

CHAPTER 3. ALCOHOLIC BEVERAGES

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Article 3-1. In General

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3-1-1. Definitions.

Words and phrases used in this Chapter shall have the meanings set forth in Title 32B, Chapter 1, Section 102, Utah Code Annotated, 1953, as amended or in other sections of the State's Alcoholic Beverage Control Act, or as listed below.

(1) "Beer" is classified as containing 4% or less of alcohol by weight or 5% of alcohol by volume.

(2) "Class "A" Beer License" entitles the licensee to sell beer on the premises in original containers for consumption off the premises, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.

(3) "Class "B" Beer License" entitles the licensee to sell beer for consumption on the premises, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.

3-1-2. Proximity Restrictions.

Class "A" Beer licensed facility may not be located within 600 feet measured by ordinary pedestrian travel, or 200 feet measured in a straight line from the facility to a church, public or private school, a public park, public playground or a library.

Class "B" Beer licensed facility proximity restrictions are set forth in Title 32B, Utah Code Annotated, 1953, as amended, or in other sections of the Utah State Alcoholic Beverage Control Act. (R.O. 1956, Section 4-2-14; Ord. No. 1969-8, 11-17-69; Ord. No. 1977-9, Section 1, 9-7-77; Ord. No. 2014-8, 8-12-14)

3-1-3. Hours of sale.

(a) Class "A" Beer License

No Class "A" Beer License holder, or any employee or agent of a Class "A" Beer License holder, shall sell or offer for sale beer between the hours of 1:00 a.m. and 7:00 a.m.

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of the same day.

(b) Class "B" Beer License

Class "B" Beer License holder, or any employee or agent of a Class "B" Beer License holder, shall comply with the hours of sale as listed in Title 32B, Chapter 6, Part 7, Utah Code Annotated, 1953, as amended, or in other sections of the State's Alcoholic Beverage Control Act.

3-1-4. Sale, possession of beer.

It shall be unlawful for a licensee to sell or distribute beer in any container larger than two (2) liters. (Ord. No. 1981-24; Sections 1-5, 6-22-81)(Ord. 2019-25, 6-25-19).

3-1-5. Possession or consumption of alcoholic beverages in public parks.

It shall be unlawful for any person to consume or possess beer, liquor or alcoholic beverages in any public park.

(a) Any person who violates any provision of this section shall be guilty of an infraction. (Ord. 2019-25, 6-25-19).

3-1-6. Furnishing false evidence.

Any person who sells, gives, or furnishes to any person under the age of twenty-one (21) years any false or fraudulent written, printed or photostatic evidence of the majority and identity of such person shall be guilty of a Class B misdemeanor. (Ord. 2019-25, 6-25-19).

3-1-7. Minors.

Class "A" Beer License - a minor may not sell beer on the premises of an off-premise beer retailer unless:

(a) The sale is done under the supervision of a person 21 years of age or older who is on the licensed premises; and

(b) The minor is at least 16 years of age.

Class "B" Beer License - age restrictions on the licensed premises of an on-premise beer retailer are set for in Title 32B, Utah Code Annotated, 1953, as amended, or in other sections of the State's Alcoholic Beverage Control Act. (Ord. No. 2000-05, 03-07-2000)

3-1-8. (Repealed)

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3-1-9. Dancing on premises.

It shall be unlawful for any person to permit or participate in dancing on licensed premises, or rooms adjacent thereto, where beer is being sold or consumed. (R.O. 1956, Section 4-2-20)

Cross reference - Dance halls, Section 4-2-1 et seq.

3-1-10. Penalty.

Any person who shall engage in the business of wholesale or retail sale of beer within the County without having an appropriate license therefor from the County, or whose license issued by the County has been revoked, suspended or canceled, or who shall violate any of the terms, clauses, or conditions of this Chapter shall be guilty of a Class B misdemeanor, unless a different penalty shall be provided for such violation by this Chapter. (R.O. 1956, Section 4-2-21)(Ord. 2019-25, 6-25-19).

Article 3-2. License

3-2-1. Required.

It shall be unlawful for any person to engage in the business of the sale of beer at retail in this County without first having procured a license therefor from the County as hereinafter provided. (R.O. 1956, Section 4-2-2)

3-2-2. Separate licenses.

A separate license shall be required under the provisions of this Article for each place of sale. (R.O. 1956, Section 4-2-2)

3-2-3. Compliance with laws.

All licensees under the provisions of this Article shall comply with the State Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission and the provisions of this Chapter. (R.O. 1956, Section 4-2-2)

3-2-4. Classifications.

Retail licenses issued under the provisions of this Article shall be of the following kinds and shall carry the following privileges :

(1) Class "A" Beer License shall entitle the licensee to sell beer on the premises described in the license in original containers for consumption off the premises. The licensee shall also obtain a license from the State of Utah meeting all applicable requirements, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.

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(2) Class "B" Beer License shall entitle the licensee to sell beer for consumption on the premises described in the license, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters. The licensee shall also obtain a license from the State of Utah meeting all applicable requirements which includes but is not limited to proximity restrictions and hours of sale. (R.O. 1956, Section 4-2-3; Ord. No 2000-05, 03-07-2000)

3-2-5. Application.

All applications for licenses required under the provisions of this Article shall be verified and filed with the Commission and shall state:

- (a) The applicant's name in full;
 - (b) That he has complied with the requirements and possesses the qualifications specified in the State Alcoholic Beverage Control Act;
 - (c) If the applicant is a partnership, the names and addresses of the partners, or if a corporation the names and addresses of all officers and directors; and
 - (d) Must be subscribed by the applicant, who must state under oath that the facts stated therein are true.
- (R.O. 1956, Section 4-2-5)

3-2-6. Persons not entitled to license.

No license required by the provisions of this Article shall be granted to any retailer to sell beer unless he/she shall be of good moral character, over the age of twenty-one (21) years, and a citizen of the United States, or to anyone who has been convicted of any felony or of any violation of any law or ordinance relating to alcohol, or of drunken driving, or of keeping a gambling or disorderly house or who has pleaded guilty to or has forfeited his bail on a charge of having committed any felony or of having violated any such law or ordinance, or to any partnership, any member of which lacks any of the qualifications hereinbefore in this Section set out, or to any corporation any director or officer of which lacks any of such qualifications.

(R.O. 1956, Section 4-2-7)

3-2-7. Grant, denial or revocation of license.

(a) The Commission may, with or without a hearing at its discretion, grant or refuse to grant any license applied for, and may revoke any license at any time, and in no such case need any cause be stated.

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(b) No license shall be issued, and any license issued shall be revoked, if the applicant or licensee shall not possess or shall cease to possess all of the qualifications required by the State Alcoholic Beverage Control Act, or fail to comply with the ordinances of the County, or the rules, regulations, and orders of the Board of Health relating to health matters. All licenses shall have incorporated therein the statement that they are granted subject to revocation, as provided in this Article.

3-2-8. Discretion of Commission in granting license.

Nothing in this Article shall in any way limit the right of the County Commission to act upon any application for a beer license as it shall deem fair, just and proper in regard to granting or denying said application.

3-2-9. License not vested right.

The issuance of a license as provided in this Article shall grant only a mere revocable privilege to sell beer as provided in this Article and the laws of Utah, and shall not confer any vested right of any kind or nature.

3-2-10. Sheriff's report.

Upon receipt of an application for a retail beer license, the Commission may require the sheriff to report in writing within five (5) days giving the following details regarding the premises proposed to be licensed:

(a) The general reputation and character of the persons who habitually frequent such place;

(b) The nature and kind of business conducted at such place by the applicant, or by any other person, or by said applicant at any other place;

(c) Whether said place is or has been conducted in a lawful, quiet and orderly manner;

(d) The nature and kind of entertainment, if any, at said place;

(e) Whether gambling is or has been permitted upon the premises, or by said applicant at any other place; and

(f) Whether there are safety concerns with the location of said place including the roads likely to be traveled to and from said place and the availability of hotels or motels in the immediate vicinity of said place; and

(g) His recommendation as to granting or denying said application. (Ord. No. 2014-8, 8-12-14)

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3-2-11. Utah County Health Department Approval.

An applicant may be required to procure from the Utah County Health Department a permit which shall show that the premises to be licensed are in a sanitary condition, and that the equipment used in the storage, distribution or sale of such beer complies with all health regulations of Utah County and of the State of Utah. Upon recommendation of the Utah County Health Officer, any permit issued by the Utah County Health Department may be revoked or suspended when any reasonable order, rule or regulation of Utah County Health Department has not been complied. (R.O. 1956, Section 4-2-8)

3-2-12. Purchase of beer by licensee.

It shall be unlawful for any licensee under the provisions of this Article to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the privileges of the State Alcoholic Beverage Control Act. (R. O. 1956, Section 4-2-10)

3-2-13. (Repealed)

3-2-14. (Repealed)

3-2-15. Violation a nuisance.

Any premises which shall be found in violation of the provisions of this Article shall be deemed a nuisance as defined in this Code. It shall be unlawful for any person to keep or maintain such a nuisance within this County. (R.O. 1956, Section 4-2-16)

3-2-16. Fee.

Any application for a license to sell beer shall be accompanied with a fee in the amount set forth in the Utah County Government Fee Schedule adopted in book form by Section 2-1-6 of the Utah County Code, relating to the Fee Schedule for Business Licenses for Class "A" and Class "B" beer licenses.

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3-2-17. Single Event Beer License

A single event beer license shall enable a licensee to sell beer, including draft, for consumption in conjunction with a special event in open containers not exceeding one liter provided that the licensee complies with the following:

(a) A Single Event Beer License shall not be issued to or in the name of an individual, natural person. An applicant organization, an artificial entity, must have been in existence as a bona fide organization registered with a state government for at least one year prior to the date of application.

(b) To ensure the proposed event will promote economic benefit to the County, the organization, prior to the issuance of a license, must establish that a minimum of thirty percent (30%) of attendees at the proposed event reside outside of Utah County.

(c) The organization, prior to the issuance of a license, must provide three (3) letters of reference from local jurisdictions (city or county) where it has previously held events, the letters shall address the organization's compliance with laws, attention to public safety and overall experience with the organization. The organization shall also provide a list and contact information for all local jurisdictions where it has held events during the most recent two (2) years.

(d) A single event beer license shall be valid for a period of time not to exceed three (3) consecutive calendar days.

(e) Not more than two (2) permits may be issued to the same organization in the same calendar year.

(f) The organization shall submit a written plan, to be approved by the license official prior to the issuance of a license, generally describing the proposed event and demonstrating how the organization will prevent the sale or distribution of beer to minors and how it will limit consumption be attendees to a responsible level. Beer shall be sold in an area separated from the event by a barrier, approved by the license official, where persons under the age of twenty-one (21) years shall not be allowed.

(g) The sale and consumption of beer shall be restricted to the immediate proximity of the event.

(h) Attendees of the event shall not bring any alcoholic beverage into the event.

(i) A single event beer licensee shall abide by all requirements regarding hours of operation, restriction on minors, application procedures including the sheriff's report as provided for herein, and all other relevant operational restrictions contained in this chapter and set forth by state statute including licensure with the State of Utah Department of Alcoholic Beverage Control and compliance with the Utah Alcoholic Beverage Control Act.

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(j) Before any Single Event Beer License shall be issued, a cash or surety bond in the amount of three thousand dollars (\$3,000) shall be filed by the applicant with the County Clerk / Auditor. Such bond shall be in addition to, administered in the same fashion as, and may be added to the bond required under the Utah County Code provisions governing Large Public Assemblies, Utah County Code 13-4-2-4, as amended. Such bond shall be conditioned for the repair of any damage and the prompt cleaning of any debris or waste material produced or left by the assembly.

(k) A single event license for sale of liquor shall not be granted. (Ord. No. 2014-8, 8-12-14)

3-2-18. Required Class “A” Beer Handler’s Permit.

A Licensee involved in the transaction of retail beer sales for off-premise consumption (Class “A” retail sales) shall require any and all employees involved in the transaction of retail beer sales to obtain a Beer Handler’s Permit from the Utah County Health Department. All employees of a Licensee involved in the transaction of retail beer sales will be required to possess and wear a Beer Handler’s Permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

New employees of Licensee shall obtain a Beer Handler’s Permit within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the State Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this Chapter.

The Licensee is required to inform the Utah County Health Department of any employee possessing a Beer Handler’s Permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages. Licensees shall permit law enforcement officers and Utah County Health Department employees to conduct random Beer Handler’s Permit compliance checks on licensee’s premises.

3-2-19. Application process for Class “A” Beer Handler’s Permit.

To obtain a Beer Handler’s Permit, applicants must:

(a) Fill out a “Beer Handler’s Permit” application form available from the Utah County Health Department.

(b) Produce acceptable photo identification showing the identity of the applicant;

(c) Attend a Beer Handler’s Permit training session administered by, or approved by, the Utah County Health Department; and

(d) Pass the Beer Handler’s Permit test given by the Utah County Health Department.

If paragraphs a, b, c, and d, are satisfied, the Utah County Health Department shall issue the applicant a Beer Handler’s Permit photo identification card. This permit must be possessed and conspicuously worn by the applicant while on duty such that the permit shall be clearly visible to any person.

3-2-20. Qualifications to obtain a Class “A” Beer Handler’s Permit.

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The Utah County Health Department shall not grant a Beer Handler's Permit to any individual who has had a felony conviction within three years, or a misdemeanor conviction involving alcohol or controlled substances within one year.

3-2-21. Penalties for violations by a Permit holder.

A violation of this Article or of any law involving the sale of an alcoholic beverage is a Class B misdemeanor. Additionally, an employee possessing a Beer Handler's Permit who is convicted of any law involving the sale of an alcoholic beverage is not only subject to the penalties in Section 1-1-9 of this Code, but shall incur a suspension of the employee's Beer Handler's Permit as follows:

(a) 1st Violation – Automatic suspension of the employee's Beer Handler's Permit for a period of one (1) year.

(b) 2nd Violation – Automatic suspension of the employee's Beer Handler's Permit for a period of one (1) year.

(c) Any Subsequent Violation – Automatic suspension of the employee's Beer Handler's Permit for a period of three (3) years.

The Licensee shall report any known violation involving the sale of an alcoholic beverage to the Utah County Health Department within thirty (30) days. (Ord. 2019-25, 6-25-19).

3-2-22. Licensee penalties.

Any violation of this Article by a licensee or any employee of the licensee shall subject the licensee to the following penalties:

(a) Upon first violation of this Article the licensee shall be issued a warning;

(b) Upon any violation of this Article which occurs within twenty-four (24) months of a prior violation, the licensee shall pay a civil fine of two-hundred-fifty dollars (\$250.00);

(c) Upon any violation of this Article which occurs within twenty-four (24) months of two (2) prior violations, the licensee shall pay a civil fine of five-hundred dollars (\$500.00) and the licensee shall have its license to sell beer suspended for a period of three (3) consecutive days, on a Thursday through Saturday;

(d) Upon any violation of this Article which occurs within twenty-four (24) months of three (3) prior violations, the licensee shall pay a civil fine of five-hundred dollars (\$500.00) and the licensee shall have its license to sell beer suspended for a period of thirty (30) consecutive days. Additionally, the licensee shall be placed on probation for a period of one (1) year. Any violation of this Article by the licensee or any employee of the licensee during the period of probation shall result in the revocation of the licensee's license to sell beer. The licensee shall not be eligible to reapply for a new license for at least six (6) months from the date of revocation.

1. Failure to pay any fine imposed for a violation of any provision of this Article within thirty (30) days of the imposition of such fine, shall be grounds for revocation of the licensee's license to sell beer.

2. Nothing in this Article shall limit the rights and powers of the County Commission to grant, refuse to grant, or revoke a licensee's license to sell beer under Section 3-2-7 of this Code.

3-2-23. Right to a hearing.

(a) The licensee shall have the right to request a hearing to contest the existence of any violation of this Article or the imposition of any penalty under this Article. A written request for

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a hearing must be filed by the licensee with the Chairman of the County Commission and with the Utah County Attorney within fifteen (15) days of the date of mailing of the County's notice of violation to the licensee. The request for a hearing shall include the licensee's name, address, telephone number, and a statement of the licensee's basis for disputing the existence of a violation or the imposition of a penalty. A timely request for a hearing shall stay the imposition of any penalty until the hearing is decided. The County's finding of a violation shall be considered final if the licensee fails to request a hearing within the time period set forth above.

(b) The County Commission shall notify the licensee in writing of the date and time for the hearing. Hearings before the County Commission shall be conducted informally. Formal rules of evidence and court procedure shall not apply. The hearings are administrative in nature, and hearsay is admissible, but the evidence must have some probative weight and reliability to be considered. The licensee shall be given an opportunity to be heard at the hearing, shall have the right to be represented by counsel, and may call witnesses. The County Commission shall consider all of the evidence and shall take any action they deem appropriate as it relates to the licensee. The County Commission's decision shall be made orally at the end of the hearing or in writing within ten (10) business days following the hearing. (Ord. No. 2004-14; 6-29-04).

Article 3-3. Local Consent for Liquor License

3-3-1. Required.

3-3-2. Application for local consent.

3-3-3. Application requirements.

3-3-4. Qualifications.

3-3-5. Grant or denial of local consent.

3-3-6. Violation a nuisance.

3-3-1. Required.

When an applicant desires a license or permit from the Alcoholic Beverage Control Commission, the Utah Department of Alcoholic Beverage Control requires written consent of the local authority. The Utah County Board of County Commissioners shall have authority to grant or deny such consent. (Ord. No. 1996-04, 02-13-96)

3-3-2. Application for local consent.

In order to obtain local consent from the Board of County Commissioners, the applicant shall submit the application provided by the Utah Department of Alcoholic Beverage Control. The completed application, together with all required attachments, shall be submitted to the Board of County Commissioners for consideration during a regularly scheduled public meeting. (Ord. No. 1996-04, 02-13-96)

3-3-3. (Repealed)

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3-3-4. Qualifications.

The Board of County Commissioners may not grant local consent to a person, partnership, corporation, or other entity, if the person, any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, has been convicted of

(a) a felony under any federal or state law;

(b) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or

(c) any crime involving moral turpitude. (Ord. No. 1996-04, 02-13-96)

3-3-5. Grant or denial of local consent.

Following receipt of the Application for Local Consent, together with all required attachments, the Board of County Commissioners shall place the matter upon the agenda of a regularly scheduled public meeting for consideration. Before granting local consent, the Board of County Commissioners shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for local consent and that the application is complete;

(b) consider the locality within which the proposed liquor license is sought, including but not limited to:

(1) physical characteristics such as condition of the premises, square footage, and parking availability; and

(2) operational factors such as tourist traffic, proximity to and density of other state stores, package agencies, and outlets, demographics, population to be served, and the extent of and proximity to any school, church, public library, public playground, or public park;

(c) consider the applicant's ability to manage and operate a facility, including but not limited to management experience, past retail alcohol sales experience, and the type of management scheme employed by the applicant;

(d) consider the nature or type of facility or operation, including but not limited to, the type of menu items offered and emphasized, whether the facility emphasizes service to an adult clientele or to minors, the hours of operation, the seating capacity of the facility, and the gross sales of food items; and

(e) consider any other factors or circumstances it considers necessary. (Ord. No. 1996-04, 02-13-96)

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3-3-6. Violation a nuisance.

Any premises which shall be found in violation of the provisions of this Article shall be deemed a nuisance as defined in this Code. It shall be unlawful for any person to keep or maintain such a nuisance within this County. (Ord. No. 1996-04, 02-13-96)