

APR 28 2021


COUNCIL ADMINISTRATOR TREASURER

By Gaudet
Introduction 3/10/21
PH. 3/24/21
4/28/21

ORDINANCE 18095

AMENDING THE CODE OF ORDINANCES OF THE CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE, TITLE 9 (LICENSING AND REGULATION OF TRADES AND OCCUPATIONS), CHAPTER 18 (WINE, BEER, AND LIQUOR), SO AS TO AMEND SECTION 9:1000 (LICENSES REQUIRED FOR BUSINESSES AND EMPLOYEES); SECTION 9:1001 (DEFINITIONS); SECTION 9:1003 (TYPES OF BUSINESS LICENSES, FEES FOR BUSINESS LICENSES, AND QUALIFICATIONS FOR BUSINESS LICENSES); SECTION 9:1004 (ORGANIZATIONS AND BUSINESSES EXEMPTED FROM LICENSE REQUIREMENTS); SECTION 9:1006 (HOURS OF OPERATION AND CLOSING TIMES FOR LICENSED OR PERMITTED BUSINESSES AND ORGANIZATIONS); SECTION 9:1008 (NOTICE OF INTENT TO APPLY FOR BUSINESS LICENSE, ISSUANCE OF BUSINESS LICENSES, CRITERIA FOR ISSUANCE); SECTION 9:1013 (ACTS PROHIBITED).

BE IT ORDAINED by the Metropolitan Council of the City of Baton Rouge and the Parish of East Baton Rouge that:

Section 1. Title 9, Chapter 18, of the Code of Ordinances of the City of Baton Rouge and Parish of East Baton Rouge is hereby amended as follows:

"CHAPTER 18. - WINE, BEER, AND LIQUOR

Sec. 9:1000. - Licenses required for businesses and employees.

- (A) **Licenses required.** No person, firm, corporation or association of persons shall engage in any business or employment described in section 9:1000 or 9:1003, without first obtaining the necessary licenses and permits required hereunder, including all state and local permits.

- (B) **Qualifying beverages and businesses.** Any person, firm, corporation or association of persons who, as a business or as a means of employment, manufactures, blends, rectifies, distills, processes, imports, stores, allows for consumption, uses, handles, holds, sells, offers for sale, solicits orders for the sale of, distributes, delivers, serves or transports any beer, porter, ale, fruit juices, wine, or spirituous beverages of an alcoholic content not exceeding that now or hereafter permitted by law, but greater than one-half ($\frac{1}{2}$) of one (1) percent of alcohol by volume, or, any malt, vinous, spirituous, alcoholic or intoxicating liquors containing more than six (6) percent of alcohol by volume, within the limits of the parish, shall be deemed

a retail dealer, or wholesale dealer, or a classified employee or classified delivery agent or third party, as the case may be, for all purposes of this chapter. All such persons must hold all applicable local and state permits, pursuant to Title 26 and the wine, beer and liquor ordinance.

- (C) **Wholesale dealer required to verify retail license before delivery.** No wholesale dealer shall dispense or sell to any retail dealer any of the beverages described in subsection 9:1000(b), unless the retail dealer has procured and has posted in a conspicuous place in his establishment, the permit/license required in this chapter. Every wholesaler shall, at the time of shipping or delivering such beverages to a retailer, make a true duplicate invoice of each such shipment showing full and complete details of the sale or delivery, and shall include on such invoice the city or parish license/permit number. No wholesaler shall dispense, sell or deliver to any retail dealer until the wholesaler has been furnished the retail dealer's city or parish license/permit number.
- (D) **Establishment operated as a retail dealer.** Any person, firm, corporation, or association of persons, who conducts an establishment as a business where alcoholic beverages are manufactured, blended, rectified, distilled, processed, imported, stored, used, handled, held, sold, offered for sale, solicited orders for the sale of, distributed, delivered, served or transported, shall be considered as conducting such establishment as a retail dealer for all purposes of this chapter, and shall pay the same license tax as required of a retail dealer selling for use or consumption on or off the licensed premises.

Sec. 9:1001. - Definitions.

Alcoholic beverages. The term "alcoholic beverage" means any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one percent alcohol by volume, including malt, vinous, spirituous, alcoholic or intoxicating liquors, beer, porter, ale, stout fruit juices, cider, or wine.

Closed. The term "closed," as used in this section or elsewhere in this chapter shall mean the entire licensed building shall be locked, that all lights shall be out, and that no one shall be inside of said premises and that no dispensing or consumption of any alcoholic beverages shall take place on the subject property.

Delivery. The term "delivery" means a delivery of an alcoholic beverage in a container sealed by the manufacturer of the alcoholic beverage by a liquor retailer permitted pursuant to 9:1000, et seq. or by a retailer permitted to sell alcoholic beverages for off-premise consumption and their employees, 1099 contractors, or independent contractors. Delivery shall be permitted only in those areas where the sale of alcoholic beverages are permitted. Delivery by a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located. Prior to delivering alcoholic beverages, a retailer shall give notice to and receive permission from the ABC office, subject to rules promulgated by the Director as authorized by this Section.

Electronic Means. The term "electronic means" is defined as internet-enabled technology and digital media, including but not limited to websites and consumer applications accessible through smart phones and other mobile devices.

Employee. The term "employee" means a W-2 employee of a liquor retailer permitted pursuant to 9:1000, et seq. or a W-2 employee of a retailer permitted to sell alcoholic beverages for off-premise consumption. It shall not include 1099 contractors or independent contractors hired by a liquor retailer.

Exotic dancer. The term "exotic dancer" is hereby defined as follows: Any male or female performer hired or used to dance, gyrate, twist or do any other physical performance on the floor, tables, stage or other contrivance in a sexually suggestive or provocative manner on the premises of any private or public property, whether said performer is paid a salary or receives compensation by way of gratuities by customers or a commission.

Growler. A "growler" shall mean a refillable rigid glass or aluminum container that is no larger than two (2) liters (0.5283 gallons) into which beer is prefilled, filled, or refilled for off-premises consumption.

Liquor. The term "liquor" means all distilled or rectified alcoholic spirits, brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and similar compounds.

Liquor Retailer. The term "liquor retailer" means any dealer, other than a manufacturer or wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for sale or distribution any alcoholic beverages in any quantity.

Manufacturer. The term "manufacturer" means any person, other than a wine producer, who personally or through any agent whatever engages in the making, blending, rectifying, or processing of any alcoholic beverage in Louisiana; engages in the making, blending, rectifying, or processing any alcoholic beverage outside Louisiana for sale in Louisiana; or engages in the business of supplying alcoholic beverages to licensed wholesale dealers in Louisiana. A manufacturer who engages in the making, blending, rectifying, or processing of any alcoholic beverage in a facility entirely located in the parish of Louisiana may sell or serve only those products that are made, blended, rectified, or processed at that facility to the public only at that facility for consumption on or off the premises but not for resale. The total amount of such sales to the public for any given month shall not exceed one case per person for each thirty-day period. Any manufacturer who sells its products to the public pursuant to this Paragraph shall remit all state and parish or municipal sales and excise taxes to the proper tax collecting authority for all products sold to the public.

Microbrewer. The term "microbrewer" means -any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of beer or other malt beverages for retail sale in an amount not to exceed twelve thousand five hundred (12,500) barrels per year.

Microbrewery. The term "microbrewery" means a retail establishment wherein beer and other malt beverages are brewed in small quantities, not to exceed

twelve thousand five hundred (12,500) barrels per year, and where such beverages are sold at retail for consumption on or off the licensed premises.

Microdistiller. The term "microdistiller" means any person who operates a microdistillery.

Microdistillery. The term "microdistillery" means a retail outlet where a microdistiller engages in the distilling, making, blending, rectifying, or processing of any alcoholic beverage in Louisiana in quantities of not more than twelve thousand (12,000) gallons per year for retail sale for consumption on or off the licensed premises in accordance with the provisions of this chapter.

New business. The term "new business" means a location and/or applicant which does not have a current, valid, alcohol license, or which has not had a valid alcohol license within the last six (6) months, or which has or had a current, valid, alcohol license within the last six (6) months but which has not been open for business in the last six (6) months.

Ongoing business. The term "ongoing business" means a location and/or applicant which has a valid, current alcohol license, or which had a valid, current alcohol license within the last six (6) months, and which has been open for business in the last six (6) months.

Open container. The term "open container," as used in this chapter, shall include, but not be restricted to mean any vessel or container of alcoholic beverages which if opened in any manner which would permit the contents to be consumed or poured or any container upon which the seal has been broken and the contents exposed to the air. "Open container" shall be any container not sealed. It shall be unlawful to furnish open containers to patrons for the intent and purpose of removal and consumption of alcoholic beverages and liquors, including beer, off the licensed premises and/or leased premises.

Outlet. The term "outlet" means a place where any person draws or removes any alcoholic beverage from its container for consumption on the premises.

Premises. The term "premises," or "Premises to be licensed," shall mean the building or that part of the building as defined in the application for the permit in which beverages of alcoholic beverage are sold, except in cases where such beverages are regularly sold or served outside the building, the terms shall also include such outside area.

Property. The term "property," as used in this chapter, shall mean the land upon which a licensed premises is located plus authorized and acknowledged parking area for the licensed business.

Riverboat Casino. A "Riverboat Casino," as used in this chapter, shall mean the riverboat as defined in the Louisiana Riverboat Economic Development and Gaming Control Act La. R.S. 9:501, et seq and adjacent docking and patron assembly facilities including restaurants, and which has a license issued by the State Gaming Control Board, pursuant to La. R.S. 27:65.

Solicitor. The term "solicitor" means any person who offers for sale or solicits any orders for the sale of any regulated beverage, other than in a regularly established and licensed place of business in this parish, for

delivery or shipment to any point in the parish, whether done as owner, agent, or servant.

Supplier. The term "supplier" means any person, other than a wine producer, who manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic beverages outside the parish and imports, sells, offers for sale, solicits orders for sale, distributes, or delivers such alcoholic beverages in the parish. **Tax collector.** The term "collector of city taxes" shall mean the director of finance of the parish and city, unless, under the provisions of section 8.05 of the plan of government of the parish and city, the city council shall have entered into an agreement with the parish sheriff for the collection of city taxes, in which latter event, this term shall mean the sheriff.

Third Party. The term "third party" means an independent technology company that operates a website or consumer application on which independent liquor retailers market their products. Such third-party company shall not deal, handle, sell, offer for sale, or possess for sale alcoholic beverages or process payments for the sale of alcoholic beverages.

Sec. 9:1002. - General provisions.

- (A) **Licenses and permits required to be posted.** All licenses and permits shall be displayed on the premises and it shall be the responsibility of the owner and/or manager of a licensed business to have available for inspection, all permits of classified employees and retail clerks upon commencement and for the duration of their employment.
- (B) **Posting of public notices required.** Every license/permit holder under this chapter shall, upon receipt of, post any public notices, as may be required by the ABC office, in the licensed premises in a place conspicuous, in full public view, subject to inspection.
- (C) **Licenses non-transferable.** Separate permits and licenses shall be required for each place of business operated by a retail or wholesale dealer. All permits and licenses issued herein shall be personal and non-transferable. If the business is sold or transferred during the period for which the permit or license was issued, the new owner or operator must apply and pay for a new permit and license in the manner and under the conditions set forth in subsections 9:1008(c) and (e).
- (D) **Notification to council members.** The ABC office, for the purpose of keeping each council member advised of alcoholic beverage activity within their respective districts, shall promptly notify the appropriate council member of any action taken or to be taken within their district. Such notification shall include, but not be limited to notices of intent to apply for a license, granting of licenses, hearings for denial, suspension or revocation and the results thereof, changes of ownership or transfer of a license to another premises and any other actions taken or to be taken by the board that may be of interest to the council as a whole or any individual member.
- (E) **Duplicate licenses and permits.** The fee for all duplicate licenses and permits shall be fifteen dollars (\$15.00). This shall include name

changes, lost, stolen or damaged licenses and shall apply to individuals and businesses.

- (F) **Change of location.** A retail dealer, or wholesale dealer, shall conduct his business only in the licensed premises, and no permit issued hereunder shall authorize the conducting of business in any changed location.
- (G) **Temporary zoning waiver.** In cases where an applicant seeks to sell alcoholic beverages at a location where such sale is conditioned on the property being rezoned, the metropolitan council shall have the authority to grant a temporary waiver of the zoning restriction allowing the sale of alcoholic beverages for a period not to exceed ninety (90) days or until the property is rezoned, whichever is less.

Sec. 9:1003. - Types of business licenses, fees for business licenses, and qualifications for business licenses.

- (A) **Fee for permit.** Every Class A, B, C and R liquor dealer, in addition to the license tax levied in this section is hereby required to obtain from the city or parish an annual permit to conduct such business during the appropriate year and shall pay the sum of ten dollars (\$10.00).
- (B) **Fees for acquiring an existing business.** Any Class A, B, C and R beer and/or liquor dealer who, on or after July 1 of any year, acquires a business currently licensed for that year, shall pay a license or excise tax of sixty-five (65) percent of the annual amount for the remainder of that year and a ten dollar (\$10.00) permit fee, in the case of a liquor dealer for the balance of the appropriate year.
- (C) **Licensee required to sign statement acknowledging laws concerning sales to minors.** Any person, firm, corporation or association of persons applying for a license to sell, dispense or deliver alcoholic beverages, or applying to renew an existing license to sell, dispense or deliver alcoholic beverages, shall be required to sign a statement acknowledging that said applicant is fully cognizant of the laws pertaining to the sale, dispensing or delivering of alcoholic beverages to minors. Such signed statement shall be executed prior to the issuance or reissuance of any license.
- (D) **Fees and privileges of Class A, B, and C licenses and ancillary growler permits.** Every retail dealer, wholesale dealer and classified employee excepting employees of wholesale dealers, of the above described alcoholic beverages, is hereby required to obtain from the city or parish the following permit and/or pay the following annual excise or license tax and/or permit fee according to their sales classification.
 - (1) **Class A (Beer):** Permits the retail dealer to sell beer, porter, ale, fruit juices, or wine containing not more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter for consumption on the licensed premises at an annual permit fee of one hundred dollars (\$100.00).
 - (2) **Class A (Liquor):** Permits the retail dealer to sell any malt, vinous, spirituous, alcoholic or intoxicating liquors containing

more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter for consumption on the licensed premises or prepared with an appropriate lid or cover on the container for takeout service at an annual excise or license tax of five hundred dollars (\$500.00).

- (3) **Class A (Beer Caterer):** Permits the retail dealer to sell beer, porter, ale, fruit juices, or wine containing not more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter for consumption off of the licensed premises at a catered function at an annual permit fee of ninety dollars (\$90.00).
- (4) **Class A (Liquor Caterer):** Permits the retail dealer to sell any malt, vinous, spirituous, alcoholic or intoxicating liquors containing more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter for consumption off of the license premises at catered functions at an annual excise or license tax of five hundred dollars (\$500.00).
- (5) **Class A (Delivery):** Permits a Class A holder to enter into an agreement with a third party to deliver beer and wine, as defined herein. The third party and the Class A holder must meet all the requirements set forth in 9:1000, et seq. any provisions set for this Section of the Code of Ordinances. The permit fee for this permit issued pursuant to this Subparagraph shall be one thousand five hundred (\$500.00) dollars.
- (6) **Class B (Beer):** Permits the retail dealer to sell any beer, porter, ale, fruit juices or wine containing not more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter only for use or consumption off the licensed property at an annual permit fee of seventy-five dollars (\$75.00).
- (7) **Class B (Liquor):** Permits the retail dealer to sell any malt, vinous, spirituous, alcoholic or intoxicating liquors containing more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter only for use or consumption off the licensed property at an annual excise or license tax of five hundred dollars (\$500.00). If a Class B permittee wants to sell mixed frozen specialty beverages, it must meet all of the following:
 - (a) Does not offer to sell, sell, or otherwise distribute motor fuel at the licensed establishment.
 - (b) Sells alcoholic beverages, including frozen specialty beverages, in closed containers prepared for transportation and consumption off the premises only.
 - (c) Has a public habitable floor area of no less than one thousand square feet.

- (d) Does not allow any person under the age of eighteen to enter, visit, or loiter in or about the licensed establishment.
 - (e) Does not employ any person under the age of eighteen.
 - (f) Does not allow the consumption of any alcoholic beverage for any purpose or reason on or about the licensed establishment unless and except as otherwise provided for in this Title.
 - (g) Does not permit the mixing of alcoholic beverages or the sale and/or service of mixed alcoholic beverages on the premises of the licensed establishment; however, the mixing of frozen specialty beverages may be permitted according to rules and regulations promulgated under R.S. 26:71.2(B).
- (8) **Class B (Delivery)**. Permits any holder of a Class B to deliver alcohol with its own employees, 1099 contractors, or independent contractors. Notwithstanding the provisions of 9:1000 et seq., the permit fee for the permit issued pursuant to this Section shall be two hundred fifty (\$250.00) dollars.
- (A) Notwithstanding any law to the contrary, any liquor retailer permitted pursuant to 9:1000 et seq. or any retailer permitted to sell alcoholic beverages for off-premise consumption may deliver, either on the licensed premises itself or at a residential or commercial address designated by the consumer, products lawfully sold to and purchased by such consumer, provided that:
 - (1) The liquor retailer possesses a Class B permit as defined in 9:1000 et seq. or possesses a permit that allows the retailer to sell alcoholic beverages for off-premise consumption.
 - (2) The liquor retailer or an employee of the liquor retailer processes at the Class B premises or at the premise permitted to sell alcoholic beverages for off-premise consumption all payments initiated by a consumer that is transacting the purchase with the liquor retailer.
 - (3) The Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, assembles, packages, and fulfills each order at the permitted premises where the order was processed using inventory located at that premises that was purchased from a permitted wholesale dealer.
 - (4) Deliveries to consumers are made only by the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, and only to consumers at a residential or commercial address in this parish.

(5) The alcoholic beverages delivered are for personal consumption, not intended for resale, and are in a container sealed by the manufacturer of the alcoholic beverage. The delivery of an "open container" as defined in 9:1000 et seq. is prohibited.

(6) Delivery of alcoholic beverages is permitted only in those areas where the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in any area where it is prohibited by the local governing authority. The delivery radius of a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located.

(7) Alcoholic beverages are not delivered to an address on a campus of any state college, university, or technical college or institute, any independent college or university, or any elementary or secondary school located in this parish.

(8) Delivery is permitted only during the hours that the authorized retailer's permitted establishment is open to the public.

(9) At the time of delivery, the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, verifies that the recipient of the alcoholic beverage or beverages is not visibly intoxicated.

(10) At the time of delivery, the Class B liquor retailer or a retailer permitted to sell alcoholic beverages for off-premise consumption, or an employee of such retailer, verifies the identity and age of the person accepting delivery of the order by validating a state-issued photo identification of the person or through use of a real-time age verification system authorized by the ABC Director. Additionally, a signature of the person receiving the delivery acknowledging receipt of the delivery and verifying their age shall be obtained.

(11) The retail dealer keeps a record of all deliveries of alcoholic beverages and retains such records for two years from the date of the delivery. The retail dealer shall make such records available to the ABC Director of the office of alcohol beverage and control upon request for the purpose of investigating and enforcing the provisions of this section. The record of each delivery shall include:

(a) The retail dealer's name, address, and permit number.

(b) The name of the person who placed the order and the date, time, and method of the order.

(c) The name of the employee making the delivery and the date, time, and address of the delivery.

(d) The type, brand, and quantity of each alcoholic beverage delivered.

(e) The name, date of birth, and signature of the person that received the delivery.

(12) All employees of the Retailer who make deliveries must obtain and maintain all necessary permits under 9:1000 et seq.

(B) Notwithstanding any law, rule, or regulation to the contrary, any liquor retailer permitted pursuant to 9:1000 et seq. or a retailer permitted to sell alcoholic beverages for off-premise consumption, may use electronic means to do the following:

(1) Market the alcohol products it is licensed to sell.

(2) Receive and process purchase orders placed by a consumer of legal drinking age, which orders may then be delivered to such consumer on the licensed premises itself or at a residential or commercial address in this parish designated by the consumer in accordance with Paragraph (A) (4) of this Section.

(C) A Class B liquor retailer permitted pursuant to 9:1000 et seq. or a retailer permitted to sell alcoholic beverages for off-premise consumption may market, receive, and process orders for alcohol products under this Section using electronic means owned, operated, and maintained by a third party, provided that:

(1) The permittee maintains ultimate control and responsibility over the sales transaction and transfer of physical possession of the alcoholic beverages.

(2) The permittee retains the sole discretion to determine whether to accept and complete an order or reject it, and the permittee or an employee of the permittee reviews and accepts or rejects each order.

(3) The permittee retains the independence to determine which alcoholic beverages are made available through electronic means, which alcoholic beverages are made available for delivery to the consumer at the licensed premises itself or at another address designated by the consumer, and the permittee shall independently set the price of such products.

(4) The purchase transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer.

(5) Any credit or debit card information provided by a consumer to the third party for the purpose of transacting a purchase with a permittee is automatically directed to the permittee such that the permittee appears as the retail dealer at the time of purchase and on the receipt.

(6) The permittee, or an employee of the permittee, processes, at the premises that accept the order, all payments initiated by a consumer that is transacting a purchase with the permittee.

(7) The alcoholic beverages are in the possession of the permittee prior to the permittee's processing of payment of such products.

(8) The permittee, or an employee of the permittee, assembles, packages, and fulfills each order at the premises that accepted the order.

(9) Deliveries to consumers are made by the permittee, or by an employee of the permittee.

(10) At the time of delivery, the permittee, or an employee of the permittee, verifies the identity and age of the person accepting delivery of the order by validating a state-issued photo identification of the person or through use of a real-time age verification system authorized by the ABC Director. Additionally, a signature of the person receiving the delivery acknowledging receipt of the delivery and verifying their age shall be obtained.

(D) The relationship between the permittee and the third party pursuant to Subsection C of this Section shall be one of independent contractors, and neither party shall be deemed the employee, agent, or joint venturer of the other party under any circumstances or for any purposes.

(E) The Director may promulgate rules in accordance with 9:1000 et seq. for the requirements and qualifications for delivery.

(F) If any provision of this Section, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the Metro Council to further limit rather than expand commerce in alcoholic beverages and to enhance strict regulatory control over taxation, distribution and sale of alcoholic beverages through the three-tier regulatory system imposed by the local, state and federal law upon all alcoholic beverages.

(9) Delivery Permit (Third Party Delivery Company).

(A) For purposes of this Section only, a third party delivery company shall be defined as a third party delivery service

that is licensed to do business in the parish, permitted with the office of alcohol beverage control, and uses their own employees or agents for which the third party delivery company is required to file an Internal Revenue Service Form W-2 or 1099 for delivery. For all other alcohol delivery provisions of this Chapter, third party shall be the definition provided in this section. The permit fee for the permit issued pursuant to this Section shall be five hundred (500.00) dollars. Delivery permit only applies to a third party delivery company. All other variations of the delivery permits are applicable as to each other class permit section.

(B) Notwithstanding any provision of law to the contrary, a retail dealer possessing a valid Class A-General, a Class A-Restaurant , or Class B, permit as provided in this Chapter may enter into a written agreement with a third party delivery company or a third party platform for the use of an internet or mobile application or similar technology platform to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption within this parish and the third party delivery company or the third party platform may deliver alcoholic beverages to the consumer.

(C) An alcoholic beverage delivery agreement between a retail dealer and a third party shall require all of the following:

(1) Only alcoholic beverages purchased from a wholesale dealer licensed pursuant to this Chapter are offered for delivery.

(2) Only alcoholic beverages of low alcoholic content, beer and wine as defined herein are offered for delivery.

(3) The alcoholic beverages delivered are for personal consumption, not intended for resale, and are in a container sealed by the manufacturer of the alcoholic beverage. The delivery of an "open container" as defined in 9:1000 et seq. is prohibited.

(4) Alcoholic beverages are delivered only on the days and during the hours the retail dealer is authorized to sell or serve alcoholic beverages.

(5) Alcoholic beverages are delivered only in those areas where the sale of alcoholic beverages is permitted. Delivery of alcoholic beverages in an area where the sale of alcoholic beverages has been prohibited by a referendum vote is prohibited.

(6) No alcoholic beverages shall be delivered to a state college, university, or technical college or institute or an independent college or university located in this parish.

(7) No alcoholic beverages shall be delivered to any public playground or building used primarily as a church, synagogue, public library, or school.

(8) No alcoholic beverages shall be delivered more than ten (10) miles from the place of purchase.

(9) All orders for the delivery of alcoholic beverages shall also contain food.

(10) The alcoholic beverages of all deliveries which are refused by a third party shall be returned to the place of purchase.

(11) Alcoholic beverages are delivered only by a person that meets all of the following requirements:

(i) The person is eighteen years of age or older.

(ii) The person is an employee for which the third party shall be required to file an Internal Revenue Service Form W-2.

(iii) The person possesses a valid server permit as provided in R.S. 9:1000 et seq.

(12) The retail dealer shall manage and control the sale of alcoholic beverages including but not be limited to all of the following:

(i) Determining the alcoholic beverages to be offered for sale through a third party's internet or mobile application platform or similar technology.

(ii) Determining the price at which alcoholic beverages are offered for sale or sold through a third party's internet or mobile application platform or similar technology.

(iii) Accepting or rejecting all orders placed for alcoholic beverages through a third party's internet or mobile application platform or similar technology.

(iv) Collecting and remitting all applicable state and local taxes.

(D) A retail dealer shall enter into an alcoholic beverage delivery agreement with a third party only when the third party meets all of the following requirements:

(1) The third party is properly registered and authorized to conduct business in Louisiana.

(2) The third party holds a valid Louisiana alcoholic beverage permit issued pursuant to 9:1000 et seq.

(3) The third-party delivery service shall maintain a general liability insurance policy with a liquor liability endorsement in an amount no less than one million dollars per occurrence for the duration of the agreement with the retail dealer and shall provide proof of coverage to the retail dealer.

(4) The third party is able to monitor the routes of its employees during deliveries.

(5) The third party conducts an interview and a background check of all persons that will deliver alcoholic beverages.

(E) A retail dealer may pay a third party a fee for its services and a third party may charge a reasonable delivery fee for orders delivered by the third party. A third party may act as an agent of a retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer.

(F) The third party may receive orders and accept payment via the internet or through a mobile application or similar technology under the following conditions:

(1) At the time of delivery of alcoholic beverages, the third party's delivery agent shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device that shall be approved by the ABC Director. Such device shall be capable of all of the following:

(a) Verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age.

(b) Reading a valid state-issued driver's license, a valid state issued identification card, a valid military identification card, or a valid passport.

(c) Storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

(2) The third party's delivery agent shall refuse delivery and return the alcoholic beverages to the place of purchase if:

(a) The recipient does not produce a valid and current form of identification as provided in R.S. 26:286(A) (1) and 9:1000 et seq.

(b) The recipient is intoxicated.

(c) There is reason to doubt the authenticity or correctness of the recipient's identification.

(d) The recipient refuses to sign for the receipt of the delivery.

(3) A third-party delivery agent who delivers alcoholic beverages, but fails to comply with the provisions of Paragraphs (2) and (3) of this Subsection and administrative rules promulgated pursuant to this Section, shall be vicariously liable for damages incurred as a result of the failure to comply.

(G) A record of each delivery of alcoholic beverages shall be retained for three (3) years from the date of delivery and made available to the ABC Director of the office of alcohol and tobacco control upon request for the purpose of investigating and enforcing the provisions of this Title. The record of each delivery shall include:

(1) The retail dealer's name, address, and permit number.

(2) The name of the person who placed the order and the date, time, and method of the order.

(3) The name of the delivery agent and the date, time, and address of the delivery.

(4) The type, brand, and quantity of each alcoholic beverage delivered.

(5) The name, date of birth, and signature of the person who received the delivery.

(10) **Class C (Beer):** Permits the wholesale dealer, who is defined as any dealer who sells beer, porter, ale, fruit juices or wine containing not more than six (6) percent alcohol by volume as described in subsection 9:1000(b) of this chapter, at wholesale after payment of an annual permit fee of one hundred twenty dollars (\$120.00).

(11) **Class C (Liquor):** Permits the wholesale dealer, who is defined as any dealer who sells any malt, vinous, spirituous, alcoholic or intoxicating liquors containing more than six (6) percent alcohol by volume as described in subsection 9:1000(b), at wholesale after payment of an annual permit fee of five hundred dollars (\$500.00).

- (12) **Ancillary Growler Permit:** Permits the holder of a Class A license to fill and sell growlers at an annual permit fee of \$90.00 (ninety dollars).

A "growler" shall mean a refillable rigid glass or aluminum container that is no larger than two (2) liters (0.5283 gallons) into which beer is prefilled, filled, or refilled for off-premises consumption when the following applies.

- (A) The growler bears a twist-type closure and includes a one-time use tamper-proof seal; and
- (B) The growler is affixed with a label or tag that contains the following information:
 - (1) The brand name of the product dispensed;
 - (2) The name of the brewer;
 - (3) The name and address of the business that cleaned, sanitized, labeled, and filled or refilled the growler;
 - (4) The date the growler was filled or refilled;
 - (5) The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."; and
 - (6) An alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 CFR 16.20 through 16.22.
- (C) Prior to refilling a growler, The growler shall be cleaned and sanitized by the licensee or licensee's employee in the following manner:
 - (1) Manual washing in a three-compartment sink;
 - (2) Prior to starting, clean sinks and work area to remove any chemicals, oils or grease from other cleaning activities;
 - (3) Empty residual liquid from the growler to a drain. Growlers shall not be emptied into the cleaning water;
 - (4) Clean the growler and cap in water and detergent. Water temperature shall be at a minimum 110°F. Detergent shall not be fat or oil based;
 - (5) Remove any residues on the interior and exterior of the growler;
 - (6) Rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot or from the tub as long as the water for rinsing shall not be stagnant but shall be continually refreshed;

- (7) Sanitize the growler in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of that chemical;
 - (8) Secure a new one-time use tamper-proof seal.
- (D) Transferring beer to a growler with a tube;
- (1) Beer may be transferred to growlers from the bottom of the growler to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the growler;
 - (2) A container of liquid food grade sanitizer shall be maintained for no more than 10 tubes that will be used for filling and refilling growlers;
 - (3) Food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;
 - (4) After each beer transfer to a growler, the tube shall be immersed in the container with the liquid food grade sanitizer; and different tube from the container shall be used for each fill or refill of a growler.
- (E) **Qualifications for Applicants and Businesses.** Each applicant or business shall meet the following requirements:
- (1) Is a person of good character, reputation and over eighteen (18) years of age.
 - (2) Is a citizen of the United States and of the State of Louisiana, and a resident of the State of Louisiana continuously for a period of not less than two (2) years next preceding the date of the filing of the application. The requirements as to Louisiana citizenship do not apply to wholesalers or retailers who held permits on or prior to January 1, 1946.
 - (3) Is the owner of the premises or has a bona fide notarized written lease.
 - (4) Has not been convicted of a felony under the laws of the United States, the State of Louisiana, or any other state or country, unless the applicant has been pardoned, or, if the applicant is a firm, association, partnership, trust, domestic or foreign corporation, or other legal entity, the applicant has terminated its relationship with the person or persons whose action directly contributed to the applicant's conviction. A conviction or plea of guilty or nolo contendere by the applicant shall not constitute an automatic disqualification of the applicant if the felony for which the applicant was convicted is not a crime of

violence as defined in R.S. 14:2(B) and ten (10) years or more have elapsed between the date of application and the successful completion of any sentence, deferred adjudication, or period of probation or parole and the final discharge of the defendant.

- (5) Has not been adjudged by a board or convicted by a court in this or in any other state or by the United States or any other country of soliciting for prostitution, gambling, letting of premises for gambling, contributing to the delinquency of juveniles, keeping a disorderly place, or illegally distributing or intent thereof in controlled dangerous substances as defined in Louisiana Revised Statutes.
- (6) Has not had any authorized license or permit connected with alcoholic beverages revoked within two (2) years prior to the application.
- (7) Has not been convicted or had a judgment of court rendered against him involving the sale or service of alcoholic beverages, by this political subdivision, or this or any other state, or by the United States, for two (2) years prior to the application.
- (8) Has not been adjudged by any board or convicted by a court of violating any provisions of R.S. Title 26.
- (9) Has not been adjudged by any board or convicted of violating any municipal or parish ordinances adopted pursuant to the provisions of R.S. 26:494.
- (10) Has not had any certificate, permit or license to dispense alcoholic beverages as described anywhere in this chapter, issued by any other parish, municipality, or state, suspended or revoked, or had the application denied. If the applicant has been so adjudged, the granting of any certificate, permit or license or of a renewal is within the discretion of the board.
- (11) Is not the spouse of a person whose application has been denied or whose permit has been revoked, unless judicially separated or divorced; provided that in such cases the age of the ineligible spouse shall be immaterial.
- (12) Does not owe the City of Baton Rouge-Parish of East Baton Rouge any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes.
- (13) If the applicant is a partnership recognized by Louisiana law, or anyone in such partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall also possess the qualifications required of an applicant.

The application shall name all partners or financial backers and furnish their social security numbers and proper addresses. If a partner of a partnership applying for retail or manufacturer's permits is a corporation or limited liability company, the requirements as to citizenship and residence shall not apply to officers, directors, and stockholders of the corporation or members of the limited liability company. The corporation or limited liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

- (14) If the applicant is a corporation or a limited liability company, all officers and directors and all stockholders or members owning in the aggregate more than five (5) percent of the stock or of the membership interest in a limited liability company and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to either the officers, directors, or stockholders of corporations, or the officers, managers, or members of limited liability companies. The corporation or limited liability company shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.
 - (15) That granting of an application in no way contradicts the purpose and intent of any provision of this chapter.
 - (16) If the applicant, or any other person required to have the same qualifications, does not possess the required qualifications, the permit will be denied.
- (F) **Fees and Privileges of Class R License.** Permits a restaurant as defined within this chapter, who is also the holder of a class A beer and/or liquor license, privileges as may be set forth in this chapter after payment of an annual permit fee of one hundred five dollars (\$105.00).
- (G) **Class R License (Restaurant) Criteria.** Each applicant for a Class R (restaurant) license shall, in addition to holding a Class A Beer and/or Liquor license, meet the following criteria:
- (1) Must operate a place of business whose primary purpose is to prepare meals to the general public for consumption on premises.
 - (2) Must serve food on all days of operation.

- (3) Must file a copy of the applicant's menu together with the application, both new and renewal.
- (4) Must furnish an affidavit from the local health department showing compliance with all applicable health and sanitary requirements with new applications.
- (5) Must gross fifty-one (51) percent of their monthly revenue from the sale of food, food items and nonalcoholic beverages.
- (6) Must maintain separate sales figures for alcoholic beverages.
- (7) All applications for class R licenses, whether new or renewal, shall be in writing, sworn to in front of a notary public, and shall contain the full name of the applicant along with a complete description and correct address of the premises in which the restaurant is located.
- (8) Operate a bona fide restaurant by having a fully equipped kitchen facility and dining room manned and operated at all times that alcoholic beverages are sold.
- (9) The Class R licenses shall be subject to revocation by the ABC board at any time following a hearing as provided for all other licenses and/or permits issued under this chapter and a determination that the licensee fails to meet the criteria set forth in this chapter.
- (10) No children under the age of eighteen (18) are allowed in the bar area of a restaurant whether seated at the bar or at tables within the bar area. Children under the age of eighteen (18) are also not allowed to play games within the bar area. The only exception is children passing through the bar area in order to access other accommodations of the restaurant.
- (11) For new businesses without prior business experience on which to base a determination of percentage of food, etc., sales to alcoholic beverages, a temporary permit may be issued by the Director of ABC for sixty (60) days after which time evidence of all sales, as may be deemed necessary by the board, will be required to make the license permanent.

(H) Class A Restaurant: (Delivery)

- (1) **A Class A Restaurant Delivery** permit shall be issued only to a "restaurant establishment" or dinner theatre as defined by 9:1000 et. Seq and issued to a facility in conjunction with a "Class A" restaurant permit under the provisions of 9:1000 et seq. This permit allows a Class

A- Restaurant who has entered into a written agreement with a third party for the delivery of beer and wine as defined and if the third party and the written agreement meet all the requirements set forth in 9:1000, et seq. any provisions set for this Section of the Code of Ordinances. The permit fee for this permit issued pursuant to this Subparagraph shall be one hundred fifty (\$150.00) dollars

(2) **Class R1:** In addition to the authority to contract with a third party as provided in this chapter, a permit may be issued to a Class A Restaurant enabling the delivery of restaurant prepared food and alcohol with its own employees, 1099 contractors, or independent contractors. A Class A Restaurant under this permit is subject to all provision of 9:1000, et seq. The permit fee for the permit issued pursuant to this Subparagraph shall be one hundred fifty (\$150.00) dollars.

(I) **On-site Sampling License.** On-site sampling for the purposes of allowing a customer to taste a brand of wine, beer, or liquor may be conducted at any time on any premises holding a Class B (liquor) license issued pursuant this title subject to the following conditions and restrictions:

- (1) On-site samples shall be offered to customers free of charge and only in accordance with the restrictions set forth herein.
- (2) Samples shall be provided in portions no greater than two (2) ounces per serving. Only one (1) serving per brand shall be provided to a customer on any given day. If a brand contains twenty-three (23) percent or more of alcoholic content, then the sample portion shall be no greater than one-half ($\frac{1}{2}$) of one (1) ounce per customer on any given day.
- (3) A retail dealer, wholesaler, manufacturer and/or supplier may furnish the wine, beer, or liquor to be sampled and the containers used to hold such wine, beer, or liquor in connection with the sampling subject to state and/or federal laws, rules and/or regulations.
- (4) No person under the age of eighteen (18) shall be allowed in the area of a class B (liquor) establishment that offers wine sampling pursuant to this section at any time unless accompanied by a parent, legal guardian or spouse twenty-one (21) or older.
- (5) All persons serving on-site samples pursuant to this section shall have the appropriate valid and current retail license.
- (6) Any retail dealer holding a class B (liquor) license, who meets the qualifications set forth in this section, and desires to conduct on-site wine sampling in accordance with this section shall so designate its intent to conduct such sampling on its original application for a class B (liquor) license or shall amend its application to reflect its intent to conduct such sampling. No

retail dealer shall conduct sampling pursuant to this section unless and until it has received prior written authorization from the office of alcoholic beverage control.

- (7) The fee for an on-site sampling license, allowing wine sampling pursuant to this section shall be one hundred twenty dollars (\$120.00) per year per licensed location.

(J) Fees and Privileges of Class M (Manufacturer's) License. A Class M license allows a distiller, brewer, or other producer of qualifying beverages as specified in section 9:1000 of this title to distill, brew, or otherwise produce alcoholic beverages, in conformity with any applicable state or federal regulations. A Class M license requires payment of an annual license fee of one hundred twenty dollars (\$120.00) for manufacturers of low-alcoholic content beverages, five hundred dollars (\$500.00) for manufacturers of all other qualifying beverages.

(K) Class M License (Manufacturer's) criteria. Each applicant for a Class M (Manufacturer's) license shall meet the same qualifications as a Class A, B, or C licensee, as set forth in this section.

- (1) A Class M licensee intending to operate a tasting room or other on-premises consumption facility or service point must also apply for and receive a class A (on-premises consumption license) appropriate to the type of qualifying beverage to be dispensed.
- (2) A Class M Licensee intending to sell its products to visitors or others for off-premises consumption must also apply for and receive a Class B (off-premises consumption license) appropriate to the type of qualifying beverage to be dispensed.
- (3) Class M licensees which also operate as a Class A licensee (on-premises consumption), Class B licensee (off-premises consumption), or both, must comply with all regulations applicable to the secondary license, including but not limited to closing hours (9:1006), licensed servers and employees (9:1007), notice of intent to apply for license (9:1008), application requirements (9:1009), building and zoning requirements (9:1010), and renewals (9:1011), as generally applicable or as may be specified for Class M licensees in those sections.

(L) Fees and Privileges of Class D (Riverboat Extended Operation) License. A Class D license permits a riverboat casino, as defined within this section, which is also the holder of a Class A beer and/or liquor license, privileges as may be set forth in this section after payment of an annual permit fee of five thousand dollars (\$5,000.00).

(M) Class D License (Riverboat Extended Operation) criteria. Each applicant for a class D (riverboat extended operation) license shall be a riverboat casino, as defined in this chapter, and shall maintain a valid class A beer and/or liquor license at all times as a condition of being extended the privileges of the class D license.

(N) Fees and Privileges of Class P (Public Recreational Facility) License. Permits a publicly owned recreational facility within the parish to

operate as an on-premises consumption retail dealer and sell alcoholic beverages as described in subsection 9:1000(b) at an annual excise or license tax of ten dollars (\$10.00).

(O) **Class P license (Public Recreational Facility) License.** Each applicant for a Class P (Public Recreational Facility) license shall meet the following criteria:

- (1) Applicant must have a place of business located within a publicly owned recreational facility (park, golf course, zoo, art gallery, or museum).
- (2) Applicant must demonstrate a serving and consumption area separated from any areas frequented by unsupervised children and minors, except for restaurant-style serving areas with a kitchen facility and dining room manned and operated at all times that alcoholic beverages are sold.
- (3) Applicant must use employees or caterers licensed under this chapter for serving and sales of qualifying beverages.

(P) **Microbrewery License.** Authorizes the making, blending, rectifying, or other processing of beer or other malt beverages for the retail sale in an amount not to exceed twelve thousand five hundred (12,500) barrels per year; also permits the retail dealer to sell beer, porter, ale, fruit juice, wine, malt beverages, vinous, spirituous, alcoholic, or intoxicating liquor for consumption on the licensed premises; also permits the retail dealer to sell any beer, porter, ale, fruit juice, wine, malt beverages, vinous, spirituous, alcoholic, or intoxicating liquor for consumption off the licensed premises; and further allows the retail dealer to operate a place of business whose purpose is to prepare meals to the general public for consumption on premises subject to the following conditions and restrictions:

- (1) Each applicant for a microbrewery license shall meet the requirements set forth in this chapter for a Class A, B, or C applicant.
- (2) The provisions of this subsection shall not authorize the holder of a microbrewery license to sell the manufactured beverages at wholesale or to a wholesale dealer or manufacturer.
- (3) The holder of a microbrewery license shall not sell any alcoholic beverages for transportation off the premises to any other licensed alcoholic beverage retail dealer.
- (4) The fee for a microbrewery license shall be one hundred twenty dollars (\$120.00) for manufacturers of low-alcoholic content beverages, five hundred dollars (\$500.00) for manufacturers of all other qualifying beverages per year per licensed location.

(Q) **Microdistillery License.** Authorizes the distilling, making, blending, rectifying, or processing of any alcoholic beverage for retail sale in quantities of not more than twelve thousand (12,000) gallons per year on any premises; also permits the retail dealer to sell beer, porter, ale, fruit juice, wine, malt beverages, vinous, spirituous, alcoholic,

or intoxicating liquor for consumption on the licensed premises; also permits the retail dealer to sell any beer, porter, ale, fruit juice, wine, malt beverages, vinous, spirituous, alcoholic, or intoxicating liquor for consumption off the licensed premises; and further allows the retail dealer to operate a place of business whose purpose is to prepare meals to the general public for consumption on premises subject to the following conditions and restrictions:

- (1) Each applicant for a microdistillery license shall meet the requirements set forth in this chapter for a Class A, B, or C applicant.
- (2) The provisions of this subsection shall not authorize the holder of a microdistillery license to sell the manufactured beverages at wholesale or to a wholesale dealer or manufacturer.
- (3) The holder of a microdistillery license shall not sell any alcoholic beverages for transportation off the premises to any other licensed alcoholic beverage retail dealer.
- (4) The fee for a microdistillery license shall be one hundred twenty dollars (\$120.00) for manufacturers of low-alcoholic content beverages, five hundred dollars (\$500.00) for manufacturers of all other qualifying beverages per year per licensed location.
- (5) Prior to commencing distilling operations, holder of a microdistillery license shall obtain approval from the state fire marshal.

Sec. 9:1004. - Organizations and Businesses Exempted from License Requirements.

(A) Community Centers. The provisions of this section shall not apply to publicly owned and/or operated community centers for the purposes of receptions, parties, and other events held at the community center and only under the following circumstances:

- (1) No sales of alcoholic beverages shall take place at such facilities.
- (2) Only wine, beer, and champagne shall be allowed at the receptions, parties, and other events served by a caterer licensed under the provisions of this chapter. Any caterer serving alcohol at a community center will sign a contract wherein it will indemnify the city and parish for any incidents that arise from the service of alcohol at the event.
- (3) No alcohol shall be served during regular working hours of the facilities.

(B) Art Instruction Studios. The provisions of this section shall not apply to businesses whose primary purpose is art instruction and only provided that no sales of alcoholic beverages shall take place at such facilities and no alcoholic beverages shall be furnished or handled by the staff of the business.

(C) Hair and Nail Salons. The provisions of this section shall not apply to businesses whose primary purpose is hair or nail services and only

provided that no sales of alcoholic beverages shall take place at such facilities. Customers are only allowed two complementary alcoholic beverages per visit. Any person serving will need to be permitted.

Sec. 9:1005. - Special and Temporary Business or Organizational Permits.

- (A) Restaurant After Hours Permit (R.A.H. Permit).** Restaurants which have obtained a Class R restaurant license or meet and maintain the requirements set forth in subsection 9:1003(g) of this chapter may remain open for the sale of food and food items only, after applying for and receiving on an annual basis an additional restaurant after hours permit. However, no sale, dispensing or consumption of alcoholic beverages shall be allowed or permitted anywhere on the licensed premises during the prohibited periods set forth above. During the prohibited periods, no open containers or sealed containers containing alcoholic beverages shall be allowed anywhere on the licensed premises or property except in a locked cabinet, locked closet, locked storage room or locked separate room. Businesses who maintain rooms used as lounges or bars which are separate from the restaurant section, must lock those separate rooms during the prohibited period. Proof of the finding of any open container holding alcoholic beverages at any other place in the licensed premises during the prohibited periods shall result in a presumption that some of the contents of the container are consumed on the licensed premises on the date found and during the prohibited period; and shall further result in a presumption that the contents of the container were sold by the license/permit holder, his manager, agent, servant or employee on the date found.

The permit may be issued to a location with a valid Class R license issued under this chapter, which is also the holder of a class A beer and/or liquor license, after payment of an annual permit fee of sixty dollars (\$60.00).

- (B) After Hours Work Permit.** A licensee may obtain from the alcoholic beverage control office an annual after hours work permit, which allows the licensee to hire such persons as necessary to be in or on the licensed premises, between 2:30 a.m. and 6:00 a.m. Monday thru Saturday for the sole purpose of cleaning the premises, provided that no sale, dispensing or consumption of alcoholic beverages shall be permitted upon the licensed premises during the above hours. Authorization of the above shall be issued upon written application by the licensee to the ABC office. The afterhours work permit shall be posted and available for inspection by any law enforcement officer or ABC agent. This permit shall have the names of those clean-up persons listed on the face of the permit and only those persons listed on the permit shall be allowed on the premises during those hours. Any changes, erasures, or alterations to the permit made by any person other than those authorized by the ABC office shall constitute a violation of this section and subject the licensee to fines and/or suspensions of this permit at a hearing before the ABC board in the same manner as provided for all other permits or licenses issued.

The permit may be issued to a retail dealer with an annual permit fee of sixty dollars (\$60.00). The application shall contain the names of the persons to be in or on the premises to be cleaned after hours. This permit shall be updated by written request when new personnel are

employed by the licensee with an additional charge of twenty dollars (\$20.00).

- (C) **Sunday Clean-up, Inventory and Minor Maintenance.** The permit holder and/or manager of record with the ABC office, employees of the permittee, also on record with the office, may be in or upon the licensed premises on Sunday between the hours of 2:30 a.m. and 11:00 a.m., only, for the sole purpose of taking inventory, cleaning up and doing minor maintenance; however, no sale, dispensing or consumption of alcoholic beverages shall be permitted except as may be provided for under this chapter.
- (D) **Removal of Band Equipment.** The permit holder, band members, and manager of the permittee may be in or upon the licensed premises between 2:30 a.m. and 3:00 a.m. for the sole purpose of removing all band equipment, after the bar is closed at 2:30 a.m. to the general public and all customers are off the licensed premises. This section shall in no way be construed to modify or extend section 9:1006 in general, which prohibits the sale, serving or dispensing of alcoholic beverages after 2:00 a.m. and requires that all customers must be off the licensed premises by 2:30 a.m. and prohibits any consumption of alcoholic beverages after 2:30 a.m.
- (E) **Temporary Permit—Existing Businesses.** Any person, firm, corporation or association of persons acquiring an existing retail or wholesale business licensed to sell alcoholic beverages under the provisions of this chapter, as an owner or lessee may be permitted by the ABC office to operate on a temporary basis until the board approves or denies the application, as set forth above. In the case of a retail business, such an applicant shall be required to post a sign, at the applicant's cost, in a place on the premises designated by the ABC office or its representative as is required of applicants for new places of business. The provisions of this paragraph shall apply to businesses which have been licensed during the current year or the year immediately preceding the current year. Temporary permit may be pulled by the director of alcoholic beverage control for any violation of any city, state or federal law. A temporary permit is deemed null and void absent proof of receipt of a state permit within thirty-five (35) days of issuance of the temporary permit.
- (F) **Temporary Permit—New Businesses.** Any person, firm, corporation or association of persons applying for a new license to sell alcoholic beverages under the provisions of this chapter, as owner or lessee, may be permitted by the staff of the ABC office, in cases where all other provisions of this chapter are complied with, to operate on a temporary basis until the board approves or denies a permanent license or permit, at its next scheduled meeting. The failure of the board to approve a permanent license or permit at the next scheduled meeting of the board shall constitute an automatic revocation of the temporary permit. A temporary permit may be revoked by the director of alcoholic beverage control for any violation of any city, state or federal law. A temporary permit is deemed null and void absent proof of receipt of a state permit within thirty-five (35) days of issuance of the temporary permit.
- (G) **Three-day Temporary Permit for Non-Profit Organizations.**

(1) Non-profit Organizations. There shall be issued by the alcoholic beverage control office a three-day temporary beer and/or liquor permit to charitable organizations, religious organizations, non-profit organizations and fraternal organizations for the purpose of serving beer and/or liquor at non-profit fairs held by these organizations. The religious, charitable, non-profit and fraternal organizations, which are non-profit organizations in nature, must be classified as such by all taxing authorities. The application for a three-day permit must be accompanied by: (1) a copy of the Charter of the organization, club or facility; (2) a current, accurate membership roster showing full names of members and their current resident address with only those members of legal age being authorized to dispense alcohol for the length of the permit without obtaining a bartender's license; (3) certification by the duly elected officers of the organization that said organization is certified as a non-profit organization by all taxing authorities and list such authorities.

(2) Certification by Building Official Required. The application must accompany a permit granted by the building official in accordance with title 9, part VII (carnivals, street fairs, circuses, etc.), sections 9-111 through 9-116 of the Code of Ordinances. A certification from the building official must indicate that all of the requirements to have a fair are in accordance with the ordinance governing carnivals, street fairs, circuses, etc. Those organizations qualified above in subsection (a) that own or lease private property where a fair is to be held must provide a general description of the property in lieu of obtaining certification from the building official.

(3) Hours of Operation. Such three-day beer and/or liquor permit shall be for three (3) consecutive days only, beginning at the time designated by the ABC office and ending at the time designated by the ABC office, at which time such beer and/or liquor permit shall expire. This permit under this section is not for the purpose of serving alcohol beyond the closing hours as provided in the wine, beer and liquor ordinances for the city and parish.

(4) Location Requirements. This three-day beer and/or liquor permit shall be for the purpose of serving beer within the designated boundaries of the fair as provided to the building official. This section shall be an exception to the provisions requiring licensed premises under the wine, beer and liquor ordinances for the city and parish.

(H) Special Event Permit. A special event permit may be issued to any licensed premises by the alcoholic beverage control office with the approval of the council member in whose district said special event is to be held. In the absence of the council member and in cases where expediency is necessary, the ABC director or his designee may approve the special event permit.

All businesses located within the territorial limits of the "downtown development district" as defined in R.S. 33:2740.8, are eligible for a special event permit regardless of whether or not their main business is the sale of alcoholic beverages.

The permit fee shall be three hundred sixty dollars (\$360.00) per day of the event for liquor (to include beer and wine) or one hundred twenty dollars (\$120.00) per day of the event for beer only. No more than twelve (12) special event permits shall be issued to any location in any given year. The applicant shall specify the duration of the event, which is a minimum of one (1) day and a maximum of three (3) consecutive days, per event. Each permit issued shall represent a single event of one (1) to three (3) days, the fee shall be calculated per day, per event, by type(s) of liquor to be served, and shall apply to each permit issued. The permit shall be issued to the premises defined in the application.

The alcoholic beverage control office shall not issue any special event permit to any applicant for said permit if such applicant is delinquent in the payment of any tax, license or fee to the city or parish.

The provisions of this section shall not apply to those religious, charitable, non-profit and/or fraternal organizations described in subsection 9:1005(g).

(1) Fraternal Organizations on College Campuses. Fraternal organizations located on college campuses shall be allowed to obtain no more than twelve (12) special event permits, not to exceed one (1) day per permit, at any location in any given year. These permits may be obtained through a retailer or caterer who possesses a current valid license to sell alcoholic beverages in the parish. The same requirements as set forth for any other individual or organization desiring to obtain a special event permit must be met.

(I) On-site Tasting Permit. On-site sampling for the purposes of allowing a customer to taste a brand of wine, beer, or liquor shall not be conducted on any premises unless licensed under section 9:1003 of this chapter or unless such on-site sampling is conducted in accordance with the following conditions and restrictions:

(1) Any retail dealer holding a Class B (liquor) permit may apply to the office of alcoholic beverage control for an on-site tasting permit pursuant to this section at least one (1) week prior to the proposed date of the sampling setting forth the date, time, location, and brand(s) of wine to be sampled.

(2) A retail dealer, wholesaler, manufacturer and/or supplier may furnish the wine, beer, or liquor to be sampled and the containers used to hold such samples in connection with the sampling subject to state and/or federal laws, rules and/or regulations.

(3) All samplings conducted pursuant to this section shall be limited in duration to one (1) day and no more than two (2) on-site tasting permits shall be issued for any licensed premises each month.

(4) The fee for the on-site tasting permit(s) provided for in this section shall be sixty dollars (\$60.00) per permit.

(5) All persons serving pursuant to an on-site tasting permit issued in accordance with this section shall have the appropriate valid and current retail license.

(6) On-site sampling conducted pursuant to an on-site tasting permit issued pursuant to this section shall be restricted to within a 15-foot radius of the area of the licensed premises where most of a retail dealer's inventory is normally and routinely stocked, merchandised, and/or marketed.

(7) No person under the age of eighteen (18) shall be allowed in the area of a class B (liquor) establishment that offers tastings pursuant to this section at any time unless accompanied by a parent, legal guardian or spouse twenty-one (21) or older.

Sec. 9:1006. - Hours of Operation and Closing Times for Licensed or Permitted Businesses and Organizations.

(A) **Class A, B and R license holders.** The hours of operation of all class A on-premises consumption license holders shall be from 6:00 a.m. daily until 2:00 a.m. of the following day, Mondays through Saturdays, and from 10:00 a.m. Sunday daily until 12:00 a.m. midnight Sunday. The hours of operation of all Class R on-premises consumption license holders shall be from 6:00 a.m. daily until 2:00 a.m. of the following day, Mondays through Saturdays, and from 10:00 a.m. Sunday daily until 12:00 a.m. midnight Sunday. The hours of operation of all class B off-premises consumption license holders shall be from 6:00 a.m. daily until 2:00 a.m. of the following day. Whenever New Year's Eve falls on a Sunday, all Class A and R license holders shall be allowed to operate on New Year's Eve until 2:00 a.m. the following day, and the premises must be vacated by 2:30 a.m. the following day. It shall be a criminal offense as well as a violation of this chapter for any holder of such a retail dealer's license/permit issued under this chapter or a servant, agent or employee of same to dispense, in any manner, beverages described in subsection 9:1000(b) of this chapter between the hours of 2:00 a.m. and 6:00 a.m., except as provided below:

(1) **Sunday Sales - Motels, Hotels, Restaurants, Convention Facilities and Private Clubs.** Without meeting the requirements of subsection 9:1003(g)(5) of this chapter, motels, hotels, convention facilities, riverboats as defined in the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 9:501 et seq., and adjacent docking and patron assembly facilities including restaurants, and private clubs offering family-type outdoor recreational facilities designed and used as golf and/or tennis clubs whose land area used for said recreational activities exceeds the area in square footage used for improvements by a ratio of at least 20 to 1, shall be permitted to serve beverages described in subsection 9:1000(b) herein between the hours of 10:00 a.m. and 12:00 a.m. midnight Sunday to guests, members and other private functions including legitimate groups, but shall be prohibited from selling package goods or opening bars or lounges to the general public during the specified hours. Said ratio in square footage is to be determined by the inspection division. Private clubs designated above shall meet all requirements of subsection 9:1006(a)(2)a. and b. except such clubs will not have to be

classified as a non-profit organization. Riverboats, as previously defined in this section, may only serve beverages described in subsection 9:1000(b) herein between the hours of 10:00 a.m. and 12:00 a.m. midnight Sunday to their patrons.

- (2) **Sunday Sales - Non-profit Organizations.** Religious, charitable, fraternal, veterans and other private clubs, which are non-profit organizations in nature and classified as such by all taxing authorities, licensed under the provisions of this chapter, upon certification as a non-profit organization by the ABC office, shall be permitted to sell beverages described in subsection 9:1000(b) between the hours of 10:00 a.m. Sunday and 12:00 a.m. midnight Sunday subject to meeting the following conditions:

(a) **Criteria.** That an organization described in this section apply for and receive on an annual basis, a permit to serve alcoholic beverages during the hours specified above.

(b) **Documentation Required.** Said permit application to be accompanied by:

(1) A copy of the charter of the organization, club, or facility.

(2) A current, accurate membership roster showing full names of members and their current residence address.

(3) Certification by the duly elected officers of the organization that said organization is certified a non-profit organization by all taxing authorities and list such authorities.

(4) That an organization applying for a permit under this section also hold a current license/permit under other provisions of this chapter for the sale of alcoholic beverages.

- (3) **Closing Hours.** All Class A (on premises consumption) locations shall be closed at 2:30 a.m. until 6:00 a.m., the same day, Monday through Saturday, and shall be closed from 2:30 a.m. Sunday until 11:00 a.m. and shall be closed from 12:30 a.m. until 6:00 a.m. Monday. All Class B (off-premises consumption) locations may remain open twenty-four (24) hours per day, however, no alcohol may be sold, dispensed, consumed, or given away from 2:00 a.m. until 6:00 a.m. daily, Monday through Sunday.

Class D (Riverboat Extended Operation) licensed locations may serve alcohol twenty-four (24) hours per day with no requirement to close or shut down operations at those bars and liquor service points which are entirely enclosed within the licensed gaming floor and have restricted access pursuant to La. R.S. 27:41, or which can only be accessed through the licensed gaming floor and have restricted access pursuant to La. R.S. 27:41.

- (4) **Exemptions.** Those businesses exempted from the provisions of former R.S. 51:191 and by the provisions of former R.S. 51:192 as they

read when repealed in 1986, and riverboats as defined in the Louisiana Economic Development and Gaming Control Act, R.S. 9:501 et seq., and adjacent docking and patron assembly facilities, may remain open for the sale of other items permitted by law, but any sale, dispensing, or consumption of alcoholic beverages at such places of business during the prohibited periods set forth above is expressly forbidden. During the prohibited periods, no open containers, glasses, bottles, cans or other containers holding alcoholic beverages shall be allowed anywhere on the licensed premises or property, except in a locked cabinet or cupboard; provided that those businesses maintaining separate rooms for the conduct of the business of dealing in alcoholic beverages may securely close and lock said separate rooms. Proof of the finding of any open container holding alcoholic beverages at any other place in the licensed premises during the prohibited periods shall result in a presumption that some of the contents of the container were consumed on the licensed premises on the date found and during the prohibited period; and shall further result in a presumption that the contents of the container were sold by the license/permit holder, his manager, agent, servant or employee on the date found.

(B) Class P License Holders. The hours of operation of all Class P (on-premises consumption) license holders shall be from 10:00 a.m. daily until 12:00 a.m. of the following day. It shall be a criminal offense as well as a violation of this chapter for any holder of a Class P license issued under this chapter or a servant, agent or employee of same to dispense, in any manner, beverages described in subsection 9:1000(b) of this chapter between the hours of 12:00 a.m. and 10:00 a.m. All Class P locations shall be closed at 12:30 a.m. and may not sell beverages described in subsection 9:1000(b) of this chapter before 10:00 a.m.

(C) Class M License Holders. The hours of operation of all Class M (Manufacturer's) license holders shall not be limited, except as follows:

(1) Class M License Holder with On-premises Consumption. The hours of operation of all Class M (Manufacturer's) which also holds a Class A license and operates any on-premises tasting room, other on-premises consumption facility or service point of any sort shall be from 9:00 a.m. until 12:00 a.m. of the following day, Monday through Thursday, 8:00 a.m. until 2:00 a.m. of the following day, Friday and Saturday, and 12:00 p.m. until 12:00 a.m. on Sundays for those areas which serve or dispense any qualifying beverages under this chapter. The hours of operation for the manufacturing operation shall not be limited.

(2) Class M License Holder with Off-premises Consumption. The hours of operation of all Class M (manufacturer's) which also holds a Class B license and operates any sales point for off-premises consumption of any sort shall be from 9:00 a.m. until 12:00 a.m. of the following day, Monday through Thursday, 8:00 a.m. until 2:00 a.m. of the following day, Friday and Saturday, and 12:00 p.m. until 12:00 a.m. on Sundays for those areas which serve or dispense any qualifying beverages under this ordinance. The hours of operation for the manufacturing operation shall not be limited.

Sec. 9:1007. - Types of Employee Licenses, Fees for Employee Licenses, and Qualifications for Employee Licenses.

(A) **Classified Employee License Required.** Any person employed or used in a Class A, B or R licensed retail business or a licensed limousine service who, as a function of their duties, dispenses, sells, delivers or serves any alcoholic beverages as described in subsection 9:1000(b) of this chapter shall be required to be licensed. A classified employee license shall cost thirty dollars (\$30.00) for issuance of a license to a qualified applicant, as defined in this chapter, for a two-year license.

(B) **Classified Employees in General.** Persons required to hold permits under this section shall be referred to as classified employees and that classification, as used in this section, shall include, but not be restricted to mean bartenders, barmaids, waiters, waitresses, cocktail waiters, cocktail waitresses and chauffeurs employed by a licensed limousine service except that this subsection shall not apply to a person holding a dealer's license, or to a person holding a waiter/waitress alcoholic beverage permit as described in this chapter.

(1) **Manager, Bouncer, Doorman and Disc Jockey** required to obtain classified employee license. Any person employed in any retail business described herein as a manager, disc jockey, door man, or "bouncer" shall also be subject to licensing under this chapter as a classified employee.

(2) **Exotic Dancers.** Any person performing as an exotic dancer at any business licensed under the provisions of this chapter, or any event exempted or permitted under this chapter, shall comply with the provisions of Code of Ordinances sections 9:325-9:329, which provides for qualifications and licensing of exotic dancers, in addition to the provisions herein.

(a) Any person employed or used in any retail business to dance or gyrate or perform any other physical performance shall be subject to licensing as a classified employee, except that records of exotic dancers shall be separately kept and made available to law enforcement officials. Provided that the provisions of this section shall not apply to amateur nights wherein non-employees are allowed to dance without the benefit of any compensation whatsoever, including gratuities from patrons. Any business, individual, organization or other entity wishing to conduct an amateur night shall, at least seven (7) days before the event, notify the alcoholic beverage control office of the intent to do so and shall at that time specify the date of such event and the hours thereof, said notification to be written. No such entity shall be permitted to have more than one amateur night per week.

(b) It shall be illegal for any employee to solicit or induce any persons on the premises to purchase for him/her or for the solicitor or any other person, any beverage or other product of whatever kind sold in such establishment whether or not the solicitor expects to realize a profit or reward as a result of

such solicitation. This paragraph shall not apply to bartenders, managers, waiters or waitresses.

(3) Fashion Models. Any person employed or used in any retail business to perform services as a model and models, demonstrates, or in any way displays clothing or wearing apparel of any kind in return for anything of value, shall also be subject to licensing under this chapter as a classified employee.

(C) Waiter/Waitress License Required. Any person employed or used in a Class A or R licensed retail business whose primary function is to take orders for and serve food and food items and who also takes orders for and serves alcoholic beverages in conjunction with the serving of those meals. A waiter/waitress license shall cost thirty dollars (\$30.00) for issuance of a license to a qualified applicant, as defined in this chapter, for the duration of employment in that particular corporation, company or association, with the thirty dollar (\$30.00) fee to be recharged if the waiter/waitress who holds a waiter/waitress alcoholic beverage license changes position of employment to another corporation, company or association.

(D) Retail Clerk License Required. Any person employed or used in a Class B licensed retail business who, as a function of their duties, dispenses, sells or serves any alcoholic beverages as described in subsection 9:1000(b) of this chapter. Persons required to hold licenses under this section shall be referred to as retail clerks and that classification, as used in this section, shall include, but not be restricted to mean managers, sales clerks, retail clerks, and check-out counter clerks. A retail clerk license shall cost thirty dollars (\$30.00) for issuance of a license to a qualified applicant, as defined in this chapter, for the duration of employment in that particular corporation, company or association with the thirty dollar (\$30.00) fee to be recharged if retail clerk who holds a retail clerk alcoholic beverage permit changes positions of employment to another corporation, company or association.

(E) Qualifications for Classified Employees, Retail Clerks and Waiter/Waitresses. Each applicant for a permit as a classified employee, retail clerk and/or waiter/waitress shall meet the requirements as listed in subsection 9:1003(e), except the two-year residency requirement and the requirements of both national and state citizenship as required under subsection 9:1003(e)(2), provided that any person not a citizen of the United States shall be the holder of a properly issued passport and current visa. If the above applicant has been adjudged by a board or convicted by a court in any matter stated in section 9:1003(e) of this chapter, the granting of any permit or of a renewal is within the discretion of the board.

Sec. 9:1008. - Notice of Intent to Apply for Business License, Issuance of Business Licenses, Criteria for Issuance.

(A) Notice of Intent and Public Notice Requirements.

(1) Notice of Intent. New businesses: As a prerequisite to the filing of an application for permits for new business hereunder, the applicant must file a notice of intent for a fee of five hundred sixty-four

dollars (\$564.00) to apply for a permit. This notice of intent shall be submitted to the alcoholic beverage office, disclosing the proposed location of the establishment. An assigned agent will go to the proposed site whereupon the agent will determine if said site meets location requirements as provided in title 9, chapter 18, of the Baton Rouge Code of Ordinances. Upon approval of the site, notice shall issue as set forth in this section.

New Businesses, Class P: An applicant for a Class P permit must file a notice of intent for a fee of ten dollars (\$10.00). This notice of intent shall be submitted to the alcoholic beverage office, disclosing the proposed location of the establishment. An assigned agent will go to the proposed site whereupon the agent will determine if said site meets location requirements as provided in title 9, chapter 18, of the Baton Rouge Code of Ordinances. Upon approval of the site, notice shall issue as set forth in this section.

(2) Notice Requirements.

(a) On approval of the site, the ABC staff shall set a proposed initial hearing date for review of the report and determination of suitability of the proposed application.

(b) On approval of the site, an agent shall post a sign at the proposed location. Said sign shall be printed on orange, 18 x 24 inch paper, as utilized by the planning commission, and shall be horizontally oriented to maximize visibility to the public. Said sign shall remain visible in the designated location at all times for a period of thirty (30) consecutive days.

(c) Signs shall be posted at the service point for any Class P applicant and at the main entrance from each parking lot at the facility to be licensed.

(d) For any delivery applicant, notice shall be posted on the applicant's website for a period of thirty (30) consecutive days and in the official journal of the city-parish for three (3) days.

(3) Official Report. After the 30-day notification period, ABC staff shall complete and deliver to the board an official report for all new businesses that will be used primarily for the purpose of determining the risk of local over concentration of liquor outlets. Utilizing the most recent data available from the U.S. Census Bureau, East Baton Rouge Parish Sheriff's Office, Baton Rouge City Police, planning commission, and other relevant agencies, this preliminary report shall include, but not be limited to, the following information on the area within a one-mile (5,280-foot) radius of the proposed location, to include census blocks within that radius where necessary:

(a) Average household income (to include percentage of home ownership where data is available).

(b) Family structure (percentage of single-parent households, percentage of population consisting of males between the ages of fifteen (15) and twenty-four (24) years).

(c) Population-population density (overall population of the specified area).

(d) Crime statistics by type of crime and frequency for the preceding twelve-month period.

(e) Statistics regarding comparative frequency of communicable diseases, including but not limited to sexually transmitted diseases and HIV infection, for the specified area as compared with the parish and state as a whole.

(f) Number of liquor licenses in the vicinity by type of license.

(g) Total number of liquor licenses in vicinity and number of ABC violations at those licensed locations in the past twelve (12) months.

(h) Business plan of proposed licensee.

(i) For the purposes of determining over concentration of liquor outlets, no single factor listed herein is controlling. All relevant factors, as determined by the board, must be considered in determining whether to allow an application to proceed. Such factors may include, but not be limited to, the following:

(1) Risk of undue congestion of streets and traffic access;

(2) Land or building usage which is, or may become incompatible with existing character or usage of the neighborhood;

(3) An over concentration of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood;

(4) Affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns;

(5) Creation of a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties; and

(6) Any other concern that would affect the public health, safety or morals.

(4) **Official Report for Class P Applicants.** After the thirty-day notification period, ABC staff shall complete and deliver to the board an official report for all new class P locations, as set forth in subsection 9:1008(a)(3), except that the area to be analyzed will be measured as one (1) mile from the actual alcohol service point of the location, and not from the physical boundaries of the overall recreational facility.

(B) **Approval of Statement of Intent.** After the thirty-day notification period, and upon receipt and review of the official report, the board may issue notification to file an application in accordance with section 9:1009. Prior to issuing such notice, the board shall, at all times, consider the impact that a new license or liquor outlet would have on the immediate area surrounding the new outlet, based on facts and information as provided in the official report, any opposition to the proposed application, any citizen commentary, and deny the application if the board finds that the new outlet would cause or contribute to overconcentration of liquor outlets in the area, or would otherwise adversely affect public health, safety or morals.

(C) **Ongoing Businesses.** For ongoing businesses, as defined in section 9:1001 of this chapter, after the thirty-day notification period, and upon review of facts and information available from their investigation of the premises, public records, and other reliable information, the ABC staff may issue notification to file the ongoing business application in accordance with sections 9:1003 and 9:1009.

Prior to issuing such notice, the staff shall, at all times, consider the impact that a renewed or new license or liquor outlet would have on the immediate area surrounding the new outlet, based on facts and information available from their investigation of the premises, public records, and other reliable information, and refer the application to the board for review if the staff finds that the new outlet would cause or contribute to overconcentration of liquor outlets in the area, or would otherwise adversely affect public health, safety or morals.

The ABC staff may only authorize application by an existing business in cases where no complaint or petition of opposition has been filed as to the license. Where complaint or a petition of opposition has been received by the ABC staff, any decision regarding issuance of a license or permit shall remain with the ABC board.

If the ABC staff permits the application to proceed under these guidelines, the director of ABC may issue a temporary license to an ongoing business which meets his reasonable approval based on reliable information, reports, and investigative findings. A temporary license issued under these guidelines may be revoked, suspended, or withdrawn by the director of ABC for any violation of any city, state or federal law, or on any grounds provided by the Baton Rouge Code of Ordinances, title 9, section 18, which would be grounds for discipline, warning, revocation, or suspension of a permanent license, or for any good cause shown by the director. A temporary license is deemed null and void absent proof of receipt of a state permit within thirty-five (35) days of issuance of the temporary permit.

Issuance of a temporary license under these guidelines in no way indicates that a final, permanent license will be granted. No applicant has the right of appeal from the director's discretionary issuance or refusal to issue any temporary license or permit under this section.

(D) **Right of Appeal.** If, after reviewing the evidence, an application is denied and the board refuses to issue notification to file application, the applicant shall have the right to take an appeal in accordance with the provisions of Code section 1:153. The decision of the board

shall be final unless appealed within the time and manner set forth above.

- (E) **Opposition Procedure.** If, during the thirty-day notification period, complaint or opposition is made, the ABC office shall refuse to issue the notification to file application and shall order the complainant(s) and the applicant to appear before the next scheduled meeting of the alcoholic beverage control board, in order for the complainant(s) to show cause why the notification should not be issued. The burden of proof shall be on the complainant(s) to prove by a preponderance of evidence justifiable grounds for denying the issuance of a notification to file application. "Justifiable grounds" include any grounds set forth in the R.S. title 26, or city-parish beer and/or liquor ordinances, title 9, or any other grounds which might adversely affect the public health, safety, or morals, including the information provided in the official report.

If the board dismisses the complaint(s), it shall issue the notification to file an application, and the applicant may proceed in accordance with the provisions of section 9:1009. Notwithstanding the decision of the board, however, the complainant(s) shall have the right to file with the ABC office a sworn formal petition of opposition to issuance of a permit at any time prior to same being issued, pursuant to R.S. title 26. Upon receipt of any such petition, the ABC office shall immediately send the permit application and a copy of the petition to the appropriate state office for review in accordance with R.S. title 26. No further action will be taken on the permit application when such a petition is filed until ruled upon by the state office. In the event the board sustains the complaint(s), it shall refuse to issue the notification to file application, the applicant shall have the right to take an appeal in accordance with the provisions of Code section 1:153. The decision of the board shall be final unless appealed within the time and manner set forth above.

- (F) **Class D Licenses:** A Riverboat Casino, as defined within this ordinance, which is a holder of a Class A Beer and/or Liquor license, does not have to provide separate Notice of Intent, application, or renewal apart from its Class A license. The criteria for issuance of the Class D license are:

- (1) Meets the definition of Riverboat Casino as provided in 9:1001, and
- (2) Is issued and maintains a valid Class A Beer and/or Liquor license.

Sec. 9:1009. - Application for Business Licenses, Criteria for Issuance of Business Licenses, Approval of Business Licenses.

- (A) **Criteria.** Upon presentation of a notification to file application issued pursuant to section 9:1008, the applicant may file his application for a permit for a new business. All applications for wholesale or retail permits, whether new or renewal, shall be in writing and sworn to, and shall contain the full name of the applicant and the accurate description and correct address of the premises in which the business is to be conducted, which address shall be

considered the proper address for all notices to the applicant or licensee required by this chapter. This application shall be filed in duplicate with the ABC office, and shall be accompanied by lawful currency of the United States, a cashier's check, or a postal money order in the proper amount and payable to city and parish treasurer. Said application shall also be accompanied by the following:

(1) A list of all persons, firms, corporations or associations of persons financially interested in any way in the business.

(2) A list of all persons, firms, corporations or associations of persons endorsing loans or lending funds to the applicant which in any way will be used in the business.

(3) Each person applying for a retail dealer's permit to sell alcoholic beverages, and any person financially interested in such business, shall be photographed in accordance with procedures to be set up by the ABC office.

(4) Each applicant, at the time of making his application, or as soon thereafter as possible but prior to opening for business, shall designate some person(s) who will act as manager(s) and assume responsibility for the proper operation of the business in the applicant's absence. The applicant shall, at the same time, submit evidence as may be required by the ABC office, that such person also possesses all the qualifications required of the applicant.

(5) In applications where the licensed premises are being or are to be leased, applicant must show the name and current address of the lessor on the application.

(6) Each applicant applying for a retail dealer's permit to sell alcoholic beverages, whether new or renewal, and any person financially interested in such business, shall complete and submit the authorization to disclose tax information form provided by the office of alcoholic beverage control.

(B) Approval by the Board. Upon receipt of an application together with supporting data per section 9:1008, the ABC office shall cause an appropriate investigation of the application to be completed within fifteen (15) days excluding weekends and legal holidays. Said investigation to be reported to the board at its first meeting following the fifteen (15) day investigation period. At that meeting, if the applicant has met all the requirements of the laws of Louisiana and this chapter, there is no opposition pending which must be disposed of, and the board, considering the information provided in the official report and the outcome of the final investigation, feels that the issuance of the permit will not be adverse to the public interest, the board may authorize issuance of the permit. Public comments and opposition regarding a proposed permit are expressly permitted at the final hearing, and all public comments must be taken prior to the board's final vote on issuance of the permit. Should the board deny the permit application, the applicant has the right to file an appeal in accordance with the provisions of Baton Rouge City Code section 1:153 or the decision of the board will be final.

Sec. 9:1010. - Building, Location, Zoning, and Parking Requirements for Businesses.

(A) Building Requirements.

(1) Acquire and Maintain Health Permit and Comply with all Fire, Building, Plumbing, Electrical, Heating, Air Conditioning and Zoning Codes. Failure to possess and maintain all proper and applicable health permits for any premises licensed under this chapter or the violation of, or noncompliance with any applicable fire prevention, building, plumbing, electrical, heating, air conditioning or zoning codes pertaining to any premises licensed under this chapter shall be cause for denial, revocation or suspension of any permit or license. The issuance or reinstatement of any such license, application or permit shall not be considered by the ABC board until the board receives notification from the proper authority that all health permits are valid and current or said violation or noncompliance has been corrected. In the case of new construction of a proposed licensed location, a certificate of occupancy shall be required before final issuance of a license or permit.

(2) Premises Destroyed. In the event that premises licensed hereunder are destroyed by fire or any natural disaster or act of God, the licensee shall be permitted a reasonable time within which to reconstruct the licensed premises, but in no event longer than twenty-four (24) months, unless further extended by the ABC board.

(B) Location Prohibitions Three hundred-foot Distance Requirement from Churches, Schools and Public Playgrounds, and Daycare Centers. No license or permit shall be granted hereunder to any applicant when the property upon which the business is to be conducted is within three hundred (300) feet of any property used exclusively as a regular church or synagogue, public library, school or orphans' home (except a school for business education conducted as a business college or school, and except a state college or university), or within three hundred (300) feet of a public playground, or within three hundred (300) feet of a daycare center, provided that the provisions of this section shall not apply to premises which are maintained as a bona fide hotel, wholesale dealer, railway car, or fraternal organization, or to any premises licensed to deal in beverages of low alcoholic content, for a period of one (1) year, or longer, prior to the passage of this ordinance. The limitation on distance from a public playground shall not apply to a premises operated as a class P, public recreational facility licensee. The three hundred-foot minimum distance shall be measured as provided by state law in R.S. title 26.

(C) Zoning.

(1) Non-conforming. No person operating a business which is presently classified as a legal non-conforming commercial use, as defined in the zoning ordinance of the city and parish, may apply for or be issued a license or permit without first obtaining a petition of fifty-one (51) percent of the property owners within three hundred (300) feet of said business (said petition must be obtained from the DPW permit office). This section only applies to

class B (package) sales of retail beer and/or liquor, which does not allow consumption on the premises.

(2) Requirements Must Be Met Prior to Application. All zoning requirements as required by the zoning ordinance of the city and parish must be met prior to the time an application for an alcoholic beverage license is filed with the ABC office.

(3) Waiver of Parking Requirements. The ABC board, subject to the approval of the zoning commission, may waive parking requirements either in whole or in part upon a finding that such waiver is in the public interest or that the person, firm, corporation, association of persons, or premises was operating on the premises prior to September 24, 1975.

Sec. 9:1011. - Renewals of Business and Employee Licenses and Permits.

(A) Requirements. The application for renewal of a license and/or permit issued under this chapter will be approved or denied based upon the general purpose and intent of the requirements for an original application. Renewal of a license and/or permit shall be construed as an extension of those qualification requirements that permitted issuance of the current year's license and/or permit plus any amendments thereto.

(B) Grounds for Denial. The application for renewal of a license and/or permit may be denied on the same grounds and in the same manner as an original application. However, any condition, act, or reason which would have been grounds for suspension or revocation of the permit for the previous year shall be grounds for denial of the application for renewal.

(C) Filing Deadline. Business applications for renewal of a license and/or permit for the ensuing year shall be filed with the ABC office on or before January 31 of the present year, and a remittance therefor in cash, cashier's check money order, or credit card in the proper amount, payable to city and parish treasurer, who shall hold same in abeyance until he is notified that the application has been approved. The term of the license shall be from February 1 through January 31 of the following year.

(1) Classified Employee Renewal. Classified employee's application for permit renewal, accompanied by the required remittance in cash, cashier's check or money order, or credit card shall be filed with the ABC office no later than thirty (30) days prior to expiration of the current permit.

(D) Late Penalty. Should any business licensee fail to file an application for renewal together with the necessary fee(s) as required by this chapter, a penalty shall be imposed of twenty-five (25) percent of the amount due.

(1) Denial. If the application and fee(s) for renewal of a business license and/or permit is not filed before January 31 of the year for which the permit is required, the application for renewal may be denied and the procedure and requirements for a new

business application imposed. If the renewal application is granted, however, it shall be subject to the penalties assessed hereinabove.

(2) Waiver of Penalties. Notwithstanding the provisions above, the director of the alcoholic beverage control division shall have the authority to waive the penalties provided, under the following circumstances:

(a) By Director: Where the director of the alcoholic beverage control division determines that the reason the application and fee for renewal required under this section is not timely filed due to the fault of the city or parish and not due to the fault of the applicant;

(b) When Issued After December 15: Where the original license and/or permit is issued after December 15 of the year for which the permit is required, the application for renewal may be denied and the procedure and requirements for a new business application imposed.

- (E) Renewal Not Accepted After July 1.** No application for renewal of a license and/or permit, excepting classified employees, shall be accepted after July 1 and any application filed after that date shall be required to qualify as a new business.
- (F) Fingerprinting Waived.** Fingerprinting persons financially interested in any business licensed to sell alcoholic beverages is hereby waived when such persons or businesses apply for renewal of a license and/or permit, provided there has been no change in ownership since last renewal.
- (G) Taxes and Fees Must Be Paid.** No renewal of license and/or permit shall be issued to an applicant if any required local political subdivision sales and use tax, penalties, interest, tax deposits, attorney fees, court costs fees, excise tax, occupational license tax or other tax, license or fee are outstanding or considered delinquent.
- (H) Fees Same as New Businesses.** Fees and/or taxes for all renewal applications shall be the same as levied on new businesses except herein where may be otherwise specified.
- (I) Health Permit Current.** An approved inspection report by the parish health unit dated within ninety (90) days of the renewal application must accompany said application.
- (J) Meet Requirements of Subsection 9:1009(a)(5).** All applications for renewal shall meet the requirements of subsection 9:1009(a)(5) of this chapter.

Sec. 9:1012. - Enforcement Provisions.

- (A) Notification of Charges by Police and Sheriff.** The chief of the city police department and the parish sheriff are hereby required to promptly notify the ABC office of any and all arrests or charges at any business establishment licensed under this chapter, which involve

the holder of the license for that establishment, or any agent, servant or employee of same, and which arrests and charges relate to violations of this chapter; and the chief of police and sheriff are hereby directed to charge the licensee, the agent, servant or employee of same, as the case maybe, with said violation before the proper court, who in turn will notify the ABC office of all charges resulting therefrom.

- (B) **Chief of Police to Furnish Assistance.** The Chief of Police of the police department of the city is hereby required to furnish any reasonable request for assistance by the ABC office or its authorized representative for the purpose of enforcing this chapter.
- (C) **Request State Agencies to take like action of ABC Board.** Written notice of a decision by the ABC board to warn, deny, suspend or revoke any license or permit shall be sent immediately to such state officer, departments or agencies as may have jurisdiction over, or interest in such license/permits, with a request that the state take like action.
- (D) **Who May Cite a License Holder.** The ABC office, city and parish officials, governing bodies, and law enforcement authorities have the right to have a licensee/permittee cited by the ABC office to show cause why a license/permit should not be revoked.
- (E) **Inspections of Premises.** As a consideration in being issued a license/permit to operate a business covered by this chapter, the license/permit holder agrees that the licensed property and any documents, sales records, etc. required herein shall be available for inspection upon request of any agency, or its representative, empowered to enforce this chapter.

Sec. 9:1013. - Acts Prohibited.

In addition to prohibited acts and/or conditions found in City Code sections 1:150-1:152, et seq., no holder of a wholesale, retail or classified employee license and/or permit issued under this chapter, or their servant, employee, agent, representative or business associate shall perform, commit, or encourage or permit any person to perform or commit the following prohibited acts on any licensed premises:

- (1) **Violation of any Local, State, Federal or International Laws.** Commit, attempt, conspire, aid, abet or encourage any persons to commit any acts or things prohibited by this chapter, by the provisions of any applicable Louisiana Revised Statutes or law, or applicable laws of the United States or any other country.
- (2) **Bring your Own Alcoholic Beverages.** It is strictly forbidden to allow, encourage or permit patrons to provide or bring and/or consume alcoholic beverages not provided by the licensed establishment. Patrons cannot provide their own alcoholic beverages for consumption on premises unless the premises is licensed by state or local officials. This specifically applies to all tobacco, vape, smoke, hookah, arcades, gaming, theaters, listening rooms, and other retail type businesses.
- (3) **Consumption of Alcoholic Beverages on any Parking Lot.** It shall be unlawful to sell, disburse or permit the sale or disbursement of

alcoholic beverages or liquors, including beer, in any open container for consumption off licensed and/or leased premises; or It shall be unlawful to furnish open containers to patrons for the intent and purpose of removal and consumption of alcoholic beverages and liquors, including beer, off the licensed premises and/or leased premises.

- (4) **Allow Unlicensed Persons to Perform Services.** Shall permit any person to perform any services, on the licensed premises, covered under this chapter for which a license/permit is required without same being first issued and in a current valid status.
- (5) **Persons Aiding and Abetting in any Violation with a License Holder.** Any person aiding, abetting or participating in any violation of this chapter with any license/permit holder, or agent, servant, employee or business associate of such holder, shall be equally guilty of a violation of this chapter, and shall be punished as provided herein.
- (6) **Operating without a Permit.** Any person, firm, corporation or association of persons who operates, in any manner, a business described in subsection 9:1000(b) and/or section 9:1003 of this chapter without the proper license/permit shall have the premises of such business place closed and sealed from entry until such time as the city can be heard on a motion for a temporary restraining order or a preliminary injunction. Any alcoholic beverages, documents and sales receipts therein covered by this chapter shall be seized by the office of alcoholic beverage control until such hearing. Copies of seized documents which are necessary business documents, will be provided upon request and any alcoholic beverages therein covered by this chapter shall be seized by the office of alcoholic beverage control.
- (7) **Permit Employees to Consume Alcoholic Beverages.** Permit any classified employee or for any classified employee described in this chapter to consume any alcoholic beverages on the licensed premises during hours of operation of the business or during the normal working hours of said employee, except that this section shall not apply to those persons employed in Class R licensed businesses.
- (8) **Provide Off Premises Deliveries.** Provide off-premises delivery service of any alcoholic beverages excepting those businesses licensed under this chapter.
- (9) **Offer Alcohol as an Inducement to Purchase Motor Fuels.** Offer alcoholic beverages as an inducement to purchase motor fuels.
- (10) **Prohibition of Exotic Dancers.** No individual, firm, corporation, business or other entity regulated or licensed to sell alcoholic beverages under this chapter shall employ or permit any exotic dancer to perform on the premises of any establishment owned or operated by such licensee whether said dancer is paid a salary, commission or receives gratuities from customers of the establishment.

It shall be prima facie evidence of a violation of this section if any female performer is clad only in "pasties" covering female breast nipples or is clad only in a "G-string" covering the female genitalia or a combination of both. It shall be prima facie evidence of a

violation of this section if a male performer is clothed only in such clothing that covers the male genitals only.

Any individual, firm, corporation, business, or other entity regulated or licensed to sell alcoholic beverages under this chapter and employing exotic dancers, existing on the effective date of this chapter, shall be exempt from the provisions of this section. This exemption shall not be transferrable.

"Transferable" as used above applies to the ownership of the license as well as the location of the licensed premises at the time the exemption went into effect."

(11) Forbidden Promotional Practices. The following promotional practices between the hours of 10:00 p.m. and 10:00 a.m. of the following day:

(a) Sell or otherwise furnish any alcoholic beverage that is free of charge whether associated with an admission fee or cover charge or not.

(b) Sell or serve any alcoholic beverage at a price fixed on an "all you can drink basis."

(c) Sell or otherwise furnish alcoholic beverages at a price which is less than sixty (60) percent of the usual, customary or established retail price charged for such alcoholic beverage drinks by that establishment.

(d) Sell or serve to all patrons or classes of patrons multiple drinks for a single price.

(e) Sell or serve an increased non-standard volume of alcohol in a single container for consumption by one person.

(f) Conduct games or contests that involve drinking alcoholic beverages or the awarding of alcoholic beverages as prizes.

(g) Engage in any other practice which has as its specific purpose to encourage or permit patrons to drink in excess.

(h) Advertise or promote in any way, either on or off the premises, a practice prohibited under this section.

(i) In order to facilitate the enforcement of this subsection, all licenses shall maintain a schedule of the prices charged for all drinks to be served and consumed on the premises which shall be effective for a minimum period of thirty (30) days.

(j) Notwithstanding anything to the contrary contained in this subsection, nothing herein shall prohibit any person from engaging in the foregoing promotional practices in a licensed establishment in a CG zoning district.

Sec. 9:1013.1. - Prohibiting Unfair Practices in the Sale of Alcoholic Beverages.

(A) The Following Unfair Practices are hereby Prohibited:

(1) Misleading or fraudulent advertising or failure or inability to deliver advertised alcoholic beverages over a minimum period of twenty-four (24) hours from date of advertising, unless the quantity for sale is specified in the advertisement in type as large as the largest used therein.

(2) Misleading or fraudulent substitution of alcoholic beverages for those ordered or sold.

(3) Adulterating, watering, or in any manner changing the original contents of any container of alcoholic beverages while in such container, or possessing containers so adulterated, watered, or changed.

(4) Violating any law or laws of this state defining or prohibiting unfair practices.

(5) Permitting or acquiescing in the indiscriminate solicitation or acceptance of alcoholic beverages, or unregulated beverages, from patrons by employees, or habitues, of the dealer's establishment on the licensed premises.

(6) Doing, permitting, or acquiescing in the doing or permitting, of any act or thing in connection with the sale of alcoholic beverages involving pricing or stocking or involving fraud, deception or coercion.

(B) No retail dealer of alcoholic beverages shall substitute one (1) brand of alcoholic beverage for a brand that has been specifically requested by the customer, unless the customer consents to the substitution.

(1) For the purpose of this subsection, "brand" means a kind, grade, make, or class of alcoholic beverage identified as being the product of a single manufacturer by a stamp, trademark, logo, or name.

(2) Violation of this subsection by an agent, associate, employee, representative, or servant of a retail dealer shall be considered a violation by the retail dealer for the purpose of this subsection.

(3) Anyone who violates the provisions of this subsection may have his license suspended for not more than two (2) days for the first offense, not less than five (5) days nor more than thirty (30) days for a second offense, and not less than thirty (30) days nor more than one (1) year for third and subsequent offenses. In addition, the ABC board may fine anyone violating this subsection in accordance with the fine schedule as set by the board.

(4) In addition [to] the penalties set forth in this subsection, the retail dealer may be liable in civil suit to the customer and to any dealer of the requested alcoholic beverage for damages which resulted from the substitution. The court shall award the prevailing party in such an action reasonable attorney fees and costs.

- (C) No retail dealer or any person or entity which owns or controls, directly or indirectly, any premises on which a retail dealer operates shall require a wholesaler of such beverages to obtain a license or permit, whether or not accompanied by a fee, from a retailer or any person or entity which owns or controls, directly or indirectly, any premises on which a retail dealer operates for the privilege of soliciting for sale or selling alcoholic beverages to the retailer. For purposes of this subsection, fees shall not mean allowances, incentives, or any other recognized market practices.

Sec. 9:1014. - Grounds for Revocation or Suspension of License; Discretionary.

In addition to any other causes enumerated in this chapter, by the provisions of any applicable Louisiana Revised Statutes or laws, or any applicable laws of the United States or any other country, the alcoholic beverage control board may suspend or revoke any license/permit for any of the following causes:

- (1) **Conviction of any violation of section 9:1013.** For being adjudged by the board or convicted by a court for violation of any ordinance, statute or law or other provision contained in section 9:1013 of this chapter.
- (2) **Misstatement of Fact.** For any misstatement or suppression of fact in the information required to be given by the applicant under this chapter in applying for a license/permit.
- (3) **Interposed Person.** If the license/permit was granted to any person who is, or has been, engaged in the business of dealing in alcoholic beverages with a person whose application for a license/permit has been denied, revoked or suspended, in the relationship of spouse, agent, partner, employer, employee or interposed person.
- (4) **Suspension or Revocation of Other Licenses.** Revocation, suspension or denial of a license/permit under this section may cause the revocation or suspension, as the case may be, of any other permit or license for alcoholic beverage held by the same permittee/licensee; except in the case of suspension or revocation of licenses/permits, at any particular location(s), for sales to minors pursuant to subsection 9:1017(a).
- (5) **Failure to Notify Police of Disturbances.** Failure of the license/permit holder, or the designated manager in the absence of the holder to immediately notify the police of any disturbance, fistic encounter or similar incident occurring on the licensed property or violation of any criminal statute or ordinance occurring on the licensed property of which the owner, manager or person in charge had knowledge of or which he should have known.
- (6) **Failure to Comply with the Provisions of this Chapter.** Violation of, or failure to comply with, any of the provisions of this chapter by any person issued a license/permit under this chapter, or by any person's manager, agent, servant or employee.
- (7) **Failure to Cooperate with Enforcement Agents.** Failure of a licensee/permittee to cooperate fully with any law enforcement

agency or its agents or any agent of the ABC office in conducting any official investigation which, in any way, involves the licensed premises, the license/permit holder, an agent, servant, representative or employee of, or any customer of, or person conducting business with the licensed business, except that no one may be compelled to incriminate themselves in violation of state or federal law.

(8) **Serve an Intoxicated Person.** Sell, serve or dispense in any manner, any alcoholic beverages covered by this chapter to any person whose actions, mannerisms and general conduct would reasonably indicate that said person is intoxicated or under the influence of drugs.

(9) **Failure to Check for Lawful Identification.** Sell, serve, or dispense in any manner, any alcoholic beverages covered by this chapter to any person under the age of twenty-one (21) years, unless such person submits any of the following:

(a) A valid, current, driver's license issued by the State of Louisiana, which contains a photograph of the person presenting the license;

(b) A valid, current, driver's license of another state, which contains a photograph of the person and date of birth of the person submitting the license;

(c) A valid, current, special identification card issued by the State of Louisiana, pursuant to R.S. 40:1321, containing a photograph of the person submitting the identification card;

(d) A valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa; or

(e) A valid, current, military or federal identification card issued by the federal government containing a photo and date of birth of the person submitting the identification card.

Each form of identification above must on its face establish the age of the person to twenty-one (21) years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of the identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the driver's license, state identification card or lawful identification submitted is a duplicate, the person shall submit additional identification which contains his name, date of birth and photograph. In addition, an educational institution identification card, check cashing identification card or employee identification card shall not be considered as lawful identification for the purposes of this section.

(10) **Allow Underage Persons on the Premises.** Allow or permit any persons(s) to frequent or visit the licensed premises where the principal commodity sold is alcoholic beverages unless such person submits a pictured driver's license or other lawful pictured identification that

establishes the person as eighteen (18) years of age or older and there is no reason to doubt the authenticity or correctness of the identification, or unless such person is a musician performing in a band on the premises under written contract with the permittee for a specified time period and is under the direct supervision of his parent or guardian during such time. A copy of the written contract shall be provided to the alcoholic beverage control office one (1) week prior to the performance. For the purpose of this section a pictured lawful identification shall be the same as required in subsection 9:1014(10).

- (11) **Discriminate Because of Race, Sex, Religion or National Origin.** Discriminate by reason of race, sex, religion or national origin. Being found guilty of a first offense by the alcoholic beverage control board following a public hearing before the board shall result in a warning, and being found guilty of a second offense by the board following a public hearing shall result in suspension of the license/permit.
- (12) **Allow Persons Under the Age of Twenty-one (21) to Possess or Consume Alcohol on the Premises.** Allow or permit any person(s) under the age of twenty-one (21) to possess or consume alcohol on the licensed premises, except as exempted by law. Lack of knowledge of the person's age shall not be a defense.

Sec. 9:1014.1. - Grounds for Revocation or Suspension of License; Mandatory.

In addition to the provisions of any applicable Louisiana Revised Statutes or laws, or any applicable laws of the United States or any other country, the office of alcoholic beverage control shall suspend or revoke any license/permit for any of the following causes and shall remain in effect until the delinquency or infraction is resolved:

- (1) **Failure to Pay Taxes or Fees.** If, after ninety (90) days of being due, any licensed dealer fails to pay any local political subdivision sales and use tax, penalties, interest, tax deposits, attorney fees, court costs fees, occupational license tax or other tax, license or fee required by the director of finance, or other revenue collecting authority and due by him to the city, as the owner or operator of any active or inactive regulated business within the city, or due by him to the parish, as the owner or operator of any active or inactive regulated business within the parish.
- (2) **Failure to Notify the Office of Alcoholic Beverage Control of Change of Ownership.** All licensees and persons required to be qualified pursuant to the provisions of this chapter shall have a continuing duty to inform the office of alcoholic beverage control of any change in ownership.

Sec. 9:1015. - Violations and Remedies Non-exclusive, Criminal Penalties for Violations.

The violations listed in sections 9:1013 and 9:1014 are not exclusive, and violation of other local ordinances, state laws, or federal laws may result in administrative licensing or permit action.

The violations listed in sections 9:1013 and 9:1014 may be brought as administrative matters, or may be charged as misdemeanors as provided in this

chapter, or both. A finding of fault or guilt in either an administrative or criminal proceeding does not create double jeopardy for purposes of parallel criminal and administrative proceedings.

In addition to action taken by the ABC board in suspending, revoking or denying any license, permit or application covered by this chapter, except subsection 9:1014(7), any person convicted, in a court of proper jurisdiction, of violating any provisions of this chapter shall be punished by a fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both, and each day's violation shall constitute a separate offense.

Sec. 9:1016. - Administrative Procedure and Penalties for Violation.

(A) Officers and Agents Held Responsible for Corporate Violation. The officer(s) or agent(s) in charge of any corporation for which a license/permit may have been issued hereunder shall be subject to prosecution for any violation by such corporation, and upon conviction shall be punished as provided above.

(1) License Holder, Agent, Employee or Servant Subject to same Fine. Any license/permit holder, agent, employee or servant of same violating any of the provisions of this chapter, upon conviction, shall be punished as provided above.

(B) Revocation and Denial Procedure. When a license/permit of a business covered under this chapter is revoked, no license/permit shall be issued, covering the same premises, until one (1) year after the date of revocation and when a license, permit or notice of intent application is denied for a premise, said license, permit or notice of intent application request may be denied for the same premise for a two-year period.

(C) Warnings by the Board. Except as otherwise provided in this chapter, the board may, by majority vote and after hearing all evidence, elect to warn any licensee/permittee or suspend any suspension or revocation of the license or permit, if the board finds that the violation is of a minor nature, that there are extenuating circumstances or that there are reasonable grounds to expect that the licensee/permittee will not again violate any other provisions of the ordinance. If the violation is flagrant or serious, if the licensee/permittee has had its license/permit suspended, the board may revoke the license/permit and shall immediately notify applicable state and local authorities of its action.

(D) Assessment of Cost of Hearings. In hearings of the board which finally result in withholding the issuance of a license/permit or in suspending or revoking same, the board shall assess any costs of the hearing to the applicant, licensee/permittee as the case may be. The costs are recoverable by the board in any appellate proceeding instituted by the applicant, licensee/permittee or in any other judicial proceeding.

(E) Waiting Period to Reapply after Suspension. Should any license/permit of a business be suspended by the board, it shall be a violation of this chapter for any person to sell any of the beverages described in subsection 9:1000(b), on the premises, and any person taking over ownership or operation of said business during the suspension period,

shall be required to wait fifteen (15) days after the date of the imposition of suspension before an application shall be submitted to the ABC board for approval or disapproval.

- (F) **Notice to be published.** Upon suspension or revocation of a business licensed under this chapter, the license holder shall immediately cause to be published one (1) time in the official journal of the city and parish, notice of such suspension or revocation.
- (G) **Appeals—Time Limit and Procedure.** Appeals of the decisions of the board pertaining to revocation, suspension or denial of any license or permit shall be in accordance with the section 1:153.

Sec. 9:1017. - Mandatory Minimum Penalties for Sales to Minors.

(A) Mandatory Suspension for Unlawful Sales to Minors.

(1) Notwithstanding any other provision of this chapter to the contrary, any person, firm, or corporation, adjudged by the board or convicted in a court of proper jurisdiction, of selling or distributing alcoholic beverages to minors shall be penalized by mandatory suspension of their alcoholic beverage license permit as follows:

- (a) On first offense or conviction, the license/permit shall be suspended for a minimum of thirty (30) days;
- (b) On second offense or conviction within a two-year period, the license/permit shall be suspended for a minimum of six (6) months;
- (c) On third offense or conviction within a two-year period, the license/permit shall be permanently revoked.

(2) In addition to the minimum suspension periods set forth above, any person, firm, or corporation convicted in court or adjudged by the board of selling or distributing alcoholic beverages to minors shall be assessed the following penalties:

- (a) On first offense, a minimum of two hundred fifty dollars (\$250.00);
- (b) On second offense within a two-year period, a minimum of five hundred dollars (\$500.00);
- (c) On third offense within a two-year period, the maximum amount allowable by law.

(3) For any violation regarding the selling or distribution of alcoholic beverages to minors, the penalties set forth above shall be assessed against the licensee/permittee of the establishment or business where the violation occurred and the individual licensee/permittee who committed the violation.

(4) Within five (5) days of imposition of any suspension or revocation pursuant to this sub-section, the licensee/permittee must remove all alcoholic beverages from the premises of the location at which the violation occurred or cease all business operations at that location. Failure to comply with this provision shall result in the seizure of all alcoholic beverages by the ABC office.

(5) The ABC board may reduce a suspension imposed upon a business licensee/permittee pursuant to subsection (a)(1)a. above to a period of not less than ten (10) days, in accordance with the following conditions and provisions:

(a) The suspension must be imposed as a result of a finding by the ABC board that the business was guilty of having sold or distributed alcoholic beverages to a minor and not as the result of a court conviction;

(b) The board may reduce the period of suspension only if a majority of the board finds that mitigating circumstances exist which warrant a reduction from the mandatory minimum period;

(c) The provisions of this subsection shall not apply to the suspension of a license of an individual found to have personally sold or distributed alcohol to a minor;

(d) The provisions of this subsection shall not apply to the suspension of a business license if an owner, officer, partner or shareholder of the business or corporation is found to have personally sold alcohol to a minor.

(B) Mandatory Fines for Unlawful Sales of Alcoholic Beverages to Persons Age Eighteen (18), Nineteen (19) or Twenty (20).

(1) Any person convicted in court or adjudged by the alcoholic beverage control board of selling or distributing alcoholic beverages to persons age eighteen (18), nineteen (19) or twenty (20) shall be assessed a fine of two hundred fifty dollars (\$250.00).

(2) For any violation regarding the selling or distribution of alcoholic beverages to persons age eighteen (18), nineteen (19) or twenty (20), committed on the premises of an establishment licensed pursuant to the provisions of this chapter, the licensee/permittee of the establishment shall be assessed the following penalties, in addition to any suspension or revocation ordered by the board:

(a) On first offense, a fine of seven hundred fifty dollars (\$750.00);

(b) On second offense within a twelve-month period, a fine of one thousand dollars (\$1,000.00).

Section 2. This ordinance shall be effective 30 days following adoption by the Metropolitan Council.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 4. All ordinances or parts of ordinances in conflict are hereby repealed.