



# CITY OF MEMPHIS ALCOHOL COMMISSION RULES AND REGULATIONS OF THE ALCOHOL COMMISSION

(REV July 1, 2010)

## **A. PROCEDURE FOR SECURING BEER LICENSE:**

1. Secure an application and a copy of these rules and regulations from the office of the Alcohol Commission located at 2714 Union Ave. Extended 2<sup>nd</sup> floor and pay the \$250.00 application fee.
2. Applicant must provide positive form of identification. **The same person making application must appear before the Commission on the hearing date for the application.**
3. **No applicant or employee shall have been convicted of any violations of liquor laws, felony, or crime involving moral turpitude within the past ten (10) years.**
4. Submit the original lease, deed or bill of sale to the location.
5. A certified survey is required for any **new** business location applying for a beer license. The survey must show a 500 foot linear measurement beginning from a point in the center line of the public or private street adjacent to the threshold on which the establishment fronts; it must also show a 250 foot radius measured from the point in the center of the threshold and it must indicate any church, school, or any residential property zoned R-S, R-M, R-TH or R-D within these measurements.
6. "Off" premise locations must submit inventory receipts to the Alcohol Commission for review. This information must be included in the applicant's file.
7. "On" premise locations found to be within the restricted measurements will be required to provide the inventory receipts of food sales, not including beer sales. The food sales must consist of at least 40% of the gross sales within six (6) months after opening.
8. Contact the building department, located at 1045 Mullins Station Road for building inspections and use and occupancy permit.

9. File application for food permits with the Shelby County Health Department located at 814 Jefferson, Room 503.
10. Contact the Fire Marshall's office for inspection of location (901-320-5460).
11. Applicant must secure the signatures of ten (10) reputable citizens who live in or have a businesses located in the ward where the business is to be located, stating the residence or place of business of each person. These signatures certify the length of time they have been acquainted with the applicant, and that they have good reason to believe that all of the statements contained in the petition are true and that they join in the prayer of the petition for the granting of the license prayed for.
12. Return the completed application to Alcohol Commission office by noon of the Wednesday deadline date.
13. Secure a telephone for business location.
14. Obtain permission from the Executive Secretary of the Alcohol Commission to advertise for the sale of beer.
15. If permission to advertise is granted, proceed immediately to the office of a newspaper of general circulation within the Memphis and Shelby county area, to make necessary arrangements for publication in said newspaper prior to the next meeting of the Alcohol Commission. A list of the approved newspapers will be provided to each applicant.
16. Place a conspicuous sign at the location, visible from the street, ten(10) days prior to the scheduled hearing date notifying the general public and community residents that application has been made to the Alcohol Commission to sell beer at that location and the hearing date has been established to consider any support or opposition to said application. The cost of the sign to be posted is \$10.00.
17. Appear before the next scheduled Commission meeting for a hearing on the application.

**B. GENERAL RESTRICTIONS ON ISSUANCE OF BEER LICENSES:**

1. **No applicant or employee shall have been convicted of any violation of liquor laws, felony or crime involving moral turpitude within the past ten (10) years.**
2. No license can be issued in violation of any provisions of State law or of the zoning ordinances of the City.
3. No sale of beer will be made where such sale will cause congestion of traffic or interference with schools, churches, or other places of public gathering or otherwise interfere with public health, safety or morals.
4. For “On” premise establishments, where the food sales shall consist of less than 40% of the gross sales, said establishments shall be located no less than 500 feet (as measured along the center of the street) or within a 250 foot radius in any other direction, from the property line of any single-family or duplex residential property zoned R-S or R-D, or any church or school.
5. Beer permits are not transferable from person(s) or location(s). Any new owner of a business must have a beer permit issued in his/her/ own name.
6. For locations that hold a current and valid beer permit, the new owner/applicant’s completed application shall serve as temporary permit to sell beer at that location pending the results of Alcohol Commission’s hearing on the new owner/applicant’s application. The prior permit holder must surrender the old permit to the Permits Office.
7. If the applicant for a beer license is a club or lodge, it must be incorporated and operating pursuant to a charter and bylaws in which its officers were duly elected by membership consisting of persons who pay regular dues and which the organization exists other than for the sale, and/or consumption of alcoholic beverages.
8. Applicant will engage in sale of beer only at the location specified on the beer permit.
9. All sales of beer will be made in strict accordance with the license granted and the rules and regulations of the Alcohol Commission.

10. For “On” premise consumption licenses, the applicant must serve at least one hot meal a day, consisting of at least one meat and two vegetables, prepared on the premises with adequate kitchen facilities and a menu available to be read by the customers.
11. All locations applying for “Off” premise consumption licenses must have at least \$2,000.00 inventory at the time of hearing, excluding equipment, fixtures, beer, and petroleum products.
12. Licensee with “Off” or “On” premise beer permit will not allow any consumption of alcoholic beverages on the sidewalks, streets or property within the immediate (parking lot) vicinity. No such beverages will be kept for sale in such premises except in the original containers or packages.
13. The applicant will conduct the business in person, for himself or if acting as agent, partner or otherwise, the applicant shall state the person, firm, corporation, syndicate, association of joint stock company for whom applicant intends to act and provide an address to which official Alcohol Commission correspondence should be sent.
14. Each applicant for a license shall pay the county court clerk’s office for a consolidated City and County minimum business license.
15. Each applicant must swear and affirm that the statements of facts contained in his/her application are true and correct to the best of his/her knowledge, information and belief. Any false information contained in the application as to a material fact may be grounds for revocation of said license.
16. Automatic revocation will result from misrepresentation of the facts before the Commission in the hearing to obtain a beer permit.
17. Any change in entertainment format must be approved through the Alcohol Commission prior to effective date of change.
18. Any application for any establishment featuring adult entertainment must include an engineering survey providing distances as required by zoning ordinances.

## **C. REGULATIONS OF THE ALCOHOL COMMISSION**

1. All licenses must be current and prominently displayed at all times.
2. All establishments with beer permits shall maintain at least one working telephone for incoming and outgoing calls at all times.
3. No owner or employee shall drink while on duty. An owner or manager is assumed to be on duty at all times while in his establishment.
4. Only authorized personnel, meeting requirements of TCA 57-5-301(a)(1), shall be left in charge of a beer establishment or to sell or serve beer to customers. The Memphis Alcohol Commission issues proof of compliance in the form of beer vendor cards available through the City Permits Office for a cost of \$50.00.
5. No beer shall be sold or served to persons under legal age. A person must be 21 years of age to buy, consume or possess beer. The burden of ascertaining the correct age of minor customers shall be upon the owner, operator and employees of the business.
6. No sale of beer shall be made between the hours of 3:00 a.m. through 7:00 a.m. on Monday through Saturday and 3:00 a.m. through 12:00 noon on Sundays.
7. All beer must be off the tables by 3:15 a.m. each day and not in any type containers.
8. The police shall be called promptly by the manager and/or employees to report a fight or disturbance at the establishment.
9. The owner and his employees shall cooperate fully with the police in their normal and necessary investigation.
10. No alcoholic beverages will be allowed to be consumed in or upon the premises of a liquor store.
11. In all "On" premise locations, there must be sufficient lighting for customers to adequately read a menu and for employees to properly inspect the age and identification cards of customers.
12. Licensee shall not permit dancing on his premises without proper dance permit issued by the City of Memphis/Permit Office.

13. No sale or consumption of beer will be permitted from any location while under suspension or revocation by the Alcohol Commission.
14. Licensee shall maintain an orderly establishment and not be in violation of any Health, Building, or Fire department regulations.
15. Licensee shall not be in violation of any ordinance of the City, statues of the State or Federal law.
16. Licensee shall not allow gambling on his premises.
17. Licensee shall not permit the noise, sound or vibration generated or transmitted by any jukebox, band, vocalist or sound equipment to be audible to persons on any public street, highway or upon any adjoining residential or commercial premises to the extent that it is detrimental.
18. Licensee will not permit minors or disorderly persons heretofore connected with violations of the liquor laws to loiter around or frequent his/her establishment.
19. Licensee will not permit the storage of whiskey or alcoholic beverages in excess of 5% alcoholic content without having received the proper license from the State Alcohol Beverage Commission.
20. Licensee shall not allow or permit any part of the establishment in which beer is sold, served or consumed to be used for living quarters.
21. Licensee shall not serve nor permit drunks, persons visibly intoxicated or under the influence of any drug or intoxicant, to loiter in his/her establishment.
22. Licensee shall not allow any of its employees or customers to engage in any activity involving any violation of Sec 4-69 of the City Code of Ordinances, regulating nudity and sexual activities in public places.
23. Licensee will conduct the business in person, for himself, or as agent for or partner with a named person, firm, corporation or association.
24. Licensee shall surrender beer license to the alcohol Commission whenever he/she withdraws from the ownership and/or operation of the business.
25. Licensee shall promptly notify the Alcohol Commission of any change in the name or ownership of the business and include any address to which official Alcohol Commission correspondence should be sent.

26. A current file of all employees must be kept at the location. This file must include proof that such employee is not in violation of T.C.A. 57-5-301 as mandated by Sec. 4-75 of the City Code of Ordinances. This file must include the name, date of birth, address, phone number, and SSN# of all employees that serve beer.

## **D. GENERAL**

1. The city of Memphis Alcohol Commission consists of nine (9) members and has the exclusive power and authority to issue, suspend, revoke and impose monetary penalties on beer licenses and recommend approval for liquor stores and liquor by the drink establishments located within the City limits, subject to review by the courts.
2. All owners and employees of establishments selling or serving alcoholic beverages must read and be familiar with all the rules and regulations of the Alcohol Commission.
3. Owner or applicant must notify the Alcohol Commission of any change of home address within ten (10) days.
4. Proof of legal age is required of all customers before any alcoholic beverages are served or sold to such persons.
5. The Alcohol Commission has the full power and authority to enter, inspect and investigate any business operated pursuant to any licenses issued by the Commission and has full authority to call upon any members of the police and health department for assistance in the enforcement of the state laws, city ordinances and the rules and regulations of the alcohol Commission pertaining to the sale of alcoholic beverages.
6. Beer is defined as any beverage with an alcoholic content of less than five percent (5%) by weight, and liquor is defined as any beverage with more than five percent (5%) alcoholic content by weight.
7. The Alcohol Commission can only recommend to the State Alcohol Beverage Commission any request for transfer of ownership of a retail package store.

8. Any applicant desiring to open a new retail liquor store:
- (A) Must advertise in a newspaper of general circulation for three (3) consecutive days.
  - (B) Secure a survey of the location to show compliance with 7-8-11 of the city code of ordinances. (new stores only)
  - (C) Place a sign on the location 3'x4' with letters 4' in size.
  - (D) Upon approval by the Commission for a new location, a retail certificate of compliance is issued and a request for recommendation is sent to the mayor for his signature.

9. The Alcohol Commission issues only two general licenses for the sale and consumption of beer; “On” premises and “Off” premises. **Pursuant Tennessee Code Annotated 57-5-104(b)(1), renewals of permits are issued annually with payment of the State of Tennessee Beer Privilege tax, (\$100.00). This tax is due January 1, each year. Licensee’s failure to pay the tax by January 31 will void the licensee’s permit.** A third license, **special beer permit**, is issued pursuant to special requirements. Special beer permits are temporary in nature and cannot exceed a thirty (30) day effective period. The special beer permit will not be issued to facilitate “transfer” of any existing beer permit.

10. All managers, supervisors and persons left in charge, whether in full or part time capacity, of “On” or “Off” premises locations must have a sworn affidavit as required by Section 4-75 or the City Code of Ordinances and must be at least eighteen (18) years of age, except as provided in section 11a below.

11. **(A) EMPLOYMENT OF MINORS:**

Pursuant to T.C.A. 1-3-113 and 50-5-101, et. Seq., employment of minors is permitted in certain instances as follows:

Under the age of 14 years, not to be employed where alcohol beverages are sold.

Ages 14-15-16-17 years, at on premise locations, may be employed in at establishments where the monthly average gross receipts of alcoholic beverages does not exceed 25% of total gross receipts as long as minors are not permitted to take orders for or serve alcoholic beverages. Minors may be employed in such capacity as a kitchen aide, busboy, cook, hostess, parking lot attendant, porter, and janitor. These persons do not need to be registered with the Alcohol Commission.



## Duties of the employer:

Must keep separate file for each minor employed at the location.

Must keep application on file at the location.

Must keep copy of birth certificate or other evidence of minor's age.

Time record showing hours of work each day.

Post printed notices stating regulations governing employment and hours of work of minors, and designate which type of employment is prohibited to minors.

12. Locations with "On" premise beer permits are allowed to sell beer "to-go" provided it is unopened and in the original container. Locations that have liquor by the drink licenses are not allowed to sell beer to-go.

13. Approved "On" premise and "Off" premise beer permits are issued and effective for so long as the applicant continues to operate and own the business at the designated location or until said license is either suspended or revoked by the City of Memphis Alcohol Commission.

14. In considering the issuance of a beer permit, the Alcohol Commission may consider the past record of the applicant in the operation of an establishment that served or sold alcoholic beverages.

## **E. HEARINGS BEFORE THE ALCOHOL COMMISSION**

1. The regularly scheduled meeting of the Alcohol Commission will be held on the first and third Wednesdays of each month at 9:00 a.m. in the City Council Chambers in the lobby located at 125 North Main Street.

2. A quorum of the Commission shall consist of five (5) or more members to be present and act as follows:

A majority vote is necessary to constitute an action by the Commission.

3. A special meeting may be called at anytime by the chairman or co-chairman.

4. The members of the Commission along with a representative of the City attorney's office, shall review all letters and police reports and act as follows:
  - (A) Take no action (note and file)
  - (B) Cite to the office for warning
  - (C) Cite to the Commission
5. Matters brought before the Commission will be heard in the following order as listed on the agenda:
  - (A) Requests for continuances
  - (B) New beer applications
  - (C) Liquor store applications
  - (D) Special beer permits
  - (E) Violations
  - (F) All other matters on the agenda
6. Those licensees charged with violations will be given written notice not less than five (5) days in advance to appear before the Commission to answer the charges.
7. All alleged license violators at the hearing have the right to have the assistance of counsel
8. All witnesses in a contested matter before the Alcohol Commission shall first be sworn in by the chairman of the Commission or any member acting as chairman prior to any testimony or evidence given.
9. Hearsay evidence is admissible in the hearings before the Alcohol Commission.
10. The Alcohol Commission has no present power to subpoena or require the presence of any witness.
11. A transcript recording shall be made of the Commission hearings.

12. After hearing all of the testimony in a given case, the Commission may take the following action:
  - (A) Assess a penalty as prescribed in house bill 1363
  - (B) Place the establishment on probation up to one year
  - (C) Suspend the beer permit for any number of days or indefinitely.
  - (D) Revoke the beer permit
  - (E) Dismiss any or all charges
  - (F) For retail liquor stores, and liquor-by-the drink establishments; recommend probation, suspension, or revocation of said licenses to the state ABC.
13. In assessing a penalty, the Commission may consider the past record of the licensee and location.
14. Upon receiving an adverse ruling by the Alcohol Commission a licensee may:
  - (A) Accept the decision and penalty
  - (B) Request a re-hearing (re-consideration) after an indefinite suspension has been given.
  - (C) File a writ of certiorari in the Shelby county circuit or chancery court.
15. All decisions by the Commission become effective as of 12:00 noon on the date of the hearing unless, for good cause shown, the Commission delays the effective date and time of it's' decision.