

## **CHAPTER 7**

### **Alcohol Beverage Control**

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#### **Section 7.1 Operation without permit prohibited; definitions**

(a) No person shall operate as a dealer in high or low alcoholic beverages as defined in L.R.S. 26:2 and L.R.S. 26:241, respectively, unless he has first applied for and received a permit from the municipality as required by this chapter. Each day's conduct of business by the dealer without a valid permit therefore constitutes a separate violation of this chapter.

(b) When used in this chapter, the following terms shall have the respective meanings ascribed to them in this subsection, except in those instances where the context indicates a different meaning:

(1) Class A-General:

(i) A Class A-General retail permit shall be issued only to a retail outlet where beverage alcohol is sold on the premises for consumption on the premises by paying customers. Such an establishment must be equipped with a permanent wet bar equipped with a non-movable sink and a backbar or similar equipment for public display and to inform the public of brands and flavors offered for sale.

(ii) A Class A - General retail establishment shall be staffed by a bartender whose primary duty is to open and/or prepare beverage alcohol products for consumption on the premises by paying customers, or prepared with an appropriate lid or cover on the container for take out service. Such an establishment must meet all state and municipal health and zoning requirements as set forth by the state and by the municipality.

(iii) A Class A-General retail permit shall be issued only to an establishment where the state law provides that no person under the age of eighteen years is allowed on the premises except as

provided in R.S. 26:90(A)(8)(a).

(iv) Notwithstanding Subparagraphs (i) through (iii) of this Paragraph, the municipality may issue a Class A - General liquor permit to any bona fide commercial film theater which had a Class A liquor permit on January 1, 1994.

(v) Notwithstanding Subparagraphs (i) through (iv) of this Paragraph, the municipality may issue a Class A - General retail permit to any retail establishment for consumption on or off the premises. Such establishment must meet all state and municipal health and zoning requirements as set forth by the state and the municipality. A Class A - General retail permit issued pursuant to the authority granted by this Subparagraph shall not be deemed or qualify as a prerequisite for the issuance of any other type license or permit issued by the state or any political subdivisions thereof.

(2) Class A-Restaurant:

A Class A-Restaurant permit shall be issued only to a "restaurant establishment" as defined by R.S. 26:73(B) and issued to a facility in conjunction with a Class "R" restaurant permit under the provisions of R.S. 26:73. (Amended by Ordinance No. 12 of 1996)

(3) "Wholesale dealer's permit" shall mean a permit which authorizes a wholesaler who has established a place of business within this municipality to sell alcoholic beverages to licensed wholesale dealers or licensed retail dealers.

(4) "Restaurant establishment" shall mean an establishment:

(i) which operates a place of business whose purpose and primary function is to take orders for and serve food and food items;

(ii) which serves alcoholic beverages in conjunction with meals;

(iii) which serves food on all days of operation;

(iv) which grosses sixty percent of its average monthly revenue from the sale of food, food items, and non-alcoholic beverages;

(v) which maintains separate sales figures for alcoholic beverages; and

(vi) which operates a fully equipped kitchen used for the preparation of uncooked foods for service and consumption of such foods on the premises. (Amended by Ordinance No. 7 of 1987.)

## **Section 7.2 Application for permit**

All applications shall be in writing, sworn to, and shall contain the full name and correct home address of the applicant and an accurate description and address of the business premises; and the application shall include an affidavit of the applicant that he meets the qualifications and conditions of R.S. 26:80 and 280. Unless he is seeking a renewal of his permit, an applicant for a retail dealer's permit shall attach to his application a certificate of publication by the publisher of the

newspaper showing the publication of the notice required in R.S. 26:77 and 277. (Amended by Ordinance No. 2 of 1988.)

### **Section 7.3 Submission of application**

All applications must be mailed or delivered to the mayor within twenty-four hours of the application for a state permit; and if the applicant fails to do so, his application may be withheld and the permit denied. The mayor may issue permits immediately after proper investigation; but for a period of thirty-five days after receipt of the application, the permittees shall operate on a probationary basis subject to final action by the board on opposition to or withholding of the permits.

(Amended by Ordinance No. 1 of 1982 and by Ordinance No. 4 of 1986)

### **Section 7.4 Qualification of applicants**

Applications for permits under this chapter shall meet the qualifications and conditions required of applicants for state permits as outlined in R.S. 26:80 and 280.

(Amended by Ordinance No. 2 of 1988.)

### **Section 7.5 Facilities and business required; location of business limited**

(a) No permit shall be granted in contravention of any applicable zoning ordinance or regulation. (Amended by Ordinance No. 2 of 1988.)

(b)(1) Except as provided in the paragraph (2), no permit authorizing the sale of beverages of high alcohol content shall be granted for any premises situated within three hundred feet of any public playground or of a building used exclusively as a regular church or synagogue, public library, or school. The measurement of this distance shall be made as a person walks using the library, playground, or school to the nearest point of the property line of the premises to be licensed. (Amended by Ordinance No. 2 of 1988.)

(2) A Class "A" permit authorizing the sale of beverages of high alcohol content may be granted together with a Class "R" permit to a restaurant establishment situated more than three hundred feet from a building used exclusively as a church. The measurement of the distance shall be made from the nearest point of that property line of the premises to be licensed. "Property used exclusively for a church purpose" does not include a cemetery or property leased or rented for private non-religious purposes. The Class "A" permit shall be deemed revoked whenever the restaurant establishment's Class "R" permit is revoked by the municipality or by the state.

(3) Except as provided in (4) and (5), no permit authorizing the sale of beverages of low alcohol content shall be granted for any premises situated within three hundred feet of any public playground or of a building used exclusively as a church or synagogue, public library, or school. The measurement of this distance shall be made as a person walks using the sidewalk from the nearest point of the property line of the church or synagogue, library, playground, or school to the nearest point of the premises to be licensed. (Amended by Ordinance No. 2 of 1988.)

(4) A Class "A" permit authorizing the sale of beverages of low alcohol content may be

granted together with a Class "R" permit to a restaurant establishment situated more than three hundred feet from a building used exclusively as a church. The measurement of the distance shall be made as a person walks using the sidewalk from the nearest point of that property used exclusively for a church purpose and on which a church is situated to the nearest point of the premises to be licensed. "Property used exclusively for a church purpose" does not include a cemetery or property leased or rented for private non-religious purposes. The Class "A" permit shall be deemed revoked whenever the restaurant establishment's Class "R" permit is revoked by the municipality or by the state.

(5) A Class "A" permit authorizing the sale of beverages of low alcohol content may be granted together with a Class "R" permit to a restaurant establishment situated near a school provided that the property, on which the premises to be licensed is located, is not contiguous to the property on which the school is located and all other licensing requirements are met.

(6) A special permit authorizing the sale of wine with an alcoholic content not in excess of fourteen percent by volume to be served only with meals may be granted to a Class "R" permittee which is a restaurant establishment situated near a school provided that the property, on which the premises to be licensed is located, is not contiguous to the property on which the school is located and all other licensing requirements are met. (Added by Ordinance No. 2 of 1988.)

(c) The prohibition herein does not apply to registered pharmacists or licensed drug stores, licensed under state law who are permitted to sell alcoholic beverages by prescription only. (Amended by Ordinance no. 1 of 1982 and Ordinance No. 2 of 1988.)

(d) No wholesale permit shall be issued or held after issuance by any person unless at all times throughout the licensed year he meets standards set forth in R.S. 26:82 for wholesale dealers. (Amended by Ordinance No. 2 of 1988.)

(e) Persons engaged primarily in the sale, handling, distribution, and storage of alcoholic beverages which are ultimately delivered or transported beyond the borders of the state are exempt from complying with the standards above set forth. (Amended by Ordinance No. 7 of 1987 and by Ordinance No. 2 of 1988.)

### **Section 7.6 Renewal of permit**

(a) Persons holding permits as dealers in beverages of high alcoholic content shall file an application for renewal thereof and pay the permit fees within twenty four hours of the date set for application for a state permit renewal. If a dealer fails to file the application and pay the permit fee by that date, there shall be added to the fee, in addition to other penalties provided by state law, a delinquency penalty of five percent for each additional thirty days or fraction thereof during which the failure continues. (Amended by Ordinance No. 2 of 1988.)

(b) Persons holding permits as dealer in beverages of low alcoholic content shall file applications for renewal thereof for the ensuing year within twenty-four hours of the date set for application for a state permit renewal. Anyone filing his renewal application after that date shall be charged a delinquency penalty of twenty-five percent over and above the regular fee. (Amended by Ordinance No. 2 of 1988.)

(c) A renewal permit may be withheld or denied on the same ground and in the same manner as an original permit.

### **Section 7.7 Permit fees**

(a) Dealers in beverages of high alcoholic content are hereby required to pay an annual license fee according to the following schedule:

- (1) Wholesale dealer's permit: Five hundred dollars
- (2) Retailers
  - (i) Class A-General: Two hundred dollars
  - (ii) Class A-Restaurant: Two hundred dollars
  - (iii) Class B: One hundred dollars (Amended by Ordinance No. 12 of 1996)

(b) Dealers in beverages of low alcoholic content are hereby required to pay an annual license fee according to the following schedule:

- (1) Wholesale dealers: One hundred dollars
- (2) Retail dealers:
  - (i) Class A General: Sixty dollars
  - (ii) Class A-Restaurant: Sixty dollars
  - (iii) Class B: Fifty dollars  
(Amended by Ordinance No. 1 of 1993; Ordinance No.12 of 1996)

(c) Notwithstanding the provisions of subsections (a) and (b) above, wholesale dealers in beverages of high and low alcoholic content are hereby required to pay an annual license fee of two hundred dollars.

### **Section 7.8 Suspension and revocation**

(a) The board may suspend or revoke permits issued to retail dealers in beverages of high alcoholic content for causes set forth in R.S. 26:90 and 91 and may suspend or revoke permits issued to retail dealers in beverages of low alcoholic content for causes set forth in R.S. 26:286 and 287. (Amended by Ordinance No. 2 of 1988.)

(b) Before any permit is suspended or revoked the holder shall be entitled to a hearing before the board, and the hearing and notice of that hearing shall comply with the requirements of R.S. 33:4787; and the holder of the permit shall likewise be entitled to appeal to the district court pursuant to R.S. 33:4788. (Amended by Ordinance No. 4 of 1986.)

### **Section 7.9 Tax on beverages of low alcoholic content**

(a) In addition to all other licenses and taxes which may be imposed, there is hereby imposed on the amount of beverages of low alcoholic content sold and consumed within the municipal limits a tax of one dollar and fifty cents per standard barrel of thirty-one gallons. (Amended by Ordinance No. 1 of 1982.)

(b) The tax levied in this section shall be collected on each sale by any and all wholesale dealers from their vendees purchasing for consumption in this municipality and shall be remitted by said wholesale dealers to the secretary of revenue of the state of Louisiana, for each month, on or before the twentieth day of each succeeding month, all in accordance with the rules and regulations promulgated by the secretary of revenue and as provided by state law. (Amended by Ordinance No. 1 of 1982 and by Ordinance No. 2 of 1988.)

(c) If a dealer in beverages of low alcoholic content fails to file a return and pay the tax due on the beverages within the time provided in R.S. 26:346, he shall be subject to a penalty of five percent on the amount of the tax if the period of delinquency is ten days or less or twenty percent on the amount of the tax if the period of delinquency is greater than ten days. If an attorney is called on to assist in collection, there shall be an additional sum due equal to ten percent of both the amount of the penalties and tax due. (Amended by Ordinance No. 1 of 1982 and by Ordinance No. 2 of 1988)

### **Section 7.10 Repealed by Ordinance No. 7 of 1992.**

### **Section 7.11 Repealed by Ordinance No. 7 of 1992.**

### **Section 7.12 Repealed by Ordinance No. 7 of 1992**

### **Section 7.13 Closing hours**

No holder of a permit issued under this chapter and no servant, agent, or employee of such permittee shall sell any alcoholic beverages between the hours of 1:00 A.M. and 5:00 A.M. daily and conduct the operation of said business between the hours of 2:00 A.M. and 5:00 A.M. daily. Restaurants, grocery stores, drugstores, or other businesses may remain open for the sale of other items permitted by law but any sale or consumption of alcoholic beverages in such places of business during the prohibited periods above set forth is expressly prohibited. During the prohibited periods, no open glasses, bottles, cans, or other containers holding alcoholic beverages shall be allowed anywhere on the licensed premises except in a locked cabinet or cupboard; provided that those businesses which maintain separate rooms for the conduct of the business of dealing in alcoholic beverages may securely close and lock said separate rooms. Proof of the finding of any open container holding alcoholic beverages at any other place in the licensed premises during the prohibited periods shall result in a presumption that some of the contents of the container was consumed on the licensed premises on the date found; and shall further result in a presumption that the contents of the container were sold by the permit holder, his manager, agent, servant or employee on the date found. The term "open" as used in this section shall include, but not be restricted to, any container from which the top has at any time been removed, regardless of whether it has been replaced and in the case of a sealed container, any container on which the seal has been broken.

(Amended by Section 1, Ordinance 8 of 1982, adopted January 11, 1982.)

**Section 7.14 Public drinking and possession of opened drinking containers prohibited**

(a) Except as specifically authorized by a permit issued under Article B of Chapter 6 of this code, it is unlawful for any person to drink from or possess any opened drinking container in or on any public street, sidewalk, right-of-way, park, playground, or other public place within the municipality.

(b) For purposes of this section, an "opened drinking container" shall mean any container containing a beverage of low alcoholic content or a beverage of high alcoholic content in which the container is open in any manner that would permit the contents to be consumed or poured, or any container of a beverage of low alcoholic content or of a beverage of high alcoholic content upon which the seal has been broken or the contents exposed to the air.

(c) For purposes of this section "public place" shall mean any place open to the public, except in those places of business for which a permit has been issued under this chapter, but including the parking lot or other property which is a part of or adjacent to any place of business for which a permit has been issued under this chapter.

(d) Whoever violates this section shall be fined not more than one hundred dollars (\$100.00), or shall be confined for not more than thirty (30) days, or both. (Added by Ordinance 1 of 1985, adopted August 13, 1984)

**Section 7.15 Class "R" permit; application; fees**

(a) The mayor shall issue, upon proper application and payment of the fee required herein, a Class "R" permit to any restaurant establishment which has been issued a state "Class A Retail Liquor Permit" for the sale of beverages of high alcohol content.

(b) The permit provided for in this section shall be applied for annually and issued on January 1 of each year.

(c) The original and each renewal application for a Class "R" permit shall be in writing, be sworn to in front of a notary public, and shall contain all of the following:

- (1) The full name of the applicant.
  - (2) A complete description and correct street address of the premises in which the restaurant is located.
  - (3) Proof of issuance of state Class "A" permit.
  - (4) The original application shall contain a copy of an affidavit from the local health department showing compliance with all applicable health and sanitary requirements.
- (d) Each application shall be accompanied by an administrative fee, which shall be remitted

to the municipality, as follows:

(1) For administrative fees for new or renewal of permit - twenty-five dollars.

(2) For a temporary permit as provided for in subsection (e) - ten dollars.

(e) For new restaurant establishments without prior business experience on which to determine the gross revenue from the sale of the items in section 7.1(b)(4)(iv), the mayor may issue a temporary license, which shall be valid for sixty days to allow the establishment to make such determination.

(f) The permit shall be revoked whenever the establishment's Class A permit is revoked by the municipality or by the state for failure to meet or maintain criteria required for the permit. (Ordinance No. 7 of 1987)