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The 2,000 Foot Rule

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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The 2,000 Foot Rule

Reference Number: CTAS-357

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).

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), 92-51 (9/16/92), and 12-02 (1/6/12). 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 baptismal site located on private property is not considered a public gathering place because the public has no right to use the site. Adams v. Monroe County Quarterly Court, 379 S.W.2d 769 (Tenn. 1964). 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). (Sample resolution to enact a 2,000 foot rule for the sale of beer).

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.)

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