



# CAROLINA BEACH

Planning and Zoning Meeting Agenda  
Thursday, January 10, 2019 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

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# CAROLINA BEACH

Planning and Zoning Minutes  
 Thursday, December 13, 2018 @ 6:30 PM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## ASSEMBLY

The Town of Carolina Beach Planning and Zoning was held on Thursday, December 13, 2018 at 6:30 PM at Council Chambers.

PRESENT:

ABSENT:

ALSO PRESENT: Assistant Director of Planning & Zoning Jeremy Hardison, Keith Bloemendaal, Deb LeCompte, Mike Hoffer, Jerry Kennedy, Wayne Rouse, and Melanie Boswell

### • CALL TO ORDER

Meeting was called to order at 6:30 p.m. by Chairman Bloemendaal.

### • APPROVAL OF MINUTES

Planning and Zoning - November 8, 2018 Meeting Minutes.

- a. Commissioner LeCompte made a motion to approve the minutes.  
 Chairman Bloemendaal seconded, all were in favor (7-0).

### • STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Hardison reported on the most recent Town Council Meeting - December 11, 2018  
 3 public hearings scheduled - first heard was to allow for distilleries in the highway business district which was approved, council had suggested to see if it would work in other areas as well which would have to be approved and possibly brought back in January. The second involved taxi cabs and golf cart taxi's they reviewed the process. They would be equal and treated the same, it would be up to the owner's discretion if they wanted a meter or not but this would have to be displayed. The third item was a CUP for the Carolina Beach Marina and Yacht Club, applicant request this to be tabled, situations had changed and he did not have some of the approvals for the site from a previous property owner.

### • STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported on the most recent activities in the Planning and Development Department.

Staff Update

THURSDAY DECEMBER 13, 2018

32 Permits (renovation, repair, grading, additions)

- 10 Residential new construction
- 2 demolition permits

- 20 Certificates of Occupancy
  - 203 Building Inspections
  - 25 Hurricane repair permits
- Code Enforcement  
Permitting
- 5 Complaints received
  - 5 Complaints resolved

Bryant Real Estate  
1230 N. Lake Park Blvd  
1230 N. Lake Park Blvd  
Publix  
1018 N. Lake Park Blvd  
Jack's Retreat  
5 N. Cape Fear Blvd  
Fork & Cork  
102 N. Cape Fear Blvd

LUP Steering Committee

- Next Meeting:
- Wednesday, January 16th 2019
- 6pm Town Council Chambers
- Website:
- [www.carolinabeachcamaupdate.com](http://www.carolinabeachcamaupdate.com)

Special Events

- Dec 15th ☞ 10th Annual Christmas by the Sea (Carolina Beach Boardwalk)
- December 31st ☞ NYE Celebrations (Kure Beach)

Questions for Mr. Hardison:

Commissioner Rouse asked if the town has received any permits for the Carolina Smoke House. Mr. Hardison replied no permits have been received for any roof top deck.

**PUBLIC DISCUSSION**

Chairman Bloemandaal stated no one signed up for public discussion.

- a. Adopt a resolution to amend the Land Use Plan policy #31 (A) to change how the one for one setback rule is applied for buildings over 50'. Applicant: Pelican Point CB, LLC
  - A. Exceptions to this height may be permitted up to sixty (60) feet maximum with one additional foot on the required front setback and one additional foot added cumulatively ~~both~~ to the required side setbacks for each additional foot in height for land classification areas: Mixed use 1 north of Commercial 2; Commercial 1; North Pier Commerce; Residential 5; Marina Mixed Use; Mixed Use 3 east of Carolina Beach Avenue South; and Industrial.

The applicant, Pelican Point CB, LLC is requesting an amendment to the height limit policies of the 2007 Land Use Plan. Last December, P&Z heard a similar text amendment which requested that certain appurtenances be permitted to extend above the height limit set in the 2007 LUP and CB Zoning Ordinances.

Current regulations allow certain commercial areas to reach a height greater than the standard 50' limit. However, to extend their height, up to a maximum of 60', the building must increase their standard setback on both sides and in the front by 1' for every additional foot above 50'. So, if the proposed structure was 56' tall that would mean that it is 6' over the standard limitation. This would require that each side and the front setbacks be extended by 6'. This type of addition results in an additional 12' of side setback, as there will be 6' added to both sides.

10' (general side setback) + 6' (feet over height limit) = 16' (new side setback)

10' (general side setback) + 6' (feet over height limit) = 16' (new side setback)

6' Left Side + 6' Right Side = 12' Total Added to Side Setbacks

The applicant is requesting that the current ordinance be changed to allow for the addition to the side setbacks to be added together cumulatively to equal the total required increase and not be required to be split evenly on both sides. So, instead of 6' being added to both of the side setbacks, you may have a scenario like the one shown below. Again, the structure is 56' in height and will require an additional foot added to each side and front setbacks for every foot over 50, or 6' added to each setback.

10' (right side setback) + 2' (of the total 12' applied to side setbacks) = 12' (new right side setback)

10' (left side setback) + 10' (of the total 12' applied to side setbacks) = 20' (new left side setback)

10' Left Side + 2' Right Side = 12' Total Added to Side Setbacks

The cumulative addition of the required increase in setback distance permits the structure to shift in orientation to some degree, while it still meets the total increase in side setback required.

The increase in height for the one for one setback may occur with a Conditional Use Permit in the following zones HB, T-1 MF, MB-1 and MX zones. There is no proposed change for the front setback nor the rear setback.

**ACTION REQUESTED:** The proposed amendment is inconsistent with the 2007 Land Use Plan and will need to be changed. The following policy will need to be amended. Policy #30: Building Height shall be defined as that distance measured from the highest appurtenance on the structure to: 1. The front street line. 2. The nearest front street line where there is not an adjacent right-of-way. 3. An average of each front street line on through lots. 4. Hotels – appurtenances ten (10) feet or less in height shall be exempted from the height measurement. Session Law 2017-10 (SB 131) revised the requirements in G.S.

§153A-341 and §160A-383 concerning statements a governing board shall adopt when considering a zoning amendment. The revised requirements are applicable to all zoning amendment applications filed on or after October 1, 2017. Under the changes in the new law, a governing board's statement of approval for a zoning amendment will also be deemed an amendment to the comprehensive plan and the governing board shall not require any additional request or application for amendment to the comprehensive plan. As used in the section, a comprehensive plan includes a unified development ordinance and any other applicable officially adopted plan. Local governments within the 20-coastal counties are subject to the land use planning requirements under Article 7 of the Coastal Area Management Act of 1974 (G.S. §§113A-108 through 113A-111) and the Coastal Resources Commission's (CRC) rules for land use plans (15A NCAC 07B.0700 and .0800.) CAMA plans require local adoption along with state certification and would therefore be considered a "comprehensive plan" as defined in the revisions to G.S. §153A341 and §160A-383.

CAMA requires that land use plans and plan amendments be available for public inspection for a period of at least 30 days following publication of notice. If the planning staff determines that a zoning amendment application is inconsistent with the CAMA plan, the planning staff should prepare a written document identifying the areas of the CAMA plan that would have to be amended with the zoning application.

Approval - whereas in accordance with the provisions of the NCGS 160A-383, the Commission does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans or A statement rejecting the proposed zoning amendment and describing its inconsistency with the plan; or A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment. Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

**COMMITTEE RECOMMENDATION:**

The question of building height does not lend itself to a "right or wrong" or objective answer but instead to a very

subjective answer about how we want our community to look. Building height does, to a large degree, define a community and as such this question is best answered by the people and their elected representatives and not the Planning Staff. In conclusion and because this is a value driven issue, Staff is not proposing a technical recommendation for your consideration. We are of the opinion that this decision is best suited to those who recommend and decide on the future look of what we want our Town to become

The applicant, Pelican Point CB, LLC is requesting an amendment to the side yard setback requirement when a building exceeds 50' in height. Along with the Land Use Plan the zoning ordinance will need to be amended as well.

When the Planning & Zoning Commission heard the item it allowed appurtenances to be exempt for all structures and recommended to deny the amendment and to address height in the land use plan update that will start this year. The applicant has narrowed down the amendment to specific zoning districts and only for larger buildings for Council to consider.

Chairman Bloemendaal asked for clarification on what the applicant is asking us to make is only changes the side setback to be accumulative can be mixed and matched. And still have the one for one, Mr. Hardison reply that is correct.

Commissioner Kennedy asked it doesn't change the minimum of 10' on the sides, Mr. Hardison reply that is correct.

Commissioner Rouse asked to clarify that the density has not changed, it's where you choose to move your building to accommodate that particular parcel, Mr. Hardison replied correct.

Commissioner LeCompte added, it would also require a CUP if it was over 50', Mr. Hardison replied correct.

Charles Poindexter, applicant spoke this is a development standard and is interested in developing in Carolina Beach. A lot of the properties are very narrow which limits what you can do. The emphasis behind the amendment is to give some wiggle room without decreasing open space and without encroaching of the neighbors.

Chairman Bloemandaal made a motion to open the public hearing.  
Commissioner Hoffer second, all were in favor (7-0).

Nicole Greeson, she is speaking on behalf of her mother Betty Greeson who lives at 400-A North Lake Park Blvd, this is a single family dwelling. These are the concerns they would like to address, there is a large condo building being built right next door, the loss of property value, also within the easement there maybe limited room between properties, they also share the driveway with Domino's, concerns of possible fire or any emergency's how would they access their property as well as if they needed medical services.

Mr. Hardison added this is not site specific amendment or CUP for the zones that he had mentioned earlier within the commercial district.

Dean Emblar 500 Saint Joseph St. he's lived there for over 25yrs and has a business here and his concern from day one is the buffer for Lee's Lane.

Mr. Hardison responded two things have happened with the applicant. One is P&Z heard a CUP and is still on file and shouldn't talk about the specific project. In the spring the applicant applies for a LUP amendment and P&Z heard that and formed a recommendation for Town Council and before it got to Town Council the applicant pulled that to rethink how he wanted to move forward. Now he has brought another amendment to this commission for consideration.

Chairman Bloemandaal stated we are not discussing this specific site next door to a home, we are being asked to amend the LUP and to allow for a higher building and changing the required setback and how we calculate those.

Commissioner Kennedy stated we have the same plot of the land we are just shifting the building, Mr. Hardison we are just discussing the allowance.

Brenda Shore 211 Carolina Sands Dr, understands that the LUP was adopted by the town and asks is it one person is asking us to change everything for him and his building. Chairman Bloemandaal responded we are considering this for the zone which is highlighted.

Chairman Bloemandaal made a motion to close the public hearing.  
Commissioner Hoffer seconded, all in favor (7-0)

Commissioners discussed their views on this topic. Some feel this should be considered, this gives more options for the property, doesn't feel it would have that drastic of effect on any of the buildings, doesn't see an issue with passing this. A couple are against this, one because of the fact that the LUP is already being updated.

**ACTION:** Commissioner Rouse made a motion to adopt a resolution that the Town of Carolina Beach amends its CAMA Land Use Plan, as it relates to the one to one setback policy when buildings exceed the 50' height requirement and amend that so it's is cumulative rather than one for one on each side concurrently.  
Commissioner Kennedy seconded the motion.

Vote: Motion passes - 5 ayes and 2 nays.

- b. Amend Chapter 40 Article XVIII, Sec 40-73 to amend yard requirements for structures exceeding maximum height regulations Applicant: Pelican Point CB, LLC

Mr. Hardison reported on the this which is the same as: Adopt a resolution to amend the Land Use Plan policy #31 (A) to change how the one for one setback rule is applied for buildings over 50'. Applicant: Pelican Point CB, LLC

Now that you have recommended the LUP you would need to have a LUP consistency statement when the ordinance is changed.

Chairman Bloemandaal stated this is the same but this will be for our town code.

Chairman Bloemandaal made a motion to open the public hearing.

Commissioner Hoffer seconded, all in favor (7-0).

Chairman Bloemandaal made a motion to close the public hearing.

Commissioner Rouse seconded, all in favor (7-0).

**ACTION:** Session Law 2017-10 (SB 131) revised the requirements in G.S. §153A-341 and §160A-383 concerning statements a governing board shall adopt when considering a zoning amendment. The revised requirements are applicable to all zoning amendment applications filed on or after October 1, 2017. Under the changes in the new law, a governing board's statement of approval for a zoning amendment will also be deemed an amendment to the comprehensive plan and the governing board shall not require any additional request or application for amendment to the comprehensive plan. As used in the section, a comprehensive plan includes a unified development ordinance and any other applicable officially adopted plan. Local governments within the 20-coastal counties are subject to the land use planning requirements under Article 7 of the Coastal Area Management Act of 1974 (G.S. §§113A-108 through 113A-111) and the Coastal Resources Commission's (CRC) rules for land use plans (15A NCAC 07B.0700 and .0800.) CAMA plans require local adoption along with state certification and would therefore be considered a "comprehensive plan" as defined in the revisions to G.S. §153A-341 and §160A-383. CAMA requires that land use plans and plan amendments be available for public inspection for a period of at least 30 days following publication of notice. If the planning staff determines that a zoning amendment application is inconsistent with the CAMA plan, the planning staff should prepare a written document identifying the areas of the CAMA plan that would have to be amended with the zoning application.

Commissioner Rouse made a motion to approve whereas in accordance with the provisions of the NCGS 160A-383, the Commission does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans and to Amend Chapter 40 Article XVIII, Sec 40-73 to amend yard requirements for structures exceeding maximum height regulation. Commissioner Kennedy seconded, all in favor (7-0).

Vote: UNANIMOUS

- c. Amend Chapter 40 Article VI Landscaping to Encourage Tree Preservation

Mr. Murphy presented - two options to look at:

**ARTICLE VI. - LANDSCAPING AND DEVELOPMENT SPECIFICATION STANDARDS**

**ORDINANCE NO. 18-**

**Text Amendment: To amend the Chapter 40 Article VI Sec. 40-175, Sec. 40-177, to update the ordinance to provide protections for heritage trees.**

ARTICLE VI. – Landscaping and Development Specification Standards<sup>[5]</sup>

**Sec. 40-175. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Buffer yard* means the width of the area for the required installation of landscaping and screening materials around the entire perimeter of all lot uses excluding single-family residences and two-family dwellings.

*Caliper* means a standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch Caliper size, and 12 inches above the ground for larger sizes.

*Deciduous* means those plants that annually lose their leaves.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, clearing, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Evergreen* means those plants that retain foliage throughout the year.

*Ground cover* means a prostrate plant growing less than two inches in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Many ground covers survive in poor soils, shade and other adverse conditions.

*Ground cover material* means any natural or artificial material such as bark chips, pine needles, stone, rock, wood mulch or similar materials used at the base of plants for the purpose of retaining water, minimizing weed growth or purely aesthetic purposes.

*Heritage Tree* means a live oak tree, with a caliper larger than 12”

*Intensive commercial* means a business use that has a gross floor area of greater than 10,000 square feet.

*Landscaping* means the process or product of site development, including grading, installation of plant materials, and seeding of turf or ground cover.

*New construction* means any construction other than renovation to existing structures where the size or intensity is not increased, which requires a building permit issued by the town, or which results in an increase of impervious surfaces or which requires the placement of fill soil or materials, including, but not limited to, multifamily, non-residential and parking lot construction.

*Planter* means a structure or area consisting of at least one understory tree surrounded by flowers and shrubs.

*Planting area* means a ground surface free of impervious material, which is utilized for landscape purposes.

*Shrub* means a woody plant or bush with a minimum height of 12 inches and maximum of ten feet. It is distinguished from a tree by having several stems rather than a single trunk.



*Street tree* means a tree planted along the street behind the right-of-way.

*Street yard* means a planting area parallel to a public or private street designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

*Tree, canopy*, means any tree that is normally more than 40 feet in height with a spread of at least 15 feet at maturity that provides shade from its foliage mass; also individual or tree groups forming an overhead cover. Canopy trees should be located so as to minimize potential interference with utilities and avoid sight obstructions. New canopy trees shall be at least 2½ inches in diameter measured six inches above the ground and at least eight feet in height.

*Tree, understory*, means any tree that is normally less than 25 feet in height with a spread of at least five feet at maturity, but that still provides shade and a degree of protection to the earth and vegetation beneath it. Multiple trunk understory trees shall have at least three trunks and be at least six feet in height.

*Vision clearance*. In order to maintain an acceptable and safe line of sight for motor vehicle drivers, no fences, walls, posts, signs, lights, shrubs, trees or other type of obstructions not specifically exempted shall be permitted in the space between 30 inches in height from the grade of the street. A sight distance triangle shall be the visually unobstructed area of a street/driveway corner as determined by measuring a distance of 30 feet along the intersecting curb lines, or edges of pavement of the intersecting street/driveway if curbs are not present, and connecting the two points by a straight line to form a triangular shaped area over the corner.

(Code 1986, app. A, § 8.5; Ord. No. 05-598, 7-12-2005; Ord. No. 06-634, 5-9-2006; Ord. No. 07-670, 1-9-2007; Ord. No. 09-785, 5-12-2009)

#### **Sec. 40-177. - Tree/landscape plan.**

- a. Required. A tree/landscaping plan shall be required for all clearing, grading, or other earth disturbing activity proposals. The plan must contain the information set forth in subsection (b) of this section (the required tree/landscape plan can be incorporated into the general site plan).
- b. Landscape plan submittal requirements. The landscape plan shall contain the following information:
  - a. General location, type, and quantity of existing plant materials.
  - b. Existing plant materials and areas to be left in natural state.
  - c. Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
  - d. Locations, size and labels for all proposed plants.
  - e. Plant lists with common name, quantity, and spacing and size of all proposed landscape material at the time of planting.
  - f. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards or paved areas.
  - g. Planting and installation details as necessary to ensure conformance with all required standards.
  - h. Location and type of irrigation system, if applicable.
  - i. Location of any proposed buildings.
  - j. Layout of parking and traffic patterns.
  - k. Location of overhead and underground utilities.
  - l. Location of signage.
  - m. Connections to existing streets.
  - n. Zoning designation of adjacent properties.
  - o. Landscape plan shall be drawn to scale and include a north arrow and necessary interpretive legends.
- c. Information guide and plant selection list. A landscaping/buffer yard information guide and plant selection list is available from the Zoning Administrator.
- d. [All new construction will be required to identify any heritage trees and either protect them or replace 1 heritage tree per 5000ft2 of lot size.](#)
- e. [No new construction nor expansions of a preexisting footprint may remove a heritage tree without replacement as dictated in \(e\).](#)

(Code 1986, app. A, § 8.8; Ord. No. 05-598, 7-12-2005)

Adopted this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Joseph Benson, Mayor

Attest: \_\_\_\_\_  
Kimberlee Ward, Town Clerk

**ARTICLE VI. - LANDSCAPING AND DEVELOPMENT SPECIFICATION STANDARDS**

**ORDINANCE NO. 18-**

**Text Amendment: To amend the Chapter 40 Article VI Sec. 40-175, Sec. 40-177, to update the ordinance to provide protections for heritage trees.**

ARTICLE VI. – Landscaping and Development Specification Standards<sup>[5]</sup>

**Sec. 40-175. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Heritage Tree means a live oak tree, with a caliper larger than 12”

**Sec. 40-177. - Tree/landscape plan.**

- a. Required. A tree/landscaping plan shall be required for all clearing, grading, or other earth disturbing activity proposals. The plan must contain the information set forth in subsection (b) of this section (the required tree/landscape plan can be incorporated into the general site plan).
- b. Landscape plan submittal requirements. The landscape plan shall contain the following information:
  - a. General location, type, and quantity of existing plant materials.
  - b. Existing plant materials and areas to be left in natural state.
  - c. Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
  - d. Locations, size and labels for all proposed plants.
  - e. Plant lists with common name, quantity, and spacing and size of all proposed landscape material at the time of planting.
  - f. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards or paved areas.
  - g. Planting and installation details as necessary to ensure conformance with all required standards.
  - h. Location and type of irrigation system, if applicable.
  - i. Location of any proposed buildings.
  - j. Layout of parking and traffic patterns.
  - k. Location of overhead and underground utilities.
  - l. Location of signage.
  - m. Connections to existing streets.
  - n. Zoning designation of adjacent properties.
  - o. Landscape plan shall be drawn to scale and include a north arrow and necessary interpretive legends.
- c. Information guide and plant selection list. A landscaping/buffer yard information guide and plant selection list is available from the Zoning Administrator.
- d. All new construction or expansions of building footprint will receive a reduced stormwater fee for preserving a heritage tree.

(Code 1986, app. A, § 8.8; Ord. No. 05-598, 7-12-2005)

Adopted this \_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Joseph Benson, Mayor

Attest: \_\_\_\_\_  
Kimberlee Ward, Town Clerk

**ARTICLE VI. - LANDSCAPING AND DEVELOPMENT SPECIFICATION STANDARDS**

**ORDINANCE NO. 18-**

**Text Amendment: To amend the Chapter 40 Article VI Sec. 40-175, Sec. 40-177, to update the ordinance to provide protections for heritage trees.**

ARTICLE VI. – Landscaping and Development Specification Standards<sup>[5]</sup>

**Sec. 40-175. - Definitions.**

Heritage Tree means a live oak tree, with a caliper larger than 12”

**Sec. 40-177. - Tree/landscape plan.**

- a. Required. A tree/landscaping plan shall be required for all clearing, grading, or other earth disturbing activity proposals. The plan must contain the information set forth in subsection (b) of this section (the required tree/landscape plan can be incorporated into the general site plan).
- b. Landscape plan submittal requirements. The landscape plan shall contain the following information:
  - a. General location, type, and quantity of existing plant materials.
  - b. Existing plant materials and areas to be left in natural state.
  - c. Methods and details for protecting existing plant materials during construction and the approved erosion control plan, if required.
  - d. Locations, size and labels for all proposed plants.
  - e. Plant lists with common name, quantity, and spacing and size of all proposed landscape material at the time of planting.
  - f. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courtyards or paved areas.
  - g. Planting and installation details as necessary to ensure conformance with all required standards.
  - h. Location and type of irrigation system, if applicable.
  - i. Location of any proposed buildings.
  - j. Layout of parking and traffic patterns.
  - k. Location of overhead and underground utilities.
  - l. Location of signage.
  - m. Connections to existing streets.
  - n. Zoning designation of adjacent properties.
  - o. Landscape plan shall be drawn to scale and include a north arrow and necessary interpretive legends.
- c. Information guide and plant selection list. A landscaping/buffer yard information guide and plant selection list is available from the Zoning Administrator.
- d. All new construction or expansions of building footprint will be required to pay a fee for the removal of any heritage trees.

(Code 1986, app. A, § 8.8; Ord. No. 05-598, 7-12-2005)

Adopted this \_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Joseph Benson, Mayor

Attest: \_\_\_\_\_  
Kimberlee Ward, Town Clerk

Questions for Mr. Murphy:

Chairman Bloemandaal asked for clarification if there is a tree in the middle of the property the owner would have to pay a fee to have such tree removed, Mr. Murphy replied yes that would be for option 3.

Chairman Bloemandaal asked how will the town require the property owner to determine if there are Heritage Trees and has anyone inquired the cost for a tree survey. Mr. Murphy it would be part of a survey requirement, no one has inquired.

Chairman Bloemandaal asked with option 3 is this requiring for a landscape design as there is for commercial buildings. Mr. Murphy replied the only required are for commercial zones. It would put that responsibility on the home owners to consider the tree removal.

Commissioner Kennedy stated the purpose behind this was to protect and save trees or to replant trees. Mr. Murphy replied that is correct. To clarify there are 3 options - cut a tree-plant a tree, not cut a tree and pay a reduced stormwater, or cut a tree and pay a fee.

Mr. Murphy explained that is correct that there was a discussion at a joint meeting and a lot was expressed to protect the trees but given the lot sizes it is not feasible but possibly require one for one replacement based on the size of the lots but wants to see other options to encourage the homeowner. These are not the only options they are proposals we could add another if that is a recommendation. He is looking for more direction if needed.

Commissioners discussed is the caliber the circumference or diameter of a tree, this is stated in the packet but it is the circumference of the tree. They feel the focus should be on preserving canopy trees.

Commissioner Hoffer feels there should be a cut off and would like to leave the 5,000 sq ft out he doesn't think it's far and shouldn't put any more burden on people. He focuses more on incentives. And Chairman Bloemandaal agrees.

Commissioner Rouse can we have incentives if there are a lot of trees and keep a specific amount of trees on every lot. Commissioner Kennedy agrees to give positives instead of negative options.

Commissioner Boswell has a concern about who is going to pay for the incentives. She feels preservation is the most important.

Mr. Murphy to recap on this topic, he would like more direction and is asking from the members a definition on what is a heritage tree. The proposed options are 1) replacement tree for tree 1 per 5,000 square foot lot, 2) incentivizing by reducing stormwater fees to preserve an existing heritage

tree, 3) if removing any heritage trees you would have to pay a fee to the town which would increase the building permit fees.

Chairman Bloemandaal made a motion to open the public discussion.  
Commissioner LeCompte seconded, all in favor (7-0).

Debra Garity 4226 Canopy Cove in Wilmington, NC - stated the number one reason to protect trees is your health, the more trees the less carbon omissions the trees take all that in as does the ocean and rivers. Gave some suggestions on what to do to have the Cape Fear Tree Alliance which is a non-profit, would come out to do a tree survey free of charge and they would help find trees that are indigenous to the area, they have grant funds, would help people feel proud to be a part the environment that is helping to preserve our trees and have a plaque placed in their yards stating this is a heritage tree. Added the diameter is the root base of the tree the foundation which will suck up the rains which in turn would help with flooding. Feels the town is on the right track with making a healthy environment for future generations with the Greenway project and connecting to the National Parks and persevering the trees. It's not that complicated because there are partners here to help.

Commissioner Rouse asked if a builder can contact the organization and how does that work. The organization is CITIS but there would be some type of fee involved. She will share that information with Commissioners Rouse.

Chairman Bloemandaal made a motion to close the public hearing.  
Commissioner Hoffer seconded, all in favor (7-0).

Commissioners discussed the specific options. Possibly penalize for cutting down trees on the larger lots, incentives not penalties, need to get a definition for a Canopy Tree not a Heritage Tree, lot size based on a case by case, needs general statements to preserve trees for a healthy environment, the position of a tree maybe a factor, setbacks could also be a factor. Decided to give a recommendation on a direction to Mr. Murphy on incentivizing and what they will be to replant or save what is already there or a combination, better clarification on which trees we want to protect.

Mr. Murphy asked for the definition of and what types of trees they would consider. Canopy Tree definition is any tree that is normally more than 40' in height, the spread of at least 15' at maturity that provides shade from it's foliage. New Canopy trees shall be a least 2.5" in diameter or caliber measures 6" above the ground and at least 8' in height. This will be a recommendation for staff and take it to TRC in January. Would like to bring something back to P&Z in February and then possibly go to Council in March which would involve the public's opinion.

**ACTION:** Chairman Bloemandaal made a motion to give a recommendation on more direction to Mr. Murphy. Definition of and what type of trees, incentivize and what they would be replant, save or both.

Vote: UNANIMOUS

**NON-AGENDA ITEMS**

Commissioner Kennedy would like to look into pervious concrete feels the town has too much

impervious concrete.

Commissioner Hoffer updated on the Greenway Project to be finished in February but realistically March or April. They are putting together a Greenway System, to try to create a true network of paths.

Commissioner LeCompte updated on the Steering Committee which was basically introductions, some folks that have never volunteered on any committee which could bring fresh ideas. The next meeting is January 16th.

**ADJOURNMENT**

Commissioner LeCompte made a motion to adjourn at 8:36 p.m.  
Chairman Bloemandaal seconded, all in favor (7-0).



## AGENDA ITEM

Meeting: Planning and Zoning - 10 Jan 2019

Prepared By: Miles Murphy

Department: Planning

### **Text Amendment: To amend Chapter 40 Article VIII Sec. 40-228 to allow for larger signs on large corner lot properties in commercial zoning districts in the Town of Carolina Beach - Applicant: Mark Bryant of Bryant Real Estate**

#### **BACKGROUND:**

In November staff was approached by Mark Bryant of Bryant Real Estate with a request to place a large double-faced sign on their corner lot located at 1230 North Lake Park Boulevard. They were informed that, due to current ordinances, their proposed sign would not be permissible. Given the unique location and size of the lot, Mr. Bryant opted to apply for a Text Amendment in order to create an allowance for a larger double-faced sign on large, commercially zoned, corner-lot properties.

Staff met with Mr. Bryant and reviewed the proposed ordinances. Some small changes were made to the proposed language, but overall staff has no objections to the proposed changes. Staff also researched recent sign ordinance changes to ensure that any update would not be entirely inconsistent with more recent changes made to or restrictions created in the sign ordinances of Carolina Beach

#### **ACTION REQUESTED:**

- (1) It is recommended that Planning and Zoning open the public hearing for comments.
- (2) Close the public hearing
- (3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

#### **New Statutory Requirements**

The General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements. The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is **reasonable and in the public interest**. However, the form of the required statement has changed. The statement must take one of three forms:

- A Statement of Approval – The Commission, whereas in

accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article VIII Sec. 40-228 to allow for larger signs on large corner lot properties in commercial zoning districts in the Town of Carolina Beach is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. (If applicable - List any recommended restrictions or requirements)

•A Statement of Denial – Town Council deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

**COMMITTEE  
RECOMMENDATION:**

Staff recommends that the new sign language be adopted as written with no additional restrictions and staff believes it is in line with the current LUP and Zoning Ordinances of Carolina Beach.

**ATTACHMENTS:**

[Proposed Ordinance  
18T-04 Corner Signs  
ARTICLE VIII. SIGN REGULATIONS](#)



## SIGN REGULATIONS



**ORDINANCE NO \_\_\_\_\_**  
**Amend Chapter 40 Zoning Article VIII, Sec. 40-228 Administration**

**Article VIII Sign Regulations, Sec. 40-228**

(b) *Number of signs.* Unless otherwise stated, only one of each type of sign may be permitted per development site except for corner or double frontage lots. A second sign may be placed on corner or double frontage lots. Where two signs are allowed, one sign shall be adjacent to one public right-of-way and the second sign shall face the other public right-of-way. If signs are used on separate frontages, each sign may use the maximum size allowable. If the second sign is on a corner, then the total square footage of the two signs shall not exceed the maximum size allowance, except when a corner lot meets the following criteria:

- (1) the corner lot is located in a commercial zone
- (2) the lot is larger than 30,000ft<sup>2</sup>
- (3) the sign is limited to 10' in height
- (4) the sign is set back an additional 5' beyond the required 10' setback from all property lines.

Adopted this 12<sup>th</sup> day of February, 2019.

\_\_\_\_\_  
Joeseeph Benson, Mayor

Attest: \_\_\_\_\_  
Kimberly Ward, Town Clerk

18T-04



**PETITION FOR A TEXT AMENDMENT TO THE TOWN CODE OF ORDINANCES**

Petitions shall be submitted and reviewed by the Department of Planning and Development, 1121 N. Lake Park Blvd., Carolina Beach, NC 28428 for completeness prior to acceptance. The fee of \$350, payable to the Town of Carolina Beach must accompany the petition

**Petitioner**

Petitioner's Full Name: Mark Bryant Phone #: (910)-352-1372

Street Address:  
1230 N. Lake Park Blvd.

City: Carolina Beach State: North Carolina Zip: 28428

Email: [mbryant@bryantre.com](mailto:mbryant@bryantre.com)

**Requested Text Amendment**

Town Code Section(s) Requested to be Amended:  
Sec. 40-228 & Sec. 40-232

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach:

We would like to amend the code to allow a split sign on a corner lot that will still not exceed the total allowable square footage of a double-sided sign.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

Petitioner's Signature: 

## ARTICLE VIII. - SIGN REGULATIONS

## Sec. 40-227. - Purpose and intent.

- (a) It is the intent of the town council to protect public interest, safety and welfare and, to that end, the purposes of this article are specifically declared to be as follows:
  - (1) To promote economic development while minimizing the negative impacts that signs may have on the visual appearance of the town;
  - (2) To provide orientation and guidance to our tourists and visitors and identification of public areas, natural resources, historical and cultural landmarks and places of interest and in so doing reduce confusion, traffic congestion and air pollution;
  - (3) To inform and educate visitors and residents of opportunities and events both commercial and noncommercial occurring on Pleasure Island; and
  - (4) To permit and regulate signs in such a way as to support and compliment land use objectives.
- (b) It is not the purpose or intent of this article to regulate signage displayed for special occasions not associated with a business (i.e., balloons for birthday parties or birth of a baby, etc.).

(Code 1986, app. A, § 11.1; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

## Sec. 40-228. - Administration.

- (a) *Permit issuance.* The Zoning Administrator or his designated representative shall be the administrator of this article.
- (b) *Number of signs.* Unless otherwise stated, only one of each type of sign may be permitted per development site except for corner or double frontage lots. A second sign may be placed on corner or double frontage lots. Where two signs are allowed, one sign shall be adjacent to one public right-of-way and the second sign shall face the other public right-of-way. If signs are used on separate frontages, each sign may use the maximum size allowable. If the second sign is on a corner, then the total square footage of the two signs shall not exceed the maximum size allowance.
- (c) *Permit required.* Except as otherwise provided, no sign shall be erected, altered, constructed, moved, converted or enlarged except in accordance with the provisions of this article and pursuant to issuance of a sign permit.
- (d) *Process for issuance of a sign permit.* The process for issuing a sign permit is as follows:
  - (1) Completed application.
  - (2) A scaled drawing displaying the location of the sign on the associated property, the sign dimensions, construction, height, setbacks from all property lines, lighting, electrical and all other elements associated thereto.
  - (3) Payment of the permit fee.
  - (4) All permanent signs shall be designed and constructed to meet the requirements of the state building code. Depending on the type of sign construction, the Building Inspector may require engineered certified plans.
  - (5) Total number of signs existing on site, including the dimensions of each.
- (e) *Signs not requiring a permit.* The following types of signs are exempt from permit requirements:
  - (1) Governmental signs.
  - (2) Window/door signs.
  - (3) Real estate/ off-site real estate signs.

- (4) Political signs.
- (5) Open signs.
- (6) Patriotic and/or decorative flags.
- (7) Any sign required by a government agency (i.e., address number sign).
- (f) *Exceptions.* Any sign that is not designed for view by vehicular traffic may be displayed for decorative, patriotic, or commercial purposes as long as the signage does not violate any of the prohibited sign regulations.
- (g) *Size calculations.* The term "sign" shall include all structural members. A sign shall be constructed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign.
  - (1) *Sign area.*
    - a. *Attached.* The area of a sign composed in whole or in part of freestanding letters, devices or sculptured matter not mounted on a measurable surface shall be constructed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter.
    - b. *Freestanding.* All surface areas and any lettering or sculptured matter outside the sign surface area.
  - (2) *Sign height.* The height of a sign shall be computed as the distance from the base ground level to the top of the highest vertical attached component of the sign.
  - (3) *Sign face.* Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back-to-back and are at no point more than 1½ feet from one another.

(Code 1986, app. A, § 11.2; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 12-888, 6-12-2012)

Sec. 40-229. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*A-frame sign* means a temporary sign typically consisting of two sign faces attached back-to-back by top hinges.

*Address number sign.* See chapter 34, article IV.

*Animated sign* means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

*Attached sign* means any sign painted on, attached to and erected parallel to the face of, or erected and confined within the limits of, the outside facade of any building and supported by such building facade and which displays an advertising surface. Attached signs may also be located on porch railings and support posts.

*Banner sign* means a temporary suspended sign made of a flexible material such as canvas, sailcloth, plastic or waterproof paper that may or may not be enclosed or partially enclosed on a rigid frame (i.e., feather signs).

*Billboard sign* means a sign which advertises a business, product, organization, entertainment, event, person, place, or thing and which is located off-premises from the place of the advertised element(s).

*Canopy/awning sign* means any sign consisting of lettering and/or logos applied to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

*Commercial banners* means banners intended for commercial promotion and/or advertisement.

*Commercial flags* means flags intended for commercial promotion and/or advertisement.

*Construction sign* means a temporary sign that identifies on-site construction and future development to occur on the property and typically containing the names of contractors, architects, and lending institutions.

*Decorative banners* means colored banners only that contain no wording or pictures. These include banners that resemble patriotic flags (i.e., a blue and red banner with white stars).

*Decorative flags* means colored flags only that contain no wording or pictures.

*Directional sign* means a permanent sign for public direction or information containing no advertisement or commercial identification of any product or service. Typically, these signs consist of directional arrows, business names or logos, the words "entrance," "exit," "parking," etc.

*Flags* means flexible materials such as cloth, paper, plastic and typically displayed on a flag pole, or structure. Windssocks are interpreted to represent permitted flagging.

*Flashing sign* means a sign, which contains or uses, for illustration, any lights or lighting devices, which change color, flashes or alternates, shows movement or motion, or changes the appearance of said sign or part thereof automatically on a time interval of less than 20 seconds. Animated fading from one message to another message is permitted within a maximum fading period of two seconds.

*Freestanding sign* means a sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structures.

*Future development sign* means a sign placed on vacant or developed property that advertises a future use that is currently allowed in the zoning district where the sign is located.

*Governmental sign* means a sign provided and erected by a governmental entity which typically promotes:

- (1) The health and safety of the community;
- (2) Town-sponsored events;
- (3) A public way finding system; and
- (4) Any other town activities as deemed appropriate by the Town Manager.

*Human sign* means costumes or signs worn, held or carried by individuals for the purpose of attracting attention to a commercial site.

*Illegal sign* means any sign that was in violation of the zoning ordinance at the time the sign was originally established.

*Integral sign* means memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials mounted on the face of a building.

*Nonconforming sign* means any sign which does not conform to the regulations of this article, but did conform when it was originally permitted.

*Nonprofit sign* means any sign promoting churches, schools and and/or other noncommercial institutions.

*Obscene* means material which depicts or describes sexual conduct that is objectionable or offensive to accepted standards of decency which the average person, applying contemporary community standards, would find, taken as a whole, appeals to prurient interests or material which depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law, which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

*Off-premises parking sign* means a sign used to direct vehicular traffic onto the parking premises where it is displayed for a business or service activities at another location, but cannot impede the line of sight for traffic.

*Off-site real estate sign* means generic signs with display content limited to a directional arrow and/or one descriptive phrase of "open house" and allowed off the premises from where the real estate product is being offered.

*Open sign* means a sign or flag with a specific designated purpose of stating that a business is open or closed.

*Patriotic flags* means flags with only the insignia of governmental subdivisions, agencies, or bodies when displayed for patriotic purposes.

*Permanent sign* means all signs not designated as temporary.

*Political sign* means signs displaying political candidacy and/or messages as related to an election date and allowed only within a limited timeframe.

*Portable sign* means a temporary sign attached on support frame without lighting.

*Projecting sign* means a type of attached signage placed at a right angle to the facade of the associated structure.

*Public information sign* means a sign provided and erected by a governmental entity or nonprofit organization, which typically gives direction to governmental or community institutions, amenities, or displays regulations or notices.

*Real estate sign* means a sign that is used to offer for sale, lease, or rent the property upon which it is placed.

*Roof sign* means any sign erected or constructed upon the roof of any building and supported solely on the roof of the building.

*Sign* means any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view.

*Snipe sign* means any sign of any material whatsoever that is attached in any way to a utility pole, tree, street sign or pole.

*Special event sign* means a sign advertising a special communitywide event such as community fishing tournaments, schools or civic events, and/or festivals.

*Subdivision entrance sign* means a sign identifying a development, located on site, and at the major entrance points to such development.

*Temporary sign* means any sign that advertises or directs attention to a product, event, election, activity, meeting, exhibition or performance of any kind where such sign is not permanently affixed, placed, attached or erected, and may have time limitations.

*Tow truck sign.* See chapter 16, article VII, wrecker/towing services and impoundment.

*Vehicle/trailer sign* means any temporary sign mounted on a vehicle, boat, or trailer and used for advertising or promotional purposes.

*Window/door sign (interior/exterior)* means a sign located within the interior or exterior of the transparent area of any window or door.

*Yard sale sign.* See sections 14-172 through 14-174.

(Code 1986, app. A, § 11.3; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 12-888, 6-12-2012; Ord. No. 12-899, 8-14-2012)

Sec. 40-230. - Prohibited signs/displays.

The following signs are prohibited within the jurisdictional limits of the town:

- (1) Billboard signs.
- (2) Signs in disrepair, that are unsafe, which no longer can be easily recognized for their intended purpose due to disrepair or fading, or are no longer applicable to the associated property use.
- (3) Strobe lights or any other type of flashing lighting or beacons. Exception: Flashing signs may be permitted in the central business district as long as they are not located adjacent to Lake Park Boulevard. Flashing signs may also be present in any commercial zone as long as they are not designed for vehicular traffic. This exception does not allow for strobe lights.
- (4) Moveable, animated, flashing signs including balloons and human signs.
- (5) Pennant or consecutively linked flagging or similar devices.
- (6) Signs which resemble or are visibly similar to official governmental traffic signs or signals or employ lighting, or employ the words of official signs such as "stop," "caution," "danger," "slow," or "warning."
- (7) Signs located within or protruding in public areas or rights-of-way, unless specifically permitted herein. Any person erecting a sign in a public area shall indemnify and hold harmless the town and its officers, agents, and employees from any claim arising out of the presence of the sign on town property or rights-of-way.
- (8) Signs that make noise.
- (9) Signs displaying or containing obscenities.
- (10) Roof signs.
- (11) Snipe signs.
- (12) Handwritten messages on permanent signs.
- (13) No sign shall block any vision clearance (i.e., a 30 by 30 site triangle at intersections and driveways).
- (14) Any other sign not mentioned by this article.
- (15) Vehicle/trailer signs.

(Code 1986, app. A, § 11.4; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

Sec. 40-231. - Sign lighting.

- (a) Interior sign lighting shall be shaded with an opaque sign face surface sufficient to reduce the glare on roadways and surrounding properties.
- (b) Signs utilizing bare bulbs or neon type lighting shall be such that minimizes the glare on roadways and surrounding properties.
- (c) Exterior flood or similar type sign lighting shall be directed on the sign only, minimizing reflective glare off the sign, and not reflect or glare onto roadways or adjacent properties.

(Code 1986, app. A, § 11.5; Ord. No. 10-825, 4-13-2010)

Sec. 40-232. - Allowable signs.

(a) *Permitted signage in all zoning districts.* The following signs shall be permitted in all zoning districts:

- (1) *Construction sign/future development signs.*
  - a. Both types of signs may be allowed as temporary, non-illuminated signs not to exceed 20 square feet in area and five feet in height.
  - b. A construction sign and future development sign shall be removed within 30 days after the issuance of a certificate of compliance.
  - c. A construction sign shall only be allowed with a valid building permit. Where no building permit was required (i.e., painting a house) the construction sign shall be removed within 30 days after the work was completed. A future development sign may be allowed at any time after receiving a sign permit.
- (2) *Governmental signs.* Size, location, and length of time of these signs shall be approved by the Town Manager or his designee.
- (3) *Political candidacy signs.*
  - a. One sign shall be permitted per individual lot or parcel for each candidate for office or side of a ballot measure or issue; for a lot or parcel with frontage on a second street, one additional sign for each candidate for office or side of a ballot measure or issue shall be permitted.
  - b. Such signs shall not be located on town property or buildings, except within specified proximity of polling places on election day, under rules established by a county board of elections.
  - c. Such a sign shall be removed within ten days following the date of any election or other event to which it refers, except that signs for successful primary election candidates, eligible for the general election, may remain after the primary election; this time limit shall not apply to a sign which does not refer to an election or other event.
  - d. Such a sign shall not exceed six square feet in area per sign face or five feet in height, except where such sign is erected in place of another type of sign permitted at that location, in which case it may be the same size and subject to the same conditions as such sign. Depending on the size and location of the sign a building permit may be required.
  - e. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly and liable for the removal of such signs.
  - f. The property occupant or, in the case of unoccupied property, the property owner, shall be responsible for violations on a particular property.
  - g. No political sign shall be located in a public right-of-way with the exception of NCDOT rights-of-way in accordance with Session Law 2011-408.
- (4) *Decorative flags or banners.* Decorative flags or banners may be displayed as freestanding or attached subject to the following specifications:
  - a. No more than one per 50 feet of road frontage shall be displayed.
  - b. Size shall be limited to a maximum of 24 square feet and 20 feet in height.
  - c. All decorative flags and/or banners shall remain within the boundaries of the property for which they are permitted.
- (5) *Patriotic flags.*



- a. Patriotic flags displayed shall not be limited in size or number.
  - b. All patriotic flags shall remain within the boundaries of the property for which they are permitted.
- (6) *Real estate and off-site real estate signs.*
- a. These signs shall be located on private property only with written permission of the applicable property owner.
  - b. The maximum size shall be calculated as six square feet for every 50 feet of road frontage, or six square feet per commercial and/or residential unit, whichever is greater. There shall be a maximum size of 36 square feet per development site.
  - c. Maximum sign height is five feet in height measured from the adjacent ground elevation to the uppermost portion of the sign.
  - d. All signs shall be freestanding on their own independent support posts/pole or attached to the building for sale or rent.
  - e. One off-site real estate sign shall only be allowed during open house hours while a real estate representative is on-site.
- (7) *Subdivision entrance signs.* Two attached subdivision entrance signs or one monument or freestanding sign per principal entrance are allowed. Such signs shall designate the subdivision by name or symbol only and under all circumstances they shall be rigidly and securely anchored against movement. Such signs shall not exceed an area of 20 square feet per sign face and an aggregate area of 40 square feet if signs are multiple faced, nor shall they exceed a height of six feet if freestanding. They may be illuminated.

In addition to the allowances under this subsection (a), nonresidential uses that are existing or allowed in residential areas, but do not fall under the category of nonprofit, may also utilize the freestanding sign allowances as defined under subsection (b) of this section.

- (b) *Special allowances for nonprofit signs in all zoning districts.*
- (1) *Freestanding sign.* One sign shall be allowed that is no more than 20 square feet in area; ten feet in height; and is setback at least ten feet from all property lines.
  - (2) *Public information signs.* Permanent locations shall include public or private sites for standing meetings of clubs or property owned by a recognized church or denominational body. All directional or informational signs shall be subject to the following restrictions:
    - a. Signs shall not exceed six square feet in size nor eight feet in height (top of panel).
    - b. Signs shall not be illuminated.
    - c. Sign lettering shall not exceed four inches in height.
    - d. Sign content may include name and address of organization, logo, directional arrow, and meeting times. No commercial business or product shall be advertised.
    - e. These signs may be located off-site under the following provisions:
      - 1. Signs shall only be allowed at major highway intersections and shall not be located in a public right-of-way or block visibility at any intersection.
      - 2. Two public information sign panels (each for a different organization) may be placed on a single location.
  - (3) *Special event signs.*
    - a. The Town Manager and/or town council shall approve the location, number, and length of time the sign may be displayed.

- b. Off-premises special event signs shall be allowed with the written consent of the property owner.
  - c. On-site or off-site special event signs shall be limited to 20 square feet.
  - d. An off-premises special event sign may be issued that has advertisements for local businesses as long as the sign is displayed in exchange for charitable contributions for the purposes of funding nonprofit initiatives (i.e., boardwalk makeover sign with advertisements for sponsors).
- (c) *Permitted signage in all commercial zones.* The following signs shall be permitted in all commercial zones (CBD, NB HB, MB-1, I-1, T-1, MF, and MX zoning districts):
- (1) *Attached signs.*
    - a. Attached signs shall be allowed on all sides of a business. The total allowable building face signage shall not exceed 25 percent of the front building face and may be apportioned among any/all building faces. A building face shall be measured from ground level at the foundation to the roof overhang (or junction of roof and front wall line) and from side to side of building.
    - b. If utilized, projecting signage shall have a clearance of at least ten feet between the adjacent ground level and the lowest portion of the sign. No attached sign shall project more than four feet from the building facade. In the CBD, where buildings are adjacent to a right-of-way a projecting sign shall be allowed to encroach up to two feet.
    - c. Canopy/awning sign shall be considered as attached signs. In no instance shall a canopy/awning sign exceed the canopy awning area.
  - (2) *Construction signs.* Construction signs shall be permitted as described in subsection (a)(1) of this section with size limitations of 40 square feet in area and 15 feet in height.
  - (3) *Directional signs.*
    - a. *On-premises directional signs.*
      - 1. On-premises directional signs shall be limited to four square feet and three feet in height.
      - 2. Directional signs at shopping centers may contain the name of the shopping center but not the names of the individual businesses within the shopping center.
      - 3. For every driveway cut, two directional signs shall be allowed on private property adjacent to the right-of-way.
    - b. *Off-premises parking signs.*
      - 1. The maximum size shall be one foot by two feet.
      - 2. Off-premises parking signs may only delineate the name of the business, logo, and distance the business is from the site of the sign, no other advertisement of products or services is permitted.
      - 3. Off-premises parking signs shall not be lighted.
  - (4) *Permanent freestanding signs.*
    - a. Maximum size equals one-half a square foot of sign area per one linear foot of road frontage or 25 square feet per commercial and/or residential unit located on the development site, whichever is greater, but not to exceed the below requirements.

Type of Development	Max. Area Per Face
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Multi-Family Residential	50
Nonresidential up to 2,500 sq. ft. of building area	50
Nonresidential 2,500 sq. ft. up to 15,000 sq. ft. of building area	64
Nonresidential greater than 15,000 sq. ft. of building area	100

- b. Maximum height of 20 feet in the CBD, NB, MB-1, T-1, MF, and MX zoning districts.
- c. Maximum height of 25 feet in the HB and I-1 zoning districts.
- d. A permanent freestanding sign shall have a minimum setback of ten feet from all property lines.

(5) *Temporary attached and freestanding sign regulations.*

- a. Each business shall be allotted one temporary freestanding or attached sign yearround. Permits for temporary signage shall be issued annually with the following limitations:
  - 1. A-frame signs not exceeding eight square feet per side in area with a maximum height of four feet.
  - 2. Portable signs not exceeding ten square feet and five feet in height.
  - 3. Banner signs not exceeding 24 square feet and 15 feet in height.
  - 4. Commercial flagging shall be limited to 24 square feet and shall have the same height restrictions as permanent freestanding signs.
  - 5. Future development signs shall be limited to 30 square feet and 15 feet in height.
- b. Temporary signs may be placed on public sidewalks in the CBD. No temporary sign shall be placed where the unobstructed space for the passageway of pedestrians is reduced to less than 4½ feet.

(6) *Open signs.* Each business shall be allowed one attached open sign and one open flag. An attached open sign shall not exceed four square feet. Open flags shall not exceed 15 square feet.

(Code 1986, app. A, § 11.6; Ord. No. 10-825, 4-13-2010; Ord. No. 11-857, 1-11-2011; Ord. No. 11-866, 5-10-2011; Ord. No. 11-871, 7-12-2011; Ord. No. 12-888, 6-12-2012; Ord. No. 12-899, 8-14-2012)

Sec. 40-233. - Nonconforming signs, illegal signs, violations and penalties.

All signs shall be subject to article XIV of this chapter, nonconforming situations, and article XV of this chapter, administration, enforcement, and review.

(Code 1986, app. A, § 11.7; Ord. No. 10-825, 4-13-2010; Ord. No. 12-888, 6-12-2012)

Secs. 40-234—40-259. - Reserved.



## AGENDA ITEM

Meeting: Planning and Zoning - 10 Jan 2019

Prepared By: Miles Murphy

Department: Planning

### **Text Amendment: To amend Chapter 40 Article III Sec. 40-72 and Article IX Sec. 40-261 to allow for the operation of a distillery in the Central Business (CBD) Zoning District (Commercial 1.1, Commercial 2, Boardwalk – 2007 LUP) and the Industrial (I-1) Zoning District (Industrial – 2007 LUP) of the Town of Carolina Beach**

#### **BACKGROUND:**

In August, two applicants approached the Town of Carolina Beach to inquire about opening a distillery to sell a Carolina Beach themed rum. They chose to apply for a Text Amendment and at the December meeting of Town Council their amendment was adopted. At this meeting, Town Council directed staff to investigate expanding the ordinance to permit the operation of breweries and distilleries in the CBD, HB, and I-1 Zoning, so long as ABC and CB regulations prevent operation as a bar without first applying for a Conditional Use Permit.

Any brewery or distillery would have to follow the guidelines set forth for the operation of a brewery or distillery in **§ 18B-1104** (Attachment 2), **§ 18B-1105** (Attachment 2.1), and **§ 18B-1114.7** (Attachment 2.2), apply for an ABC Commercial Permit (Attachment 2.3), and adhere to any other State, County, or Local restrictions on Distilleries.

#### **ACTION REQUESTED:**

1. Open the hearing for public comment.
2. Close public comment.
3. Consider the approval or denial of the proposed text amendment and make a motion according to the appropriate statement.

Approval – The Commission, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article III Sec. 40-72 and Article IX Sec. 40-261 to allow for the operation of breweries and distilleries in the Central Business (CBD) Zoning District (Commercial 1.1, Commercial 2 – 2007 LUP) and the Industrial (I-1) Zoning District (Industrial – 2007 LUP) of the Town of Carolina

Beach is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. (If applicable - List any recommended restrictions or requirements)

Denial – The Commission deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

**COMMITTEE  
RECOMMENDATION:**

Staff recommends that the use of Brewery and Distillery be added as a by-right use in the CBD and I-1 Zoning Districts as they are in line with the current LUP and Zoning Ordinances of Carolina Beach. Staff recommends placing one additional restrictions on breweries and none on distilleries beyond those already placed upon them by NC G.S. and the ABC, and the Zoning Requirements placed on every development in the CBD and I-1 zoning districts. That restriction is detailed in the proposed ordinance.

**ATTACHMENTS:**

- [Proposed Ordinance \(Attachment 4\)](#)
- [Chapter 18B NC GS 1104 Brewery \(Attachment 2\)](#)
- [Chapter 18B NC GS 1105 Distillery \(Attachment 2.1\)](#)
- [Chapter 18B NC GS 1114.7 Tasting \(Attachment 2.2\)](#)
- [ABC Commercial Permit Application \(Attachment 2.3\)](#)
- [Regional Comparisons \(Attachment 2.4\)](#)
- [In the News \(Attachment 2.5\)](#)
- [I-1 \(Attachment 2.6\)](#)
- [CBD \(Attachment 2.7\)](#)
- [SB 155 - 2017 \(Attachment 3\)](#)
- [HB 500 - 2017 \(Attachment 3.1\)](#)

**STANDARDS FOR BREWERIES AND DISTILLERIES**



**ORDINANCE NO \_\_\_\_\_**

**Amend Chapter 40 Zoning Article III, Sec. 40-72 Table of Permitted Uses and Article IX, Sec. 40-261 Development Standards for Particular Uses**

**Article IX Development standards for particular uses, Sec. 40-261**

*Breweries.*

(2) *Standards for breweries:*

- a. No outdoor production operation shall be visible from adjacent properties or rights-of-way.
- b. Breweries may provide on premises-consumption of malt-beverage or unfortified wines that are not manufactured on site.
- c. Shall comply with all provisions of the ABC Commission, if applicable. Any brewery establishment that receives a permit from the ABC Commission as a private club shall be considered a bar/tavern and shall meet all requirements for that use.
- d. Breweries located in the [Central Business \(CBD\) and](#) Highway Business (HB) shall be limited to 6,000 square feet of indoor gross floor area.
- e. No outdoor production operation shall be visible from adjacent properties or rights-of-way.

*Distillery*

An establishment which meets the definition of distillery shall be permitted in the [CBD, HB, and I-1](#) zoning districts by right and otherwise must adhere to all State and Local ABC, Building, and Zoning requirements.

**Article III, Sec 40-72 Table of Permitted Uses**

Sec 40-72. Table of Permissible Uses														
TABLE INSET:		C = May be permitted with												
P = Permitted		Conditions												
TABLE INSET:														
USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
<b>Non-Residential Uses</b>														
Distillery									<u>P</u>		P			<u>P</u>

Sec 40-72. Table of Permissible Uses														
TABLE INSET:														
P = Permitted														
C = May be permitted with Conditions														
TABLE INSET:														
USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
<b>Manufacturing, Assembly, and Processing</b>														
Breweries									P		P			P

Adopted this 12<sup>th</sup> day of February, 2019.

\_\_\_\_\_  
 Joeseph Benson, Mayor

Attest: \_\_\_\_\_  
 Kimberly Ward, Town Clerk

**§ 18B-1104. Authorization of brewery permit.**

- (a) Authorized Acts. – The holder of a brewery permit may:
- (1) Manufacture malt beverages.
  - (2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages.
  - (3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State. However, nothing in this subdivision shall prohibit the holder of a brewery permit from selling malt beverages to a nonresident wholesaler, nonresident malt beverage vendor, bottler, or other similar party for resale in this State if the malt beverages are shipped from the brewery to wholesalers licensed under this Chapter.
  - (4) Receive malt beverages manufactured by the permittee in some other state for transshipment to (i) dealers in other states or (ii) wholesalers licensed under this Chapter as authorized by the ABC laws.
  - (5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State.
  - (6) Give its products to customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery.
  - (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).
  - (7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this subsection, any or all of the following:
    - a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
    - b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.



- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.
- (7a) In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.
- (b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.
- (c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.
- (d) Sales Report Upon Commission Request. – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:
- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.

- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) Definition. – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1985, c. 596, s. 2; 1989, c. 800, s. 4; 1991 (Reg. Sess., 1992), c. 920, s. 9; 1993, c. 415, s. 20; 2003-430, s. 1; 2004-203, s. 29; 2011-107, s. 2; 2011-419, s. 1; 2015-98, s. 7; 2017-87, ss. 8, 12-16(a).)

G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) **Sales Report Upon Commission Request.** – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) **Definition.** – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1985, c. 596, s. 2; 1989, c. 800, s. 4; 1991 (Reg. Sess., 1992), c. 920, s. 9; 1993, c. 415, s. 20; 2003-430, s. 1; 2004-203, s. 29; 2011-107, s. 2; 2011-419, s. 1; 2015-98, s. 7; 2017-87, ss. 8, 12-16(a).)

**§ 18B-1105. Authorization of distillery permit.**

- (a) The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
  - (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
  - (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
  - (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor

sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.

(5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.

(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm the holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's distillery permit until the Commission receives notice from the Department of Revenue that the person is in compliance. (1979, 2nd Sess., c. 1329, s. 1; 1981, c. 412, s. 2; 1989, c. 800, s. 5; 2012-201, s. 10; 2015-98, s. 4(a); 2015-262, s. 3(a); 2017-87, ss. 1(a), 16(b).)

**§ 18B-1105.1. Authorization of liquor importer/bottler permit.**

The holder of a liquor importer/bottler permit may:

- (1) Receive spirituous liquor in closed containers into foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for the purpose of bottling, packaging, or labeling.
- (2) Bottle, package, or label in this State spirituous liquor imported or received into a foreign trade zone pursuant to this section.
- (3) Receive spirituous liquor in closed containers into the foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for storage, sale, shipment, and transshipment to the State or a local ABC board warehouse or, subject to the laws of other jurisdictions, to private or public agencies or establishments of other states or nations.
- (4) Subject to the record-keeping requirements of G.S. 18B-1115, transport into or out of the foreign trade zones at the State Port facilities in Morehead City and Wilmington, the maximum amount of liquor allowed under federal law, if the transportation is related to the bottling, packaging, labeling, sale, or storage permitted by this section. (1995, c. 404, s. 1.)

**§ 18B-1106. Authorization of wine importer permit.**

(a) Authorization. – The holder of a wine importer permit may:

- (1) Manufacture malt beverages on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of malt beverages.
- (2) Possess malt beverages manufactured during the brewing, distillation, and fermentation program for the purpose of conducting malt beverage tasting seminars and classes for students who are 21 years of age or older.
- (3) Sell malt beverages produced during the course to wholesalers or to retailers upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109, except that the permittee may not receive shipments of malt beverages from other producers.
- (4) Sell malt beverages produced during the course, upon obtaining a permit under G.S. 18B-1001(2).

(b) **Limitation.** – Authorization for a brewing, distillation, and fermentation course shall be granted by the Commission only for a community college or college that offers a brewing, distillation, and fermentation program as a part of its curriculum offerings for students of the school. For purposes of this section, the term "brewing, distillation, and fermentation program" includes a fermentation sciences program offered by a community college or college as part of its curriculum offerings for students of the school.

(c) **Malt Beverage Special Event Permit.** – The holder of a brewing, distillation, and fermentation course authorization who obtains a malt beverages wholesaler permit under G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may participate in approved events and sell at retail at those events any malt beverages produced incident to the operation of the brewing, distillation, and fermentation program. The holder of a brewing, distillation, and fermentation course authorization may participate in not more than six malt beverage special events within a 12-month period and may sell up to 64 cases of malt beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes of this subsection, a "case of malt beverages" is a package containing not more than 24 12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt beverages pursuant to this subsection shall be retained by the school and used for support of the brewing, distillation, and fermentation program.

(d) **Limited Application.** – The holder of a brewing, distillation, and fermentation course authorization shall not be considered a brewery for the purposes of this Chapter or Chapter 105 of the General Statutes. (2014-120, s. 17(a).)

**§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

(a) **Authorization.** – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) **Limitations.** – Any consumer tasting is subject to the following limitations:

- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.

- (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
- (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
- (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
- (6) The permit holder shall not charge a consumer for any tasting sample.
- (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
- (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
- (9) The permit holder may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting.
- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time. (2017-87, s. 2(c).)

**§ 18B-1115. Commercial transportation.**

(a) Permit Required. – Unless a person holds a permit which otherwise allows him to transport more than 80 liters of malt beverages other than draft malt beverages in kegs, 50 liters of unfortified wine, or eight liters of fortified wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages under G.S. 18B-405, each person transporting alcoholic beverages in excess of those quantities shall have the permit described in this section.

(b) When Transportation Legal. – No person may obtain a permit under this section to transport spirituous liquor unless the transportation is for delivery to a federal reservation over which North Carolina has ceded jurisdiction to the United States, for delivery to an ABC store, or for transport through this State to another state.

(c) Common Carriers. – Railroad companies and other common carriers having regularly established schedules of service in this State may transport alcoholic beverages into, out of, and between points in this State without a permit. Those companies shall keep accurate records of the character, volume and number of containers transported and shall allow the Commission and

**NORTH CAROLINA  
ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Location: 400 EAST TRYON ROAD  
RALEIGH NC 27610  
(919) 779-0700  
abc.nc.gov

MAIL TO ADDRESS ON BACK OF FORM

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**HOW TO APPLY FOR AN ABC COMMERCIAL PERMIT**

**I. INSTRUCTIONS**

- A. Complete this application in its entirety. It must be signed and notarized.
- B. The correct fee(s) must accompany the application. Payment must be by a certified check, cashier's check or money order and made payable to the North Carolina ABC Commission.
- C. Include one (1) completed fingerprint card for each person participating in the business who is required to submit an application. A required fingerprint-processing fee of \$38.00 per person may be added with the permit fee in a single check.
- D. Include a copy of the lease or rental agreement, or a registered copy of the deed, specifying the applicant(s) as lessee/owner. This document must include the address or property description of the business. The lease/rental agreement must include the effective beginning date of the agreement.
- E. The following additional documents are required:
  1. A completed Inspection/Zoning Compliance Form (Form NC ABC-002).
  2. A detailed diagram of the premises to be covered by the ABC permit.
  3. Prior to the issuance of a permanent ABC permit, a copy of the Federal Basic Permit or Brewers Notice must be submitted.
  4. **Corporations** – Articles of Incorporation.
  5. **LLC's** – Articles of Organization. If manager managed, a copy of the operating agreement must be submitted. If LLC is managed by an outside entity, a management contract must be submitted.
  6. **Wine Grower Applicants** – Wine grower applicants must include a copy of the deed for the qualifying farm, stating the address of the farm and one of the following:
    - a. A survey indicating the areas and acreage used in the production of grapes (the more details the better); or
    - b. An affidavit stating that you are a farm of at least five acres committed to the production of grapes, listing the acreage used for the production of grapes and its function.
  7. **Liquor Importer/Bottler** – A liquor importer/bottler must include a separate sheet of paper describing the operations of the business. Please indicate the location address of any storage facility or bottling plant, if different than the address shown on the permit application, and any associated federal permit numbers.
  8. **Air Carrier** – An air carrier must include a separate sheet of paper indicating the names and location address of the airport(s) where products will be stored and sold.
  9. **Wine Shipper** – Wine shippers must submit a completed "Wine Shipper Brand Listing".
- F. **Change in Ownership** – All permits for an establishment shall automatically expire and shall be surrendered to the Commission if:
  1. Ownership of the establishment changes; or
  2. A change in the membership of the firm, association or partnership owning the establishment, involving the acquisition of twenty-five percent (25%) or greater interest in the firm, association or partnership by someone who did not previously own twenty-five percent (25%) or greater interest; or
  3. Twenty-five percent (25%) or more of the stock of the corporate permittee owning the establishment is acquired by someone who did not previously own twenty-five percent (25%) or more of the stock.
- G. **Change in Location** – An ABC permit cannot be transferred from one location to another. Therefore, if you relocate your business, you must apply for ABC permits at the new location.
- H. **Changes Within Establishment** – (Other than changes in ownership.)

- 1. LLC Manager Change – Each new manager must complete an application and qualify for ABC permits. No fee is required.
  - 2. Corporate Officer Change – Each new officer must complete an application and qualify for ABC permits. No fee is required.
- I. **NOTE:** A separate permit must be obtained at each location where business will be conducted.

**II. WHO MUST FILE**

- A. **Individual Operation** – The individual owner of the business is required to file an application.
- B. **General Partnership Operation** – Each partner is required to file a separate application.
- C. **Limited Partnership** – The general partner(s) is required to file an application.
- D. **Corporation** – Each officer, manager and any stockholder owning 25% or more of the stock must file separate applications. (**NOTE:** Articles of Incorporation must be submitted.)
- E. **Limited Liability Company (LLC)** – If member managed, all members owning a 25% or greater interest must file; or, if no one owns a 25% interest, the managing members must file. If manager managed, the person or persons acting as manager on behalf of the LLC must file, in addition to any member who owns a 25% or greater interest in the company. (**NOTE:** Articles of Organization must be submitted.)
- F. If a 25% interest holder in an LLC or a corporate stockholder is another business entity (partnership, corporation, or LLC), a partner, an officer or member of that entity must complete the application on behalf of that business entity.
- G. **Corporations, LLC’s and Limited Partnerships** – Indicate name and address of registered agent and office.
- H. **Non-Residents (Individual or Partnership)** – Each non-resident individual or partner shall file as required above. In addition, a resident manager shall be appointed by the non-resident applicant as attorney-in-fact for the business. This manager shall also complete the required application. A certified copy of an executed power-of-attorney, which shall be registered with the Register of Deeds in the county where the proposed licensed premises is located, shall be submitted with the application.

**III. FEES**

All application fees must be submitted by a *certified check, cashier’s check, or money order*, and made *payable to the North Carolina ABC Commission*. All fees are deposited with the State Treasurer, and no provisions are made for refunds whether the application is approved, rejected or withdrawn.

TYPES OF PERMITS	FEE REQUIRED
1..... Unfortified Winery .....	\$300.00
2..... Fortified Winery .....	\$300.00
3..... Limited Winery .....	\$300.00
4..... Brewery .....	\$300.00
5..... Distillery .....	\$300.00
6..... Fuel Alcohol .....	\$100.00
7..... Wine Importer .....	\$300.00
8..... Wine Wholesaler .....	\$300.00
9..... Malt Beverages Importer .....	\$300.00
10..... Malt Beverages Wholesaler .....	\$300.00
11..... Bottler .....	\$300.00
12..... Winery Special Event .....	\$200.00
13..... Cider and Vinegar Manufacturer .....	\$200.00
14..... Wine Producer .....	\$300.00
15..... Liquor Importer/Bottler .....	\$500.00
16..... Air Carrier .....	No fee
17..... Wine Shipper .....	No fee
18..... Spirituous Liquor Warehouse .....	No fee
19..... Malt Beverage Special Event.....	\$200.00
20..... Spirituous Liquor Tasting.....	\$100.00
21..... Spirituous Liquor Special Event .....	\$200.00



NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION APPLICATION FOR AN ABC COMMERCIAL PERMIT

Amount Fee Paid

Temporary # Date Issued Exp. Date

Date Rec'd: Rec'd By:

Application # Approved Rejected By Date

Do Not Write Above This Line

County in which business is located

Reason for Application: New Business Additional Location New Officer Additional Permit Ownership Change Address Change New Manager (LLC)

I hereby make application to the North Carolina Alcoholic Beverage Control Commission for the following permit(s):

Check Appropriate Block(s).

- Unfortified Winery Fortified Winery Limited Winery Brewery Distillery Fuel Alcohol Wine Importer Wine Wholesaler Malt Beverages Importer Malt Beverages Wholesaler Bottler Winery Special Event Cider & Vinegar Manufacturer Wine Producer Malt Beverage Special Event Liquor Importer/Bottler Air Carrier Wine Shipper (wineries only) Spirituous Liquor Warehouse Spirituous Liquor Tasting Spirituous Liquor Special Event

TYPE OF OWNERSHIP (Check One):

- Individual Partnership Limited Partnership Limited Liability Company Corporation Nonresident Individual or Partnership

Section A

Trade Name of Business Location Address of Business Mailing Address of Business

Section B

Applicant's Full Name Resident Address Date of Birth Social Security # Home Telephone # Business Telephone # Daytime Telephone # Fax # Email Address

Section C

If Incorporated, Corporate Name If Incorporated, position in Corporation: President Vice President Secretary Treasurer Manager Stockholder - % of Stock (25% or more) If 25% or more stockholder is another business entity, name of entity: Applicant's position in business entity:

Section D

If LLC, Company Name Form of Management: Member-Managed Manager-Managed Site Manager If 25% or more interest is another business entity, name of entity: Applicant's position in business entity:

**Section E**

If Limited Partnership, Limited Partnership Name \_\_\_\_\_  
General Partner Name \_\_\_\_\_

If General Partner is a Corporation, position in Corporation:  President  Vice President  Secretary  
 Treasurer  Manager  Stockholder - % of Stock \_\_\_\_\_  
(25% or more)

**Section F**

Corporations, Ltd. Partnerships, and LLC's  
Registered Agent \_\_\_\_\_  
Registered Agent Mailing Address \_\_\_\_\_  
Street Address/PO Box \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Registered Agent Location Address \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Section G**

Nonresident Individual (Sole Proprietorship) or Partnership Attorney-In-Fact \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Location Address \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

*It is a Crime to make a false statement to obtain an ABC Permit*

**I CERTIFY UNDER OATH OR AFFIRMATION THAT:**

- The information on this application is correct to the best of my knowledge.
- I am not less than 21 years of age (except for a manager of a business selling only malt beverages and unfortified wine, or a manager of an establishment operated by a corporation holding off premise permits for malt beverage and unfortified wine, in which case I certify that I am not less than 19 years of age.
- I have not been convicted of a misdemeanor controlled substance offense nor an alcoholic beverage offense within the past two years.
- I have not been convicted of a felony within the past three years, and if convicted of a felony before then, I have had my citizenship restored.
- **NOTE:** Conviction is defined as "A person who has been "convicted" and found guilty, or has entered a plea of guilty or nolo contendere, and for which a judgment has been entered."
- I have had no alcoholic beverage permit revoked within three years.
- I am a resident of the state of North Carolina (except for an officer or stockholder of a corporate applicant not responsible for the day to day operation of the business, or an applicant that has executed a power of attorney in accordance with G.S. 18B-900(a)(2)(b).
- I am an owner or lessee of the premises to be covered by the ABC permit(s).
- I am not an officer, director or affiliate nor do I have any interest in, or receive from, or pay any profits or salary to any N.C. retail malt beverage or wine business, except as authorized by North Carolina Law for a N.C. winery and N.C. brewery, as provided in General Statute Chapter 18B, Article 11.

\_\_\_\_\_  
Signature of Individual Filing Application Date

Sworn to and subscribed before me this the \_\_\_\_\_  
Day Month Year

My commission expires \_\_\_\_\_  
Notary or other person qualified by law to administer oaths

**MAIL THIS APPLICATION TO:**

If sending by U.S. Postal Service (regular mail):

NC ABC COMMISSION  
4307 MAIL SERVICE CENTER  
RALEIGH NC 27699-4307

If sending by U.S. Postal Service **EXPRESS**  
**MAIL** or by FEDEX/UPS:

NC ABC COMMISSION  
400 EAST TRYON ROAD  
RALEIGH NC 27610

Regional Comparisons:

Manteo – Craft distillery. An independently-owned distillery with maximum annual sales of 52,500 cases where the product is distilled and bottled on site.

1. 1 case = 12 quantity 750 ml bottles of 80 proof, or the equivalent amount of alcohol
2. The principal distiller defines the house style and oversees all aspects of production.
3. Facilities shall include a tasting room.
4. Facilities shall have a designated loading area.
5. Applicant must provide an approved waste design prior to issue of building permit.

Kinston – Section 7.31. - Microbrewery/distillery.

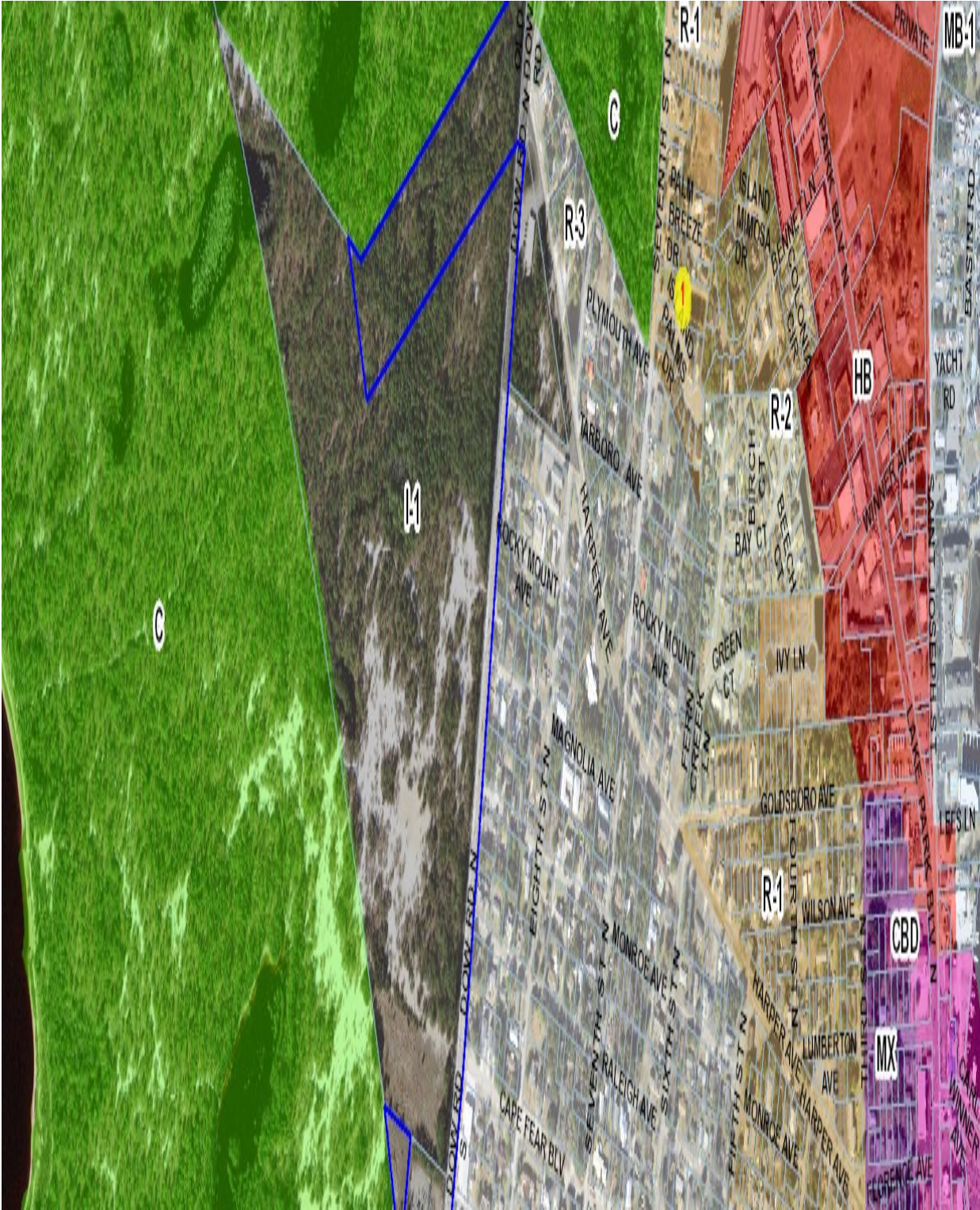
An establishment that meets the definition of a microbrewery or distillery shall be permitted in accordance with section 6.5, provided it meets the requirements of NC G.S. 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

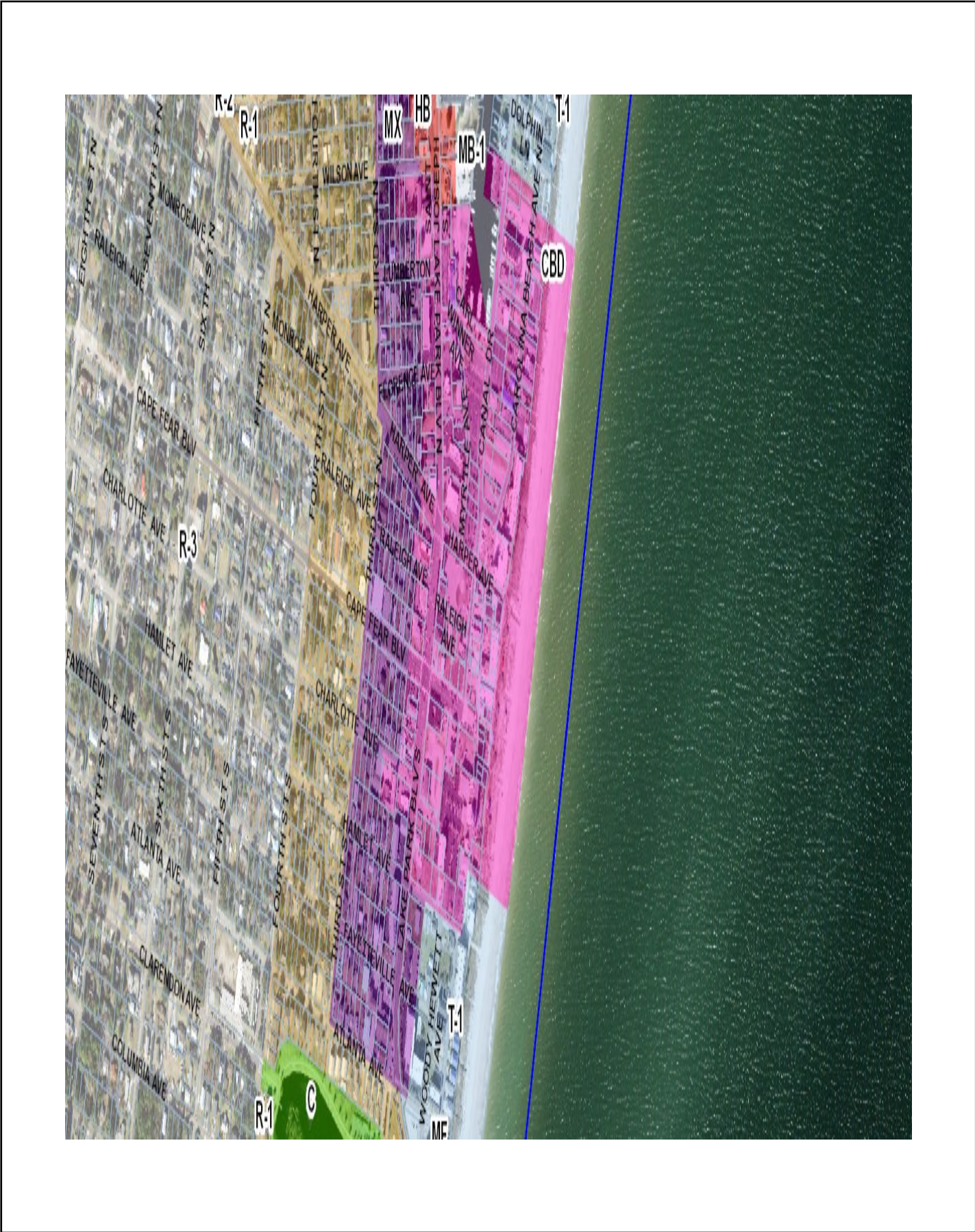
Wilmington – No specific regulations beyond commercial zoning standards and artisan food and beverage producers

Durham – Micro-distillery: A distillery that produces no more than 50,000 US gallons per year. Other typical names include, but are not limited to, “craft distillery,” “small batch distillery,” and “artisan distillery.” Considered Light Industrial – No specific restrictions

### In the News (2018):

- In Mount Pleasant a distillery operates out of a former prison - <https://www.cnn.com/travel/article/southern-grace-prison-distilleries/index.html>
- Mount Pleasant distillery credits Craft Beverage Modernization and Tax Reform Act for Recent Expansion - <https://www.prnewswire.com/news-releases/nc-whiskey-distillery-credits-craft-beverage-modernization-and-tax-reform-act-for-recent-expansion-300636732.html>
- Author Kathleen Purvis's book 'Distilling the South' and North Carolina's craft distilleries prove you do not have to go far for world-class booze - <https://indyweek.com/food-and-drink/features/author-kathleen-purvis-s-distilling-south-north-carolina-s-craft-distilleries-prove-go-far-world-class-booze/>
- Greensboro distillery, Fainting Goat Spirits, won a medal in the American Craft Spirits Awards in Pittsburgh - [https://www.greensboro.com/blogs/short\\_orders/greensboro-distillery-wins-medal/article\\_63dd62cf-da67-527d-bf1c-2c58dd0e0e37.html](https://www.greensboro.com/blogs/short_orders/greensboro-distillery-wins-medal/article_63dd62cf-da67-527d-bf1c-2c58dd0e0e37.html)
- Six things to know about North Carolina Distilling - <https://www.charlotteobserver.com/living/food-drink/article213455174.html>





**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SENATE BILL 155  
RATIFIED BILL**

**AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE  
CONTROL COMMISSION LAWS.**

The General Assembly of North Carolina enacts:

**DISTILLERY PERMIT AMENDMENTS**

**SECTION 1.(a)** G.S. 18B-1105 reads as rewritten:

**"§ 18B-1105. Authorization of distillery permit.**

- (a) Authorized Acts. – The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
  - (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
  - (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
  - (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than ~~one bottle~~ five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.
  - (5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.
- (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

**SECTION 1.(b)** G.S. 18B-804 is amended by adding a new subsection to read:



**"§ 18B-804. Alcoholic beverage pricing.**

(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:

- (1) The distiller's or the antique spirituous liquor seller's price.
- (2) The freight and bailment charges of the State warehouse as determined by the Commission.
- (3) A markup for local boards as determined by the Commission.
- (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).
- (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).
- (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (6a) The bailment surcharge.
- (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.
- (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.
- (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.

(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2."

**SECTION 1.(c)** G.S. 18B-800 reads as rewritten:

**"§ 18B-800. Sale of alcoholic beverages in ABC stores.**

(a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

...."

**SECTION 1.(d)** The Alcoholic Beverage Control Commission shall adopt temporary rules to amend its rules consistent with this section.

**SECTION 1.(e)** This section becomes effective July 1, 2017.

**CREATE SPIRITUOUS LIQUOR SPECIAL EVENT PERMIT TO ALLOW DISTILLERIES TO GIVE FREE TASTINGS**

**SECTION 2.(a)** G.S. 18B-301 reads as rewritten:

**"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.**

...



(e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.

(f) Unlawful Possession or Use. – As illustration, but not limitation, of the general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

- (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another ~~person~~person at any of the following places:
  - a. On the premises of an ABC ~~store, or store.~~
  - b. Upon any property used or occupied by a local ~~board, or board.~~
  - c. On any public road, street, highway, or ~~sidewalk, sidewalk,~~ unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

...."

**SECTION 2.(b)** G.S. 18B-902(d) is amended by adding new subdivisions to read:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.
- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.
- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.

- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
- (37) Wine shop permit – \$100.00.
- (38) Winemaking on premises permit – \$400.00.
- (39) Wine shipper packager permit – \$100.00.
- (40) Malt beverage special event permit – \$200.00.
- (41) Malt beverage tasting permit – \$100.00.
- (42) Spirituous liquor tasting permit – \$100.00.
- (43) Antique spirituous liquor permit – \$100.00.
- (44) Spirituous liquor special event permit – \$200.00.
- (45) Special auction permit – \$750.00."

**SECTION 2.(c)** Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitations. – Any consumer tasting is subject to the following limitations:

- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
- (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
- (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
- (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
- (6) The permit holder shall not charge a consumer for any tasting sample.
- (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
- (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
- (9) The permit holder may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting.

- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

**ALLOW SALE OF SPECIFIED ALCOHOLIC BEVERAGES AT AUCTION BY LICENSED AUCTIONEERS**

**SECTION 3.(a)** G.S. 18B-603(f) reads as rewritten:

**"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.**

...

(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion ~~permits;~~permits.
- (2) Limited special occasion ~~permits;~~permits.
- (3) Brown-bagging permits for private clubs and congressionally chartered veterans ~~organizations;~~organizations.
- (4) Culinary permits, except as restricted by ~~subdivision (d)(5);~~subdivision (d)(5).
- (5) Special one-time permits issued under ~~G.S. 18B-1002;~~G.S. 18B-1002.
- (6) All permits listed in ~~G.S. 18B-1100;~~G.S. 18B-1100.
- (7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC ~~establishments;~~establishments.
- (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ~~resorts;~~resorts.
- (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments.
- (10) Special auction permits issued under G.S. 18B-1002.1."

**SECTION 3.(b)** G.S. 18B-1002(a)(4) reads as rewritten:

"(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

...

- (4) A permit may be issued to a collector of ~~wine or wine,~~ decorative decanters of spirituous ~~liquor~~liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission."

**SECTION 3.(c)** Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1002.1. Special auction permit.**

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online.

(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit. Any sales under this permit are subject to the purchase restrictions in G.S. 18B-303.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

**SECTION 3.(d)** This section becomes effective October 1, 2017.

**ALLOW THE SALE OF ALCOHOLIC BEVERAGES BEFORE NOON ON SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL**

**SECTION 4.(a)** G.S. 18B-1004(c) reads as rewritten:

**"§ 18B-1004. Hours for sale and consumption.**

...

(c) Sunday Hours. – ~~Except as authorized pursuant to G.S. 18B-112(b1), 153A-145.7, or 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~"

**SECTION 4.(b)** Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-145.7. Hours of certain alcohol sales.**

In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

**SECTION 4.(c)** Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-205.3. Hours of certain alcohol sales.**

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

**SECTION 4.(d)** G.S. 18B-112 is amended by adding a new subsection to read:

"(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d)."

**AUTHORIZE SALE OF CROWLERS BY RETAIL PERMITTEES**

**SECTION 5.(a)** G.S. 18B-1001 reads as rewritten:

**"§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.

- c. Eating ~~establishments;~~establishments.
  - d. Food ~~businesses;~~businesses.
  - e. Retail ~~businesses;~~businesses.
  - f. Private ~~clubs;~~clubs.
  - g. Convention ~~centers;~~centers.
  - h. Community ~~theatres;~~theatres.
  - i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items

transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
  - b. ~~Hotels;~~Hotels.
  - c. ~~Eating establishments;~~Eating establishments.
  - d. ~~Private clubs;~~Private clubs.
  - e. ~~Convention centers;~~Convention centers.
  - f. ~~Cooking schools;~~Cooking schools.
  - g. ~~Community theatres;~~Community theatres.
  - h. ~~Wineries;~~Wineries.
  - i. Wine producers.
- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in

G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- ...
- (16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages or unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

...."

**SECTION 5.(b)** The Alcoholic Beverage Control (ABC) Commission shall adopt rules to implement the provisions of this section by no later than 120 days after this act becomes law. The ABC Commission may adopt temporary rules to comply with the deadline set in this subsection. Any temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

**AUTHORIZE OFF-SITE STORAGE LOCATION FOR BREWERIES, WINERIES, AND DISTILLERIES**

**SECTION 6.** Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1120. Noncontiguous storage locations.**

A brewery, winery, or distillery may store any alcoholic beverages it manufactures pursuant to a permit issued under this Article at a noncontiguous storage location approved by the Alcohol and Tobacco Tax and Trade Bureau. The permittee must notify the Commission of any storage location used pursuant to this section. Any storage location used pursuant to this section shall be considered part of the premises of the brewery, winery, or distillery manufacturing the alcoholic beverages."

**AUTHORIZE SALE OF UNFORTIFIED WINE ON PREMISES BY RETAIL BUSINESSES**

**SECTION 7.** G.S. 18B-1001(3), as amended by Section 5 of this act, reads as rewritten:

- "(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...  
 i. Retail businesses."

#### **AUTHORIZE TASTINGS DURING BREWERY TOURS**

**SECTION 8.** G.S. 18B-1104(6) reads as rewritten:

**"§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

- ...  
 (6) Give its products to ~~its employees and guests~~ customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery."

#### **AUTHORIZE CERTAIN PERSONS TO SAMPLE ALCOHOLIC BEVERAGES FOR PURPOSES OF SENSORY ANALYSIS, QUALITY CONTROL, OR EDUCATION**

**SECTION 9.** Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1121. Authority to sample for sensory analysis, quality control, or educational purposes.**

Except as otherwise prohibited under Article 3 of this Chapter, a commercial permittee licensed under this Article, or its agent or employee, may consume samples of alcoholic



beverages it is licensed to sell, free of charge, on its premises for purposes of sensory analysis, quality control, or education."

#### **AMEND HOMEBREWING LAWS**

**SECTION 10.** G.S. 18B-306 reads as rewritten:

**"§ 18B-306. Making wines and malt beverages for private use.**

(a) Authority. – An individual may make, possess, and transport native wines and malt beverages for his-the individual's own use and for use, the use of his-the individual's family and guests. Native wines shall be made principally from honey, grapes, or other fruit or grain grown in this State, or from wine kits containing honey, grapes, or other fruit or grain concentrates, and shall have only that alcoholic content produced by natural fermentation. Malt beverages may be made by use of malt beverage kits containing grain extracts or concentrates.guests, or the use at organized affairs, exhibitions, or competitions. For purposes of this section, the term "organized affairs, exhibitions, or competitions" includes homemaker's contests, tastings, and judgments.

(b) Selling Prohibited. – Wines and malt beverages made pursuant to this section may not be sold or offered for sale.

(c) Kits. – Wine kits and malt beverage kits may be sold in this State.

(d) Permit. – No ABC permit is required to make wines or malt beverages pursuant to this section."

#### **CLARIFY LAW GOVERNING RELATIONSHIP BETWEEN BREWERIES AND AFFILIATED RETAILERS**

**SECTION 11.** G.S. 18B-1116(a) reads as rewritten:

"(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

- (1) Require that an alcoholic beverage retailer purchase any alcoholic beverages from that person to the full or partial exclusion of any other alcoholic beverages offered for sale by other persons in this State; or
- (2) Have any direct or indirect financial interest in the business of any alcoholic beverage retailer in this State or in the premises where the business of any alcoholic beverage retailer in this State is conducted; or
- (3) Lend or give to any alcoholic beverage retailer in this State or his employee or to the owner of the premises where the business of any alcoholic beverage retailer in this State is conducted, any money, service, equipment, furniture, fixtures or any other thing of value.

A brewery qualifying under ~~G.S. 18B-1104(8) to act as a wholesaler or retailer of its own malt beverages~~ G.S. 18B-1104(7) or (8) is not subject to the provisions of this ~~subsection~~ section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its ~~premises-premises or other retail locations allowed under G.S. 18B-1104(8)~~. The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

#### **AUTHORIZE BREWERY TAPROOMS TO SELL OTHER ALCOHOLIC BEVERAGES UPON RECEIVING THE APPROPRIATE PERMIT**

**SECTION 12.** G.S. 18B-1104(7) reads as rewritten:

"(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell

the at the brewery, and any additional retail location authorized under subdivision (8) of this section, any or all of the following:

- a. The brewery's malt beverages or malt beverages that have been approved by the Commission for sale in North Carolina.
- b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina only at the brewery upon receiving a permit under G.S. 18B-1001(4).Carolina.
- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area."

#### **AUTHORIZE BREWERIES WITH PRODUCTION FACILITIES IN OTHER STATES TO DISTRIBUTE TO WHOLESALERS**

**SECTION 13.** G.S. 18B-1104(4) reads as rewritten:

- "(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to (i) dealers in other states-states or (ii) wholesalers licensed under this Chapter as authorized by the ABC laws."

#### **AUTHORIZE FARM BREWERIES**

**SECTION 14.** G.S. 18B-1104 is amended by adding a new subdivision to read:

- "(7a) In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

#### **AMEND LAW GOVERNING BREWERY SALES AT ADDITIONAL RETAIL LOCATIONS**

**SECTION 15.** G.S. 18B-1104 reads as rewritten:

##### **"§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

- ...
- (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it

per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the ~~brewery~~ brewery, and malt beverages produced under subdivision (6a) of this section, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

#### **TAX COMPLIANCE AND REPORTS**

**SECTION 16.(a)** G.S. 18B-1104, as amended by this act, reads as rewritten:

**"§ 18B-1104. Authorization of brewery permit.**

(a) Authorized Acts. – The holder of a brewery permit may:

...

(6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to ~~G.S. 18B-1104(8)~~ subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this ~~section, subsection,~~ any or all of the following:

- a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
- b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.
- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.

...

(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The

authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 ~~barrels, as defined in G.S. 81A-9,~~ barrels of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this ~~section,~~ subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

(b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) Sales Report Upon Commission Request. – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) Definition. – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9."

**SECTION 16.(b)** G.S. 18B-1105 is amended by adding a new subsection to read:

"(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm the holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's distillery permit until the Commission receives notice from the Department of Revenue that the person is in compliance."

**SECTION 16.(c)** G.S. 18B-903(c1) reads as rewritten:

"(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

**SECTION 16.(d)** G.S. 18B-1001(1)i. reads as rewritten:

"i. Breweries as authorized by ~~G.S. 18B-1104(7) and (8)~~ subdivisions (7) and (8) of G.S. 18B-1104(a)."

**SECTION 16.(e)** G.S. 18B-1114.5(a) reads as rewritten:

"(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of ~~G.S. 18B-1104(8)~~, G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

**SECTION 16.(f)** G.S. 18B-1116(a), as amended by this act, reads as rewritten:

**"§ 18B-1116. Exclusive outlets prohibited.**

(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

...

A brewery qualifying under ~~G.S. 18B-1104(7) or (8)~~ subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

**SECTION 16.(g)** G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

## **SIMPLIFY LOCAL LICENSING APPLICATIONS**

**SECTION 17.** G.S. 105-113.70 reads as rewritten:

**"§ 105-113.70. Issuance, duration, transfer of license.**

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. ~~The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No documentation shall be required of the applicant except as provided in this section.~~ Issuance of a local license is mandatory if the applicant holds the corresponding ABC permit and provides all of the following: (i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. – All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. – A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. – A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article."

#### **CLARIFY WINERY SPECIAL EVENT LOCATIONS**

**SECTION 18.** G.S. 18B-1114.1 reads as rewritten:

**"§ 18B-1114.1. Authorization of winery special event permit.**

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, farmers markets, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

#### **RULES**

**SECTION 19.(a)** Except as otherwise provided, the Alcoholic Beverage Control (ABC) Commission shall adopt temporary rules to implement the provisions of this act. Temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

**SECTION 19.(b)** Any rule or policy adopted by the ABC Commission that does not comply with the provisions of this act shall be null, void, and without effect.

#### **EFFECT OF HEADINGS**

**SECTION 20.** The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

#### **EFFECTIVE DATE**

law. **SECTION 21.** Except as otherwise provided, this act is effective when it becomes  
In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June,  
2017.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

\_\_\_\_\_  
Roy Cooper  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2017

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**HOUSE BILL 500  
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE CONTROL LAWS.

The General Assembly of North Carolina enacts:

**ALLOW AN ABC PERMITTEE TO TASTE ALCOHOLIC BEVERAGES FOR QUALITY CONTROL AT PREMISES OTHER THAN THE PERMITTEE'S LICENSED COMMERCIAL PREMISES**

**SECTION 1.** G.S. 18B-1121 reads as rewritten:

**"§ 18B-1121. Authority to sample for sensory analysis, quality control, or educational purposes.**

Except as otherwise prohibited under Article 3 of this Chapter, a commercial permittee licensed under this Article, or its agent or employee, may consume samples of alcoholic beverages it is licensed to sell, free of charge, ~~on its premises~~ for purposes of sensory analysis, quality control, or ~~education~~ education on any of the following premises:

- (1) The permittee's premises licensed for commercial activity under Article 11 of this Chapter.
- (2) The permittee's premises licensed for retail activity under Article 10 of this Chapter, if the commercial permittee is authorized to hold a retail permit under Article 11 of this Chapter and the commercial permittee has obtained the appropriate retail permit under G.S. 18B-1001.
- (3) The premises of a special one-time permittee under G.S. 18B-1002.
- (4) The premises of a special event where a commercial permittee is participating pursuant to a permit issued under G.S. 18B-1114.1 or G.S. 18B-1114.5."

**CLARIFY THAT A DISTILLER REPRESENTATIVE'S PRESENCE IS NOT REQUIRED TO DESTROY DAMAGED OR DISTRESSED ALCOHOLIC BEVERAGES**

**SECTION 2.(a)** Definition. – "Distressed Liquor Rules" means 14B NCAC 15A .1603 (Requirements for Storage), 14B NCAC 15A .1604 (Prohibited Practices), and 14B NCAC 15A .1701 (Removal of Beverages from ABC Stores) for purposes of this section and its implementation.

**SECTION 2.(b)** Distressed Liquor Rules. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Distressed Liquor Rules as provided in subsection (c) of this section.

**SECTION 2.(c)** Implementation. – Notwithstanding subdivisions (6) and (7) of 14B NCAC 15A .1603, subsection (b) of 14B NCAC 15A .1604 (Prohibited Practices), and subsection (b) of 14B NCAC 15A .1701 (Removal of Beverages from ABC Stores), the Commission shall not require the presence of a distiller representative for the Commission, a privately owned bonded warehouse, or a local board to destroy distressed liquor.

**SECTION 2.(d)** The Commission shall adopt rules to amend the Distressed Liquor Rules consistent with subsection (c) of this section.





**SECTION 2.(e)** Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

**ALLOW PLACEMENT OF MIXED BEVERAGES TAX STAMP ON ANY VERTICAL PORTION OF A SPIRITUOUS LIQUOR BOTTLE**

**SECTION 3.(a)** Definition. – "Mixed Beverages Tax Stamp Rule" means 14B NCAC 15A .1901 (Mixed Beverages Tax Stamp) for purposes of this section and its implementation.

**SECTION 3.(b)** Mixed Beverages Tax Stamp Rule. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Mixed Beverages Tax Stamp Rule as provided in subsection (c) of this section.

**SECTION 3.(c)** Implementation. – Notwithstanding subsection (b) of the Mixed Beverages Tax Stamp Rule, the Commission shall not require the mixed beverages tax stamp to be affixed to the original paper labeling of each container and shall allow the mixed beverages tax stamp to be affixed to any vertical portion of the container.

**SECTION 3.(d)** The Commission shall adopt a rule to amend the Mixed Beverages Tax Stamp Rule consistent with subsection (c) of this section.

**SECTION 3.(e)** Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

**AMENDMENTS TO ESTABLISHMENT AND PREMISES DEFINITIONS FOR RETAIL PERMITTING**

**SECTION 4.(a)** G.S. 18B-1000 reads as rewritten:

**"§ 18B-1000. Definitions concerning establishments.**

The following requirements and definitions shall apply to this Chapter:

- (1) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.
- (1a) Convention center. – An establishment that meets either of the following requirements:
  - a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.
  - b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:
    1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.
    2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.

3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

- (1b) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.
- (2) Eating establishment. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify under subdivision (6). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.
- (3) Food business. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.
- (4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (5) Private club. – An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.
- (5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development.
- (6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people. If the restaurant is located on an 18-hole golf course, the premises shall include the parking lot

- and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths.
- (7) Retail business. – An establishment engaged in any retail business, regardless of whether food is sold on the premises.
- (7a) Sports and entertainment venue. – Stadiums, ballparks, and other similar facilities with a permanently constructed seating capacity of 3,000 or more which are not located on the campus of a school, college, or university.
- (8) Sports club. – An establishment that meets either of the following requirements:
- a. The establishment is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.; or
  - b. The establishment is substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both.
- The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. The premises of a sports club substantially engaged in the business of providing an 18-hole golf course shall include the parking lot and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.
- (9) Congressionally chartered veterans organizations. – An establishment that is organized as a federally chartered, nonprofit veterans organization, and is operated solely for patriotic or fraternal purposes.
- (10) Wine producer. – A farming establishment of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine."

**SECTION 4.(b)** G.S. 18B-1001 reads as rewritten:

**"§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. Private clubs.

- g. Convention centers.
  - h. Community theatres.
  - i. Breweries as authorized by subdivisions (7) and (8) of G.S. 18B-1104(a).
  - j. Sports and entertainment venues.
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of

communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Private clubs.
  - e. Convention centers.
  - f. Cooking schools.
  - g. Community theatres.
  - h. Wineries.
  - i. Wine producers.
  - j. Retail businesses.
  - k. Sports and entertainment venues.
- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional

location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:
- a. ~~Restaurants;~~Restaurants.
  - b. ~~Hotels;~~Hotels.
  - c. ~~Private clubs;~~clubs.
  - d. ~~Community theatres;~~theatres.
  - e. ~~Wineries;~~Wineries.
  - f. ~~Convention centers;~~centers.
- (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another off-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler

on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred.

(7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.
- c. Private ~~clubs;~~clubs.
- d. Community ~~theatres;~~theatres.
- e. Congressionally chartered veterans ~~organizations;~~organizations.

(8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.
- c. Eating ~~establishments;~~establishments.
- d. Private ~~clubs;~~clubs.
- e. Convention ~~centers;~~centers.

(9) Limited Special Occasion Permit. – A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.

(10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee (i) to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.
- c. Private ~~clubs;~~clubs.
- d. Convention ~~centers;~~centers.
- e. Community ~~theatres;~~theatres.
- f. Nonprofit ~~organizations;~~ and organizations.
- g. Political ~~organizations;~~organizations.
- h. Sports and entertainment venues.

...."

**INCREASE THE ABILITY OF NONPROFIT ORGANIZATIONS TO HOLD FUND-RAISING RAFFLES AND AUTHORIZE REISSUANCE OF CERTAIN ONE-TIME ABC COMMISSION PERMITS**

**SECTION 5.(a)** G.S. 14-309.6 is amended by adding a new subdivision to read:

"(8) "Nonprofit organization" means an organization or association recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization."

**SECTION 5.(b)** G.S. 14-309.15 reads as rewritten:

**"§ 14-309.15. Raffles.**

(a) It is lawful for any nonprofit ~~organization or association, recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or for any bona fide branch, chapter, or affiliate of such organization,~~ organization, candidate, political committee, ~~and for~~ any government entity within the State, to conduct raffles in accordance with this section. Each regional or county chapter of a nonprofit organization shall be eligible to conduct raffles in accordance with this section independently of its parent organization. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not "gambling". For the purpose of this section, "candidate" and "political committee" have the meaning provided by Article 22A of Chapter 163A of the General Statutes, who have filed organization reports under that Article, and who are in good standing with the appropriate board of elections. Receipts and expenditures of a raffle by a candidate or political committee shall be reported in accordance with Article 22A of Chapter 163A of the General Statutes, and ticket purchases are contributions within the meaning of that Article.

(b) For purposes of this section "raffle" means a game in which the prize is won by random drawing of the name or number of one or more persons purchasing chances.

(c) ~~Raffles shall be limited to two per nonprofit organization per year.~~ A nonprofit organization may hold no more than four raffles per year.

(d) Except as provided in subsection (g) of this section, the maximum cash prize that may be offered or paid for any one raffle is one hundred twenty-five thousand dollars (\$125,000) and if merchandise is used as a prize, and it is not redeemable for cash, the maximum fair market value of that prize may be one hundred twenty-five thousand dollars (\$125,000). The total cash prizes offered or paid by any nonprofit organization ~~or association~~ may not exceed ~~one hundred twenty-five thousand dollars (\$125,000)~~ two hundred fifty thousand dollars (\$250,000) in any calendar year. The total fair market value of all prizes offered by any nonprofit ~~organization or association,~~ organization, either in cash or in merchandise that is not redeemable for cash, may not exceed ~~one hundred twenty-five thousand dollars (\$125,000)~~ two hundred fifty thousand dollars (\$250,000) in any calendar year.

(e) Raffles shall not be conducted in conjunction with bingo.

(f) As used in this subsection, "net proceeds of a raffle" means the receipts less the cost of prizes awarded. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the nonprofit organization ~~or association~~ for charitable, religious, educational, civic, or other nonprofit purposes. None of the net proceeds of the raffle may be used to pay any person to conduct the raffle, or to rent a building where the tickets are received or sold or the drawing is conducted.

(g) Real property may be offered as a prize in a raffle. The maximum appraised value of real property that may be offered for any one raffle is five hundred thousand dollars (\$500,000). The total appraised value of all real estate prizes offered by any nonprofit organization ~~or association~~ may not exceed five hundred thousand dollars (\$500,000) in any calendar year.



(h) Notwithstanding any other subsection of this section, it is lawful for a credit union to conduct a savings promotion raffle under G.S. 54-109.64."

**SECTION 5.(c)** G.S. 18B-308 reads as rewritten:

**"§ 18B-308. Sale and consumption at bingo games.**

It shall be unlawful to sell or consume, or for the owner or other person in charge of the premises to allow the sale or consumption of, any alcoholic beverage in any room while a ~~raffle~~ ~~or~~ bingo game is being conducted in that room under Part 2 of Article 37 of Chapter 14 of the General Statutes."

**SECTION 5.(d)** Article 9 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-903A. Reissuance of certain permits.**

(a) Reissuance. – Notwithstanding G.S. 18B-902(b) or G.S. 18B-903, if a nonprofit organization has received a limited special occasion permit pursuant to G.S. 18B-1001(9) or a special one-time permit pursuant to G.S. 18B-1002(a)(2) or (a)(5) within the previous 18 months, the Commission shall reissue the permit to the nonprofit organization if the same individual representing the organization requests reissuance of the permit for the same location. The Commission shall require only the following information in order to reissue the permit:

- (1) The street address of the location where the event will take place.
- (2) The county in which the event will take place.
- (3) The date of the event.
- (4) A description of the event.
- (5) The name, address, date of birth, and contact information of the individual representing the nonprofit organization.

(b) Duration. – Once issued, a reissued limited special occasion permit shall be valid for 48 hours before and after the occasion for which the permit was issued and a reissued special one-time permit shall be valid only for the period stated on the permit.

(c) Reissuance Fee. – Application for reissuance of a limited special occasion permit or a special one-time permit shall be on a form provided by the Commission. The application fee shall be the same as the initial fee set in G.S. 18B-902. A reissuance fee shall not be refundable.

(d) Investigation. – The Commission, with the assistance of the ALE Branch, shall not investigate the applicant and the premises for which the reissuance is requested more than once every three years. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(e) False Information. – Knowingly making a false statement in an application for a permit reissuance pursuant to this section shall be grounds for denying, suspending, revoking, or taking other action against the permit as provided in G.S. 18B-104 and shall also be a Class 1 misdemeanor."

**SECTION 5.(e)** G.S. 18B-1002(a)(5) reads as rewritten:

**"§ 18B-1002. Special one-time permits.**

(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

- ...
- (5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire

department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit ~~will~~ shall also allow the issuance of a purchase-transportation permit under G.S. 18B-403 and 18B-404 and the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed beverages. The issuance of this permit shall also allow a nonprofit organization to offer alcoholic beverages in the manufacturer's original closed container as a prize in a raffle or sell alcoholic beverages in the manufacturer's original closed container at auction at the ticketed event to allow the nonprofit organization to raise funds."

**SECTION 5.(f)** Subsection (d) of this section becomes effective December 1, 2018, and applies to offenses committed on or after that date. The remainder of this section becomes effective October 1, 2018.

#### **ALLOW SALE OF BRANDED MERCHANDISE AT ALCOHOLIC BEVERAGE TASTINGS**

**SECTION 6.(a)** G.S. 18B-1114.1 reads as rewritten:

**"§ 18B-1114.1. Authorization of winery special event permit.**

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its ~~wine; wine; to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel;~~ and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

**SECTION 6.(b)** G.S. 18B-1114.5 reads as rewritten:

**"§ 18B-1114.5. Authorization of malt beverage special event permit.**

(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt ~~beverages; beverages;~~ to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler.

(b) Limitation. – A malt beverage special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of malt beverages. A malt beverage special event shall not be used as subterfuge for malt beverages suppliers to ship directly to retail permittees unless otherwise authorized by law."

**SECTION 6.(c)** G.S. 18B-1114.7 reads as rewritten:

**"§ 18B-1114.7. Authorization of spirituous liquor special event permit.**

(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous

liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

- (b) Limitations. – Any consumer tasting is subject to the following limitations:
- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
  - (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
  - (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
  - (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
  - (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
  - (6) The permit holder shall not charge a consumer for any tasting sample.
  - (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
  - (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
  - (9) The permit holder may provide point-of-sale advertising materials and advertising specialties and may sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel to consumers at the consumer tasting.
  - (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

#### **WHOLESALE CHANGES**

**SECTION 7.(a)** G.S. 18B-1307 reads as rewritten:

**"§ 18B-1307. Transfer or merger of wholesaler's business.**

(a) Right of Transfer to Designated Family ~~Member upon Death.~~ ~~Member.~~ – ~~Upon the death of a wholesaler, that~~ An individual's interest in the a wholesaler business, including the rights under the franchise agreement with the supplier, may be transferred or assigned to a designated family member. The transfer or assignment shall not be effective until written notice is given to the supplier, but the supplier's consent is not required for the transfer or assignment. "Designated family member" means the deceased-wholesaler's spouse, child, grandchild, parent, brother or ~~brother,~~ sister, who is entitled to inherit the deceased wholesaler's ownership interest

~~under the terms of the deceased wholesaler's will or other testamentary device or under the laws of intestate succession, niece, or nephew.~~ With respect to an incapacitated individual having an ownership interest in a wholesaler, the term "designated family member" also means the person appointed by the court as the conservator of such individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

(b) Approval of Certain Transfers and Mergers. – Upon notice to and approval by the supplier, an individual owning an interest in a wholesaler may sell, assign or transfer that interest, including the wholesaler's rights under its franchise agreement with the supplier, to any qualified person. Likewise, a wholesaler may merge with another wholesaler in the State, transferring to the new wholesaler entity the merging wholesaler's existing franchise rights. Within 30 days of receipt of notice of the intended sale, assignment, transfer, or merger, the supplier shall request any additional relevant, material information reasonably necessary for deciding whether to approve the transaction. The supplier shall have 30 days from receipt of that information to object to the sale, assignment, transfer, or merger. The supplier may object only if the proposed transferee, or the wholesalership resulting from the merger, fails to meet qualifications and standards that are nondiscriminatory, material, reasonable and consistently applied to North Carolina wholesalers by the supplier. The burden shall be upon the supplier to prove that the proposed transferee or merged wholesaler is not qualified. In determining whether the proposed transferee or merged wholesaler is a qualified person, the supplier shall consider, but is not limited to, the following factors:

- (1) Whether the proposed transferee has the financial capacity to purchase the wholesaler or the specified interest upon terms that will not jeopardize the future operation of the business, or whether the new entity resulting from a merger will have such financial capacity to operate successfully, and whether under such ownership the wholesaler will be able to provide financial support necessary to the successful operation of the business, including market spending, capital expenditures, and any equity capitalization or refinancing requirements.
- (2) Whether the proposed transferee, or the new entity resulting from a merger, has the proven business experience to hire and maintain a management team to successfully operate the business.
- (3) If the proposed transferee does not have experience in the beer business, whether the transferee has other experience to enable it to operate a distributorship successfully and whether the transferee is willing to participate in training provided by the supplier.
- (4) Whether the proposed transferee, or a party to the merger, already is a wholesaler for the supplier in a different territory and, if so, whether sufficient time and attention can be devoted to an additional market area.

In determining whether a proposed transferee, or the entity resulting from a merger, is a qualified person, a supplier must consider the business on its own merits and may not designate a specifically identified person as the only purchaser who will be approved. Nothing in this subsection is intended to or should be construed to ~~interfere with a supplier's right~~ authorize a supplier to match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee. ~~interest. Provided, however, a supplier may match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee, if the total annual gross sales of the supplier's malt beverages sold by the selling wholesaler total no more than five percent (5%) of the selling wholesaler's total annual gross sales of wine and malt beverages in dollars.~~

...."

**SECTION 7.(b)** G.S. 18B-1119 reads as rewritten:

**"§ 18B-1119. Supplier's financial interest in wholesaler.**

(a) A supplier or an officer, director, employee or affiliate of a supplier may ~~financially assist a proposed purchaser in acquiring ownership of a wholesaler's business by participation in a limited partnership arrangement in which the supplier, officer, director, employee, or affiliate is a limited partner and the proposed purchaser seeking to acquire ownership of the wholesaler's business is a general partner. Such limited partnership arrangement may exist for no longer than eight years. If the general partner defaults in the agreement with the limited partner, and the limited partner acquires title to the general partner's interest, the limited partner must divest itself of the general partner's interest within 180 days.~~ not acquire, possess, or otherwise maintain an ownership interest in a wholesaler except as expressly authorized by this Chapter.

(b) ~~A supplier or an officer, director, employee or affiliate of a supplier may financially assist a proposed purchaser in acquiring ownership of a wholesaler's business by making a business loan and taking as security the assets of the wholesaler's business. The business loan may exist for no longer than eight years. If the wholesaler defaults on the loan and it is necessary for the supplier to take title to the assets of the business, the supplier may operate the business for a period not to exceed 180 days, by which time the supplier must divest itself of the business. The supplier may make the subsequent purchaser a business loan, taking as security the assets of the wholesaler's business. It shall also be permissible for the wholesaler and supplier to agree on the sale of the wholesaler's business to the supplier, provided that the supplier shall divest itself of the wholesaler's business within 180 days.~~

(c) A supplier or an officer, director, employee or affiliate of a supplier may have a security interest in the inventory or property of its wholesaler to secure payment for such inventory or other loans for other purposes."

**SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**SECTION 8.(a)** If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

law. **SECTION 8.(b)** Except as otherwise provided, this act is effective when it becomes  
In the General Assembly read three times and ratified this the 15<sup>th</sup> day of June, 2018.

s/ Bill Rabon  
Presiding Officer of the Senate

s/ David R. Lewis  
Presiding Officer of the House of Representatives

\_\_\_\_\_  
Roy Cooper  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2018