

**BIG WATER TOWN
ORDINANCE 06-2026 ALCOHOL BEVERAGE CONTROL**

AN ORDINANCE AMENDING MUNICIPAL CODE 5.07 ALCOHOL BEVERAGE CONTROL FOR THE TOWN OF BIG WATER, KANE COUNTY, UTAH

WHEREAS, the Town Council of the Town of Big Water is authorized to adopt ordinances and amend the municipal code to protect the public health, safety, and welfare of the residents of the Town pursuant to the authority granted to municipalities under Utah law; and

WHEREAS, the Utah Legislature has enacted the Alcoholic Beverage Control Act, codified in Title 32B of the Utah Code, which regulates the manufacture, distribution, sale, and service of alcoholic beverages within the State of Utah; and

WHEREAS, the Town Council finds it necessary to amend Chapter 5.07 of the Big Water Municipal Code to ensure consistency with state law and to establish procedures related to alcohol licensing and local consent requirements;

WHEREAS, after providing notice as required by law, the Town Council held a public hearing on May 27, 2026, on the proposed amendments and received public comment prior to adopting this ordinance.

NOW THEREFORE, be it ordained by the Council of the Big Water Town, in the State of Utah, as follows:

SECTION 1: **AMENDMENT** “5.07.020 License Required” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.020 License Required

In accordance with Utah Code Title 32B~~Annotated §11-10-1~~, no person may operate an association, restaurant, club, business, or similar establishment that allows a person to purchase, possess, or consume an alcoholic product on the premises of said association, restaurant, club, business, or similar establishment without ~~a valid alcohol license as provided in this chapter~~ first obtaining any alcohol license required by the State of Utah under Utah Code Title 32B and any applicable beer retailer license or business license required by the Town.

In addition to the requirements of this chapter, an association, restaurant, club, business, or similar establishment shall comply with the requirements of Utah Code Annotated §32B entitled the “Alcoholic Beverage Control Act” and other applicable laws and regulations.

SECTION 2: AMENDMENT “5.07.030 License Classifications” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.030 License Classifications

An applicant within the Town may apply for the following ~~six (6)~~ classes of license subject to availability as provided in this part:

1. Class "A" retail licenses. This license is issued by the licensing authority subject to compliance with this Subsection and shall:

a. Entitle the licensee to sell beer on the premises licensed in original containers for consumption off-premises in accordance with the Utah Code Title 32B and all applicable rules of the Utah Department of Alcoholic Beverage Services. ~~Alcoholic Beverage Control Act.~~

b. This class of license is appropriate for grocery and convenience store type establishments.

c. There is no limit on the number of this class of license that may be issued.

~~2. Class "B" retail licenses. This license is issued by the licensing authority subject to compliance with this Subsection and shall: a. Entitle the licensee to sell a patron beer in original containers and/or wine served on-premises for consumption by a legal patron on-premises in conjunction with the sale of food in accordance with the Alcoholic Beverage Control Act. b. This class of license is appropriate for dine-in restaurant establishments. c. There is no limit on the number of this class of license that may be issued.~~

~~3. Class "C" retail license. This license is issued by the licensing authority subject to compliance with this Subsection and shall: a. Entitle the licensee to sell draft beer for consumption on- or off-premises and to sell beer, wine, and/or alcohol in accordance with the Alcoholic Beverage Control Act. b. This class of license is appropriate for restaurant establishments that make specialty beer (micro-brewery with food service). c. There is a maximum limit of three (3) licenses for this class available for issuance.~~

~~4. Class "D" retail license. This license is issued by the licensing authority subject to compliance with this Subsection and shall: a. Entitle the licensee to sell alcohol for consumption on-premises in accordance with the Alcoholic Beverage Control Act. b. This class of license is appropriate for bars or clubs. c. There is a maximum limit of three (3) licenses for this class available for issuance.~~

~~5. Class "E" retail or wholesale license. This license is issued by the licensing authority subject~~

~~to compliance with this Subsection and shall: a. Entitle the licensee to manufacture, warehouse, store, and sell an alcoholic beverage for off-premises consumption in accordance with the Alcoholic Beverage Control Act. b. This class of license is appropriate for beer manufacturing and beer distribution facilities. c. There is no limit on the number of this class of license that may be issued.~~

62. Class "F" temporary Beer Event Permit license. This license is issued by the licensing authority subject to compliance with this Subsection and shall:

- a. Entitle the licensee to sell beer for on-premises consumption for a period of time not to exceed thirty (30) days. This class of license is non-renewable during a calendar year.
- b. This class of license is appropriate for special events.
- c. There is no limit on the number of this class of license that may be issued.

SECTION 3: AMENDMENT “5.07.070 Restrictions” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.070 Restrictions

The following restrictions in this section apply to all license classes and persons.

1. State law. It is unlawful to sell alcohol in violation of the Utah Alcoholic Beverage Control Act, or its successor.
2. Compliance. It is unlawful for an applicant or licensee to violate Utah Code Annotated §11-10-1, this Subsection, the municipal code, or any terms under which a license was issued.
3. No person may sell beer or alcoholic beverages in violation of the hours permitted under Utah Code Title 32B Chapter 6. Limits on hours. ~~It is unlawful for a person or any class of licensee to sell or otherwise furnish a patron or other person with an alcoholic beverage during the hours from one o'clock (1:00) A.M. to six o'clock (6:00) A.M.~~
4. Exceed license. It is unlawful to sell an alcoholic beverage except in the manner for which he has been so licensed pursuant to the provisions of this Subsection.
5. Licensed premises. It is unlawful for any licensee to sell an alcoholic beverage anywhere within the Town, except upon or within the premises licensed for such sale.

6. Advertising and promotions limitations. It is unlawful to advertise the sale of an alcoholic beverage, except in full compliance with the Alcoholic Beverage Control Act and regulations duly made thereunder by the state. It is unlawful for any licensee to give away or offer a free lunch, free food, or similar promotion in connection with the sale of an alcoholic beverage.

7. Intoxicated person. It is unlawful to sell an alcoholic beverage to a person who appears to be intoxicated by drugs or alcohol, or who is under the influence of any intoxicating beverage.

8. Underage. It is unlawful to sell an alcoholic beverage to any person under the age of 21 or allow a person under the age of 21 years to sell the same.

9. Unlawful product. It is unlawful for any licensee to purchase or acquire or allow to be kept upon the licensed premises any alcoholic beverage not lawfully acquired from a brewer or wholesaler licensed under the provisions of the Alcoholic Beverage Control Act, or as part of a duly approved micro-brewery. It is unlawful for any licensee to keep any liquor product on the licensed premises that exceeds the scope of the license class or violates the Alcoholic Beverage Control Act.

10. Access. It is unlawful for any serving area, door, or entryway to be locked or barricaded in any way so as to interfere with the free entrance to the licensed premises by any enforcement officer at any time while the premises is occupied or open to the public. However, licensee may maintain upon the premises a locked storeroom for the keeping of goods and supplies used in the business.

11. Lookouts and warning devices. It is unlawful for any person commonly known as a "A Lookout" to be stationed or maintained to give warning of an approach of any enforcement officer. It is unlawful to maintain or operate any device which is used or capable of being used to give warning to persons of the approach of an enforcement officer.

12. Respondeat superior. The licensee shall be responsible under this Subsection for all of the activities of his employees and hereunder, the licensee unconditionally guarantees to the Town that neither he nor his employees will violate the terms of this Subsection, and for breach of such guarantee, the license may be revoked. It is unlawful for the owner or any licensee to: a. Fail to maintain full control of the conduct of the business upon the licensed premises. b. Fail to inform employees of the requirements of law relating to the sale of alcohol in the state of Utah. c. Fail to maintain control of employees.

13. Adverse action. It is unlawful for any person to sell an alcoholic beverage after the revocation or suspension of any license issued to said person.

14. Setbacks. It is unlawful to operate a business where an alcoholic beverage is sold at retail for off premise consumption within the setback distance of a "community location" as defined in Utah Code Annotated §32B-1-102(24+), [Alcohol license applicants may be subject to distance requirements from community locations as determined by the Utah](#)

Department of Alcoholic Beverage Services under Utah Code Title 32B-1-202. ~~according to the specified set-back distances for each class of license set forth in Utah Code Annotated §32B-1-202, or otherwise in state law, unless the establishment preexisted this Subsection.~~

15. Restricted activities. It is unlawful to sell an alcoholic beverage at:

- a. A dance or dance hall not classified or defined as a club.
- b. On public property.
- c. A sexually oriented business.
- d. Alcohol service at specific locations shall comply with the requirements of Utah Code Title 32B Chapter 5, operational requirements under Chapter 6, and rules of the Utah Department of Alcoholic Beverage Services and applicable state licenses. ~~A theater or cinema.~~

SECTION 4: **AMENDMENT** “5.07.050 Licensing Requirements” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.050 Licensing Requirements

The local authority shall only issue a license for the sale or distribution of alcohol based upon the license classifications authorized in this Section.

1. State requirements. Applicant complies with the provisions of Utah Code Annotated §32B Chapters 5-6 ~~11-10-2~~, as amended 2025.
2. License required. It is unlawful for any person to engage in the business of selling an alcoholic beverage within the Town without first obtaining the licenses required by this Subsection.

3. Administration. The licensing authority shall administer this subsection under the direction of the Town administrator.

4. Application and fee. Any person seeking a license to sell an alcoholic beverage shall submit a written application to the Town License Officer as provided for in this Section which shall be accompanied by the appropriate application/license fee required. The application/license fee is not refundable in the event that the application is denied. However, the applicant is given thirty (30) days after notice from the Town of a deficiency to cure a denied or defective application without the requirement of repayment of the application/license fee.

5. Information required. All applications for a license to sell an alcoholic beverage shall be made in writing upon the form provided by the Town recorder. The application shall state:

- a. The name of the person desiring a license to sell an alcoholic beverage.
- b. The name of the business.
- c. The location where business is to be conducted.
- d. The names of all partners holding more than a twenty percent (20%) interest in the business.
- e. The class of license sought.
- f. Other information specified on the application as determined by the Town administrator, or any other information required by ordinance or statute.

6. Review and approval. An application that complies with this section may be approved by the Town for purposes of issuing a local beer retailer license or business license. Approval does not authorize the sale of alcoholic beverages unless the applicant has obtained all required licenses from the State of Utah. ~~An application that complies with this Section shall be issued by the Town Recorder after review and approval by the licensing authority.~~ An application that does not meet the requirements of this Section shall be denied by the licensing authority.

7. License owner. A license for the sale of alcohol is issued in the name of the business operator or owner rather than the name of the business. In the event of a change of the business operator or ownership, a new application and license is required along with the application fee.

8. Nontransferable. Licenses issued under this Section are not transferable.

9. Renewal. A license issued under this Subsection shall be renewed annually in conjunction with the renewal schedule for business licenses.

10. Display. The holder of a license issued under this Subsection shall display in a

conspicuous location the license issued by the licensing authority along with any license issued by the governing state agency for the sale of any alcoholic beverage.

11. Time limit on operation. If a holder of a license issued under this Subsection fails to open or to conduct business within the jurisdiction of the local authority for a period of one (1) year after issuance of the license, then said license is void and a new application and fee must be submitted and approved by the licensing authority.

SECTION 5:**AMENDMENT** “5.07.080 Suspension And Revocation” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.080 Suspension And Revocation

In accordance with Utah Code Annotated §11-10-1(4), an enforcement officer may suspend or revoke a local beer retailer license or business license issued by the Town. Violations of Utah alcohol laws may also be referred to the Utah Department of Alcoholic Beverage Services for enforcement action against a state-issued alcohol license~~a license issued under this Subsection~~ as follows:

1. Suspension. If a licensee has been issued a warning or citation for a violation of this Subsection and a second violation occurs within a one (1) year period, then the enforcement officer may suspend a license for up to thirty (30) days. In lieu of a suspension, the enforcement officer may issue a civil penalty not to exceed \$1,000.00 for a violation of this chapter.
2. Revocation. An enforcement officer may revoke a license issued under this Subsection if a license has another violation of this Subsection where a suspension has been made within a one (1) year period prior to the violation. Any revocation made under this Subsection shall continue for a period of one (1) year after which an applicant may resubmit an application under this Subsection.
3. Educational requirement. An enforcement officer may issue a suspension to any licensee for a violation of educational requirements set forth in Utah Code Annotated §32B-~~1-7025-401~~, et seq. In lieu of suspension, and, based upon the facts and circumstances, the enforcement officer may impose a fine of up to \$250.00 for a violation of this part.
4. Operational requirements. It is cause for immediate revocation or suspension for a licensee who violates the operational requirements set forth in Title 32B of the Utah Code Annotated, depending upon the severity of a violation(s).

SECTION 6: AMENDMENT “5.07.060 Inspection And Enforcement” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.060 Inspection And Enforcement

The licensing official or enforcement official may conduct an inspection regarding any license issued under this Subsection to assure compliance with applicable law. The holder of a license issued under this chapter, by accepting said license, ~~irrevocably~~ consents to allow the inspection and search of the licensed premises by authorized enforcement officers in accordance with applicable law, ~~any licensing officer and/or the enforcement officer~~ for any alcoholic beverage or for any other goods illegally possessed or kept, or for any evidence of any alleged alcohol related crime under investigation by law enforcement. The licensee further consents to the seizure of alcohol that exceeds that classification limits set upon the license holder or alcohol related property in violation of this Subsection.

SECTION 7: AMENDMENT “5.07.110 Penalties” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.110 Penalties

The following penalties apply and are not mutually exclusive:

1. Civil. Each violation of this ~~Chapter~~Subsection constitutes a civil fine not to exceed \$1,000. Each day a violation continues constitutes a separate offense. The town may seek any civil remedy provided by law including abatement and injunctive relief for a violation of this Subsection or for situations that constitute a public nuisance relating to alcoholic beverages.
2. Criminal. Each violation of this ~~Chapter~~Subsection is a class B misdemeanor.

SECTION 8: ADOPTION “5.07.055 Local Consent For State Alcohol Licenses” of the Big Water Municipal Code is hereby *added* as follows:

ADOPTION

5.07.055 Local Consent For State Alcohol Licenses(*Added*)

Local Consent Required - An applicant seeking a license from the State of Utah to manufacture, store, sell, or furnish alcoholic beverages within the Town shall obtain written consent from the Town as required by Utah Code §32B-5-201. Application for Local Consent - An applicant requesting local consent shall submit a written application to the Town Recorder on a form provided by the Town. The application shall include:

- a. The name and contact information of the applicant;
- b. The name and address of the business establishment;
- c. The type of alcohol license being sought from the State of Utah;
- d. A description of the premises where alcoholic beverages will be manufactured, stored, sold, or consumed;
- e. Documentation demonstrating that the proposed establishment complies with applicable zoning, land use, and business licensing requirements of the Town; and
- f. Any additional information reasonably required by the Town to determine compliance with applicable laws.

Review of Application - The Planning and Zoning Administrator or designated licensing authority shall review the application to determine whether the proposed establishment complies with applicable municipal ordinances including zoning, land use regulations, and business licensing requirements. Action by the Town - Upon determination that the application complies with applicable local regulations, the Town may provide written consent to the applicant in the form of:

- a. A resolution adopted by the Town Council; or
- b. A written statement of consent signed by the Town's authorized representative.

Effect of Local Consent - Local consent issued by the Town does not authorize the sale or service of alcoholic beverages. The applicant must obtain the appropriate license or permit from the State of Utah before engaging in any activity regulated under Title 32B of the Utah Code. Compliance with State Law - All establishments manufacturing, storing, selling, or furnishing alcoholic beverages within the Town shall comply with the provisions of Title 32B of the Utah Code and any rules or regulations adopted by the State of Utah Department of Alcoholic Beverage Services.

SECTION 9: **AMENDMENT** “5.07.040 License Fee” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

5.07.040 License Fee

In accordance with Utah Code Annotated §11-10-3, in addition to the general business license

fee, an annual alcohol license fee is hereby imposed in the following amounts: Class “A”:
 \$125.00 ~~Class “B”:~~ ~~\$125.00~~ ~~Class “C”:~~ ~~\$300.00~~ ~~Class “D”:~~ ~~\$300.00~~ ~~Class “E”:~~ ~~\$125.00~~ ~~Class~~
 “F”): \$25 per day

(i) Liquor and beer license renewals shall be due annually on January 1st of each year. As stated in this code 5.02.030, any business operating while not abiding by the rules and regulations herein is subject a fine of \$500.00 per month (also see 5.1.010 for penalties operating illegally.)

SECTION 10: AMENDMENT “4.04.020 Permits/Licenses” of the Big Water Municipal Code is hereby *amended* as follows:

AMENDMENT

4.04.020 Permits/Licenses

Description	Fee
Dog License	\$10
Solicitor/Vendor License	\$25/Day \$50/Week
Alcohol License (Class A, B, C, E)	\$125
Alcohol License (Class D)	\$300
Temporary Use Permit	\$50
Law Enforcement	\$75
Emergency Presence	Negotiated for Event
Business License	\$75
Business License Fire Inspection	\$25
Business Address Change	\$10
Short-Term Rental Permit (requires an active business license)	\$250
Business License (Non-Profit)	\$0
Home Business/Occupation Permit	\$50

PASSED AND ADOPTED BY THE BIG WATER TOWN COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor David Schmuker	_____	_____	_____	_____
Council member Jim Lybarger	_____	_____	_____	_____
Council member Jennie Lassen	_____	_____	_____	_____
Council member Tara Chiasson	_____	_____	_____	_____
Council member Mark Gangola	_____	_____	_____	_____

Presiding Officer

Attest

David W. Schmuker, Mayor, Big Water Town

Abigail Palsgrove, Clerk, Big Water Town