

ALCOHOLIC BEVERAGES

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Cross references: Businesses, Ch. 10; public intoxication, sales or service of alcoholic beverages to intoxicated persons, and drinking in vehicle or in public prohibited, § 24-10; State law reference: Alcoholic beverages, NMSA 1978, § 60-3-1 et seq.

ARTICLE I. IN GENERAL**Section 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:

Alcoholic liquors means and includes any and all distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters bearing the Federal Internal Revenue strip stamps or any similar alcoholic beverage, including all blended or fermented beverages, dilutions, or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters.

Beer means any alcoholic beverage containing more than one-half of one percent alcohol obtained by the fermentation of any infusion or decoction of barley, malt and hops and/or other cereals in water, and shall include such liquors as porter, beer, ale, and stout.

Club means any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than 50 members who pay membership dues at the rate of not less than \$5.00 per year and who under the constitution and bylaws of the club have all voting rights and full membership privileges, and which group is the owner, lessee, or occupant of premises used exclusively for club purposes, which group the director of the department of alcoholic beverage control finds is operated solely for recreation, social, patriotic, political, benevolent, or athletic purposes, and has received an exemption by the United States from the payment of income taxes under section 501(a) of the Internal Revenue Code.

Department means the state department of alcoholic beverage control.

Director means the director of the [Alcohol and Gaming division of the Regulation and Licensing] department.

Dispenser means any person licensed under the provisions of the state liquor control act selling, offering for sale or having in his possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption, and not for resale, off the licensed premises.

Intoxicating liquors means those beverages defined as alcoholic liquors, beer, spiritous liquors and

wine in this section.

Package means any immediate container of alcoholic liquors, beer or wine, which is filled or packed by the manufacturer or bottler thereof for sale by such manufacturer or bottler to manufacturers, wholesalers, retailers, dispensers, and/or clubs.

Restaurant means any establishment having a state resident as a proprietor or manager and which is held out to the public as a place where meals are prepared and served primarily for consumption on the premises to the general public in consideration of payment, and which has a dining room, a kitchen, and the employees necessary for preparing, cooking, and serving meals; provided, that "restaurant" does not include establishments as defined in the department of alcoholic beverage control regulations, serving only hamburgers, sandwiches, salads, and other fast foods.

Retailer means any person licensed under the provisions of the state liquor control act selling, offering for sale or having in his possession with the intent to sell any alcoholic beverages in unbroken packages for consumption off the premises and not for resale.

Spiritous liquors means all alcoholic liquors as defined in this section except fermented beverages such as wine, beer and ale.

Wholesaler means any person whose place of business is located in the state and who sells, offers for sale, or possesses for the purpose of sale any alcoholic liquor for resale by the purchaser thereof.

Wine includes the words "fruit juices" and means all alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, and which does not contain less than one-half of one percent or more than 21 percent of alcohol by volume.

History: Ord. No. 256, § 2, adopted 6-22-93; Cross reference: Definitions generally, § 1-2.

Section 4-2. Sales restricted.

The sale or possession for the purpose of sale, or offering for sale, manufacture or transportation of intoxicating liquors is hereby prohibited within the village, except as provided in this chapter.

History: Ord. No. 256, § 3, adopted 6-22-93.

Section 4-3. Penalty for violation of chapter.

Any person violating any of the provisions of this chapter shall be subject to punishment in accordance with section 1-6.

History: Ord. No. 256, § 13, adopted 6-22-93.

Sections 4-4 to 4-25. Reserved.

ARTICLE II. LICENSES

Section 4-26. Required.

The license fee for the sale of intoxicating liquors shall be as set forth in this article; provided, however, that the applicant for such license shall have obtained a state license for such sale according to the provisions governing the issuance of such license as outlined in NMSA 1978, § 60-6A-1 et seq., and, further provided, that no license shall be issued to any person for the sale of intoxicating liquors if the building or room in which intoxicating liquors are sold does not comply with public health laws.

History: Ord. No. 256, § 4, adopted 6-22-93.

Section 4-27. Special permit for sale at fair or other occasion.

Any person holding a dispenser's license for the sale of alcoholic liquors within the village and a special permit required by NMSA 1978, § 60-6A-12 and holding a concession from the board or other governing body in charge thereof for the sale of alcoholic liquors at a state fair, county fair, or other special occasion shall pay in advance the sum of \$10.00 per day for each day of such state fair, county fair or public celebration. The application for such license and the issuance thereof shall be as provided in this chapter. The holder of such special permit shall be subject to all provisions of this Code and other ordinances of the village governing the sale of alcoholic liquors.

History: Ord. No. 256, § 5, adopted 6-22-93.

Section 4-28. License and permit fees.

The following license and permit fees shall be charged for licenses issued under this chapter:

- (1) *Retailer's license.* The license fee for a retailer's license shall be \$250.00 per annum.
- (2) *Dispenser's license.* The license fee for a dispenser's license shall be \$250.00 per annum.
- (3) *Club license.* The license fee for a club license shall be \$250.00 per annum.
- (4) *Restaurant license.* The license fee for a restaurant license shall be \$250.00 per annum.
- (5) *Beer and wine license.* The license fee for a beer and wine license shall be \$250.00 per annum.
- (6) *Special dispenser's permit.* Persons granted a special dispenser's permit under the provisions of NMSA 1978, § 60-6A-12 shall pay to the village a fee of \$10.00 per day for each day the permittee dispenses alcoholic beverages.

History: Ord. No. 194, § 1, adopted 3-28-88; Ord. No. 256, § 6, adopted 6-22-93.

Section 4-29. Penalty for failure to pay license tax.

Failure of any person holding a retailer's, dispenser's, club, or restaurant license to pay the license tax levied in this article, on the date and in the manner imposed by this chapter, shall be subject to appropriate action by the Governing Body of the village, as provided in NMSA 1978, § 7-24-3, relating to the closing of establishments.

History: Ord. No. 256, § 7, adopted 6-22-93.

Section 4-30. Refusal to issue license.

The Governing Body reserves the right to refuse to issue a license to any person prohibited by NMSA 1978, §§ 60-6-B-1 and 60-6-C-1 from holding a liquor license.

History: Ord. No. 256, § 8, adopted 6-22-93.

Section 4-31. Location restrictions.

It shall be unlawful to drink or to use intoxicating liquors, or for a person who is the owner or operator to sell, serve or furnish, or permit the drinking or use of, any alcoholic liquors in any public dancehall, poolroom, bowling alley, street, or state or federal building, or in any other public place, except establishments having a license to dispense alcoholic liquors. It shall also be unlawful for any establishment having a license to dispense alcoholic liquor to give curbside service or to serve or sell liquor in

any manner outside of the building on the premises at which such business is operated.

History: Ord. No. 256, § 9, adopted 6-22-93.

Section 4-32. Payment of fee.

(a) The license fee imposed by this article shall be paid either in cash or by certified draft to the village clerk as provided in this article prior to the sale by any such licensee of alcoholic liquors within the village. Such fee shall be paid in full on or before June 30 of each year.

(b) Any person holding a retailer's, dispenser's, or club license from the department of alcoholic beverage control and desiring to pay the license tax imposed by this article shall file with the village clerk a duplicate copy of the original application filed with and approved by the department of alcoholic beverage control. The application shall be accompanied by cash or a certified draft in full for the annual license fee.

(c) Upon the filing of an application as provided in this article and payment in full of the license tax, it shall be the duty of the village clerk to issue a license to such applicant for one year, evidencing payment of such license tax in accordance with the provisions of this article.

(d) Upon default in the payment of the annual license tax as provided in this section, such license shall be deemed to have expired.

History: Ord. No. 256, § 10, adopted 6-22-93.

Section 4-33. Closing of place of business for failure to pay fee.

It shall be the duty of the village police or any regular police officer, upon written order of the Governing Body duly entered, to forthwith close up the place of business of any retailer, dispenser, or club which has not paid or tendered the village license tax imposed by this chapter in accordance with the terms of this chapter. Such closing shall be in addition to any penalties which may be imposed pursuant to this Code.

History: Ord. No. 256, § 12, adopted 6-22-93.

Section 4-34. Term of license; assignment and transfer.

The annual license fee imposed by this article shall embrace the period commencing on July 1 and expiring on June 30 following. Such annual license fee will be prorated only as provided in this section. However, a license issued prior to October 1 shall be subject to the full amount of the annual license fee; licenses issued on or subsequent to October 1 and prior to January 1 following shall be subject to three-fourths of the annual fee; licenses issued on or subsequent to January 1 and prior to April 1 of a year shall be subject to one-half of the annual license fee; licenses issued on or subsequent to April 1 of a year shall be subject to one-fourth of the annual license fee. Revocation or suspension of any retailer's, dispenser's or club license shall not entitle the licensee to the refund of any portion of the village license fee paid. In case of the assignment and transfer of any license, as provided by law, no refund shall be made by the village to the original licensee, but such assignment and transfer shall vest in the assignee and transferee the right to operate under the license tax so paid by the original licensee for the period covered by the paid license tax upon the same terms and conditions as if such assignee or transferee were the original licensee.

History: Ord. No. 256, § 11, adopted 6-22-93.