

BEER RESOLUTION FOR SEVIER COUNTY, TENNESSEE

SECTION ONE: BE IT RESOLVED by the County Commission for Sevier County, Tennessee, and in specific reference to all appropriate Tennessee Code Annotated sections, the County Commission hereby authorizes and creates a committee consisting of Seven (7) members, that will represent the entire county, the chair and secretary to be appointed from the members of this committee to be known as the Sevier County Beer Board, and to do and handle all matters delegated to such committee by State statutes, concerning the issuance of permits outside the limits of any city or town now incorporated in Sevier County, Tennessee. The Beer Board so appointed shall have the power and authority conferred upon it by this resolution and by State law to regulate the storage, sale, transportation, possession, receipt, manufacture and distribution of such beverages, and to do any and all things necessary or proper under State law.

SECTION TWO: BE IT FURTHER RESOLVED that the following regulations be adopted by the County Commission for the more effective control of the issuance, suspension and revocation of beer permits provided for by State law and this resolution as follows:

1. No permit or renewal thereof shall be issued except on application made in writing to the Chair of the Beer Board, which application shall be sworn to and verified by the affidavit of at least one (1) reputable resident of Sevier County who is acquainted with the applicant. All applications shall be made upon a form similar to that form attached hereto and marked Exhibit 1 to this resolution. The application shall be filed in duplicate, one to be filed with the Secretary of the Beer Board and the other to be filed with Chair of the Beer Board.

2. The Beer Board shall consist of seven (7) members. Five (5) members shall be members of the County Commission chosen periodically by the County Commission in the same manner as other committees are formed.

The other two (2) members shall be chosen annually by the County Commission and shall be adult residents of Sevier County. The latter two (2) members shall be chosen in the Regular Meeting in January of each year (except for the initial term in the year 2004). The County Commission, however, shall have the power summarily to remove any member of the Beer Board at any time and to replace that member for the unexpired term. If any removed member is a member of the County Commission, the replacing member shall also be a member of the County Commission.

3. The Beer Board shall meet at 7:00 P.M. on the (2nd) Thursday of each month in any available room in the Sevier County Courthouse. No application for the issuance of a permit shall be heard unless the application has been first reviewed by the Beer Board at least fourteen (14) days prior to the meeting in which approval is to be considered. At any time prior to acting on the application, the Beer Board may reasonably require the applicant to provide a certified survey showing distances from places of public gathering or residences and proof of training and certification for employees of a permit holder

which shall be provided to the secretary, and may reasonably require other information to be provided by the applicant. NO application for the issuance of a permit shall be acted upon by the Beer Board unless a notice has been published in the newspaper of general circulation in Sevier County at least ten (10) days prior to and not more than sixty (60) days prior to the meeting at which action is to be taken.

4. The procedure for hearing an application for the issuance of a permit shall be as follows:

The applicant shall have fifteen (15) minutes in which to present the application and be heard as to why the permit should be issued. The applicant may be examined by the attorney for the Beer board and by any or all of the members of the Beer Board. The applicant shall also be subject to cross examination by the attorney or designated representative of any individual or individuals opposing the issuance of the permit. Subsequent to the examination of the applicant, any person or person opposing the issuance of the permit shall have an aggregate time of fifteen (15) minutes in which to express their opposition. The persons opposing issuance of the permit shall likewise be subject to cross -examination by the members of the Beer Board, by the attorney of the Beer Board and by the applicant, the applicant's attorney or other representative. Upon the conclusions of the applicant's and applicant's presentations each shall have five (5) minutes in which to argue to respective positions or present rebuttal testimony. The Chair shall have the discretion to vary these times to provide a fair hearing.

5. All meetings of the Beer Board shall be publicly held. After completion of the presentation of the application, the Beer Board shall discuss the application and proceed with their vote. Each member (i.e. the Chair,-the Secretary and each other member) shall have one (1) vote. (2) An application shall be approved by a majority of the members voting. Four (4) members shall constitute a quorum for any meeting.

6. Any material misrepresentation of false statement contained in any application upon which a permit is based, shall subject that permit to revocation upon a hearing hereinafter provided for based upon a complaint verified by the affidavit of at least one (1) reputable resident charging directly the falsity of any material statement in the application. At such hearing the burden of proof shall be upon the holder of the permit to establish the truth of the statements in the application alleged to be false. No formal complaint verified by affidavit shall be necessary or required, however, if the falsity of such Statement or representation is made to appear by the records of any Court of competent jurisdiction. In such latter event such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation. Any persons proved to have made such misrepresentation or false statement in the application shall not be eligible to receive any permit for a period of ten (10) years from the date such statement or representation is determined by the Beer Board to have been falsely made.

7. No permit now in force or hereafter issued shall be valid except at the location described in the application upon which it was or shall be issued.

8. No person engaging in the business regulated hereunder shall make or permit to be made any sales, gifts, or distribution of beer to individuals under the age of twenty-one (21). Further, a person under eighteen (18) cannot process a sale or bag beer in the course of his or her employment.

9. All applicants for permits shall be citizens of the United States of America. Permits shall be granted only to specific individuals applying in their individual capacity. No permit shall issue solely to a corporate entity without designation of a responsible corporate officer. Said designee shall meet all requirements of individual applicants.

10. No such beverages shall be sold or distributed except at places where such sale or distribution will not cause congestion of traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with the public health safety or morals and in no case closer than two thousand (2000) feet of such places of public gathering. Further no such beverages shall be sold or distributed within three hundred (300) feet of any residential dwelling. The afore referenced distances are measured from building to building provided the owner of the residential dwelling appears in person before the Beer Board and objects to the issuance of such permit or license. This provision shall apply to any land that is outside the municipalities of Sevier County and shall not apply to locations where beer permits or licenses have been issued prior to the 27th day of June, 2011 provided there is continuous operation by the licensee or permittee at such location. No permit or license shall reissue for a location contrary to the distances established upon a cessation of business. The permission of licensure for the sale of beer is granted to specific permittees or licensees. The same does not affix to specific locales/real property.

11. Neither the applicant nor any person or persons employed or used by the applicant in such distribution or sale shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude, within the past ten (10) years; nor shall any person be licensed who operated in connection with such person or at the same place of business.

12. As Sevier County has located therein municipalities that have adopted liquor by the drink the hours for the sale of beer shall be the same as the hours as the sale of liquor by the drink, beer may be sold any time except between 3:00 A.M. and 8:00 A.M. Monday through Saturday and between 3:00 A.M. and 10:00 A.M. on Sunday. Within thirty (30) minutes after the time each day when the sale of beer becomes unlawful, any licensee holding an on-premises permit shall remove or cause to be removed from all tables, counters, and other places where beer is served or consumed on the licensed premises, all glasses and other containers with beer therein and all beer bottles and cans. Except for this thirty (30) minute period, the licensee shall keep the containers from the counters, tables and other places during all hours when the sale of beer on the premises is unlawful.

13. In all cases of original applications being filed, the applicant shall pay a two hundred fifty dollar (\$250.00) application fee. The fees are non-refundable regardless of

the action of the Board. The application fees shall be paid at the time of the filing of the original application.

14. The Beer Board shall have the right and it shall be its duty to revoke or suspend any permit now in force or hereafter issued upon satisfactory evidence presented to it at a hearing for any satisfactory reason as provided by State Law.

15. All complaints for the revocation or suspension of permits heretofore or hereafter issued shall be made with either Secretary or the Chair of the Beer Board. The complaint shall state in general terms the nature of the violation of the Law or regulation upon which the complaint is based. Any Sevier County resident, including any member of the Beer Board, may in this matter, upon personal knowledge, make complaints to the Beer Board and file a written petition for the revocation or suspension of a permit.

16. Upon the receipt of a complaint as hereinabove provided, the Secretary shall immediately notify the Chair and the Chair shall fix a time and place of hearing of the complaint. It shall be the duty of the Secretary to notify the holder of the permit in writing of the time and place of the hearing and transmit to the permit holder a copy of the complaint. Such complaint shall be sent to the holder by certified mail at least thirty (30) days prior to the hearing.

17. No permit shall be suspended or revoked without the concurrence of the majority of the members of the Beer Board who vote at the hearing. Four (4) members of the Beer Board shall constitute a quorum for any purpose. The hearing hereinabove provided for shall be broad in character. Evidence may be heard upon any facts or circumstances pertinent to or applicable to the charges made in the complaint. The reputation or character of the operator thereof or the holder of the permit complained of shall be material and competent evidence for the consideration of the Beer Board at such hearing. The burden of proof as to why a permit should not be revoked shall be upon the permit holder.

18. The Secretary shall have full power and authority to issue subpoenas and compel the attendance of witnesses before the Beer Board.

19. It shall be the duty of the Secretary to keep a record of all the proceedings of the Beer Board in the form of a Minute Book.

20. It shall be the duty of the person to whom a permit is issued to keep the permit posted at all times in a conspicuous place in the business for which it is issued.

21. The Secretary shall notify the Sheriff of the County of the issuance, the revocation or suspension of any permit.

SECTION THREE: BE IT FURTHER RESOLVED that before any person, corporation, limited liability company, partnership or other entity shall be authorized to sell, store and/or manufacture such beer and/or beverages as prescribed herein in Sevier County outside the limits of any town or city the same shall show and establish all the facts requested in response to the questions on the application form hereto attached as Exhibit One.

SECTION FOUR: BE IT FURTHER RESOLVED that the power, right and authority are hereby conferred upon the Beer Board to arrange for and prescribe the details of the necessary application, permits and other matters incident to carrying out the provisions of this resolution.

SECTION FIVE: BE IT FURTHER RESOLVED that the power, right and authority are hereby reserved by the County Commission to modify, change and alter this resolution and make other provisions and regulations for the handling of such beverages, from time to time, at any sessions, regular or called; and all Permits, licenses and regulation shall be subject to revocation, change and modification pursuant to this resolution.

SECTION SIX: BE IT FURTHER RESOLVED that before the Secretary issues a permit that the applicant shall have complied with the provisions of Tennessee Code Annotated and this resolution and have appropriately executed and filed with the Secretary a joint and several bond in the penalty of One Thousand Dollars (\$1,000.00) payable to the State of Tennessee, conditioned that the principal thereof will pay any fine which may be assessed against such principal by the court of competent jurisdiction for any violation of the terms thereof.

SECTION SEVEN: BE IT FURTHER RESOLVED that the Beer Board shall meet regularly once each month to consider applications for permits and shall meet regularly once each month to consider applications for permits and shall meet upon call of the Chair of the Beer Board or any two (2) members of the Beer Board to transact such business as may properly come before it. All the Beer Board members shall be compensated for their services on the Beer Board and other expenses required to carry forth the duties of the board as provided by State law and the Sevier County Commission.

SECTION EIGHT: BE IT FURTHER RESOLVED, that it is hereby declared to be the intent of this resolution, of every section, paragraph, sentence, clause, word or words, thereof, to privilege the lawful sale and manufacture of the beverages described herein within this County; and the provisions of this resolution are severable, and if any word, clause, sentence, paragraph or part hereof shall be held invalid by the final judgment or decree of any court of competent jurisdiction, the same shall not affect any of the remaining sections, paragraphs, sentences, clauses, word or words hereof.

SECTION NINE: BE IT FURTHER RESOLVED that this resolution be prepared in printed or mimeographed form and a copy be furnished each applicant at the time application forms are sought.

SECTION TEN: BE IT FURTHER RESOLVED that no permit shall be granted and it shall be unlawful for any person, association proprietorship, partnership or corporation to sell beer in Sevier County by means wherein a patron is not required to enter the Premises for the purpose of purchasing beer.

SECTION ELEVEN: BE IT FURTHER RESOLVED that it shall be unlawful for any person authorized to sell beer, on the premises, to erect or maintain any more than one (1) interior sign visible from the exterior of the business premises advertising the availability of beer 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 off the premises 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. Said advertising sign or display shall not exceed six (6) inches in height and the sign on the outside of building shall be placed parallel with building. A statement shall be provided by the applicant for an on premise or off premises permit affirming that he shall not advertise the sale of beer by any means, by billboard, television, exterior signage, radio or other communication, off the property and shall not advertise the prices of beer. Said advertising signs or display shall not exceed six (6) inches in height and the sign on the outside of building shall be placed parallel with building.

SECTION TWELVE: BE IT FURTHER RESOLVED that no permit shall be issued for on premise consumption unless the premises for which the permit is being sought:

- A. Is a restaurant or an eating establishment regulated, monitored and rated by the State of Tennessee; and/or Sevier County, and is located in either a C-1 or C-2 zone, according to the Sevier County Zoning Resolution and Zoning Map; and
- B. Has a minimum seating capacity of 75 people, including children, in booths or 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 on the interior of the building under permanent roof and enclosed on all sides; and
 - a. In the event the restaurant/eating establishment 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; and
 - b. In the event that the restaurant/eating establishment contains a bar area, food service shall be equally available to the bar and bar area as it would be in any other areas of the restaurant/eating establishment.
- D. In addition, the monthly beer sales of any establishment which holds an on premises permit shall not exceed fifty (50%) percent of the gross sales of the

establishment. Any such establishment for which two consecutive months or three months in any calendar year has beer sales exceeding fifty (50%) percent of its gross sales shall have its beer permit revoked.

E. No sale of an alcoholic beverage shall be made under a restaurant/eating establishment on premises permit except for on premises consumption.

SECTION THIRTEEN: BE IT FURTHER RESOLVED that in places of business or buildings where beer or other such beverages are being sold or distributed, no screens, blinds painted windows, partitions or other objects shall be created or used or allowed to obstruct or interfere with the view of the general public.

SECTION FOURTEEN: BE IT FURTHER RESOLVED that the Beer Board shall have the right to issue thirty (30) day permits for special events, the permit holders to comply with rules as the Beer Board may adopt.

SECTION FIFTEEN: BE IT FURTHER RESOLVED that failure of any permit holder or permit holder's place of business to comply with all State laws relating to health, moral or conduct or any resolution or rule hereunder shall be grounds for revocation for any permit previously issued by the Beer Board.

SECTION SIXTEEN: BE IT RESOLVED that no permit shall be issued unless the structure for which the proposed permit is being sought is a completed, tenantable and occupied structure open for business at the time of the application.

SECTION SEVENTEEN: BE IT FURTHER RESOLVED if required by the Beer Board that applicant will provide proof of training and certification for each employee whose duty will involve the sales manufacture or distribution of beer.

SECTION EIGHTEEN: BE IT FURTHER RESOLVED that there is imposed on the selling, distributing, storing or manufacturing of beer in Tennessee an annual privilege tax of \$100. Any person, firm, corporation, joint-stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer is required to remit the tax annually on January 1 on the county or city in which the business is located. The County Clerk collects tax for counties, and the funds may be used for any public purpose. T.C.A. 57-5-104(b).

The county is required to mail written notice of the tax to each permit holder at least thirty (30) days prior to January 1 each year. If the permit holder does not remit the tax by January 31 (or within 30 days after notice is mailed whichever is later), the county is required to notify the permit holder to certified mail that the tax payment is past due. If the permit holder does not pay the tax within the (10) days after receiving the certified notice, the permit may be revoked by the beer board. T.C.A. 57-5-104(b).

When a new permit is issued, the permit holder is required to pay the tax on a prorated basis for each month or portion of a month remaining until the next tax payment date. T.C.A. 57-104 (b)(5).

SECTION NINETEEN: BE IT FURTHER RESOLVED that this resolution shall take effect from and after its passage, the public welfare of the County requiring it.

Done this the 27th of June, 2011.



Larry Waters, County Mayor



Karen Cotter, Counter Clerk