

**SANDY CITY
ORDINANCE**

_____, 2016

AN ORDINANCE AMENDING TITLE 5 OF THE SANDY CITY ORDINANCES, ENTITLED, "ALCOHOLIC BEVERAGE REGULATIONS." THIS TITLE IS BEING UPDATED TO READ MORE CLEARLY, TO REFLECT CURRENT ALCOHOL CLASSIFICATIONS IN STATE LAW, TO BRING THESE TITLES INTO COMPLIANCE WITH OTHER STATE AND FEDERAL LAWS, TO ELIMINATE ARCHAIC PROVISIONS, AND OTHER RELATED PURPOSES.

5-2-1

Definitions.

- a. Alcohol means beer, wine liquor, heavy beer and all other drinks that contain more than one-half of one percent of alcohol by volume and are suitable to use for beverage purposes.
- b. Alcohol Consumption Area means a designated area for the sale and consumption of alcoholic beverages.
- c. Application means a formal written request submitted to Sandy City, for the issuance of a Sandy City permit or a license.
- d. Beer means and includes beer, ale, porter, stout, lager, malt or malted beverages that contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight. "Beer" does not include a flavored malt beverage.
- e. Beer-only Restaurant means a place of business in connection with a bona fide restaurant wherein beer is sold for consumption on the premises in original containers in any size not to exceed two liters capacity and on draft, in conjunction with an order of food that is prepared, sold and served at the restaurant.
- f. Club, Dining means a club that has dining, and which operates under a Dining Club License issued by the Utah Department of Alcoholic Beverage Control.
- g. Club, Equity means a club that is owned by its members and run by a board of directors elected by the members, such as a country club, and which operates under an Equity Club License issued by the Utah Department of Alcoholic Beverage Control.
- h. Club, Fraternal means a mutual benefit or patriotic association that is organized under a lodge system, and which operates under a Fraternal Club License issued by the Utah Department of Alcoholic Beverage Control.
- i. Club, Social means a general purpose club, which includes a nightclub that serves liquor, in which a variety of food is available and which operates under a Social Club Liquor License issued by the Utah Department of Alcoholic Beverage Control.
- j. Flavored Malt Beverage is classified as a liquor and means a beverage that contains at least .5% alcohol by volume and which is manufactured using nontraditional processes employed to produce beer, to which is added a flavor or other ingredient.

- k. Heavy Beer means "Heavy beer" means a product that contains more than 4% alcohol by volume and greater than 3.2% by weight; and is obtained by fermentation, infusion, or decoction of malted grain. Heavy Beer is considered liquor for the purposes of this ordinance.
- l. Hotel means a building and it's uses as described in the Sandy City Land Use Development Code.
- m. Hotel License consists of a "general hotel license" which must include three or more sublicenses. One sublicense must include a restaurant or social dining club license and one sublicense must include a banquet sublicense. Multiple locations for the licensed premises operates within the hotel and are established by state statute and is defined by the Utah Department of Alcoholic Beverage Control.
- n. Licensee means any persons holding any license referenced in Title 5, Chapter 2 in connection with the operation of a place of business. This term shall also include any employee of the licensee.
- o. License Official means the Business License Administrator or a designated agent of the Business License Administrator.
- p. Licensed premises means any building, room, place, enclosure, or structure occupied by any person licensed to store, sell, serve or allow consumption of beer or liquor on such premises under this chapter; provided, that in any multi-roomed establishment, an applicant for a restaurant liquor license for on-premise storage, sale, service, or consumption of beer or liquor shall designate a portion of the building for these uses, which portion so specifically designated in the application and in the license issued pursuant thereto shall be the licensed premises.
- q. Liquor means:
 - (1) 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 one-half of one percent of alcohol by volume and are suitable to use for beverage purposes.
 - (2) Liquor does not beer.
- r. Local Consent means a written document issued by Sandy City to the Utah Department of Alcoholic Beverage Control indicating the City's approval for the Utah Department of Alcoholic Beverage Control to issue a specific type of beer or liquor license.
- s. Mayor means the Mayor of Sandy City, Utah.
- t. Minor means any person under the age of 21 years.
- u. Nuisance means a licensed premise
 - (1) Where three or more violations of Federal, State, County or City codes have occurred within the preceding twelve (12) month period.
 - (2) Where multiple, valid and verified complaints and violations have been filed by regarding excessive noise, violence, violations of hours of operation, unkempt debris and garbage, disruption of the business operations of surrounding businesses or the disruptions of the peace and full use of the property of a home owner.

- v. On-Premise Banquet and Catering License An on-premise banquet license allows the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for contracted banquet activities on the premises of a hotel, resort facility, sports center, or convention center. It also allows for room service in hotels and resorts. Alcoholic beverages may be sold on any day from 10 a.m. until 1 a.m. as defined by the Utah Department of Alcoholic Beverage Control.
- w. On-Premise Recreational Beer Retailer License means a license that is required for the sale of beer at retail for on-premise consumption for establishments that are tied to a “recreational amenity” as defined by Utah Department of Alcoholic Beverage Control.
- x. Package Agency means a retail establishment under a contractual agreement with the State of Utah Department of Alcoholic Beverage Control, or by a person other than the State, who is authorized by the Utah Alcoholic Beverage Control Commission to sell packaged alcoholic beverages for consumption off the premises of the Package Agency.
- y. Person includes and individual, firm, partnership, corporation, association, business trust or other form of business entity or enterprise, including a receiver, trustee and the plural as well as the singular in number, unless the intent give a more limited meaning is disclosed by the context.
- z. Place of Business or Establishment shall include cafes, restaurants, public dining rooms, cafeterias, taverns, performance venues and any other place where the general public is invited or admitted for business purposes, and shall be deemed to include dining, equity, fraternal or social clubs, and 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 or establishments that are herein defined.
- aa. 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, dining rooms; hotels; restaurants; theaters; stores; garages and service stations; any public conveyance and it’s depots and waiting rooms which are open to unrestricted use and access by the public; publicly owned water parks or swimming pools, parks and playgrounds; and all other places which under this chapter have been declared to be a public place.
- bb. Reception Center means a facility where a license is obtained for the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for banquet and event functions on the premises. The reception center must be at least 5000 sq. ft. and have culinary facilities on the premises or under the control of the center that are adequate to prepare full meals. Its primary purpose must be leasing its facility to a third party for the third party’s event
- cc. 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 or business purposes unless such portion is separated from the part used for business purposes a wall or walls having no doors or other means of access opening into such part used for business purposes.

- dd. Retailer means any person engaged in the sale or distribution of alcohol to the consumer.
- ee. Resort License Establishment means a resort building affiliated with a ski area that abuts the building, which building has at least 400,000 square feet, and 150 dwellings or lodging accommodations of which 50% must be owned by a person other than the resort licensee, and which operates under a Resort License issued by the Utah Department of Alcoholic Beverage Control.
- ff. Restaurant for the purposes of this chapter, shall mean a place of business where a variety of foods are prepared and served to the general public, primarily in indoor or patio dining accommodations.
- gg. Sell, Sales and to Sell means any transaction or exchange 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 of the rules adopted by Sandy City or the State Alcoholic Beverage Control Commission.
- hh. State Store means a facility for the sale of alcohol located on premises owned or leased by the State of Utah and operated by State employees. This term shall not apply to restaurants, clubs or package agencies.
- ii. Tavern means an establishment where the only alcohol sold is beer and is sold for consumption on the premises in any size of open container not exceeding two liters or on draft.
- jj. Temporary Alcohol License mean a Single Event Permit or a Temporary Beer Permit as herein described, and as defined by the Utah Department of Alcoholic Beverage Control.
- kk. Wholesaler means any person other than a brewer or retailer engaged in importation for sale or in the sale of beer in wholesale or jobbing quantities.
- ll. Wine means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, milk, or other like substances, whether or not another ingredient is added.

5-2-2 Office Created – Personnel

There is hereby created a license office within the Community Development Department which office shall be under the charge of the license official in accordance with the provisions of this chapter.

5-2-3 License Official—Powers and Duties.

The license official shall assess each licensee in accordance with the provisions of this title and the applicable statutes of Utah and shall receive all license fees required herein to be paid. The assessment shall be based upon the rates established by resolution of the Sandy City Council. The license official shall also keep and maintain a suitable index of licensees.

5-2-4 Sales at Wholesale- License Required.

It is unlawful for any person to engage in the business of selling beer at wholesale within Sandy City without first obtaining a wholesale beer license from the Utah Department of Alcoholic Beverage Control and obtaining a regulatory license therefor from Sandy City.

5-2-5 Sales at Retail License Required.

- a. It is unlawful for any person to engage in the business of the sale of alcohol at retail within Sandy City without first procuring a license. A separate license shall be required for each place of sale, or place of business, or separate establishment.
- 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 sell, possess or consume alcohol in the premises without first procuring a license therefore as provided in this Chapter.
- c. The license shall identify the specific premises covered thereby and shall at all times be conspicuously displayed in the place at which it shall refer or for which it shall be issued.
- d. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act of Utah, and the regulations of the Alcoholic Beverage Control Commission and this chapter and all other regulations pertaining to Land Use and Business License as applicable to the application submitted for a license.

5-2-6 Licenses and Permits—Classification.

Licenses, Local Consent and permits issued under the provisions of this chapter shall be classified into the following types, which shall carry the privileges and responsibilities hereinafter set forth in this chapter. Establishments that hold any of the following licenses or permits shall comply with all provisions of Utah State Code and Sandy City Code applicable to the license or permit type, including but not limited to hours of operation and limitations on minors.

<u>License/Permit</u> <u>Name</u>	<u>Sandy City License Description</u>	<u>State</u> <u>Code</u>	<u>Local</u> <u>Consent</u>
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Sandy City Alcohol Ordinance,

City Council Presentation/Update, September 2016

Off-Premise Beer Retailer License	An Off-Premise Beer Retailer license shall entitle the licensee to sell beer in original containers (not to exceed two liters) for consumption off the premises	32B-7	No
Beer-Only Restaurant License	A Beer-Only Restaurant license shall entitle the licensee to sell beer for consumption on the premises of a licensed restaurant in open containers and on draft in any size not to exceed two liters capacity, in conjunction with an order of food.	32B-5 32B-6-9	Yes
On-Premise Beer Tavern License	An On-Premise Beer Tavern License shall entitle the licensee to sell beer for consumption on the licensed premises in open containers and on draft not exceeding two liters, where the revenue from the sale of beer exceeds the revenue of the sale of food. On-Premise Beer Tavern Licenses are limited as accessory establishments or may be located within a shopping center. Minors are not permitted on the premises of a tavern.	32B-5 32B-6-7	Yes
Manufacturing License	Manufacturing licenses include brewery, distillery, and winery licenses. A brewery license is required to manufacture, brew, store, transport, or export beer and heavy beer. A distillery license is required to manufacture, store, transport, import or export liquor. A winery license is required to manufacture, store, transport, import or export wines.	32B-5 32B-11	Yes
On-Premise Recreational Beer Retailer License	An On-Premise Beer Retailer license is required for the sale of beer at retail for on-premise consumption for establishments that are tied to a “recreational amenity” as defined by the Utah Department of Alcoholic Beverage Control	32B-5 32B-6-7	Yes

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City Council Presentation/Update, September 2016

Resort License	Resort Licenses are required for the storage, sale, service, and consumption of alcoholic beverages on the premises of a resort building that has at least 150 dwelling or lodging accommodations, and the building must be at least 400,000 square feet. The resort building must be affiliated with a ski area that abuts the resort building premises.	32B-5 32B-8	Yes
Full Service Restaurant License	Restaurant Liquor licenses are required for the storage, sale, service, and consumption, of beer and liquor beverages on the premises of a restaurant that is engaged primarily in serving meals to the general public. Also known as Full Service Restaurant.	32B-5 32B-6-2	Yes
Limited Service Restaurant License	Limited Service Restaurant Liquor licenses are required for the storage, sale, service, and consumption of wine, heavy beer, and beer on the premises of a restaurant that is engaged primarily in serving meals to the general public.	32B-5 32B-6-3	Yes
Club Liquor License	A Club Liquor license is required for an equity club, a fraternal club, a dining club, or a social	32B-5 32B-6-4	Yes
On-Premise Banquet and Catering License	An On Premise Banquet and Catering License is required for the storage, sale, service, and consumption of liquor, wine, heavy beer, or beer for contracted banquet activities on the premises of a hotel, resort facility, sports center, or convention center. It also allows for room service in hotels and resorts.	32B-5 32B-6-6	Yes
Reception Center License	A Reception Center license is required for the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for banquet or event functions on the premises of a reception center which must be at least 5000 sq. ft. and have culinary facilities on the premises or under the control of the center that are adequate to prepare full meals. Its primary purpose must be leasing its facility to a third party for the third party's event.	32B-5 32B-6-8	Yes

Single Event Permits	A Single Event permit allows the licensee to sell and allows the on premise consumption of any alcohol (including beer) at a temporary event. The licenses are available to a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association or to a recognized subordinate lodge, chapter or other local unit thereof that is conducting a civic or community enterprise or convention. Multiple Single Event Permits may be obtained per calendar year and is limited to the number of events permitted by the Utah Department of Alcoholic Beverage Control.	32B-9-1 32B-9-2 32B-9-3	Yes
Temporary Beer Event Permits	Temporary Beer Event permits are required to sell beer for on-premise consumption at a temporary event. Multiple Temporary Beer Event Permits may be obtained per calendar year and is limited to the number of events permitted by the Utah Department of Alcoholic Beverage Control.	32B-9-1 32B-9-2 32B9-4	
Hotel License	Available on a limited basis from the Utah Department of Alcoholic Beverage Control consisting of a general hotel license and 3 or more sublicenses. One sublicense must be a Restaurant License and one must be an On Premise Banquet License. Hotels with more than one club must apply for separate sublicenses and may not combine multiple Clubs into one sublicense. Sublicenses include all the various restaurant licenses, taverns, club licenses and on premise beer retailer. Licenses are subject to size and location restrictions as described by the Utah Department of Alcoholic Beverage Control.		

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Single Event and Temporary Beer Event Permits.

- a. A Single Event permit and corresponding Local Consent provides that a qualifying organization may obtain a permit for the consumption of all alcoholic beverages, other than beer, and for time periods as permitted by the Utah Department of Alcoholic Beverage Control.
- b. A Temporary Beer Event permit and a corresponding Local Consent shall be valid for a period of time not to exceed thirty (30) consecutive calendar days. The sale

- of beer under a series of permits issued to the same person may not exceed 90 days in any one calendar year.
- c. Alcoholic beverages shall be sold and consumed only in a designated Alcohol Consumption Area. At the discretion of the Community Development Director, the designated Alcohol Consumption Area may incorporate the event site or may be required to be separated from the event by a barrier, approved by the Community Development Director, where minors may be prohibited. The sale and consumption of alcoholic beverages shall be restricted to the immediate proximity of the event and only in designated areas.
 - d. Single Event or Temporary Beer Event permits and corresponding Local Consent are issued only in conjunction with a community or private event, where a Sandy City Temporary Business License, and Single Event or Temporary Beer Event permit has been obtained.
 - e. A Temporary Beer Event or Single Event permit requires the licensee to sell alcoholic beverages in containers, or transferred to containers for consumption on the premises, and in containers that are visibly distinct from containers that contain non-alcoholic beverages.
 - f. All holders of a Temporary Beer Event or Single Event permit must provide controlled access to the event and consumption area. Plans for such access must be provided to the license official at the time of application.
 - g. All holders of Temporary Beer Event or Single Event permits must provide security personnel for the facility or location. The names of security personnel or security agency must be provided to the Sandy City Police Department at the time of application.
 - h. Each person seeking a Temporary Beer Event or Single Event permit shall submit to the license official a cash deposit, 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 within seven (7) days of the expiration of the Temporary Beer or Single Event permit. 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 a portion or all of the deposit in the amount of the reasonable cost plus an administrative fee shall be retained by the City. Of the cost plus the fee exceeds the deposit, Sandy City shall send an invoice to the applicant, and the applicant shall pay the invoiced amount.
 - i. A Temporary Beer Event or Single Event permit applicant shall abide by all applicable State and local laws, ordinances and regulations.
 - j. Applicants for a Temporary Beer or Special Event permit shall provide to the license official, at the time of application, the event title, location, licensing jurisdiction and dates of operation for other temporary alcohol permitted or

licensed events that have occurred in the previous three (3) events, whether the event(s) occurred in Utah or in another state.

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License Application, Contents and Applicant Qualifications.

- a. All applications for licenses, for renewal or re-issuance of licenses, requests for Local Consent and for transfer of licenses authorized by this chapter shall be verified and filed with the license official and shall include the following items:
 - (1) The name, current address and telephone number of the applicant(s).
 - (2) The age and date of birth of the applicant(s).
 - (3) The social security number of the applicant(s).
 - (4) The state sales and use tax number for the business.
 - (5) The citizenship and/or place of legal permanent residency of the applicant(s).
 - (6) All addresses of the applicant(s) for the previous five (5) years.
 - (7) All names, addresses of the licensing authorities of all businesses previously owned or operated by the applicant(s).
 - (8) The location of the premises to be licensed.
 - (9) A drawing or rendering indicating the area for alcohol sales, storage areas and consumption areas.
 - (10) A sworn statement signed by the applicant(s) that all the facts included in the application are true.
 - (11) Any other information that the city may require.
- b. If the applicant is a partnership, association, group, corporation, limited liability company, trust or other similar entity, the above information shall be provided with respect to each officer, partner, member and director having 20% or more ownership in the establishment, and must be listed on the application form as an applicant. The application must be subscribed by the applicant, who shall state under oath that the facts therein contained are true.
- c. If the licensed premises is to be operated or managed by a person other than the applicant(s), said operator and all managers must join in the application and file the same information required of an applicant.
- d. If there are any changes made in the names of the applicants and/or the operator and managers of the licensed premises, an update to the license application must be filed within 30 days of the change.
- e. No license as described in 5-2-6 shall be granted unless the applicant is of age 21 or over, not having been convicted of crime of moral turpitude, and except in the case of a Temporary Beer Event or Single Event permit, the applicant shall also be a citizen of the United States or a permanent resident of the United States (Alien or Permanent Residency registration card required).

- f. The License Official shall submit copies of the application to the Planning Division, Building and Safety Division, Fire Department, Salt Lake Valley Health Department, Police Department and any other Federal, State, or local agencies as deemed necessary to provide a recommendation as to whether a business and alcohol beverage license should or should not be issued.
- g. All applicants who are beginning a new business or renewing a business license shall also comply with all applicable general business licensing requirements.

5-2-9. Location Requirements

- a. No license allowing on premise consumption of alcohol shall be approved or issued by the City and no Local Consent shall be issued by the City to any establishment that does not comply with the location and distance requirements set forth in the Utah Alcoholic Beverage Control Act and within prescribed zones as set forth in the Sandy City Land Use Development Code.
- b. No Off Premise Beer Retailer license shall be issued to any establishment that does not comply with the Sandy City Land Use Development Code.

5-2-10. Expiration and Renewal

- a. All licenses issued by the City for establishments operating in a Commercial Zone, with the exception of Single Event permits and Temporary Beer licenses, shall expire on the thirty-first (31st) day of December each year.
- b. In the event that the renewal fees and all renewal documentation are not received at the office of the license official or the Sandy City Treasurer's Office by midnight on the thirty-first (31st) day of December, the licensee must cease and desist all operations related to alcohol sales, and may not permit the consumption of alcohol on the premises until all outstanding fees, any applicable penalties and appropriate documentation is filed at the office of the license official or the Sandy City Treasurer's Office and a new license is issued.
- c. Renewal fees and all renewal documentation must be delivered to and received at the office of the license official or the Sandy City Treasurer's Office within thirty (30) days after the expiration date (or as described in the Operations Policy Manual for Business License Receivables Manual). If the renewal fees and documentation are not received within thirty (30) days of the due date, the licensee shall pay a penalty of twenty-five percent (25%) of the original fees due in addition to the original fee and renewal documentation.
- d. If the renewal fees and all renewal documentation are not received at the office of the license official or the Sandy City Treasurer's Office, within forty-five (45) days of the date that the fees are due (or as described in the Operations Policy Manual for Business License Receivables Manual), the licensee shall pay a

- penalty of seventy-five percent (75%) of the original fee due in addition to the original fee and renewal documentation.
- e. Single Event and Temporary Beer Event permits shall indicate specific expiration dates and are not subject to renewal.
 - f. Every license issued under this chapter, with the exception of Single Event and Temporary Beer Event permits, granted to an establishment pursuant to the terms of this ordinance, shall be renewed only if the applicant can affirmatively state 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.
 - g. All licensed premises shall also comply with the provisions of Title 5, general Business License Ordinances of Sandy City.

5-2-11. 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.

5-2-12. Bonds.

- (1) Every applicant for a license under this chapter shall post a cash bond in the amount of two thousand dollars (\$2000.00), which is to remain in effect during the entire period alcohol is sold or consumed on the premises. The bond is in addition to all other licensing fees and 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 grave violation of laws or ordinances relating to alcoholic beverages (except selling alcohol to a minor), controlled substances, gambling, committing or maintaining a nuisance, keeping a disorderly house, for grave offenses permitted on the licensed premises or if the license is revoked.
- (2) After said forfeiture, the licensee may not sell or permit the consumption of alcohol on the premises until the licensee shall post a new cash bond in the amount of \$5000.00 which is subject to the same terms as specified herein.
- (3) The \$5000.00 bond 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 alcohol to a minor). Following the forfeiture of the \$5000.00 bond, the licensee shall not sell or permit the consumption of alcohol on the premises until the City has received a new cash bond in the amount of

- \$10,000.00. The bond must be posted within ten (10) days of the notice of forfeiture of the \$5000.00 bond.
- (4) The \$10,000 cash bond shall be forfeited if the licensee or an employee of the licensee shall commit a violation of any ordinance or law specified herein (except selling alcohol to a minor), and the City will make a determination if the business license and/or alcohol beverage license should be suspended or revoked.
 - (5) If the licensee is permitted to continue to operate an establishment to sell alcohol or allow the consumption of alcohol on the premises, after the suspension has expired or after reapplying for a license after a revocation, the licensee will post a new \$10,000 cash bond which is to remain in effect during the entire period alcohol is sold or consumed on the premises. Any additional violations would result in a revocation of the alcohol beverage and/or the business license issued by Sandy City.
 - (6) The applicant may petition the City for a reduction in the amount of the \$10,000.00 bond, after two years if there are no further violations by the licensee or an employee of the licensee related for which the license was issued. In no case will the amount of the bond be reduced to an amount less than \$2,000.00
 - (7) After forfeiting a bond, and prior to posting a new bond, the licensee shall present to the City a plan concerning the operational practices implemented for the employees to avoid future violations of laws and ordinances that prompted the loss of the bond.
 - (8) Failure of the licensee to post the bonds within ten (10) days notice of the requirement to post the bond as required by this section, shall be grounds for the suspension or revocation of the licensee's alcohol beverage license, Local Consent and/or the business license.
 - (9) The forfeiture of three bonds posted pursuant to this section shall be grounds for revocation of the alcoholic beverage and/or the business license.
 - (10) 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.
 - (11) The aforementioned bonds are assessed in addition to any penalties as may be prescribed by the State of Utah.
- b. (1) If any licensee herein 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 \$1000.00 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 alcoholic to a minor or comparable charge within two (2) years of the posting of the bond.

- (2) If the licensee or any employee of the licensee is found to have sold alcohol to a minor within two (2) years of the previous bond posted for the offense of selling beer to a minor, the licensee will forfeit the \$1000.00 bond, and the licensee shall, within ten (10) days of receipt of written notice from the City, post a cash bond of \$2500.00 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 alcohol to a minor or comparable charge and the alcohol, consumption and social club license may be suspended for a period of ten to thirty days.
- (3) If a third violation of selling alcohol to a minor occurs within 2 years of posting the \$2500.00 bond, that bond is forfeit. Following the forfeiture of the \$2500.00 bond, the licensee shall, within ten (10) days of receipt of written notice from the City, again post a cash bond of \$5,000.00 which amount shall be forfeited if the within two (2) years of posting the bond, the licensee or an employee of the licensee shall thereafter commit a violation of any ordinance or law concerning selling alcohol to a minor or comparable charge and the license may be suspended or revoked.
- (4) After forfeiting a bond, and prior to posting a new bond, the licensee shall present to the City a plan concerning the operational practices implemented for the employees to avoid future sales of alcoholic beverages to minors.
- (5) If a licensee is required to post the afore-described bonds and if neither the licensee nor any employee of the licensee illegally sells alcohol to a minor within two (2) years following the posting of said bond, the most recently posted bond shall be returned to the licensee by the City.
- (6) Failure of the licensee to post the bonds within ten (10) days notice of the requirement to post the bond, as required by this section shall be grounds for the suspension or revocation of the licensee's license.
- (7) The forfeiture of three bonds posted pursuant to this section shall be grounds for revocation of the license.
- (8) 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.
- (9) The aforementioned bonds are assessed in addition to any penalties as may be prescribed by the State of Utah.

5-2-13. Transfer of License.

- a. Licenses and Local Consent issued by the City pursuant to this chapter, shall not be transferable to any other person or entity.
- b. It shall be unlawful for any licensee to sell or transfer the business ownership, or otherwise cease operating the business without notifying the license official and surrendering the license.
- c. If the persons named on the licensee's most recent application on file with the license official remain the same, a license or Local Consent issued pursuant to this chapter may be transferred to a new location upon approval of the license official. Licensee shall pay the transfer fee as adopted by Resolution of the Sandy City Council, and all outstanding license fees. All current bonds, violations, penalties and tenure for bonds will also be transferred to the new location without interruption. The new location must be able to satisfy all Land Use ordinances, Utah Department of Alcoholic Beverage Control requirements, and all other business approval requirements.

5-2-14. Issuance or Denial of License.

A license or a Local Consent issued by the City under the provisions of this chapter 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 or Local Consent described herein. If, on an application or a renewal for a license, the License Official finds that any applicant does not meet the requirements of or is disqualified under any section of this Chapter, or if the License Official finds that the application is deficient in any way or any of the facts provided thereon are false or in question, the License Official shall deny the application. The applicant may appeal the denial to the Mayor who may appoint an administrative hearing officer to hear the appeal. The applicant must file a written appeal with the Mayor within ten (10) days of the decision by the License Official, and must pay an appeal fee as established by resolution of the City Council.

5-2-15. Suspension and Revocation of License.

- a. Basis. Licenses may be suspended or revoked by the License Official 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) Any illegal activity by the licensee or any employees of the licensee 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) The applicant has been convicted of or entered a plea of nolo contendere for:
 - (i) 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
 - (ii) a misdemeanor involving controlled substances, alcohol, sex crimes or contributing to the delinquency of a minor within three years.
 - (11) Any conduct or act of the licensee or his/her employees or any act committed by them on the premises or any act by the 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 or the city or its inhabitants; or
 - (12) The licensee has refused to allow an authorized representatives of the City to make an inspection or has interfered with such representative while in the performance of their duty in making such inspection; or
 - (13) 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, site plan review or other approval if applicable, granting a variance or special exception; by the City Council; or by agreement; or
 - (14) 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 suspension or revocation of the license or Local Consent if a violation 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. Notice of Suspension or Revocation. The License Official shall cause written notice to be given to the licensee of the suspension or revocation of a license or the Local

Consent, the reason for the suspension or revocation and the licensee's right to have a hearing concerning the License Official's determination. 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 the most recent application or renewal of the license.

- d. Hearing. A hearing must be requested by the licensee by filing a written notice of the request for hearing with the Mayor's Office within fifteen (15) days of receipt of the notice of the recommendation for suspension or revocation.
- (1) The hearing shall be before the Mayor, or an administrative hearing officer designated by the Mayor, and shall be at a time, place and day set by the Mayor, but not later than fifteen (15) working days after receipt of the request for hearing.
 - (2) At the hearing the City shall present the reasons/evidence for the recommendation to suspend or revoke the license.
 - (3) The licensee, in person or through his/her attorney, may then present any evidence showing reason why the City's recommendation is in error.
 - (4) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.
 - (5) Any oral or documentary evidence may be received, but the Mayor may exclude all privileged, irrelevant, immaterial or unduly repetitious evidence.
 - (6) If the recommendation for suspension or revocation is 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 applicable ordinances or regulations, then this determination shall be conclusive and the final 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.
 - (7) The Mayor or appointed hearing officer, after hearing and considering all the evidence, shall suspend the license, revoke the license, reinstate the license with conditions, or reinstate the license without conditions. The decision shall be made within ten (10) days after the hearing.
 - (8) If good cause for the suspension is established at the hearing, the suspension order may be continued for up to one (1) year in duration.
 - (9) If good cause for the revocation of the license is established, the licensee may not reapply for a new license for a minimum of one (1) year.
 - (10) 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.
 - (11) If the licensee fails to file a request for a hearing within the prescribed date, the determination of the License Official shall be upheld and the revocation, suspension shall be effective immediately.

5-2-16. Application after Suspension or Revocation.

- a. A suspension shall be for a period not exceeding one (1) year.

- (1) After the expiration of the suspension period, the license may be reinstated, if the licensee otherwise complies with all licensing requirements.
 - (2) 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.
 - (3) Utah Department of Alcoholic Beverage Control will be notified by the License Official of a suspension and the suspension period.
- b. A revocation shall be for a period of no less than one (1) year. Upon revocation of the license, the licensee shall forfeit to the City the following:
- (1) The remaining license fee paid; and
 - (2) The bond posted to insure compliance with the law; and
 - (3) Any bond posted as a result of sale of alcohol to a minor.
 - (4) A licensee shall not be entitled to reapply for a new license during the period of revocation.
 - (5) Utah Department of Alcoholic Beverage Control will be notified by the License Official of the revocation and the revocation period.
- c. If the licensed business is sold to a new party, not previously associated with the licensee who is under suspension or revocation, the new owner of the business may apply for and may be granted a new license under this chapter, notwithstanding the current revoked or suspended status of the former licensee.

5-2-17. Wholesaler and retailer—Conflict of interest.

- a. It is unlawful for any dealer, distributor, brewer or wholesaler to either directly or indirectly supply, give or pay for any furniture, furnishings or fixtures of a beer or liquor licensee, unless the dealer, distributor, brewer or wholesaler has ownership interest in the establishment holding the beer or liquor license
- b. It is unlawful for any dealer, distributor or brewer to advance funds, money, or pay for any license of a retailer or to be financially interested, either directly or indirectly, in the conduct or operation of the business of any beer or liquor licensee, unless the dealer, distributor, brewer or wholesaler has ownership interest the establishment holding the beer or liquor license.
- c. Exceptions to 5-2-17 are provided in the Tied House Prohibitions described in Title 32B of the Alcoholic Beverage Control Act.

5-2-18. Alcoholic beverage sales – Hours of operation.

- a. It is unlawful for any Off-Premise Beer Retailer to sell or dispose of beer to any person or patron on the licensed premises contrary to the hour of operation limits prescribed by the Sandy City Land Use Development Code and in no case shall a licensee or any employee of the licensed premises sell, dispose of or give away beer between the hours of 1:00 AM and 7:00 AM.
- b. It is unlawful for any other licensee as described in section of 5-2-6, or operator or any employee thereof, to sell, dispose of, give away or serve any alcoholic

beverages to any person on the licensed premises contrary to the hour of operation limits prescribed by the Sandy City Land Use Development Code and the Utah Alcohol Beverage Control Act.

- c. It is unlawful for any establishment required to be licensed to sell or permit the consumption of alcohol beverages, which is also required to be licensed as a sexually oriented business to allow patrons on the premises or to operate the premises in any manner between the hours of one (1) A.M. and eight (8) A.M.

5-2-19. Alcoholic beverage sales—Nuisances prohibited.

It is unlawful for any person licensed under this chapter to keep or maintain a nuisance, as defined in this chapter.

5-2-20. Alcoholic beverage sales—Prohibited to minors.

- a. It is unlawful to sell or in any way to provide alcoholic beverages to any person under the age of twenty-one (21) years, or to allow minors on the premise of any licensee identified in section 5-2-6 that would be in violation of the Utah Alcoholic Beverage Control Act.
- b. This section does not apply to the furnishing of an alcoholic product to a minor under the following circumstances:
 - (1) For medicinal purposes by:
 - (i) the parent or guardian of the minor; or
 - (ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or
 - (2) As part of a religious organization's religious services.
- c. For violations related to underage sale of beer by an Off Premise Beer Retailer, the enforcement process set forth in sections of the Utah Code Annotated entitled "Penalties related to sales to minors", currently found in Section 32B-7-303 , or its successor provisions, applies. The Chief of Police or designee shall conduct these enforcement proceedings.
- d. It is unlawful for any person under the age of twenty-one (21) years to purchase, consume, accept, or have in his or her possession any alcoholic beverage; provided, however, that this section shall not apply to the acceptance of alcoholic beverages by such person for medicinal purposes This section does not apply to the furnishing of an alcoholic product to a minor under the following circumstances:
 - (1) For medicinal purposes by:
 - (i) the parent or guardian of the minor; or
 - (ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or
 - (2) As part of a religious organization's religious services.

The provisions of this section prohibiting possession of beer shall not apply to persons under twenty-one years of age who are bona fide employees of a licensed Off-Premise Beer Retailer premises while in the discharge of their employment therein or thereabouts.

5-2-21. Requirements for Employees and Entertainers.

- a. Identification Cards. All employees who handle, dispense or serve alcoholic beverages, managers, all bouncers, doormen or other security-type employees and all entertainers, except contract entertainers, in Taverns or Social 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 Police 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.
 - (9) Said identification card must be made available and presented upon demand by any License Official while the employee is functioning as an employee on the licensed premises. A person registered under this Section, upon changing employment shall notify the City Police Department in writing of that fact.
 - (10) 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 this chapter.
 - (11) 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 an establishment 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 any Off-Premise Beer Retailer licensed under this chapter, all employees handling, selling or otherwise engaged in the retail sale of beer must be at least eighteen (18) years of age, and under the supervision of an employee of the establishment who is twenty-one (21) years of age or older, and who is located on the licensed premises at all times, unless otherwise regulated by law.
 - (2) With the exception of those employees of license premises indicated immediately above, in all other licensed premises, all employees handling, selling, serving or otherwise engaged in the retail sale of alcohol must be at least twenty-one (21) years of age.
- d. Licensee Responsibility. It is the duty of the licensee of any license issue pursuant to this chapter, to verify that any person employed or entertaining on their premises is in compliance with these requirements. Any licensee that permits a violation of this section either personally or through his agents, employees, officers or assigns shall be subject to suspension or revocation of his/her license.

5-2-22. Illegal Sale, Manufacturing, Storage, Etc. of Alcoholic Beverages.

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

5-2-23. Possession of Liquor.

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

5-2-24. 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.

5-2-25. 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/her 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.

5-2-26. Sale of Alcoholic Beverage to Intoxicated or Interdicted Persons.

- a. It shall be unlawful for any person to sell, give 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 or interdicted from possessing or consuming alcoholic beverages.
- b. It shall be unlawful for any person to:
 - (1) Permit drunkenness to take place in any herein licensed premises, by the owner, licensee or employee; or
 - (2) Permit or suffer any person apparently under the influence of an alcoholic beverage to consume any alcoholic beverage in any herein licensed premises, by the owner, licensee or employee.

5-2-27. 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.

5-2-28. 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.

5-2-29. 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.

5-2-30. City Park Restrictions.

It is unlawful for any person to possess or consume any beer or liquor upon the premises of any park owned or operated by Sandy City, except upon the express written approval of the Mayor and the Parks and Recreation Director and upon approval of a Temporary Beer or Single Event Permit.

5-2-31. Consumption prohibited in unlicensed premises.

It is unlawful for any person to consume any alcoholic beverage in any place of business, that has not been provided with the necessary licenses and permits as required by this chapter and the Utah Department of Alcoholic Beverage Control.

5-2-32 Premises—Inspection.

The Sandy City Police Department, local code enforcement officials, Fire Department officials, Planning Department officials, Building and Safety Department officials and the License Official shall be permitted to have access to all premises licensed or applying for licenses under this chapter, and they shall make periodic inspections of such premises and report their findings to the Mayor. Said inspections by local law enforcement agency may be made with or without prior notice and in uniform or plain clothes.

5-2-32. Enforcement.

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

5-2-33 Severability.

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, or provisions hereof which can be implemented without the invalid section or provision. To this end, the provisions and sections of this chapter are declared to be severable.