

CHAPTER 4

BEER ¹

¹ State law reference

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

SECTION

- 8-401. Definitions.
- 8-402. Authority to grant, revoke, etc., beer permits.
- 8-403. Permit and application fee required for selling beer.
- 8-404. Privilege tax.
- 8-405. Permits are not transferable.
- 8-406. Permit forfeited if permittee is convicted of certain offenses.
- 8-407. Applicant shall file written application containing certain specific requirements.
- 8-408. Permits authorized for certain businesses.
- 8-409. Permits issued to hotels and motels.
- 8-410. Permits issued to restaurants/limited service restaurants.
- 8-411. Permits issued to private clubs.
- 8-412. Permits issued for sale of beer within corporate limits not for consumption on the premises.
- 8-413. Sale to anyone under 21 years of age or to intoxicated persons unlawful.
- 8-414. Hours and days of sale, etc., regulated.
- 8-415. Permittee not to allow anyone under 21 years of age to loiter, possess, or consume alcoholic beverages inside the premises.
- 8-416. Unlawful for anyone under 21 years of age to misrepresent age.
- 8-417. Prohibited sexual or pornographic conduct/enforcement.
- 8-418. The ABCB is vested with the authority to conduct hearings on revocation or suspension of beer permits issued under this chapter.
- 8-419. Permits not required for certain retail and wholesale beer establishments.
- 8-420. Violations.
- 8-421. Provisions for unconstitutionality or illegality in this title.
- 8-422. Special events permits.

8-401. Definitions.

(1) Definition of "beer". As used in this chapter, "beer" shall mean any beer, ale, or other malt beverage, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, prior to January 1, 2017, and thereafter, eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101 and as subsequently amended; 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 non-beverage ingredients containing alcohol.

(2) Definition of "business." As used in this chapter, "business" shall mean any person, firm, corporation, joint stock company, syndicate, or association.

(as added by Ord. #011-01-01, Feb. 2011, as amended by Ord. #015-08-20, Aug. 2015)

8-402. 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 within the corporate limits of Cookeville, Tennessee.

(2) The city council, or the Alcoholic Beverage Control 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 within the corporate limits of Cookeville, Tennessee

(as added by Ord. #011-01-01, Feb. 2011)

8-403. Permit and application fee required for selling beer.

It shall be unlawful for any business to offer for sale or sell beer, 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 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)

(as added by Ord. #011-01-01, Feb. 2011)

8-404. 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 business engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1st annually 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

(as added by Ord. #011-01-01, Feb. 2011)

8-405. Permits are not transferable.

Permits issued hereunder shall remain in full force an 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 business, 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

(as added by Ord. #011-01-01, Feb. 2011)

8-406. Permit forfeited if permittee is convicted of certain offenses.

Any business who shall have been granted a permit to sell or distribute beer, 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 within the corporate limits of Cookeville, Tennessee, and each sale of beer, after any conviction, shall be deemed to constitute a separate offense

(as added by Ord. #011-01-01, Feb. 2011)

8-407. 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 has been a citizen or lawful resident of the United States for at least one year immediately preceding the date of applying for a beer permit in the manner prescribed by Tennessee Code Annotated, § 57-5-103(a) and as subsequently amended.
- (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 a 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; excluding manufacturer which will be on-premises and off-premises.
- (9) If the application is for consumption on the premises, the applicant will state the nature of the business and the seating capacity of the facilities. If the application is for consumption off the premises, the applicant shall state whether the location of the business is permitted under the provisions of the Cookeville Zoning Code. 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 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 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 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 any interest in either the business in which the license is permitted, 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, and will not during the period such license shall be in force, contract any financial obligation to any brewer or distiller of legalized beer other than for the purpose of purchasing beer for resale.

(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.

(18) 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, and as subsequently amended, 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

(as added by Ord. #011-01-01, Feb. 2011, as amended by Ord. #015-08-20, Aug. 2015)

8-408. Permits authorized for certain businesses.

No beer permit will be issued for any business to sell beer at retail within the corporate limits of Cookeville, Tennessee, or to possess the same for the purpose of resale in any zone that prohibits the sale of beer by the Cookeville Zoning Code.

Permits issued to Manufacturer. A manufacturer permit may be issued for the sale and manufacturing of beer to any manufacturer that meets the requirements set forth in Tennessee Code Annotated, § 57-5-102 to manufacture beer and to store, distribute, sell at wholesale, and sell at retail, for both on-premises and off-premises consumption to the extent permitted by and in accordance with Tennessee Code Annotated, § 57-5-101 and other applicable state law and as subsequently amended.

Inspection fee on retail sale of high alcohol content beer by manufacturer for off-premise/on-premise consumption. When a manufacturer of high alcohol content beer obtains a retail license to sell its products which are manufactured on the manufacturer's premises, there is hereby levied a fifteen percent (15%) inspection fee to inspect the retail store in which such products are sold by the manufacturer. Such inspection fee shall be imposed on the wholesale price of the high alcohol content beer supplied pursuant to Tennessee Code Annotated, § 57-3-204(e)(7)(B) by a wholesaler for those products manufactured and sold by the manufacturer at its retail store as authorized pursuant to Tennessee Code Annotated, § 57-3-204(e)(7).

Permits issued to Golf Course. A permit may be issued for the sale of beer for on-premise consumption to any public or private golf course consisting of at least nine (9) holes which also has a clubhouse, pro shop and/or restaurant. Beer shall be consumed on the premises. The golf course shall be considered as part of the premises. Beer consumed on the golf course may be consumed in cans only. There shall be no consumption of beer permitted on any parking lot. There shall be no beer sold from beverage carts.

(as added by Ord. #011-01-01, Feb. 2011, as amended by Ord. #015-08-20, Aug. 2015)

8-409. Permits issued to hotels and motels.

A permit may be issued for the sale of beer 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

(as added by Ord. #011-01-01, Feb. 2011)

8-410. Permits issued to restaurants/limited service restaurants.

A permit may be issued for the sale of beer for on-premises consumption to any restaurant/limited service restaurant that meets the requirements set forth in Tennessee Code Annotated, § 57-4-102, and as subsequently amended

(as added by Ord. #011-01-01, Feb. 2011)

8-411. Permits issued to private clubs.

A permit may be issued for the sale of beer 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, who 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, and shall sell said alcoholic beverage only to its members and their invited guests and shall not sell the same to the general public

(as added by Ord. #011-01-01, Feb. 2011)

8-412. Permits issued for sale of beer within corporate limits not for consumption on the premises.

A beer permit will not be issued for a location to sell beer for off-premises consumption unless said location is permitted to sale beer by the provisions of the Cookeville Zoning Code. No beer shall be sold, warehoused, or distributed from any building other than the one for which the permit is issued. Beer shall only be sold in the original manufacturer's container

(as added by Ord. #011-01-01, Feb. 2011)

8-413. 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 twenty-one (21) years except to members of the armed forces while on active duty status

(as added by Ord. #011-01-01, Feb. 2011)

8-414. 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 within the corporate limits of Cookeville, Tennessee, between the hours of 3:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 3:00 A.M. and 10:00 A.M. on Sunday. No such beverages shall be consumed or opened for consumption on or about any premises where beer is sold within the corporate limits of Cookeville, Tennessee, in either bottle, glass, or other container after 3:15 A.M

(as added by Ord. #011-01-01, Feb. 2011, as amended by Ord. #O22-08-18, August 2022)

8-415. 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 twenty-one (21) years of age to loiter inside the premises, or to allow anyone under twenty-one (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 twenty-one (21) years shall be upon the owner or operator of such place of business

(as added by Ord. #011-01-01, Feb. 2011)

8-416. 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 twenty-one (21) years are not allowed to loiter

(as added by Ord. #011-01-01, Feb. 2011)

8-417. Prohibited sexual or pornographic conduct/enforcement.

Tennessee Code Annotated, § 57-4-204, and as subsequently amended, is hereby adopted so as to be applicable to all sales of beer for on-premises consumption, which are regulated by the said code when such sales are conducted within the corporate limits of Cookeville, Tennessee. It is the intent of the city council that Tennessee Code Annotated, § 57-4-204, and as subsequently amended, shall be effective in Cookeville, Tennessee, the same as if said code sections were copied herein verbatim. The officers of the Cookeville Police Department are hereby empowered to conduct investigations into alleged violations of any provisions of this section, and shall report such violations to the city manager for appropriate action

(as added by Ord. #011-01-01, Feb. 2011)

8-418. 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 Tennessee Code Annotated, title 57, chapter 4, and as subsequently amended, 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 Tennessee Code Annotated, § title 57, chapter 4, and as subsequently amended. 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 Tennessee Code Annotated, § title 57, chapter 4, and as subsequently amended, then that business 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), and as subsequently amended, 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 one thousand five hundred dollars (\$1,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. If 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

(as added by Ord. #011-01-01, Feb. 2011)

8-419. Permits not required for certain retail and wholesale beer establishments.

No business holding a lawful and valid permit from the Putnam County Quarterly Court or the Putnam County Beer Board for the sale of beer 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 business holding such an existing permit shall be exempt from the requirements herein of obtaining a city permit. Any business 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

(as added by Ord. #011-01-01, Feb. 2011)

8-420. 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

(as added by Ord. #011-01-01, Feb. 2011)

8-421. Provisions for unconstitutionality or illegality in this title.

It is hereby declared to be the intention of the city council 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 judgment 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

(as added by Ord. #011-01-01, Feb. 2011)

8-422. Special events permits.

A permit to sell beer may be obtained from the city clerk for special events not to exceed three (3) days in duration. An applicant for a special events permit must meet all requirements for an on-premise beer permit except such an event may be permitted without being located in a permanent structure, and shall not have to comply with §§ 8-408 and 8-410 of this code. A special events permit fee in the amount of one hundred dollars (\$100.00) per twenty-four (24) hour period shall be paid to the city clerk upon application for such permit. A special events permit holder shall not be required to pay the privilege tax established in § 8-404 of this code. Special events permits may only be issued to bona fide charitable or nonprofit organizations as defined in Tennessee Code Annotated, § 57-4-102, and as subsequently amended, and to the City of Cookeville. Special events permits shall not be issued for the sale, storage or manufacture of beer on any public property,

right-of-way or street, except at special events in Dogwood Park, the Cookeville Performing Arts Center and at City of Cookeville sponsored events at locations designated by the City of Cookeville. This exception shall not include Fall Funfest (as added by Ord. #011-01-01, Feb. 2011)