

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Natural and Cultural Resources intends to readopt with substantive changes the rule cited as 07 NCAC 13B .1003.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncparks.gov/park-rules

Proposed Effective Date: September 1, 2020

Public Hearing:

Date: July 8, 2020

Time: 1:00 p.m.

Location: Department of Natural and Cultural Resources Auditorium, 109 E. Jones Street, Raleigh, NC 27601

Reason for Proposed Action: The existing rule pertaining to alcohol in state parks currently bans all persons from possessing and/or consuming alcohol on park premises at most parks. This limitation is inconsistent with all other State Parks across the southeastern United States. To serve more of the growing population of North Carolina, the permission to change to a system with measured limitations pertaining to alcohol rather than almost a total abolition is requested.

Comments may be submitted to: Carol Tingley, 1615 Mail Service Center, Raleigh, NC 27699-1615

Comment period ends: July 14, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 13 - PARKS AND RECREATION AREA RULES

SUBCHAPTER 13B - PARKS AND RECREATION AREAS

SECTION .1000 - DISORDERLY CONDUCT: PUBLIC NUISANCE: ETC.

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.

(b) 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)(c) 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.

(e)(d) 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. 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.

~~(e)~~ 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)(f)~~ 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)(g)~~ The written request shall state the period of time and the area ~~from~~ 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)(h)~~ 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)(i)~~ 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)(j)~~ 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)(k)~~ 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.*