

CHAPTER 3. ALCOHOLIC BEVERAGES

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Article 3-1. General Provisions

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3-1-1. Compliance with statute and ordinance.

It shall be unlawful for any person to sell, exchange, furnish, or otherwise provide any alcoholic beverage, except as expressly permitted by this Chapter or State law.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-1-2. Definitions.

For purposes of this Chapter:

Alcoholic beverage means and includes "beer" and "liquor" as they are defined herein.

Alcoholic Beverage Control Act shall mean Title 32A of the Utah Code.

Beer means all products which contain 63/100 of 1% of alcohol by volume or ½ of 1% of alcohol by weight, but not more than 4% of alcohol by volume or 3.2% 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. Beer includes products referred to as malt liquor, malted beverages, or malt coolers.

Beer retailer means any business establishment engaged, primarily or incidentally, in the retail 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 Alcoholic Beverage Control Commission and the City. An on-premises beer retailer means any beer retailer engaged, primarily or incidentally, in the sale or distribution of beer to public patrons for consumption on the beer retailer's premises. An on-premises beer retailer may include taverns, restaurants and private clubs.

Club and Private Club means any nonprofit corporation operating as a social club, recreational, fraternal, or athletic association, or kindred association organized primarily for the benefit of its stockholders or members.

Interdicted person means a person to whom the sale, gift, or provision of an alcoholic beverage is prohibited by law or court order.

Licensed premises means any room, house, building, structure or place occupied by any person licensed by the City or State to sell beer or to allow the consumption of beer or liquor on such premises under this Chapter.

Licensee means any person issued a license by the City or the State pursuant to the provisions of this Chapter.

Liquor means and includes alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid, or combination of liquids, a part of which is spirituous, vinous, or fermented, and all other drinks or drinkable liquids, that contain more than ½ of 1% of alcohol by volume and are suitable to use for beverage purposes. The term "liquor" shall not include any beverage included within the definition of beer as set forth above.

Local consent means a written document issued by the City of Orem Director of Public Safety to an applicant for a State license, signifying that the City has no objection to the issuance of a State license and that such issuance is in compliance with applicable City ordinances.

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

Person includes any individual, firm, partnership, 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.

Place of business shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and any other place where the general public is invited or admitted for business purposes, and shall also be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business as herein defined.

Premises means any building, enclosure, room or equipment used in connection with the sale, storage, service, manufacture, distribution, or consumption of alcoholic products, unless otherwise defined in this Chapter.

Public dance means any dance where the general public may gain admission with or without the payment of a fee; however, it shall not include any dancing at an establishment possessing a State license for on-premises consumption.

Restaurant means any business establishment:

1. where a variety of food is prepared and complete meals are served to the general public;

2. located on a premises having adequate culinary fixtures for food preparation and dining accommodations; and

3. that is engaged primarily in serving meals to the general public.

Retailer means any person licensed to engage in the sale or distribution of alcoholic beverages to the consumer.

Sell or to sell when used in this Chapter in any prohibitions shall be construed to include: to solicit or to receive an order for; to keep or expose for sale; to deliver for value; to peddle; to barter; to possess with intent to sell; to traffic in for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever; to procure or allow to be procured for any other person; whether done by a person as a principal, proprietor, or as an agent, servant or employee; and "sale," when so used, shall include every act of selling as above defined.

Tavern means any business establishment engaged primarily in the retail sale or distribution of beer to public patrons for consumption on the establishment's premises, and that is licensed to sell beer under state law and this Chapter. A tavern includes beer bars, parlors, lounges, cabarets and night clubs where the revenue from the sale of beer exceeds the revenue from the sale of food, although food need not be sold in such establishments.

Wholesaler means any person other than a licensed manufacturer, engaged in the importation for sale, or in the sale of alcoholic beverages in wholesale or jobbing quantities to the Alcoholic Beverage Control Commission or to retailers.(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-1-3. Violations.

Except as otherwise provided in State law, any person violating any of the provisions of this Chapter shall be guilty of a Class B Misdemeanor and shall, upon conviction therefor, be punished by a fine in a sum not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

Article 3-2. Licenses

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3-2-1. License or local consent required.

A. It shall be unlawful for any person in the City to engage in the retail sale of beer for off-premises consumption without first obtaining a license therefor from the City of Orem. A separate license shall be required for each place of sale.

B. Effective July 1, 1999, it shall be unlawful for any person in the City to engage in the retail sale of beer for on-premises consumption without first obtaining a license therefor from the City of Orem, and an on-premises beer license from the State of Utah as provided in the Alcoholic Beverage Control Act. A separate license shall be required for each place of sale.

C. Effective July 1, 1999, it shall be unlawful for any restaurant, private club, or other person in the City to engage in the business of selling or allowing the consumption of liquor on its premises without first obtaining a license therefor from the State of Utah, as provided in the Alcoholic Beverage Control Act, and a liquor license from the City. A separate license shall be required for each place of sale.

D. All licensees shall comply with all applicable provisions of state and local law, including the Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, the terms of this Chapter, and all other applicable City ordinances and resolutions.

E. All licenses required by this Chapter shall be in addition to any business license or other permit required by law.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-2. Class A License, off-premises beer retailer.

A. The City may issue a Class A license which shall entitle the licensee to sell beer on the licensed premises in original containers, in any size not exceeding two liters, having the label of the makers thereon, to persons twenty-one (21) years of age and older for consumption off the premises. It is unlawful for a Class A licensee to allow any person to consume any alcoholic beverage upon the premises of the licensee.

B. No Class A license shall be granted to any applicant or retained by any licensee for the retail sale of beer only. An applicant or licensee must have retail sale of food or of items other than petroleum and beer of at least twenty-five percent (25%) of total sales in order to qualify for or maintain such license and shall, upon request therefor, furnish certified documentation substantiating such sales. The City may at any time require such documentation.

C. A Class A licensee shall require all employees involved in the transaction of retail beer sales to obtain and wear within thirty (30) days of hire a Beer Handler's Permit from the Utah County Health Department. Upon receipt of the Permit and within thirty (30) days of hire, Class A licensee employees involved in the transaction of retail beer sales shall possess and wear the Permit in plain sight. To receive a Permit, licensee employees must:

1. complete the Utah County Health Department's Application Process; and
2. meet the Utah County Health Department's qualification guidelines.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999; Ord. No. O-05-0011, Amended, 4/12/2005)

3-2-3. Class B License, restaurant on-premises beer retailer.

The City may issue a Class B license which shall entitle the licensee to sell beer on the licensed premises in open containers, in any size not exceeding two liters, and on draft for consumption on the premises. A Class B licensee may only sell beer in connection with an order for food prepared, sold, and served on the premises. A Class B licensee shall maintain at least 60% of its total sales from the sale of food, which does not include mix for alcoholic beverages or service charges. Each Class B licensee shall maintain accounting and other records and documents sufficient to verify that at least 60% of the licensee's sales are

derived from the sale of food and shall provide such records to the City upon request. Failure to maintain or provide such records to the City upon request shall be cause for suspension or revocation of the license.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-4. Class C License, other on-premises beer retailer.

The City may issue a Class C license which shall entitle the licensee to sell beer in open containers, in any size not exceeding two liters, and on draft for consumption on the premises. A Class C license shall be required for all premises where the primary or main business is that of selling beer for consumption on the licensed premises.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-5. Class D License, single event beer permit.

A. The City may issue a single event permit to a bona fide incorporated association, corporation, church or political organization, or to a recognized subordinate lodge, chapter, or other local unit thereof that is conducting a convention, civic or community enterprise. A single event permit shall allow the permittee to sell beer in the original containers only upon the licensed premises and during such time as the Director of Public Safety, upon application may designate. The permit period shall not exceed seventy-two hours. A Class D licensee shall comply with the provisions of the Alcoholic Beverage Control Act and applicable City ordinances.

B. The six hundred foot and two hundred foot proximity limitations to educational, religious, and recreational facilities do not apply to single event permits. Nothing in this section, however, prevents the Director of Public Safety from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a single event permit.

C. The City may not issue more than two single event permits in any one calendar year to the same association, incorporation, church, political organization, subordinate lodge, chapter, or local unit thereof.

D. No single event permit shall be granted for any activity or event which is to take place in whole or in part on any City property.

E. In order to qualify for a single event permit, the applicant shall have been in existence as a bona fide organization for at least one year prior to the date of application.

F. Any applicant for a single event permit shall post a cash or corporate surety bond in the penal sum of

\$1,000.00 payable to the City, which the applicant has procured and must maintain for so long as the permit is in effect. The bond shall be in a form approved by the City, conditioned upon the permittee's faithful compliance with the terms of the permit, this Chapter and the Alcoholic Beverage Control Act. No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee shall be forfeited if the permittee violates any term or condition of the permit or any of the provisions of this Chapter or the Alcoholic Beverage Control Act.

G. A Class D single event licensee shall not allow any person to bring onto the premises any alcoholic beverage or to possess or consume any alcoholic beverage not purchased from the licensee on said premises.

H. A Class D licensee shall comply with all provisions of the Alcoholic Beverage Control Act and this Chapter.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-6; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-6. Class E License, liquor license.

A. The City may issue a Class E license which shall entitle the licensee to sell liquor on the premises for consumption on the premises. A Class E license may only be issued to persons or entities which have a valid State liquor license. A Class E licensee shall comply with the provisions of the Alcoholic Beverage Control Act and applicable City ordinances. The grant of a Class E liquor license shall also constitute local consent for purposes of the Alcoholic Beverage Control Act.

B. A Class E licensee may also sell beer in any size container not exceeding two liters, and on draft for on-premises consumption without obtaining a separate on-premises beer license from the City. Any Class E licensee which sells beer pursuant to this section shall comply with all provisions of this Chapter and the Alcohol Beverage Control Act which pertain to the sale of beer.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-7; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-7. Temporary special event beer license.

The City may issue a temporary special event beer license which shall entitle the licensee to sell beer for on-premises consumption in a restaurant under the same terms and conditions as a Class B licensee. The temporary special event beer permit shall be valid for a period not to exceed thirty (30) days and shall only be issued if the applicant applies for and is qualified to receive a Class B license from the City and is eligible for and has made a complete application for an on-

premises beer retailer license or a restaurant liquor license from the Alcoholic Beverage Control Commission. The City may immediately revoke the license if the applicant's application to the Alcoholic Beverage Control Commission for an on-premises beer retailer license is denied.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-8; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-8. Licensing procedure.

All applications for a City license authorized by this Chapter or for local consent shall be submitted to the Department of Public Safety. The Director of Public Safety shall have authority to grant licenses and local consent.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-9; Ord. No. 688, Amended, 06/25/9; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-3)

3-2-9. License or local consent application.

A. All applications for a City license or local consent shall be on a form provided or approved by the City and shall be accompanied by a nonrefundable application fee and a license fee (or renewal fee), which is refundable if a license is not granted, in an amount established by resolution of the City Council. The City shall not consider an application to be properly filed unless the applicant has provided all the information requested on the application form. In addition to the information requested on the form, the applicant shall provide the following information:

1. The name, social security number, date of birth, and address of the applicant;
2. The location of the premises to which the license will apply;
3. The class of license for which the applicant is applying;
4. The Federal Tax identification number of the applicant;
5. The location of any other beer or liquor license held by the applicant;
6. A statement verifying whether the applicant has had any liquor or beer license revoked or suspended within the last three years;
7. A floor plan of the premises, including consumption areas and the area where the applicant proposes to keep, store, and sell alcoholic beverages;
8. Proof that the applicant is carrying commercial general liability insurance in an amount and form satisfactory to the City, and for applicants for any on-premises license, dramshop insurance coverage of at least \$100,000 per occurrence and \$300,000 in the aggregate;
9. A statement verifying that the applicant meets all the requirements of the Alcoholic Beverage Control Act;

10. A statement verifying whether or not the applicant has ever been convicted of any felony or a violation of any law or ordinance relating to alcoholic beverages, or of any crime involving moral turpitude, or had any license or permit involving alcoholic beverages revoked;

11. A signed consent form granting any authorized representative of the City or law enforcement officer the unrestricted right to enter the licensed premises during business hours;

12. A statement indicating whether the establishment will be operated or managed by a person other than the applicant;

13. A copy of the applicant's current business license;

14. A sworn statement signed by the applicant, certifying under penalty of law, that all the facts included in the application are true;

15. A statement signed by the zoning administrator stating that the establishment to be licensed meets all zoning requirements; and

16. Any other information that the City may require.

B. If the applicant is a partnership, association, corporation, franchisee or other business entity, the applicant shall provide the above information with respect to every officer, manager, partner, officer, director, member, franchisee or owner who is directly involved in or responsible for the operation and/or management of the establishment to which the license will apply. The application need only be signed by a single partner, member, manager, franchisee or officer.

C. If the establishment for which the applicant seeks a license will be managed or operated by a person other than the applicant, the City may also require that the manager or operator submit an application for the purpose of a background investigation, and, if the manager or operator does not meet the requirements of Section 3-2-8, the City may deny the applicant's request for a license.

D. It shall be unlawful to make any false statement or misrepresentation on the application, and it shall also be grounds for denial and/or revocation of the license.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-10; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-4)

3-2-10. Investigation of license applicants by the Department of Public Safety.

The Department of Public Safety shall review all applications and conduct an investigation into the background and character of each applicant.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-11; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-5)

3-2-11. Persons not entitled to licenses.

A. No license or local consent shall be granted to an applicant who:

1. Is under twenty-one (21) years of age;
2. Has been convicted of a felony;
3. Has been convicted of any violation of any federal, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages;
4. Has been convicted of any alcohol-related offense within six years of the application;
5. Has been convicted of any crime involving moral turpitude;
6. Has had any liquor or beer license suspended or revoked within the last three years;
7. Fails to include all of the information required by section 3-2-8 in the application; or
8. Fails to comply with applicable zoning regulations and building codes with regard to the proposed premises of the applicant.

B. In the case of an applicant who is a partnership, corporation, or other business entity, no license or local consent shall be granted if any of the disqualifying criteria set forth in subsection A above, apply to any partner, managing agent, officer, director, stockholder, or owner who holds at least 20% of the total issued and outstanding stock or ownership interest of the applicant.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-12; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-6)

3-2-12. No license granted near church or school.

A. Except as otherwise allowed by the Alcoholic Beverage Control Act, no license shall be granted to an applicant for any premises situated within six hundred feet (600') of any public or private school, church, public library, public playground, or park, measured from the nearest entrance of the proposed 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 nearest property boundary of the public or private school, church, public library, public playground, or park.

B. No license shall be granted to any applicant for any location situated within two hundred feet (200') 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.

C. In deciding whether to grant or deny a license, the City may also consider the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location. For purposes of this subsection, "educational facility" includes nursery schools, infant day care centers, and trade and technical schools.

D. For purposes of this section, "school" shall mean any building used primarily for the general education of minors, but shall not include any college, university or trade or technical school, or nursery schools or day care centers. "Church" shall mean any 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.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-13; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-8)

3-2-13. Denial of license.

If, on an application for a license or local consent, the Director of Public Safety finds that any applicant does not meet the requirements of or is disqualified under any section of this Article, or is not suitable for a license due to previous problems with compliance with laws controlling alcoholic beverages, or if he or she finds that the application is deficient in any way or any of the facts provided thereon are false, he or she shall deny the application. The City also reserves the right to deny any application for a license or local consent if the Director of Public Safety determines that the issuance of a license or local consent would be contrary to the public health, safety or welfare.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-14; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-9)

3-2-14. Appeal of denial.

Should the Director of Public Safety deny a license or local consent, the applicant may appeal to the City Manager. The applicant must file a written appeal with the City Manager within ten (10) days of receiving the written decision by the Director, and must pay an appeal fee as established by resolution of the City Council.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-15; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-10)

3-2-15. Penalties for violations by a licensed establishment.

A. All violations of this Chapter by a licensee or any employee or agent of a licensee which occur within

any twenty-four (24) month period shall be punished at a minimum as follows:

1. Upon a first violation of this Chapter the licensee shall be issued a warning;

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

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

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

B. Failure to pay any fine imposed for a violation of any provision of this Chapter within thirty (30) days of the imposition of such fine, shall be grounds for revocation of the license.

C. The penalties set forth in subsection (A) above are intended to be minimum penalties for violations of this Chapter. Any license issued pursuant to this Chapter may be suspended or revoked for the violation by the licensee or the licensee's agent or employee of any provision of this Chapter or any other applicable ordinance or law relating to the possession, consumption, storage or sale of alcoholic beverages. If any person to whom a license has been issued under this Chapter no longer possesses the qualifications required by this Chapter for obtaining that license, the City may revoke or suspend that license.

D. In addition to the imposition of fines and the suspension or revocation of licenses, the City may bring criminal charges and/or seek any other civil remedy available to the City for the violation of any provision of this Chapter. (Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-16; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-16. Right to a hearing.

A. A licensee shall have the right to request a hearing to contest the existence of any violation of this Chapter or the imposition of any penalty. The City shall

send written notice of a violation of this Chapter to the licensee at the address listed in the licensee's license application. A written request for a hearing must be filed by the licensee with the Department of Public Safety within fifteen (15) days of the date of mailing of the City's notice to the licensee. The request for a hearing shall include the licensee's name, address, telephone number, and a statement of the licensee's basis for disputing the existence of a violation or the imposition of a penalty. A timely request for a hearing shall stay the imposition of any penalty until the hearing is decided. The City's finding of a violation shall be considered final if the licensee fails to request a hearing within the time period set forth above.

B. The Director of Public Safety or his/her designated representative shall conduct hearings requested by licensees. Hearings shall be conducted informally. Formal rules of evidence and court procedure shall not apply. Because the hearings are administrative in nature, hearsay is admissible, but evidence must have some probative weight and reliability to be admitted. The existence of a violation must be established by a preponderance of the evidence. The Director of Public Safety or his/her designated representative shall consider all of the evidence presented at the hearing and shall render a decision which shall be supported by written findings.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-2-18; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-2-17. Appeal to the City Manager.

The Director of Public Safety's decision may be appealed to the City Manager by filing a written request for an appeal hearing with the City Manager's office within ten (10) business days of the date of the decision rendered in the initial hearing. If no request for an appeal hearing is made within the ten day period, the decision rendered in the initial hearing shall be considered final. The appeal hearing shall be conducted by the City Manager or his/her designated representative. The City Manager or his/her designated representative shall affirm, reverse, or modify the decision rendered in the initial hearing and the action taken in the appeal hearing shall be final. Appeal hearings shall be conducted in the same manner as initial hearings as described in section 3-2-16.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-19; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-14)

3-2-18. Operating following license revocation.

If at any time a license under the provisions of this Chapter is denied, suspended or revoked, it shall thereafter be unlawful for any person to sell alcoholic beverages on the premises or to buy alcoholic beverages for consumption on or off the premises

described in the denied application or the revoked or suspended license until such license is reinstated or a new license is issued. Violation of this section shall be grounds for revocation of a license and denial of a future application for a license.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-20; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-16)

3-2-19. License to be displayed.

Each license issued pursuant to this Chapter shall be displayed at all times on or in the licensed premises in a place readily visible to the public.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-21; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-17)

3-2-20. License period and renewal of licenses.

Each license issued pursuant to this Chapter shall be valid for one (1) year commencing July 1 and ending June 30 of the following year. Persons desiring to renew their license shall submit a renewal license fee in an amount established by resolution of the City Council and a completed renewal application to the City. An application for renewal of a license shall be approved or denied based on the same standards and criteria that apply to an initial application for a license set forth in this Chapter. Renewal applications shall be in a form as prescribed by the City. Failure to meet the renewal requirements shall result in an automatic forfeiture of the license effective on the date the existing license expires.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-22; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-18)

3-2-21. License fees and proration.

A. License fees shall be as established by resolution of the City Council; provided, however, that under no circumstances shall they be higher than allowed by state law.

B. If a license is issued for less than a full year, the license fee shall be reduced by 25% for each full quarter (calculated from July 1) which is entirely excluded from the license period.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-21; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-19)

3-2-22. Duty to report change in ownership or management.

If, during the term of any license, there is any change in the personnel of the licensee who are directly involved in or responsible for the operation and/or management of the establishment to which the license applies, the licensee shall immediately report such change in writing to the Director of Public Safety.

(Ord. No. O-99-0015, Enacted, 03/23/1999)

3-2-23. Licenses not transferable; expiration of license upon change of ownership; partial refund of fees.

Licenses issued under this Chapter may not be transferred from one location to another or from one person to another. All licenses issued under this Chapter shall automatically expire upon the change of ownership of a licensee or upon the attempted transfer of a license from one location to another or from one person to another person. Licenses issued pursuant to this Chapter shall have no monetary value for the purpose of any kind of disposition. A license fee may be refunded after a license has been issued and thereafter canceled on request of the licensee, except that no part of the fee for the quarter period during which the application for refund is made shall be refunded. Any refund shall be based upon good cause being shown therefor as determined by the Director of Public Safety and subject to review by the City Council after examination of all facts and conditions relative to the application for refund. For any amount refunded there shall be charged a sum for necessary accounting and bookkeeping services equal to ten percent (10%) of the amount determined to be refunded, the charge to be deducted from the amount refunded. There shall be no refunds of fees paid for licenses which have been revoked and such fees shall be forfeited to the City.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-2-22; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-2-20)

Article 3-3. General Regulations

- 3-3-1. Adoption of criminal sanctions.**
- 3-3-2. Consumption in unlicensed premises.**
- 3-3-3. Alcoholic beverages at public dances.**
- 3-3-4. Hours.**
- 3-3-5. Inspection of premises; duty to furnish samples.**
- 3-3-6. Illumination in tavern.**
- 3-3-7. Dancing.**
- 3-3-8. Prohibited Conduct.**
- 3-3-9. Screening prohibited in on-premises licensees.**
- 3-3-10. Minors on premises.**
- 3-3-11. Taking minors into premises.**
- 3-3-12. Permitting minors on premises.**
- 3-3-13. Misrepresenting age.**
- 3-3-14. Unlawful to bring alcoholic beverages onto premises of licensee.**
- 3-3-15. Notice required for malt beverages.**
- 3-3-16. Restrictions on who may purchase alcoholic beverages.**
- 3-3-17. No consumption of alcohol by employee of licensee while on duty.**
- 3-3-18. Display.**

3-3-1. Adoption of criminal sanctions

The City hereby adopts Chapters 12 and 13 of Title 32A and Sections 32A-2-103, 32A-3-106, 32A-4-106, 32A-5-107, 32A-6-105, 32A-7-106, 32A-10-102, 32A-10-206, and 32A-11-106 of the Utah Code Annotated (1953, as amended). By this reference, these portions of the Utah Code are made part of the Orem City Code as fully as if set out at length herein and shall be controlling within the City limits; provided, however, that this section is not intended to and does not purport to grant unto the City any powers or jurisdiction not specifically or impliedly granted by law. It shall be unlawful to violate any of the provisions of the sections adopted herein.

(Ord. No. 677, Enacted, 11/13/90; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-2. Consumption in unlicensed premises.

A. It shall be unlawful for any establishment, association, corporation, club or person to knowingly permit any person to possess alcoholic beverages upon which the seal or cap has been broken, or to consume any alcoholic beverage in any place or establishment where the public is invited to come for business purposes, except where said place or establishment is specifically licensed for such purposes under the Alcoholic Beverage Control Act and this Chapter.

B. It shall be unlawful for any person to consume alcoholic beverages in any place or establishment where the public is invited to come for business purposes except where said place of establishment is specifically licensed for such purpose under the Alcoholic Beverage Control Act and this Chapter.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-3-1; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-3. Alcoholic beverages at public dances.

No person shall dispense, furnish, sell, give away, possess or consume alcoholic beverages at any public dance or place where public dances are held. The term "place where public dances are held," as herein used, shall be construed to include all adjacent rooms opening directly or indirectly upon the dance floor; but such term shall not be construed to include a cafe, a hotel or motel room, or an establishment licensed under the Alcoholic Beverage Control Act and this Chapter.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-3-2; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-4. Hours.

A. It shall be unlawful for any licensee or any employee or agent of a licensee to sell or to offer for sale beer between the hours of 1:00 a.m. on any Sunday and 7:00 a.m. of the following Monday, and between

the hours of 1:00 a.m. and 7:00 a.m. Tuesday through Saturday, provided, however, that sales shall be allowed until 2:00 a.m. on New Year's Day and may commence at 6:00 p.m. on New Year's Eve when New Year's Eve is on Sunday. It shall also be unlawful to possess, consume or permit the consumption of beer on the premises of a licensee during those hours.

B. Except as otherwise allowed by the Alcoholic Beverage Control Act, liquor may not be sold or offered for sale on the premises of any licensee during the following days or hours:

1. on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed;
2. on the day of any municipal, special district, or school election, but only within the boundaries of the municipality, special district, or school district; and
3. on any other day after 12 midnight and before 12 noon.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-3-3; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-5. Inspection of premises; duty to furnish samples.

All premises licensed pursuant to this Chapter or the Alcoholic Beverage Control Act shall be subject to inspection by any law enforcement agency or by any designated agent of the City as well as by the Utah County or Utah State Board of Health. Every licensee shall, at the request of the Board of Health, furnish to it samples of beer which the licensee holds for sale.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-3-4; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-6. Illumination in tavern.

Licensed premises of taverns shall be kept brightly illuminated at all times while occupied or open for business.(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-3-5; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-7. Dancing.

It shall be unlawful to permit any dancing within any establishment licensed by the State or the City for on-premises consumption between 1:00 a.m. and 7:00 a.m. except that dancing may be permitted until 2:00 a.m. on New Year's Day. The dance area of a such an establishment must be separated from the seating area by an aisle of at least three feet (3').

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Amended, 11/13/90; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-8. Prohibited Conduct.

It shall be unlawful to commit or to allow any of the following acts or conduct on any premises licensed

pursuant to this Chapter or the Alcoholic Beverage Control Act:

A. To expose to the view of any other person any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.

B. To encourage or permit any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.

C. To permit any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these.

D. To allow any person to perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law.

E. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

F. To show films, still pictures, electronic reproductions, or other visual reproductions depicting acts which are prohibited by subsections A through E of this section.

G. To permit any person to remain in or upon a licensed premises who commits any of the acts which are prohibited by subsections A through F of this section.

(Ord. No. 677, Enacted, 11/13/90; Ord. No. O-99-0015, Amended, 03/23/1999)

3-3-9. Screening prohibited in on-premises licensees.

It shall be unlawful to arrange or maintain any booth, blind or stall on the premises of any licensee in which the on-premises consumption of any alcoholic beverages is allowed, unless all tables, chairs and occupants therein are kept open to full view from the main floor at the entrance to the licensed premises. This provision shall not prevent the use and operation of private dining or conference rooms as part of the licensed premises.

(Ord. No. O-99-0015, Enacted, 03/23/1999)

3-3-10. Minors on premises.

A. It shall be unlawful for any minor to enter, to be in, to loiter about, or to frequent the premises of a tavern or private club.

B. Minors may not be employed by or be on the premises of a Class B, Class C, Class D or Class E licensee to sell, dispense, or handle any alcoholic beverage. A minor may not sell beer on the premises of a Class A licensee except under the supervision of a person 21 years of age or older who is on the premises. There is no age restriction for persons allowed on the

premises of a Class A licensee. No person under the age of 18 years may sell beer to any other person.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-4-2; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-3-9)

3-3-11. Taking minors into premises.

It shall be unlawful for any person having charge of the custody of any minor to take the minor into, or to suffer the minor to enter, be in, loiter about or frequent the premises of a tavern or private club except when the person is in the performance of law enforcement duties as directed by the Department of Public Safety.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-4-3; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-3-10)

3-3-12. Permitting minors on premises.

It shall be unlawful for any licensee, or any employee or agent of a licensee, to suffer or allow any person under the age of twenty-one (21) years to enter, be in, loiter about, be employed by, or to frequent a tavern or a private club.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-4-4; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-3-11)

3-3-13. Misrepresenting age.

It shall be unlawful for any person to misrepresent his age for the purpose of gaining admission to a tavern or private club.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Ren&Amd, 11/13/90, 3-4-5; Ord. No. O-99-0015, Ren&Amd, 03/23/1999, 3-3-12)

3-3-14. Unlawful to bring alcoholic beverages onto premises or property of licensee.

Except as otherwise allowed by State law, it shall be unlawful for any person to bring any alcoholic beverage onto the premises of any licensee for on-premises consumption. It shall also be unlawful for any person to bring onto or to consume any alcoholic beverage on the parking lot of any licensed premises or any other property owned or leased by the licensee which is appurtenant to the licensed premises. However, the possession of alcoholic beverages on the parking lot or other appurtenant property of the licensee is allowed to the extent such possession is incidental to the purchase of alcoholic beverages from the licensed premises for off-premises consumption and the transport of such alcoholic beverages off of the licensed premises.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Renumbered, 11/13/90, 3-5-2; Ord. No. O-99-0015, Rep&ReEn, 03/23/1999)

3-3-15. Notice required for malt beverages.

If malt beverage coolers or malt liquor is sold by a beer retailer for off-premises consumption, the beer

retailer shall display a sign at the location on the premises where malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the label." A violation of this section is an infraction.
(Ord. No. O-99-0015, Enacted, 03/23/1999)

3-3-16. Restrictions on who may purchase alcoholic beverages.

It shall be unlawful to sell, deliver, or furnish any alcoholic beverage to any:
A. Minor;
B. Person actually, apparently or obviously drunk;
C. Known habitual drunkard; or
D. Known interdicted person.
(Ord. No. O-99-0015, Enacted, 03/23/1999)

3-3-17. No consumption of alcohol by employee of licensee while on duty.

An employee of a licensee, while on duty, may not consume an alcoholic beverage or be under the influence of any alcoholic beverage.
(Ord. No. O-99-0015, Enacted, 03/23/1999)

3-3-18. Display.

Each licensee under this Chapter shall display in a prominent place on the premises of the licensee the following:
A. The license that is issued by the City and the State of Utah, if applicable; and
B. A sign in large letters stating: "Warning: The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."
(Ord. No. O-99-0015, Enacted, 03/23/1999)

Article 3-4. Regulations with Respect to Minors - Repealed

- 3-4-1. Notice to be displayed - Repealed.**
- 3-4-2. Selling to minors - Repealed.**
- 3-4-3. Possession by minor - Repealed.**

3-4-1. Notice to be displayed - Repealed.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-4-2. Selling to minors - Repealed.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-4-3. Possession by minor - Repealed.
(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

Article 3-5. Sale and Consumption of Beer - Repealed

3-5-1. Removal of beer from premises - Repealed.

3-5-2. Reserved - Repealed.

3-5-3. Requirements for employees of Class B or C establishments - Repeal.

3-5-4. Sale to intoxicated person prohibited - Repealed.

3-5-5. State wholesale license required - Repealed.

3-5-6. Beer for resale - Repealed.

3-5-1. Removal of beer from premises - Repealed.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-5-2. Reserved - Repealed.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-5-3. Requirements for employees of Class B or C establishments - Repeal.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-5-4. Sale to intoxicated person prohibited - Repealed.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-5-5. State wholesale license required - Repealed.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)

3-5-6. Beer for resale - Repealed.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 677, Repealed, 11/13/90)