

Chapter 4

ALCOHOLIC BEVERAGES*

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***State law references**—Alcoholic beverages, G.S. ch. 18B; city beer and wine retail licenses, G.S. 105-113.77 et seq.

ARTICLE I. IN GENERAL**Sec. 4-1. Definitions.**

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

Applicant shall mean each of the persons associated with the business for which a malt beverage and fortified and/or unfortified wine license and/or mixed beverage is sought, as set forth in G.S. 18B-900(c).

Licensed premises shall mean a location that has been issued an ABC permit under G.S. 18B-1001 and an on-premises or off-premises malt beverage or fortified or unfortified wine or mixed beverage license under this chapter.

Malt beverage, wine, fortified wine, unfortified wine, mixed beverage, alcoholic beverage, person and sale shall be defined as these words are defined in G.S. 105-113.68. and 18B-101.

To sell shall mean to transfer, trade, exchange or barter in any manner or by any means for consideration.

(Code 1982, § 3-1; Ord. No. 94-004, 2-24-1994)

State law reference—State definitions, G.S. 18B-101.

Sec. 4-2. Sunday sales.

Pursuant to the authority granted by G.S. 160A-205.3, the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages shall be allowed within the corporate limits of the Town on Sundays beginning at 10:00 A.M. at any premises licensed pursuant to G.S. 18B-1001.

(Ord. No. 2017-Code-04, 7-27-2017)

Secs. 4-3—4-20. Reserved.**ARTICLE II. BEER AND WINE LICENSE*****Sec. 4-21. Qualifications.**

To obtain a town malt beverage and fortified/unfortified wine or mixed beverage license, an applicant must submit an application on a form provided by the town, hold a valid corresponding ABC permit and pay the license tax.

(Code 1982, § 3-17; Ord. No. 94-004, 2-24-1994)

***State law reference**—Malt beverage and wine licenses, G.S. 105-113.77 et seq.

Sec. 4-22. Application procedure; issuance of license.

(a) *Application.* The application shall require the applicant to state whether the applicant has, during the preceding license year, committed any act or permitted any activity that would be grounds for suspension or revocation of the applicant's ABC permit under G.S. 18B-104. The application shall be sworn to (or affirmed) and signed by each person required to qualify under G.S. 18B-900(c), and the application shall be notarized.

(b) *Conditions for issuance.* If, from the statements and information provided in the application, the applicant appears to possess all requisite qualifications under law, including that the applicant holds the corresponding ABC permit, and the application includes a statement that the applicant has not, during the preceding license year, committed any act or permitted any activity that would be grounds for suspension or revocation of applicant's ABC permit under G.S. 18B-104, the applicable town malt beverage and wine license shall be issued by the town manager.

(c) *Renewal of license.* After the submission of the initial application and the issuance of a town malt beverage and fortified/unfortified wine or mixed beverage license, licenses may be renewed by submission of a renewal application, which form shall be provided by the town manager. The application shall require the applicant to state whether the applicant has, during the preceding license year, committed any act or permitted any activity that would be grounds for suspension or revocation of the applicant's ABC permit under G.S. 18B-104. The renewal application shall be sworn to (or affirmed) and signed by each person required to qualify under G.S. 18B-900(c), and the application shall be notarized.

(d) *Referral to town council.* If it appears, on the basis of the application or other information that comes to the attention of the town manager, that an applicant has, during the preceding license year, committed any act or permitted any condition that would be grounds for suspension or revocation of the applicant's ABC permit under G.S. 18B-104, the town manager shall not issue a malt beverage or fortified/unfortified wine or mixed beverage license, but shall make a written report of his or her findings to the town council. The town council shall make the determination of whether to issue a malt beverage and fortified/unfortified wine or mixed beverage license as set forth in section 4-23 below.

(Code 1982, § 3-18; Ord. No. 94-004, 2-24-1994)

State law references—Issuance duration and transfer of license, G.S. 105-113.70; local government may refuse to issue license, G.S. 105-113.71.

Sec. 4-23. Refusal to issue or renew license.

The town council may refuse to issue a license in accordance with G.S. 105-113.71.
(Code 1982, § 3-19; Ord. No. 94-004, 2-24-1994)

Sec. 4-24. Suspension or revocation of ABC permit.

The suspension or revocation of a state ABC permit shall automatically suspend or revoke the corresponding town malt beverage and fortified/unfortified wine or mixed beverage license.
(Code 1982, § 3-20; Ord. No. 94-004, 2-24-1994)

State law reference—Administrative penalties, G.S. 18B-104.

Sec. 4-25. Retail license.

The retail license shall be as provided in G.S. 105-113.77.

Sec. 4-26. Wholesale license.

Every person selling malt beverages or unfortified wine at wholesale, and either having a principal place of business within the town or maintaining one or more places of business or storage warehouses within the town, shall first procure from the town manager a malt beverage and wine wholesale license to engage in such business for each place of business or warehouse located within the town, and shall pay therefor an annual tax of \$37.50. The phrase "person selling malt beverages or unfortified wine at wholesale" shall include owners or operators of distributing warehouses selling, distributing or supplying the enumerated beverages to retail stores.

(Code 1982, § 3-22; Ord. No. 94-004, 2-24-1994)

State law reference—City wholesale license, G.S. 105-113.79.

Sec. 4-27. Expiration.

Every license issued under this chapter shall expire on April 30 of each year.

(Code 1982, § 3-23; Ord. No. 94-004, 2-24-1994)

State law reference—Similar provisions, G.S. 105-113.70.

Sec. 4-28. Objection to issuance of ABC permit.

Upon receipt by the town of notice of the proposed issuance of a permit by the North Carolina alcoholic beverage control commission, the town manager may cause a thorough investigation to be made of the applicant for the ABC permit and of the premises for which the permit is being sought. The town manager may request the assistance and cooperation of the chief of police, the director of the department of planning and development, and other town officials and employees. The purpose of the investigation shall be to determine whether an objection should be made to the issuance of the permit, in accordance with the provisions of G.S. 18B-901.

(Code 1982, § 3-24; Ord. No. 94-004, 2-24-1994)

CARY CODE OF ORDINANCES