

COUNTY CLERKS

Powers and Duties

DUTIES OF THE COUNTY CLERK

- Clerk of County Legislative Body
- Motor Vehicle Titling and Registration
- Beer Permits
- Business Licenses
- Marriage Licenses and Taxes
- Notary Public Applications
- Pawnbroker Licenses
- Manufactured Homes
- Privilege Taxes
- Personnel Policies
- Wheel Taxes
- Hotel/Motel Taxes
- Miscellaneous Duties

CLERK OF THE COUNTY LEGISLATIVE BODY



Keeps records (including minutes)



Sends notices (special meetings, vacancies)



Presents resolutions to County Mayor for signature and report



Private Acts (notifies Secretary of State of local approval/disapproval)



Other duties required by local rules



MINUTES - MINIMUM REQUIREMENTS



Persons present

Motions, proposals and resolutions offered

Results of votes taken

Record of individual votes in case of roll call vote (required for elections and appointments of county officers and appropriations)

Open to public inspection in Clerk's office

MINUTES - USUAL FORMAT

- ☐ Date, place, and time of meeting and whether regular or special meeting
- ☐ Members not in attendance
- ☐ Approval/correction of minutes of previous meeting
- ☐ Motions and amendments, with name of maker, and vote
- ☐ Resolutions (in full)
- ☐ Public Comment



MINUTES - USUAL FORMAT



Voting

- Roll call - actual vote of each member
- Voice vote - approved/disapproved by voice vote
- Show of hands - count of the votes

Summaries or written reports appended to the minutes for committee reports

Committee appointments, elections to fill vacancies, confirmation of appointments

Special provisions (e.g., 2/3 vote)

Notation if meeting is public hearing

Time of Adjournment

MINUTES



**Should be signed by
CLB chairperson and
County Clerk**



**Kept as permanent
record in clerk's
office**



**Retain rough minutes
until actual minutes
are approved**

AGENDA

- Call to order by chairperson
- Public comment
- Reading and approval of minutes
- Resolutions and special recognition
- Elections, appointments, and confirmations
- Reports of officials and committees
- Unfinished business
- New business
- Announcements and statements
- Adjournment

OPEN MEETINGS/SUNSHINE LAW

County legislative body meetings

- Must be open to the public

“Adequate notice”

- Must be given to the public

Actions taken in violation of this law

- Become VOID

FILLING VACANCIES



Filled by county legislative body until next countywide election



County clerk gives notice to CLB members
(may be waived by CLB if members have notice by another source)



Presiding officer gives 7 days newspaper notice



Office to be filled



Date/time/place of public meeting



CLB has 120 days to fill vacancy
(unless sufficient time to put on ballot in upcoming election)

VACANCIES - TEMPORARY SUCCESSOR

Temporary successor for County Clerk

Chief Deputy

Other deputy designated by County Clerk in writing

Discharges duties only until CLB can act to fill the vacancy



BEER PERMITS



County Clerk acts as clerk
of Beer Board

Takes application and fee

Issues permits

Collects annual privilege
tax

BEER PERMITS

**Issued to the
owner of the
business**

**Valid only for
business named
in permit**

**Valid for only
one location**

**Non-
transferable**

BEER PERMITS – APPLICATION CONTENTS

Name of applicant (owner)

Name of business

Location of business

Names of persons or companies with at least 5% Interest

Name and address of person to receive tax notices and other communications

Statement that no owner or person involved in selling beer has been convicted of a violation of beer or alcoholic beverage laws or a crime of moral turpitude in past 10 years

Whether applicant is applying for on-premises or off-premises permit, or both

Any other information reasonably requested by the beer board

BEER PERMIT APPLICATION FEE

\$250.00

- Must be submitted with application
- Non-refundable, even if permit application is denied

BEER - ANNUAL PRIVILEGE TAX

\$100.00 annual tax due January 1

Mail notices no later than December 1

Delinquent January 31 (or 30 days after notice, whichever is later)

Send certified delinquency notice

If not paid in 10 days, permit can be revoked by beer board

Tax is prorated for new applications



DISTANCE RULES



2,000-Foot Rule

300-Foot Rule

**Distance rules must be
applied uniformly**

DURATION OF BEER PERMITS

Beer permits have no expiration date

Permit becomes void upon:

**termination
of the
business**

**change of
ownership**

**relocation of
business**

**change in
name of
business**

Otherwise, permit valid until suspended or revoked

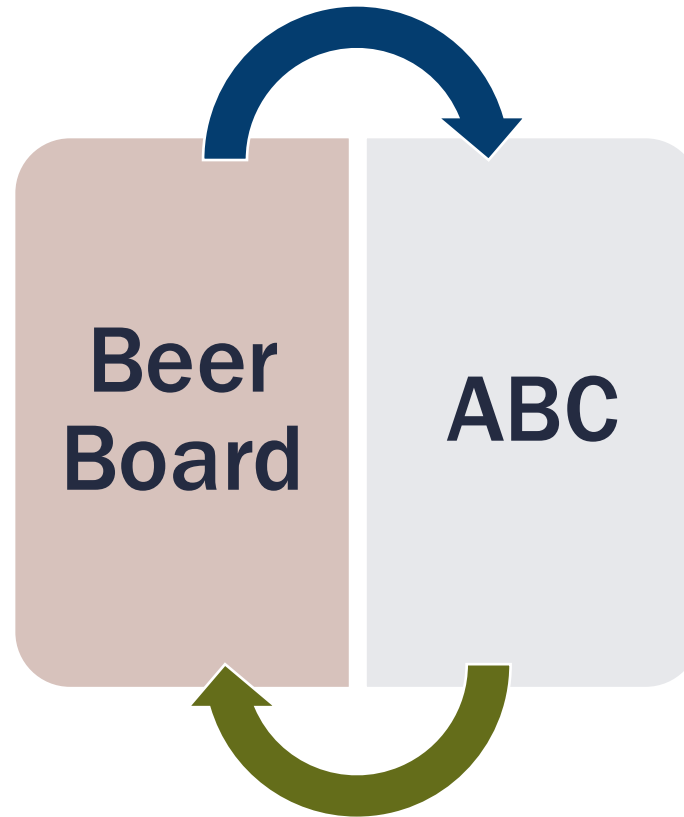
REVOCATION, SUSPENSION, AND CIVIL PENALTIES - CTAS-376



- Any violation of the beer laws set out in TCA 57-5-108
- Sales to minors
- Must consider repeated violations
- Hearing and due process required

RECIPROCAL NOTICE REQUIREMENT

If local beer board revokes or suspends a beer permit at an establishment with a liquor license, beer board must notify the ABC



The ABC must notify the beer board if they revoke or suspend a liquor license

MARRIAGE



GENERAL RULES

Prohibited degrees of relationship (TCA 36-3-101)

Adoption establishes the same relationship as a biological relationship

Bigamy is a Class A misdemeanor

Common law marriages cannot be created in Tennessee (but will be recognized if permitted in other states)

Marriages are not valid without first obtaining a marriage license

License is valid for 30 days from issuance

MARRIAGE LICENSE APPLICATION

Written, sworn application required

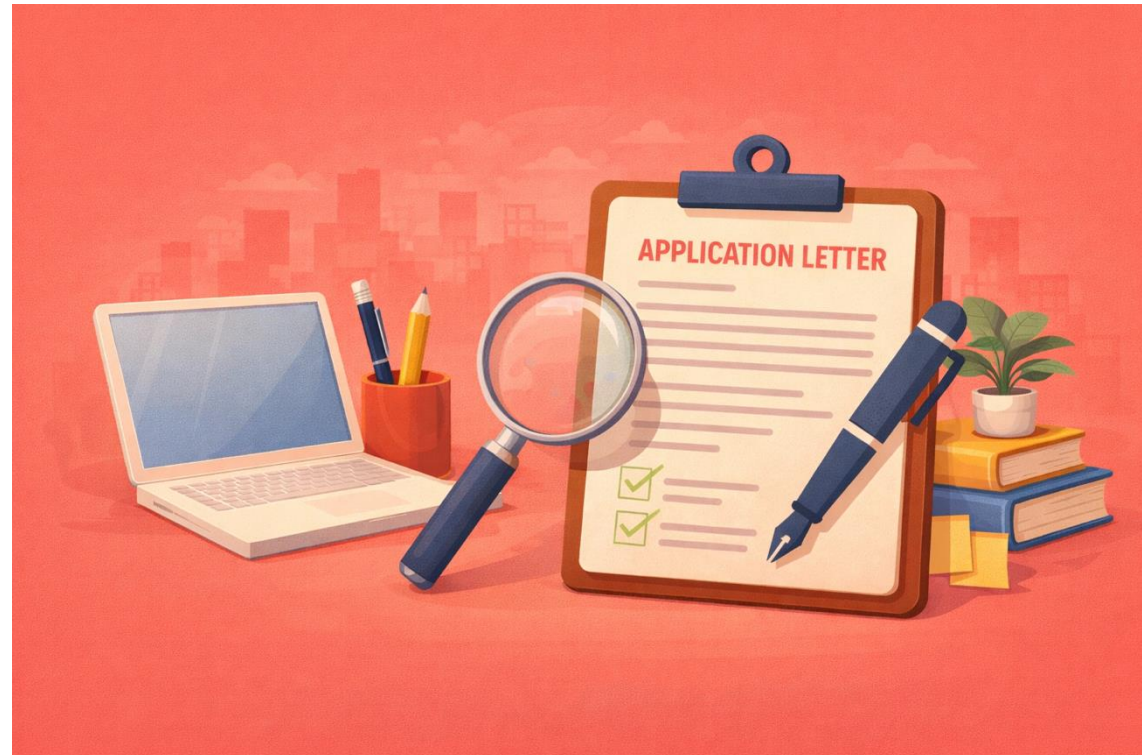
Personal appearance by both parties

Name, age, and address of both parties, and name and address of parents of parents if applicant is under 18

Sworn to by both applicants

Social Security Number (required only if they have one)

Identification?



MINIMUM AGE



- Under 17-No license can be issued
- Ages 17-18 –
 - Must be within 4 years in age
 - Consent of parents, guardian, or next of kin (unless minor emancipated)
- Parents, guardian, or next of kin may consent to application in person or by sworn affidavit

WHO PERFORMS THE CEREMONY? CTAS-394

- Current and former county clerks (occupied office after 2014)
- Ordained religious leaders
- Current and former county commissioners
- Members of municipal legislative bodies
- City mayors
- Current and former county mayors
- Current and former judges
- Municipal Judges
- Governor
- Current and former speakers of state senate and house of representatives
- Law enforcement chaplains
- Current and former members of the General Assembly
- Notaries public
- District attorneys general and former district attorneys general

INTERNET/MAIL ORDER MINISTER

- 2019 statute prohibits.
- Universal Life Church sued the state of Tennessee and several county clerks for rejecting certificates.
- Case settled with Tennessee and county clerks stipulating that they are not involved with the issue of whether any marriage is valid and will not challenge the validity of marriages solemnized by ULCM ministers.
- Even before the lawsuit was filed, county clerks have never had any authority to examine the qualifications of ministers and must accept the paperwork as normal and file it with vital records.

GRATUITIES



County Clerks, County Mayors, and City Mayors may keep any gratuity received for solemnization of a marriage



Judges cannot accept payment



CANNOT charge a fee for ceremony – Class C misdemeanor and can be removed from office

RETURN OF DOCUMENTS

County Clerk to which such marriage took place & certified copies of such record.—Act of 1892.

MARRIAGE LICENSE.

Date of Marriage 24 Augt 1883
Color of Parties White
WEDDING—Ceremonial and Religious.

Harriet M. Melton
Age 35
Years of Age.

Gibson Co. Tenn
Residence at time of Marriage.

Farmer
Occupation.

E. T. Crider
Witness.

Age 47
Years of Age.

Kentucky
Residence at time of Marriage.

Gibson Co. Tenn
Residence at time of Marriage.

Sack M. Melton
Witness.

M. M. Melton
TO
E. T. Crider
Issued August 21st 1883

I solemnized the Rite of Matrimony between
the within named parties on the 24th
day of Augt 1883

W. B. May Jr. S. C.
Minister of the Gospel.

Wardell & Sons, Stationers, Nashville, Tenn.

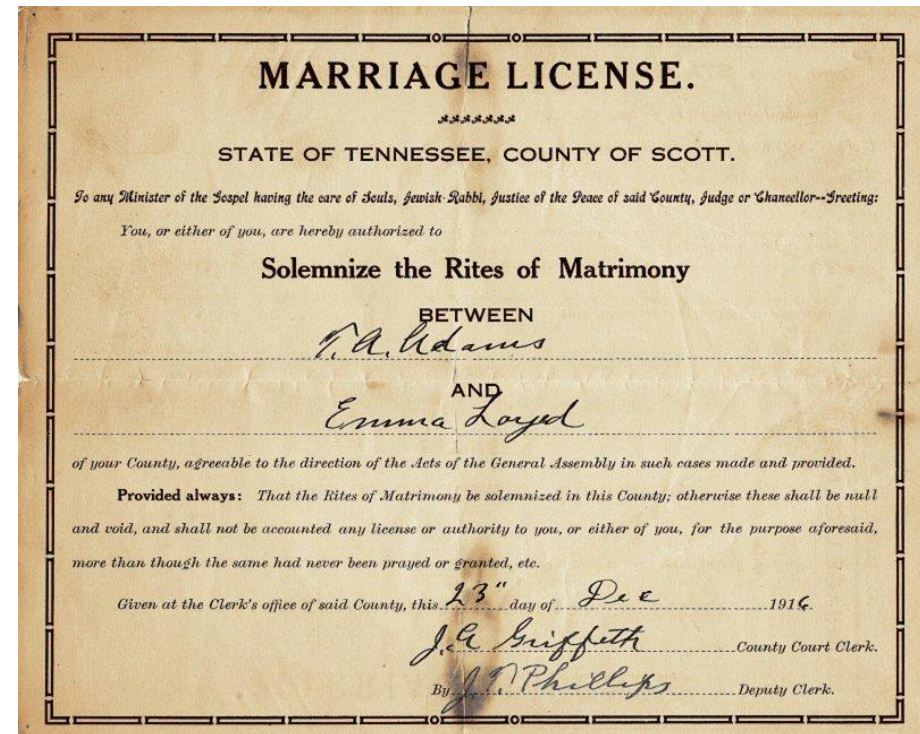
The officiant is required to return license to county clerk within 3 days after the ceremony

County Clerk has no authority to require proof that officiant is authorized to perform ceremony, and must presume marriage is valid

Vital Records form also must be completed and returned to the county clerk within 3 days

MARRIAGE CERTIFICATE

Most County Clerks forward a certificate to the newly married couple after all documentation has been returned to the clerk's office



MARRIAGE FEES AND TAXES



Tax	Rate
State Privilege Tax	\$15.00
State Privilege Tax	\$5.00
Optional County Tax	\$5.00
County Clerk's Fee	\$10.00
Optional Acts and Fees	
Copy of License	\$0.50
Marriage Certificate/Seal	\$5.00

STATE MARRIAGE FEE

Additional state fee of **\$62.50**

\$60.00 paid to the state (no deductions)

- Exempt if both parties attend premarital counseling
- AOC form must be used for exemption
- Special rule only for Sevier County (non-residents exempt)



COUNTY CLERK RESPONSIBILITY

Do not issue license:

“When it appears”
that either applicant
is “drunk, insane or
an imbecile”

To minor applicants
(except with consent
of both parents if 17-
18, or minor
emancipated)

To anyone between
17 and 18 where
other person is 4 or
more years older

Do not unreasonably interfere with the fundamental
constitutional right to marry

GOOD FAITH is the key!



NOTARY PUBLIC APPLICATIONS – CTAS-666



Notaries are
elected by the
CLB in the county
in which they
reside or have
their principal
place of business



Governor
“approves” and
issues
Commission
through Secretary
of State



\$10,000 bond
filed with County
Clerk



Oath of office

NOTARY PUBLIC – CLERK'S FEES

Fee	Amount
Application Fee	\$12.00 (\$7.00 to County Clerk; \$5.00 to Secretary of State)
Fee if County Clerk procures seal	< 20% of cost
Taking and recording bond	\$2.00
Fee for moving to another county	\$7.00 (\$5.00 to County Clerk; \$2.00 to Secretary of State)

NOTARY COMMISSION

County clerk certifies
notary's election and
forwards fee to
Secretary of State

Notary's commission
issued by Governor,
Secretary of State
sends to County Clerk

County clerk delivers
commission to notary
ONLY after oath
taken and bond filed

NOTARY PUBLIC SEAL

Rubber type stamp in any color except black or yellow (must show up black when copied on non-color copier)

Designed by Secretary of State

No penalty for using wrong color

Documents not invalid with wrong seal



PAWNBROKERS CTAS-399



PAWNBROKER VS. TITLE PLEDGE LENDER

PAWNBROKER

TCA 45-6-201 *et seq.*

Buy-sell agreements on personal property & loans secured by personal property

Pawnbroker takes physical possession of the property

County Clerk issues license

TITLE PLEDGE LENDER

TCA 45-15-101 *et seq.*

Loans on certificates of title or on titled personal property

State issues license, not County Clerk

PAWNBROKER ELIGIBILITY

Good moral character

“Net assets” of at least
\$75,000

Fair and lawful operation
of business

No felony convictions
within past 10 years
directly related to pawn
brokering or would
otherwise make person
unfit to be pawnbroker

APPLICATION FOR LICENSE

- ☐ Name (partners, officers and shareholders)
- ☐ Street address of business
- ☐ Specify amount of net assets/capital, with unaudited CPA statement: *“According to the information provided to me, the net assets, as defined in Tennessee Code Annotated, § 45-6-203, or proposed capital to be used by the applicant, _____ (name) in the pawnbroker business, are valued at not less than seventy-five thousand dollars (\$75,000)”*
- ☐ Signature of 10 county residents and landowners attesting to moral character
- ☐ Applicant’s affidavit of no felony convictions in 10 years affecting business
- ☐ Police chief/sheriff/TBI certificate of no felony convictions in 10 years (applicant must pay fees)
- ☐ \$50.00 in certified funds payable to county clerk (non-refundable)

INSURANCE

Insurance sufficient to cover the property and pay the stated value on the pledge stubs

Payable to County Clerk for benefit of pledgors

Copy of policy deposited with County Clerk



TRANSFERABILITY OF LICENSE



Not transferable from one person to another

Transferable from one location to another within the county by payment of \$10.00 fee to County Clerk

Not transferable outside county of issuance

Note that pawnbroker licenses have no expiration date.

WHEEL TAXES



County Clerk collects county wheel taxes

Wheel taxes may be levied under general law or by private act (or both)

Collected at the same time as state motor vehicle registration fees

HOTEL/MOTEL TAXES

County Clerk (usually) collects
county hotel/motel taxes

Can publish names of
delinquent taxpayers



OTHER POWERS AND DUTIES

Motor vehicle titling and registration

Issues business licenses (revenue collects)

Authorized to take depositions and affidavits, administer oaths, and take acknowledgments

Keeps approved county road list

Keeps county personnel policies

May issue hunting and fishing licenses

May issue driver licenses

WHERE TO GET HELP



**CTAS COUNTY
GOVERNMENT CONSULTANT**



CTAS LEGAL CONSULTANT



COUNTY ATTORNEY