

CHAPTER 6-09: BEER LICENSES

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6-09-010. Definitions.

All words and phrases used in this Chapter shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "Beer" means all products that contain sixty-three hundredths of one percent (.63%) of alcohol by volume or one-half of one percent (.5%) of alcohol by weight, but not more than four percent (4%) of alcohol by volume or three and two-tenths percent (3.2%) by weight and are obtained by fermentation, infusion, or decoction of any malted grain. Beer may or may not contain hops or other vegetable products. Beer includes products referred to as malt liquor, malted beverages or malt coolers.

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

(c) "Club" and "Private Club" means any non-profit corporation operating as a social club, recreational, fraternal or athletic association, or kindred association organized primarily for the benefit of its stock holders or members.

(d) "Commission" means the State of Utah Alcoholic Beverage Control Commission.

(e) "Licensee" means any person(s) holding any beer, liquor or private club license in connection with the operation of a place of business or private club in the City. This term shall also include any employee of the Licensee.

(f) "Licensed Premises" means any room, house, building, structure or place occupied by any person licensed to sell beer on any premises under this Title; provided, that in any multi-roomed establishment, an applicant for a Class B, or Class C License shall designate a room or portion of the building of such business for the sale of beer, which portion so specifically designated in the application and in the license issued pursuant thereto shall be the licensed premises. Multiple dining facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises.

(g) (1) ALiquor@ means: alcohol or any alcoholic spiritous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spiritous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more than one-half of one percent (.5%) of alcohol by volume and is suitable for use for beverage purposes.

(2) ALiquor@ does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than four percent (4%) alcohol by volume.

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

(i) "Restaurant" means any business establishment 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 that is engaged primarily in serving meals to the general public.

(j) "Retailer" means any person engaged in the sale or distribution of beer to the consumer.

(k) "Tavern" means any business establishment engaged primarily in the retail selling or distribution of beer to public patrons for consumption on the establishment=s premises. "Tavern" includes beer bars, parlors, lounges, cabarets, and night clubs where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in such establishments.

(l) "Sell" or "To Sell" when used in this Title in any provision 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 made by the commission.

6-09-020. License To Sell Beer At Retail.

(a) It shall be a Class B misdemeanor for any person to sell beer in bottles or draft without first having procured a license therefor from the City and paying the license fee required by this part.

(b) It shall be a Class B misdemeanor for any person to sell beer after the revocation of the license issued pursuant to this part.

(c) A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. It shall be unlawful for any licensee to violate any of the terms of his or her license.

(d) All licenses shall comply with the Utah State Alcoholic Beverage Control Act and the regulations of the Utah State Alcoholic Beverage Control Commission.

6-09-030. Retail Licenses - Classification.

(a) Retail licenses issued under the provisions of this Chapter shall be classified under the following types which shall carry the privileges and responsibilities hereinafter set forth in this Chapter: Class A, Class B and Class C.

(b) All licenses of each class shall be numbered numerically commencing with one (1).

6-09-040. Class A Licenses.

(a) A Class A retail license shall entitle the licensee to sell beer on the premises described therein, in original containers of a size not to exceed one (1) liter capacity, for consumption off premises.

(b) On Premises Consumption Prohibited. It shall be unlawful for a Class A licensee to permit the consumption of beer on any Class A licensed premises.

(c) Class A License Application. A person seeking a Class A License to sell alcoholic beverages within the City of Woods Cross shall provide a written application on forms provided by the City. The application shall be accompanied by:

- (1) The complete Class A license fee;
- (2) A copy of the applicant's business license;
- (3) Evidence of proximity to any school, church, public library, playground or park;
- (4) A floor plan of the business, including where the applicant proposes to keep, store and sell beer;
- (5) Any other information the City may require to accurately evaluate the merits of the application.

(d) Location Restrictions. No Class A license shall be issued to any person where the premises would be located within three hundred (300) feet of a school, church, public library, public playground or park as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable vehicular traffic along public thoroughfares, whichever is the closer, to the property boundary of a public or private school, church, public library, public playground or park.

(e) Hours of Sale. A Class A licensee may sell beer beginning at the hour of 7:00 a.m. and ending at the hour of 1:00 a.m.

- (f) Sales Restrictions. Beer may not be sold, delivered, or furnished to any:
- (1) Minor;
 - (2) Person actually, apparently, or obviously under the influence of any intoxicating beverage or controlled substance;
 - (3) Known habitual drunkard;
 - (4) Known interdicted person.

(g) Employment of Minors. Provisions of this Chapter prohibiting possession of alcoholic beverages by minors shall not apply to persons under twenty-one (21) years of age who are bona fide employees in Class A licensed premises while under the supervision of a person twenty-one (21) years of age or older who is on the premises.

(h) Unlawful to Permit Intoxicated Person on Licensed Premises. It shall be unlawful for any person licensed to sell beer or for any of his agents or employees to allow intoxicated persons to remain in or about any licensed premises.

(i) Records Requirements. Holders of Class A licenses shall maintain records which shall disclose the gross sale of beer during each and every year. Such records shall be available for inspection and audit by an authorized City employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a Class A license.

(j) Beer as a Percent of Sales. Each Class A licensee shall maintain at least eighty percent (80%) of its total business from the sale of products other than beer.

(k) Shoplifting Controls. A Class A licensee shall make every reasonable effort to limit the potential for theft of beer from licensed premises. A clear, unobstructed view of all portions of the interior shall be available at all times from a point within the licensed premises at or near the main public entrance. A beer inventory shrinkage record shall be kept by the licensee and made available at any time

upon request to the Chief of Police or City Planner for inspection or audit. Failure of a licensee to properly maintain the alcoholic beverage inventory shrinkage or failure to submit such records for inspection and audit shall be a Class B misdemeanor and shall be cause for suspension or revocation of a Class A license.

(l) Advertising Sale. It shall be unlawful for any Class A licensee to advertise the sale of beer in violation of the Utah Alcoholic Beverage Control Act.

(m) There shall be no transfer of a Class A license from one location to another.

(n) Monetary Value of License. A person having been granted a Class A license shall not sell, exchange, barter, give or attempt in any way to dispose of the license whether for monetary gain or not. A Class A beer license has no monetary value for the purpose of any type of disposition.

(o) Restriction on Number of Licenses. The total number of Class A beer licenses in the City of Woods Cross shall not exceed one (1) per each one thousand (1,000) residents of Woods Cross City. (e.g. if the population of Woods Cross is 8,000, the total number of Class A licenses allowed would be 8.)

6-09-050. Class B Licenses (Restaurant).

(a) Before any establishment may sell beer at retail for on-premises consumption, it must first obtain:

(1) A Class B license from the City of Woods Cross;

(2) An on-premises beer retailer license from the Alcoholic Beverage Control Commission.

(b) Class B Licenses. A person seeking a Class B license to sell beer within the City of Woods Cross for consumption on the premises shall provide a written application on forms provided by the City. The application shall be accompanied by:

(1) The complete Class B license fee;

(2) A copy of the applicant=s business license;

(3) Evidence of proximity to any school, church, public library, playground or park;

(4) A floor plan of the restaurant, including consumption areas and an area where the applicant proposes to keep, store and sell beer;

(5) A signed consent form stating that the restaurant will permit any authorized representative of the Commission, City, City Police Department or Health Department unrestricted right to enter the restaurant;

(6) Evidence that the business is carrying DRAM shop insurance coverage of at least five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate;

(7) Any other information the City may require to accurately evaluate the merits of the application.

(c) A Class B license shall not be granted to an established business located within six hundred (600) feet of any public or private school, church, public library, playground or park as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic,

or where applicable, vehicular traffic along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground or park.

(d) The restrictions contained in Subsection (c) govern the issuance of a Class B restaurant license unless the City Council determines that compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a restaurant beer license. In that event, the City Council may, after giving full consideration of all attending circumstances and after compliance with public notice and public hearing requirements as specified in Subsection (e), authorize a variance from the distance requirements to relieve the difficulties or hardships, if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Chapter.

(e) Class B restaurant license applicants wishing to request a variance by the City Council from the proximity distance requirement stated in Subsection (c) must comply with the following requirements:

(1) Payment of Fee. Any licensed applicant desiring variances provided in Subsection (d) for which a special public hearing is required shall pay a fee therefor set by resolution of the City Council before said hearing shall be set or advertised.

(2) Advertising. Notice of a public hearing shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation. At a minimum, the advertisement shall state the date, time, location and reason for the public hearing.

(3) Notice to Property Owners. Letters of notice of public hearing shall be mailed at least ten (10) days in advance of the public hearing to all persons owning property within six hundred (600) feet of the licensed applicant=s premises.

(4) Petition. The Class B restaurant license applicant shall circulate a petition to each person owning property within six hundred (600) feet of the applicant=s business premises. Such petition shall allow the affected property owners to indicate a lack of opposition to such a license being granted to the applicant.

(5) Public Hearing. After satisfying the fee and notice requirements, the City Council shall hold a public hearing to consider the granting of a variance from the distance requirements stated in Subsection (c).

(f) Hours of Sale. A Class B licensee may sell beer beginning at the hour of 10:00 a.m. and ending at the hour of 1:00 a.m.

(g) Operational Restrictions. Each person granted a Class B license and the employees, management and personnel of the restaurant shall abide by the following conditions and requirements. Failure to comply may result in suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) A Class B retail license shall entitle the licensee to sell beer, on the premises described therein, in any size containers not exceeding two (2) liters and on draft for consumption on the licensed premises. Only bona fide restaurants shall be entitled to Class B licenses.

(2) All holders of a Class B license shall maintain records which shall disclose the gross sales of beer and the gross sales of food served and any other items sold for consumption on or off the premises during the semi-annual periods ending June 30 and December 31 of each year. Such sales shall be shown separately.

(3) Each licensee shall retain all invoices, vouchers, sales slips, receipts and other records and other commodity purchases from all suppliers. Such records shall be available for inspection and audit by the City license official at any time following the close of the semi-annual

period, and for eighteen (18) months thereafter. Failure to properly maintain such records for such inspection and audit shall be cause for revocation of the Class B license. If any audit or inspection discloses that the sales of beer on the licensed premises are in excess of twenty-five percent (25%) of the gross dollar volume of business for any semi-annual period, the Class B license shall then be immediately suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the City Council that in the future the sales of beer on the licensed premises will not exceed twenty-five percent (25%) of the gross dollar volume of business.

(4) No person under the age of twenty-one (21) years shall sell or serve beer under a Class B license.

(5) Beer purchased from the restaurant may not be removed from the restaurant premises.

(6) An employee of a Class B licensee, while on duty, may not consume any alcoholic beverage or be under the influence of alcoholic beverages.

(7) Each Class B licensee shall display in a prominent place in the restaurant:

(i) The Class B License issued by the City of Woods Cross and the restaurant liquor license issued by the Alcoholic Beverage Control Commission;

(ii) A sign in large letters stating: "WARNING, THE CONSUMPTION OF ALCOHOLIC BEVERAGES PURCHASED IN THIS ESTABLISHMENT MAY BE HAZARDOUS TO YOUR HEALTH AND THE SAFETY OF OTHERS.@

(8) There shall be no transfer of a Class B license from one location to another without prior written approval from the Woods Cross City Council.

(9) Monetary Value of License.

(i) A person having been granted a Class B License shall not sell, exchange, barter, give or attempt in any way to dispose of the license whether for monetary gain or not.

(ii) A Class B beer license has no monetary value for the purpose of any type of disposition.

(10) A person's willingness to serve alcoholic beverages and/or beer shall not be made a condition of employment as a server with a restaurant that has a Class B beer license.

(11) Each Class B beer licensee shall post a cash or corporate or surety bond in the penal amount of ten thousand dollars (\$10,000.00) payable to the City which the licensee has procured and thus maintained for so long as the licensee continues to hold its Class B license.

(12) The bond shall be in a form approved by the City Attorney conditioned upon the licensee's faithful compliance with this Title and the rules of the Commission.

(13) If the ten thousand dollar (\$10,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the City. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect or while revocation proceedings are pending against the Licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

(h) Sales Restrictions. Beer may not be sold, delivered, or furnished to any:

- (1) Minor;
- (2) Person actually, apparently, or obviously under the influence of any intoxicating beverage or controlled substance;
- (3) Known habitual drunkard;
- (4) Known interdicted person.

(i) **Restriction on Licenses.** The total number of Class B beer licenses in the City of Woods Cross shall be one (1) per one thousand (1,000) population (e.g., if the population of Woods Cross is 8,000 persons the maximum number of Class B Beer Licenses would be eight).

6-09-060. Class C Beer Licenses.

(a) A Class C beer license shall be required for all premises where the primary or main business is that of selling beer for consumption on the licensed premises. A Class C license shall entitle the licensee to sell beer for consumption on the licensed premises in any sized container. No person under the age of twenty-one (21) years shall sell or serve beer under this license.

(b) The licensing and operation of a tavern as defined in Section 6-09-010 of the Woods Cross City Code is strictly prohibited within Woods Cross City. Therefore, no Class C beer licenses shall be issued within Woods Cross City.

6-09-070. Renewal of Existing Licenses.

All applications for renewal licenses filed by the holders of existing licenses shall be filed with the license official at least thirty (30) days prior to the expiration of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on or before the expiration date of the then license and shall keep the premises closed for any and all business for the sale of beer until the date his new license is issued by order of the Woods Cross City Council.

6-09-080. Fees.

Applications for retail beer licenses under this Chapter shall be accompanied by the fees established by the Woods Cross City Consolidated Fee Schedule as amended.

6-09-090. Expiration and Renewal.

(a) All Class A or B retail licenses issued pursuant to the provisions of this Title shall expire on December 31 of each year and shall be issued for one (1) year. In the event renewal fees are not received at the office of the license official by February 15 of each year when due, the licensee must reapply for a beer license and pay a penalty of twenty five percent (25%) of the fees due as part of the reissuance fee, in addition to any applicable beer license fees. In the event the renewal fees are not received at the office of the license official by March 15 of each year when due, the licensee must reapply for a beer license and pay a penalty of one hundred percent (100%) of the fee due as part of the reissuance fee, in addition to any applicable beer license fees.

(b) Procedure when Business Purchased. If any licensee sells his or her place of business, the purchaser thereof may be granted a license to serve beer upon meeting all the requirements of this Chapter.