

TITLE 5

BUSINESS LICENSING

Chapter 2 ALCOHOLIC BEVERAGE REGULATIONS

5-2-1. Definitions.

- a. Alcoholic beverage means and includes "beer", "liquor", and "wine" as they are defined herein.
- b. Application means a formal written request for the issuance of a permit or license.
- c. Beer, "light beer", "malt liquor" or "malted beverage" means all products which contain 63/100 of 1% of alcohol by volume or 1/2 or 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.
- d. Beer Garden, a temporary designated area for the sale and consumption of alcohol.
- e. Entertainer means all dancers, impersonators, and all persons performing any entertainment, whether paid or unpaid, for patrons of premises licensed under this chapter.
- f. Licensed premises means any room, house, building, structure or place occupied by any person licensed to sell beer or licensed to allow the consumption of liquor on such premises under this title. Multiple beer or liquor dispensing facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises, provided that each dispensing point must be designated and the appropriate fee paid and the license prominently displayed at each dispensing point.
- g. Liquor means alcohol, or any alcoholic, spirits, vinous, fermented, malt or other liquid or combination of liquids, a part of which is spirits, vinous, or fermented, and all other drinks or drinkable liquids, which contain more than 1/2 of 1% of alcohol by volume which is suitable to use for beverage purposes; except that the term liquor shall not include any beverage defined as beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.
- h. Minor means any person under the age of 21 years.

- i. Nuisance means any room, house, building, structure, place or licensed premises, where:
- (1) Alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used contrary to the laws of the State of Utah or this chapter, or where persons resort for drinking alcoholic beverages contrary to the laws of the State of Utah or this chapter; or
 - (2) Any persons are allowed to perform or simulate sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation or any sexual acts prohibited by law; or
 - (3) Any persons are allowed to simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia; or
 - (4) Any persons are allowed to actually display or simulate the display of pubic hair, buttocks, vulva, anus, genitalia or female breasts below a point immediately above the top of the areola; or
 - (5) Minors are permitted to purchase or drink alcoholic beverages; or
 - (6) Laws or ordinances are violated by licensee or his agents or patrons upon such premises or upon leaving such premises which tend to affect the public health, peace, morals, welfare, comfort or safety.
- j. Package agency means a retail liquor location operated under a contractual agreement with the State of Utah Department of Alcoholic Beverage Control, by a person other than the state, who is authorized by the Utah Alcoholic Beverage Control Commission to sell package liquor for consumption off the premises of the agency.
- k. 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 in number, unless the intent to give a more limited meaning is disclosed by the context.
- l. Place of business shall 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 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.
- m. Private Club means any nonprofit corporation operating as a social club, recreational, fraternal, athletic or kindred association organized primarily for the benefit of its stockholders or members.
- n. Public place means and refers to any of the following which are open to and generally used by the public: streets, roads and alleys of incorporated cities and towns; state or county highways or roads; buildings and grounds used for school purposes, and public dance halls and adjacent grounds; any place of public resort or amusement; lobbies, halls, and dining rooms of hotels, restaurants, theaters, stores, garages, and service stations; any public conveyance and its depots and waiting rooms which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks or playground; and all other places which under this title have been declared to be a public place.

- o. Residence means and includes any building or part of a building where a person resides, but shall not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel other than a private guest room, nor a club or any part thereof, nor any place from which there is access to a club or hotel through a street or lane or other open and unobstructed means of access, nor any portion of a building used in part for business purposes unless such portion is separated from the part used for business purposes by a wall or walls having no doors or other means of access opening into such part used for business purposes.
- p. Restaurant means a place of business where a variety of foods are prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and whose primary purpose is the service of meals to the public.
- q. Retailer means any person engaged in the sale or distribution of alcoholic beverages to the consumer.
- r. Sell, Sales and To Sell means 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 title or the rules adopted by Sandy City or the State Alcoholic Beverage Control Commission.
- s. State Store means a facility for the sale of package liquor located on premises owned or leased by the State of Utah and operated by state employees. This term shall not apply to restaurants, private clubs, or package agencies.
- t. Wine means an alcoholic product obtained by the fermentation of the natural sugar content of fruit, plants, honey, milk, or other like substance, whether or not another ingredient is added.

5-2-2. License Required.

- a. It shall be unlawful for any person to engage in the business of the retail sale of beer within the City without first procuring a license therefore as provided in this Chapter. A separate license shall be required for each place of sale.
- b. It shall be unlawful for any person to operate any association, establishment, restaurant, club or similar business which allows customers, members, guests, visitors or other persons to possess or consume alcoholic beverages on the premises without first procuring a license therefore as provided in this Chapter.

5-2-3. License Classification.

- a. Class A License. A Class A license shall entitle the licensee to sell beer in original containers for consumption off the premises in accordance with the Liquor Control Act of Utah and these revised City Ordinances.

- b. Class B License. A Class B license shall entitle the licensee to sell beer for consumption on the premises in conjunction with a meal.
- (1) Only bona fide restaurants, as defined in this chapter, shall be allowed to obtain Class B licenses.
 - (2) Sales of beer shall not be more than 40% of the gross dollar volume of business for any month or months.
 - (3) All holders of Class B licenses shall maintain records which shall disclose the gross sales of beer and the gross sales of food served for consumption on the licensed premises during each and every month of the year. The foregoing sales shall be shown separately in said records and each licensee shall retain all invoices, vouchers, sales slips, receipts, and other records of purchases of beer and food from its suppliers. Such records and supporting data shall be available for inspection and audit at any time following the end of each month and for eighteen months thereafter.
- c. Class C (Tavern) License. A Class C license shall entitle the licensee to sell beer on draft for consumption on the premises or in original containers for consumption on or off the premises and to all the privileges granted to Class B licensees.
- d. Class D License. A Class D license shall entitle the licensee to sell beer at publicly or privately owned lodging facility, authorized recreation facility, social or reception center for consumption on the premises with or without food. Authorized recreation facilities are limited to bowling alleys, golf courses, stadiums, exposition facilities or arenas. The authorized recreation facility or lodging facility may be operated by the holder of the Class D License or by another person, firm or corporation who has contracted with the licensee as a concessionaire in order to provide refreshments to the patrons of the facility.
- Under a Class D license, beer may be sold in the original non-glass containers, or may be transferred into suitable temporary non-glass containers. All sales and deliveries under this license shall be made directly to the ultimate consumer. No beer shall be permitted or consumed except that which is purchased on the premises. Alcohol sales shall clearly be a secondary or incidental uses on the premises constituting no more than 40% of the gross sales. The consumption of the alcoholic beverages shall be restricted to the patrons of the facility and must be integrated with the primary activity areas of the authorized recreation facility. Beer gardens or separated lounge areas may be permitted with an authorized recreation facility, provided the following additional standards are met:
- A licensed authorized recreation facility with a current Class D license may be permitted two (2) beer garden events per calendar year. A written application must be submitted to the city prior to the event.
- (1) The specific location of the beer garden on the facility's premises must be identified as part of the Class D license. This shall include areas where persons under 21 years of age may not be permitted. Location of the beer garden must be approved by the City.

- (2) All applicable Utah State Division of Alcohol and Beverage Control requirements and approvals pertaining to beer gardens must be complied with.
- (3) Only verified patrons attending the event at the authorized recreational facility may have access to the beer garden area.
- (4) The area must be completely separated with a minimum 4 foot secured fence from other areas accessible to the public.
- (5) Signs promoting the beer garden event are not permitted outside the beer garden location.
- (6) Hours of sales of beer in the beer garden area allowed 2 hours prior to the gates opening for the specific event and sales of beer must end once the event begins.
- (7) A full security plan, including but not limited to; process and procedures for patron and age verification, security of the beer garden site, monitoring of alcohol intake and eviction of people creating a nuisance must be submitted, reviewed and approved by the Sandy City Police Chief or designee prior to the opening of the beer garden.

e. Class E License. A class E license shall entitle the licensee to sell beer in original non-glass containers or transferred to non-glass containers for consumption on the premises.

- (1) A Class E license shall be issued for a specific period of time but in no case shall it be valid for more than 30 consecutive days.
- (2) All holders of Class E licenses must provide controlled access to the facility or location and provide the plans for such access to the Police Department at the time of application.
- (3) All holders of Class E licenses must provide licensed security personnel for the facility or location and provide the names of such personnel or security agency to the Police Department at the time of application.
- (4) All materials and refuse accompanying the facility or location must be removed within 7 days after the expiration of the license unless such time period is extended by the Community Development Director based upon good cause. Each person seeking a Class E License shall submit to the Sandy City Business Licensing Division a cash deposit, certificate of deposit or surety bond made payable to the City in the amount of \$1,000.00 to assure compliance with the provisions of this section, including but not limited to the removal of all materials and the cleaning of the site. In the event the licensee does not comply or remove the materials or clean the site, the City may do so, or cause the same to be done by other persons, and the reasonable cost plus an administrative fee shall be charged against the licensee and his deposit or surety bond.

f. Consumption License. A Consumption license shall entitle the licensee to permit or allow persons to consume or possess alcoholic beverages on which the seal has been broken. A Consumption license may be issued only in conjunction with a Class B, C, D or E license issued under this chapter or a license issued by the State Liquor Control Commission and when deemed appropriate in the best interest of the public by the licensing authority. A temporary consumption license, when issued in conjunction with a Class E beer license, will only be permitted as follows:

- (1) In the case of religious celebrations or festivals on church grounds or property, such consumption must be in conjunction with a meal.
- (2) In the case of a Temporary Performance such consumption:
 - (a) shall be clearly secondary or incidental to non-alcohol uses and activities being licensed on the premises; and
 - (b) shall constitute no more than thirty-percent (30%) of the gross sales of the primary uses and activities licensed on the premises. The consumption of alcoholic beverages shall be restricted to the patrons of the Temporary Performance and must be integrated with the primary activity areas of the authorized use premises. The issuance of a Consumption license in conjunction with a Class B, D or E License shall be considered the "Written consent of the local authority" as required by State law.
- g. Private Club License. A Private Club License shall be deemed to be the license provided for in Chapter 10, Title 11, U.C.A. 1953, as amended, which entitles the Private Club to hold, store, possess or consume alcoholic beverages; subject to applicable provisions of the Utah Liquor Control Act. This license shall be considered the "Written consent of the local authority" as required by State law.
- h. Entertainment License. An entertainment license shall entitle the licensee to perform on premises licensed under this chapter either gratuitously or for compensation subject to the requirements stated hereinafter.
- i. Agency License. An agency license shall entitle the licensee to furnish, book or otherwise engage the services of an entertainer for compensation in or for any establishment required to be licensed under this chapter whether such performer is to be compensated by wages, salary, fees or other compensation; provided however, a person, firm or corporation who employs an entertainer required to be licensed under this chapter solely for the entertainment of its patrons shall not be deemed an agency requiring the purchase of an agency license.

5-2-3A. License Restrictions.

- a. The following requirements shall apply to licensing of alcoholic beverage sales:
 - (1) of those licenses classified under Section 5-2-3 of this Chapter, only Class A, B, D licenses shall be actually issued by the City. except that Class E licenses may be issued where requested for religious services, celebrations on church grounds or property, and for a Temporary Performance; and
 - (2) Class B licenses shall only be issued to finer restaurants.
- b. For purposes of Subsection (a)(2) of this section, "finer restaurant" means a restaurant as defined in Section 5-2-1(o) of this chapter where
 - (1) food and beverages are served (a) in a ready-to-consume state (b) on demand from a menu; (c) primarily in and on reusable containers and dinnerware; (d) to the public who are seated primarily at tables within the restaurant or restaurant patio area;
 - (2) most meals are made to order and alcoholic beverages, if any, are served in conjunction with a meal for consumption within the restaurant or restaurant patio area;

- (3) 25 percent or more of the floor area of the restaurant is devoted to food preparation in a full-service kitchen; and
- (4) revenues from the sale of food and drink not including alcoholic beverages equal at least 70 percent of the gross revenue from restaurant sales.
- c. All holders of Class B licenses issued to finer restaurants under this section, shall maintain records in compliance with Section 5-2-3(b)(3) of this chapter.
- d. In no case shall a Class B or D license and a Class A license be issued for the same premises.

5-2-4. Application for License.

All applications for licenses, for renewal or reassurance of licenses authorized by this chapter shall be filed and verified with the Business License Officer and shall contain the following information:

- a. The name, current address and telephone number of the applicant.
- b. The age and date of birth of the applicant.
- c. The social security number of the applicant.
- d. The state sales tax ID number of the applicant.
- e. The citizenship and/or place of permanent residency of the applicant.
- f. All addresses of the applicant for the previous five (5) years.
- g. All names, addresses and the names of the licensing authorities of all businesses previously owned or operated by the applicant.
- h. The type of license desired.
- i. The location of the premises to be licensed.
- j. A statement verifying that the applicant meets all the requirements of the Utah Liquor Control Act.
- k. A statement verifying that the applicant is of good moral character.
- l. Certificate(s) granted by the Utah Department of Alcoholic Beverage Control, or by adequate proof of the existence of such certificate(s), that each employee of the business engaging in the serving, selling or furnishing of alcoholic beverages for consumption on the premises has completed the Alcohol Training and Education Seminar, as required in Section 32A-17-3(1) U.C.A. 1953, as amended.
- m. A sworn statement signed by the applicant that all the facts included in the application are true.
- n. Any other information that the City may require.

If the applicant is a firm, partnership, association, group, corporation or a person with any other business interest in receiving an Alcoholic Beverage License, the above information shall be provided with respect to each partner, association member or corporate officer and director, the application need only be signed by a single partner, member, corporate officer or person who is indicated as an applicant on the application.

If the business is to be operated by a person other than the applicant, said operator must join in the application and file the same information required of an applicant. It shall be grounds for revocation of the license for any business required to be licensed by this chapter, to be operated by any person who has not filed his operators information at the time of renewal of the license, or, if operation is assumed during the license period, at least ten (10) days prior to assuming operation of the business.

The application and operators information must be subscribed by the applicant and operator who shall state under oath that the information contained therein is true.

The Business License Officer shall submit copies to the Planning Division, Building Inspection Division, Fire Department, Health Department and Police Department each or any of which may require additional information to assure compliance with relevant ordinances and laws. Only after receiving signed, written approval from each of the entities named in this Section, the Business License Officer shall be authorized to prepare a certificate of license for the Mayor's signature. The certificate of license shall contain the following information:

- (1) The person's name to whom the certificate is issued;
- (2) The type of license issued;
- (3) The expiration date of the license;
- (4) The place of business licensed.

All applicants who are beginning a new business shall also comply with all applicable general business licensing requirements.

5-2-5. Qualifications of Licenses.

No Class A, B, C, D, or E License, Consumption License or Private Club License shall be granted unless the applicant is age 21 or over, of good moral character, and, except in the case of a Class E License, the applicant shall also be a citizen of the United States or a permanent resident of the United States (Alien registration card required).

If the applicant is a firm, partnership, association, group, corporation or any other business entity, each partner, association member, corporate officer and director or other person having ownership interest in the business that is applying for an Alcohol Beverage license shall meet all of the foregoing restrictions as if such individuals were the applicant.

The operator or person having management responsibility shall also meet all of the foregoing restrictions.

5-2-6. Fees.

The amount of the fees required to obtain the licenses and identification cards set forth in this chapter shall be established by resolution of the City Council.

5-2-7. Bonds.

- a. Every applicant for a license under this chapter shall post a cash or surety bond in the amount of two thousand dollars (\$2,000.00), which is to remain in effect during the entire license period. The bond is in addition to all other licensing fees or bonds. It shall be forfeited in the event of a violation by the licensee or an employee of the licensee related to the operation of the business for which the licensee has obtained said license or for a violation of any laws or ordinances relating to alcoholic beverages (except selling beer to a minor); controlled substances; gambling; committing or maintaining a nuisance; keeping a disorderly house or if the license is revoked. After said forfeiture, prior to the licensee reopening the business, the licensee shall again post a cash or surety bond in the amount of \$2,000.00 which is subject to the same terms as specified herein.
- b. If any licensee hereunder or any employee of a licensee commits a violation of any ordinance or law concerning selling beer to a minor or comparable charge, the licensee, within ten (10) days of receipt of written notice from the City of said disposition shall post a cash bond of \$150.00 with the City. This bond shall be forfeited to the City upon any subsequent violation by the licensee or an employee of the licensee for selling beer to a minor or comparable charge. Following the forfeiture of the \$150.00 bond, the licensee shall, within ten (10) days of receipt of written notice from the City, again post a cash bond of \$300.00 which amount shall be forfeited if the licensee or an employee of the licensee shall commit a violation of any ordinance or law concerning selling beer to a minor or comparable charge and the beer, consumption and private club license may be suspended for a period of ten to thirty days. Following the forfeiture of the \$300.00 bond, the licensee shall, within ten (10) days of receipt of written notice from the City, again post a cash bond of \$500.00 which amount shall be forfeited if the licensee or an employee of the licensee shall thereafter commit a violation of any ordinance or law concerning selling beer to a minor or comparable charge and the license may be suspended or revoked. These bonds shall be in addition to all other fees and bonds required by the City.
- c. If a licensee is required to post the afore- described bond and if neither the licensee nor any employee of the licensee illegally sells beer to a minor within two years following the posting of said bond, the bond shall be returned to the licensee by the City.
- d. Failure of the licensee to post the bond required by this section shall be grounds for the suspension or revocation of the licensee's license.
- e. The forfeiture of three bonds posted pursuant to this section shall be grounds for revocation of the license.
- f. All monies received by the City from the forfeitures of bonds shall be deposited in an account to be used for alcoholic beverage enforcement purposes.

5-2-8. Renewal and Transfer of License.

- a. Every license granted to an establishment pursuant to the terms of this ordinance shall be renewed after its expiration only if the applicant can affirmatively show that the qualifications and standards as previously set forth and upon which the original license was granted shall have been and shall be complied with continually.
- b. No license granted under the provisions of this chapter shall be transferable to any other person or location.

5-2-9. Issuance or Denial of License.

A granting of a license under the provisions of this ordinance shall not be considered or deemed a right and, if granted, shall inure to the benefit of the licensee only as a privilege temporarily granted. The City reserves the right to deny any application for a license described herein. If, on an application for a license, the Business License Officer finds that any applicant does not meet the requirements of or is disqualified under any section of this Chapter, or if he finds that the application is deficient in any way or any of the facts provided thereon are false or in question, he shall deny the application.

The applicant may appeal the said denial to the Mayor who may appoint an administrative hearing officer to hear such appeal. The applicant must file a written appeal with the Mayor within ten (10) days of the decision by the Business License Officer, and must pay an appeal fee as established by resolution of the City Council.

5-2-10. Suspension and Revocation of License.

- a. Basis. Licenses may be suspended or revoked by the Mayor for any of the following reasons:
 1. Violation on the licensed premises of any provision of this chapter; or
 2. Violation of any other ordinance or law related to alcoholic beverages; or
 3. The licensee does not now possess the qualifications required by this title and the statutes of the State of Utah; or
 4. False or incomplete information given on an application; or
 5. The licensee has obtained or aided another person in obtaining a license by fraud or deceit; or
 6. The licensee has failed to pay property taxes, utility tax or sales tax; or
 7. Violation by the licensee or any of his employees of any city ordinance or state or federal statute, except minor traffic offenses, while on the premises or relating to the business; or
 8. Failure to pay the license fee or post bonds when due; or

9. Violation of city ordinance or federal or state statute relating to the business, alcoholic beverage, consumption, entertainment or agency licenses and resulting from the conduct of such business or activity; or
 10. Any conduct or act of the licensee or his employees or any act committed by him or them on the premises or any act by his patrons where such business is conducted tending to render such business or such premises where the same is conducted a nuisance, a public nuisance or a menace to the health, peace or general welfare of the city or its inhabitants; or
 11. The licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representative while in the performance of his duty in making such inspection; or
 12. The licensee is not complying with a requirement or condition set by the Planning Commission or Community Development Department, if applicable, under a conditional use permit or site plan review approval; by the Board of Adjustment or Community Development Department, if applicable, granting a variance or special exception; by the City Council; or by agreement; or
 13. Any other reason expressly provided for in this Chapter.
- b. The licensee shall be responsible for the operation of the business in conformity with the ordinances of the City and the laws of the State and it shall be grounds for revocation of the license if a violation of said ordinance or law occurs through an act of a licensee, operator, employee, agent, or person who is allowed to perform for patrons of the business, whether or not said person is paid by the licensee for said performance, or any person who violates said ordinances or laws with the consent or knowledge of licensee or his agents or employees or operator of the business.
- c. Recommendation. The City shall cause written notice to be given to the licensee of the recommendation to suspend or revoke a license, the reason for such recommendation and the licensee's right to have a hearing concerning the City's recommendation. Written notice shall be given by personal service or by registered mail or by mail, postage prepaid, to the address given by the licensee on his most recent application or renewal of his license.
- d. Hearing.
1. A hearing must be requested by the licensee by filing a written notice of the request for hearing with the Mayor's Office within 15 days of receipt of the notice of the recommendation for suspension or revocation.
 2. The hearing shall be before the Mayor, or an administrative hearing officer designated by him, and shall be at a time, place and day set by the Mayor, but not later than 15 working days after receipt of the request for hearing.
 3. At the hearing the City shall present the reasons/evidence for the recommendation to suspend or revoke the license.
 4. The licensee, in person or through his or her attorney, may then present any evidence showing reason why the City's recommendation is in error.

5. All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.
6. Any oral or documentary evidence may be received, but the Mayor or his designee may exclude all privileged, irrelevant, immaterial or unduly repetitious evidence.
7. If the recommendation for suspension or revocation was based on a finding by the Planning Division, Building Inspection Division, Fire Department, Health Department or Police Department that the business was or would be in violation of their applicable ordinances or regulations, then this determination shall be conclusive on the Mayor and his decision may be based only on whether the City acted properly in recommending suspension or revocation of the license because of the said department's determination.
8. The Mayor, after hearing and considering all the evidence, shall suspend, revoke, affirm or affirm with conditions the license. The decision shall be made within 10 days after the hearing.
9. The decision of the Mayor may be appealed by the licensee to the District Court within 30 days from when the written decision is made.

5-2-11. Application after Suspension or Revocation.

- a. A suspension shall be for a period not exceeding twelve months. After expiration of the suspension period, the license may be reinstated, if the licensee otherwise complies with all licensing requirements. If the license would have otherwise expired during the period of the suspension, the licensee will not be entitled to apply for a renewal license until after the period of suspension has expired and will be required to pay the full license fee.
- b. A revocation shall be for a period of no less than twelve months. Upon revocation of the license, the licensee shall forfeit to the City the following:
 1. The remaining license fee paid; and
 2. The \$2,000.00 bond posted to insure compliance with the law; and
 3. Any bond posted as a result of sale of beer to a minor.A licensee shall not be entitled to reapply for a new license during the period of revocation.
- c. If the licensed business is sold to a new party, not previously associated with the licensee under suspension or revocation, the new owner of the business may apply for and may be granted a license under the same review process as set forth above, including complying with all licensing and zoning requirements, notwithstanding the current revoked or suspended status of the former licensee.

5-2-12. Requirements for Class C Licenses.

All licensing approvals and renewals of Class C licenses are subject to the review and approval by the City Council.

5-2-13.

Requirements for Employees and Entertainers.

a. Identification Cards. From and after January 1, 1989 all employees who handle, dispense or serve alcoholic beverages, all bouncers, doormen or other security-type employees and all entertainers, except members of a band, in Class C or Private Club licensed premises, before engaging in the duties of their employment in or on the licensed premises, shall register with the City Police Department upon a form to be provided by the department. They shall submit to finger printing and photographing by the Department. The Police Department shall provide each such person an identification card within a reasonable time after receipt of an application, unless it finds one or more of the following:

1. The applicant is under 21 years of age.
2. The applicant is overdue in payment to the City of any taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to alcoholic beverages, alcoholic beverage establishments or employees and entertainers therein.
3. The applicant has failed to provide information reasonably necessary for investigation and issuance of the license or has falsely answered a material question or request for information as authorized by this ordinance.
4. The applicant has been convicted of a violation of a provision of this Title within two years immediately preceding the application; however, the fact that a conviction is being appealed shall have no effect on the denial.
5. The premises in which the applicant is to be employed does not have a current valid business and alcoholic beverage establishment license.
6. The fees established herein have not been paid.
7. The applicant is in violation of or not in compliance with this ordinance.
8. The applicant has been convicted of or entered a plea of nolo contendere for any felony involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor or any violent felony or has completed serving a sentence for such felony (whichever is most recent) within five years or a misdemeanor involving controlled substances, alcohol, sex crimes or contributing to the delinquency of a minor within three years.

Said identification card must be carried on the person of such employee at all times while working in the licensed premises. A person registered under this Section, upon changing employment shall notify the City Police Department in writing of that fact.

Any person whose application is denied may appeal to the Chief of Police, in writing, within fifteen days from the date of denial, revocation or suspension. If after review, the Chief of Police also denies the card or upholds the suspension or

revocation, the applicant may then appeal to the Mayor in the manner set forth in Section 5-2-9.

The Mayor may revoke or suspend a registration card for a violation of any of the provisions of this ordinance including the failure to continually comply with provisions 1 through 8 above in the manner set forth in Section 5-2-10.

Unless revoked or suspended, each identification card issued pursuant hereto shall remain valid for a period of two years. Identification cards must be renewed by the applicant after the expiration of two years from the date of issuance by following the same procedure as established herein.

- b. Training. Every employee of a Class B, C, D, E, Consumption or Private Club licensee engaging in the serving, selling or furnishing of alcoholic beverages for consumption on the premises must complete the Alcohol Training and Education Seminar, as required by State law.
- c. Age.
 - (1) In a Class A and B licensed premises, all employees handling, selling or otherwise engaging in the retail sale of beer must be at least eighteen (18) years of age unless otherwise regulated by law.
 - (2) In Class C, D, E, Consumption or Private Club licensed premises, all employees, handling, selling or otherwise engaging in the retail sale of beer must be at least twenty-one (21) years of age.
- d. Licensee Responsibility. It is the duty of the holder of a Class C, D or E license, Consumption license, or Private Club license to verify that any such person employed or entertaining on their premises is in compliance with these requirements. Any holder of a Class C, D or E license, Consumption license or Private Club License that permits a violation of this section personally or through the holder's agents, employees, officers or assigns shall be subject to suspension or revocation of his license.

5-2-14. Illegal Sale, Manufacturing, Storage, Etc. of Alcoholic Beverages.

It shall be unlawful for any person, except as provided by this chapter or state statute, to knowingly have in his possession any alcoholic beverage, or to manufacture, sell, offer, import, carry, transport, advertise, distribute, give away, dispense or serve any alcoholic beverage.

5-2-15. Possession of Liquor.

It shall be unlawful, except as provided by this chapter or state statute for any person to have or keep for sale or possess any liquor which has not been purchased from a State Liquor Store or package agency.

5-2-16. Taking Liquor Unlawfully.

It shall be unlawful, except as provided by city ordinance or state statute for any person within the City, by himself, his clerk, employee, or agent to attempt to purchase, directly or indirectly or upon any pretense or upon any device, to purchase or in consideration of the sale or transfer of any property, to take or accept any alcoholic beverage from any other person.

5-2-17. Adulterated Alcoholic Beverage.

It shall be unlawful for any person, for any purpose whatever, to mix or permit or cause to be mixed with any alcohol beverage offered for sale, sold or supplied by him as a beverage, any controlled substance or any form of methyllic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid.

5-2-18. Sale of Alcoholic Beverage to Intoxicated Person.

It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit any alcoholic beverage to be sold or supplied to any person under, or apparently under, the influence of an alcoholic beverage.

5-2-19. Supplying Alcoholic Beverages to Minors.

It shall be unlawful for alcoholic beverages to be given, sold or otherwise supplied to any minor, but this shall not apply to the supplying of any liquor to such person for medicinal purposes by the parent or guardian of such person or to the administering of liquor to such person by a physician in accordance with state statute.

5-2-20. Permitting Drunkenness.

It shall be unlawful for any person to:

- a. permit drunkenness to take place in any herein licensed premises, of which he is the owner, licensee or employee; or
- b. permit or suffer any person apparently under the influence of an alcoholic beverage to consume any alcoholic beverage in any herein licensed premises, of which the first named person is owner, licensee or employee; or
- c. give, permit or suffer to be given any alcoholic beverage to any person apparently under the influence of an alcoholic beverage.

5-2-21. Canvassing and Soliciting Prohibited.

It shall be unlawful for any person to canvass or solicit orders for alcoholic beverages by mail, telephone, or any other manner and said person is hereby prohibited from engaging in said activities except to the extent that such prohibition may be in conflict with the laws of the United States or the State of Utah.

5-2-22. Unlawful Importation and Transportation.

It shall be unlawful for any person to order or purchase or to ship or transport or cause to be transported into Sandy City or from one place to another within Sandy City any alcoholic beverages or to sell or furnish any alcoholic beverage to any person within Sandy City when such alcoholic beverage is intended by any person interested therein to be received, possessed, sold or in any manner used in violation of the law.

5-2-23. Aiding or Abetting.

It shall be unlawful for any person to aid, abet, counsel or procure any unlawful sale, unlawful purchase, unlawful gift or other unlawful disposition of alcoholic beverages, or to act as agent or representative of the seller in procuring or effecting unlawful sale or purchase of any alcoholic beverages. Nothing in this chapter shall be construed as prohibiting any person from purchasing alcoholic beverages contrary to the provisions of this act when acting as the agent of the authorities charged with the enforcement of this act in the detection and conviction of violators.

5-2-24. Hours for Sale of Alcoholic Beverages.

It shall be unlawful for any licensee, operator or employee of a Class B, C or D Beer licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 10:00 a.m.

It shall be unlawful for any licensee, operator or employee of a Class A Beer licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 7:00 a.m.

It shall be unlawful for any licensee, operator or employee of "Class B with Liquor Consumption" licensed premise to sell or offer for sale liquor, to any customer, guest or any other person on premises licensed under this chapter between the hours of 12:00 midnight and 12:00 noon. It shall be unlawful for any licensee, operator or employee of "Class B with Liquor Consumption" licensed premise to sell or offer for sale beer, to any customer, guest or any other person on premises licensed under this chapter between the hours of 1:00 a.m. and 10:00 a.m.

It shall be unlawful for any Private Club License holder, operator or employee to sell or offer for sale liquor, to any customer, guest or other person between the hours of 1:00 a.m. and 10:00 a.m., except Sundays and holidays where it shall be unlawful to sell or offer for sale any liquor between the hours of 12:00 midnight and 12:00 noon the following day. It shall be unlawful for any Private Club License holder, operator or employee to sell or offer for sale beer, to any customer, guest or other person between the hours of 1:00 a.m. and 10:00 a.m.

At the discretion of any alcohol licensee, customers, guests or any other person who purchased alcohol before the restricted hours, may be permitted to consume alcohol for up to one hour after restricted sale hours.

Hours for the sale and consumption for any Class E Beer and/or liquor consumption will be determined by Mayor's Cabinet, the Business License Official and the State Alcohol Control Commission.

5-2-25. Purchase or Consumption Prohibited in Unlicensed Premises.

It shall be unlawful for any person to purchase or consume any alcoholic beverage in an unlicensed place of business.

5-2-26. Entertainment.

It shall be unlawful for:

- a. Any person to perform as an entertainer on premises licensed under the provisions of this chapter either gratuitously or for compensation without first obtaining a license therefor;
- b. Any person to furnish, book or otherwise engage the services of an entertainer for compensation in or for any establishment required to be licensed under the provisions of this chapter whether such entertainer is to be compensated by wages, salary, fees or other compensation, without having first obtained an agency license; provided, however, a person who employs an entertainer required to be licensed under this chapter solely for the entertainment of its patrons shall not be deemed an agency requiring the purchase of an agency license;
- c. Any person to furnish, book or otherwise engage or permit any person to perform as an entertainer, either gratuitously or for compensation, when such entertainer at the time of such booking, employment or performance, was not licensed under the provisions of this chapter;
- d. An entertainer to perform with or among the patrons of an establishment, or upon the tables or chairs or in any part of an establishment other than on a stage, platform, or dance floor, which is separated on all sides from the aisles, tables, chairs, booths and the patrons of said establishment by at least 3 feet;
- e. An entertainer, while performing pursuant to the provisions of this chapter:
 1. It shall be unlawful and constitute an offense of strict liability for any such dancer or entertainer or other person to enter said place of business naked or so clothed as to expose at any time of appearance the genitals, pubic area, anus or female nipple or areola.
 2. To touch in any manner any other person, to throw any object or clothing, to accept any money, drink or any other object from any other person, or to allow another person to touch said entertainer or to place any money or object on said entertainer or within the costume or person of said entertainer.
 3. To perform or simulate any of the Specified Sexual Activities as defined by the Sexually Oriented Business License ordinance §12-2-5(u) or any sexual act prohibited by law.

- f. Any person or any patron of any establishment to touch in any manner any entertainer, to place any money or object on or within the costume or person of any entertainer, or to give or offer to give to any such entertainer any drink, money or object while the entertainer is performing;
- g.
 - 1. It shall be unlawful and constitute a violation or strict liability for any owner, operator, manager, licensee, lessee, or any agent of said business licensed for the sale or consumption of an alcoholic beverage on the premises in Sandy City to allow or permit any dancer, entertainer or other person to appear in or on said place of business nude or semi-nude or so clothed as to expose in any way the genitals, pubic area, anus or female nipple or areola of said dancer, entertainer or other person.
 - 2. It shall be unlawful for any person to permit an entertainer to violate any provision of this chapter.
- h. Violation of this Section 5-2-26 shall be grounds for suspension or revocation of the license or licenses of the establishments where violations occur.

5-2-27. Advertising.

In Class B, C, D, Consumption, or Private Club licensed premises there shall be no signs or advertising visible from the exterior of the licensed premises indicating that the establishment offers alcoholic beverages for sale or consumption.

5-2-28. Persons Allowed on Premises.

In Class C, D, or Private Club licensed premises, no persons under the age of twenty-one (21) years shall be allowed in or upon that portion of the licensed premises in which alcoholic beverages are sold or consumed.

5-2-29. Inspections.

The Police Department shall be permitted to have access at all times to all premises licensed or applying for a license under this chapter, and shall make periodic inspections of said premises. Said inspections may be made with or without prior notice and in uniform or plain clothes.

5-2-30. Nuisance.

It shall be unlawful for the licensee, his employees, agents, operators, entertainers or patrons to commit, maintain, or permit to be committed or maintained, a nuisance as defined herein.

5-2-31. Responsibility for Conduct of Patrons.

It shall be the duty of any licensee under the provisions of this chapter to take such steps as may be necessary to assure that the conduct of all employees, agents, operators, entertainers and patrons conform to the provisions of the City Ordinances and state and federal laws while on the licensed premises and any failure by the licensee to do so, whether he has actual knowledge or not, shall be grounds for suspension or revocation of any license granted hereunder.

5-2-32. Enforcement.

A violation of any provision of this chapter shall be a class B Misdemeanor.