

## PART C

### Liquor

#### Section 301. Liquor Control.

##### **a. Definitions.**

**Liquor.** Liquor shall mean and include spirituous, vinous, fermented or other alcoholic beverages or combination of liquors and mixed liquors, a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures and reused, recovered or redistilled denatured alcohol usable for beverage purposes, which contain more than of 1 percent of alcohol by volume.

**Malt or Brewed Beverages** Malt or brewed beverages shall mean any beer, lager, lager beer, ale, porter or similar fermented malt beverages containing 1/2 of 1 percent or more of alcohol by volume.

**Alcoholic Beverages** Alcoholic beverages shall mean liquor or malt or brewed beverages, as defined herein, or both of them.

(Ordinance 1086, June 13, 1984, Section 1.)

##### **b. Restrictions in Licensed Premises.** It shall be unlawful for:

(1) A minor (a person less than 21 years of age) to enter any premises in the Municipality, licensed by the Pennsylvania Liquor Control Board for the sale of malt or alcoholic beverages as a retail dispenser, for the purpose of purchasing or having served or delivered to him or her any malt or alcoholic beverage; or,

(2) A minor to consume any malt or alcoholic beverage on premises licensed as aforesaid for the sale of malt or alcoholic beverages, or to purchase, attempt to purchase or have another purchase for him or her any malt or alcoholic beverage; or,

(3) Any adult to give or deliver, in and upon any such licensed premises, any malt or alcoholic beverage to any minor.

(Ordinance 575, May 2, 1960, Section 1.)<sup>30</sup>

**c. Duty of Licensees.** Any licensee of any premises licensed aforesaid for the sale of malt or alcoholic beverages within the Municipality shall post a copy or a summary of this ordinance in a conspicuous and visible place on said premises. (Ordinance 575, May 2, 1960, Section 2.)

**d. Penalty for Violation of Regulations Applicable to Minors.** Any person who shall violate any of the provisions of this ordinance shall be deemed and adjudged to be a disorderly person and, upon conviction thereof before the District Magistrate<sup>40</sup>, shall be sentenced to pay a fine of not less than \$25.00 and not more than \$100.00 for each and every such violation and, upon default in the payment of said fine or fines, shall be sentenced to serve not less than 10 days and not more than 30 days. (Ordinance 575, May 2, 1960, Section 3.)

**Section 302. Open Containers.**

**a. Possession/Transportation of Open Containers of Alcoholic Beverages.** It shall be unlawful for any person to possess an open container of alcoholic beverage in any public parking lot or public parking garage within the Municipality, whether such person is on foot or is in or on a vehicle, and whether such vehicle is moving or is stationary. (Ordinance 1086, June 13, 1984, Section 1.)

**b. Possession of Open Containers of Alcoholic Beverages.** It shall be unlawful for any person to possess an open container of alcoholic beverage on any public street, public sidewalk, public alley or public park within the Municipality, except for persons located within or on a moving vehicle being operated on such street or alley. Possession of an open container of alcoholic beverage by any person in or on a vehicle parked on any public street or alley is unlawful. (Ordinance 1086, June 13, 1984, Section 1, as amended by Ordinance 1114, October 10, 1985, Section 1.)

**c. Penalty for Violation of the Open Container Provisions.** Any person who shall violate the provisions herein relating to open containers of alcoholic beverage (presently Sections 305 and 306 of this Chapter) shall, upon conviction thereof, be sentenced to pay a fine of not less than \$250.00 for the first offense; \$500.00 for the second offense, and not less than \$1,000.00 for any subsequent offenses in any 120-day period plus the cost of prosecution or, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days. (Ordinance 1086, June 13, 1984, Section 1, as amended by Ordinance 1914, December 15, 2008, Section 4, and by Ordinance 2066, December 21, 2015, Section 3.)

**Section 303. Liquor License Transfers.** The Borough of State College desires to provide criteria it believes necessary to preserve the welfare, health, peace, and morals of the municipality and its residents with regard to liquor licenses proposed to be transferred into the Borough or to be issued in any way pursuant to Senate Bill 1531, amending P.L. 90, No. 21, an act relating to alcoholic beverages including, but not limited to, the issuance of economic development licenses and the transfer of liquor licenses into the Borough of State College. To provide for responsible alcohol management and the administration of applications made to the Borough pursuant to the above-referenced state law pertaining to liquor licenses and, further, in an effort to preserve the welfare, health, peace and morals of the municipality and its residents, the Borough finds it necessary to adopt criteria to be applied to such applications and fees to be

charged to applicants. (Ordinance 1660, May 22, 2001, Background.)

**a. Intent.** The Borough of State College does hereby provide for the administration of applications for transfer of liquor licenses within the boundaries of the Borough and conduct hearings in compliance with Pennsylvania law. The following requirements apply to all proposed liquor license transfers:

(1) Application for Approval of License Transfer. The applicant must provide the following information:

- (a) The applicant's full name, home address, home telephone number;
- (b) The applicant's Pennsylvania LCB license number;
- (c) The current business name, address, telephone number where the liquor license proposed for transfer is located;
- (d) The business name, address, telephone number, where the liquor license is proposed to be located within the Borough of State College;
- (e) The type of operation proposed (restaurant- R License) serving malt and brewed beverages and other forms of alcohol, or an eating establishment (E License) serving only malt and brewed beverages;
- (f) Information about the following operating details:
  - Amusement Permit? Yes\_\_\_ No\_\_\_  
If yes, type of entertainment? \_\_\_\_\_
  - Extended Hours Food Permit? Yes\_\_\_ No\_\_\_
  - Sunday Sales Permit? Yes\_\_\_ No\_\_\_
  - Days of operation? \_\_\_\_\_
  - Hours of operation? \_\_\_\_\_
  - Seating Capacity: At bar?\_\_\_\_\_ At tables and chairs?\_\_\_\_\_
  - Characteristic of Neighborhood (within 500 feet):  
Residential \_\_\_% Commercial \_\_\_% Rural \_\_\_%
  - Restrictive Institutions (within 200 feet)? Yes\_\_\_ No\_\_\_
  - Other Licenses (existing within 200 feet)? Yes\_\_\_ No\_\_\_
  - Protesters? Yes\_\_\_ No\_\_\_
  - Supporters? Yes\_\_\_ No\_\_\_
  - Type of Menu? (Check applicable): Breakfast\_\_ Lunch \_\_ Dinner\_\_
  - Meal price range? \_\_\_\_\_
- (g) The names, addresses, telephone numbers of all parties who have or propose to have, a financial interest or ownership in the business where the proposed liquor license will be located;
- (h) The owner of the property where the liquor license is proposed to be located;
- (i) The names, addresses, telephone numbers of all property owners of property fully or partially within 500 feet of the proposed license location;

- (j) The date at which the applicant proposes to relocate the liquor license to Borough of State College;
- (k) A copy of the completed application required by the Pennsylvania LCB including the applicant's criminal history and liquor code violations;
- (l) The names of other businesses with liquor licenses in Pennsylvania County in which applicant has some interest or ownership;
- (m) The number of existing liquor licenses of all types within the Borough of State College;
- (n) The population of the Borough of State College taken from the latest federal census.

(Ordinance 1660, May 22, 2001, Section 1.<sup>45</sup>.)

**b. Public Hearing Advertisement and Posting.** Upon receipt of the application and the appropriate filing fees, as required in this ordinance, the Borough will conspicuously post the property identified as the location of the proposed liquor license in a manner consistent with the requirements for posting a property for re-zoning. The Borough will advertise the date, time, and place of a public hearing to be conducted by the Council of the Borough of State College. (Ordinance 1660, May 22, 2001, Section 2.)

**c. Council Action.** In deciding whether the proposed transfer application would adversely affect the welfare, health, peace, and morals of the Borough of State College or its inhabitants, the Council of the Borough of State College may consider, in addition to the information in Section 1.a, above, any or all of the following:

- (1) A report and recommendation from the Borough Manager and the Borough Chief of Police;
- (2) The population of the Borough of State College, the number of students, and the number of residents under the age of 21;
- (3) The total number of existing liquor licenses in the Borough and whether the total number of existing liquor licenses exceeds one license per 3,000 population of the Borough (the quota established by the LCB);
- (4) The location of the closest existing licensed establishment (all types of licenses), school, church, adult business, (as defined by Borough ordinance), etc.
- (5) Concerns expressed by area residents, businesses, public interest organizations, The Pennsylvania State University, the State College Area School District;
- (6) The copy of the completed application required by the Pennsylvania Liquor Control Board, and the applicant's complete criminal history;
- (7) The names of and information about other businesses in which the applicant has some interest or ownership; and
- (8) Any other issue or fact that may adversely affect the welfare, health, peace, and morals of the Borough of State College or its inhabitants.

(Ordinance 1660, May 22, 2001, Section 3.)

**d. Application Fees.** The Borough of State College wishes to provide for the reimbursement of expenses incurred in the administration of the applications and hearings for transfer of liquor licenses into the Borough. In order for any application to be accepted by the Borough, the applicant must submit an application fee to defray the cost of public notices, secretarial costs, and administrative overhead. The initial application fee will defray these costs up to and including a maximum hearing of three (3) hours. Each additional three hours of hearing, or any part thereof, will constitute an additional hearing day with the resulting additional fees as set forth below:

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|---|----------|
| (1) Initial Application Fee   | \$800.00 |
| (2) Fee for additional hearing day  | \$600.00 |
| (3) In addition to the application fee and additional hearing fees set forth above, if the applicant requests a stenographic record, all costs for providing a stenographic record, including appearance fees, will be the responsibility of the applicant. |          |
| (4) All fees must accompany the application and are non-refundable.   |          |
| (5) The above-referenced fee schedule may be changed by resolution of the Borough of State College Council.   |          |

(Ordinance 1660, May 22, 2001, Section 4.)

**e. Hearing.** Council will conduct a hearing to determine whether or not to approve the transfer of the liquor license into the Borough. Any approval will be limited to the individual applicant, the proposed transfer location, and the type of establishment proposed. Any proposed change in ownership, location, or type of establishment will require a new application and Borough approval. The Borough may also impose additional conditions. (Ordinance 1660, May 22, 2001, Section 5.)