



ORDINANCE NO. 23-

Text Amendment: To amend Chapter 40, Art. III. – Zoning District Regulations, Art. IX. – Development Standards for Particular Uses, and Art. XVIII. Definitions to create standards for Wine Shops and Beer Shops in Neighborhood Business

Sec. 40-72. Table of permissible uses.

P = Permitted.

CZ = May be permitted with conditional zoning

S = May be permitted by special use permit

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Wine and beer shops (Retail/Off-premise)									P		P			
Wine Shop (On-premise)									<u>P</u>	<u>P</u>	<u>P</u>			
Beer Shop (On-premise)										<u>P</u>				

Sec. 40-261. Development standards for particular uses.

(o) *Eating and/or drinking establishments.* Eating and/or drinking establishments are businesses that cater to the public and are strongly encouraged by the Town due to their support of a resort market niche and yearround residency. Despite this, some eating and/or drinking establishments may have adverse secondary impacts. To address possible adverse impacts and in order to ensure the health, safety, and well-being of the citizens of the Town, as well as that of the tourists and visitors to the Town, all persons requesting to open an eating and/or drinking establishment shall sign a statement of agreement to abide by the following regulations. Failure to comply with these regulations shall constitute a violation of this chapter subject to the enforcement procedures as outlined in article XV of this chapter.

(1) Standards for all eating and/or drinking establishments:

- a. Shall not provide any material misrepresentation, misstatement or omission, concerning information required to be provided for approval;
- b. Shall comply with all provisions of the ABC Commission and/or ALE requirements, if applicable. Any eating and/or drinking establishment that receives a permit from the ABC Commission as a private club shall be considered a bar/tavern and shall meet all requirements for that use.
- c. Shall adhere to standards and regulations of the Town's noise ordinance. Offenses shall be subject to the regulations as listed in section 18-140, violations. If applicable, all violations shall be submitted to the North Carolina Alcohol Beverage Control (ABC) Commission by the Town to ensure all operators stay in compliance with all provisions of the ABC Commission.

- d. Shall meet fire codes and limit occupancy to the maximum number allowed for the establishment.
 - e. At the time of application and excluding bar/taverns, all eating and/or drinking establishments shall provide the Town with a menu having a food and/or non-alcoholic beverage as the primary business.
 - f. Outdoor areas.
 - 1. Proposed temporary outdoor entertainment areas that are not identified on the approved site plan shall be reviewed in accordance with chapter 14, article IX, outdoor performances and events [special events].
 - 2. Outdoor artificial lighting fixtures shall not be designed and positioned so that the point source of light (light bulb) is directly visible from adjacent properties, rights-of-way or ocean and sound front areas.
- (2) A conditional zoning shall be required if an eating and/or drinking establishment meets any of the following:
- a. Meets the criteria for a bar/tavern; or
 - b. Any establishment other than a standard restaurant, [wine shop, beer shop, or brewery](#) that proposes to serve alcohol for on-premises consumption.
- (3) Standards for bars/taverns:
- a. Bars/taverns which because of their nature may have serious adverse secondary impacts, and are therefore required to meet the minimum separation requirements of subsection (l)(3)b of this section.
 - b. No new bars/taverns shall be permitted within:
 - 1. 200 feet of an established church or school;
 - 2. 200 feet of any residential district.
- (4) Standards for Wine Shops (On-premise):
- a. [All Wine Shops shall meet all requirements of the ABC Permit.](#)
- (5) Standards for Beer Shops (On-premise):
- a. [All Beer Shops shall meet standards for on-premise malt beverage.](#)
 - b. [Beer shops in Neighborhood Business shall have any indoor or outdoor areas located three times the minimum setback yard for the district from any interior lot line.](#)
- ~~(4)~~ (6) Provisions construed as consistent with state law. The provisions of this section are:
- a. Not to be construed as regulating any activity which the Town is forbidden by state law to regulate;
 - b. Not to be construed as applying to any activity the Town is prohibited from regulating because the North Carolina General Assembly has so clearly expressed its intent in the course of providing a complete and integrated regulatory scheme that municipalities are prohibited from enacting provisions concerning matters covered by the regulatory scheme;
 - c. Not to be interpreted or construed as imposing requirements different from those that are imposed by the state;
 - d. To be interpreted so that they are consistent with any requirements and regulations imposed by the state.

State law reference(s)—Authority, G.S.160A-174, 160A-181, 18B-100.

Sec. 40-548. Definitions.

Beer Shop means an establishment substantially engaged in retail sale of malt beverages on and off premises subject to the ABC Commission regulations.

Wine Shop means an establishment substantially engaged in retail sale of unfortified wine and fortified wine for consumption on and off premises subject to the NC ABC Commission regulations.