

1 04 NCAC 02S .0102 is proposed for amendment as follows:

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3 **04 NCAC 02S .0102 APPLICATIONS FOR PERMITS: GENERAL PROVISIONS**

4 (a) Forms. Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control
5 Commission.

6 (b) Statutory Requirements. Before the issuance of any ABC permit, an applicant shall comply with the statutory
7 requirements of Articles 9 and 10 of Chapter 18B of the General Statutes and with the rules of the Commission.

8 (c) Separate Permits Required. An applicant operating separate buildings or structures not connected directly with each other
9 or businesses with separate trade names shall obtain and hold separate permits for each building or business for which he or
10 she wants permits, and ~~he~~ shall pay the appropriate application fees as provided in G.S. 18B-902(d). Where there are multiple
11 buildings, and the Commission determines that the business is operated as one entity, the Commission may, in its discretion,
12 issue one permit.

13 (d) Information Required on Application. An applicant for an ABC permit shall file a written application with the
14 Commission and in the application shall state, under oath, the following information:

- 15 (1) name and address of applicant;
- 16 (2) corporate, limited liability company or partnership name;
- 17 (3) mailing address and location address of business for which permit is desired, and county in which business
18 is located;
- 19 (4) trade name of business;
- 20 (5) name and address of owner of premises;
- 21 (6) applicant's date and place of birth;
- 22 (7) if a corporation or limited liability company, the name and address of agent or employee authorized to
23 serve as process agent (person upon whom legal service of Commission notices or orders can be made);
- 24 (8) if a non-resident, name and address of person appointed as attorney-in-fact by a power of attorney;
- 25 (9) a diagram of the premises showing:
 - 26 (A) entrances and exits;
 - 27 (B) storage area for alcoholic beverages; and
 - 28 (C) locations where alcoholic beverages will be served or consumed;
- 29 (10) that the applicant is the actual and bona fide owner or lessee of the premises for which a permit is sought
30 and shall submit a copy or memorandum of the lease showing the applicant as tenant, or a copy of the deed
31 showing the applicant as the grantee or owner;
- 32 (11) that the applicant intends to carry on the business authorized by the permit himself or under his immediate
33 supervision and direction; and
- 34 (12) that the applicant is an actual and bona fide resident of the State of North Carolina or, as a non-resident,
35 has appointed, by a power of attorney, a resident manager to serve as attorney-in-fact who will manage the
36 business and accept service of process and official Commission notices or orders.

1 (e) General Restriction; Living Quarters. No permit for the possession, sale or consumption of alcoholic beverages shall be
2 issued to any establishment when there are living quarters connected directly thereto, and no permittee shall establish or
3 maintain living quarters in or connected to his licensed premises.

4 (f) General Restriction; Restrooms. No permit for the on-premises possession, sale, or consumption of alcoholic beverages
5 shall be issued to any establishment unless there are two restrooms in working order on the premises. ~~This requirement shall~~
6 ~~be waived upon a showing that the permittee~~ The Commission will waive this requirement upon a showing by the permittee
7 that he or she will suffer financial hardship or the safety of the employees will be jeopardized.

8 (g) Areas for Sales and Consumption. In determining the areas in which alcoholic beverages will be sold and consumed, the
9 Commission shall consider the convenience of the permittee and his patrons, allowing the fullest use of the premises
10 consistent with the control of the sale and consumption of alcoholic beverages, but will attempt to avoid consumption in areas
11 open to the general public other than patrons.

12 (h) Temporary Permits for Continuation of Business. The Commission may issue temporary permits to an applicant for the
13 continuation of a business operation that holds current ABC permits when a change in ownership or location of a business has
14 occurred. To obtain a temporary permit an applicant shall submit the appropriate ABC permit application form, all required
15 fees, a lease or other proof of legal ownership or possession of the property on which the business is to be operated, and a
16 written statement from the ALE agent in that area stating that there are no pending ABC violations against the business. An
17 applicant for a temporary permit shall also submit the permits of the prior permittee for cancellation prior to the issuance of
18 any temporary permit. No temporary permit shall be issued to any applicant unless all prior ABC permits issued for the
19 premises have been cancelled by the Commission.

20 (i) Retail Sales at Public Places Restricted. The sale and delivery of alcoholic beverages by permitted retail outlets located on
21 fair grounds, golf courses, ball parks, race tracks, and other similar public places are restricted to an enclosed establishment in
22 a designated place. No alcoholic ~~beverages,~~ beverages shall be sold, ~~served,~~ served or delivered by these outlets outside the
23 enclosed establishment, nor in grandstands, stadiums or bleachers at public gatherings.

24 As used in this ~~Rule, Paragraph,~~ the term "enclosed establishment" includes a temporary structure or structures constructed
25 and used for the purpose of dispensing food and beverages at events to be held on fairgrounds, golf courses, ball parks, race
26 tracks, and other similar places.

27 Sales of alcoholic beverages may be made in box seats only under the following conditions:

- 28 (1) table service of food and non-alcoholic beverages are available to patrons in box seats;
- 29 (2) no alcoholic beverages are delivered to the box seats area until after orders have been taken; and
- 30 (3) box seat areas have been designated as part of the permittee's premises on a diagram submitted by the
31 permittee, and the Commission has granted written approval of alcoholic beverage sales in these seating
32 areas.

33 (j) Separate Locations at Airport. If one permittee has more than one location within a single terminal of an airport boarding
34 at least 150,000 passengers annually and that permittee leases space from the airport authority, the permittee in such a
35 situation may:

- 36 (1) obtain a single permit for all its locations in the terminal;
- 37 (2) use one central facility for storing the alcoholic beverages it sells at its locations; and

1 (3) pool the gross receipts from all its locations for determining whether it meets the requirements of G.S.
2 18B-1000(6) and 04 NCAC 02S .0519.

3 (k) Food Businesses. Unless the business otherwise qualifies as a wine shop primarily engaged in selling wines for
4 off-premise consumption, a food business qualifies for an off-premise fortified wine permit only if it has and maintains an
5 inventory of staple foods worth at least one thousand five hundred dollars (\$1,500) at retail value. Staple foods include meat,
6 poultry, fish, bread, cereals, vegetables, fruits, vegetable and fruit juices and dairy products. Staple foods do not include
7 coffee, tea, cocoa, soft drinks, candy, condiments and spices.

8 (l) Professional Sporting Events. Notwithstanding Paragraph (i) of this Rule, holders of a retail permit pursuant to G.S. 18B-
9 1001(1) may sell malt beverages for consumption in the seating areas of stadiums, ball parks and similar public places with a
10 seating capacity of 3,000 or more during professional sporting events pursuant to G.S. 18B-1009, provided that:

11 (1) the permittee or the permittee's employee shall not wear or display alcoholic beverage branded advertising;

12 (2) the permittee or the permittee's employee shall not use branded carrying trays, coolers or other equipment
13 to transport malt beverage products;

14 (3) the permittee or the permittee's employee may display the malt beverage product names and prices
15 provided that all of the product names are displayed with the same font size and font style;

16 (4) in-stand sales shall cease, whichever is earlier, upon the cessation of other malt beverage sales or upon the
17 commencement of:

18 (A) the eighth inning during baseball games, provided that if a single ticket allows entry to more than
19 one baseball game, then the eighth inning of the final game;

20 (B) the fourth quarter during football and basketball games;

21 (C) the sixtieth minute during soccer games;

22 (D) the third period during hockey games;

23 (E) the final twenty five percent (25%) of the distance scheduled for automotive races; and

24 (F) the final hour of the anticipated conclusion of a contest or event for all other events.

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26 *History Note: Authority 18B-100; 18B-206(a); 18B-207; 18B-900; 18B-901(d); 18B-902; 18B-903; 18B-905; 18B-*
27 *1000(3); 18B-1008; 18B-1009;*

28 *Eff. January 1, 1982;*

29 *Amended Eff. October 25, 2013; January 1, 2011; July 1, 1992; May 1, 1984.*