

CHAPTER 3: ALCOHOLIC BEVERAGES

Section

3-100 Definitions

3-101 Consumption of beverages in public places

3-102 Possession of open containers of malt beverages and unfortified wines in public places

3-103 Consumption in public places, possession of open containers in public places, exception for special events with a permit

§ 3-100 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates, or requires, a different meaning.

ABC PERMIT or **PERMITS**. Any written or printed authorization issued by the Commission pursuant to the provisions of this chapter, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, **ABC PERMIT** or **PERMIT** means a presently-valid permit.

ALCOHOLIC BEVERAGE. Any beverage containing at least 0.5% alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.

BEER. The same as the term **MALT BEVERAGE**, as defined by G.S. § 18B-101;

COMMISSION. The State Alcoholic Beverage Control Commission, established under G.S. § 18B-200.

FORTIFIED WINE. Any wine of more than 16%, and no more than 24%, alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and produced in accordance with the regulations of the United States.

MALT BEVERAGE. Beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage, except unfortified, or fortified, wine as defined by this chapter, containing at least 0.5%, and not more than 15%, alcohol by volume. Any malt beverage containing more than 6% alcohol by volume shall bear a label clearly indicating the alcohol content of the **MALT BEVERAGE**.

MIXED BEVERAGE.

(1) A drink composed in whole, or in part, of spirituous liquor, and served in a quantity less than the quantity contained in a closed package.

(2) A premixed cocktail served from a closed package containing only one serving.

NON-TAXPAID ALCOHOLIC BEVERAGE. Any alcoholic beverage upon which the taxes imposed by the United States, this state, or any other territorial jurisdiction in which the alcoholic beverage was purchased have not been paid.

OPEN CONTAINER. A container that has a broken seal, or a container other than the manufacturer's unopened, original container.

PERSON. An individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

PUBLIC PROPERTY. Property owned, occupied, or controlled by the town.

PUBLIC STREET. Any highway, road, street, avenue, boulevard, or other way owned, or under control of, the town and open to public use, including the sidewalks of any such street.

SPIRITOUS LIQUOR or **LIQUOR**. Distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin, and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution.

UNFORTIFIED WINE. Any wine of 16%, or less, alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and produced in accordance with the regulations of the United States.

WINE. The same as **UNFORTIFIED WINE**, as defined by G.S. § 18B-101.

(Ord. 7-2019, passed 5-14-2019)

§ 3-101 CONSUMPTION OF BEVERAGES IN PUBLIC PLACES.

It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages, or unfortified wine, on any public street. It shall also be unlawful for any person to consume malt beverages, or unfortified wine, in any

public building owned, occupied, or controlled by the town; on the grounds of any public building owned, occupied, or controlled by the town; or on any other property owned, occupied, or controlled by the town, including, but not limited to, public parks, playgrounds, tot lots, recreational fields, tennis courts, or other athletic fields.

(Code 1976, § 11.1) (Ord. 8-78, passed 7-17-1978) Penalty, see §1-111

Cross-reference:

Offenses, Ch. 15.

Statutory reference:

Unlawful possession or use of fortified wine and spiritous liquors, G.S. §§ 18B-300 et seq.

§ 3-102 POSSESSION OF OPEN CONTAINERS OF MALT BEVERAGES AND UNFORTIFIED WINES IN PUBLIC PLACES.

It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage, or unfortified wine, on any public street. It shall also be unlawful for any person to possess any open container of malt beverage, or unfortified wine, in any public building owned, occupied, or controlled by the town; on the grounds of any public building owned, occupied, or controlled by the town; or on any other property owned, occupied, or controlled by the town, including, but not limited to, public parks, playgrounds, tot lots, recreational fields, tennis courts, or other athletic fields. For purposes of this section, an **OPEN CONTAINER** means a container whose seal has been broken, or a container other than the manufacturer's unopened, original container.

Penalty, see § 1-111

Editor's note:

Ord. 28-98, adopted Aug. 31, 1998, repealed § 3-102, which regulated the hours of sale of alcoholic beverages, and which derived from Code 1976, § 10.61.

Statutory reference:

Unlawful possession or use of fortified wine and spiritous liquors, G.S. § 18B-300.

§ 3-103 CONSUMPTION IN PUBLIC PLACES, POSSESSION OF OPEN CONTAINERS IN PUBLIC PLACES, EXCEPTION FOR SPECIAL EVENTS WITH A PERMIT.

(A) *Consumption in public places unlawful.* It shall be unlawful for any person, who is not an occupant of a motor vehicle, to consume any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, all as defined in G.S. § 18B-101, on, or within, the right-of-way of any public street. It shall also be unlawful for any person to consume any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, all as defined in G.S. § 18B-101, in any public building owned, occupied, or controlled by the town; on the grounds of any public building owned, occupied, or controlled by the town; or on any other property owned, occupied, or controlled by the town, including, but not limited to, public parks, playgrounds, tot lots, recreation fields, tennis courts, or other athletic fields.

(B) *Private premises consumption regulated.* It shall be unlawful for any person to consume any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, all as defined in G.S. § 18B-101, upon the private business premises of another without the permission of the owner, or person in control, of such premises.

(C) *Open containers prohibited.* It shall be unlawful for any person, who is not an occupant of a motor vehicle, to possess an open container of any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, all as defined in G.S. § 18B-101, on, or within, the right-of-way of any public street. It shall also be unlawful for any person to possess an open container of any alcoholic beverage, including malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, all as defined in G.S. § 18B-101, in any public building owned, occupied, or controlled by the town; on the grounds of any public building owned, occupied, or controlled by the town; or on any other property owned, occupied, or controlled by the town, including, but not limited to, public parks, playgrounds, tot lots, recreation fields, tennis courts, or other athletic fields.

(D) *Special event permit exception.* Consumption of malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors is permitted during any community-sponsored public function, festival, or celebration being conducted upon, or within, designated areas of any public street, sidewalk, or other property owned, or lawfully occupied, by the town, pursuant to a written special event permit issued by the Town Manager, or his or her duly authorized designee, to the holder of a valid permit from the Commission applicable to the community-sponsored public event, function, festival, or celebration. The permit issued by the Town Manager, or his or her duly authorized designee, shall be consistent with the permit issued by the Commission. This permit, when issued, may allow the sale, service, and distribution of malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors, on designated streets, sidewalks, and public property reserved for the event, except parks and recreation fields and property, subject to all applicable ABC or ALE rules or regulations, or laws of the state. The permit issued by the town shall designate the boundary of the area in which the sale, service, distribution, possession, and consumption of malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors is permitted, and the specific times during which such sale, service, distribution, and/or consumption is

permitted. The area within which such sale, service, distribution, and/or consumption is permitted shall be delineated by barricades, and so constructed as to allow ready control of patrons, including the viewing of identification; no alcoholic beverage, malt beverages, fortified or unfortified wine, mixed beverages, or other spiritous liquors shall be consumed outside of such barricaded area. Proper application for a special permit to the proper state authorities shall be made so that a permit will be received prior to the opening of the special event, and such permit shall be available for inspection by the town and its officers at any time. However, before any permit is issued under this section, the Town Manager, or his or her duly authorized designee, shall designate the boundaries of the event, and provide for the temporary closing of those streets and public areas within the boundaries for general public use during the times the permit is to be effective. This subsection (D), shall not apply to any public park, sports or recreational field or facilities, or the grounds of any sports or recreational field or facility.

(E) *Application for permit and liability waiver.* Application forms and a liability waiver form for the permit referred to in subsection (D) above are available from the Town Manager, and both must be completed, and signed, by the applicant at least 30 days prior to the opening day of the event.

(F) *Revocation of permit.* The permit issued under subsection (D) above may be revoked at any time if it is deemed necessary for the safety and protection of the public.

(G) *Penalty.* If any person shall violate this section, he or she shall be guilty of a misdemeanor, and punished in accordance with G.S. § 14-4, as amended. If any person violates this section, he or she shall also be subject to a civil penalty in the amount of \$50 to be recovered by the town in a civil action in the nature of a debt if the offender does not pay the penalty within ten calendar days after he or she have been sited for violation of the section.

(Ord. 7-2019, passed 5-14-2019; Ord. 10-2020, passed 5-12-2020)