

**CITY OF NEWARK
DELAWARE**

ZONING CODE

ALCOHOLIC BEVERAGE REGULATIONS

Sec. 32-4(a)(106.4), Definitions

“(106.4) *Restaurants with alcoholic beverages*: Any restaurant with more than 25 seats selling alcoholic beverages for public consumption on the premises. All restaurants selling alcoholic beverages for public consumption on the premises shall be included within this category regardless of type of food service and shall be subject to the special use permit requirements in Article XX, Section 32-78, of this chapter.”

Secs. 32-17(b), 32-18(b), 32-19(b), BN, BB and BC Districts.

All new restaurants, with alcoholic beverages require special use permits [as of May 23, 2005].

Sec. 32-56.4. Facilities selling alcoholic beverages for consumption on premises.

(a) Facilities selling alcoholic beverages for public consumption on the premises that are less than 300 feet measured along a straight line from the facility selling alcoholic beverages to the nearest property line of a church, library, school, nursing home, hospital, dormitory or lot zoned residential (RH, RT, RS, RD, RM, RA, RR, AC) shall be permitted, except as otherwise provided therein, subject to the following special requirements:

- (1) Live night club or floor show type entertainment defined as electronically amplified musical dance, cabaret, or comedy performances that may be accompanied by dancing by patrons shall not be permitted, except that one person electronically amplified performances intended as accessory or background music or non-electronically amplified performances shall be permitted. Permitted live entertainment shall not include adult entertainment as defined in this chapter. Full restaurant service as defined in this section, shall be provided with all permitted live entertainment.
- (2) There shall be no alcoholic beverages sold on the premises after 12:00 midnight;
- (3) There shall be no carry-out liquor service;

- (4) No bar facilities, defined as any counter in which alcoholic beverages may be stored, displayed, prepared, and served, and at which patrons sit and/or stand and consume alcoholic beverages, shall be permitted.
- (5) There shall be no less than 50 seats in the facility; and,
- (6) There shall be no alcoholic beverage promotional activities that encourage excessive consumption on the premises. Happy hours, reduced price alcoholic beverage specials, or similar alcoholic beverage promotional activities shall only be permitted where the service of such specials is restricted solely to seated patrons who shall also be required to order food as further defined as full restaurant service in this section. Such alcoholic beverage specials, in addition, shall be restricted to hours of 4:00 p.m. to 9:00 p.m. This subsection to take effect within 90 days of its adoption ["Happy hours" in this format adopted September 23, 2002].

(b) Facilities selling alcoholic beverages for consumption on the premises within the central portion of the city bounded by Chapel Street on the east, Delaware Avenue on the south, Elkton and New London Roads on the west, and the University of Delaware's North Campus property and the White Clay Creek on the north, if the property line of any such facility is adjacent to the property line of a church, library, school, nursing home, hospital, dormitory, or is adjacent to a district boundary line of any residentially zoned property (RH, RT, RS, RD, RM, RA, RR, AC), shall require a special use permit, as provided in Article XX, Section 32-78, subject to the requirement of five affirmative votes of council for approval, and subject to all other requirements herein.

(c) Facilities licensed by the Delaware Alcoholic Beverage Control Commission as a restaurant shall provide full restaurant service, ["full restaurant service" reference adopted January 11, 1993] with lunch, dinner, and dessert menus, which shall be defined as serving complete meals for consideration during all hours of operation; except that limited late service may be substituted for full restaurant service beginning 90 minutes before the time that alcoholic beverages are no longer served. The limited service of such food as sandwiches, salads, pizza, and similar items normally provided by taverns, luncheonettes, coffee shops, or snack bars shall not be deemed to be full restaurant service, but shall be deemed to be limited late service as permitted in this section. The service of alcoholic beverages shall be clearly incidental and complementary to full and limited restaurant service. No age-based "cover" or similar surcharge for patrons shall be permitted in such facilities. This subsection regarding "cover" charges to take effect within 180 days of its adoption ["cover" charge limitation adopted May 14, 2001]. There shall be no alcoholic beverage promotional activities that encourage excessive consumption on the premises. Happy hours, reduced price alcoholic beverage specials, or similar alcoholic beverage promotional activities shall be restricted to the hours of 4:00 p.m. to 9:00 p.m. This subsection to take effect within 90 days of its adoption, and shall apply to all existing and new establishments licensed to sell alcoholic beverages for public consumption on the premises ["Happy Hours" in this format adopted September 23, 2002].

(d) Restaurant patios and sidewalk cafes defined as decks, porches, and similar structures, or facilities directly on sidewalks, whether covered or uncovered, raised or at grade, used in connection with a restaurant, bakery-restaurant, and/or tavern/taproom selling alcoholic beverages for consumption on the premises shall be subject to the following special requirements:

- (1) Total size shall not exceed 1,000 square feet.
- (2) Food and beverages shall be served only to seated patrons.
- (3) No bar or similar structure used for sale or dispensing of liquor by the drink shall be permitted. Cooking facilities are prohibited, except as specifically authorized in Chapter 21, Peddlers, Vendors, and Solicitors, of this code.
- (4) No electronically amplified sound shall be permitted.
- (5) No overflow of patrons on sidewalks and street right-of-way shall be permitted.
- (6) A minimum five-foot wide clear pedestrian path between any obstruction and the restaurant patio/sidewalk cafe shall be maintained at all times, but in no case shall the restaurant patio sidewalk cafe encroach into the public right of way. Upon application to the public works director, however, and in conjunction with the review by the planning director, an intrusion into the five foot wide clear pedestrian path may be permitted for periodic or special promotional events or related activities.
- (7) Tables, chairs, umbrellas, and any other objects provided in connection with a facility located directly on sidewalks shall be secured in an orderly fashion or removed from the sidewalk area when dining facility is closed to the public.
- (8) No tables and chairs nor any other parts of restaurant patios or sidewalk cafes shall be attached, chained, or in any manner affixed to any tree, post, sign or other public fixture.
- (9) Tables, chairs, umbrellas, and any other objects provided with a sidewalk cafe shall be maintained in a clean and attractive appearance and shall be in good repair at all times.
- (10) No vending machines of any kind shall be permitted.
- (11) For facilities directly on sidewalks, such facilities shall be swept and washed daily by restaurant operator including the adjoining sidewalks to the street curb. Raised decks, porches, and similar structures shall also be swept daily. Debris shall be disposed of properly in owner/manager's containers.

(12) Restaurant patios and sidewalk cafes shall be subject to all other relevant requirements of this code.

(e) Bar facilities in restaurants, defined as any counter in which alcoholic beverages may be stored, displayed, prepared and served, and at which patrons sit and/or stand and consume alcoholic beverages, shall be permitted, except as otherwise regulated herein, and shall be limited in size in terms of seats to no more than 15% of the total number of seats in the restaurant, not including outdoor seating at restaurant patios and sidewalk cafes.

(f) Special use permits for restaurants selling alcoholic beverages for public consumption on the premises:

(1) Procedures: All facilities selling alcoholic beverages for public consumption on the premises, proposed after the adoption of this ordinance, that require council approved special use permits for such sales, shall be subject to the following:

(A) Special use permits as required herein shall be reviewed as provided in Article XX, Section 32-78, of this chapter.

(B) Such special use permits, as they relate to the sale of alcoholic beverages, may be revoked at any time by a majority of council. Council may consider revocation upon a request of the mayor, a member of city council within whose district the restaurant is located, or the city manager. Such revocation shall be for a time period specified by council, but in no case shall be longer than one year from the date of revocation. Revocations shall be reviewed under the procedures in Article XX, Section 32-78, of this chapter.

(2) Review criteria: In reviewing whether the applicant has demonstrated compliance with the factors for granting a special use permit specified in Article XX, Section 32-78 of this chapter, city council shall consider a written report prepared by the planning director, at the direction of the city manager, which shall include the following:

(A) A police department evaluation concerning compliance with Chapter 19, Minors; Chapter 22, Police Offenses, Article XVII, Sales and Distribution of Alcoholic Beverages; and, Chapter 32, Zoning.

(B) A building department evaluation concerning compliance with Chapter 32, Zoning, and Chapter 7, Building.

(C) Any available information from the Delaware Alcoholic Beverage Control Commission; and,

(D) Other information as appropriate.”

Sec. 32-59, Signs, General Provisions, subsection 1, Banners, pennants, and noninstitutional flags.

- (2) Banners shall be permitted in business or industrial zoning districts for advertising a special sales event, grand openings, or similar activities if attached to a wall; maximum area shall be determined by the following formula:
- a. Zero feet to 30 feet of front footage--30 square feet or two and one-half times the linear front footage, whichever is greater.
 - b. 31 feet to 100 feet of front footage--75 square feet or two time the linear front footage, whichever is greater.
 - c. 101 feet and above of front footage--200 square feet or one and one-half times the linear front footage, which is greater.

In the case of a property or business facing more than one street, signs shall be permitted as per the standard of each frontage and in the case of businesses in shopping centers, the front footage shall be calculated based on the width of the business; maximum number of one per business, except as otherwise regulated; banners on walls shall not be combined with flags or freestanding banners. In the case, however, of any business providing alcoholic beverages for consumption on and off the premises banners shall not contain any message regarding "happy hours," reduced priced alcoholic beverage specials or any other form of alcoholic beverage promotional information. This subsection regarding alcoholic beverage banners to take effect within 180 days of its adoption [banner regulations adopted May 14, 2001]. No sign permit required.

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