

City of Cookeville Municipal Code Title 8, Chapter 2

SECTION

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8-201. Authority to grant, revoke, etc., beer permits. (1) The city council, or the city clerk, is designated, appointed and given authority for the purpose of granting or refusing permits for the sale, storage and warehousing of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Cookeville, Tennessee .

(2) The city council, or the Alcoholic Beverage Board (ABCB), appointed as provided herein, is designated, appointed and given authority for the purpose of rescinding, suspending, or revoking permits for the sale, storage and warehousing of beer or other alcoholic beverages with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Cookeville, Tennessee.

8-202. Authority to appoint ABCB.

(1) The city council, in its discretion, may serve as the ABCB, or may, by resolution, establish a separate, independent ABCB and shall appoint five (5) members for four (4) year terms. A member whose term has expired shall continue to serve until his or her successor is appointed in the manner as herein provided.

(2) In the event of death or resignation of a board member prior to expiration of his or her term, a successor shall be appointed for the unexpired term in the same manner as the deceased or retiring board member was appointed, and shall take office immediately upon appointment. Such successor board member shall be eligible for re-appointment to a full term.

(3) No person shall be appointed to the ABCB unless he or she is a resident of the City of Cookeville.

(4) Members of the ABCB shall administer the laws governing alcoholic beverages as enacted by the State of Tennessee and the City of Cookeville. The ABCB shall have no legislative powers.

(5) The city council may terminate the ABCB by resolution.

8-203. Permit and application fee required for selling beer.

It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight, as hereinbefore designated, without having first applied to and received from the city clerk a permit authorizing them to make such sale, and that before being granted a permit to sell beer or other beverages with an alcoholic content not exceeding five percent (5%) of weight of the nature as set out above, they shall first pay to the City Clerk of Cookeville, Tennessee, a non-refundable application fee of two hundred fifty dollars (\$250.00).

8-204. Privilege tax.

There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the city clerk. At the time a new permit is issued to any business subject to this section, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-205. Permits are not transferable.

Permits issued hereunder shall remain in full force and effect until they are canceled and revoked or suspended by the ABCB, and no permit shall be transferable. Should the holder of a permit, whether it be a person, firm, corporation, joint stock company, syndicate, or association, go out of business or move its place of business from one point in Cookeville, Tennessee, to another point within said city, immediately upon the cessation of business at the original place, the permit theretofore granted shall be rescinded and be of no further force or effect, and is immediately null and void.

8-206. Permit forfeited if permittee is convicted of certain offenses.

Any person, firm, corporation, joint stock company, syndicate, or association who shall have been granted a permit to sell or distribute beer or other beverages with an alcoholic content not exceeding five percent (5%) of weight, who shall, after having obtained said permit, be convicted by any court of competent jurisdiction of violating any of the laws against possession, sale, manufacture, and/or transportation of intoxicating liquor, or of any crime involving moral turpitude, forthwith shall forfeit his or its permit to sell beer or any other beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Cookeville, Tennessee, and each sale of beer or like beverage, after any conviction, shall be deemed to constitute a separate offense.

8-207. Applicant shall file written application containing certain specific requirements.

Before any permit is issued by the city clerk, the applicant therefore shall file with the city clerk a sworn petition in writing and shall establish the following:

- (1) The name and home address of the applicant.
- (2) The applicant shall state as to whether he/she is a citizen of the United States or a permanent resident alien.
- (3) The applicant shall agree to an in depth background check by the city clerk.
- (4) The business name and location of the premises at which the business shall be conducted. The business name shall not contain the word "beer."
- (5) The owner or owners of such premises.
- (6) That the applicant shall not engage in the sale of such beverages except at the place or places for which the city clerk has issued permits or permit, to such applicant.
- (7) That no sale of such beverage will be made except in accordance with the permit granted.
- (8) The applicant shall state as to whether the permit for the sale of beer is sought for consumption on the premises or for sale to be carried off the premises with no consumption on the premises.
- (9) If the application is for consumption on the premises, the applicant will state the nature of the business and the seating capacity. If the application is for consumption off the premises, the applicant shall state whether the application is for a grocery store, drug store, convenience store, or tobacco store. If the application is for a private club, the applicant shall state the number of years of existence under the private club's charter of incorporation granted by the State of Tennessee, and as to whether it is a corporation for profit or a corporation not for profit.
- (10) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, possession, manufacture, or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.
- (11) That the applicant has not had a license for the sale of legalized beer or other beverages of an alcoholic content not exceeding five percent (5%) of weight revoked.
- (12) The application shall state whether the applicant will manage the business in person, or is acting as an agent.
- (13) That no brewer or distiller of legalized beer or any other beverage with an alcoholic content not exceeding five percent (5%) of weight has any interest, financial or otherwise, in the premises upon or in which the business to be licensed is carried on.

(14) That no brewer or distiller of legalized beer or any other beverages with an alcoholic content not exceeding five percent (5%) of weight has any interest, financial or otherwise, in the business which is licensed, or requested to be licensed.

(15) That the applicant will not thereafter convey or grant any brewer or distiller of legalized beer or any other beverage with an alcoholic content not exceeding five percent (5%) of weight any interest in either the business which is licensed to be carried on, or in any other property at which such business may thereafter be carried on.

(16) That the applicant has, at the time of making such application, no indebtedness or other financial obligation to any brewer or distiller of legalized beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight, and will not during the period such license shall be in force, contract any financial obligation to any brewer or distiller of legalized beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight other than for the purpose of such beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight.

(17) This application shall be verified by the affidavit of the applicant or a duly authorized officer of the applicant, made before a notary public or the city clerk, and if any false statement is made in any part of such application the permit or license granted or issued to the applicant shall be revoked by the city council or ABCB.

In the event of a reported violation of the ABCB regulations of the State Alcoholic Beverage Laws as defined in Tennessee Code Annotated, title 57, the clerk shall not issue a new beer permit for the location of the alleged violation until the allegation has been resolved, whether by a hearing before the board or otherwise.

8-208. Permits authorized for certain businesses.

In order to protect the general welfare and morals of the citizens of the City of Cookeville, Tennessee, and to avoid the congestion of traffic or interfere with the public health, safety and morals of the citizens of Cookeville, Tennessee, it shall be unlawful for any person, firm, corporation, joint stock company, syndicate, association, or any other legal entity to sell beer at retail or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight within the corporate limits of Cookeville, Tennessee, or to possess the same for the purpose of resale except a restaurant, hotel, motel, private club, grocery store, drug store, convenience store, or tobacco store which qualify under the rules and regulations herein prescribed.

8-209. Permits issued to hotels and motels.

A permit may be issued for the sale of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight for on-premises consumption to any hotel or motel that has been licensed by the State of Tennessee Alcoholic Beverage Commission to sell alcoholic beverages for on-premises consumption.

8-210. Permits issued to restaurants.

A permit may be issued for the sale of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight for on-premises consumption to any restaurant that has been licensed by the State of Tennessee Alcoholic Beverage Commission to sell alcoholic beverages for on-premises consumption. A permit will not be issued for the sale of beer for consumption on the premises to any restaurant that has not been licensed by the State of Tennessee Alcoholic Beverage Commission unless such restaurant shall have a seating capacity of at least seventy five (75) people at tables. A

restaurant shall mean any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, and such place being provided with adequate and sanitary kitchen and dining room equipment, and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. At least one (1) meal per day shall be served at least five (5) days a week, with the exception of holidays, vacations, and periods of redecorating, and the serving of such meals shall be the principal business conducted.

8-211. Permits issued to private clubs.

A permit may be issued for the sale of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight for on-premises consumption to any club that has been licensed by the State of Tennessee Alcoholic Beverage Commission to sell alcoholic beverages for on premises consumption. A permit will not be issued for the sale of beer for consumption on the premises to any club that has not been licensed by the State of Tennessee Alcoholic Beverage Commission except a private club, which shall mean an organization of persons incorporated pursuant to the provisions of the not for profit corporation law and membership corporation law of the State of Tennessee, and which is the owner, lessee, or occupant of a building used exclusively for private club purposes, and which does not traffic in alcoholic beverages for profit and is solely for the recreational, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain for its members. A member of a private club shall mean a person, whether a charter member or admitted in agreement with the by-laws of the private club, has become a bona fide member thereof, who maintains his membership by the payment of his annual dues in a bona fide manner and in accordance with the by-laws and whose name and address is entered on the official list of members of the said private club. Any such private club so obtaining a beer permit shall only do so for the sale at retail of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight, and shall sell said alcoholic beverage only to its members and their invited guests and shall not sell the same to the general public.

8-212. Permits issued for sale of beer within corporate limits not for consumption on the premises.

No permit for the sale of beer or any other beverage with an alcoholic content not exceeding five percent (5%) of weight, shall be issued to any person, firm, corporation, joint stock company, syndicate, or association for off-premises consumption except to a legitimately operated full-line grocery store, drug store, convenience store, or tobacco store. No beer, or any other beverage with an alcoholic content not exceeding five percent (5%) of weight, shall be sold, warehoused, or distributed from any building other than the one for which the permit is issued. Beer or any other beverage with an alcoholic content not exceeding five percent (5%) of weight shall only be sold in the original manufacturer's container. For the application of this section, a full-line grocery store shall be defined as a store that maintains an inventory of staple food items including fresh meats, vegetables, produce, and fruits. A drug store shall be defined as a business whose primary business is the sale of prescription drugs and associated items, and a convenience store shall be defined as a store that maintains an inventory of a variety of snack items, soft drinks, and/or canned goods. A tobacco store shall be defined as a store whose primary business is the sale of tobacco and associated products.

8-213. Sale to anyone under 21 years of age or to intoxicated persons unlawful.

It shall be unlawful to sell or offer for sale any beverage falling within the provisions of this chapter to a person in an intoxicated or partially intoxicated condition. It shall also be unlawful to sell or offer for sale any beverage falling within the provisions of this chapter to a person under the age of 21 years except to members of the armed forces while on active duty status.

8-214. Hours and days of sale, etc., regulated.

It shall be unlawful for any person or persons, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) by weight within the corporate limits of Cookeville, Tennessee, between the hours of three o'clock (3:00) A.M. and eight o'clock (8:00) A.M. on week days, and between the hours of three o'clock (3:00) A.M. and twelve o'clock (12:00) noon on Sunday. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverage with an alcoholic content not exceeding five percent (5%) of weight is sold within the corporate limits of Cookeville, Tennessee, in either bottle, glass, or other container after three-fifteen o'clock (3:15) A.M.

8-215. Permittee not to allow anyone under 21 years of age to loiter, possess, or consume alcoholic beverages inside the premises.

It shall be unlawful for the management of any place where any beverage falling within the provisions of this title is sold, to allow anyone under 21 years of age to loiter inside the premises, or to allow anyone under 21 years of age to possess or consume any beverage falling within the provisions of this title inside the premises. The burden of ascertaining the age of customers under the age of 21 years shall be upon the owner or operator of such place of business.

8-216. Unlawful for anyone under 21 years of age to misrepresent age.

It shall be unlawful and a misdemeanor for any person under twenty-one (21) years of age to knowingly misrepresent his age in order to obtain or purchase beer within the corporate limits of the City of Cookeville, Tennessee, or to remain in a location where beer is legally being sold under the provisions of this chapter and where persons under the age of 21 years are not allowed to loiter.

8-217. Prohibited sexual or pornographic conduct--enforcement.

(1) In addition to the other duties imposed under this title, the ABCB, is authorized to enforce the provisions of subsections (2), (3), and (4), and upon violation of such subsections by any person, firm or corporation licensed to sell beer within the corporate limits of the City of Cookeville, under the provisions of this chapter, the ABCB shall revoke the beer permit of such violator.

(2) The following acts or conduct on licensed premises are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts are permitted:

- (a) To employ, use or allow any person in the sale or service of beer or other alcoholic beverage with an alcoholic content not exceeding five percent (5%) of weight in or upon the licensed premises while such person is unclothed or in such

- attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;
- (b) To employ, use or allow the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subdivision (2)(a);
 - (c) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person;
 - (d) To permit any employee or person to wear or use any device or covering, exposed to view, which stimulates the breast, genitals, anus, pubic hair or any portion thereof.
- (3) (a) Conduct or acts on licensed premises in violation of this subsection are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts are permitted.
- (b) Live entertainment is permitted on any licensed premises, except that:
- (i) No licensee shall permit any person to perform acts of or acts which simulate:
 - (A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - (B) The touching, caressing or fondling of the breast, buttocks, anus or genitals; or
 - (C) The displaying of the pubic hair, anus, vulva or genitals.
 - (ii) Subject to the provisions of subdivision (b)(i), any entertainer who is employed in whole or in part by the licensee to dance at such licensee's premises shall perform only upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.
 - (c) No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
 - (d) No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of their genitals or anus.
- (4) The following conduct or acts on licensed premises are deemed contrary to public policy, and therefore no license shall be held at any premises where such conduct or acts are permitted:
- (a) The showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:
 - (i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - (ii) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals;
 - (iii) Scenes wherein a person displays the vulva or the anus or the genitals; or
 - (iv) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
- (5) The officers of the Cookeville Police Department are hereby empowered to conduct investigations into alleged violations of subsections (1)--(4), and shall report such violations to the city manager for appropriate action.

8-218. The ABCB is vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.

The ABCB of the City of Cookeville, Tennessee, is vested with full and complete power to investigate charges against any permit holder who is cited to appear and show cause why his and/or its permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer laws of the State of Tennessee. Complaints filed against any permit holder for the purpose of suspending or revoking such permit shall be made in writing and filed with the ABCB. When the ABCB shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the State Beer Act, the ABCB is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why its permit should not be suspended or revoked for such violations. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon permittee either by Registered Mail or by a member of the Police Department of the City of Cookeville. The notice shall be served upon the permittee at least ten (10) days before the date of the hearing. At the hearing, the ABCB shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the evidence the ABCB may, in its discretion suspend or revoke said permit. The action of the ABCB in all such hearings shall be final, subject only to review by the Court as provided in the State Beer Act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. In the event any person or persons, firm, corporation, joint stock company, syndicate, or association has its beer permit revoked for a third violation of the provisions of this chapter or the provisions of the State Beer Act of the State of Tennessee, then that person, firm, corporation, joint stock company, syndicate, or association shall not be granted a beer permit under the provisions of this chapter until the expirations of three (3) years from the date said revocation becomes final. Pursuant to Tennessee Code Annotated, § 57-4-202(b), upon suspension of an establishment's beer permit, the ABCB may also suspend the establishment's authority to sell alcoholic beverages for the same period of time. The ABCB shall serve notice of the suspension on the Tennessee Alcoholic Beverage Commission, which shall review that suspension within thirty (30) days of receipt of such notice, and render a decision affirming or reversing such suspension. Failure of the Alcoholic Beverage Commission to act within thirty (30) days shall be construed as an affirmation of such suspension.

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

8-219. Permits not required for certain retail and wholesale beer establishments.

No person, firm, corporation, joint stock company, syndicate, or association holding a lawful and valid permit from the Putnam County Quarterly Court or the Putnam County Beer Board for the sale of beer or any beverage with an alcoholic content not exceeding five percent (5%) of weight at retail or for the storage or warehousing of beer whose place of business described in said permit which has been annexed and incorporated into the corporate limits of the City of Cookeville, Tennessee, need apply for a city permit for the sale, storage, or warehousing of beer. Any person, firm, corporation, joint stock company, syndicate, or association holding such an existing permit shall be exempt from the requirements herein of obtaining a city permit. Any person, firm, corporation, joint stock company, syndicate, or association holding such an existing permit shall observe and be bound by all the rules and regulations contained in the above provisions relative to the sale and storage of beer within the city limits of the City of Cookeville, Tennessee.

8-220. Advertisements.

Any person, firm, corporation, joint stock company, syndicate, or association holding a lawful and valid permit as authorized in this chapter or who holds a valid beer permit from the City of Cookeville, Tennessee, for the retail sale of beer or any beverage with an alcoholic content not exceeding five (5%) of weight for consumption on or off the premises shall only have on the premises one sign advertising beer as being sold on the premises, and the size of the sign at the place of business so advertising shall not exceed 24 sq ft. in size. Any other advertising shall be confined to the interior of the premises for which the permit applies and permittees shall not place signs in the window, which are visible to any persons outside of the premises.

8-221. Violations.

Any violation of the provisions of this chapter relative to the conducting of beer business as regulated herein shall be a misdemeanor punishable under the general penalty clause for this code.

8-222. Provisions for unconstitutionality or illegality in this title.

It is hereby declared to be the intention of the ABCB that the sections, paragraphs, sentences, clauses, and phrases of this title are severable, and if any phrase, clause, sentence, paragraph or section of this title shall be declared unconstitutional or illegal by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this title since the same would have been enacted by the ABCB without incorporation in this title of any such unconstitutional or illegal phrase, clause, sentence, paragraph or section.