

NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION
(919) 779-0700

Location: 400 E. Tryon Road
Raleigh, NC 27610

Mail: 4307 Mail Service Center
Raleigh, NC 27699-4307

RESOLUTION OF THE CITY OF Southern Shores, COUNTY OF Dare, REGARDING THE DESIGNATION OF AN OFFICIAL TO MAKE RECOMMENDATIONS TO THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION ON ABC PERMIT APPLICATIONS.

WHEREAS G.S.18B-904(f) authorizes a governing body to designate an official, by name or by position, to make recommendations concerning the suitability of persons or locations for ABC permits; and

WHEREAS the City of Southern Shores, County of Dare, wishes to notify the NC ABC Commission of its designation as required by G.S.18B-904(f);

BE IT THEREFORE RESOLVED that David M. Kole, Chief of Police,
(Name of Official) (Title or Position)

is hereby designated to notify the North Carolina Alcoholic Beverage Control Commission of the recommendations of the City of Southern Shores, County of Dare, regarding the suitability of persons and locations for ABC permits within its jurisdiction.

BE IT FURTHER RESOLVED THAT notices to the City of Southern Shores, County of Dare, should be mailed or delivered to the official designated above at the following address:

Mailing address: Southern Shores Police Dept.
Office location: 5375 N. Virginia Dare Trail
City: Southern Shores, NC
Zip Code: 27949 Phone #: 252-261-3331

This the 8th day of January, 2013.

Sworn to and subscribed before me this the 8th day of January, 2013.

Bob Perry
(Mayor/Chairman)
Carrie Gorder
(Clerk)



§ 18B-904. Miscellaneous provisions concerning permits.

(a) **Who Receives Permit.** – An ABC permit shall authorize the permitted activity only on the premises of the establishment named in the permit. An ABC permit shall be issued to the owner of the business conducted on the premises, or to the management company employed to independently manage and operate the business. The ABC Commission may determine if a management agreement delegates sufficient managerial control and independence to a manager or management company to require an ABC permit to be issued to the manager.

(b) **Posting Permit.** – Each ABC permit that is held by an establishment shall be posted in a prominent place on the premises.

(c) **Business Not Operating.** – An ABC permit shall automatically expire and shall be surrendered to the Commission if the person to whom it is issued does not commence the activity authorized by the permit within six months of the date the permit is effective. Before the expiration of the six-month period, the Commission may waive this provision in individual cases for good cause.

(d) **Notice of Issuance.** – Upon issuing a permit the Commission shall send notice of the issuance, with the name and address of the permittee and the establishment, to:

- (1) The Department of Revenue;
- (2) The local board, if one exists, for the city or county in which the establishment is located;
- (3) The governing body, sheriff, and tax collector of the county in which the establishment is located;
- (4) If the establishment is located inside a city, the governing body, chief of police, and tax collector for the city; and
- (5) The ALE Section.

(e) **Business or Location No Longer Suitable.** –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood.
- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. 18B-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action.

- (3) Notwithstanding G.S. 18B-906, the Commission shall revoke a permit issued by it if, after complying with the provisions of Chapter 150B of the General Statutes and without a finding of mitigating evidence or circumstances, it finds evidence that the permittee or the permittee's employee has been found responsible by a court of competent jurisdiction or the Commission for two or more violations on separate dates of knowingly allowing a violation of the gambling, disorderly conduct, prostitution, controlled substance, or felony criminal counterfeit trademark laws as those offenses are prohibited pursuant to G.S. 18B-1005(a)(2), (a)(3), or (b), G.S. 18B-1005.1, or G.S. 80-11.1(b)(2) or (3), at a single ABC-licensed premises within a 12-month period. The permittee and the owner of the property have the responsibility to monitor the conduct on the licensed premises pursuant to G.S. 18B-1005(b) and G.S. 19-1. Revocation of permits pursuant to this subdivision shall only apply to the permits issued to the location where the violations occurred.

(f) Local Government Objections. – The governing body of a city or county may designate an official of the city or county, by name or by position, to make recommendations concerning the suitability of a person or of a location for an ABC permit. The governing body of a city or county shall notify the Commission of an official designated under this subsection. An official designated under this subsection shall be allowed to testify at a contested case hearing in which the suitability of a person or of a location for an ABC permit is an issue without further qualification or authorization.

(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160A-181.1(c). (1939, c. 158, s. 514; 1943, c. 400, s. 6; 1949, c. 974, s. 14; 1953, c. 1207, ss. 2-4; 1957, c. 1440; 1963, c. 426, ss. 4, 5; 1971, c. 872, s. 1; 1981, c. 412, s. 2; c. 747, s. 58; 1989, c. 800, ss. 9, 10; 1991, c. 459, s. 4; 1993, c. 415, s. 12; 1998-46, s. 6; 1999-322, s. 2; 2001-515, s. 3(b); 2005-392, s. 4; 2011-145, s. 19.1(q).)