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TO: Mayor and City Council

FROM: Michael Florence

RE: Alcohol Code Amendments

Date: May 22, 2015

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Attached to this memo are three documents as listed below. The proposed amendment addresses the changes recommended by the City Council at the last work meeting. Regarding the Class "MB" micro-brewery license, the State Department of Alcohol and Beverage Control is currently reviewing the proposed language for this classification. The State is reviewing the language that allows the business to sale and provide a "sample" for a patrons of the business. Staff, should have an update from the State by the May 27<sup>th</sup> meeting.

**Attachments**

1. Proposed alcohol code
2. Copy of the letter sent by the City to all alcohol license holders
3. Email responses from the alcohol license holders

**Article I – General Provisions & Regulations**

5.08.010 Purpose.

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**5.08.010 Purpose.**

Pursuant to its police power, it is the purpose of the city of South Salt Lake to regulate the sales and distribution of alcoholic beverages within the corporate limits of the city as permitted by state law and the 21st Amendment to the United States Constitution. The city finds that the sales and consumption of alcohol create adverse secondary effects, including public drunkenness, increased violence and crime, impaired judgment in social interactions, injury and death to persons and loss of property. The city finds that limiting and regulating the sale and distribution of alcohol helps mitigate its harmful secondary effects. Because patrons must travel to and from businesses for which sales of alcoholic beverages for consumption on the premise is the primary source of revenue, and because it is highly probable that these patrons will drink alcohol while at the business, the city finds that these types of businesses create greater adverse secondary

effects. The City also finds that responsible business owners and patrons who follow regulations reduce these secondary effects from these businesses.

#### 5.08.020 Definitions.

As used in this chapter:

- A. The definition of each term which is defined in Utah Code Title 32B, Alcoholic Beverage Control Act, as amended, is hereby adopted into this Chapter, except to the extent modified by this Chapter.

~~"Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this section.~~

~~"Beer," "light beer," "malt liquor" or "malted beverages" means all products that contain sixty three hundredths of one percent of alcohol by volume or one half of one percent of alcohol by weight, but not more than four percent of alcohol by volume or three and two tenths percent by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products.~~

- B. ~~In addition to the definitions under Utah State Code in Utah Code Chapter 32B-1:~~

~~"Beer retailer" means any business establishment engaged, primarily or incidentally, in the sale or distribution of beer to public patrons, whether for consumption on or off the establishment's premises, and that is licensed to sell beer by the city.~~

~~"Church" means a building set apart primarily for the purpose of worship in which religious services are held and with which clergy is associated, and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose, and which is tax exempt under the laws of the state.~~

~~"City" means South Salt Lake City Corporation.~~

~~"Club" and "private club" means: (1) any equity club licensee or fraternal club licensee, organized primarily for the benefit of its stockholders or members, and also includes (2) any dining club licensee or social club licensee, regardless of whether the premises are open to the general public.~~

"Conviction" includes pleas of guilty, no contest, nolo contendere, or any other plea whereby punishment may be imposed upon the defendant, and also includes a plea which is held in abeyance, regardless of whether it was ultimately dismissed. For

purposes of pleas in abeyance, the period of release from supervision is the date on which the charge was dismissed.

“Crime involving moral turpitude” means a crime which has an element of fraud, theft, or intent to harm another individual or property, or an attempt to commit a crime involving those elements.

“Five (5) barrel brewhouse” means a system in which fermentation is designed to occur in a vessel or vat with a capacity of at least five (5) barrels, where one (1) barrel equals thirty-one (31) gallons.

~~"Liquor" means alcohol, or any alcoholic, spiritous, vinous, fermented, malted or other liquid, or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks of one percent of alcohol by volume and is suitable to use for beverage purposes.~~

~~"Liquor" does not include any beverage defined as a beer, malt liquor or malted beverage that has an alcohol content of less than four percent alcohol by volume.~~

~~"Minor" means any person under the age of twenty one (21) years.~~

“On premises licensee” means any licensee holding a Class B, Class C, or MB license.

"Person" means any individual, partnership, firm, corporation, association, business trust or other form of business enterprise, including a receiver or trustee, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context.

~~"Premises" means any building, enclosure, room or equipment used in connection with the sale, storage, service, manufacture or distribution, of alcohol.~~

"Public portion of premise" refers to the zone around the exterior of the premise where the activities of patrons collide with the activities of the greater public. It means all outdoor portions of the property upon which the premise is located, including parking areas, it includes the public sidewalks and streets immediately adjacent to the premise and extends to parking areas off the premise, whether on public property or private property of another, used by patrons of the establishment based either upon agreement or custom.

~~"Restaurant" means any business establishment where a variety of foods is prepared and complete meals are served to the general public, located in a premises having adequate culinary fixtures for food preparation and dining accommodations, and that is engaged primarily in serving meals to the general public.~~

~~"Retailer" means any person engaged in the sale or distribution of alcoholic beverages to the consumer.~~

~~"Sell," "sale" and "to sell" mean any transaction, exchange or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value or, by any means or under any pretext, is promised or obtained, whether done by a person as a principal, proprietor or as an agent, servant or employee, unless otherwise defined in this chapter.~~

~~"School" means all schools, public or private and includes nursery schools, infant day care centers, preschools, institutions of higher learning, and trade or technical schools.~~

~~B. — The definitions of words and phrases contained in the State Alcoholic Beverage Control Act (Title 32A, Utah Code Annotated) not specifically enumerated in this chapter are adopted by reference except to the extent modified by this chapter.~~

**5.08.030 Recognition of state law – State law adopted.**

A. The sales and distribution of alcoholic beverages are regulated under state law as found in Title 32A~~B~~ of the Utah Code Annotated. It is the intent of this chapter to regulate in those areas that state law specifically leaves to local control and also in areas of local concern not directly covered by state law.

B. The city adopts the State of Utah Alcoholic Beverage Control Act, Title 32B, Utah Code Annotated 1953 in its entirety, as amended from time to time, as supplemented by this chapter. It is the responsibility of any applicant for an alcoholic beverage license, consent or work permit to be in compliance with identified conditions and requirements of state law and this chapter prior to making application with the city for any license, consent or work permit. It is the obligation of each applicant and licensee, consentee or permittee to stay in compliance with state law and this chapter regardless of changes to those laws and ordinances. To the extent permitted by state law, the officers and administrators of the city shall enforce both the provisions of state law regulating alcoholic beverages as well as the provisions of this chapter.

**5.08.040 Business license required.**

A. In addition to state and local licenses or consents required to sell or distribute alcoholic beverages, every business selling or distributing alcoholic beverages shall also obtain a business license. Businesses that, in addition to the sales or distribution of alcohol, engage in other business activities that are specifically regulated by the city, shall also obtain separate license to engage in the other regulated activities.

B. This section does not apply to applicants for single event consent issued pursuant to section 5.08.300(H).

**5.08.050 State license required.**

Any business that receives a license or consent from the city to sell or distribute alcoholic beverages shall apply for and obtain the appropriate state license no later than one hundred twenty (120) days from the date the city's license or consent is issued or the city's license or consent shall become void. ~~Any business that received a license or consent from the city prior to the enactment of this chapter shall have one hundred twenty (120) days from the effective date of the ordinance codified in this chapter to obtain the appropriate state license.~~ After receiving the appropriate state license, the business shall keep the license current at all times. Lapse, suspension or revocation of the business' state license shall result in automatic suspension of the city license or consent.

**5.08.060 Qualifications for ownership.**

A. Upon application for a license or consent from the city, the business shall disclose to the city the identity of: every owner of twenty (20) percent or more of a proprietorship; every partner controlling twenty (20) percent or more of a partnership; every shareholder owning twenty (20) percent or more of the shares of a corporation and every officer and director of the corporation; every manager of an LLC or owner of twenty (20) percent or more of an LLC; every manager, director, managing agent or similar officer, and shall provide a current criminal history to the city for each of the specified individuals, generated by:

1. if a person has been a resident of Utah for at least five years, the Utah Bureau of Criminal Identification; or

2. if the person has not been a resident of Utah for at least five years, the United States Federal Bureau of Investigations.

B. The city shall not grant a license or consent to any business if any person listed in subsection A of this section has been convicted of:

1. A felony under any federal or state law;

2. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

3. Any crime involving moral turpitude; or

4. On two or more occasions within the five years before the day on which application is made for the license or consent, any offense listed in subsection 41-6a-502(2)(a) of the Utah Code, as amended, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

C. Any business granted a license or consent by the city shall notify the city within ten days if any owner of a proprietorship; any partner of a partnership; any shareholder owning twenty (20) percent or more of the shares of the corporation and any officer and director of the corporation; any manager of an LLC or owner of twenty (20) percent or more of an LLC; any manager, director, managing agent, or similar officer, shall be convicted of any offense referred to in subsection B of this section.

D. The city shall immediately suspend or revoke a license or consent if after the day on which the license or consent is granted, a person described in subsection A of this section:

1. Is found to have been convicted of any offense described in subsection B of this section prior to the license being granted; or

2. On or after the day on which the license is granted:

a. Is convicted of an offense described in subsections (B)(1), (2) or (3); or

b. i. Is convicted of any offense listed in subsection 41-6a-502(2)(a) of the Utah Code, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, and

ii. Was convicted of any offense listed in subsection 41-6a-502(2)(a) of the Utah Code driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day the person committed the conduct leading to the second conviction on which the person is convicted of the offense described in subsection (D)(2)(b)(i) of this section.

#### **5.08.070 Disqualification.**

A. The city ~~may~~ shall not grant a license or consent to an applicant if any sole proprietor, partner, managing agent, officer, director, or stockholder of a corporation who holds at least twenty (20) percent of the total issued and outstanding stock or twenty (20) percent of an LLC of a licensee or consentee is unqualified to acquire the respective state license because that person has been convicted of any disqualifying offense identified in state law or this chapter or does not qualify for state licensure for any other reason.

B. ~~The city shall revoke the license and consent if~~ If a proprietor, employee, partner, managing agent, officer, director, or stockholder, who holds at least twenty (20) percent of the total issued and outstanding stock of a corporation or twenty (20) percent of an LLC that has been granted a license or consent is thereafter convicted of any disqualifying offense identified under state law or this chapter, the city may immediately revoke the license or consent. The state will be notified of city action regarding the local license(s) or consent(s). A letter may be sent to the licensee or consentee confirming the action taken by the city.

C. Upon the arrest of any licensee or consentee on any disqualifying charge set forth in state law or this chapter, the business license official may ~~take emergency action by immediately~~ send notice suspending the operation of the licensee or consentee for the period during which the criminal matter is being adjudicated, which suspension may be appealed, as provided in this chapter. A suspension shall be upheld if there was probable cause supporting the arrest. In cases involving a felony or class A misdemeanor, an order binding over the licensee or consentee shall warrant suspension of the license and consent without further hearing. Any such action taken by the business license official will be communicated to the state licensing authority and a letter confirming those actions ~~may~~ shall be sent to the licensee or consentee.

#### **5.08.110080 Change or Transfer in ownership.**

A. ~~Except as provided in this section, alcohol licenses are non-transferrable. When a change in ownership occurs, t~~ The business licensee shall notify the city of the licensee's intention to sell the business, and inform the city whether it will be seeking transfer of the license in accordance with this section. Failure to notify the city and seek approval shall result in the lapse of the licensee's license, within five business days of the change. Unless a license transfer is approved, A ~~a~~ new application for a license or consent shall be required at that time by the new owner. The application of the new owner shall be processed in order of priority as determined by the new owner's position on the license/consent waiting list described in Section 5.08.120090.

B. For the purposes of this chapter, change in ownership shall occur as follows:

1. For a sole proprietorship: when the proprietor sells or transfers the business to any other individual, group or entity;
2. For a partnership: when there is a change in the controlling percentage of the partnership, as compared to the partnership which existed at the time of the initial application;
3. For a corporation: when there is a change in any officer or director, or a change in any individual or entity holding twenty (20) percent or more of

the shares of stock from the time when the license and consent were initially granted;

4. For a limited liability company (LLC): when there is a change in manager or a change in any individual or entity owning twenty (20) percent or more of the company from the time when the license and consent were initially granted.

C. Notwithstanding subsection (A), the Community and Economic Development Department may approve a transfer of a license and consent, upon receipt of a license transfer fee, in the following circumstances:

1. The new licensee will seek an immediate reduction in the type of license from a class C tavern license to a class B restaurant license;

2. The new licensee has:

- i. secured a newly constructed premises located within a redevelopment area in the City which complies with the proximity restrictions in this chapter, and

- ii. agrees to either renovate or demolish the license's existing location within six months of moving the business to the new location; or

3. The new licensee agrees to upgrade the existing location to the following standards:

- i. Installing windows across 50% of the premises which face the street, unless the business is otherwise prohibited from doing so by chapter 5.56 of this code or a licensed engineer certifies that such an installation would render the building structurally unsound;

- ii. Installing pedestrian lighting in all parking areas and adjacent sidewalks;

- iii. Upgrading landscaping to code standards in effect on the date of the transfer;

- iv. Renovating the facility so that it is compliant with accessibility provisions of the building code in effect on the date of transfer;

v. Installation of architectural features at least every twenty-five (25) feet on the structure's façade;

vi. Installation and maintenance of security cameras and a security system which retains recordings for at least forty-eight (48) hours, recording parking lots, entrances, and rooms in which the public are invited to congregate, and which shall be made available for distribution to the city during the system's retention period; and

vii. Renovating the facility so that it is compliant with all fire safety codes in effect on the date of transfer.

4. The failure of a new licensee to complete the conditions listed in this section shall result in the revocation of the alcohol license and consent issued by the City.

5. The recipient of the transferred license does not need to be placed on the waiting list described in section 5.08.090 in order for the transfer to take place.

D. Nothing in this section shall establish any additional property interests or rights in a license or consent issued by the City;

**5.08.120090 Alcoholic beverage license/consent waiting list.**

The city issues a finite number of licenses and consents to sell, serve or distribute alcoholic beverages within the city. When the available number of licenses or consents is exhausted for a particular category of business, the city shall maintain a waiting list. To be placed on the waiting list, an applicant shall complete an application for the type of license or consent sought and pay in advance the nonrefundable annual application fee as set forth in the city's consolidated fee schedule. The applicant shall then be placed on the waiting list in chronological order based upon the date and time of application. When a license becomes available for the type of business for which the application was made, the city shall notify the applicant within fifteen (15) days. Thereafter, the applicant shall have one hundred twenty (120) days to take all steps necessary to obtain approval of its application from the city. An applicant on the waiting list may remove its name at any time. An applicant on the waiting list must renew its application annually by paying the annual application fee no later than five p.m. on the last city business day before the anniversary of the original application. Failure to pay the annual application fee on time will result in the applicant being returned to the bottom of the license/consent waiting list.

If no businesses are currently placed on the waiting list, then the City is not required to maintain a waiting list.

**5.08.080100 Operational restrictions.**

Each person granted a license or consent shall conform to all the operational restrictions prescribed by state law, including the following conditions:

- A. ~~In addition to the requirements set forth in Section 5.08.060, t~~ Transfers of licenses or consents will not be granted from one owner to another whether the owner is a person, partnership, LLC or corporation to another person, partnership, LLC, corporation or other entity, except as provided in Section 5.08.080(C).
- B. ~~For the purposes of this part, change in ownership shall occur as follows:~~
1. ~~For a sole proprietorship: when the proprietor sells the business to any other individual, group or entity;~~
  2. ~~For a partnership: when any new partner joins the partnership or the partnership is sold to any other individual, group or entity;~~
  3. ~~For a corporation: when there is a change in any officer or director, or a change in any individual or entity holding twenty (20) percent or more of the shares of stock;~~
  4. ~~For a limited liability company (LLC): when there is a change in manager or a change in any individual or entity owning twenty (20) percent or more of the company.~~
- C. ~~There shall be no transfer of a license or consent from one location to another without prior written approval of the city. Transfers may be approved by the city for a change of location within the city for the original licensee or consentee, providing all qualifying conditions are met.~~
- ~~D~~B. Each separate location must be separately licensed or obtain a separate consent.
- ~~E~~C. Each location with more than one type of operation, more than one business name, or more than one specific ownership must have a separate license/consent for each and must submit applications for licensure or consent which includes diagrams depicting the boundaries of the premises for each as well as defining the distinctive operations.
- ~~F~~D. Licensees/consentees shall maintain throughout all public areas of the subject premise and during all business hours a minimum of one candle power light measured at a level five feet above the floor.
- ~~G~~E. Licensees/consentees shall comply with all building and fire codes adopted by the city for the safety of the public, including, but not limited to, codes regulating maximum occupancy and emergency exiting. Each licensee/consentee shall implement a procedure

to determine the occupancy of the premise at all times during which it is open for business.

~~HF~~. Every licensee/consentee shall cooperate with city building and fire inspectors by allowing access to all portions of the premise during business hours as necessary to assure the immediate safety of the public.

**5.08.~~090~~110 Proximity restrictions.**

A. No premise requiring a license or consent from the city to sell, serve or distribute alcohol for consumption on premise, such as premises associated with Class B, Class C, and Class MB licenses, shall be located within six hundred (600) feet of any public or private school, church, public library, public playground, or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

B. No premise requiring an off-premises beer retailer licensee or manufacturing license shall be established within two hundred (200) feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

**5.08.~~100~~115 Proximity restriction variance.**

The restrictions contained in Section 5.08.~~090~~110 govern unless one of the following exceptions applies:

A. With respect to the establishment of a premise that sells, serves or distributes alcohol, the city council may authorize a variance that reduces the proximity requirements of Section 5.08.~~090~~110 and may also authorize the mayor to give the city's consent to the state's Alcoholic Beverage Commission if:

1. Alternative locations for establishing the premise in the community are limited,
2. A public hearing has been held, and
3. After giving full consideration to all of the attending circumstances, the city council determines that establishing the premise would not be detrimental to the public health, peace, safety, and welfare of the community; or

B. With respect to the establishment of a premise in any location, the city council may authorize a variance to reduce the proximity requirements of Section 5.08.~~090~~110 in

relation to a church or community location and may also authorize the mayor to give the city's consent to the state's Alcoholic Beverage Commission if:

1. The local governing body of the church or community location in question gives its written consent to the variance,
2. Following a public hearing, and
3. After giving full consideration to all of the attending circumstances, ~~the city council~~ it determines that establishing the premise would not be detrimental to the public health, peace, safety, and welfare of the community.

**5.08.130 State code adopted.**

~~The city adopts the State of Utah Alcoholic Beverage Control Act, Title 32AB, Utah Code Annotated 1953 in its entirety, as amended from time to time, as supplemented by this chapter. It is the responsibility of any applicant for an alcoholic beverage license, consent or work permit to be in compliance with identified conditions and requirements of state law and this chapter prior to making application with the city for any license, consent or work permit. It is the obligation of each applicant and licensee, consentee or permittee to stay in compliance with state law and this chapter regardless of changes to those laws and ordinances. To the extent permitted by state law, the officers and administrators of the city shall enforce both the provisions of state law regulating alcoholic beverages as well as the provisions of this chapter.~~

**5.08.140~~120~~ Compliance with all laws.**

- A. Each licensee, consentee and permittee shall comply with all applicable federal, state, and local laws. Failure to do so may result in the suspension or revocation of the license, consent or permit.
- B. If any person neglects, fails or refuses to pay the amount assessed for the license, consent or permit renewal when it becomes due and payable, late fees and penalties shall be collected and payment enforced as provided in the consolidated fee schedule.

**5.08.125 Hour restrictions of underlying zone applicable.**

Notwithstanding any state or local regulation establishing permissible hours of operation, licensees located within the city must comply with applicable hour restrictions of the zones in which they are located, if such restrictions are in place for their location, as provided in Title 17 of this Code.

**5.08.150~~130~~ No debt to city.**

No license, consent or permit provided for in this chapter shall be issued to any applicant who is in arrears in the payment to the city of license, consent or permit fees, fines, or is otherwise indebted to the city for past due payments owing for any other city service.

**5.08.160140 Emergencies.**

A. Upon the declaration of an emergency, as ~~defined by Utah Code Annotated Section 63-5-8, 1953, as amended,~~ provided in section 2.04.040 of this Code, all alcoholic beverage licenses are automatically suspended, which suspension may be lifted by the mayor at any time, or when the emergency declaration expires.

B. It is unlawful for the holder of any license or consent issued under this chapter or the holder's agent, employee, manager or representative to sell or serve alcoholic beverages during the period of temporary suspension.

**5.08.170150 Authority of business license official.**

The city's business license official or a designee shall have authority to issue, deny, suspend or revoke any consent, license or permit provided for in this chapter and to impose penalties, fines and fees as provided in this chapter. Any administrative decision of the business license official that adversely affects an applicant, licensee, consentee or permittee license or consent may be appealed as provided in Section 5.08.600180.

**5.08.180160 Notice of adverse decision.**

The city's business license official shall give notice to any applicant, licensee, consentee or permittee of adverse action by mailing notice by regular mail to the representative of the applicant, licensee, consentee or permittee identified in the application made to the city at the address listed in the application. The notice shall be deemed served upon mailing or upon personal service at the business premises. The notice shall convey the following information:

- A. A brief summary of the facts supporting the action;
- B. A reference to the state law or section of city code upon which the action is based;
- C. A description of the action being taken (denial, suspension, revocation, penalty fine, etc.);
- D. The sanction imposed;
- E. A brief explanation of the right to appeal the decision, including the deadline to appeal.

**5.08.190170 Duty to enforce the law.**

All officers, executives and administrators of the city of South Salt Lake having a duty to enforce the laws of the state of Utah relating to the sale, service or distribution of alcoholic beverages and/or the provisions of this chapter shall do so without restraint, fear or favor, and any officer, executive or administrator wilfully failing to enforce the provisions of this chapter shall be punishable as provided by law or city policy.

**5.08.180 Appeals.**

Decisions by the licensing official which aggrieve either a licensee, permit holder or applicant may be appealed to the Administrative Law Judge in accordance with Chapter 2.22 of this Code.

**5.08.190 Violations – Penalty.**

The City may enforce the provisions of this Code by licensing action, civil fines, civil action, criminal prosecution, or any combination of these remedies. Violation of any provision of this chapter is a class B misdemeanor, and subject to a minimum fine of \$500, and which may be up to \$1,000 per day for each violation.

## Article II. Work Permits

5.08.200 Work permit.

5.08.210 Work permit application.

5.08.220 Work permit qualifications.

5.08.230 Work permit suspension and revocation.

### 5.08.200 Work permit.

Every person who works in an establishment regulated by this chapter which sells alcoholic beverages for on-premises consumption ~~beer retailer/tavern licensee~~, whether an owner, salaried employee or private contractor, shall obtain a work permit from the city. The employee shall be in possession of the work permit at all times while inside the premise of the licensed business, or it shall be on file at the premises. It shall be the responsibility of both the person and the business to assure that all workers have a current work permit. A separate work permit for each business shall be required for persons working for more than one business within the city or more than one type of business that requires a work permit within the same premise.

### 5.08.210 Work permit application.

Prior to commencing work within an establishment licensed by the city to sell beer for consumption on the premise, every worker, whether an owner, employee, private contractor, etc., shall comply with the following:

- A. Each person seeking a work permit to serve alcohol or supervise those who serve alcohol shall file a written application with the city, in a form prescribed by the city. It shall be accompanied by:
  1. A nonrefundable fee in the amount as set forth in the consolidated fee schedule;
  2. ~~Two one and one half by one and one half inch photographs which are taken by the city;~~ a. If the person has been a resident of Utah for at least five years, a criminal history report acquired from the Utah Bureau of Criminal Information, or  
b. if the person has not been a resident of Utah for at least five years, a criminal history report acquired from the United States Federal Bureau of Investigations;

3. Two identification cards with satisfactory proof of age. One proof of identification must be a picture identification card issued by the state of Utah;

4. The signature of the employer(s) for which the person intends to work; and

5. Proof of completion of alcohol servers training, from a training program which has been approved by the State of Utah.

B. All other employees of a licensee shall obtain a work permit, but are not required to comply with the provisions of subsection A of this section.

CB. All work permit numbers obtained under the provisions of this chapter are to be registered by the employer's personnel or payroll section and kept as a part of the record of the employee.

CD. The person designated by each establishment as the agent responsible for hiring and/or checking employees under the provisions of this chapter shall examine each employee's or prospective employee's permit for the purpose of determining the validity of the permit for use in the particular establishment concerned. If the prospective employee's permit is found to be invalid as described above, he will be issued a new signed application form which must be completed and presented along with his work permit to the city for validation, prior to commencing employment.

DE. In the event the original work permit is lost or destroyed, an additional fee as set forth in the consolidated fee schedule shall be charged for the duplication of the permit.

EF. When a subsequent work permit is issued to an individual who already has a current city work permit(s) for a different business, the subsequent permit(s) shall expire on the same date as any previously issued permit(s).

GF. Work cards shall contain a photograph of the applicant, taken by the City at the time of application.

#### **5.08.220 Work permit qualifications.**

A. The city shall not grant to or maintain a work permit ~~to~~for any person ~~listed who~~ will serve alcohol or supervise those who serve alcohol, if that person that has been convicted of:

1. A felony or any crime involving moral turpitude under any federal or state law, unless that person has been released from custody or supervision for longer than five (5) years;

2. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages, regardless of the date of conviction or release; or

~~3. Any crime involving moral turpitude; or~~

~~43. On two or more occasions within the five years before the day on which the work permit application is made, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug any offense listed in subsection 41-6a-502(2)(a) of the Utah Code.~~

B. Any person granted a work permit by the city, and any business for whom the person works, shall notify the city within ten days if any worker shall be convicted of any offense referred to in subsection A of this section.

C. The city shall immediately ~~suspend or~~ revoke a work permit if it discovers after the day on which the work permit is granted, that any person holding a work permit was not qualified to be granted a permit at the time the permit was issued.:

~~1. Is found to have been convicted of any offense described in subsection A of this section prior to the work permit being granted; or~~

~~2. On or after the day on which the work permit is granted:~~

~~a. Is convicted of an offense described in subsection A of this section, or~~

~~b. i. Is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, and~~

~~ii. Was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in subsection (C)(2)(b)(i) of this section.~~

#### **5.08.230 Work permit suspension and revocation.**

A. Work permits are subject to suspension under the following conditions:

1. During the course of employment with a business licensed under this chapter, for any act or failure to act that would be a violation of state law regulating alcoholic beverages or this chapter except those specified in subsection B of this section which are subject to immediate revocation.

B. Work permits are subject to immediate revocation under the following conditions:

1. After determining that a person's application form contains false information;

2. Upon receiving evidence that any person holding an alcohol server or supervisor work permit no longer qualifies for the permit as set forth in has been convicted of a crime listed in Section 5.08.220(A), or has been convicted of a second offense listed in section 41-6a-502(2)(a) of the Utah Code, within five years of an offense listed in that section;

3. Upon evidence being presented that any person holding a valid work permit has procured, attempted to procure or agreed to procure or attempted to procure for any person:

- a. Another person for the purpose of prostitution, or
- b. A controlled substance as defined by state law;

4. Upon receiving evidence that the person provided alcohol to a minor or an interdicted person;

45. For a second act or failure to act by a permittee that would be a violation of state law regulating alcoholic beverages or this chapter occurring within twenty-four (24) months of the first such act or failure to act.

C. Any person whose permit has been suspended or revoked by the city has the right to appeal the decision pursuant to Chapter 2.22, "Administrative Hearings" of this code. The Administrative Law Judge does not have authority to waive any of the requirements of this chapter.

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### Article III. Local Consent for State Licenses

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5.08.300 Local consent for state license.

5.08.310 Review and inspection prior to consent.

5.08.320 Consent suspension and revocation.

#### **5.08.300 Local consent for state license.**

A. The city may provide its consent for the following categories of state licenses:

- ~~1. Restaurant liquor license;~~
- ~~2. Private club liquor license;~~
- ~~3. Special use permits;~~
- ~~4. Single event permits;~~
- ~~5. Manufacturing licenses;~~
- ~~6. Liquor warehousing license; and~~
- ~~7. Beer wholesaling license.~~
1. Clubs: equity, fraternal, dining or social;
2. Restaurants: full, limited service, beer only;
3. On premises: recreational, banquet catering, tavern;
4. Reception centers;
5. Manufacturing: distillery, winery, brewery, brewery with on-premise consumption
6. Package agency;
7. Special Use;
8. Single event: liquor, beer only
9. Liquor warehouse;
10. Beer Wholesaling; or
11. Any category of state license not otherwise listed herein.

B. Local consent shall be conditioned upon any applicant satisfying the following criteria:

1. Complete application and fee. Each person seeking the city's consent under this chapter shall file a written application with the city. It shall be accompanied by:
  - a. A nonrefundable application fee in the amount established in the consolidated fee schedule;

- b. An initial annual consent fee. The annual consent fee is refundable if consent is not granted by the city or if the respective license is not granted by the state within one hundred twenty (120) days of local consent. The denied applicant may submit a new application for city consent when conditions render the situation approvable by state law and city code;
  - c. A statement of the purpose for which the applicant has applied for the consent;
  - d. Any other documents and evidence the city may require by rule or policy to allow complete evaluation of the application.
- 2. Proper location and Qualification. The applicant’s proposed location meets the proximity requirements of this chapter, the zoning requirements of Title 17 of this code, and the owner or owners meet the qualification provisions of Section 5.08.060 of this Code.
  - 3. Lack of nuisances. The business shall operate in a manner which does not cause a nuisance to neighboring residences or businesses.
- C. Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the owner, partnership, corporation or LLC to sign the application, to which shall be attached written evidence of the person's authority.
- D. Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to city proof of state licensure ~~not more than one hundred twenty (120) days from approval of the original local consent.~~
- ~~E. All city consents expire one year from the date consent is granted. Businesses desiring to renew their consent shall submit a renewal fee and a completed renewal application to the city no later than five p.m. on the last city business day before the existing consent expires. Failure to meet the renewal requirements results in an automatic forfeiture of the consent effective on the date the existing consent expires. Renewal applications shall be in a form prescribed by the city and shall be accompanied by:~~
- ~~1. The consent renewal fee; and~~
  - ~~2. Copies of current state licenses.~~
- E. The proper issuance of a state-approved consent form represents written consent from the City under Utah law.
- F. The business license official shall make a determination of whether local consent is appropriate under the provisions of this chapter, and is not authorized to deviate from this chapter’s requirements.
- G. Providing consent for purposes of state law does not authorize any action or business practice which is prohibited by or inconsistent with this chapter.

H. Notwithstanding other provisions of this section, a Single Event consent may be issued if:

1. The owner, manager, or organizer meets the qualification provisions of section 5.08.060, and

2. The event is not located within 200 feet of a residence, or, if located within 200 feet of a residence, the licensee has complied with the provisions of subsection (I)..

I. If a Single Event is proposed to be located within 200 feet of a residence, then the licensee must provide proof that it has given notice to all residences within 200 feet of the event.

1. The notice shall include:

a. The location, date and time of the event;

b. The name of the organizer;

c. A statement that a resident may lodge an objection with the City within five (5) days of delivery of the notice; and

d. The address and telephone number of the Community and Economic Development Department.

2. If a person who resides within 200 feet of the proposed location objects to the event, the Community and Economic Development Department Director shall, within five (5) business days from the date the objection was received, make a determination of whether to grant the consent, after providing the applicant the opportunity to address the grounds of the objection.

3. In determining whether to grant consent, the Director shall consider:

a. The duration of the event;

b. The grounds for the complaint;

c. Measures which will be taken by the applicant which may mitigate the complainants' concerns; and

d. Other relevant evidence provided by the complainant or applicant.

4. Notwithstanding section 5.08.180, the decision of whether to grant consent for a Single Event is not appealable to the Administrative Law Judge.

#### **5.08.310 Review and inspection prior to consent.**

Before any consent may be granted by the city, the city ~~may~~shall conduct on-site inspections for the purpose of gathering information and making recommendations regarding consent. Inspections conducted may include, but are not limited to, the following areas:

A. Conformance with all appropriate building codes;

B. Criminal background check and clearance for owners and workers;

- C. Zoning and planning review by the community and economic development department to address issues of locality, proximity, building design and conformance with zoning ordinances;
- D. Fire department inspections of premises and determination of code compliance;
- E. Reviews and inspections by various health officers, including city, county and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, or other health issues which may be present; and
- F. City review for complete information on the application, including the provision of:
  - 1. Authorized signature on the application and written evidence of said authority;
  - 2. Appropriate application and consent fees; and
  - 3. Verification of business ownership.

**5.08.320 Consent suspension and revocation.**

- A. Consent is subject to suspension under the following conditions:
  - 1. Upon the business license official receiving evidence of any act or failure to act by any owner or employee of a consentee that would be a violation of state law or local ordinance regulating the conduct of the consentee except those specified in subsection B of this section which allow immediate revocation.
- B. Consent is subject to revocation under the following conditions:
  - 1. After determining that a consentee's application form contains false information;
  - 2. Upon receiving evidence that any owner of a business granted a consent no longer qualifies for the consent as set forth in Section 5.08.060;
  - 3. Upon evidence being presented that any owner or employee of a consentee has procured, attempted to procure or agreed to procure or attempted to procure for any person:
    - a. Another person for the purpose of prostitution, or
    - b. A controlled substance as defined by state law;
  - 4. Upon receiving evidence that an owner or manager provided alcohol to a minor or interdicted person.
  - 45. For a second act or failure to act by an owner or employee of a consentee that would be a violation of state law or local ordinance regulating the conduct of the consentee, occurring within twenty-four (24) months of the first such act or failure to act.

~~C. Any consentee whose consent has been suspended or revoked by the city has the right to appeal the decision pursuant to Chapter 2.22, "Administrative Hearings" of this code.~~

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## Article IV. Beer-Retailer Licenses

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- 5.08.400 Beer retailer license restrictions.
- 5.08.410 City's power to grant licenses—Limitations.
- 5.08.420 Application and renewal requirements.
- 5.08.430 City review and inspections.
- 5.08.440 Class "A" off-premises ~~beer retailer~~ license.
- 5.08.450 Class "B" on-premises ~~beer retailer~~/restaurant license.
- 5.08.460 Class "C" on-premises ~~beer retailer~~/tavern license.
- 5.08.470 Class "M" manufacturing and packaging license.
- 5.08.480 Class "MB" microbrewery license;
- 5.08.490 License suspension and revocation.

### **5.08.400 Beer retailer license restrictions.**

- A. It is unlawful for any person to engage in the business of the sale of ~~light~~ beer at retail whether in bottles or draft, within the corporate limits of the city without first having procured a license from the city as provided in this chapter. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with state law and use of city licenses granted under this chapter shall not be allowed until the required state license has been authorized and is in effect.
- B. It is unlawful to do the following acts:
1. To serve, sell or give away ~~light~~ beer or any other alcoholic beverage except during hours allowed by state law and this chapter;
  2. ~~Except at a business licensed as a Class B on premises beer retailer/restaurant, to serve, sell or give away light beer or alcoholic beverages for consumption on premises prior to eight p.m. on the day of a municipal election;~~
  32. To permit ~~light~~ beer or any other alcoholic beverages to be consumed on the licensed premises at any time it is unlawful to sell the same;
  43. To permit a person under the age of twenty-one (21) years of age to enter into a Class "C" ~~on-premises beer retailer/tavern~~ premise; or
  54. To store beer on a business premise with the intent to sell, serve, distribute or give it away without first obtaining the necessary city and state licenses.

**5.08.410 City's power to grant licenses—Limitations.**

- A. The city may issue beer retailer licenses to businesses located within its corporate limits, and may regulate the sale, service, distribution and consumption of alcoholic beverages for each type of license provided by this chapter in conformance with state law and city code.
- B. The type of licenses issued under this chapter are known as:
1. Class "A" ~~off-premises beer retailer licenses;~~
  2. Class "B" ~~on-premises beer retailer/restaurant licenses; and~~
  3. Class "C" ~~on-premises beer retailer/tavern licenses;~~
  4. Class "M"; and
  5. Class "MB".
- C. A person may not retail beer unless a beer retailer license has been issued by the city and the state. Unless otherwise provided by state law, A a separate license is required for each place of business and for each premises having different ownership. A separate business license is required for each business name used. One business name may be used for each premises and the most appropriate city alcoholic beverage license may be applied for on behalf of each premise. The applicant shall not misrepresent either the boundaries of the premise, the ownership of the business operation, the type of business conducted nor the business name(s) used.
- D. The city may prescribe by policy, directive, or rule, consistent with this chapter, the general operational requirements of licensees relating to:
1. Physical facilities;
  2. Other matters considered appropriate by the city as they are allowed by state law.
- E. Notwithstanding any other provision of this chapter, The the city may grant licenses to beer retailers with the following limitations:
1. Class "A" ~~off-premises beer retailer licenses~~ shall be limited to one per four hundred (400) population.
  2. Class "B" ~~on-premises beer retailer/restaurant licenses~~ shall be limited to one per ~~one thousand two~~ eight hundred (1,200/800) population.
  3. Class "C" ~~on-premises beer retailer/tavern licenses~~ shall be limited to one per three thousand (3,000) population.
    - a. Three (3) additional class C licenses are available for exclusive use in master planned redevelopment project areas, and are not eligible to be transferred to another location within the City until ten (10) years after the date of initial licensure. License transfers after that date are subject to the requirements of section 5.08.080.

b. The City Council may approve additional licenses in master-planned redevelopment project areas, subject to the same restriction against transfer in subsection (E)(3) of this section.

4. Class “MB” licenses shall be limited to one per ten thousand (10,000) population.

F. If the total number of beer retailer licenses in effect in any category on the date of passage of this chapter equals or exceeds the limitation of subsection E of this section:

1. A license that is in effect on the date of passage:
  - a. Is not invalidated by subsection E of this section, and
  - b. May be renewed in accordance with this chapter; and
2. The city may not grant a new beer retailer license in any category until such time as the total number of beer retailer licenses granted in the same category under this chapter are less than the limitations of subsection E of this section.

G. For purposes of this section, population shall be determined by:

1. The most recent United States decennial or special census; or
2. Any other population determination made by the United States or state governments.

#### **5.08.420 Application and renewal requirements.**

A. Each person seeking a ~~beer retailer~~ license of any kind under this chapter shall file a written application with the city, in a form prescribed by the city. It shall be accompanied by:

1. A nonrefundable application fee in an amount to be established in the consolidated fee schedule;
2. An initial annual license fee. The license fee is not prorated and is refundable if license approval is not granted by the city. The denied applicant may submit a new application when conditions render the situation approvable by state law and city code;
3. A statement of ~~the purpose~~ class and category for which the applicant ~~has applied for the beer retailer license is applying~~;
4. Any management agreement between the owner and manager; and
54. Any other documents and evidence the city may require by rule or policy to allow complete evaluation of the application.

B. Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the applicant to sign the application, to which shall be attached written evidence of said authority.

C. Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the business license official proof of state licensure

~~immediately upon state approval~~ (not more than one hundred twenty (120) days after the date the city license was granted).

D. All ~~city beer retailer~~ licenses expire as determined by Chapter 5.02 of this Code. ~~one year from the date the license was originally issued~~. Persons desiring to renew their license shall submit the renewal fee and completed renewal application to the city no later than five p.m. on the last city business day prior to the date the license expires. Failure to meet the renewal requirements results in forfeiture of the license effective on the date the existing license expires. Renewal applications shall be in a form prescribed by the city and shall be accompanied by the renewal fee.

#### **5.08.430 City review and inspections.**

~~A. Before any beer retailer alcohol license may be granted or renewed by the city's business license official, the city may conduct investigations and hold on-site inspections of the premises for the purpose of gathering information and making recommendations to the business license official as to whether or not a license should be granted. This information shall be forwarded to the business license official to aid in the determination regarding licensure. Reviews and inspections conducted by the city include, but are not limited to:~~

- ~~A.~~ Conformance with all appropriate building and fire codes;
- ~~B.~~ Criminal background check and clearance for owners and workers;
- ~~C. Zoning and planning r~~ Review by the community and economic development department to address issues of locality, proximity, building design and conformance with zoning ordinances;

~~D. Fire department inspections of premises and determination of code compliance;~~

~~E~~D. Reviews and inspections by various health officers, including city, county and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, or other health issues which may be present; and

~~F~~E. City review for complete information on the application, including the provision of:

1. Authorized signature on the application and written evidence of said authority,
2. Appropriate application and license fees,
3. Review for complete information on each individual owner, manager, partner, managing agent, officer, director, or stockholder, who holds at least twenty (20) percent of the total issued and outstanding stock of a corporation or owns twenty (20) percent or more of an LLC, including the provision of:

- a. Number on driver license or nondriver identification issued by the state of Utah,
- b. Home address and home telephone number,
- c. Date of birth, including month, day and year, and
- d. Complete personal name, including first, middle and last names.
- e. For renewals of Class A & B license holders, a statement of finances showing the sales attributed to alcohol and those attributed to food purchases.

**5.08.440 Class "A" off-premises ~~beer retailer~~ license.**

A. ~~An~~ Class A off-premises ~~beer retailer~~ license shall entitle the licensee to sell ~~light beer, and if the licensee is a licensed packaging agency through the State of Utah, to sell alcoholic beverages,~~ on the licensed premises in original containers for consumption off the premises in accordance with state and local law.

B. Class A Off-premises ~~beer retailer~~ licenses shall be granted only to:

1. Those applicants whose business enterprise at the proposed location is one which would typically be classified as primarily a grocery store, convenience store or fueling station, and which sells a variety of food items and other items typically found in ~~a grocery store~~ such a business; or
2. Packaging agencies.

C. ~~Beer~~ (1) Alcoholic beverage sales shall not exceed fifty (50) percent of the total revenue at the licensed premise for any ~~off-premises beer retailer~~ Class A licensee. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes ~~beer~~ alcoholic beverages, the ~~off-premises beer retailer~~ Class A license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three-year period, the ~~off-premises beer retailer~~ Class A license shall be revoked for a period of not less than one year.

(2) The off-premises ~~beer retailer~~ licensee shall ~~may be required to~~ report to the city the gross revenue from ~~beer~~ alcoholic beverage sales and gross revenue from all other sales for any quarter of the licensee's fiscal year and may be audited to determine compliance at any point.

(3) Packaging agencies are not subject to the provisions of this subsection (C).

~~CD. Off-premises beer retailers~~ Class A licensees must comply with state law related to signage post a clearly visible sign approved by the city business license official which is

~~no less than one square foot in size~~ which warns customers of the penalty consequent to the sale or distribution of alcoholic beverages to persons under twenty-one (21) years of age.

**5.08.450 Class "B" on-premises ~~beer retailer/restaurant~~ license.**

A. ~~An Class B~~ on-premises ~~beer retailer/restaurant~~ license shall entitle the licensee to: (1) sell alcohol light beer in its original container for consumption on the retailer's premises, and (2) to the extent permitted by state law, to sell sealed containers of beer for off-premises consumption and to all of the privileges granted by local ordinances to the holder of an on-premises beer retailer/restaurant license and in accordance with state law.

B. Class B on-premises licenses may be granted for holders of the following state licenses:

1. Full-service restaurant;
2. Limited-service restaurant;
3. Beer-only restaurant;
4. On-premise banquet;
5. Dining club;
6. On-premise recreational; and
7. Manufacturing.

~~CB.~~ Beer-Alcohol sales may not exceed thirty (30) percent of total sales. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes beer/alcohol, the ~~on-premises beer retailer/restaurant~~ Class B license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three-year period, the ~~on-premises beer retailer/restaurant~~ Class B license shall be revoked for a period of not less than one year. The ~~on-premises beer retailer/restaurant~~ Class B licensee may be required to report to the city the gross revenue from beer sales and gross revenue from all other sales for any quarter of the licensee's fiscal year and may be audited to determine compliance at any point.

~~DC.~~ Live entertainment is allowed only if the licensee obtains the appropriate license pursuant to this code and complies with all pertinent ordinances.

~~ED.~~ Licensees shall post a clearly visible sign at the licensed premise warning of the dangers of driving under the influence of alcohol.

**5.08.460 Class "C" on-premises ~~beer retailer/tavern~~ license.**

A. ~~An Class C~~ on-premises ~~beer retailer/club/tavern~~ license shall entitle the licensee to sell light beer/alcohol for consumption on the licensee's premises ~~in the original container~~

~~or in draft and to all of the privileges granted by local ordinance to the holder of an on-premises beer retailer/tavern license and in accordance with state law.~~

B. Class C on-premise licenses may be granted for holders of the following state licenses:

1. Equity clubs;
2. Fraternal clubs;
3. Social clubs;
4. On-premises taverns; and
5. Manufacturing.

~~B. Beer sales may not exceed fifty (50) percent the percentage of total sales of beer and food required by state law, although food need not be sold in the establishment.~~

C. Class C licensees shall provide or offer for sale food products.

~~DC.~~ Live entertainment is allowed only if the licensee obtains the appropriate license pursuant to this code and complies with all pertinent ordinances.

E. Licensees shall post a clearly visible sign at the licensed premise warning of the dangers of driving under the influence of alcohol.

**5.08.470 Class “M” manufacturing license.**

A. A manufacturing license shall entitle the licensee to manufacture alcohol within the City for commercial purposes, consistent with the provisions of State Code.

B. Unless otherwise prohibited by law, a licensed manufacturer:

1. is permitted to allow on-duty staff to consume its product on its premise without charge as part of the manufacturing process;
2. may provide bona fide samples of its product on its premise to those who may lawfully consume alcohol, as provided in state law;
3. may sell merchandise associated with the licensee, unless otherwise prohibited by law; and
4. in the case of a brewery:
  - a. may sell beer for off-premise consumption, if the premise applies for and receives a Class A license. The sales percentage requirements of the Class A license do not apply to a brewery, but the brewery may only sell beer which it produces on-site, or which is produced at another location owned and operated by the licensee.

b. may provide sample tasting of beer, so long as the licensee charges for the sample and the maximum amount of samples allowed in the aggregate do not exceed 24 ounces of beer served to an individual during a twelve-hour period.

C. If a manufacturer which will operate a brewery under state law desires to provide retail sales of beer for on-premises consumption in connection with its manufacturing license beyond the sampling provisions of subsection (B), then the licensee must apply for and receive a class B, class C, or microbrewery (MB) license with the City;

D. If a licensee applies for a Class B, C or MB license, it must meet all requirements associated with that license, including proximity restrictions, and comply with state and local regulations which apply to the license.

E. This section may not be used to increase the total number of Class B, C, or MB licenses available in the City, as provided in section 5.08.410.

**5.08.480 Class “MB” microbrewery license.**

A. A microbrewery (“MB”) license shall entitle the licensee to serve beer for on-premise consumption, in accordance with Utah law;

B. The following specific regulations apply to all MB licensees:

1. The licensed premises must be equipped with at least a five (5) barrel brewhouse;

2. The licensee may only serve beer which is manufactured by the licensee;

3. Food must be available during opening hours;

4. The building associated with on-premises consumption shall have fenestration through vision glass, doors or active outdoor spaces along 30% of the building side that fronts any abutting public right-of-way, private street or rapid transit line. Alternative approaches to this requirement may only be granted by the Community and Economic Development Director in cases in which building architecture or the site prohibits meeting this condition; and

5. Specific hours. An MB licensee may not sell, offer for sale, or furnish beer at its licensed premise for on-premises consumption between the hours of 10:00 p.m. and 9:59 a.m., except on Friday and Saturday nights, during which alcohol may be provided until 11:59 p.m.

C. An MB license permits the licensee to engage in activities provided under the class M license.

**5.08.470490 License suspension and revocation.**

A. Licenses are subject to suspension under the following conditions:

1. Upon the business license official receiving evidence of any act or failure to act by any owner or employee of a licensee that would be a violation of state law or local ordinance regulating the conduct of the licensee except those specified in subsection B of this section which allow revocation;

2. Nuisance behavior, as described in chapter 5.08, Article V, of this Code and state law; or

3. Suspension of a state liquor license for violations of law.

B. Licenses are subject to revocation under the following conditions:

1. After determining that a licensee's application form contains false information;

2. Upon receiving evidence that any owner of a licensee ~~granted a license~~ no longer qualifies for the license as set forth in Section 5.08.060

3. Upon evidence being presented that any owner or employee of a licensee has ~~procured, attempted to procure or agreed to procure or attempted to procure for any person, while on the business premises:~~

a. ~~Another person for the purpose of prostitution solicited, aided or exploited a prostitute; or~~

b. purchased, sold or attempted to sell ~~A~~ controlled substance as defined by state law; or

c. sold or provided alcohol to a minor or interdicted person.

4. For a second act or failure to act by an owner or employee of a licensee that would be a violation of state law or local ordinance regulating the conduct of the licensee, occurring within twenty-four (24) months of the first such act or failure to act.

5. Revocation was mandated by Chapter 5.08, Article V, Prevention of Violence & Nuisances; or

6. Any other reason for which a business license may be suspended under this Title.

~~C. Any business whose license has been suspended or revoked by the city has the right to appeal the decision pursuant to Chapter 2.22, "Administrative Hearings" of this code.~~

**Article V. Nuisance Taverns Prevention of Violence & Nuisances**

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5.08.500 Nuisance declared.

5.08.510 Duty to maintain public portion of premise secure.

**5.08.515 Duty to maintain premises free from nuisances.**

5.08.520 Notification by the city.

**5.08.530 Graduated penalties.**

~~5.08.530 Civil fine.~~

~~5.08.540 Suspension of license for two consecutive weekends.~~

~~5.08.550 Suspension of license for one year.~~

~~5.08.560540 Duty to report acts of violence on the public portion of premise.~~

~~5.08.570550 Intervention by licensee's security staff.~~

**5.08.500 Nuisance declared.**

The city finds that acts of violence and nuisance perpetrated on the public portions of establishments licensed as ~~beer retailer/taverns~~ under this chapter place patrons and the public at unacceptable risk of injury. Therefore, it is declared to be a nuisance when an ~~on-premises beer retailer/tavern~~ licensee operates an establishment that repeatedly is the location of acts of violence on the public portion of the premise.

**5.08.510 Duty to maintain public portion of premise secure.**

(A) ~~Every on-premises beer retailer/tavern~~ licensee, its employees, officers and managers shall assure that adequate security measures are in place to protect patrons and the public from acts of violence perpetrated on the public portion of the premise as that term is defined in this chapter.

(B) Crimes committed against the licensee or its employees are not considered nuisances under this Article.

**5.08.515 Duty to maintain premises free from nuisances.**

Every on-premises licensee, its employees, officers and managers shall assure that the business is maintained free from nuisances to neighboring residences and businesses, including keeping employees or patrons from loitering in the licensee's parking lot.

creating disturbances during night-time hours while on the licensee’s property, littering, or committing noise violations under Salt Lake County Health Department regulations.

**5.08.520 Notification by the city.**

The city shall notify the on-premises ~~beer retailer/tavern~~ licensee of violent acts perpetrated on the public portion of the premise by mailing a copy of the police incident report documenting the act of violence within ten days of a report being generated, by regular mail, to the licensee's contact person at the address identified in its ~~beer retailer/tavern~~ license application to the city. Notice shall be complete upon mailing. Thereafter, the on-premises ~~beer retailer/tavern~~ licensee shall take all lawful measures necessary to prevent further occurrences of violence on the public portion of the premise.

**5.08.530 Graduated penalties.**

A licensee which fails to maintain its premises in accordance with this chapter is subject to penalties of a graduated nature, including fines, license suspension, license revocation, or other restrictions being placed on the license. In considering the penalty, the City shall consider the history of violent or nuisance behavior at the location, the cooperativeness of the business owner with police, fire, or other representatives, the severity of the violence or nuisance conduct, and any measures taken by the business prior to the incident designed to curb such incidents from occurring.

**~~5.08.530 Civil fine.~~**

~~After notification by the city of an act of violence occurring on the public portion of the premise, a second act of violence perpetrated on the public portion of the premise within a sixty day period of time may result in the assessment of civil fine in an amount to be established in the consolidated fee schedule.~~

**~~5.08.540 Suspension of license for two consecutive weekends.~~**

~~After notification by the city of two acts of violence occurring on the public portion of the premise, three acts of violence perpetrated on the public portion of the premise within a ninety day period of time may result in suspension of the city's on-premises beer retailer/tavern license for two consecutive weekends.~~

**~~5.08.550 Suspension of license for one year.~~**

~~After notification by the city of three acts of violence occurring on the public portion of the premise, a fourth act of violence perpetrated on the public portion of the~~

~~premise within a six-month period of time, may result in suspension of the on-premises beer retailer/tavern license for a period of one year.~~

**5.08.560540 Duty to report acts of violence on the public portion of premise.**

It is the duty of every employee, officer, shareholder of twenty (20) percent or more of the outstanding stock of a corporation or twenty (20) percent of an LLC, manager, or security person who has reason to know that an act of violence has been committed on the public portion of the premise, to immediately summon the city police department. Failure by an on-premises beer retailer/tavern licensee, its employees, officers or manager who has reason to know that an act of violence has occurred on the public portion of the premises, to immediately summon the city police department may result in suspension of the on-premises beer retailer/tavern license for a period of one year.

**5.08.570550 Intervention by licensee's security staff.**

~~For purposes of this article, an act of violence on the public portion of the premise will not be counted against an on-premises beer retailer/tavern licensee that can demonstrate that the licensee's private security staff was immediately present at the time and location when and where the act of violence was committed, took reasonable steps to keep the peace and immediately summoned city police.~~

If the licensee's private security staff was immediately present at the time and location of a violent or nuisance incident, took reasonable steps to keep the peace, and immediately summoned police, then the act of violence shall not be grounds for action under this Article.

**Article VI. Administrative Hearing**

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~~5.08.600 Right to appeal.~~

**5.08.600 Right to appeal.**

~~Any person aggrieved by a decision made by the city under this chapter shall have the appeal rights provided under Chapter 2.22 of this code.~~

Article VII

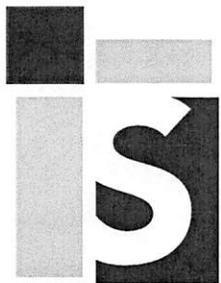
~~5.08.700 Violation—Penalty.~~

**5.08.700 Violation—Penalty.**

~~At its option, the city may choose to enforce the provisions of this chapter by licensing action, civil fine and/or criminal sanction. Violation of any provision of this chapter is a "Class B Misdemeanor."~~

DRAFT

April 20, 2015



**SOUTH SALT  
LAKE  
COMMUNITY  
DEVELOPMENT**

**MICHAEL FLORENCE**  
DIRECTOR

**FRANCIS LILLY**  
DEPUTY DIRECTOR

**PLANNING & ZONING**

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SOUTHSALTLAKECITY.COM

Dear Business Owner/Manager,

The City Council is considering adopting a major revision to the City's Alcohol Code. Among the *potential* changes to the code, include the following:

- Creation of Class M (manufacturing) and MB (micro-brewery) license categories, with accompanying regulations
- Increasing the cap on Class B (Restaurant) Licenses by approximately 10
- Permitting the transfer of licenses in specific circumstances
- Aligning City licenses (A, B, C, & M) with specific state license categories
- Application of nuisance prevention provisions to all licensees

There are many other provisions which are affected by the proposed change.

The City often hears from businesses *after* legislation or regulation is passed, sometimes with helpful suggestions which are generated by your unique experience and knowledge of the industry. The City is soliciting your input on the ordinance, because you will be directly impacted by it by virtue of your license.

The draft ordinance is located online at: <http://ssl.com/departments-listings/community-development>

This draft is by no means a final product. Staff and the Council are open to your comments and suggestions.

You may provide your input to the City by:

- Mail or e-mail to Mike Florence ([mflorence@ssl.com](mailto:mflorence@ssl.com)), Julie Taylor ([julie.taylor@ssl.com](mailto:julie.taylor@ssl.com)), or City Recorder Craig Burton ([cburton@ssl.com](mailto:cburton@ssl.com))
- Contacting your local councilmember
- Visiting our Department at City Hall, 1<sup>st</sup> Floor, between 3:00 pm and 5:00 pm each Wednesday
- Calling our Department at (801) 483-6031, or
- Participation during the City Council meeting scheduled for May 27, 2015 (those who do not attend will have their input presented to the Council by the Recorder or my Department)

We look forward to hearing from you.

Best Regards,

A handwritten signature in black ink that reads "Julie Taylor".

Julie Taylor  
Business License Official



Julie Taylor <julie.taylor@southsaltlakecity.com>

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## City's Alcohol Code

1 message

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mike@kilergrovewines.com <mike@kilergrovewines.com>  
To: mflorence@ssl.com, julie.taylor@ssl.com

Thu, Apr 23, 2015 at 5:57 PM

Hi guys. I looked over the proposed changes, and don't see anything that would impact our winery/tasting room operations. Am I missing something?

As regards the changes impacting the restaurants, bars and breweries, I suppose you all are making sure you aren't creating conflicts with the ever-morphing UDABC rules and laws. Correct?



Julie Taylor <julie.taylor@southsaltlakecity.com>

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## RE: Alcohol ordinance changes

1 message

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Trent Fargher <trent@shadesofpale.com>

Tue, Apr 28, 2015 at 11:55 AM

To: Julie Taylor <julie.taylor@southsaltlakecity.com>

Cc: Mike Florence <mflorence@southsaltlakecity.com>

The only additional item from the code is the 24oz restriction. It should be moved to 32 oz. A standard pint glass is 16oz, 2 pints or 32oz, 2, 12oz bottles or 24oz or 1, 22oz bomber bottle. Moving to 32 oz keeps it standard without over consumption and makes sense. We don't have 12oz glasses at the brewery only 16 oz a standard pint. It would be weird to pour a 12oz draft into a 16oz glass.

Trent

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**From:** Julie Taylor [mailto:julie.taylor@southsaltlakecity.com]

**Sent:** Tuesday, April 28, 2015 10:20 AM

**To:** Trent Fargher

**Cc:** Mike Florence

**Subject:** Re: Alcohol ordinance changes

Trent,

Thank you for your input.

At this time the the worker ID section will remain in the draft ordinance. To the best of my knowledge this section has been in the code for some time. It is up to the City Council on how they would like to address this. I will be sure to pass along your concerns.

Please let me know if you have any additional comments.

On Sat, Apr 25, 2015 at 1:27 PM, Trent Fargher <trent@shadesofpale.com> wrote:

Julie,

I read through the changes to the alcohol ordinance. It looks good and believe it will work well for the city.

One item I'm not sure I agree with is the worker ID section. This seems like a duplicate of what we have to do at the state level and redundant. We have to send each server through a training class and get registered with the state, not sure I see the point of doing this all over again at the city level. Seems like more burden and a hidden tax on the small business owner.

What is the point of this section and what is it trying to achieve over and beyond what the state already requires?

Trent Fargher

Shades of Pale Brewing Co

720-255-5122

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Julie Taylor  
Business License Official  
City of South Salt Lake

(801) 483-6031 Office

(801) 386-0745 Cell



Julie Taylor <julie.taylor@southsaltlakecity.com>

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## City Alcohol Code

1 message

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Dean White <ldean.white300@gmail.com>

Wed, May 20, 2015 at 11:21 AM

To: "julie.taylor@sslc.com" <julie.taylor@sslc.com>

Cc: "mflorence@sslc.com" <mflorence@sslc.com>

Thank you for the opportunity to to express my concerns on this issue. Bonwood Inc. has perhaps the oldest bar license in the city! (Established 1958). We have always made every effort to comply with DABC and local ordinances because our bar license is essential to the continued success of our bowling business.

Although we have no immediate plans to sell our business, it would be comforting to know that , if we did sell, the bar license would be transferable. My Dad, Woodrow, built Bonwood in 1957. He found out right out of the starting gate, that if we were to attract bowling leagues, we must have a Lounge ( he was reluctant to go into that business). In 1958, he added 10 more lanes and a lounge.

To make a long story short, we now have the strongest league schedule in the state of Utah with 45 long standing loyal leagues. If we were not diligent in maintaining a bar license in good standing, 70-80% of those leagues would go to another bowling center that did offer a beer service.

My concern is, if we decided to sell, closing the Lounge would seriously effect the profitability and may even prevent the possibility of selling and exiting our business.

With the closing of the Ritz Classic, and several other bowling centers in recent years, we are enjoying an expanded customer base and a very successful business. I think we bring a lot of people to South Salt Lake to support the local economy.

Thank you for considering these realities.

L. Dean White  
Bonwood, Inc.

Sent from my iPad