prior written approval of the board. (1994 Code, § 8-116)

8-117. Limited time of operation. No liquor store shall be open and no licensee shall sell or give away any alcoholic beverage on Christmas Day, on Thanksgiving Day, on any Sunday or on any day on which a public election is held within the city. On other days, no liquor store shall be open and no licensee shall sell or give away any alcoholic beverage before 8:00 A.M. or after 11:00 P.M. In the event of any emergency, liquor stores shall be closed upon order of the Mayor of South Pittsburg. (1994 Code, § 8-117)

8-118. Minors, persons visibly intoxicated and habitual drunkards. It shall be unlawful for any licensee to sell, furnish, or give away any alcoholic beverage to any person who is under twenty-one (21) years of age or to any person who is visibly intoxicated or to any person who is a habitual drunkard (any person under twenty-one years of age or visibly intoxicated or a habitual' drunkard being hereafter in this section referred to as "such person.") It shall be unlawful for any such person to enter or remain in a liquor store, or to loiter in the immediate vicinity of a liquor store. It shall be unlawful for a licensee to allow any such person to enter or remain in the licensee's liquor store or any part of the licensee's property adjacent to the liquor store. It shall be unlawful for any such person to buy or receive any alcoholic beverage from any licensee or from any other person. It shall be unlawful for a minor to misrepresent his age in an attempt to gain admission to a liquor store or in an attempt to buy any alcoholic beverage from a licensee. It shall be unlawful for any person to purchase any alcoholic beverage from any licensee for the purpose of selling or giving such alcoholic beverage to such person. (1994 Code, § 8-118)

8-119. No consumption on premises of liquor store. It shall be unlawful for any licensee to sell or furnish any alcoholic beverage for consumption in such licensee's liquor store on the premises used by the licensee in connection therewith. It shall be unlawful for any person to consume any alcoholic beverage in a liquor store or in the immediate vicinity of a liquor store. It shall be unlawful for any licensee to allow any person to consume any alcoholic beverage in such licensee's liquor store or on the premises used by the licensee in connection therewith. (1994 Code, § 8-119)

8-120. Public drinking and public display of alcoholic beverage prohibited. It shall be unlawful for any person to drink any alcoholic beverage or visibly and openly possess, display, exhibit, or show an unsealed bottle containing any alcoholic beverage in that portion of a restaurant or other eating place to which the general public is admitted, or in the parking area of any drive-in restaurant, or on any public street or sidewalk, or in any public park, playground, auditorium, theater, stadium, school or school ground or in any other public place. (1994 Code, § 8-120)

8-121. Inspection fee. There is hereby levied on each licensee in the city an inspection fee in the amount of eight per cent (8%) of the wholesale price of all alcoholic beverage supplied during each calendar month by a wholesaler to each licensee in the city. It shall be unlawful for any wholesaler to supply, ship or otherwise deliver any alcoholic beverage to a licensee, and it shall be unlawful for any licensee to receive any alcoholic beverage, unless there shall be issued and delivered to the licensee by the wholesaler, concurrently with each such shipment or delivery, an invoice showing:

- (1) The date of the transaction;
- (2) The name and address of the wholesaler and of the licensee;
- (3) The brand name and quantity of alcoholic beverage covered by the invoice; and
- (4) The unit wholesale price and the gross wholesale price for each item listed thereon. The wholesaler's invoice shall be issued and delivered to the licensee as hereinabove provided without regard to the terms of payment of the invoice so as to include all such transactions whether for cash or on credit or partly for cash and partly for credit. The inspection fee, computed as hereinabove provided, shall be paid by each licensee to the city recorder on or before the 15th day of each calendar month for the preceding calendar month. Each licensee, as a condition precedent to operating a liquor store in the city, shall execute and deliver to the city a bond in the amount of one thousand dollars (\$1,000.00) and said bond shall be payable to the city; shall be executed by a surety company duly authorized and qualified to do business in the state; and said bond shall be conditioned that the licensee shall pay to the city all inspection fees due hereunder. The aforesaid surety bond shall be in a form approved by the city attorney. (1994 Code, § 8-121)

8-122. Inspection fee reports. The city administrator shall prepare and make available to each licensee sufficient forms for the monthly report of the inspection fees payable by each licensee; and the city administrator is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees and to specify the records to be kept by each licensee. (1994 Code, § 8-122)

8-123. Records to be kept by licensee. In addition to any records specified in the rules and regulations promulgated by the city administrator pursuant to the preceding section, each licensee shall keep on file at such licensee's liquor store the following records:

(1) Original invoices required under § 8-122 above for all alcoholic beverages bought by or otherwise supplied to the licensee;

(2) The original receipts for any alcoholic beverage returned by such licensee to any wholesaler; and

(3) An accurate record of all alcoholic beverage lost, stolen, damaged, given away, or disposed of other than by sale, and showing for each such transaction the date thereof, the quantity and brands of alcoholic beverage involved, and, where known, the name of the person or persons receiving the same. All such records shall be preserved for a period of at least two (2) years unless the city recorder gives the licensee written permission to dispose of such records at an earlier time. (1994 Code, § 8-123)

8-124. Inspections. The city administrator is 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 administrator and the chief of police and any other police officer of the city 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 by the city administrator or the inspection and examination of the premises of a liquor store shall be a violation of this chapter and the city commissioner of finance shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (1994 Code, § 8-124)

8-125. Effect of failure to report and pay inspection fee. The failure to pay the inspection fee and to make the required reports accurately within the time prescribed in this chapter shall, at the sole discretion of the city board, be cause for the taking of such action as is necessary to suspend the offending licensee's license for as much as thirty days, or to revoke said license. (1994 Code, § 8-125)

8-126. Use of funds derived from inspection fees. All funds derived from the inspection fees imposed herein shall be paid into the general fund of the city. The city shall defray all 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 in investigating and inspecting licensees and applicants and in seeing that all provisions of this chapter are observed; and the board finds and declares that the amount of these inspecting fees is reasonable and that the funds expected to be derived from these inspection fees will be reasonably required for said purposes. The inspection fee levied by this chapter shall be in addition to any general gross receipts, sales or other general taxes applicable to the sale of alcoholic beverages, and shall not be a substitute for any such taxes. (1994 Code, § 8-126)

8-127. Other violations by licensee. Any licensee who in the operation of such licensee's liquor store, shall violate any federal statute, 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. (1994 Code, § 8-127)

8-128. Licensee's responsibility. Each licensee shall be responsible for all acts of such licensee's officers, stockholders, directors, employees, agents, and representatives, so that any violation of this chapter by any officer, stockholder, director, employee, agent or representative of a licensee shall constitute a violation of this chapter by such licensee. (1994 Code, § 8-128)

8-129. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and shall be fined a minimum of \$50.00 for each such violation. Any licensee violating any provision of this chapter shall be subject to having his license suspended or revoked for such violation as provided in this chapter, or by the state statutes, or by the state rules and regulations. All policemen of the city are hereby empowered and required to take into possession any alcoholic beverages which have been received by, or are in the possession of, or are being transported by, any person in violation of the state statutes, the state rules and regulations, the federal statutes, and this chapter; and such contraband alcoholic beverage shall be disposed of as provided by the state statutes. (1994 Code, § 8-129)

8-130. Separability. The provisions of this chapter are hereby declared to be severable and if any provision hereof shall be declared unconstitutional or invalid for any reason, the board of mayor and commissioners hereby declare that this chapter would have been adopted without such unconstitutional or invalid provision. (1994 Code, § 8-130)

8-131. Section headings. The section headings included herein are solely for assistance in locating the various provisions contained in this chapter; and no such section heading shall be used by construction or otherwise to limit the meaning of the provisions contained in the body of any section. (1994 Code, § 8-131)

8-132. Repeal of other ordinances. Ordinances inconsistent herewith are hereby repealed. This chapter, however, is not intended to cover the entire field of ordinance provisions concerning beverages containing alcohol, and no provision of any other ordinance shall be repealed by this chapter unless irreconcilably inconsistent with the provisions of this chapter. Nothing contained in this chapter shall repeal any ordinances concerning beer, all of which ordinances shall remain in full force and effect. (1994 Code, § 8-132)

8-133. Initial applications. In making the initial certification of good moral character for the first five (5) persons to be licensed hereunder, the board of mayor and commissioners will consider all applications filed before a closing date to be fixed by it, and after eliminating the applicants who do not possess the qualifications required by the state statutes, by the state rules and regulations and by this chapter, it will select from among the remaining applicants the names of the applicants to whom a certificate of good moral character will be issued to the Tennessee Alcoholic Beverage Commission for issuance of a license to operate a liquor store hereunder, without regard to the order or time in which applications are filed by a vote of the majority of the entire membership of the board of mayor and commissioners.

No certificate of good moral character shall be issued for the operation of a retail liquor store when, in the opinion of the board of mayor and commissioners expressed by a majority thereof, the operation of such business at the location described in the application would be in too close proximity to a church or a school, or would be otherwise inimical or detrimental to public interest. (1994 Code, § 8-133)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Term of office; vacancies; chairman and secretary.
- 8-203. Meetings of the beer board.
- 8-204. Record of beer board proceedings to be kept.
- 8-205. Requirements for beer board quorum and action.
- 8-206. Powers and duties of the beer board.
- 8-207. "Beer" defined.
- 8-208. Permit required for engaging in beer business.
- 8-209. Privilege tax.
- 8-210. Applications for beer permits--investigation; assistance by chief of police.
- 8-211. Recommendations to board of mayor and commissioners.
- 8-212. Investigations of permit or license holders charged with certain violations; action by board of mayor and commissioners.
- 8-213. Notification of beer board when license is revoked.
- 8-214. Violations to be reported to beer board; police, etc., to cooperate with board.
- 8-215. Distribution, sale, etc., lawful.
- 8-216. Areas of city wherein permits for sale of beer may be issued.
- 8-217. Maximum quantity to be possessed without a license.
- 8-218. Beer permits shall be restrictive.
- 8-219. Classes of consumption permits.
- 8-220. Limitation on number of permits.
- 8-221. Interference with public health, safety, and morals prohibited.
- 8-222. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-223. Approval or rejection of application.
- 8-224. Location of premises to be designated.
- 8-225. When recorder may issue license.
- 8-226. Restrictions on certain licenses.
- 8-227. License to be displayed.

¹Municipal code references

Minors in beer places, etc.: title 11, chapter 1.

Tax provisions: title 5.

State law reference

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

- 8-228. Permit to be held by owner.
- 8-229. Sale of beer for both on-premises and off-premises consumption.
- 8-230. Reports by police; hearings on violations.
- 8-231. Possession of federal license without city license.
- 8-232. Retailers to purchase from wholesalers licensed by city.
- 8-233. Return of permit after change in ownership.
- 8-234. Prohibited conduct or activities by beer permit holders.
- 8-235. Suspension and revocation of beer permits.
- 8-236. Civil penalty in lieu of suspension.
- 8-237. Solicitations by home delivery services prohibited.
- 8-238. Reports required of licensees.
- 8-239. Hours when packaged beer for off-premises consumption can be sold.
- 8-240. Hours when sale, distribution, etc., prohibited for on-premises consumption
- 8-241. Unauthorized use or consumption of beverages on premises.

8-201. Beer board established. There is hereby established a board of three (3) members to be known as "The Beer Board of the City of South Pittsburg, Tennessee." (1994 Code, § 8-201)

8-202. Term of office; vacancies; chairman and secretary. All members of the beer board shall serve at the pleasure of the board of mayor and commissioners. In event of a vacancy the mayor, subject to the approval of the board of mayor and commissioners, may fill the same. A chairman and a secretary shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (1994 Code, § 8-202)

8-203. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (1994 Code, § 8-203)

8-204. Record of beer board proceedings to be kept. The secretary shall make a 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 provisions of each beer permit issued by the board. (1994 Code, § 8-204)

8-205. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1994 Code, § 8-205)

8-206. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (1994 Code, § 8-206)

8-207. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (1994 Code, § 8-207)

8-208. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of South Pittsburg. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (1994 Code, § 8-208)

8-209. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of South Pittsburg, 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. (1994 Code, § 8-209)

8-210. Applications for beer permits--investigation; assistance by chief of police. The board shall make an investigation of each applicant for a permit to sell beer to determine the character of the applicant and to determine whether or not the applicant is a suitable person to be issued a license or permit and the location a suitable place within the area authorized as places for the sale of beer. The board may call upon the chief of police to make any investigation and to furnish any information necessary with regard to any

applicant. It shall be the duty of the chief of police to cooperate with the beer board in making investigations of applicants and their prospective locations. (1994 Code, § 8-210)

8-211. Recommendations to board of mayor and commissioners.

The beer board shall make its report and recommendations to the board of mayor and commissioners as to whether or not a permit shall be issued or denied to the applicant. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either grant or refuse a permit or license. All applications for the renewal of a license shall be made and referred to the beer board for its recommendation and report the same as upon an original application. (1994 Code, § 8-211)

8-212. Investigations of permit or license holders charged with certain violations; action by board of mayor and commissioners.

When any holder of a license or permit for the sale of beer is charged with the violation of any of the laws of the state, this code or other ordinances of the city or for any reasons set out in § 8-234 of this code, it shall be the duty of the beer board to make an investigation. In order that the beer board may make necessary investigations, it is hereby given authority to issue subpoena for witnesses to appear before it for the purpose of giving testimony. The chairman is authorized to administer the oath to witnesses. The beer board, after its investigation, shall make its report and recommendation to the board of mayor and commissioners as to whether or not the license shall be suspended or revoked. The board of mayor and commissioners may, notwithstanding the recommendation of the beer board, in its discretion, either revoke or suspend the license of any licensee. (1994 Code, § 8-212)

8-213. Notification of beer board when license is revoked.

When a license for the sale of beer has been revoked, it shall be the duty of the city recorder to furnish the beer board with the name and location of the licensee. (1994 Code, § 8-213)

8-214. Violations to be reported to beer board; police, etc., to cooperate with board.

It shall be the duty of the police officers and inspectors to report to the beer board any violations of the laws of the state, this code or other ordinances, rules and regulations of the city by any licensee. All police officers and inspectors and the recorder shall cooperate with and furnish all information requested by the beer board. (1994 Code, § 8-214)

8-215. Distribution, sale, etc., lawful.

It shall be lawful to distribute, sell, transport, store and possess beer, including ales or other malt liquors of alcoholic content of not more than five per cent (5%) by weight in the city, subject to all the regulations, limitations, and restrictions provided by

Tennessee Code Annotated, title 57, chapter 5, and subject to the provisions of this title. (1994 Code, § 8-215)

8-216. Areas of city wherein permits for sale of beer may be issued. No beer permit shall be issued for any business located outside of the following areas:

(1) Sales for consumption on the premises. In buildings abutting the East or West sidewalks of Cedar Avenue from Third Street on the South to First Street on the North; and in buildings fronting not more distant than thirty (30) feet from the right of way boundary lines on the East and West sides of U. S. Highway No. 72 from First Street on the South to the intersection therewith of the Jaycee Boat Dock Street or Road on the North.

Provided, however, in all instances the proposed location of applicant's business in this area must be such as to conform with the provisions of § 8-220 herein.

(2) Sales of package beer for off-premises consumption. (a) In buildings facing Cedar Avenue from the South corporate boundary line on the South to First Street on the North; in buildings fronting not more distant than thirty (30) feet from the right of way boundary lines on the East and West sides of U. S. Highway No. 72 from First Street on the South to the North corporate boundary line on the North; and in buildings located on the East side of Elm Avenue between Second and Third Streets, and

(b) In buildings located to include an area in buildings fronting not more distant than thirty (30) feet from the right-of-way boundary lines on the East and West sides of U.S. Highway No. 72 from the former South city limits of the City of South Pittsburg on the North to the Tennessee-Alabama line on the East side of said highway; and on the West side of said to the Northeast corner of the State Line Shopping Center area and thence following the boundary lines of said shopping area so as to include the entire area of the said State Line Shopping Center. (1994 Code, § 8-216)

8-217. Maximum quantity to be possessed without a license. It shall be unlawful for any person not a licensed retail dealer in beer to have in his or her possession or on his or her premises more than three cases of beer at any one time; provided, that a person or group of persons may purchase and possess more than three cases to be used exclusively for non-recurring social functions, and retail dealers may sell such person or group of persons more than three cases at one time if such person or group of persons presents to such retailer a permit signed by the chief of police specifying the amount to be purchased and the time within which such purchase shall be made. A retailer making such sales shall return or mail the permit authorizing the sale to the chief of police by 12:00 Noon of the next succeeding business date after such

sale, noting thereon the quantity sold and time of sale. It shall be unlawful for any licensed retail dealer in beer to sell or deliver to any person more than three cases of such beverages on any one day, other than as above provided. (1994 Code, § 8-217)

8-218. 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, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise 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 shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (1994 Code, § 8-218)

8-219. Classes of consumption permits. Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be primarily a restaurant or an eating place; and
- (b) be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) have all seating in the interior of the building under a permanent roof; and
- (d) have been in continual operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment which holds a Class 1 On premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(2) Class 2 On Premises Permit. Other establishments making application for a permit to sell beer for consumption on the premises, which do not qualify, or do not wish to apply for, a Class 1 On Premises Permit, but which otherwise meet all other regulations and restrictions in this chapter, shall apply for a Class 2 On Premises Permit.

(3) Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit,

an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be a grocery store or a convenience type market; and
- (b) in either case, be primarily engaged in the sale of grocery, personal, and home care and cleaning articles, but may also sell gasoline; and
- (c) have been in continuous operation for a period of six (6) months.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two consecutive months or for three months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (1994 Code, § 8-219)

8-220. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Off Premises Permits. There shall be no more than three Class 2 On Premises Permits issued and outstanding at any time. (1994 Code, § 8-220)

8-221. 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. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred (300) feet of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment 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, unless beer is not sold, distributed or manufactured at that location during any continuous six-month period after January 1, 1993. (1994 Code, § 8-221)

8-222. 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 liquor, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have 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. (1994 Code, § 8-222)

8-223. Approval or rejection of application. The board of mayor and commissioners shall consider each application filed, and shall grant or refuse the license and permit, according to its best judgment, under all the facts and circumstances, and endorse its action on the application. The action of the board in granting or refusing a license and permit shall be final, except as it may be subject to review at law. (1994 Code, § 8-223)

8-224. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in his license, permit and application therefor. (1994 Code, § 8-224)

8-225. When recorder may issue license. The city recorder shall issue no license until the application therefor has been approved by the board of mayor and commissioners and he has been instructed by the board to issue same. (1994 Code, § 8-225)

8-226. Restrictions on certain licenses. (1) Hotels. Licenses may be issued to hotels for sale and consumption on the premises in rooms where meals or lunches are served and in guests' rooms.

(2) Clubs and lodges. Licenses may be issued to clerks or lodges which are regularly incorporated, operating under a charter and bylaws, whose members must pay a substantial initiation fee, and which are organized and exist for purposes other than the sale of beverages under such licenses.

(3) Billiard and poolrooms. No license shall be issued for any place used to carry on the business of playing at pool or billiards, unless for sales in the front of such place in a regularly licensed restaurant or lunchroom separated from the part of the building in which the billiard or poolroom is located by a partition or wall. (1994 Code, § 8-226)

8-227. Licenses to be displayed. The license issued under this chapter shall be posted in a conspicuous place on the premises of the licensee. (1994 Code, § 8-227)

8-228. Permit to be held by owner. A permit shall be valid:

(1) 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;

(2) Only for a single location except 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 of such businesses pursuant to the

same permit, and a permit 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;

(3) Only for a business operating under the name identified in the permit application. (1994 Code, § 8-228)

8-229. Sale of beer for both on-premises and off-premises consumption. A business can sell beer for both on-premises and off-premises consumption at the same location pursuant to one permit. (1994 Code, § 8-229)

8-230. Reports by police; hearings on violations. The chief of police and police officers shall notify the beer board of any violations of any of the provisions of this chapter by any person holding a license and permit, and shall notify any licensee violating any of the provisions of this chapter or other law or ordinance relating thereto to appear before the board of mayor and commissioners at the next regular meeting thereof following any such violation to show cause why his license and permit should not be revoked. At such meeting such licensee shall be entitled to a public hearing and to introduce evidence in his behalf. The burden shall be upon the licensee at such hearing to show that he has not been guilty of such violation or any other offense which would justify the revocation of his license and permit. (1994 Code, § 8-230)

8-231. Possession of federal license without city license. The possession by any person of any federal license to sell alcoholic beverages without the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer in violation of the provisions of this chapter. (1994 Code, § 8-231)

8-232. Retailers to purchase from wholesalers licensed by city. It shall be unlawful for any person holding a license for the sale at retail of beer to purchase beer from anyone other than a wholesaler or distributor licensed to carry on business in the city. (1994 Code, § 8-232)

8-233. Return of permit after change in ownership. 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 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 business name. (1994 Code, § 8-233)

8-234. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Employ any minor under 18 years of age in the sale, storage, distribution or manufacture of beer.
- (3) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (4) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (5) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (6) Allow drunk persons to loiter about his premises.
- (7) 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.
- (8) Allow pool or billiard playing in the same room where beer is sold and/or consumed.
- (9) Fail to provide and maintain separate sanitary toilet facilities for men and women. (1994 Code, § 8-234)

8-235. Suspension and revocation of beer permits. The beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation proceedings may be initiated by the police chief or by any member of the board. (1994 Code, § 8-235)

8-236. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (1994 Code, § 8-236)

8-237. Solicitations by home delivery services prohibited. Any person who is engaged in accepting orders and making deliveries of beer in the city shall be known and considered as operating a home delivery service of beer, and it shall be unlawful for any person engaged in the business of home delivery to solicit, either in person or by telephone, the sale or delivery of beer, or to

make sales or deliveries except on voluntary calls or orders from customers. (1994 Code, § 8-237)

8-238. Reports required of licensees. (1) Wholesalers. Each wholesaler or wholesale distributor of beer in the city shall file with the city recorder the name of the brewer such wholesaler or wholesale distributor represents, together with the name of the beer sold at wholesale or distributed in the city. In event of a change of breweries such wholesaler or distributor shall immediately furnish the city recorder with the name of any additional brewery represented.

(2) Operators of vehicles. Any person operating a vehicle either for himself or a distributor, who sells beer to any person other than licensed retailers shall make a report in writing of such sale, giving the name and address of the person to whom the sale was made, which shall be delivered or mailed to the chief of police by 12:00 Noon of the following business day. (1994 Code, § 8-238)

8-239. Hours when packaged beer for off-premises consumption can be sold. Packaged beer for off-premises consumption can be sold twenty-four (24) hours per day seven (7) days per week. (1994 Code, § 8-239)

8-240. Hours when sale, distribution, etc. prohibited for on-premises consumption. No sale of beer for on-premises consumption shall be made between the hours of 2:00 o'clock A.M. and 8:00 o'clock A.M. on weekdays or between the hours of 3:00 o'clock A.M. and 8:00 o'clock A.M. on Saturday and between 3:00 o'clock A.M. on Sunday and 8:00 o'clock A.M. on the following Monday. (1994 Code, § 8-240, as amended by Ord. #618, April 2000)

8-241. Unauthorized use or consumption of beverages on premises. No licensee whose license authorizes sale for consumption off the premises only shall sell for consumption on the premises.

No sale for consumption on the premises shall be made by any licensee except where meals or lunches are regularly served unless otherwise authorized by his license.

No licensee shall allow any liquors or other beverages of greater than five per cent (5%) by weight to be brought on his premises or consumed thereon, nor shall the possession or sale of liquor be permitted on such premises. (1994 Code, § 8-241)

CHAPTER 3

LIQUOR BY THE DRINK

SECTION

8-301. Definition of alcoholic beverages.

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city administrator.

8-305. Concurrent sale of liquor by the drink and beer.

8-306. Advertisement of alcoholic beverages.

8-301. Definition of alcoholic beverages. As used in this chapter, unless the context indicates otherwise "alcoholic beverages" 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 or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as added by Ord. #658, Feb. 2005)

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the City of South Pittsburg, Tennessee. It is the intent of the mayor and the city commission that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in South Pittsburg, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #658, Feb. 2005)

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, § 57-4-301 for the City of South Pittsburg General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of South Pittsburg on alcoholic beverages for consumptions on the premises where sold. (as added by Ord. #658, Feb. 2005)

8-304. Annual privilege tax to be paid to the city administrator. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of South Pittsburg shall remit annually to the city

administrator the appropriate tax described in § 8-303. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original dated to the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #658, Feb. 2005)

8-305. Concurrent sale of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of South Pittsburg, pursuant to Tennessee Code Annotated, title 57, chapter 4, shall, notwithstanding the provisions of §§ 8-216 through 8-219 of the Municipal Code of the City of South Pittsburg, Tennessee, qualify to receive a beer permit from the City of South Pittsburg. (as added by Ord. #658, Feb. 2005)

8-306. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to Tennessee Code Annotated, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (as added by Ord. #658, Feb. 2005)