

For Review and Discussions - Sale of Alcoholic Beverages July 3, 2013

§ 7.9 Sale of Alcoholic Beverages

§ 7.9.1. Applicability. The definitions, terms and provisions of A.C.A. Title 3 (A.C.A. §3-1-101 et seq.) relating to beer, wine and liquors are hereby adopted and made a part of this section. Applicants for and holders of permits and other persons shall conform to the regulations set forth in A.C.A. Title 3 (A.C.A. §3-1-101 et seq.) and to the provisions of this ordinance.

Violations of the state laws adopted by this section shall subject the offender, upon conviction, to the penalties prescribed by state law. It shall be unlawful for any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, within Benton County without the appropriate permit issued by the Division of Alcoholic Beverage Control of the State of Arkansas.

§ 7.9.2. Definitions.

As used in this ordinance, unless the context otherwise requires:

"Block" means the area on both sides of that portion of a street lying between intersecting streets and extending back, on both sides, halfway to the next parallel street;

"Dispensary" means any store which, under the provisions of this act and having paid all taxes required by the state, sells at retail, in unbroken packages, for consumption off the premises, any intoxicating alcoholic liquor as defined by this act;

"Malt" means liquor brewed from the fermented juices of grain and containing more than five percent (5%) of alcohol by weight; or Beer containing not more than five percent (5%) of alcohol by weight and all other malt beverages containing not more than five percent (5%) of alcohol by weight are not defined as malt liquors and are excepted from each and every provision of this act;

"Manufacturer" means any person engaged in the business of distilling, brewing, making, blending, rectifying, or producing for sale in wholesale quantities alcoholic liquors of any kind including whiskey, brandy, cordials, liquors, ales, beers, or other liquids containing alcohol, except wines;

"Person" means any and all corporations, partnerships, associations, or individuals;

"Spirituous" means liquor distilled from the fermented juices of grain, fruits, or vegetables and containing more than twenty-one percent (21%) of alcohol by weight, or any other liquids containing more than twenty-one percent (21%) of alcohol by weight;

"Vinous" means the fermented juices of fruits, except native wine, containing more than five percent (5%) and not more than twenty-one percent (21%) of alcohol by weight.

Comment [RS1]: Consistent with Arkansas State Code

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Bar, Lounge or Tavern means an establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors, and where food service is secondary to the sale of liquors. Includes microbreweries where patrons are served beer products on the premises for on-site consumption.

Comment [RS2]: Based on research

All other words used in this ordinance shall be defined according to the statutes in such case made and provided, if any, and otherwise shall be defined according to the custom and usage of the people of Arkansas.

§ 7.9.1. Exempted products.

Comment [RS3]: Consistent with Arkansas State Code

(a) (1) The provisions of this act shall not in any manner be construed to apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas.

(2) All wines or vinous liquors which shall be manufactured without the confines of this state shall be legally sold, imported, transported, possessed, and consumed only upon payment of the same privilege and excise taxes as provided for all other alcoholic liquors which are included and legalized under the provisions of this act, and traffic in such vinous liquors shall be subject to all regulations provided herein.

(b) Malt and vinous beverages containing more than three and two-tenths percent (3.2%) of alcohol by weight and not more than five percent (5%) of alcohol by weight shall be taxed and regulated as provided for malt and vinous beverages containing not more than three and two-tenths percent (3.2%) alcohol by weight under the provisions of chapter 5, subchapter 2 of this title.

(c) (1) After having been manufactured and prepared for the market, the articles enumerated in this subsection shall not be subject to the provisions of this act:

(A) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereinafter in force;

(B) Medicinal preparations manufactured in accordance with formulae prescribed in the United States Pharmacopoeia -- National Formulary, or by the American Institute of Homeopathy that are unfit for the use for beverage purposes;

(C) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes;

(D) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes;

(E) Flavoring extracts and syrups that are unfit for use as a beverage or for intoxicating beverage purposes;

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(F) Vinegar and preserved sweet cider;

(G) Alcohol medicated according to such formulae as will render it unfit for beverage purposes and which is to be sold for legitimate external use;

(H) Alcohol for mechanical and scientific purposes if unfit for a beverage;

(I) Wines.

(2) Any person who manufactures, purchases, or possesses any of the articles mentioned in this subsection or preparations fit for beverage purposes which are authorized to be manufactured, which may be used in the manufacture of other preparations compounded in accordance with formulae prescribed in the United States Pharmacopoeia -- National Formulary, or by the American Institute of Homeopathy, which preparations when so manufactured are unfit for use for beverage purposes, or in the manufacture of patented, patent, and proprietary or other medicines, or for physicians' prescriptions, which are unfit for use for beverage purposes, may purchase and possess liquors for that purpose. Such person shall keep such records as are required by the Director of the Alcoholic Beverage Control Division.

(3) No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom.

(4) No more alcohol shall be used in the manufacture of any syrup or extract than the quantity necessary for the extraction or solution of the elements mentioned therein and for the preservation of the article.

(5) The provisions of this act shall not apply to pure, ethyl, or denatured alcohol intended for use or used for scientific, chemical, mechanical, industrial, medicinal, or culinary purposes or for use in the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical, and industrial preparations or products, unfit for beverage purposes. Any person taking advantage of this subsection shall keep any records as are required by the director.

(6) Any person who shall knowingly sell any of the articles mentioned in this subsection for beverage purposes or any extract or syrup for intoxicating beverage purposes, or who shall sell any of the same under circumstances for which the seller might reasonably deduce the intention of the purchaser to use them for such purpose, shall be subject to the penalties provided in this act.

§7.9.3- Location and Hours of operation of Alcohol sales

§7.9.3.1- Separation requirement- An alcohol sales establishment shall not be located within **one thousand feet (1,000')**, measured as straight line in all directions, without regard to intervening

Comment [RS4]: Based on research of nearby Cities. Separation distance varies from 500 feet to 1000 feet.

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structures or objects, from the nearest point on the property line of a parcel containing the alcohol sale establishment to the nearest point on the property line of a parcel containing the following land uses:

1. a child care facility,
2. public or private park,
3. place of worship,
4. public library,
5. residence- any single or multifamily residential use, manufactured home park
6. school-public or private elementary, middle school, secondary or post-secondary school, preschool,
7. building premises, place or establishment that sells or dispenses any alcoholic beverage, which means but is not limited to distilled spirits wine or beer

§7.9.3.2- Hours of operation- it shall be unlawful for the owner, operator or any employee of an alcohol sale establishment as defined herewith, to serve or permit the consumption of mixed drinks, beer or wine on the premises between the hours of 2:00am and 10:00am on any day.

§7.9.4. Sales on Christmas Day.

(a) It shall be unlawful to sell intoxicating liquors on Christmas Day.

(b) Any person who shall sell intoxicating alcoholic liquors on Christmas Day shall be guilty of a Class B misdemeanor.

§7.9.5- Exterior Sign

All alcohol sales establishments shall comply with the following standards for exterior advertising:

- a) exterior advertising shall be meet the separation requirements listed above in **§7.8.2**
- b) exterior advertising shall be limited to one, on-site sign, with a maximum size of two-square foot and shall be non-illuminated;
- c) Offsite signage shall be prohibited.

Comment [RS5]: Consistent with Arkansas State Code

Comment [RS6]: Based on research