



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbpj.net

#13

Kerri Callais
Councilmember
at Large

Richard "Richie" Lewis
Councilmember
at Large

Gillis McCloskey
Councilmember
District A

Joshua "Josh" Moran
Councilmember
District B

Howard Luna
Councilmember
District C

Wanda Alcon
Councilmember
District D

Fred Everhardt, Jr.
Councilmember
District E

Roxanne Adams
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, NOVEMBER 15, 2022 AT THREE O'CLOCK P.M.

On motion of Mr. Lewis, seconded by Mrs. Alcon, it was moved to **adopt** the following ordinance:

ORDINANCE SBPC #2464-11-22

Summary No. 4054

Introduced by: Councilmember Lewis on 11/1/22
Public Hearing held on 11/15/22

AN ORDINANCE TO **AMEND** CHAPTER 3, ALCOHOLIC BEVERAGES OF THE ST. BERNARD PARISH CODE OF ORDINANCES.

SECTION 1. The St. Bernard Parish Council, the Governing Authority, does hereby amend Chapter 3, Alcoholic Beverages of the St. Bernard Parish Code of Ordinances as per attached Exhibit "A".

SECTION 2. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

SECTION 3. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

YEAS: McCloskey, Moran, Luna, Alcon, Everhardt, Lewis

NAYS: None

ABSENT: None

The Council Chair, Ms. Callais, cast her vote as **YEA**.



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043
(504) 278-4228 Fax (504) 278-4209
www.sbp.net

Page -2-
Extract #13 continued
November 15, 2022

Kerri Callais
Councilmember
at Large

Richard "Richie" Lewis
Councilmember
at Large

Gillis McCloskey
Councilmember
District A

Joshua "Josh" Moran
Councilmember
District B

Howard Luna
Councilmember
District C

Wanda Alcon
Councilmember
District D

Fred Everhardt, Jr.
Councilmember
District E

Roxanne Adams
Clerk of Council

And the motion was declared **adopted** on the 15th day of November, 2022.


ROXANNE ADAMS
CLERK OF COUNCIL


KERRI CALLAIS
COUNCIL CHAIR

Delivered to the Parish President 11/17/22 9:30am
Date and Time

Received by Margen Kelley

Approved  _____ Vetoed _____

Parish President 
Guy McInnis

Returned to Clerk of the Council 11/17/22 11:10am
Date and Time

Received by Louisa Labouy

Exhibit "A"
Summary No. 4054
Ordinance SBPC #2464-11-22

Chapter 3 – Alcoholic Beverages

Sec. 3-1. Definitions.

For the purposes of this chapter, the following terms shall have the respective meanings ascribed to them, unless a different meaning clearly appears from the context:

Alcohol beverage and bingo department (ABBD): The parish alcohol beverage and bingo department

Applicant: [Any] person [individually], all persons in a partnership, all officers in a club, all officers in an organization, and all officers in a firm, corporation and/or company.

Bureau of Administrative Adjudication (BAA): A department of the parish responsible for enforcement of matters involving licensing and permits as described more fully in Chapter 2.5

Beer: Malt beverage obtained by alcoholic fermentation of an infusion, or concoction of barley or other grain, malt, and hops in water, including, among other things, ale, beer, stout, porter and the like, suitable for human consumption and containing more than one-half (½) of one per cent alcohol by volume.

Beer outlet: A place where any person purchases, or receives free of charge beer for consumption on the premises.

Beer package house: A place where any person purchases, or receives free of charge, beer in a closed container prepared for transportation and consumption off the premises.

Chief Administrative Officer (CAO): The designated Chief Administrative Officer for the Parish of St. Bernard.

Distributor: Any person, business or organization who [or which], directly or indirectly, personally or through any agent whatever, sells, or free of charge distributes liquor and/or beer to other distributors or retail persons, businesses or organizations in the parish.

Free of charge distribution: [Distribution covering] any person, business, club or organization that does not sell liquor and/or beer to members and/or guests, the cost of said drinks [being] included in the cost of dues, and/or the cost of the activity the person is engaged in.

Liquor: Any fluid or solid capable of being converted into fluid, distilled or rectified alcoholic beverage, sparkling wine, and still wine, suitable for human consumption and having an alcoholic content of more than six (6) per cent by volume, including alcohol.

Liquor outlet: A place where any person purchases, or receives free of charge, liquor, mixed or straight, for consumption on the premises.

Liquor package house: A place where any person purchases, or receives free of charge, liquor, mixed or straight, in a closed container, prepared for transportation and consumption off the premises.

Manufacturer: Any person, business, or organization who or which directly or indirectly, personally or through any agent whatever, engages in the making, blending, rectifying, or processing of any alcoholic beverage.

Premises: The building or the part of the building as defined [in the license application] as the legal address and the outside area used for the building, such as storage and parking space.

Retailer: Any person, business, or organization who [or which] offers for sale, exposes for sales, has in possession for sale or free of charge distribution of liquor and/or beer to any person for consumption in the parish.

Sec. 3-2. Applicability of state law.

The regulations contained in this chapter are written in compliance with the state liquor and beer permit law, enacted in 1979, Title 26, Chapter 1; Chapter 2, sections 241 through 304, inclusive, section 364, section 741; Chapter 5, Louisiana Revised Statutes of 1950, amended. Formulation of this chapter was done in accordance with the provisions of Title 26 of the Louisiana Revised Statutes[, as amended]. If a condition should arise which is not covered by this chapter, the state liquor and beer permit law of 1982 shall be the authority to govern any such condition.

Sec. 3-3. Activities prohibited without permit—Manufacture.

The manufacture of any liquor and/or beer within this parish without payment of [the permit fee] and receiving of the parish permit is hereby prohibited.

Sec. 3-4. Same—Distribution by distributors.

The distribution for sale, or free of charge distribution, of liquor and/or beer to other distributors and/or to retailers without payment of [the permit fee] and receiving of the parish permit is hereby prohibited.

Sec. 3-5. Same—Distribution by liquor outlet.

The distribution for sale, or free of charge distribution, of liquor to any person or persons without payment of [the permit fee] and receiving of the parish permit is hereby prohibited.

Sec. 3-6. Same—Distribution by beer outlet.

The distribution for sale, or free of charge distribution, of beer to any person or persons without payment of [the permit fee] and receiving of the parish permit is prohibited.

Sec. 3-7. Same—Distribution by liquor package house; allowing consumption on premises prohibited.

- (a) The distribution for sale, or free of charge distribution, of liquor to any person or persons without payment of [the permit fee] and receiving of the parish permit is hereby prohibited.
- (b) Allowing the consumption of liquor on the premises with only a liquor package house permit is hereby prohibited.

Sec. 3-8. Same—Distribution by beer package house; allowing consumption on premises prohibited.

- (a) The distribution for sale, or free of charge distribution, of beer to any person or persons without payment of [the permit fee] and receiving of the parish permit is hereby prohibited.
- (b) Allowing the consumption of beer on the premises with only a beer package house permit is hereby prohibited.

Sec. 3-9. Permit fee.

- (a) There is hereby levied a permit fee for each year upon each manufacturer, distributor, and/or retailer for each premises pursuing or engaging in the business of selling or giving away liquor and/or beer for the consumption in the parish, for the regulation of said business, in the following sums per year, payable in advance:
 - (1) *Beer outlet:* \$40.00 per premises in the parish.
 - (2) *Beer package house:* \$40.00 per premises in the parish.

- (3) *Distributor*: \$40.00 per premises or branch in the parish or \$40.00 per distributor not housed in the parish but delivers liquor or beer in the parish.
- (4) *Liquor outlet*: \$152.50 per premises in the parish.
- (5) *Liquor package house*: \$152.50 per premises in the parish.
- (6) *Manufacturer*: \$300.00 per premises in the parish.
- (7) *Fire inspection*: \$75.00 per premises in the parish.
- (b) Before engaging in the business of dealing in alcoholic beverages including liquor or beer after scheduled renewal date, all manufacturers, distributors, and retailers shall secure from the ABBD an annual permit for each operation and each premises operated.
- (c) No person, firm, member of a club, organization, partnership, or corporation or its officers or agents, or any employee thereof, shall do any act for which a permit is required by this chapter, unless such person holds the proper parish permit. Each sale of liquor or beer as herein defined without such a permit constitutes a separate violation of this chapter.

Sec. 3-10. Applicability of chapter to clubs, fairs, etc.; exemption of charitable organizations.

The provisions of this chapter shall apply to all public and private clubs, public picnics, public fairs and public celebrations and any organization participating in said public fair or public celebration. However, the ABBD may, issue a permit to any hospital or exclusively charitable organization, without requiring the payment of the permit fees provided for in this chapter.

Sec. 3-11. Prerequisites generally to granting of permits; filing application.

- (a) Permits for the sale, or free of charge distribution of liquor or beer for consumption in the parish shall be granted to persons of previous good moral character, and reputation for law observance, except as provided otherwise in this chapter. All applicants for such permits shall file applications with the ABBD, giving information regarding their character and law observance, the place in the parish at which they shall carry on said business, and other information required in sections 3-16 and 3-20.
- (b) Said application shall be filed with the CAO's office, who shall refer it to the ABBD, ABBD will be authorized to issue parish liquor and beer permits under conditions described in this chapter.

Sec. 3-12. Notice of application for permit.

- (a) Prior to making application for a permit, each applicant shall once insert an appropriate signed notice similar to the following in the parish official journal:

"I am applying for a (type of permit) permit at the following address _____ in the Parish of St. Bernard, Louisiana."
- (b) The publication of this notice is not required of permittees seeking the renewal of their permits.

Sec. 3-13. Content of application for permit.

- (a) Applications for permits to engage in any business or operation regulated by this chapter shall be in writing and sworn to, and shall include the applicant's full name, personal identification and correct home address, the type of business to be conducted, and an accurate description and correct address of the premises wherein the business or operation is to be conducted, which address shall be considered the proper address for all notices to the applicant or permittee required by this chapter, and shall be accompanied by an affidavit of the applicant showing that he/she meets qualifications and conditions set out in this chapter, and all applicable provisions of state law.

- (b) Unless he/she is seeking a renewal of his/her permit, the applicant shall attach to the application, as a part thereof, a certificate of publication by the publisher of the newspaper, showing the publication of the notice required in section 3-12.
- (c) In addition, the applicant shall attach to the application, whether for a new permit or the renewal of an existing permit, a copy of a current and valid Liquor – Alcoholic Beverage Permit issued by the State of Louisiana.

Sec. 3-14. Reserved.

Sec. 3-15. Compliance with state law; general qualifications of applicant.

All applicants shall have the qualifications [required by] and shall comply with all provisions of state law with respect to applications for liquor and/or beer permits, and the operation of the business, club and/or organization of selling, or free of charge distribution, of liquor and/or beer in the parish, including Louisiana Revised Statutes Title 26, liquor and beer permit law, as amended. (Title 26, Chapters 1 and 2, Sections 241—304 inclusive; Section 364; Section 741; Chapter 5.)

Sec. 3-16. Specific qualifications of applicants.

- (a) Applicants under this chapter for parish permits of all kinds shall meet the following qualifications and conditions:
 - (1) Is a person of good character and reputation and over eighteen (18) years of age.
 - (2) Is a citizen of the United States continuously for a period of not less than one (1) year preceding the date of the filing of the application.
 - (3) Is the owner of the premises or has a bona fide written lease therefor. Leases will not be required for license renewals.
 - (4) Has not been convicted of a felony under the laws of the United States, this state or any other state or country.
 - (5) Is not charged or has not been convicted in this or in any other state or by the United States or any other country of soliciting for prostitution, pandering, letting premises for prostitution, contributing to the delinquency of juveniles, keeping a disorderly place, or illegally dealing in narcotics or stolen property.
 - (6) Has not had a license or permit to sell or deal in alcoholic beverages, issued by the United States or any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within three (3) years prior to the application, or been convicted or had a judgment of any court rendered against him/her involving alcoholic beverages by this or any state or by the United States for three (3) years prior to the application.
 - (7) Possess a current and valid license or permit to sell or deal in alcoholic beverages issued by the State of Louisiana.
 - (8) Has not been adjudged by the BAA to be in violation of any provisions of this chapter or convicted by a court of violation of any of the provisions of this chapter.

- (9) If the applicant has been so adjudged or convicted, the granting of a permit or of a renewal is within the discretion of the ABBD.
- 10) All new and renewal applications are to be forwarded to the sheriff's office to verify that the applicant is current in the payment of sales tax to the parish. If the applicant is found to be delinquent in the payment of sales taxes, the application will not be considered until such time as all taxes are current.
- (b) If the applicant is a partnership or anyone in a partnership with or financed by another, all members of the partnership or all the persons in any way financially interested in the business shall also possess the qualifications required of an applicant. The application shall state the full names of all partners and persons financially interested and the names of the persons who shall operate the business, and furnish their proper addresses and each shall furnish his/her affidavit, showing his/her qualifications, as required of the applicant.
- (c) If the applicant is a corporation, all officers and directors and each stockholder owning in the aggregate more than five (5) percent of the stock and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant, to be shown by the affidavit of each accompanying the application. However, the requirement as to the residence does not apply to officers, directors, and stockholders of a corporation.
- (d) If the applicant's business is to be conducted wholly or partly by one (1) or more managers, agents, servants, employees, or other representatives, those persons shall also possess the qualifications required by the applicant, to be shown by the affidavit of each accompanying the application.
- (e) If the applicant, or any other person required to have the same qualifications, does not possess the required qualifications, the permit may be denied.

Sec. 3-17. Misstatement or suppression of fact in application.

Any misstatement or suppression of fact in an application or accompanying affidavit is a ground for denial of the permit.

Sec. 3-18. Procedure to issue a temporary permit; determination to issue or withhold permit.

- (a) The ABBD may issue a temporary permit prior to the start of any operation/business. The decision to issue a temporary permit shall be made within thirty (30) calendar days of the filing of the application. Upon deciding to issue any temporary permits, the ABBD shall notify the Louisiana Board of Alcoholic Beverage Control, or its successors, that it is issuing the temporary permit. A temporary permit does not allow the owner/applicant to sell alcohol, but gives the preliminary approval that if he complies with all laws and requirements of this chapter, a permit shall be issued.
- (b) Any person may oppose the issuance of any permit by filing with the ABBD a sworn petition of opposition within fifteen (15) days of the date the application for permit was received. If this petition is filed, the ABBD will immediately notify the BAA and state board, and request that a hearing be set before the BAA and notice of said hearing be provided to the applicant and petitioner in compliance with the requirements of Chapter 2.5-7. The BAA hearing will be held on the application and petition in order to determine whether a permit shall issue.
- (c) No petition of opposition shall be acted upon by the ABBD unless the petitioner states in an affidavit that he/she, together with witnesses, if any, will appear at a BAA hearing to establish allegations of the

petition and unless the petition sets forth facts constituting a cause or causes enumerated in or authorized by this chapter for the withholding of a permit.

- (d) In the case of the ABBD withholding any permit, any person or persons may appeal to the BAA for a hearing. In such cases, the ABBD will turn over all records and minutes of meetings to the BAA and [said records and minutes] will be part of the BAA hearing.

Sec. 3-19. Issuance of permits by ABBD; disposition of funds.

- (a) The ABBD shall issue liquor permits and/or beer permits to all applicants whose applications comply with all requirements of this chapter, and has complied with all regulating agencies. Such liquor permits and/or beer permits shall not be used by any other person, business club or organization.
- (b) The ABBD shall turn over all funds collected for such permits to the parish treasurer to be deposited with the parish fiscal agent and credited to the beverage enforcement fund, from which shall be paid the cost of printing materials required by the ABBD, permits, and all other expenses incurred in carrying out the provisions of this chapter and enforcing its provisions and preventing violations hereof.

Sec. 3-20. Location of business limited.

- (a) No permit shall be granted under this chapter in contravention of any parish ordinance adopted pursuant to the zoning laws of the state or provisions of any parish ordinance.
- (b) The parish council may enact ordinances to prohibit the conduct of alcoholic beverages businesses within a certain distance of a parish or private playground or of a building used exclusively as a regular church, public library, or school. No permit shall be issued in contravention of any such ordinance.

Sec. 3-21. Change of ownership, location or managers.

- (a) If the business changes hands during the period for which the permit is granted, a new permit must be applied for and paid for.
- (b) Should the location of the place of business be changed during the period for which the permit is granted, such permittee must file with the ABBD the change of business location, with the proper information attached as may be required, and secure from the ABBD approval for such change, before making any such change of business location, and which approval must be noted officially on the permit.
- (c) Licensees are required to notify the ABBD of any change in managers, and such managers must qualify in accordance with the provisions of this chapter.

Sec. 3-22. Permits to be displayed.

All permits issued under the provisions of this chapter shall be at all times publicly displayed by the permittee in his/her place of business, so as to be easily seen by the public and [representatives of] the alcohol beverage and bingo department, and failure to do so shall constitute a violation of this chapter.

Sec. 3-23. Permit period; approval of renewals.

All parish permits shall expire each year as follows:

January 31st	M
February 28th	N,O,P and Q

March 31st	R and T
April 30th	S
May 31st	U, V, W, X, Y and non-alphabetical
July 31st	A and D
July 31st	A and D
August 31st	B
September 30th	C
October 31st	E, F, and G
November 30th	H, I and J
December 31st	K and L

New parish permits shall be issued by the ABBD for each succeeding yearly period to applicants filing said applications and receiving approval as provided in this Chapter.

Sec. 3-24. Personal nature of permits.

- (a) Permits issued under this chapter are not assignable or heritable and are good only from time of issuance to date specified on permit, unless sooner suspended or revoked. In the event of the dissolution of a partnership by death, the surviving partner or partners may operate under the partnership permit. Receivers and trustees in bankruptcy and estates may operate under the permit for a period of sixty (60) days, but must file for a new permit within said sixty (60) days.
- (b) Where the location of a place of business is changed, the change shall be noted on the permit by ABBD and the permit shall be invalid unless this notation is made.

Sec. 3-25. Renewal procedure; delinquency penalty.

- (a) Persons holding parish liquor or beer permits shall file applications for the renewal thereof for ensuing years and pay the permit fees on or before the scheduled renewal date 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 in this chapter, a delinquency penalty of five (5) percent for each additional thirty (30) days, past renewal date or fraction thereof, during which the failure continues. If the dealer fails to make application before the scheduled renewal date, the ABBD may without notice or hearing, suspend the right to do business.
- (b) Any dealer whose application for renewal is filed before the scheduled renewal date, may continue business until issuance of the new permit, under the previous year's permit if it has not been suspended or revoked or the new permit withheld or denied.
- (c) Renewal permits may be withheld or denied on the same grounds and in the same manner as an original permit under this Chapter.
- (d) Should a suspension under section 3-26(g) be in effect when a permit may be due for renewal, the said renewal shall be processed in the usual administrative manner and the remaining time of suspension shall be applied against the new permit, should it be issued.

Sec. 3-26. General operational requirements; punishment authorized for violation; suspension or revocation of permit by ABBD; appeal to CAO.

- (a) All places of business, clubs and organizations in this parish for which permits, as above, have been issued for the sale, or free of charge distribution, of liquor and/or beer shall be conducted in an orderly and lawful manner.
- (b) No person, business, club and/or organization and no servant, agent, or other employee shall do, or allow to be done any acts upon the licensed premises prohibited by this chapter or by any state law.
- (c) All parish permits shall be displayed in an orderly manner and in a conspicuous place on the premises, [as required by section 3-22].
- (d) No distributor shall sell, or free of charge, distribute, to any person, business, club or organization any liquor and/or beer unless that person, business, club or organization has a valid parish permit.
- (e) Such violations are punishable as provided in section 3-50 and are also sufficient cause for the suspension or revocation of a permit by the ABBD.
- (f) If any disturbance of the peace, public nuisance or other violation of state law or of this chapter is committed on said premises, the ABBD, is hereby authorized to suspend or revoke said permit, and such violation shall be cause for the ABBD to refuse to grant other parish permits to the same applicant or for the conduct of such business on the same premises. In case of such suspension or revocation, permittee may appeal to the BAA for a hearing, to remove or recall the suspension or revocation, pending which hearing no liquor or beer shall be sold by permittee, under the penalties provided by this chapter. No appeal shall lie to the courts, nor shall the courts have or take jurisdiction of any appeal from such suspension or revocation, unless the permittee has exhausted his administrative remedy of appeal to the BAA in the event of an adverse decision.

Sec. 3-26.1. Sale, delivery, dispensing, possession and consumption of alcoholic beverages.

- (a) *Supremacy.* All provisions of this section shall supersede, though not repeal, any provision of the St. Bernard Code of Ordinances that may be in conflict with this section; may impose a limitation or restriction upon this section; may serve to limit, prohibit, or reduce the penalties that are imposed by this section; or may appear to require that administrative procedures be exhausted or followed before a prosecution may be brought under this section.
- (b) *Venue.* Both the BAA and the courts of the 34th Judicial District shall have jurisdiction to impose appropriate penalties for violations of this Chapter.
- (c) *Sale, delivery, or dispensing of alcoholic beverages for on premises consumption.* Limitations on sales, closing time, possession and consumption.
 - (1) No person shall request or solicit the holder, nor any employee of a holder, of a permit for the retail sale of alcoholic beverages for on premises consumption, to sell, deliver, or dispense any alcoholic beverage upon the licensed premises in violation of this section.
 - (2) No person, whether patron, customer, employee or otherwise, shall at any time, while on the outside of the building of the premises and/or the parking area of a holder of a permit for the retail sale of alcoholic beverages for on premises consumption, possess any alcoholic beverage in a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or otherwise unless said container is unopened and sealed.

- (3) Unopened and sealed container shall be defined as a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or other receptacle which has not been opened, or on which a seal or stamp has not been broken, or from which a straw does not protrude.
- (d) *Sale, delivery, or dispensing of alcoholic beverages for off premises consumption.* Limitations on sales, possession, and consumption.
- (1) No person, whether patron, customer, employee or otherwise, shall at any time, consume any alcoholic beverage on the premises of a holder of a permit for the retail sale of alcoholic beverages for off premises consumption.
- (2) No holder of a permit for the retail sale of alcoholic beverages for off premises consumption, nor their employees, shall knowingly permit any individual, whether patron, customer, employee or otherwise, to consume any alcoholic beverage on the premises.
- (3) No person, whether patron, customer, employee or otherwise, shall at any time, while on the premises of a holder of a permit for the retail sale of alcoholic beverages for off premises consumption, possess any alcoholic beverage in a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or otherwise unless said container is unopened and sealed.
- (4) No holder of a permit for the retail sale of alcoholic beverages for off premises consumption, nor their employees, shall knowingly permit any individual, whether patron, customer, employee or otherwise, to remove any alcoholic beverage from the premises in a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or otherwise, unless said container is unopened and sealed.
- (5) Unopened and sealed container shall be defined as a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or other receptacle which has not been opened, or on which a seal or stamp has not been broken, or from which a straw does not protrude.
- (6) Paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) herein constitute separate offenses within the context of this section.
- (7) Unopened and sealed container shall be defined as a container of any type, whether glass, bottle, can, paper or plastic cup, go-cup, or other receptacle which has not been opened, or on which a seal or stamp has not been broken, or from which a straw does not protrude.
- (e) *Required notices.*
- (1) All holders of permits for the sale of alcoholic beverages for off premises consumption shall, in addition to the foregoing notice, post a conspicuous notice inside their premises, not less than eleven (11) inches by seventeen (17) inches in size, as well as by each exit, stating that it is illegal at any time to open or consume any alcoholic beverage on the premises and that said violators shall be subject to fine and/or imprisonment as provided in parish ordinances. This notice may be stated as part of the same notice required in (e)(1).
- (f) *Exceptions.*
- (1) The provisions of this section shall not apply on the following days: January 1; the Saturday, Sunday, and Monday preceding Mardi Gras Day; and Mardi Gras Day itself, but said days shall be counted as calendar days for the purposes of the imposition of penalties hereunder.

- (2) All businesses, establishments, persons, firms or corporations who are licensed by the Parish of St. Bernard only to sell alcoholic beverages at retail for off-premise consumption, shall be exempt from the closure provisions but not the prohibition of alcoholic beverage sales.
- (g) *Penalties.* Any person, permit holder, or employee of any permit holder who violates any of the provisions of this section shall be sentenced as follows:
 - (1) For the first offense, a fine of not more than two hundred dollars (\$200.00), and/or imprisonment for not more than five (5) days in jail, plus costs of the court;
 - (2) For the second offense occurring within any period of time consisting of seven hundred thirty (730) consecutive calendar days from the commission of the first offense, a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than ten (10) days in jail, plus costs of the court; and/or if applicable, the judicial suspension for up thirty (30) days of the permit to sell or dispense alcoholic beverages;
 - (3) For the third offense occurring within any period of time consisting of seven hundred thirty (730) consecutive calendar days from the commission of first offense, a fine of not more than five hundred dollars (\$500.00) and imprisonment for not less than five (5) nor more than fifteen (15) days in jail, plus costs of the court; and if applicable, the judicial suspension for not less than thirty (30) days nor more than one hundred eighty-five (185) days of the permit to sell or dispense alcoholic beverages; for the fourth offense occurring within any period of time consisting of seven hundred thirty (730) consecutive calendar days from the commission of the first offense, a fine of not more than five hundred dollars (\$500.00) and imprisonment for not less than fifteen (15) nor more than thirty (30) days in jail, plus costs of the court; and, if applicable, the judicial revocation of the permit to sell or dispense alcoholic beverages for a period of two (2) years.
- (h) *Notification.* The clerk of court shall forward to the ABBD a copy of the final disposition by the 34th Judicial District Court of any charges brought hereunder. The BAA hearing office shall forward to the ABBD a copy of the final disposition by the BAA of any violations brought hereunder.

Sec. 3-27. Prohibited acts on premises—Enumeration.

No person holding a retail dealer's permit and no agent, associate, employee, representative, or servant of any such person shall do or permit any of the following acts to be done on or about the licensed premises:

- (1) Sell or serve alcoholic beverages to any person under the age of eighteen (18) years, to any intoxicated person, or to any person not included in the permit authorization.
- (2) Possess or sell narcotics on the licensed premises.
- (3) Invite or permit any person under the age of eighteen (18) to visit or loiter in or about any premises where alcoholic beverages or beer are the principal commodities sold or handled.
- (4) Permit any prostitute to frequent the licensed premises, or to solicit or encourage or permit solicitation for prostitution.
- (5) Permit any disturbance of the peace or obscenity, or any lewd, immoral, or improper entertainment, conduct or practices.

- (6) Sell, or offer for sale, possess, or permit the consumption on or about the licensed premises of any kind or type of alcoholic beverage, the sale or possession of which is not authorized under his/her permit.
- (7) Employ or permit females, commonly known as "B" girls, to solicit patrons for drinks and to accept drinks from patrons, or to receive therefor any commission or any remuneration in any other way; employ anyone under eighteen (18) years of age when the sale or handling of alcoholic beverages constitutes the main business. However, females over that age may be employed as well as males. If the sale or handling of alcoholic beverages does not constitute the main business, an employee under eighteen (18) years of age shall not be permitted to handle, serve, or work with alcoholic beverages.
- (8) Conduct or permit illegal gambling or the operation of any gambling device prohibited by law on the licensed premises.
- (9) Fail to keep the licensed premises well lighted, and all outside windows and doors open to view from the sidewalk or outside.
- (10) Fail to keep the premises clean and sanitary.
- (11) Permit the playing of pool or billiards by any person under eighteen (18) years of age, or permit such a person to visit or frequent the licensed premises operating [wherein is operated] a pool or billiard hall.

Sec. 3-28. Same—Lewd, immoral and improper entertainment generally.

The following acts or conduct on licensed premises are deemed to constitute lewd, immoral or improper entertainment as prohibited by this chapter. Therefore no on-sale [on-site sale of] permit beverages of liquor and/or beer shall be held [alcoholic beverage permit shall be issued or continue in effect,] at any premises where such conduct or acts are permitted:

- (1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in (1) above.
- (3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breast, buttocks, anus, or genitals of any other person.
- (4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

Sec. 3-29. Same—Lewd, immoral or improper live entertainment.

- (a) Acts or conduct on licensed premises in violation of this section are deemed to constitute lewd, immoral or improper entertainment as prohibited by this chapter; and therefore no on-sale permit for beverages of liquor and/or beer content shall be held [no alcoholic beverage permit shall be issued or continue in effect] at any premises where such conduct and acts are permitted.

- (b) Live entertainment is permitted on any licensed premises, except that no permittee shall permit any person to perform acts of or acts which simulate:
 - (1) Sexual intercourse, masturbation, sodomy, bestiality.
 - (2) The touching, caressing or fondling of the breast, buttocks, anus or genitals.
 - (3) The displaying of the pubic hair, anus, vulva or genitals, or nipple of the female breast.
- (c) Subject to the provisions of subsection (b) hereof, entertainers whose breast or buttocks are exposed to view shall perform only upon a stage at least eighteen (18) inches above the immediate floor level and removed at least three (3) feet from the nearest patron.
- (d) No permittee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

Sec. 3-30. Same—Visual displays.

The following acts or conduct on licensed premises are deemed to constitute lewd, immoral, or improper entertainment as prohibited by this chapter; therefore no on-sale permit for beverages of liquor and/or beer content shall be held [no alcoholic beverage permit shall be issued or continue in effect] at any premises where such conduct or acts are permitted. The showing of films, still pictures, electronic reproduction, or other visual reproductions depicting:

- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or flagellation or any sexual acts which are prohibited by law.
- (2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
- (3) Scenes wherein a person displays the genitals.
- (4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

Sec. 3-31. Same—Consequences of violation.

- (a) Violation of any provision of sections 3-27 through 3-30 is punishable as provided in section 3-44 and is also sufficient cause for the suspension or revocation of a permit.
- (b) Violation of any provision of said sections by a retail dealer's agent, associate, employee, representative or servant shall be considered the retail dealer's act for purposes of suspension or revocation of the permit.

Sec. 3-32. Additional causes for suspension or revocation of permits.

In addition to any other causes enumerated in this chapter, the ABBD may suspend or revoke any permit for any one of the following causes:

- (1) If the applicant or any of the persons who must possess the same qualifications failed to possess the qualifications as required in section 3-16 at the time of application.
- (2) If there was any misstatement or suppression of fact in the application for permit.
- (3) If the permit was issued to any interposed person in contravention of section 3-14.

- (4) If the permit was granted to any person who is or has been engaged in alcoholic beverage business with a person whose application for permit has been denied or whose permit has been revoked.
- (5) If the holder of any permit has been convicted by any court of competent jurisdiction of an offense in connection with the sale of alcoholic liquor or beer.

Sec. 3-33. Proper petitioners in action to suspend or revoke permit.

The sheriff, law enforcing authorities, and citizens have a right to have permittee cited by the ABBD to show cause why the permits should not be suspended or revoked.

Sec. 3-34. Procedure for suspending or revoking permit.

- (a) The procedure for the suspension or revocation of permits shall be substantially as follows:
 - (1) Each inspector/examiner of the ABBD shall be assigned a section of the parish and shall make periodic reviews of the businesses, clubs and/or organizations holding permits under this chapter. The inspectors/examiners will complete the review to ascertain that the establishment has a proper permit.
 - (2) No person shall refuse to allow the ABBD, or its agents or employees, to make a review of any place or business where alcoholic beverages are stored, sold, or handled, or otherwise hinder or prevent such department employees from reviewing for proper permits.
 - (3) Sheriffs and other law enforcing officers shall make periodic investigations of the businesses, clubs and/or organizations of all permittees within their respective jurisdictions when any violation of any provision of this chapter is observed and reported to the respective authorities.
 - (4) Any person may file with the ABBD a sworn petition requesting that a permit be suspended or revoked. Such petition must conform with the same requirements as that petition referenced in Section 3-18 and shall proceed in the same manner as such petition in opposition.
- b) No such petition shall be considered by the ABBD unless sworn to by the petitioner in an affidavit, which also affirms that the petitioner, together with witnesses, if any, will appear at the hearing to establish the allegations of the petition, and unless the petition sets forth facts constituting a cause enumerated in or authorized by this chapter for the suspension or revocation of a permit.

Sec. 3-35. Cause necessary for withholding, suspending or revoking of permit.

No permit shall be withheld, suspended or revoked, except for causes specified in this chapter or as is provided by applicable state law. However, if a person holds more than one permit and any one of them is suspended or revoked, the ABBD may suspend or revoke all of his/her permits.

Sec. 3-36. Convictions by court not essential to withholding, suspending or revoking permits.

Conviction by a court of a violation of state law or of the provisions of this chapter is not a condition precedent to the refusal, suspension or revocation of a permit under this chapter for a violation of any of the provisions of this chapter. The ABBD shall withhold, suspend or revoke permits for violations of this chapter regardless of any prosecution in the court or the result of any such prosecution.

Sec. 3-37. Notice of hearing by BAA.

Whenever the BAA is to hold a hearing pursuant to provisions of this chapter, it shall issue a written summons or notice thereof to the applicant or permittee, as the case may be, directing him/her to show cause why his/her application should not be refused or why his/her permit should not be suspended or revoked. Said notice shall comply with all those requirements for notice set forth in Chapter 2.5. The notice or summons shall enumerate the cause or causes alleged for refusing the application or for suspending or revoking the permit. When a petition has been filed opposing the issuance of the permit or asking for its suspension or revocation, a copy of the petition shall accompany the notice or summons. All notices or summonses shall be sent by registered mail to the applicant or permittee and directed to him/her at the address of his/her place of business as given in his/her application for the permit. All notices of hearing shall be published in the parish's official journal prior to conducting such hearing. When so addressed, and mailed, notices or summonses shall be conclusively presumed to have been received by the applicant or permittee.

Sec. 3-38. Place of hearing.

Hearings by the BAA shall, in its discretion, be held at the St. Bernard Parish Government Complex.

Sec. 3-39. Conduct of hearings.

Hearings may be held by the BAA. The BAA may administer oaths and issue subpoenas for the attendance of witnesses and the productions of books, papers, accounts and documents, and the BAA may examine witnesses and receive testimony at the hearing.

Sec. 3-40. Contempt at hearing; penalty.

If any person fails to comply with a subpoena issued by the BAA or if a witness refuses to testify in any matter regarding which he/she may be lawfully interrogated, the BAA, after hearing, shall adjudge him/her guilty of contempt and may fine him/her not more than one hundred dollars (\$100.00) or imprison him/her for not more than thirty (30) days, or both. The sheriff shall execute the judgment of contempt.

Sec. 3-41. Hearing procedure, when permittee or applicant fails to appear; continuances.

If a permittee or applicant who has been notified of a hearing does not appear, the hearing may proceed without him/her and the BAA may consider and dispose of the case, but in all cases the BAA upon application or on its own motion, may grant continuances from time to time. If the continuance be granted to a fixed future date by written consent or in the presence of the permittee or applicant or his/her counsel, no further notice of the hearing date need be given. In all other cases the same notice of hearing as in original hearings shall be given.

Sec. 3-42. Basis for determination to suspend or to revoke permit; reopening case.

In determining cases involving the suspension or revocation of permits, if the BAA finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that permittee will not again violate any of the provisions of this chapter, the BAA may suspend the permit for such time as it thinks proper. If the permittee has previously been fined or had a permit suspended or revoked, or if the violation is flagrant or serious, the BAA may revoke the permit or permits and shall immediately notify the state and local authorities of its action. When the BAA either suspends or revokes a permit, all permits to deal in beverages as herein defined and all similar local permits are automatically suspended or revoked without action on the part of the state or local governing authorities. The BAA shall retain jurisdiction to reopen cases at any time upon petition or on its own motion, and for good cause shown

may modify, revise or reverse its former findings and decisions and all such reopened cases shall be heard and determined under the same rules of procedure as original cases.

Sec. 3-43. Cost of hearings.

In hearings of the BAA which finally result in withholding the issuance of a permit or in suspending or revoking a permit, the BAA shall assess the costs of the hearing to the applicant or permittee. The costs are recoverable by the BAA in any appellate proceeding instituted by the applicant or permittee or in any other judicial proceeding.

Sec. 3-44. Finality of decisions to withhold, suspend or revoke permits.

Decisions of the BAA and of local authorities in withholding [suspending or revoking] permits are final and binding on all parties unless appealed in the manner provided in this Chapter, and finally reversed by the courts.

Sec. 3-45. Appeals to courts.

- (a) Any party aggrieved by a decision of the BAA to withhold, suspend, or revoke a permit may, take an appeal of said decision to the 34th Judicial District in the manner provided by Chapter 2.5.

Sec. 3-46. Summary court hearings.

All appellate proceedings described herein are civil in nature and shall be heard summarily by the court, without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, and in or out of term time.

Sec. 3-47. Interference by courts prohibited.

When the BAA has withheld the issuance of a permit, or has summoned a permittee to show why the permit should not be suspended or revoked, or when the BAA has revoked a "beer only" or "liquor" permit, and permittee has failed to exhaust his/her administrative remedy of appeal to the BAA, the courts of this state have no jurisdiction to interfere in any manner or to issue restraining orders or writs of injunction restraining the BAA or local authorities from proceeding under the provisions of this chapter. The jurisdiction of the courts is restricted to appeals as provided in sections 3-26 and 3-45.

Sec. 3-48. Revocation or suspension not exclusive penalty.

The revocation or suspension of a permit is in addition to and not in lieu of or in limitation of any other penalty imposed by state law or by this chapter.

Sec. 3-49. Status of premises after revocation of permit.

When a permit is revoked for any legal cause, the BAA may, at the same time, order that no state or local permit shall be issued covering the same premises until one (1) year after the date of the revocation.

Sec. 3-50. Penalties for violation.

- (a) Any person, member of a partnership, or officer, agent or employee of any corporation, violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be fined not exceeding fifty dollars (\$50.00), or imprisonment, at the discretion of the court. For any subsequent violation, the penalties fixed by this section shall be doubled for each day's violation.

- (b) The provisions of this section shall not apply to Section 3-26.1 and shall not be construed in any manner to limit, restrict, or otherwise control or reduce the penalties that may be imposed by the court under that section.

Sec. 3-51. Special permits for booster clubs.

- (a) The ABBD may grant permits to sell beverages of low-alcohol content by duly organized booster clubs domiciled within the parish when the proceeds of such sale shall be used exclusively for the benefit of parish recreational activities and facilities.
- (b) Such sales shall be allowed at all events of activities held in conjunction with intramural programs and special events approved by the recreation department, provided the following conditions have been met:
 - (1) The booster club has executed a contract with the recreation department for operation of its activities at a designated facility.
 - (2) All other necessary state and/or local permits have been obtained by the booster club.

Sec. 3-52. Reserved.