

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 13B .1003

**DEADLINE FOR RECEIPT: Friday, August 14, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*Throughout this Rule, please add a comma after "natural area"*

*Throughout this Rule, please add a comma after "unfortified wine"?*

*What is the difference in the first and the last sentence of Paragraph (a)? Could you not combine them into the first sentence? Same for Paragraph (c).*

*Also, (a) and (c) repeat a lot of the same information. Could you not combine these?*

*Please use the proper formatting for the lists on lines 7-11 and 17-20 in accordance with 26 NCAC 02C .0108.*

*Please add a semi-colon after "Paragraph (h) of this Rule" in (a)(2).*

*How is a person to request a long term operating agreement? What is the difference in that and a Special Activity Permit? I see that (g) references a "request" for the Permit and also seems to indicate that there is a approval process for the long term operating agreement, but I only see additional requirements for the permit.*

*Please provide the required information in Paragraph (e) in list form, with number and formatting in accordance with 26 NCAC 02C .0108.*

*In (e), add a comma after "sale"*

*In (g), delete or define "regularly"*

*Would it make sense to switch (f) and (g)? I assume that the permit isn't issued until after the Director reviews and approves.*

*Do (h) and (f) go together? Is the Director going to provide where this can take place in the permit?*

Amber May  
Commission Counsel  
Date submitted to agency: July 31, 2020

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road,  
Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: July 31, 2020

07 NCAC 13B .1003 is readopted as published in 34:22 NCR 2101-2102 with substantive changes as follows:

**07 NCAC 13B .1003     ~~INTOXICATING LIQUORS; ALCOHOLIC BEVERAGES AND~~ CONTROLLED  
SUBSTANCE OR BEVERAGES SUBSTANCES**

(a) A person shall not possess or consume any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, within any state ~~park-park, natural area~~ or recreation area, ~~except at the Chimney Rock Attraction and Chimney Rock Restaurant at the Chimney Rock State Park except: (1) as permitted under a long-term long-term operating agreement-agreement; and at the Summit Conference Center, Haw River State Park (2) in designated areas designated in accordance with Paragraph (h) of this Rule and only or (3) after obtaining a Special Activity Permit from approved by the Director of the Division or his or her designee under Paragraphs (d) through (i) of in accordance with this Rule.~~ A person shall not possess or consume any other alcoholic beverage, as defined by G.S. 18B-101, or controlled substance-substance, as defined by G.S. 90-87(5) or intoxicating substance within any state ~~park-park, natural area~~ or recreation area.

(b) A person shall not be or become ~~intoxicated~~ intoxicated, as defined by G.S. 14-443(2), while within any state ~~park park, natural area~~ or recreation area, including during events approved under a Special Activity Permit.

(c) A person shall not ~~sell-sell or serve, or attempt to sell-sell or serve~~ any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, within any state ~~park-park, natural area~~ or recreation area, except (1) pursuant to the terms and conditions of a long-term operating ~~lease from agreement with the Division-Division; (2) in areas designated in accordance with Paragraph (h) of this Rule; or (3) after obtaining a Special Activity Permit approved by the Director of the Division or his or her designee in accordance with this Rule.~~ A person shall not ~~sell-sell or serve or attempt to sell-sell or serve~~ any other alcoholic beverage, as defined by G.S. 18B-101, or controlled substance-substance, as defined by G.S. 90-87(5) or intoxicating substance within any state ~~park-park, natural area~~ or recreation area.

(d) ~~Applications-Requests~~ for a Special Activity Permit authorizing the ~~possession or consumption-possession, consumption, sale or service~~ of any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, shall be made ~~by a Special Activity Permit request in writing~~ to the Director of the Division or his or her designee, not less than 14 days prior to the date(s) of the intended use.

(e) The written request shall state the period of time and the area ~~from for~~ for which the use is requested; the number of persons expected to be in attendance; the type of activity and the type and amounts of malt beverage, fortified wine, unfortified wine or spirituous liquor involved; documentation of any and all permitting required by the North Carolina Alcoholic Beverage Control Commission; and the name and address of the individual, organization or group seeking permission to use any portion of any state ~~park-park, natural area~~ or recreational area for the ~~possession or consumption possession, consumption, sale or service~~ of any malt beverage, fortified wine, unfortified wine or spirituous ~~liquor,~~ listing liquor; and, for organizations and groups requesting permission, the name and address of the requestor or its president, vice president(s), secretary and treasurer or its principal chief executive officer or officers, its directors, if any, and such other pertinent information as may be required by the Director of the Division, or his or her designee, sufficient

~~to identify the organization submitting the request and the individuals principally engaged in the conduct of its affairs.~~ authorized representative, such as the president or chief executive officer of the organization or group.

(f) The Special Activity Permit shall specify the hours of permitted use, type of malt beverage, fortified wine, unfortified wine or spirituous liquor, the total amounts to be brought into the ~~Park~~ state park, natural area or recreation area, ~~and the~~ maximum number of ~~attendees.~~ attendees, and any additional conditions specified by the Director or his or her designee which are consistent with the purposes and management of the State Park System, as defined in G.S. 143B-135.42.

(g) If the Director of the Division or his or her designee concludes that the requested use will not hinder or impede any regularly established use of the ~~Haw River State Park and Chimney Rock State Park~~ state park-park, natural area or recreation area where the use is requested and ~~will not adversely affect or threaten their care, protection or maintenance or create a nuisance by such use,~~ is consistent with the protection of the natural resources, facilities, and public enjoyment of the State Park System, he or she shall grant permission to use the state ~~park-park, natural area~~ or recreation area specified in the request or ~~long term~~ long-term operating lease agreement submitted in accordance with this Rule. If the Director or his or her designee shall determine otherwise, he ~~or she~~ shall deny the request.

(h) The Director of the Division or his or her designee shall designate ~~appropriate areas and occasions in the designated parks under this Rule, suitable for possession or consumption where possession, consumption~~ sale or service of malt beverages, fortified wine, unfortified wine or spirituous ~~liquor~~ liquor, as defined in ~~G.S. 18B-101~~ G.S. 18B-101, is allowed. Such areas ~~and occasions shall~~ may be limited so as not to interfere, or cause user ~~conflicts,~~ conflicts with other organizations, groups or individuals also visiting the state park but not requesting the Special Activity Permit. Examples of appropriate areas include meeting rooms, restaurants, cafeterias, lodging rooms and other similar areas in which user conflicts are minimized. Examples of permitted occasions include receptions, weddings and retreats. ~~park, natural area or recreation area.~~

(i) ~~The applicant for a Special Activity Permit shall comply with all state or local laws, rules or ordinances related to the possession or consumption of any malt beverage, fortified wine or unfortified wine, as defined in G.S. 18B-101.~~ Violation of the terms and conditions of a Special Activity Permit issued in accordance with this Rule is prohibited and shall result in revocation of the permit by the Director of the Division or his or her designee.

*History Note: Authority G.S. 143B-135.16;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 1983; June 1, 1981;*  
*Legislative Objection Lodged Eff. March 22, 1983;*  
*Amended Eff. May 1, 2010;*  
*Transferred from 15A NCAC 12B .1003 Eff. April 1, 2017;*  
*Readopted Eff. September 1, 2020.*