

Chapter 9

ALCOHOL BEVERAGE CONTROL

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Section 9.1 Definitions

(a) **“Alcoholic beverages”** means any fluid or any solid capable of being converted into fluid, suitable for human consumption, and containing more than one-half of one per cent alcohol by volume, including malt, vinous, spirituous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider or wine.

(1) **“Beverages of low alcoholic content”** means alcoholic beverages containing not more than six per cent alcohol by volume.

(2) **“Beverages of high alcoholic content”** means alcoholic beverages containing more than 6% alcohol by volume.

(b) **“Liquors”** 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.

(c) **“Sparkling wine”** means champagne and any other effervescent wine charged with carbon dioxide, whether artificially or as the result of secondary fermentation of the wine within the container.

(d) **“Still wine”** means any non-effervescent wine, including any fortified wine, vermouth, any artificial imitation wine, any compound sold as “Still wine”, and any fruit juice.

(e) **“Malt beverages”** means beverages obtained by alcoholic fermentation of an infusion, or concoction, or barley or other grain, malt, and hops in water, including, among other things, ale, beer, stout, porter, and the like. Malt beverages are exclusive of all “liquors” whether they be defined as intoxication or

(f) spirituous liquors, or as alcoholics, vinous, or malt, liquors, or however otherwise defined as liquors.

(g) **“Dealer”** means every person who manufactures alcoholic beverages within the Village of Folsom for handling in Louisiana or who imports alcoholic beverages from any state, territory, possession, or foreign country for handling in Louisiana or who, not being able to prove that the tax levied by this ordinance has been previously paid sells, offers for sale, or has in possession for sale or other handling beverages of high alcoholic intent.

(h) **“Manufacturer”** means any person who, directly or indirectly, personally or through any agency, engages in the making, blending, rectifying, or other processing of alcoholic beverages in the Village of Folsom.

(i) **“Wholesale dealer”** means those persons who sale alcoholic beverages of low alcoholic content to licensed wholesale dealers exclusively, within the Village of Folsom and who conduct a bona fide wholesale business and maintain a warehouse or warehouses for the storage and warehousing of alcoholic beverages of low alcoholic content in the area where domiciled and licensed by the state and conduct and maintain systematic and regular solicitations, distribution, delivers and sales of the said beverages to licensed retail dealers located within the boundary of each parish and municipality in which the wholesale dealer makes any sale or delivery.

(j) **“Retail dealer”** means every person who offers for sale, exposes for sale, has in his possession for sale or distribution, or sells alcoholic beverages in any quantity to persons other than licensed wholesale or retail dealers.

(k) **“Beer outlet”** means a place where any person draws or removes any malt beverages from containers for sale or consumption on the premises.

(l) **“Package house”** means a place where a person sells alcoholic beverages in closed containers, prepared for transportation and consumption off the premises.

(m) **“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 village for delivery or shipment to any point in the state, whether done as owner, agent or servant.

(n) **“Outlet”** means a place where any person draws or removes any alcoholic beverage from its container for consumption on the premises.

(o) **“Wine wholesaler”** means any dealer who sells only sparkling wine and still wine, to other licensed wholesale dealers or to licensed retail dealers for resale within the Village.

(p) **“Wine package house”** means a place where a person sells only sparkling wines and still wines in the original package or closed container, prepared for transportation and consumption off the premises.

(q) **“Regulated beverage,”** means any alcoholic beverage.

(q) **“Bottler of wine”** means any wine wholesaler who imports wine into the Village in bulk and puts it in a closed container for distribution to other wholesale dealers.

EXEMPT PRODUCTS:

The provisions of this Ordinance do not apply to the sale of:

- 1) Patent, antiseptic, and toilet preparations.
- 2) Flavoring extracts, syrups, and food products.
- 3) Scientific, chemical, mechanical, and industrial products.
- 4) Alcohol for industrial use or purposes only and which is so denatured as to be unfit for human consumption.

No person shall knowingly sell any of these products for beverage purposes or sell any of them under circumstances from which he may reasonably deduce the intention of the purchaser to use them for beverage purposes.

Section 9.2 Operation Without Permit Prohibited

No person shall operate as a dealer in high or low alcoholic beverages as defined in L.R.S. 26:2 and L.R.S. 26:241 respectively, unless he has first applied for and received a permit from the municipality as required by this chapter. Each day’s conduct of business by the dealer without a valid permit therefore constitutes a separate violation of this chapter.

Section 9.3 Application for Permit

All applications shall be in writing, sworn to and shall contain the full name and correct home address of the applicant and an accurate description and address of the business premises, and the application shall include an affidavit of the applicant that he meets the qualifications and conditions of L.R.S. 26:79 and 279. Unless he is seeking a renewal of his permit, an applicant for a retail dealer’s permit shall attach to his application a certificate of publication by the publisher of the newspaper, showing the publication of the notice required in L.R.S. 26:76, and 276.

“I am applying for a permit to sell alcoholic beverages at retail at the following address:....., in the Village of Folsom.

Section 9.4 Submission of Applicant

All applications must be mailed or delivered to the mayor and board within 72 hours of the application for a state permit, and if the applicant fails to do so his application may be withheld and the permit denied. The mayor and board may issue permits immediately after proper investigation but for a period of 30 days after receipt of the application, the permittees shall operate on a probationary basis subject to final action on opposition to or withholding of, the permits.

Section 9.5 Qualification of Applicants

(a) Applicants for permits under this chapter shall meet the qualifications and conditions required of applicants for state permits as outlined in L.R.S. 26:79 and 279.

(b) No permit shall be issued except to a person of good moral character over the age of eighteen years and a citizen of the United States. Each permit shall be for the personal use of the applicant, provided that a duly authorized officer or agent of a firm, corporation and/or association of persons duly qualified to do business in the State of Louisiana may obtain a permit for same, provided he has the qualification required for a personal permit, and such application shall designate the firm, corporation and/or association of person in whose name said permit is desired. No person who has been previously convicted of a felony by the courts of this state or any other state or the United States, or any foreign country shall be competent to obtain a permit to sell beer, malt liquor, alcoholic beverages, liquor, cordial liquors, and specialties, sparkling wine and/or still wine.

Section 9.6 Facilities and Business Required Location of Business Limited

(a) No permit shall be granted in contravention of any applicable zoning ordinance or regulation.

(b) No permit shall be granted for any premises situated within 300 feet of an

(c) The prohibition herein does not apply to any premises maintained as a hotel, railway car, or fraternal organization, nor to any premises which have been licensed to deal in alcoholic beverages for a period of one (1) year or longer prior to the adoption of this chapter.

(d) No wholesale permit shall be issued or held after issuance by any person unless at all times throughout the licensed year he meets standards set forth in L.R.S. 26:80 for wholesale dealers.

(e) Persons engaged primarily in the sale, handling, distribution and storage of alcoholic beverages, which are ultimately delivered or transported beyond the borders of the state, are exempt from complying with the standards above set forth.

(f) Separate permits shall be required for each and every place where beer, malt liquor, alcoholic beverages, liquor, cordial liquors, and specialties, sparkling wine and/or still wine are sold at either wholesale or retail. All permits when issued shall be personal to the person to whom issued and shall not be transferable. The sale either by wholesale or retail, where authorized, shall be conducted only in the place of business

specified and designated in the application for the permit. No change of place of business shall be allowed except after written application to and with approval and consent of the Mayor and Board of Alderman who shall have full power to approve and/or deny such change in the same manner as provided for in the issuance or rejection of any original application or permit. It shall be unlawful for any firm, person, corporation and/or association of persons to serve liquor of high alcoholic content of any nature or kind whatsoever, either inside the premises or outside the premises for which a permit is granted, provided however, that nothing shall prevent the delivery of liquor, alcohol, cordial liquors and specialties, sparkling wine and/or still wine, in unbroken and unopened packages, bottles, cans, vessels, or containers.

Section 9.7 Renewal of Permit

(a) Persons holding permits as dealers in beverages of high alcoholic content shall file an application for renewal thereof and pay the permit fees on or before January 1st of each year. If a dealer fails to file the application and pay the permit fee by that date, there shall be added to the fee, in addition to other penalties provided by state law a delinquency penalty of five per cent (5%) if the failure is for not more than 30 days with an additional five per cent (5%) for each additional 30 days or fraction thereof during which the failure continues.

(b) Persons holding permits as dealers in beverage of low alcoholic content shall file applications for renewal thereof for the ensuing year on or before January 1st. Anyone filing his renewal application after that date shall be charged a delinquency penalty of 25% over and above the regular fee.

(c) A renewal permit may be withheld or denied on the same ground and in the same manner as an original permit.

Section 9.8 Permit fees

(a) Before engaging in the business of dealing in beverages of low alcoholic content, all dealers, liquor manufacturers liquor wholesalers, liquor retailers, solicitors, outlets, package houses, wine wholesalers, wine package houses and bottlers of wine shall obtain from the Board of Aldermen, annually, dating from January 1 of each year, a permit to conduct each separate wholesale or retail business and shall pay for each permit according to the following schedule:

- 1) Wholesalers - \$100.00
- 2) Retailers, Class A - \$35.00
- 3) Retailers, Class B - \$25.00

(b) Before engaging in the business of dealing in beverages of high alcoholic content, all dealers, liquor manufacturers, liquor wholesalers, liquor retailers, solicitors, outlets, package houses, wine wholesalers, wine package houses and bottlers of wine shall obtain from the Board of Aldermen, annually, dated from January 1 of each year, a permit to conduct each separate wholesale or retail business and shall pay for each permit according to the following schedule:

- 1) Wholesalers - \$500.00
- 2) Retailers, Class A - \$300.00
- 3) Retailers, Class B - \$300.00
- 4) Manufacturers - \$500.00

(c) No permit shall be issued to any person, firm corporation, and/or association of persons of any nature or kind whatsoever, who are indebted unto the Village of Folsom, Louisiana, for any delinquent taxes or licenses until the delinquencies have been paid.

(d) No permit shall be issued to any person, firm, corporation and /or association of persons of any nature or kind whatsoever, unless application for a like license has been made to the Louisiana Alcoholic Beverage Control Board and/or its successor is denied, the Village of Folsom permit fee may be refunded and the permit will be revoked and/or denied, al at the discretion of the Board of Aldermen.

Section 9.9 Suspension and Revocation

(a) The mayor and hoard may suspend or revoke permits issued to retail dealers in beverages of high alcoholic content for causes set forth in L.R.S. 26:88 and 89; and may suspend or revoke permits issued to retail dealers in beverages of low alcoholic content for causes set forth in L. R. S. 26:285 and 286.

(b) Before any permit is suspended or revoked the holder shall be entitled to a hearing before the mayor and board and the hearing shall comply with the requirements of L.R.S. 33:4787, and the holder of the permit shall likewise be entitled to appeal to the district court pursuant to L.R.S. 33:4788.

(c) If there was any misstatement or suppression of fact in the application for the permit.

(d) If the permit was granted to any person who is or has been engaged in the business of dealing in beverages of nay alcoholic content with a person who application for a permit has been denied or whose permit has been revoked, in the relationship of spouse, agent, employer, employee, or interposed person.

(e) If the permittee has been found guilty by the mayor, municipal or city court, justice of the peace court, or district court, as the case may be. Violation of any municipal or parish ordinance relating to beverages of any alcoholic content enacted pursuant to R.S. 26:494, if the ordinance provides for revocation of the permit for its violation.

(f) If any retail dealer fails to pay any excise taxes due by any regulated business to the state or to any parish or municipality.

(g) If after ten (10) days of being issued a wholesale dealer's permit, the permittee fails to meet all of the qualifications and requirements of a wholesale dealer as defined in R.S. 26:241 (8).

(h) If a wholesale dealer fails to comply with R.S. 26:364.

(i) If a retail dealer or an employee of a retail dealer violates the following:

- 1) Sell or serve beverages of any alcoholic content to any person under the age of eighteen years.
- 2) Sell or serve beverages of any alcoholic content to any intoxicated person.
- 3) Intentionally entice, aid, or permit any person under the age of seventeen years to visit any place where alcoholic beverages are the principal commodity sold or given away.
- 4) Permit any prostitute to frequent the licensed premises.
- 5) Permit any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct, or practices on the licensed premises.
- 6) Sell, offer for sale, possess, or permit the consumption on the licensed premises of any kind or type of alcoholic beverages, the sale or possession of which is not authorized under his permit.
- 7) Intentionally conduct illegal gambling, as defined by law, on the premises described in the application for permit.
- 8) Employ or permit females, commonly known as "B girls," to frequent the premises and solicit patrons for drinks or to accept drinks from patrons and receive therefore any commission or any remuneration in any other way.
- 9) Employ anyone under eighteen years of age when the sale of alcoholic beverages constitutes the main business. If alcoholic beverages do not constitute the main business, an employee under eighteen years of age shall not handle or work with alcoholic beverages.
- 10) Allow the sale, dispensing or distribution of beverages of low alcoholic content in any type of automatic mechanical vending machine activated by the use of coin, token, or similar instrument. The provisions of this paragraph shall not apply to establishments exempt from holding permits under this Ordinance.
- 11) Permit the playing of pool or billiards by any person under eighteen years of age, or permit such a person to visit or frequent the licensed premises operating a pool or billiard hall.
- 12) Accept food stamps as payments for alcoholic beverages.

(j) Violation of this section is punishable as provided in this Ordinance. It is also sufficient cause for the suspension or revocation of a permit.

(k) If any person, firm, corporation and /or association of persons shall violate any provisions of this Ordinance, or section thereof, shall on conviction, by court of

competent jurisdiction, be fined not more than \$100.00 and costs or imprisonment of not more than 30 days, or both.

Section 9.10 Tax on Beverages of Low Alcoholic Content

- (a) In addition to all other excises, licenses or privilege taxes presently imposed, a tax on all malt beverages and beverages of low alcoholic content as defined in Section 241, Chapter 2, Title 26, of the 1950 Louisiana Revised Statutes, of \$1.50 per standard barrel of 31 gallons or any like rate of any other quantity, or for the fractional parts of such barrel sold or distributed for consumption in the Village of Folsom, Louisiana, within the meaning and intent of the provisions of Section 493, of Chapter 2, Title 26.
- (b) The tax herein levied shall be collected by any and all Louisiana wholesale dealers from their vendees purchasing for consumption in the Village of Folsom, Louisiana, on each sale and shall be remitted by said wholesale dealers to the Collector of Revenue of the State of Louisiana for each month, on or before the 20th of each succeeding month respectively, all in accordance with rules and regulations promulgated by the Collector of Revenue and as provided by Section 493, of Chapter 2, Title 26.
- (c) Failure of the wholesale dealer to collect and remit the tax levied, when due, or failure to pay the tax, when due, by a purchaser for consumption in the Village of Folsom of Folsom, Louisiana, shall, ipso facto, render each of them liable for the amount of taxes found to be due, together with a penalty of 20% of the amount of tax due, plus an additional amount of 10% of the tax and penalty, as attorney's fees if referred to an attorney for collection.

Section 9.11 Regulation of Public Drinking

- (a) No person shall drink alcoholic beverages in any street, alley, or public thoroughfare of the Village of Folsom.
- (b) No person shall drink alcoholic beverages in any public parking lot, whether owned by the Village of Folsom or any individual, person, firm or corporation, when said parking lot is open to the public without restriction.
- (c) Whoever violates the provisions of this ordinance shall be punished by a fine of not more than \$100.00.

Editorial Note: Statutory control of alcoholic beverage sale is contained in L.R.S. 26:1 et seq as indicated in the chapter text. Specific authority for municipal permit is L.R.S. 26:73. The statutory language differentiating between high and low content beverages sets forth-varying standard as to the character and qualification of applicants for permits. Maximum license fees are established by the statutes pertaining to municipal licensing.

AMENDMENT

CHAPTER 9

ALCOHOL BEVERAGE CONTROL

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE VILLAGE OF FOLSOM. CHAPTER 9 BE AMENDED TO READ AS FOLLOWS:

SECTION 9.8 PERMIT FEES.

(A) BEFORE ENGAGING IN THE BUSINESS OF DEALING IN BEVERAG OF LOW ALCOHOLIC CONTENT, ALL DEALERS, LIQUOR MANUFACTURERS, LIQUOR WHOLESALERS, LIQUOR RETAILERS, SOLICITORS,OUTLETS, PACKAGE HOUSES, WINE SHOLESALERS, WINE PACKAGE HOUSES, AND BOTTLERS OF INE SHALL OBTAIN FROM THE BOARD OF ALDERMEN, ANNUALLY DATING FROM JANUARY 1 OF EACH YEAR, A PERMIT TO CONDUCT EACH SEPARATE WHOLESALE OR RETAIL BUSINESS AND SHALL PAY FOR EACH PERMIT ADDORDING TO THE FOLLOWING SCHEDULE:

(1) WHOLESALERS	\$100.00
(2) RETAILERS, CLASS A	75.00
(3) RETAILERS, CLASS B	60.00

THIS AMENDMENT TO CHAPTER 9 SHALL BECOME EFFECTIVE UPON ITS PUBLICATION. THE ABOVE AMENDMENT TO CHAPTER 9 HAS BEEN READ AND CONSIDERED BY SECTION AND UPON A VOTE, BEING TAKEN THE FOLLOWING RESULT WAS HAD:

YEAS: 3

NAYS: 0

ABSENT: 0

ABSTAINED: 0

WHEREUPON THE MAYOR DECLARED AMENDMENT TO SAID ORDINANCE TO BE DULY ADOPTED ON THE 9TH DAY OF NOVEMBER, 1992

VILLAGE OF FOLSOM

DARRELL MAGEE, MAYOR

MARSHALL BRUMFIELD, ALDERMAN

JOHN MIZELL, ALDERMAN

MICHAEL EZELL, ALDERMAN

ATTEST:

MERTY FITZMORRIS, VILLAGE CLERK