

# Tennessee Beer Laws for Counties

April 2006



**CLASSIFICATION OF COUNTIES**

**THE COUNTY BEER BOARD**

**BEER PERMITS**

**HOURS OF OPERATION**

**DISTANCE RULES**

**PROHIBITED ACTS**

**REVOCATION, SUSPENSION, AND  
IMPOSITION OF CIVIL PENALTIES**

**JUDICIAL REVIEW  
OF BEER BOARD ACTION**

**STATE BARRELS TAX, WHOLESALE  
BEER TAX, ANNUAL PRIVILEGE TAX**



**CTAS**

**County Technical  
Assistance Service**

*In cooperation with the Tennessee County  
Services Association and the County Officials  
Association of Tennessee*

THE UNIVERSITY of TENNESSEE

# **Tennessee Beer Laws for Counties**

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## TABLE OF CONTENTS

<b>I. Introduction</b> .....	1
<b>II. Classification of Counties</b> .....	1
<i>Authority of Cities and Class B (Metropolitan Government) Counties</i> .....	1
<i>Authority of Class A Counties</i> .....	2
<b>III. The County Beer Board</b> .....	3
<i>Membership</i> .....	3
<i>Authority</i> .....	3
<b>IV. Beer Permits</b> .....	4
<i>To Whom Issued</i> .....	4
<i>Permitted Location</i> .....	5
<i>On-Premises or Off-Premises Consumption</i> .....	5
<i>Microbreweries and Brew Pubs.</i> .....	5
<i>Temporary Beer Permits</i> .....	5
<i>The Application</i> .....	6
<i>Application Fee</i> .....	8
<i>Background Checks</i> .....	8
<i>Privilege Tax</i> .....	8
<i>Public Notice of Applications and Hearings</i> .....	8
<i>Denial of Beer Permits</i> .....	9
<i>Expiration of Beer Permits</i> .....	11
<b>V. Hours of Operation</b> .....	11
<b>VI. Distance Rules</b> .....	13
<i>The 2,000 Foot Rule</i> .....	13
<i>Distance Rules of Less than 2,000 Feet</i> .....	14
<i>The 300 Foot Rule</i> .....	15
<i>Measuring to Enforce Distance Rules</i> .....	15
<i>“Grandfather” Provisions.</i> .....	15
<i>Restoring an Invalid Distance Rule</i> .....	16
<i>Prohibition of Beer in Public Parks</i> .....	18
<b>VII. Prohibited Acts</b> .....	18
<i>Minors and the Beer Laws</i> .....	18
<i>Employing Persons Convicted of Certain Crimes</i> .....	20
<i>Sale of Untaxed Beer—Contraband</i> .....	21
<i>Storage at Other Than Permit Address</i> .....	21
<i>Outdoor Signs</i> .....	21
<i>Wholesaler/Retailer Relationship</i> .....	21

<b>VIII. Revocation, Suspension, and Imposition of Civil Penalties</b> . . . . .	22
<i>Investigations.</i> . . . . .	23
<i>Hearings and Due Process</i> . . . . .	23
<b>IX. Judicial Review of Beer Board Action</b> . . . . .	24
<b>X. State Barrels Tax</b> . . . . .	25
<b>XI. Wholesale Beer Tax</b> . . . . .	26
<b>XII. Annual Privilege Tax</b> . . . . .	28
<b>APPENDIX</b> . . . . .	29
<b>SAMPLE RESOLUTION</b> . . . . .	30
To Establish a Beer Board . . . . .	30
To Enact the 2,000 Foot Rule . . . . .	31
To Enact the 300 Foot Rule . . . . .	32
To Extend the Hours of Operation . . . . .	33
To Restrict/Prohibit the Consumption of Beer in Public Parks . .	34
<b>SAMPLE APPLICATION FOR A BEER PERMIT</b> . . . . .	35
<b>SAMPLE BEER PERMIT</b> . . . . .	38

# **TENNESSEE BEER LAWS AND THE COUNTY BEER BOARD**

**I. Introduction.** The transportation, storage, sale, distribution, possession, and manufacture of beer in this state is regulated under the statutes set out in *Tennessee Code Annotated*, Title 57, Chapter 5. “Beer” is defined as “beer, ale or other malt beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in T.C.A. § 57-3-101(a)(20); provided, however, that no more than forty nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other nonbeverage ingredients containing alcohol.” T.C.A. § 57-5-101. The statutory definition of beer is based on alcoholic content, so that any beverage containing 5 percent alcohol or less is regulated under these statutes regardless of the identity of the fruit or grain used to produce it. Attorney General Opinion 94-75 (7/8/94). All references to “beer” in this publication refer to the statutory definition.

All businesses engaged in the sale, distribution, manufacture, and storage of beer are required to obtain a permit from the county or city where the business is located. T.C.A. § 57-5-103. The issuance of beer permits is discussed in Section IV.

Wine and alcoholic beverages having more than 5 percent in alcoholic content are not regulated locally, but are regulated at the state level by the Alcoholic Beverage Commission (ABC). T.C.A. §§ 57-3-104, 57-4-201. These beverages may not be sold unless the city or county has authorized their sale by local referendum. T.C.A. § 57-3-102. Once such a referendum has passed, permits are issued by the ABC. T.C.A. § 57-3-104.

**II. Classification of Counties.** Tennessee counties are classified into two categories for the purpose of licensing, regulating, and controlling the transportation, storage, sale, distribution, possession, receipt, and manufacture of beer. Class A includes all counties which are *not* governed by metropolitan governments. Class B includes those counties which *are* governed by metropolitan governments (currently, only Davidson, Moore, and Trousdale counties). T.C.A. § 57-5-103(b).

***Authority of Cities and Class B (Metropolitan Government) Counties.*** Cities and Class B counties are authorized to pass ordinances governing the issuance and revocation or suspension of licenses for the storage, sale, manufacture, and distribution of beer within their corporate limits, and within the general services district of Class B counties outside the limits of any smaller cities. Cities and Class B counties may impose restrictions in addition to those set out by statute, fix zones and territories, provide hours of operation,

and impose other rules and regulations to promote public health, morals, and safety. Cities and Class B counties may authorize the sale of beer in hotel and motel rooms and in clubs and lodges. T.C.A. § 57-5-106. Cities and Class B counties have extensive authority to regulate the sale of beer, which includes the authority to limit the number and location of retail outlets. *See, e.g., State ex rel Amvets Post 27 v. Beer Board*, 717 S.W.2d 878 (Tenn. 1986). The powers of cities and Class B counties to regulate the sale of beer extends even to the extent of prohibition. *Ketner v. Clabo*, 225 S.W.2d 54 (Tenn. 1949). Cities and Class B counties may establish different distance requirements for the sale of beer in different, well-defined sections of their jurisdictions. Attorney General Opinion 02-092 (8/28/02).

**Authority of Class A Counties.** *Tennessee Code Annotated* § 57-5-105 sets out the requirements an applicant must meet in order to obtain a beer permit from a Class A county. This statute also sets out the limited power of a Class A county to impose restrictions on the issuance of permits. The Tennessee Supreme Court has summarized the lack of authority of Class A counties to impose any additional conditions or restrictions as follows:

A county beer board must issue a license to anyone who meets the requirements laid out in this section, and they may not prescribe conditions for the issuance of a permit in addition to those set out in the statute. *Howard v. Willocks*, 525 S.W.2d 132 (Tenn. 1975).

Class A counties must look exclusively to the statutes and the case law explaining the statutes to determine the limits of their authority to regulate the issuance and revocation of permits to sell beer. Attorney General Opinion U91-51 (4/9/91). Class A counties have no authority to set any requirements in addition to those contained in the statutes. For example, the Attorney General has opined that a Class A county has no authority to prohibit the sale of cold beer at convenience stores and grocery stores. Attorney General Opinion 05-024 (3/14/05).

Class A counties are authorized to review applications for beer licenses and must grant any application which meets the statutory requirements. T.C.A. § 57-5-105(e). The statutes allow county legislative bodies to adopt resolutions establishing “distance rules” which prohibit the issuance of a permit for an establishment to sell beer within 2,000 feet of schools, churches or other places of public gathering, or prohibit the sale of beer within 300 feet of residential dwellings in accordance with the guidelines outlined in the statute (see Section VI below). Class A counties also may refuse to issue a beer permit if the issuance would interfere with public health, safety, and morals. T.C.A. § 57-5-105(b)(1). (See the discussion of public health, safety and morals under *Denial of Beer Permits* in Section IV below.)

**III. The County Beer Board.** The county legislative body may, but is not required to, appoint a committee (known as the beer board) to administer the laws relating to the sale of beer in the county. If the county legislative body does not appoint a beer board, the county legislative body acts as the beer board. The beer board is authorized to act on behalf of the county in all matters relative to the administration of the beer laws. However, the county legislative body retains the sole authority to adopt distance rules or to extend hours for the sale of beer. T.C.A. § 57-5-105. A county beer board has the same discretionary power in the issuance and revocation of beer permits as the county legislative body which appoints it. Attorney General Opinion 82-325 (6/24/82). For a resolution establishing a beer board, see Sample Resolution #1 in the Appendix to this manual.

**Membership.** The statutes do not establish who will serve on the beer board, how many members the board will have, a term of office for board members, or whether the members of the board will be compensated for their time. If the county legislative body chooses to establish a county beer board, there should be a resolution of the county legislative body setting out specific information concerning the appointment procedure, qualifications of members, term of office, compensation, and other necessary guidelines for the board. A county beer board serves at the will and pleasure of the county legislative body which appointed it; therefore, the county legislative body has the power to discharge the board and replace its members. Attorney General Opinion 82-325 (6/24/82). While there is no prohibition against a member of a county beer board obtaining or holding a license to sell beer, the Attorney General has opined that it is “undesirable” for a beer board member to obtain a beer permit as it presents an appearance of impropriety. Attorney General Opinion 84-209 (6/27/84).

**Authority.** Once appointed, the county beer board may exercise the same discretion as the county legislative body to grant, deny, suspend, or revoke permits to sell beer, and to impose civil penalties, within the limits of the authority granted by the statutes (and any distance rules or extended hours of operation which may have been established by resolution of the county legislative body). In discussing the exercise of such discretion, the courts make no distinction between the county legislative body and the county beer board. *State ex rel. Simmons v. Latimer*, 186 Tenn. 577, 212 S.W.2d 386 (1948). However, the beer board is not authorized to establish distance rules or to extend the hours for the sale of beer; this authority may be exercised only by resolution of the county legislative body. T.C.A. § 57-5-105.

The county legislative body is authorized to impose training or certification restrictions or requirements on employees of beer permit holders. Only the county legislative body, and not the beer board, is authorized to impose these requirements. These requirements cannot be applied to any employee who holds a valid server permit issued by the Tennessee Alcoholic

Beverage Commission under Title 57, Chapter 3, Part 7 (the Alcohol Server Responsibility and Training Act of 1995). T.C.A. § 57-5-105(j). Once these requirements have been established by resolution of the county legislative body, the beer board has the authority to administer the provisions of the resolution within the limits of the authority granted by the resolution. However, counties have no authority to impose a tax or fee on servers or sellers of beer, for training or for any other purpose, except as expressly provided by state law. Attorney General Opinions U96-009 (2/8/96) and 97-077 (5/21/97).

A county beer board does have the authority to conduct investigations of beer permit holders. In an unpublished opinion of the Tennessee Court of Appeals, the court found that a beer board was empowered to employ an undercover investigator after the county sheriff had refused to conduct an investigation concerning illegal sales of beer to minors. *Jackson v. Franklin County Beer Board*, 1993 WL 46524 (Tenn. Ct. App. 1993). Relying on this opinion, the Attorney General also opined that the beer board may hire a private investigatory firm to conduct undercover investigations concerning the sale of beer to minors, and that minors may be used in these investigations. Attorney General Opinion 01-062 (4/20/01).

**IV. Beer Permits.** It is unlawful to operate any business engaged in the sale, distribution, manufacture, or storage of beer without first obtaining a permit from the city or county in which the business is located. The county issues permits only to businesses located in the unincorporated areas of the county; cities are responsible for issuance of permits to businesses located within any incorporated areas. T.C.A. §§ 57-5-105, 57-5-106. No city or county permit is required for a wholesaler unless the wholesaler operates a warehouse in the city or county. T.C.A. § 57-5-103. Selling, distributing, manufacturing, or storing beer without the required permit is a Class C misdemeanor. T.C.A. § 57-5-303.

**To Whom Issued.** Permits are issued to the owner of the business, whether a person, firm, corporation, joint-stock company, syndicate, or association. A permit is valid only for the owner to whom it is issued, and it cannot be transferred to another owner. When the owner is a corporation, a change in ownership (necessitating a new permit) occurs when control of at least 50 percent of the stock of the corporation is transferred to a new owner. T.C.A. § 57-5-103(a). A beer permit does not transfer by corporate merger. *Mapco Petroleum, Inc. v. Basden*, 774 S.W.2d 598 (Tenn. 1989). Similarly, permits are valid only for the business operating under the name identified in the permit application. T.C.A. § 57-5-103(a)(2)(C). If the name of the business changes, a new permit must be obtained.

**Permitted Location.** A permit is valid only for a single location, which includes all decks, patios, and other outdoor serving areas contiguous to the location. If an owner operates two or more restaurants or other businesses



within the same building, the owner may, in the owner's discretion, operate some or all of the businesses under the same permit. Permits are not transferable from one location to another. T.C.A. § 57-5-103(a).

Under this statute, a beer permit issued for a clubhouse or restaurant on a golf course does not allow the permit holder to sell beer on the golf course itself because the golf course, while it may be contiguous, does not constitute an "outdoor serving area" within the meaning of the statute. Attorney General Opinion 01-117 (7/24/01).

**On-Premises or Off-Premises Consumption.** A business may sell beer for both on-premises and off-premises consumption under the same permit. T.C.A. § 57-5-103(a)(5). However, a permit is not valid for on-premises consumption unless the application so states. T.C.A. § 57-5-105(a)(5). If a permit holder for either off-premises or on-premises consumption wishes to change the method of sale, the permit holder must apply for a new permit. T.C.A. § 57-5-105(c)(8).

Class A counties which have adopted distance rules cannot draw a distinction between on-premises consumption of beer as opposed to off-premises consumption in the calculation of the minimum footage requirements. Attorney General Opinions U93-74 (6/17/93) and 01-157 (10/25/01). However, cities and Class B (metropolitan government) counties may set different requirements for businesses selling beer for on-premises consumption versus those selling for off-premises consumption. See Attorney General Opinion 02-092 (8/28/02).

**Microbreweries and Brew Pubs.** Under T.C.A. § 57-5-101(a), brewers and wholesalers are prohibited from having any interest in the retail beer business; a brewer cannot sell beer at retail or operate a restaurant at which it sells its own beer. However, an exception to this rule applies in counties having a population over 75,000 according to the 1990 or subsequent census and for premier resort cities having adopted liquor by the drink, so that a beer manufacturer is authorized to operate as a retailer in these jurisdictions within the limitations set out in the statute. T.C.A. § 57-5-101(c); Attorney General Opinion 00-087 (5/5/00).

**Temporary Beer Permits.** Temporary beer permits, not to exceed 30 days, may be issued at the request of an applicant, upon the same conditions governing permanent permits. However, a temporary permit cannot be issued to authorize the sale, storage or manufacture of beer on publicly owned property, except in Class B counties by a bona fide charitable or nonprofit political organization subject to approval of the appropriate governmental authority charged with the management of the property and the approval of the county beer board. T.C.A. § 57-5-105(g).

**The Application.** The owner of a business desiring to sell, distribute, manufacture, or store beer in a Class A county outside the limits of any incorporated town or city must file an application for a permit with the county beer board. T.C.A. § 57-5-105. The application must be filed by the owner of the business, and it must contain the following information as set out in T.C.A. § 57-5-105(c):

1. Name of the applicant (the owner of the business);
2. Name of the business;
3. Location of the business by street address or other geographical description sufficient to determine conformity with applicable requirements;
4. If the applicant desires to sell beer at two or more restaurants or other businesses within the same building under the same permit, a description of each of the businesses;
5. All persons, firms, corporations, joint-stock companies, syndicates or associations having at least a 5 percent ownership interest in the applicant (owner of the business);
6. Identity and address of a representative to receive annual tax notices and any other communication from the county beer board;
7. That no person, firm, joint-stock company, syndicate, or association having at least a 5 percent interest in the applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past 10 years;
8. Whether the applicant is applying for a permit which would allow the sale of beer for either on-premises consumption or for off-premises consumption, or both;
9. Any other information as may reasonably be required by the county beer board.

An applicant (and a permit holder) is required to amend or supplement the application promptly if a change in circumstances occurs which would affect the responses given in the application. T.C.A. § 57-5-105(c)(9). Any applicant who makes a false statement in the application shall forfeit the applicant's permit and shall not be eligible for a permit for a period of 10 years. T.C.A. § 57-5-105(d).

In order to receive a permit, an applicant also must establish that:

1. No beer will be sold except at places where the sale will not cause congestion of traffic or interference with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, and morals (and if the county legislative body has adopted a distance rule by resolution, that the business is not in violation of the rule). T.C.A. § 57-5-105(b)(1).
2. No sale will be made to minors. T.C.A. § 57-5-105(b)(2).
3. That no person, firm, corporation, joint-stock company, syndicate, or association having at least a 5 percent ownership interest in the business has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past 10 years. T.C.A. §57-5-105(b)(3). Crimes involving moral turpitude refer to acts of baseness, vileness, or depravity in the private and social duties which a person owes to other persons or to society in general, contrary to the accepted rules of right and duty. *Brooks v. State*, 187 Tenn. 67, 213 S.W.2d 7 (1948). Crimes of rolling high dice for a soft drink and failing to immediately release 17 fish are not crimes involving moral turpitude. *Gibson v. Ferguson*, 562 S.W.2d 188 (Tenn. 1976).
4. No person employed by the applicant in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the last 10 years. T.C.A. § 57-5-105(b)(4).

5. That no sales for on-premises consumption will be made unless the application so states. T.C.A. § 57-5-105(b)(5).

All beer permit holders are required to provide the county with documentation that they are duly registered with the Commissioner of Revenue for sales tax purposes. A new permit holder must provide this documentation within 10 days following approval of the permit. The required documentation is an actual copy of the registration certificate indicating that the purchase of beer is “for resale” by the beer permit holder. Permit holders are required to maintain a copy of a valid resale certificate on file with the county. T.C.A. § 57-5-103. Persons engaging in the manufacture or wholesale distribution of beer are also required to register with the Commissioner of Revenue and receive a certificate of registration, which must be posted at the location prior to commencement of any business. T.C.A. § 57-5-102.

**Application Fee.** Each applicant is required to pay an application fee of \$250 to the county or city in which the business is located prior to consideration of an application to sell beer. No portion of this fee can be refunded to the applicant regardless of whether the application is approved or denied. T.C.A. § 57-5-104(a).

**Background Checks.** The beer board may wish to request the sheriff to perform background checks on applicants for a beer permit. Under a provision passed in 2004, criminal history information (intrastate) may be obtained from the Tennessee Bureau of Investigation for a fee of \$29 per name submitted. T.C.A. § 38-6-120. Because no statutory authorization exists for requiring the applicant to pay this fee, the beer board cannot recover this fee from the applicant. Attorney General Opinion 97-077 (5/21/97).

**Privilege Tax.** A privilege tax is imposed on the business of selling, distributing, storing, or manufacturing beer in Tennessee in the amount of \$100 per year, due each January 1 (see Section XII below). At the time a new permit is issued, the permit holder is required to pay this tax on a prorated basis for each month or portion of a month remaining until the next payment date. T.C.A. § 57-5-104(b)(5).

**Public Notice of Applications and Hearings.** Meetings at which the county beer board considers applications for permits must be public hearings at which members of the public and their attorneys are allowed to speak. T.C.A. § 57-5-105(f). Under the Open Meetings Act (sunshine law), adequate public notice of the meeting must be given. T.C.A. § 8-44-103. Before issuing a permit, the beer board is authorized to publish a notice in a newspaper of general circulation in the county stating the name of the applicant, the address of the location, whether the application is for on-premises or off-premises consumption, and the date and time of the meeting at which the application

will be considered. T.C.A. § 57-5-105(f). The minutes of the meeting must be recorded and open to public inspection, and all votes of the beer board must be by public vote, public ballot, or roll call. T.C.A. 8-44-104.

***Denial of Beer Permits.*** A beer permit application may be denied for failure of the applicant to meet the statutory requirements discussed above. While cities and Class B counties can impose additional restrictions under T.C.A. § 57-5-106, Class A counties are required to grant any application which meets the statutory requirements set out in T.C.A. § 57-5-105.

A beer board may not avoid issuing a permit by simply refusing to take action on the application. If a board needlessly prolongs an application for a permit by tabling it, the board has in effect denied the application and the applicant is entitled to seek judicial review. *McCarter v. Goddard*, 609 S.W.2d 505 (Tenn. 1980).

Counties may deny a permit if the issuance would interfere with public health, safety, and morals. T.C.A. § 57-5-105(b)(1). The case law which has developed on the issue of whether issuing a beer permit would interfere with the public health, safety, and morals of a community limits the discretion of the beer board in most instances. A permit cannot be denied based on a generalized belief that the sale of beer is detrimental to the public health, safety and morals. For instance, it has been held that where all the requirements for issuance of a permit are met, a beer permit cannot be denied by a county beer board based on a board members' philosophy that:

the sale and consumption of beer destroys the home, creates poverty and misery, dethrones reason, defiles innocence, - yea, literally takes the bread from the mouths of little children, and topples men and women from the pinnacles of righteousness and gracious living into the bottomless pits of degradation and despair, shame and helplessness and hopelessness. *Coffman v. Hammer*, 548 S.W.2d 310, 312 (Tenn. 1977).

A specific reason to deny the particular permit on the basis of public health, safety, or morals must exist. On the issue of safety, the Tennessee Supreme Court has found that in order for traffic congestion to constitute a valid basis for denying a permit to sell beer in the package, it must be shown that the issuance of the beer permit would cause traffic to be more congested and more hazardous than it was prior to the issuance of the beer permit. *Hinkle v. Montgomery*, 596 S.W.2d 800 (Tenn. 1980). This rule makes it difficult for a beer board to deny a permit based on traffic hazard, especially with existing establishments.

The court has found that there is no difference, in principle, between the purchase of a six-pack of beer to go and the purchase of a six-pack of a non-alcoholic beverage as “in each case the purchaser comes, he buys, and he goes.” Concerns about increased littering are also not enough to deny a beer permit as the court has found that alcoholic beverages do not cause any more littering problems than non-alcoholic beverages. *Coffman*, at page 312. Concerns that young people congregate in and about the establishment have also been found insufficient to deny a permit to a convenience store. *Ashley v. Bryant*, 1989 WL 145886 (Tenn. Dec. 4, 1989).

Insufficient evidence of detriment to public health, safety, and morals was found in *Al-Koshshi v. Memphis Alcohol Commission*, 2005 WL 1692947 (Tenn. Ct. App. 2005). In that case the beer board had based its denial on the business being in the vicinity of neighborhood schools, its location at a busy intersection, and problems with littering, loitering, and prostitution, but the court found that there was not enough evidence to deny the permit on these grounds.

Title deficiencies also are not a legitimate concern of beer boards. If an applicant for a beer permit leases a premises knowing that there is a restrictive covenant precluding the sale of alcoholic beverages, then this is a matter that addresses itself solely to the applicant's judgment and discretion and as to which the beer board has no concern. *Lones v. Blount County Beer Board*, 538 S.W.2d 386, 390 (Tenn. 1976).

In *Tippit v. Obion County*, 651 S.W.2d 211 (Tenn. 1983), an applicant had a record for violation of laws relating to the sale of beer and gambling, and her husband had a serious drinking problem. Granting her a permit to sell beer at an establishment 35 miles from the nearest police authority was found to have been detrimental to the public health, safety, and morals of those living in the community and was sufficient grounds to refuse the permit.

Although a building itself cannot have a bad reputation, the reputation and past history of persons proposing to operate the business is of legitimate concern, and the proposed site itself may be unsuitable. Where a site was found to have been plagued with constant complaints of fighting and other disorderly conduct, and was located in an un-patrolled, remote, rural area sixteen miles from the sheriff's office, the court ruled that the beer board could deny a permit based on the public health, safety, and welfare of the county. *Lynn v. Blue*, 1998 WL 730191 (Tenn. App. Oct. 21, 1998).

In addition, the sale of beer at a market in which there is a gun shop has been found to interfere with the public health, safety, and morals of a community. Under T.C.A. § 39-17-1305, it is unlawful for a person to possess a firearm in a public place where alcoholic beverages are sold. The court found that the general public could not distinguish between persons carrying

weapons for unlawful purposes, from those persons coming into the store to have a weapon repaired. *Gibbs v. Blount County Beer Board*, 664 S.W.2d 68 (Tenn. 1984).

Permits may be denied for violation of any distance rules which have been validly adopted by resolution of the county legislative body. T.C.A. 57-5-105(b)(1) and (i). (For a discussion of distance rules, see Section VI below.)

If a permit application is denied three times, the applicant may not reapply for a permit on the same premises until one year from the date of the third refusal. T.C.A. § 57-5-105(h). An applicant who makes a false statement on the application must forfeit his or her permit and is ineligible to receive a permit for 10 years. T.C.A. § 57-5-105(d).

**Expiration of Beer Permits.** A beer permit has no expiration date, and counties and cities are prohibited from requiring periodic permit renewals. T.C.A. § 57-5-103(a)(9). A beer permit expires upon termination of the business, change in ownership, relocation of the business, or change in the name of the business. A permit holder is required to return the permit to the county or city that issued it within 15 days of the occurrence of one of these events, but the permit expires regardless of whether the permit is returned. T.C.A. § 57-5-103(a)(6). Unless one of these events occurs, a beer permit is valid until suspended or revoked in accordance with T.C.A. § 57-5-108 (see Section VIII).

**V. Hours of Operation.** The general law provisions regarding the hours of operation for businesses selling beer are found in T.C.A. § 57-5-301. This statute prohibits the sale of beer during the following hours:

1. No beer or like beverage shall be sold between the hours of 12:00 midnight and 6:00 a.m., Monday through Saturday;
2. No beer or like beverage shall be sold between the hours of 12:00 midnight on Saturday and 11:59 p.m. on Sunday (Sunday night).
3. No such beverage shall be consumed, or opened for consumption, on or about any licensed premises, in either bottle, glass, or other container, after 12:15 a.m.

However, county legislative bodies are authorized to extend the hours for the sale of beer in their counties by resolution. T.C.A. § 57-5-301(b)(1). (See Sample Resolution #4). The county legislative body has no authority to shorten the hours for the sale of beer. Attorney General Opinion 86-202 (12/19/86). The power to extend the hours for the sale of beer must be exercised by

resolution of the county legislative body, and cannot be delegated to the beer board. See Attorney General Opinion 82-325 (also cited 82-186) (6/24/82). The hours for the sale of beer in “clubs” as defined in T.C.A. § 57-4-102 must conform to the hours for sale of liquor by the drink as provided in T.C.A. § 57-4-203(d) and cannot be changed by resolution of the county legislative body. T.C.A. § 54-5-301(b)(1).

In counties that have adopted liquor by the drink by countywide referendum, county legislative bodies may fix the hours for the sale of beer within the county, but these hours have no effect on business establishments selling liquor by the drink. T.C.A. § 57-5-301(b)(4).

In counties that have not adopted liquor by the drink in a countywide referendum but where a municipality in the county has approved liquor by the drink in a referendum, the hours for sale of beer in the entire county are automatically altered so that the hours for beer sales are the same as the hours established in T.C.A. § 57-4-203(d) for the sale of liquor by the drink, except in other municipalities within the county that have not approved liquor by the drink. T.C.A. § 57-5-301(b)(5) and Attorney General Opinions 86-202 (12/19/86), U94-50 (3/21/94), and 99-187 (9/22/99). If an incorporated municipality is partially located in more than one county, then the hours established by T.C.A. § 57-4-203(d) will apply to each of the counties. Attorney General Opinion 85-7 (1/7/85). The county legislative body is free to extend (but not decrease) the hours for the sale of beer. T.C.A. § 57-5-301(b)(5) and Attorney General Opinion U94-50 (3/21/94).

The hours for sale of liquor by the drink are established in T.C.A. § 57-4-203(d). These hours also apply to the sale of beer in “clubs” as defined in T.C.A. § 57-4-102, and in counties where a municipality has approved liquor by the drink. The hours established by T.C.A. § 57-4-203(d)(1) prohibit the sale of alcoholic beverages in most establishments as follows:

Hotels, clubs, zoological institutions, public aquariums, museums, motels, convention centers, restaurants, community theaters, historic interpretive centers, and urban park centers, licensed as provided herein to sell alcoholic beverages, and/or malt beverages, and/or wine may not sell, or give away, alcoholic beverages and/or malt beverages and/or wine between the hours of three o'clock a.m. (3:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays, or between the hours of three o'clock a.m. (3:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

The Alcoholic Beverage Commission is authorized to extend the hours of sale in jurisdictions which have approved liquor by the drink by referendum.



T.C.A. § 57-4-203(d)(5). Under Rule 0100-1-.03(2), the ABC has extended the hours as follows:

Consumption on Licensed Premises—No licensee shall permit alcoholic or malt beverages to be consumed on the licensed premises between the hours of 3 a.m. and 8 a.m. on Monday through Saturday or between the hours of 3 a.m. and 10 a.m. on Sunday.

Municipalities and metropolitan governments are authorized to opt out of the extended hours set by the ABC rule and go back to the hours established under the statute. T.C.A. § 57-4-203(d)(5). This created confusion as to the hours that would apply to the sale of beer in such a county. The Tennessee Attorney General has opined that the hours for sale of beer in the county are those set by the ABC rule regardless of whether the city has opted out of those hours. Attorney General Opinion 02-023 (2/27/02).

**VI. Distance Rules.** County legislative bodies do have certain statutory powers concerning the regulation of the sale of beer in the county which are not shared by the county beer board and cannot be delegated to the board. Only the county legislative body can adopt a resolution to extend the hours for selling beer in the county, and only the county legislative body can adopt distance resolutions, like the 2,000 foot rule and the 300 foot rule. T.C.A. § 57-5-105. Attorney General Opinion 82-325 (6/24/82).

When construing the statutes governing distance rules, it is generally the policy of the courts to construe the statutory provisions liberally in favor of the regulations and the places or institutions they are designed to protect, and strictly against the applicants for the beer permits. *Y & M v. Beer Commission or Beer Board of Johnson County*, 679 S.W.2d 446 (Tenn. 1984); *St. John v. Beer Permit Board*, 1998 WL 832392 (Tenn. App. 1998).

Holders of state licenses to sell liquor by the drink are not exempt from local distance rules. If they wish to sell beer, they are subject to the same distance requirements as other beer permit holders. Attorney General Opinion 99-098 (4/30/99).

**The 2,000 Foot Rule.** County legislative bodies are given the authority to forbid the sale, storage, and manufacture of beer within 2,000 feet of schools, churches and other places of public gathering. T.C.A. § 57-5-105(b)(1). The 2,000 foot rule applies even where the church, school, or public gathering place is across state lines. *Y & M v. Beer Commission or Beer Board of Johnson County*, 679 S.W.2d 446 (Tenn. 1984). The Attorney General has opined that a Class A county cannot draw a distinction between on-premises and off-premises consumption for purposes of distance rules, so the same distance rule must be applied regardless of whether the establishment sells beer for

consumption on-premises or off-premises. Attorney General Opinions U93-74 (6/17/93) and 01-157 (10/25/01).

A “church” has been defined by the Attorney General as a building regularly used for public worship. Attorney General Opinion 97-060 (5/1/97). A “place of public gathering” has been defined as a place which the general public has a right to visit and which is in fact visited by many people. Attorney General Opinion U90-121 (8/17/90). A public gathering place is usually confined to schools, churches, and similar public places, and does not include commercial establishments such as stores, filling stations, or dance halls. See *Wright v. State*, 171 Tenn. 628, 106 S.W.2d 866 (1937). A public cemetery may constitute a public gathering place, depending upon the nature of the cemetery. Attorney General Opinions 91-57 (6/10/91) and 92-51 (9/16/92). A day care center, whether privately owned or owned by a church, meets the definition of “public gathering place.” Attorney General Opinions 97-060 (5/1/97) and 98-069 (3/25/98). A sports complex containing a day care center is a place of public gathering, but a National Guard armory is not. *Tennessee Sports Complex, Inc. v. Lenoir City Beer Board*, 106 S.W.3d 33 (Tenn. Ct. App. 2002).

The adoption of the 2,000 foot rule is discretionary. A county legislative body must adopt a resolution implementing the 2,000 foot rule before it can be enforced in the county. Once enacted by the county legislative body, the county beer board can enforce the rule and deny beer permits which violate the rule. T.C.A. § 57-5-105(b)(1). A county beer board issuing a permit contrary to a distance rule adopted by the county legislative body has violated its obligation of upholding and enforcing the laws. Attorney General Opinion 82-325 (6/24/82). (See Sample Resolution #2).

Once the 2,000 foot rule is adopted, it must be enforced uniformly, and discretionary application of the rule renders it invalid. *Serv-U-Mart, Inc. v. Sullivan County*, 527 S.W.2d 121 (Tenn. 1975). An invalid distance resolution cannot be used as grounds for denial of a beer permit. *Seay v. Knox County Quarterly Court*, 541 S.W.2d 946 (Tenn. 1976). (See the discussion under *Restoring an Invalid Distance Rule* below.)

**Distance Rules of Less than 2,000 Feet.** While the statute speaks only of a 2,000 foot rule, the Tennessee Supreme Court has held that the authority to impose a 2,000 foot rule implies that a county may impose a rule prohibiting the sale of beer within a lesser radius from churches, schools, or places of public gathering. *Youngblood v. Rutherford County Beer Board*, 707 S.W.2d 507 (Tenn. 1986). Thus, the statute establishes only the maximum distance within which the county can prohibit beer sales, and counties may prohibit the sale of beer within any lesser distance. Attorney General Opinion U93-74 (6/17/93). However, once the county's distance rule is established, it must be uniformly

enforced or it will become invalid. (See the discussion under *Restoring an Invalid Distance Rule* below.)

**The 300 Foot Rule.** The county legislative body may adopt a resolution to forbid the sale of beer within 300 feet of a residential dwelling, measured from building to building. (See Sample Resolution #3). In order to use this distance rule to deny an application for a beer permit, the owner of the residential dwelling must appear before the county beer board, in person, and object to the issuance of the permit. The term “residential dwelling” is not defined in the statute; however, it has been interpreted to include a trailer that was occasionally occupied for residential purposes. *St John v. Beer Permit Board*, 1998 WL 832392 (Tenn. App. Dec. 2, 1998). This statute applies to zoned as well as un-zoned property. This distance rule does not apply to locations where beer permits were issued prior to the date the rule was adopted by the county legislative body, nor does the rule apply to applications for a change in the licensee or permittee at such locations. T.C.A. § 57-5-105(i).

**Measuring to Enforce Distance Rules.** The Tennessee Supreme Court, in *Jones v. Sullivan County Beer Board*, 292 S.W.2d 185 (Tenn. 1956), held that the exclusive method for measuring distance requirements between beer establishments and schools, churches, and other places of public gathering is the straight-line method, unless a different method is prescribed by statute. There is no statute in Tennessee prescribing a method for such measurements. The straight-line method of measuring requires that the distance be measured in a straight line between the properties, at their nearest points, rather than by driving distance or other method. The measurement is made from building to building with respect to distance, because T.C.A. § 57-5-105(b)(1) requires measurement from the place of gathering, which would be the building. *Ewin v. Richardson*, 217 Tenn. 534, 399 S.W.2d 318 (1966). According to the Attorney General, the measurement must be taken from the nearest portion of the entire building, and not just from the nearest portion of a structurally distinct portion of that building that houses the business engaged in the sale of beer. Attorney General Opinion 05-144 (9/27/05).

**“Grandfather” Provisions.** When a county adopts a distance rule, the rule cannot be used as grounds to revoke a permit where a church, school, or other place of public gathering is built after a beer permit is issued, as that would constitute an arbitrary and unreasonable exercise of discretion. *Sparks v. Beer Committee of Blount County*, 339 S.W.2d 23 (Tenn. 1960). The court stated that while there is no property right in a permit to sell beer, there are some rights which cannot be taken away by unreasonable regulations adopted after the permit was granted. *Sparks*, at page 24. See also Attorney General Opinion 02-061 (5/8/02).

Under T.C.A. § 57-5-109, a beer permit cannot be suspended, revoked, or denied on the basis of proximity to a school, residence, church, or other place

of public gathering if a valid permit was issued to any business on that same location. The phrase “on that same location” is defined in the statute as being within the boundaries of the real property on which the business was located, and the protection applies regardless of whether the business moves the building on the location or whether the business was a conforming or nonconforming use at the time of the move. T.C.A. § 57-5-109(b). Under this statute, a validly permitted building which meets the distance requirements can be demolished and rebuilt in a different location on the same property which does not meet the distance requirements and the permit cannot be denied. *Exxonmobil Oil Corp. v. Metropolitan Government of Nashville*, 2005 WL 1528252 (Tenn. Ct. App. 12/12/05).

This grandfather provision does not apply if there has been a six-month gap in beer sales at the location. However, if the discontinuance of beer sales for more than six months is caused by a beer board’s refusal to issue a permit, the applicant does not lose the protection of the statute if the applicant appeals the denial; a new six-month period begins to run on the date when the appeal of the denial is final. T.C.A. § 57-5-109(c).

The current provisions of this statute are attributable to litigation between Exxon and the Metropolitan Government of Nashville and Davidson County. See *Exxon Corp. v. Metropolitan Government of Nashville of Nashville and Davidson County*, 72 S.W.3d 638 (Tenn. 2002) and *Exxonmobil Oil Corp. v. Metropolitan Government of Nashville and Davidson County*, 2005 WL 1528252 (Tenn. Ct. App. 12/12/05). In the *Exxon* cases, the original building was not in violation of the distance requirement. Exxon purchased the business, demolished the building, and relocated it in a position that did violate the distance requirement. The statute was amended to allow Exxon to fall within its provisions regardless of whether the business was conforming at the time the building was moved. This has caused the statute to be broader than a typical “grandfather” provision.

**Restoring an Invalid Distance Rule.** When a county issues beer permits in violation of an established distance rule, the rule becomes invalid and it can no longer be used as a basis for denying other permits. *Cox Oil Co., Inc. v. City of Lexington Beer Board*, 2002 WL 31322533 (Tenn. Ct. App. 2002); *Randolph v. Coffee County Beer Board*, 2002 WL 360335 (Tenn. Ct. Ap. 2002); *Reagor v. Dyer County*, 651 S.W.2d 700 (Tenn. 1983); *Needham v. Beer Board of Blount County*, 647 S.W.2d 226 (Tenn. 1983); *Henry v. Blount County Beer Board*, 617 S.W.2d 888 (Tenn. 1981); *City of Murfreesboro v. Davis*, 569 S.W.2d 805 (Tenn 1978); *Seay v. Knox County Quarterly Court*, 541 S.W.2d 946 (Tenn. 1976). Restoring an invalid distance rule is a difficult process which usually results in costly litigation, and the law on this subject is complex and confusing. To avoid problems, distance rules should be carefully enforced.

To restore an invalid distance rule, the county legislative body generally has two options. The first option is to rescind the existing distance rule and establish a less restrictive rule within which all issued beer permits would fall. A new distance rule could be established by measuring the shortest distance between an existing licensee and the nearest school, residence, church, or other place of public gathering. This new rule could then be uniformly applied. *Youngblood v. Rutherford County Beer Board*, 707 S.W.2d 507 (Tenn. 1986); Attorney General Opinion U88-17 (2/18/88).

The second option is to pass a new resolution reinstating the distance rule, but in order to do this all permits that were issued in violation of the distance rule must be eliminated by revocation or some other method. *Henry v. Blount County Beer Board*, 617 S.W.2d 888 (Tenn. 1981); *Needham v. Beer Board of Blount County*, 647 S.W.2d 226 (Tenn. 1983); *Randolph v. Coffee County Beer Board*, 2002 WL 360335 (Tenn. Ct. Ap. 2002). As a practical matter, this means that all invalidly issued permits must be revoked. However, permits that were issued in conformance with the distance rules in existence at the time they were issued are validly issued permits protected under T.C.A. § 57-5-109, and these permits cannot be revoked.

In theory the distance rule also may be restored by elimination of the discriminatorily issued permits through attrition. Attorney General Opinion 87-34 (3/6/87); see also Attorney General Opinion U91-51 (4/9/91). However, in practice this could be a lengthy process and the distance rule could be challenged and declared invalid if the county allows discriminatorily issued permits to remain in use while using the distance rule to deny other applications for permits. An earlier opinion of the Attorney General states that elimination through attrition is in the nature of a post facto amendment which does not cure an invalid distance ordinance. Attorney General Opinion 82-325 (6/24/82). See also *City of Murfreesboro v. Davis*, 569 S.W.2d 805 (Tenn. 1978).

To complicate matters, courts occasionally find that permits issued invalidly cannot be revoked, usually in the context of detrimental reliance. In *Needham v. Beer Board of Blount County*, 647 S.W.2d 226 (Tenn. 1983), there had been a full hearing prior to the issuance of the permit, the applicant made it clear that he would not build if the permit was not issued, the permit was issued and the permit holder operated his business there for over 10 years. Under these circumstances the court found that the permit could not be revoked. In other cases courts have required issuance of permits even though they violate the existing distance rule. In *Coffman v. Beer Board of City of Jellico*, 1992 WL 122676 (Tenn. Ct. App. 1992), the court found that building a convenience mart in reliance on a city ordinance stating that the distance was to be measured along right-of-way was sufficient “detrimental reliance” to prohibit the beer board from refusing to issue a permit based on the Supreme Court’s opinion that distance must be measured by the straight line method.

**Prohibition of Beer in Public Parks.** The county legislative body may also, by resolution, prohibit or restrict the consumption of any alcoholic beverage or beer in public parks or recreation areas which are not within the corporate boundaries of a municipality. Such areas must be prominently posted by the county in order to give the public reasonable notice. A violation of the resolution is a misdemeanor. T.C.A. § 5-5-127. While the statute only refers to consumption, restrictions on the sale of beer within park boundaries are so closely tied to consumption that they come within the intent of the statute. However, the statute does not seem to be intended to prohibit the mere possession of beer or alcoholic beverages in Class A counties. Attorney General Opinion U87-19 (2/10/91). (See Sample Resolution #5).

**VII. Prohibited Acts.** In addition to possible suspension or revocation of the beer permit or the imposition of civil penalties, persons violating the laws, rules and regulations (including validly enacted resolutions of the county legislative body) governing beer and like beverages may be prosecuted criminally. The criminal provisions are set out in *Tennessee Code Annotated*, Title 57, Chapter 5, Part 3, and the penalties are set out in T.C.A. § 40-35-111; these are not discussed in this publication. Various actions which are prohibited by law for beer permit holders are discussed below.

**Minors and the Beer Laws.** Several statutes dealing with the sale or possession of beer have special provisions dealing with the purchase or possession of beer by minors. When used in Title 57 of the *Tennessee Code Annotated* with respect to purchasing, consuming or possessing alcoholic beverages (including beer), “minor” means any person who has not attained 21 years of age. T.C.A. § 1-3-105(1). However, any person who is 18 years of age or older may transport, possess, sell, or dispense alcoholic beverages (including beer) in the course of that person’s employment. T.C.A. § 1-3-113.

In summary, the statutes dealing with minors provide as follows:

1. It is unlawful for any person under the age of 21 to purchase, possess, transport, or consume alcoholic beverages (including beer), except that persons who are 18 or over may transport, possess, sell, or dispense alcoholic beverages (including beer) in the course of their employment. T.C.A. §§ 1-3-113 and 57-5-301(e). A person under the age of 18 cannot process a sale or bag beer in the course of his or her employment. Attorney General Opinion U90-116 (8/15/90).
2. It is unlawful for any person engaged in the sale, manufacture, or distribution of beer to make or permit to be made any sale to minors. T.C.A. § 57-5-301(a)(1). The first offense of selling beer to a minor is a Class A

misdemeanor. T.C.A. § 57-5-301(a)(2). A second offense of selling beer to a minor is a Class E felony. Upon the second conviction, the permit of such person shall be automatically and permanently revoked regardless of any other penalty actually imposed. T.C.A. § 57-5-303(c). However, the permit cannot be revoked (but may be suspended for up to 10 days or a penalty up to \$1,500 may be imposed) if an operator or any person working for the operator sold beer to a minor over the age of 18 after the minor exhibited identification (false or otherwise) indicating the minor's age to be 21 or over, the minor reasonably appeared to be of that age, and the person making the sale did not know that the person was a minor. T.C.A. § 57-5-108(b).

3. It is unlawful for any person under the age of 21 to purchase or attempt to purchase beer. T.C.A. § 57-5-301(d)(1). While a store owner or employee cannot hold a driver's license or other identification as evidence of a violation, a violator may be detained until proper authorities are called and arrive, provided that the offense was committed in the owner's or employee's presence and delivery of the offender to proper authorities occurs without unnecessary delay. Attorney General Opinion U88-59 (5/26/88).
4. It is unlawful for anyone to purchase beer or like beverages for anyone under the age of 21. T.C.A. § 57-5-301(d)(2).
5. It is unlawful for any person under the age of 21 to exhibit false identification or to make false statements to the effect that he or she is 21 years of age for the purpose of purchasing beer. T.C.A. § 57-5-301(d)(3).
6. It is unlawful for the management of any place where beer is sold to allow minors to loiter in such places. The burden of ascertaining the age of minor customers is on the owner or operator of the business. T.C.A. § 57-5-301(c).
7. The law does not establish a minimum age for applicants for beer permits. Attorney General Opinion 87-28 (2/23/87). However, T.C.A. § 1-3-114 provides that any person 18 years old or older must not be

prohibited from entering into any profession or from performing any services on the basis of the person's minority. Therefore, an 18 year old could obtain a permit to sell beer, if the person is otherwise qualified. A county or city could not set a minimum age requirement for obtaining a permit to sell beer at greater than 18 years of age.

As for setting a minimum age at some age below 18, the Attorney General has opined that an individual under the age of 18 is not eligible to obtain a permit for the retail sale of alcoholic beverages, pursuant to T.C.A. § 57-3-210(h), if the person intends to engage in the physical manufacture, storage, sale, or distribution. However, T.C.A. § 57-3-210(h) does not apply to corporations and thus does not prohibit the carrying on of a retail liquor business by a corporation which has a minority or majority stockholder under the age of 18, so long as the stockholder is not engaged in any of the prohibited acts under that subsection. While that code section does not apply to the sale of beer, it could be inferred from the opinion that a Class B county or city could reasonably set a minimum age at 18 in order to obtain a beer permit, but if the applicant was a corporation with a stockholder under the age of 18, a permit could still be issued. Attorney General Opinion 87-28 (2/23/87) and Attorney General Opinion U86-101 (7/2/86).

***Employing Persons Convicted of Certain Crimes.*** It is unlawful for the holder of a beer permit or any employee of a person engaged in the business of selling beer to be a person who has 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 last 10 years. T.C.A. § 57-5-301(a). The 10 year period begins on the date of conviction and ends 10 years from that date. Attorney General Opinion U90-116 (8/15/90).

***Sale of Untaxed Beer—Contraband.*** No beer retailer may purchase beer from anyone other than duly licensed wholesalers (and certain Tennessee manufacturers, as set out in T.C.A. § 57-5-101) located in Tennessee. T.C.A. § 57-5-201. Any beer sold or offered for sale by or in the possession of a retailer, purchased from any person or firm other than a duly licensed Tennessee wholesaler or distributor, is declared to be contraband and is subject to confiscation. T.C.A. § 57-5-409. The beer board may revoke or suspend the permit of any retailer who is found to possess beer on which the state barreldge



tax and the city and county wholesale beer tax have not been paid. T.C.A. § 57-5-108(m).

**Storage at Other Than Permit Address.** Unless authorized in writing by the county legislative body or county beer board, it is unlawful for a retailer to store beer at any place other than the address designated on the retailer's beer permit. T.C.A. § 57-5-416.

**Outdoor Signs.** No outdoor sign, advertisement, or display that advertises beer may be erected or maintained on the property on which a retail beer establishment is located other than one 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. The prohibition does not apply to any sign, advertisement, or display erected or maintained by or at the request of a temporary beer permittee or to any sports arena, stadium, or entertainment complex. T.C.A. § 57-5-304. This statute does not specifically prohibit the use of slogans, trademarks, or symbols, so their use is not prohibited except where they may consist of a picture, diagram, or both. Attorney General Opinion U89-140 (12/7/89).

**Wholesaler/Retailer Relationship.** Retailers are prohibited from purchasing beer from anyone other than a wholesaler located in Tennessee, and wholesale distributors are prohibited from purchasing beer from anyone other than a manufacturer, importer, or other wholesaler located and licensed in Tennessee. T.C.A. § 57-5-201(c). Brewers and wholesalers are prohibited from making any loan, furnishing any fixtures of any kind, or having any interest, direct or indirect, in the business of any retailer, or in the premises of any retailer. T.C.A. § 57-5-101(a). A limited exception to these rules exists for small breweries which produce not more than 5,000 barrels per year which are located in counties having a population of 250,000 or more. These brew pubs are permitted to sell beer to retailers and may also operate as a retailer at the brewery or in a contiguous location for sales for consumption on or off the premises. T.C.A. § 57-5-101(c) and Attorney General Opinion U93-93 (9/2/93).

**VIII. Revocation, Suspension, and Imposition of Civil Penalties.** The beer board or county legislative body which issued a beer permit is authorized to suspend or revoke the permit. T.C.A. § 57-5-108(a)(1). The board may, at the time it imposes suspension or revocation, offer the permit holder the alternative of paying a civil penalty not exceeding \$1,500 for each offense involving sales to minors, or \$1,000 for any other offense. If a civil penalty is offered as an alternative to suspension or revocation, the permit holder must be given seven days within which to pay the penalty before the suspension or revocation can be imposed. If the civil penalty is paid within that time, the suspension or revocation is deemed withdrawn. T.C.A. § 57-5-108(a)(2)(A). The beer board is authorized to accept at any time the payment of a civil penalty, not exceeding the stated amounts, from a permit holder charged with a violation, and the

payment will be deemed an admission of the violation and no other penalty can be imposed. T.C.A. § 54-5-108(a)(2)(B).

Suspension, revocation, or imposition of a civil penalty may be made for violation of any provision of the beer laws set out in Title 57, Chapter 5, of the *Tennessee Code Annotated*, or whenever it satisfactorily appears that the licensed premises are being maintained and operated in a manner which is detrimental to the public health, safety, or morals. T.C.A. § 57-5-108(c). (See discussion of public health, safety, and morals in Section IV above, and prohibited acts in Section VII above).

A permit cannot be revoked on the grounds that beer was sold to a minor over the age of 18 years *if* the minor presented identification, false or otherwise, indicating the minor's age to be 21 or over, and the minor reasonably appeared to have been of the age indicated in the identification and was unknown to the person making the sale. In this event, the permit can be suspended for a period not exceeding 10 days or a civil penalty of up to \$1,500 may be imposed. T.C.A. § 57-5-108(b).

The county legislative body or the county beer board may, in its discretion, revoke or suspend the permit of any beer retailer within its jurisdiction who is found in possession of untaxed beer. The burden of proof is on the retailer to prove that the beer has been taxed. T.C.A. § 57-5-108(m). The beer board also may suspend or revoke a permit for failure to pay the annual privilege tax after the required notices have been sent. T.C.A. § 57-5-104(c).

When a permit is revoked by the county beer board, a new permit for the sale of beer on the same premises shall not be issued for one year following the final effective date of the revocation. However, the board may, in its discretion, issue a new permit on the same premises before the expiration of the one year period if the individual applying for the permit is not the original holder of the permit or any family member who could inherit from such individual by intestate succession. T.C.A. § 57-5-108(k).

Any decision concerning revocation, suspension, or civil penalties must be based on the facts of the particular situation. There are very few situations which are exactly alike. The county beer board is authorized to revoke a beer permit for any of the reasons which would disqualify an applicant in the first instance (see Section IV above). Each fact situation must be considered individually. The cases cited throughout the material show that a county must have a valid reason for the denial, revocation, or suspension of a beer permit.

**Investigations.** When a beer board receives information concerning possible violations of the law by a beer permit holder, the board should refer the matter to appropriate law enforcement authorities. When necessary, however, the beer board may take investigatory action itself. The Tennessee

Court of Appeals has held that a county beer board possesses continuing, supervisory powers to police permit holders after the issuance of the permit. In an unpublished opinion, the court of appeals found that a beer board was empowered to employ an undercover investigator after the county sheriff had refused to conduct an investigation concerning illegal sales of beer to minors. *Jackson v. Franklin County Beer Board*, 1993 WL 46524 (Tenn. Ct. App. 1993). Relying on this opinion, the Attorney General has opined that a beer board may hire a private investigatory firm to conduct undercover investigations concerning the sale of beer to minors, and that minors may be used in these investigations. Attorney General Opinion 01-062 (4/20/01).

**Hearings and Due Process.** While no one has a right to a beer permit in the first instance, once a permit has been issued it becomes a valuable property right which is protected under the state and federal constitutions and a permit holder must be afforded due process with respect to deprivation of the privilege granted by the permit. Due process is a flexible standard, calling for the procedural protections that the particular situation demands. In general, the factors to be considered are: (1) the nature and importance of the private interest at stake, (2) the risk of erroneous deprivation of the interest and the probable value of additional safeguards, and (3) the governmental interest, including any additional burdens that procedural safeguards might entail. A beer permit is a very important interest because a person's livelihood may depend upon it. A permit holder is entitled to notice and an opportunity to be heard that is reasonable under the circumstances. Attorney General Opinion 94-064 (4/28/94).

The due process requirements may extend to persons other than the permit holder. The Attorney General has opined that the statute which prohibits the issuance of a beer permit for one year on premises where a permit has been revoked could be unconstitutional in application if the property owner is different from the permit holder and the property owner is not given an opportunity to show that he or she was innocent of wrongdoing and had taken all action which reasonably could be expected to prevent the violation. Attorney General Opinion 90-77 (8/13/90).

**IX. Judicial Review of Beer Board Action.** Any applicant who complies with the conditions and provisions of T.C.A. § 57-5-105 must be issued the necessary permit and in the event the permit is denied, the applicant is entitled to have the denial reviewed before the chancery or circuit court. T.C.A. § 57-5-105(e). The procedure for judicial review of beer board actions, including the denial, suspension, or revocation of a beer permit, or imposition of a civil penalty, is set out in T.C.A. § 57-5-108. The action of the beer board is reviewed when a dissatisfied party files a statutory writ of certiorari in the circuit or chancery court in the county where the beer board is located. Immediately upon the grant of the writ of certiorari, the beer board is required to cause to be made, certified, and forwarded to the court a complete

transcript of the proceedings of the beer board. The proceedings will be a trial *de novo*, meaning that the court will hear all evidence and will not rely on the record of the proceedings before the beer board. The judge to which the petition for certiorari is addressed has the authority to supersede, stay, or enjoin the beer board's order of revocation, suspension, or imposition of a civil penalty, upon a showing of good cause on the part of the petitioning party. Any party dissatisfied with the decree of the trial court may appeal the decision, and the case will be heard upon the transcript of the records from the trial court. If a final judgment is entered by the trial court superseding the revocation or suspension order, and the cause is appealed by the beer board, the final judgment of the trial court will remain in force until final appellate disposition of the case. T.C.A. § 57-5-108.

A beer permit applicant may seek review from the circuit or chancery court *before* the final decision of the beer board in certain limited situations. For instance, if a beer board needlessly prolongs an application for a beer permit, the beer board has, in effect, denied the application so that the applicant may seek court review. *City of Murfreesboro v. Fortner*, 570 S.W.2d 859 (Tenn. 1978). While action by the beer board tabling an application for a permit until the beer board's next quarterly meeting is not generally an "order" as used in the statute allowing review by the circuit or chancery court by writ of certiorari of any order of any agency, if a beer board tables an application for reasons completely extraneous to the qualifications of an applicant (e.g. building set-back) such that further pursuit of a permit through administrative channels would be futile, then the courts should grant the writ. *McCarter v. Goddard*, 609 S.W.2d 505 (Tenn. 1980).

**X. State Barrels Tax.** Every person, firm, corporation, joint-stock company, syndicate, or association in this state storing, selling, distributing, or manufacturing beer and like beverages must pay a special privilege tax levied at the rate of \$4.29 per barrel (31 liquid gallons) of beer stored, sold, distributed by gift or sale, or manufactured in Tennessee. T.C.A. § 57-5-201. The Commissioner of Revenue is the administrator and collector of the tax. T.C.A. § 57-5-202. This tax is a state privilege tax, and counties cannot levy any like tax. T.C.A. § 57-5-201(b).

Exemptions to this tax are as follows:

1. Beer manufactured in Tennessee but exported for sale, distribution, or gift. T.C.A. § 57-5-201(a)(1).
2. Beer dispensed gratuitously and consumed on the premises. T.C.A. § 57-5-201(a)(1).

3. Beer sold for consumption on a U. S. military or naval installation or to post exchanges, ship service stores, commissaries, and messes operated by the U. S. armed forces. T.C.A. § 57-5-208.

Wholesalers and manufacturers of beer must apply to the Commissioner of Revenue and receive a certificate of registration. This registration costs \$20 for wholesalers and \$40 for manufacturers. T.C.A. § 57-5-102. In addition, wholesalers and manufacturers of beer must execute a bond securing the payment of the state privilege tax, payable to the Commissioner of Revenue. T.C.A. § 57-5-110.

Proceeds of the tax are distributed as follows:

1. Up to 4 percent to the Department of Revenue to defray the expenses of administration of this tax. T.C.A. § 57-5-202.
2. Of the amount paid into the state treasury:
  - a. 10.05 percent to the several counties equally for general purposes.
  - b. 10.05 percent to the incorporated municipalities according to population for general purposes.
  - c. 0.41 percent to the Department of Mental Health and Mental Retardation to assist municipalities and counties in carrying out the provisions of the “Comprehensive Alcohol and Drug Treatment Acts of 1973.”
  - d. Remainder (79.49 percent) to the state general fund. T.C.A. § 57-5-205.

The tax is due and payable on or before the 20th day of the month following the month in which it accrues. T.C.A. § 57-5-203. The Commissioner of Revenue is authorized to suspend or revoke the certificate of registration, or impose civil penalties, for failure to make the required reports or to pay the tax when due. T.C.A. §§ 57-5-108(l), 57-5-204. Persons delinquent in making reports or paying taxes are subject to a penalty of 5 percent of the unpaid tax for each 30 days that the tax is unpaid up to a maximum of 25 percent of the unpaid amount, with minimum penalty of \$15. Additional penalties can be imposed by the Commissioner of Revenue for negligence (10 percent of underpayment) or fraud (100 percent of underpayment). Interest is charged at the legal (formula) rate. T.C.A. §§ 67-1-801, 67-1-804.

**XI. Wholesale Beer Tax.** A tax is imposed on the sale of beer and like beverages at wholesale. T.C.A. §§ 57-6-102 - 57-6-103. Beer or ale sold to any

port exchange, ship service store, commissary, open mess, officers' club, N.C.O. club, or other organization recognized by and located on any fort, base, camp, or post of the U. S. armed forces is exempted from this tax. T.C.A. § 57-6-111.

The rate of the tax is 17 percent of the wholesale price. The wholesale price does not include the amount charged as a deposit on returnable bottles or kegs, as long as the deposit does not exceed the actual value of the bottles, cases, or kegs to be returned. The amount of tax is to be taken to the nearest whole cent on each case, keg, or carton. T.C.A. 57-6-103.

The Commissioner of Revenue administers the tax. The wholesale beer distributor collects the tax and remits the proceeds as follows:

1. 0.5 percent to the Department of Revenue, to be kept in a special fund and used only for expenses in administration of this tax.
2. 3.0 percent retained by the wholesaler to defray the cost of collecting and remitting the tax.
3. The remainder (96.5 percent) of the tax to the city or county in which the sale is made. T.C.A. § 57-6-103.

The tax collected on sales to licensed retailers is to be paid to the county or city in which the retailer's place of business is located, and the tax on all other sales made at the wholesaler's place of business is to be paid to the county or city in which the wholesaler's business is located. T.C.A. § 57-6-103(d). All sales made at the wholesaler's place of business are deemed to be wholesale sales and the tax must be collected. T.C.A. § 57-6-103(c).

An annexing or newly-incorporated municipality is required to provide written notice of the date of annexation or incorporation, together with a list of retailers located in the territory, to each wholesale beer distributor within the territory. T.C.A. § 57-6-103. After annexation, the wholesale beer taxes generated within the annexed territory are apportioned between the city and the county in accordance with the provisions of T.C.A. § 6-51-115. For newly incorporated areas, the taxes generated within the newly-incorporated area are apportioned between the city and the county in accordance with the provisions of T.C.A. §§ 6-1-220, 6-18-115, or 6-30-108, as applicable, as well as T.C.A. §§ 6-58-112(c) and 6-51-115(b).

The tax is due and payable monthly on or before the 20th day of each month for the tax collected on sales of the previous month. T.C.A. § 57-6-103(a). If a wholesaler fails or refuses to remit the tax when due, the concerned county or city or the Department of Revenue is authorized to institute legal action for collection by any method authorized by law for

collection of delinquent privilege taxes (see Title 67, *Tennessee Code Annotated*), or by filing suit against the wholesaler. In addition, the city or county may revoke or suspend the permit or impose civil penalties, or the Commissioner may revoke or suspend the wholesaler's certificate of registration or impose civil penalties. T.C.A. § 57-6-107 and 57-5-108.

Persons delinquent in making reports or paying taxes are subject to a penalty of 5 percent of the unpaid tax for each 30 days that the tax is unpaid up to a maximum of 25 percent of the unpaid amount, with minimum penalty of \$15. Additional penalties can be imposed by the Commissioner of Revenue for negligence (10 percent of underpayment) or fraud (100 percent of underpayment). Interest is charged at the legal (formula) rate. T.C.A. §§ 67-1-801, 67-1-804.

Wholesalers must furnish an indemnity or personal bond, subject to annual renewal, satisfactory to the Department of Revenue in an amount equal to the amount of tax payable based on the highest month's sales of the previous year or estimate thereof, not to exceed \$10,000, or in lieu of the bond the Commissioner of Revenue may allow a certificate of deposit. T.C.A. § 57-6-107.

Persons convicted of violating any provision of the wholesale beer tax laws are guilty of a Class C misdemeanor, which may subject the convicted person to imprisonment of up to 30 days and a fine of up to \$50, or both. T.C.A. §§ 57-6-114, 40-35-111. In addition, the beer board is required to suspend a wholesaler's license for 30 days for violation of any provision of T.C.A. § 57-6-104 (regulations governing wholesale pricing, container sizes, and sales territories). T.C.A. § 57-6-114(b).

**XII. Annual Privilege Tax.** An annual privilege tax in the amount of \$100 is imposed on the selling, distributing, storing, or manufacturing of beer in Tennessee. 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 to the county or city in which the business is located. The county clerk collects this 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 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 by certified mail that the tax payment is past due. If the permit holder does not pay the tax within 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. § 57-5-104(b)(5).



## **APPENDIX**

**SAMPLE RESOLUTION #1**

**RESOLUTION NO. \_\_\_\_**

**TO ESTABLISH A BEER BOARD FOR \_\_\_\_\_ COUNTY**

WHEREAS, *Tennessee Code Annotated*, Section 57-5-105, authorizes county legislative bodies to establish a county beer board and to vest the beer board with the powers necessary to regulate the issuance of beer permits within the county's jurisdiction, as provided by law; and

WHEREAS, the county legislative body of \_\_\_\_\_ County deems that it is in the best interest of the county that a beer board be established.

NOW, THEREFORE, BE IT RESOLVED by the county legislative body of \_\_\_\_\_ County meeting in \_\_\_\_\_ session at \_\_\_\_\_, Tennessee, on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that:

SECTION 1. There is hereby established a beer board for \_\_\_\_\_ County, consisting of (number) members, appointed by the county legislative body. The members of the beer board may be members of the county legislative body or citizens of the county.

SECTION 2. (The county legislative body can establish the term of office, qualifications and compensation of beer board members.)

SECTION 3. The members of the beer board herein created will be:

	<u>Name</u>	<u>Address</u>	<u>Term</u>
1.			
2.			
...			

SECTION 4. The beer board is hereby vested with all authority to issue, deny, and revoke permits for the sale of beer, as provided by the laws of Tennessee and in accordance with the rules adopted by the county legislative body.

SECTION 5. This resolution shall take effect upon passage, the public welfare requiring it.

Passed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
APPROVED: County Mayor

\_\_\_\_\_  
ATTEST: County Clerk

**SAMPLE RESOLUTION #2**

**RESOLUTION NO. \_\_**

**TO ENACT THE 2,000 FOOT RULE FOR THE SALE OF BEER**

WHEREAS, *Tennessee Code Annotated*, Section 57-5-105, authorizes county legislative bodies to enact a rule restricting the sale of beer within 2,000 feet of schools, churches, and places of public gathering; and

WHEREAS, it is in the best interest of the county that the county legislative body enact such a rule.

NOW, THEREFORE BE IT RESOLVED by the county legislative body of \_\_\_\_\_ County meeting in \_\_\_\_\_ session at \_\_\_\_\_, Tennessee, on the \_\_ day of \_\_\_\_\_, 20\_\_, that:

SECTION 1. There is hereby enacted a 2,000 Foot Rule for the sale of beer in \_\_\_\_\_ County. This rule provides that no permit for the sale of beer will be issued for any location within 2,000 feet of a school, church, or place of public gathering. Provided, however, this rule will not apply to places of business located in the terminal or main building at airports serviced by commercial airlines with regular scheduled flights.

SECTION 2. This Resolution shall be effective upon its passage and approval, the public welfare requiring it.

Passed this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
APPROVED: County Mayor

\_\_\_\_\_  
ATTEST: County Clerk

**SAMPLE RESOLUTION #3**

**RESOLUTION NO. \_\_**

**TO ENACT THE 300 FOOT RULE FOR THE SALE OF BEER**

WHEREAS, *Tennessee Code Annotated*, Section 57-5-105, authorizes county legislative bodies to enact a rule restricting the sale of beer within 300 feet of a residential dwelling provided the owner of the residential dwelling appears, in person, before the beer board and objects to the issuance of the permit; and

WHEREAS, it is in the best interest of the county that the county legislative body enact such a rule.

NOW, THEREFORE BE IT RESOLVED by the county legislative body of \_\_\_\_\_ County meeting in \_\_\_\_\_ session at \_\_\_\_\_, Tennessee, on the \_\_\_ day of \_\_\_\_\_, 20\_\_, that:

SECTION 1. There is hereby enacted a 300 Foot Rule for the sale of beer in \_\_\_\_\_ County. This rule provides that no permit for the sale of beer will be issued for any location within 300 feet of a residential dwelling, measured from building to building, provided, the owner of the residential dwelling appears, in person, before the county beer board and objects to the issuance of the permit.

SECTION 2. This rule does not apply to locations where a beer permit has been issued prior to the adoption of this rule, or to applications for a change in the permittee at such locations.

SECTION 3. This Resolution shall be effective upon its passage and approval, the public welfare requiring it.

Passed this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
APPROVED: County Mayor

\_\_\_\_\_  
ATTEST: County Clerk

**SAMPLE RESOLUTION #4**

**RESOLUTION NO. \_\_**

**TO EXTEND THE HOURS OF OPERATION  
FOR ESTABLISHMENTS SELLING BEER IN \_\_\_\_\_ COUNTY**

WHEREAS, *Tennessee Code Annotated*, Section 57-5-301, authorizes county legislative bodies to extend the hours for the sale of beer within their jurisdiction; and

WHEREAS, it is the will of many of the citizens of the county that the county legislative body extend the hours for the sale of beer in \_\_\_\_\_ County.

NOW, THEREFORE BE IT RESOLVED by the county legislative body of \_\_\_\_\_ County meeting in \_\_\_\_\_ session at \_\_\_\_\_, Tennessee, on the \_\_\_ day of \_\_\_\_\_, 20\_\_, that:

SECTION 1. The hours of operation for establishments licensed to sell beer in \_\_\_\_\_ County are hereby extended, as follows:

Beer may be sold in properly licensed establishments in \_\_\_\_\_ County between the hours of 12:00 o'clock noon and 12:00 o' clock midnight on Sunday.

SECTION 2. This Resolution shall be effective upon its passage and approval, the public welfare requiring it.

Passed this \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
APPROVED: County Mayor

\_\_\_\_\_  
ATTEST: County Clerk

**SAMPLE RESOLUTION #5**

**RESOLUTION NO. \_\_\_\_**

**TO RESTRICT/PROHIBIT THE CONSUMPTION OF BEER IN PUBLIC PARKS  
OR RECREATION AREAS IN \_\_\_\_\_ COUNTY**

WHEREAS, *Tennessee Code Annotated*, Section 5-5-127, authorizes county legislative bodies to prohibit or restrict the consumption of beer in public parks or recreation areas which are not within the corporate boundaries of a municipality; and

WHEREAS, the county legislative body of \_\_\_\_\_ County deems that it is in the best interest of the county to establish guidelines to [restrict the consumption of beer] **-or-** [prohibit the consumption of beer] in public parks or recreation areas which are not within the corporate boundaries of a municipality.

NOW, THEREFORE, BE IT RESOLVED by the county legislative body of \_\_\_\_\_ County meeting in \_\_\_\_\_ session at \_\_\_\_\_, Tennessee, on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that:

SECTION 1. The consumption of beer in public parks or recreation areas which are not within the corporate boundaries of a municipality in \_\_\_\_\_ County is hereby prohibited.

**- or -**

SECTION 1. The consumption of beer in public parks or recreation areas which are not within the corporate boundaries of a municipality in \_\_\_\_\_ County is hereby restricted to the following time periods:

SECTION 2. A violation of this Resolution shall upon conviction be a misdemeanor.

SECTION 3. This Resolution shall take effect upon passage, the public welfare requiring it.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
APPROVED: County Mayor

\_\_\_\_\_  
ATTEST: County Clerk

**SAMPLE APPLICATION FOR A BEER PERMIT**

**STATE OF TENNESSEE**

**COUNTY OF \_\_\_\_\_**

ON-PREMISES PERMIT \_\_\_\_\_

MAP NO. \_\_\_\_\_

OFF-PREMISES PERMIT \_\_\_\_\_

PARCEL NO. \_\_\_\_\_

ON- AND OFF- PREMISES PERMIT \_\_\_\_\_

MANUFACTURER'S OR  
DISTRIBUTOR'S PERMIT \_\_\_\_\_

BOARD MEETING  
DATE \_\_\_\_\_

TEMPORARY (SPECIAL EVENT) PERMIT \_\_\_\_\_

I HEREBY MAKE APPLICATION FOR A PERMIT TO SELL, STORE, MANUFACTURE, OR DISTRIBUTE BEER OR OTHER BEVERAGES AUTHORIZED TO BE SOLD, STORED, MANUFACTURED, OR DISTRIBUTED UNDER THE PROVISIONS OF TENNESSEE CODE ANNOTATED § 57-5-101 *et seq.*, AND BASE MY APPLICATION UPON THE ANSWERS TO THE FOLLOWING QUESTIONS:

1. Full name of applicant (owner of business) \_\_\_\_\_
2. Type of applicant (check one): Person\_\_\_\_\_ Firm\_\_\_\_\_ Corporation\_\_\_\_\_ Joint-stock Company\_\_\_\_\_ Syndicate\_\_\_\_\_ Association\_\_\_\_\_
3. Give the name and address of all persons, firms, corporations, joint-stock companies, syndicates or associations who own five percent (5%) or more of the business (attach additional sheet, if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the owner is an individual, answer questions 4, 5 and 6. Otherwise, proceed to question 7.

4. What is your present home address? \_\_\_\_\_
5. Previous address(es) within the last ten years (use additional sheet if necessary) \_\_\_\_\_
6. Date of birth \_\_\_\_\_ Home telephone \_\_\_\_\_
7. Applicant's business telephone \_\_\_\_\_
8. Under what name will this business operate? \_\_\_\_\_
9. Give business address and geographical location \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

10. Describe the nature of the business you will operate \_\_\_\_\_
11. Name and address of person to receive annual tax notices and any other communication \_\_\_\_\_
12. Name and address of property owner (if other than business owner) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

13. Will this permit be used to operate two or more restaurants or other businesses within the same building? (yes or no) \_\_\_\_\_. If yes, specify number \_\_\_\_\_, and list the names of all restaurants or other businesses and describe all locations (use separate sheet if necessary) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

14. Give the name, date of birth, and address of any manager other than the applicant \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

15. Has any person who owns five percent (5%) or more of the business, any manager listed in response to question 14 above, or any other employee of the business, been convicted of any violation of the beer or alcoholic beverage laws or any crime (other than minor traffic violations) within the past ten (10) years? \_\_\_\_ If yes, give the particulars of each charge, the court, and the date convicted \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

16. Have you, your business, or any person who owns five percent (5%) or more of the business, ever had a beer permit revoked, suspended or denied in the state of Tennessee \_\_\_\_\_ If yes, specify where, when, and why \_\_\_\_\_

17. Give the name, relationship to the applicant (if applicable) and address of the former beer permittee at this location \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ **County has adopted a rule forbidding the sale, storage, or manufacture of beer within 2,000 feet [or some lesser distance] of a church, school, or other place of public gathering.**

18. Give the name and address of the church or other place of worship nearest to your business. \_\_\_\_\_

\_\_\_\_\_

19. Give the name and address of the school nearest to your business. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ **County has adopted a rule forbidding the sale, storage, or manufacture of beer or like beverages within 300 feet of a residential dwelling, if the owner objects to the issuance of a beer permit.**

20. Give the name of the owner and the address of the nearest residential dwelling to your business. \_\_\_\_\_

\_\_\_\_\_

**I CERTIFY THAT THIS APPLICATION CONTAINS TRUE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AM AWARE OF MY CONTINUING OBLIGATION TO AMEND OR SUPPLEMENT THIS APPLICATION PROMPTLY IF A CHANGE IN CIRCUMSTANCES AFFECTS THE RESPONSES PROVIDED IN THIS APPLICATION, EITHER BEFORE OR AFTER A PERMIT HAS BEEN ISSUED. I CERTIFY THAT I AM KNOWLEDGEABLE OF THE LAWS PROHIBITING THE SALE OF BEER TO MINORS. I AM AWARE THAT I WILL NOT BE ISSUED A BEER PERMIT OR MY PERMIT WILL BE REVOKED IF MY BUSINESS LOCATION CAUSES TRAFFIC CONGESTION OR INTERFERES WITH SCHOOLS, CHURCHES, OR OTHER PLACES OF PUBLIC GATHERING, OR OTHERWISE INTERFERES**



**WITH PUBLIC HEALTH, SAFETY, AND MORALS. I WILL SURRENDER TO THE BEER BOARD ANY PERMIT ISSUED UNDER THIS APPLICATION WITHIN FIFTEEN (15) DAYS OF TERMINATION OF THE BUSINESS, CHANGE IN OWNERSHIP, RELOCATION OF THE BUSINESS, OR CHANGE OF THE BUSINESS'S NAME.**

\_\_\_\_\_  
Signature of Applicant/Owner (or authorized officer)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**NOTICE:** A non-refundable \$250.00 fee must accompany this application. If the application is approved, you are required to provide documentation of sales tax registration to the county within ten (10) days of approval.

An annual privilege tax of \$100.00 is imposed on the business of selling, distributing, storing, or manufacturing beer in this state. The tax is due each January 1 and is payable to the \_\_\_\_\_ County Clerk. This tax is prorated for new permits issued after January 1, and must be paid when the permit is issued.

**ANY APPLICANT MAKING A FALSE STATEMENT IN THIS APPLICATION SHALL FORFEIT HIS OR HER PERMIT AND SHALL NOT BE ELIGIBLE TO RECEIVE ANY PERMIT FOR TEN (10) YEARS.**

**SAMPLE BEER PERMIT**  
**BEER PERMIT**

NO. \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_, 200\_\_

\_\_\_\_\_  
*(Name of Owner of Business)*

having established the facts and otherwise complied with the requirements of Tennessee Code Annotated §57-5-101 et seq., and being otherwise qualified, is hereby permitted to engage in the business of:

\_\_\_\_\_  
*(Sale for On Premises and/or Off Premises Consumption, Storage, Manufacture and/or Distribution)*

of beer of alcoholic content of not more than five percent (5%) by weight, and other beverages of like alcoholic content governed by such laws, at:

\_\_\_\_\_  
*(Name and Address of Business)*

within \_\_\_\_\_ County until this permit is legally revoked, suspended or otherwise terminated under the provisions of the laws of the state of Tennessee. This permit is valid only for the above-named business at the above location and is not transferable.

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the Beer Board of \_\_\_\_\_ County.

**MEMBERS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ County Clerk

**POST THIS PERMIT IN A CONSPICUOUS PLACE AT THE LOCATION SHOWN ABOVE**



CTAS

County Technical  
Assistance Service

*In cooperation with the Tennessee County  
Services Association and the County Officials  
Association of Tennessee*

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to the University.

The university does not discriminate on the basis of race, sex, or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA or the Age Discrimination in Employment Act (ADEA) or any of the other above referenced policies should be directed to the Office of Equity and Diversity (OED), 1840 Melrose Avenue, Knoxville, TN 37996-3560, telephone (865) 974-2498 (V/TTY available) or 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the UTK Office of Human Resources, 600 Henley Street, Knoxville, TN 37996-4125.

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