

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

- 111.01 Drinking in public places; exception
- 111.02 Disposal of beer, wine and liquor containers
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§ 111.01 DRINKING IN PUBLIC PLACES; EXCEPTION.

(A) No person shall consume malt beverages or unfortified wine, as defined by G.S. § 18B-101, on or within the rights-of-way of the municipal streets, boulevards, alleys, sidewalks, municipal recreation areas, parks, playgrounds or municipal buildings, or on any other property owned or occupied by the town, except as herein provided.

(B) Division (A) of this section shall not apply to those individuals, or firms or corporations who, for a fee, are using the Black Mountain Golf Course. Division (A) shall also not apply to those individuals, firms or corporations who have contracted to use and are using the Black Mountain Club House for a fee.

(C) Division (A) of this section shall not apply to persons of legal age who participate in the “tasting” or sampling of malt beverages and unfortified wines at events held in municipal recreation areas, parks, playgrounds, parking areas, streets, municipal buildings or on any other property owned or occupied by the Town, or to the sponsors and operators of such events, if the rest of the requirements of this section are met. The sponsors of such events must obtain a permit from the Town for each event and disclose the intent to have malt beverage and unfortified wine sampling. The areas or facilities where the event is held must be closed to regular traffic during the event, and no samples are to be provided to occupants of motor vehicles. A “tasting” or “sampling” of malt beverages or unfortified wines shall consist of offering such beverages for tasting in quantities no greater than two (2) ounces each, with no more than the greater of five (5) such samples or a cumulative total of ten (10) ounces being provided to any one customer or visitor to the event in any four (4) hour period. (Ord. 0-77-9, passed 6-23-77; Am. Ord. 0-80-9, passed 12-8-80, Am. Ord. 0-06-05, passed 3-13-06) Penalty, see § 10.99

§ 111.02 DISPOSAL OF BEER, WINE AND LIQUOR CONTAINERS.

No person shall drop, throw, cast, deposit or leave any beer, wine, or liquor containers upon any municipal streets, boulevards, alleys, sidewalks, municipal parks and buildings, or any other property owned or occupied by the town. (Ord. 0-77-9, passed 6-23-77; Am. Ord. 0-80-9, passed 12-8-80) Penalty, see § 10.99

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§ 111.03 DISTRIBUTION OF REVENUE.

(A) Gross Receipts. As used in this section, “gross receipts” means all revenue of a local board, including proceeds from the sale of alcoholic beverages, investments, interest on deposits, and any other source.

(B) Primary Distribution. Before making any other distribution, a local board shall first pay the following from its gross receipts:

(1) The board shall pay the expenses, including salaries, of operating the local ABC system.

(2) Each month the local board shall pay to the Department of Revenue the taxes due the Department. In addition to the taxes levied under Chapter 105 of the General Statutes the local board shall pay to the Department one-half of both the mixed beverages surcharge required by G.S. § 18B-804(b) (8) and the guest room cabinet surcharge required by G.S. § 18B-804(b) (9).

(3) Each month the local board shall pay to the Department of Human Resources five percent of both the mixed beverages surcharge required by G.S. § 18B-804(b) (8) and the guest room cabinet surcharge required by G.S. § 18B-804(b) (9). The Department of Human Resources shall spend those funds for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse.

(4) Each month the local board shall pay to the county commissioners of the county where the charge is collected the proceeds from the bottle charge required by G.S. § 18B-804(b) (6), to be spent by the county commissioners for the purposes stated in division (H) of this section.

(C) Other Statutory Distributions. After making the distributions required by division (B), a local board shall make the following quarterly distributions from the remaining gross receipts:

(1) Before making any other distribution under this subsection, the local board shall set aside the clear proceeds of the three and one-half percent markup provided for in G.S. § 18B-804(b) (5) and the bottle charge provided for in G.S. § 418B-804(b) (6b), to be distributed as part of the remaining gross receipts under division (E) of this section.

(2) The local board shall spend for law enforcement an amount set by the board which shall be at least five percent of the gross receipts remaining after the distribution required by division (C)(1). Notwithstanding the provisions of any local act, this provision shall apply to all local boards.

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(3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in division (H), an amount set by the board which shall be at least seven percent of the gross receipts remaining after the distribution required by division (B)(1). This provision shall not be applicable to a local board which is subject to a local act setting a different distribution.

(D) Working Capital. After making the distributions provided for in divisions (B) and (C), the local board may set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system. With the approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements.

(E) Other Distributions. After making the distributions provided in divisions (B), (C), and (D), the local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established, unless some other distribution or some other schedule is provided for by law. If the governing body of each city and county receiving revenue from an ABC system agrees those governing bodies may alter at any time the distribution to be made under this division or under any local act. Copies of the governing body resolutions distribution formula and a copy of the approved new formula shall be submitted to the Commission for review and audit purposes. If any one of the governing bodies later withdraws its consent to the change in distribution, profits shall be distributed according to the original formula, beginning with the next quarter.

(F) Surcharge Profit Shared. When, pursuant to the last paragraph of G.S. § 18B-603(d), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located outside the city, the local board operating the store at which the sale is made shall retain seventy-five percent (75%) of the local share of both the mixed beverages surcharge required by G.S. § 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. § 18B-804(b)(9) and the remaining 25% shall be divided equally among the local ABC boards for all other cities in the county that have authorized the sale of mixed beverages. When, pursuant to G.S. § 18B-603(e), spirituous liquor is bought at a city ABC store by a mixed beverages permittee for premises located at an airport outside the city, the local share of both the mixed beverages surcharge required by G.S. § 18B-804(b)(8) and the guest room cabinet surcharge required by G.S. § 18B-804(b)(9) shall be divided equally among the local ABC boards for all cities in the county that have authorized the sale of mixed beverages.

(G) Quarterly Distributions. When this section requires a distribution to be made quarterly, at least 90% of the estimated distribution shall be paid to the recipient by the local board within 30 days of the end of that quarter. Adjustments in the amount to be distributed resulting from the closing of the books and from audit shall be made with the next quarterly payment.

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(H) Expenditure of Alcoholism Funds. Funds distributed under divisions (B)(4) and (C)(3) of this section shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse. The minutes of the board of county commissioners or local board spending funds allocated under this subsection shall describe the activity for which the funds are to be spent. Any agency or person receiving funds from the county commissioners or local board under this subsection shall submit an annual report to the board of county commissioners or local board from which funds were received, describing how the funds were spent.

(I) Calculation of Statutory Distributions When Liquor Sold at Less Than Uniform Price. If a local board sells liquor at less than the uniform state price, distributions required by divisions (B) and (C) shall be calculated as though the liquor was sold at the uniform price. (G.S. § 18B-805)

§ 111.04 POWERS OF LOCAL ABC BOARDS.

A local board shall have authority to:

(A) Buy, sell, transport and possess alcoholic beverages as necessary for the operation of its ABC stores;

(B) Adopt rules for its ABC system, subject to the approval of the Commission;

(C) Hire and fire employees for the ABC system;

(D) Designate one employee as manager of the ABC system and determine his responsibilities;

(E) Require bonds of employees as provided in the rules of the Commission;

(F) Operate ABC stores as provided in Article 8;

(G) Issue purchase-transportation permits as provided in Article 4;

(H) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;

(I) Borrow money as provided in G.S. § 18B-702;

(J) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;

(K) Invest surplus funds as provided in G.S. § 18B-702;

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(L) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160-A of the G.S.; and

(M) Perform any other activity authorized or required by the ABC law.
(G.S. § 18B-701)