



COMMITTEE MEETING

February 07, 2023 at 5:15 PM

Council Meeting Room, 101 North State Street,
Abbeville, Louisiana 70510

AGENDA

NOTICE POSTED: February 6, 2023 at 4:00 P.M.

To allow a public comment period on any agenda item prior to action.

Ordinance Committee - Chaired by Councilman Tony Hardy.

1. Discussion of proposed ordinance to repeal and re-enact the Liquor Permit ordinance.
2. Discussion regarding a proposed ordinance pertaining to the permitting of street legal golf carts on City streets.
3. Discussion regarding amending an ordinance to increase the Chief of Police salary- Councilman Francis Touchet, Jr.
4. To consider an ordinance to amend Section 15.5-29 (c), Location of trash containers, exceptions, to designate the City as the governing body that determines variances regarding household garbage containers within the City limits.

In accordance with the Americans with Disabilities Act,
if you need special assistance, please contact
Mayor Roslyn White's office at 337-893-8550,
describing the assistance that is necessary.

Chapter 3 - ALCOHOL BEVERAGE CONTROL

State Law reference— Municipalities authorized to require local permits, R.S. 26:73, 26:271; definitions, R.S. 26:2, 26:241; permit fees limited, R.S. 26:73, 26:273; prohibited acts, R.S. 26:90, 26:285.

- **Sec. 3-1. - Operation without permit prohibited.**

No person shall operate as a dealer in alcoholic beverages, as defined in R.S. 26:2 and 26:241 respectively, unless he has first applied for and received a permit from the municipality as required by this chapter. Each day's conduct of business by the dealer without a valid permit therefor constitutes a separate violation of this chapter.

- **Sec. 3-2. - Application for permit.**

All applications shall be in writing, sworn to and shall contain the full name and correct home address of the applicant and an accurate description and address of the business premises, and the application shall include an affidavit of the applicant that he meets the qualifications and conditions of R.S. 26:80, and 26:280, respectively. Unless he is seeking a renewal of his permit, an applicant for a retail dealer's permit shall attach to his application a certificate of publication by the publisher of the newspaper showing the publication of the notice required in R.S. 26:77 and 26:277, respectively.

- **Sec. 3-3. - Submission of application.**

All applications must be mailed or delivered to the mayor and council within 48 hours of the application for a state permit, and if the applicant fails to do so, his application may be withheld and the permit denied. The mayor and council may issue permits immediately after proper investigation, but for a period of 30 days after receipt of the application, the permittees shall operate on a probationary basis subject to final action on opposition to or withholding of, the permits.

- **Sec. 3-4. - Qualification of applicants.**

Applicants for permits under this chapter shall meet the qualifications and conditions required of applicants for state permits as outlined in R.S. 26:80 and 26:280, respectively, and all other applicable federal, state and local laws.

- **Sec. 3-5. - Location of business.**

(a) No permit shall be granted in contravention of any applicable zoning ordinance or regulation.

(b) No permit shall be granted for any premises situated within 200 feet of any public playground or of a building used exclusively as a church or synagogue, public library, school, full-time daycare center, as defined in R.S. 17:405(A)(4), or a correctional facility housing inmates, including, but not limited to, a halfway house. The measurement of this distance shall be made from the nearest point of the property line of the church, library, or school to the nearest point of the property line of the premises to be licensed.

• **Sec. 3-6. - Renewal of permit.**

(a) Persons holding permits as dealers in beverages of high alcoholic content shall file an application for renewal thereof and pay the permit fees on or before January 1 of each year. One-half of the permit fee shall be paid by January 1 and the remaining one-half by March 1 each year. If a dealer fails to file the application and pay the portions of the permit fee by those dates, there shall be added to the fee, in addition to other penalties provided by state law, a delinquency penalty of five percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which the failure continues.

(b) Persons holding permits as dealers in beverages of low alcoholic content shall file application for renewal thereof for the ensuing year on or before January 1 each year. The permit fee shall be delinquent on March 1 each year. After that date, the applicant shall be charged a delinquency penalty of 25 percent over and above the regular fee.

(c) A renewal permit may be withheld or denied on the same ground and in the same manner as an original permit.

• **Sec. 3-7. - License classifications, and permit fees.**

The annual fee for each alcohol sales license provided by the town shall be paid in the amount as established by the town council, and amended from time to time, which amounts shall be maintained by the town clerk. The following licenses shall be issued in accordance with this chapter:

(1) A dealer in beverages of high alcoholic content.

(2) Dealers in beverages of low alcoholic content of less than six percent Fees are provided according to the following categories:

a. Class A retail dealer permit (served on premises).

b. Class B retail dealer permit (take-out only).

c. Wholesale dealers permit.

(3) Applicants who commence business after June 30 shall pay one-half the applicable permit fee with the application.

- **Sec. 3-8. - Suspension and revocation.**

(a) The mayor and council may suspend or revoke any permits issued pursuant to this chapter in the event any person holding a retail permit, his agent, associate, employee, representative or service permits, any act prohibited by R.S. 26:90 or 26:285 to be done on the licensed premises or for failure to fully and completely comply with federal, state and local law.

(b) Before any permit is suspended or revoked, the holder shall be entitled to a hearing before the mayor and council and the hearing and notice of that hearing shall comply with the requirements of R.S. 33:4787, and the holder of the permit shall likewise be entitled to appeal to the district court pursuant to R.S. 33:4788.

- **Sec. 3-9. - Sale to minors.**

No person holding a permit under the provisions of this chapter shall sell any beverages of high or low alcoholic content to any person who is under 21 years of age.

- **Sec. 3-10. - Sale to incompetents.**

No person shall sell, serve, give or deliver any alcoholic beverage to or procure or aid in the procurement of any alcoholic beverages for any habitual drunkard or person of unsound mind, knowing that the person buying or receiving service of the alcoholic beverages is an habitual drunkard.

- **Sec. 3-11. - Hours of sale.**

(a) It shall be unlawful for any person, firm or corporation who or which has been issued a permit to sell alcoholic beverages or beer, or any employee, servant, or agent or representative of such permittee, to sell, serve, offer to sell, give or dispense any alcoholic beverage which is the subject of this chapter between the hours of 2:00 a.m. and 6:00 a.m.

(b) No bars, barrooms, lounges, night clubs, saloons, restaurants or other types of businesses licensed for the retail sale of alcoholic beverages for consumption on the premises shall remain in operation and allow any person, other than an employee of the permittee, to remain on its premises between the hours of 2:00 a.m. and 6:00 a.m.

(c) No holder of a permit for the retail sale of alcoholic beverages not intended for consumption on the premises shall sell or otherwise dispense any alcoholic beverage which is the subject of this chapter between the hours of 2:00 a.m. and 6:00 a.m.

(d) This section shall not apply on the following days: January 1, the Saturday and Monday mornings preceding Mardi Gras day, and Mardi Gras day itself.

(e) Removal of beverages from alcoholic beverages outlet.

- (1) Between the hours of 2:00 a.m. and 6:00 a.m., no holder of a permit for the retail sale of alcoholic beverages intended for consumption on the premises shall knowingly permit any individual, whether patron, customer, employee or otherwise to remove any beverage from the premises, whether in a closed container, glass, bottle, can, paper cup, "go cup" or otherwise.
- (2) Between the hours of 2:00 a.m. and 6:00 a.m., no person, whether patron, customer, employee, or otherwise, shall remove any alcoholic beverages from the premises of the holder of a permit for the retail sale of alcoholic beverages for consumption on the premises, whether in a closed or open container of any type, whether glass, bottle, can, paper, or plastic cup, "go cup," or otherwise.
- (3) Any holder of a permit for the retail sale of alcoholic beverages for consumption on the premises shall post a conspicuous notice inside his premises as well as by each exit, stating that it is illegal to remove any alcoholic beverages intended for consumption on the premises from the premises in any container of any kind between the hours of 2:00 a.m. and 6:00 a.m., and that violators shall be subject to fine and/or imprisonment under town ordinance.
- (4) Between the hours of 2:00 a.m. and 6:00 a.m., the consumption of alcoholic beverages on the public streets, public sidewalks, public river front property, public boat launch property, or public playgrounds is hereby prohibited.
- (5) In addition to the fine and/or imprisonment penalties provided by this Code for violation thereof:
 - a. Conviction of anyone for the third offense of violating any provision of this section shall constitute cause for the revocation of his permit to sell intoxicating, spirituous, vinous or malt liquors.
 - b. The doing of the acts described in this section are hereby declared to be public nuisances and, in addition to any other penalties provided herein, a court of competent jurisdiction may enjoin said acts.

ARTICLE VII. - USE OF GOLF CARTS AND SLOW MOVING VEHICLES

Sec. 12-108. - Use of golf carts and slow moving vehicles.

(a) *Statement of need and purpose.*

(1) The purpose of this article shall be to establish a golf cart ordinance within the city to promote the health, safety, and welfare of persons operating carts within the city and to protect the safety of their passengers and other users of roads.

(2) The establishment of a golf cart ordinance is necessary to address the interests of public safety. Golf carts are not designed or manufactured to be used on public streets, roads and highways, hereinafter "roads," and the city in no way advocates or endorses their operation on roads. The adoption of this article is not to be relied upon as a determination that operation on roads is safe or advisable if done in accordance with this article. All persons who operate or ride upon carts on the roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. Any person who operates a cart must procure liability insurance sufficient to cover the risks involved in using a cart on the roads on the city.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

DOTD means the department of transportation and development.

Driver means every person who drives or physically controls a golf cart or slow moving vehicle as defined herein.

Golf cart means an electric motorized pleasure vehicles capable of traveling a maximum speed of not more than 25 miles per hour on a straight and level surface.

Highway means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels and ferries; synonymous with the term "street".

Local municipal authority means every council, commission, or other board given authority by the constitution and laws of the state to govern the affairs of the municipality.

Municipality means an incorporated village, town or city created under the authority of the constitution or laws of this state.

Operator means every person, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner means a person who holds a legal title to a golf cart or slow moving vehicle or, in the event of such, are the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, possessor, or in the event such similar transaction is had by means of mortgage and the mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee, possessor, or mortgagor shall be deemed the owner for the purposes of this article.

Police officer means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but nor by other persons.

Right-of-way means the privilege of the immediate use of the highway.

Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the shoulder. A divided highway has two or more roadways.

Shoulder means the portion of the highway contiguous with the roadway for accommodation of stopped vehicles, for emergency use, pedestrian use, mobility aid use or bicyclists when other accommodations are not available, and for lateral support of base and surface

Sidewalk means that portion of a highway between the curb lines, or the lateral lines of highway, and the adjacent property lines, intended for the use of pedestrians.

Slow moving vehicle means a "low speed vehicle" as defined in R.S. 32:1(40) which is a four-wheeled, electric-powered vehicle with a maximum speed of not less than 20 miles per hour but not more than 25 miles per hour and is equipped with the minimum motor vehicle equipment appropriate for vehicle safety as required in 49 CFR 571.500.

State maintained highway means any highway in the state which is contained in the state highway system as defined by law or which is maintained by the department.

Street means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels and ferries; synonymous with the term "highway."

Traffic means pedestrians, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

Traffic control device means all signs, signals, markings, and devices, not inconsistent with this article, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Traffic control signal means a type of highway traffic signal, manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

Vehicle means every device by which persons or things may be transported upon a public highway or bridge, except devices moved by human power or used exclusively upon stationary rails or

tracks. A bicycle or a ridden animal shall be a vehicle, and a trailer or semitrailer shall be a separate vehicle.

(c) *Rules and regulations.*

(1) This article allows for the operation of golf carts, as defined herein, on public streets, roads, pathways within the jurisdiction of the city and on designated future highway crossings, to be determined, as may be authorized by any statute, rule or regulation enacted by the legislature of the state or the DOTD.

(2) This article pertains to golf carts as defined herein. This article does not pertain to the operation of lawn mowers, tractors, four-wheelers, ATV's or any other conveyance, other than those described herein.

(3) Golf carts are not generally designed to be operated and used on public streets, roads, paths, or highways. The city by adopting this article does not endorse nor advocate the use of golf carts on the public streets, road, paths, or highways within its jurisdiction.

(4) By adopting this article, the city is merely providing for the regulation and permitting of the operation of such vehicles by addressing public safety issues and concerns. All operators and passengers of golf carts which operate within the jurisdiction of the city do so at their own risk and peril.

(5) This article does not imply that operation of these vehicles on said streets, roads, paths, and highways, is safe or advisable, even if done so in compliance with this article. All operators of golf carts and their passengers must be observant of and attentive to the safety of themselves, motorists, pedestrians, bicyclists, and the personal and real property of others.

(6) The city shall bear no liability whatsoever under any theory of liability for permitting the operation of golf carts on streets, roads, paths, or highways, under its jurisdiction as allowed by state statutes and/or special legislation enacted by the state legislature, but governed by this article.

(7) Any person or persons, driving, operating or riding in or upon golf carts or slow moving vehicles on the streets, roads, paths, or designated highway crossings under the jurisdiction of the city does so at his own risk and peril, and must drive, operate and use said vehicles with due regard for the safety and convenience of other motor vehicles, bicyclist, and pedestrians.

(8) The golf cart or slow moving vehicle owner and registrant must sign a release from liability for the city which is as follows:

The undersigned owner and registrant hereby agrees to indemnify, defend, and hold the city, its officers, agents, servants, employees, assistants, legal representatives and their heirs, executives, executors, administrators, and assigns, completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs of investigation and defense thereof, including, but not limited to, attorney fees, court costs, and expert fees, of any nature whatsoever arising out of an incident to the acts or omissions of the owner and registrant, its officers, agents, employees, contractors, subcontractors, subleases, licensees, invitees, or any third persons in the use of the owner's and registrant's golf cart or slow moving vehicle, regardless of where the injury, death or damage may occur.

(9) Golf carts and slow moving vehicles may only be operated on streets, roads, paths, and designated highway paths within the city in accordance with the following and regulations of this article.

(10) Before golf carts or slow moving vehicles can be operated on the designated streets, roads, pathways, or highways within the jurisdiction of the city, the owner thereof must purchase and maintain liability insurance in at least the minimum amount required by the state for a licensed motor vehicle which said vehicles. Proof of insurance must be provided to the city at the time of application for a permit to operate vehicles.

(11) Any person who drives, operates or uses a golf cart or slow moving vehicle in the city, including passengers therein or thereon, takes full responsibility for all liability associated with the operation of said vehicles. Any person who rides or sits as a passenger on a golf cart or slow moving vehicle in the city takes full responsibility for all liability associated with such activity.

(12) Any person that drives or operates a golf cart or slow moving vehicle on the streets, roads, pathways, or designated highway paths within the city jurisdiction shall hold a valid driver's license issued by state DOTD, and said operator shall have this driver's license on their person at all times while driving or operating said vehicles.

(13) Golf carts and slow moving vehicles may be operated only during daylight hours, between sunrise and sunset.

(14) Golf carts and slow moving vehicles are not allowed to travel upon state highways or in their rights-of-way or on the following roads - *do we want to designate*

(15) Golf carts and slow moving vehicles may not be operated during inclement weather, including weather in which visibility is reduced or impaired by rain, snow, fog, or other conditions, nor at any time when there is insufficient light to clearly see a person or another vehicle upon the roadway at a distance of 500 feet.

(16) Any person who operates a golf cart or slow moving vehicle within the city jurisdiction must adhere to all municipal, parish and state traffic laws, and all other laws, governing the use of, or the possession of, alcoholic beverages and controlled substances.

(17) Drivers and operators of golf carts must yield the right-of-way to pedestrians and overtaking vehicles at all times.

(18) All passengers, including children, must be properly seated while the golf cart or slow moving vehicle is in motion and shall not be transported in a negligent manner. No children under the age of six are permitted on golf carts or slow moving vehicles. The maximum number of persons on a golf cart or slow moving vehicle shall be two persons per seat.

(19) Golf carts nor slow moving vehicles shall not be allowed to operate on any city sidewalks.

(d) Required equipment.

(1) Golf carts must be equipped with a rear vision mirror on the exterior of the driver's side, and a mirror on the passenger side or an interior mirror capable of providing the operator with a 100 feet clear rear sight picture, and must be equipped with front and rear turn signals, head lights and brake lights.

do we want to limit hours or six hours. omit this sections

- (2) Slow moving vehicles must be equipped with the minimum motor vehicle equipment appropriate for vehicle safety as required in 49 CFR 571.500.
- (e) Permit, application, and revocation.
- (1) All golf carts and slow moving vehicles operated within the jurisdiction of the city must display, on the left side of the windshield a valid "permit of operation" sticker issued by the city police department.
- (2) The non-refundable annual fee for said sticker shall not exceed \$75.00 per vehicle, and said fee will be used for implementation and maintenance of this privilege. The permit must be renewed annually. The chief of police or his designee shall have the right to refuse to issue and/or revoke any permit sticker and may remove said sticker from any golf cart and slow moving vehicle at any time and for any reason that he feels it appropriate to ensure the safety and well-being of the citizens, and the motoring or pedestrian traffic, of the city.
- (3) Permit application form. The application form shall include the full name, address, and telephone number of the applicant; the applicant's date of birth; the applicant's driver's license information to include state of issuance and the driver's license number (a photocopy of the applicant's driver's license shall be attached to the application form); the name of the applicant's insurance company and the applicant's insurance policy number, along with the date of expiration of said policy; the date of the application; and the applicants signature attesting to his reading and understanding and complying of the ordinances enacted city ordinance regulating and permitting the operation and use of golf carts or slow moving vehicles within the city.
- (4) Any "permit of operation" may be revoked by the chief of police or their designee if there is any evidence of material misrepresentation made in the permit application, if liability insurance has been revoked, suspended, expired, or is no longer in effect, or if there is any evidence that the permitted cannot safely operate a golf carts and slow moving vehicles.
- (5) A permit shall be revoked by the chief of police or his designee if it is found that the operator's, or any person that the operator allows to operate said vehicle, driver's license has been suspended, revoked, or has expired.
- (6) The chief of police or his designee shall issue a "notice of revocation" in the event that a permit is revoked and shall hand deliver said revocation notice to the permit holder, or the chief of police may send said notice by certified mail to the address of the applicant. The revocation shall be effective immediately upon hand delivery or three days after mailing by certified mail.
- (7) Any person who violates any section or part of this article, or fails to comply with any section or part of this article, shall be held responsible for an infraction and shall be required to pay a penalty in the amount of \$200.00.



**OFFICE OF THE DISTRICT ATTORNEY
15TH JUDICIAL DISTRICT
DONALD D. LANDRY
DISTRICT ATTORNEY**



**ACADIA PARISH COURTHOUSE
500 N. PARKERSON AVENUE
P. O. BOX 288
CROWLEY, LA 70527-0288
(337) 788-8831 p
(337) 783-9471 f**

**LAFAYETTE PARISH COURTHOUSE
800 S. BUCHANAN STREET
P. O. BOX 3306
LAFAYETTE, LA 70502-3306
(337) 232-5170 p
(337) 235-1354 f**

**VERMILION PARISH
COURTHOUSE
100 N. STATE STREET SUITE 215
ABBEVILLE, LA 70510
(337) 898-4320 p
(337) 893-0103 f**

January 30, 2023

Ms. Roslyn White, Mayor
City of Abbeville
P O Box 1170
Abbeville, LA 70511-1170

Re: Household Garbage Can Variances
within the City of Abbeville

Dear Mayor White:

The Vermilion Parish Police Jury directed me to contact you in reference to the household garbage can regulations within the municipal limits of the City of Abbeville. Specifically, both parish and city ordinances require household garbage containers to be placed at the road not more than 24 hours prior to pickup time and retrieved not more than 24 hours after pickup. Both parish and city ordinances allow for variances in cases of persons who are unable to put out and retrieve their garbage containers due to circumstances such as a disability.

The Police Jury decides on requests for variances in the unincorporated areas. Abbeville's ordinance also designates the Police Jury as the decider of any variance request within the city limits.

The Police Jury believes that city officials are in a better position to make decisions regarding applicants for variances within the city since the city is the governing authority within its municipal limits.

At its meeting on December 21, 2022, the Police Jury has asked that I communicate the Police Jury's request that the city consider amending its ordinance so that it will be designated as the governing body that decides on variances regarding household garbage containers within the city limits.

The following ordinance having been introduced at a duly convened meeting on November ____, 2022, and notice of its introduction having been published in the official journal and a public hearing having been held in connection therewith on this date, was offered for final adoption by _____ and seconded by _____:

ORDINANCE 15.5-29(c)

WHEREAS, Section 2-93 of the City of Abbeville Code of Ordinances establishes the regulations for the issuance of purchase orders.

WHEREAS, the City Council does hereby determine that it is in the best interest of the City to amend this ordinance as detailed below.

BE IT ORDAINED by the City Council of the City of Abbeville (the "Governing Authority"), acting as the governing authority of the City of Abbeville, State of Louisiana, that Sec. 2-93 of the City of Abbeville Code of Ordinances be, and the same is hereby amended as follows:

Sec. 15.5-29(c) - Location of trash containers.

(c) *Exceptions.* Persons having a condition prevents compliance or constitutes an undue hardship in complying with this section may apply for a variance. Request for a variance shall be made to the City of Abbeville 101 N. State St., Abbeville, LA 70510, and shall include: (1) the party's name; (2) the municipal address of the property; (3) the trash container number; and (4) the reason for requesting a variance, and any medical documentation. Requests for variance shall be considered on a case by case basis by the City of Abbeville City Council and any decision rendered shall be at the sole discretion of the City of Abbeville City Council.

Effective Date. This Ordinance shall become effective upon execution by the Mayor.

This ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS:

NAYS:

ABSENT:

And the ordinance was declared adopted on this ____ day of _____, 2022.

Kathleen Faulk, Clerk

Roslyn R. White, Mayor