

CHAPTER 7
(Ordinance Modification 011-2004, 03/23/04)

ALCOHOL LICENSE AND REGULATIONS

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3-7-1 **APPLICATION OF TITLE:** This title governs alcoholic beverage control in Providence City. All licenses shall comply with the Utah Alcoholic Beverage Control Act, rules of the Utah Alcoholic Beverage Control Commission, and Providence City Code 3-7 Alcohol License and Regulations.

3-7-2 **EXERCISE OF POLICE POWERS:** This title is an exercise of the police powers of the city for the protection of the public health, peace, safety, welfare, and morals and regulates the sale, service, storage, distribution, and consumption of alcoholic products.

3-7-3 **POLICY:** The policies of the city are:

- A. The city may not promote or encourage the sale or consumption of alcoholic beverages.

- B. The city shall conduct, license, and regulate the sale of alcoholic beverages in a manner that:
1. reasonably satisfies the public demand and protects the public interest, including the rights of citizens who do not wish to be involved with alcoholic products; and
 2. will promote the reduction of the harmful effects of over consumption of alcoholic beverages by adults and consumption of alcoholic beverages by minors.

3-7-4 **DEFINITIONS:**

- A. "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this section.
1. "Alcoholic products" means all products that contain at least 63/100 of 1% of alcohol by volume or at least one-half ($\frac{1}{2}$) of one (1) percent by weight, and are obtained by fermentation, infusion, decoction, brewing, distillation, or any other process that uses any liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount greater than the amount prescribed in this Subsection.
 2. "Alcoholic products" does not include common extracts, vinegars, ciders, essences, tinctures, food preparations, or over-the-counter drugs and medicines that otherwise come within this definition.
- B. "Bar" means a counter or similar structure:
1. at which alcoholic beverages are stored or dispensed; or
 2. from which alcoholic beverages are served.
- C. "Beer" means any product that contains:
1. 63/100 of 1% of alcohol by volume or $\frac{1}{2}$ of 1% of alcohol by weight, but not more than 4% of alcohol by volume or 3.2% by weight; and
 2. is obtained by fermentation, infusion, or decoction of any malted grain.
 3. Beer may or may not contain hops or other vegetable products.
 4. Beer includes a product that:
 - (a) contains alcohol in the percentages described in Subsection (2)(a); a
 - (b) is referred to as malt liquor, malted beverages, or malt coolers.
- D. "Church" means a building:
1. set apart for the purpose of worship;
 2. in which religious services are held;
 3. with which clergy is associated; and
 4. which is tax exempt under the laws of this state.

- E. "Heavy beer" is considered "liquor" for the purposes of this title and means any product that:
1. contains more than 4% alcohol by volume; and
 2. is obtained by fermentation, infusion, or decoction of any malted grain.
- F. "Licensee" means any person issued a license by the city to sell, store, or allow the consumption of alcoholic beverages on premises owned or controlled by the person.
- G. "Liquor" means 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 $\frac{1}{2}$ of 1% of alcohol by volume and is suitable to use for beverage purposes.
1. "Liquor" does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.
- H. "Person" means any individual, partnership, firm, corporation, limited liability company, association, business trust, or other form of business enterprise, including a receiver or trustee, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context.
- I. "Premises" means any building, enclosure, room, or equipment used in connection with the sale, storage, service, distribution, or consumption of alcoholic products, unless otherwise defined in this title.
- J. "Restaurant" means any business establishment:
1. where a variety of foods is prepared and complete meals are served to the general public;
 2. located on a premises having adequate culinary fixtures for food preparation and dining accommodations; and
 3. that is engaged primarily in serving meals to the general public.
- K. "Retailer" means any person engaged in the sale or distribution of alcoholic beverages to the consumer.
- L. "School" means any private or public building used primarily for the general education of minors.
1. "school" does not include a nursery or pre-school, an infant day care center, or a trade or technical school.

- M. “Sell”, “sale”, 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.
- N. “Wine” means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether or not other ingredients are added.
1. “Wine” is considered “liquor” for purposes of this title.

3-7-5 **PROHIBITED LOCATIONS FOR THE SALE OF ALCOHOL:** No license shall be granted to sell alcohol within 200 feet of any church, school, public library, public playground, or public park measured in a straight line from the nearest public entrance of the proposed outlet to the nearest property boundary of the school, public library, public playground, or public park.

3-7-6 **LICENSE REQUIRED:** It shall be unlawful to sell alcohol, beer, heavy beer, liquor, or wine without a license from the city.

3-7-7 **CLASS “A” BEER LICENSE:** A Class “A” beer license allows the licensee to sell beer, not heavy beer, on the premises described in the license in original containers for consumption off the premises.

3-7-8 **CLASS “B” LIMITED RESTAURANT ALCOHOL LICENSE:** A Class “B” alcohol license allows the licensee to sell beer, heavy beer, and wine on the premises described in the license for on-premise consumption. Only restaurants where a variety of foods are prepared and complete meals are served to the general public having adequate culinary fixtures for food preparation and indoor dining accommodations, and at which food sales constitute seventy (70) percent of the gross sales receipts of the licensee’s restaurant may be considered for a class “B” alcohol license. Further, no more than thirty (30) percent of the retail floor area of the licensee’s restaurant may be utilized as a bar.

3-7-9 **CLASS “C” FULL SERVICE RESTAURANT ALCOHOL LICENSE:** A Class “C” full service restaurant alcohol license allows the licensee to sell beer, heavy beer, liquor, and wine on the premises described in the license for on-premise consumption.

Only restaurants where a variety of foods are prepared and complete meals are served to the general public having adequate culinary fixtures for food preparation and indoor dining accommodations, and at which food sales constitute seventy (70) percent of the gross sales receipts of the licensee's restaurant may be considered for a class "C" alcohol license. Further, no more than thirty (30) percent of the retail floor area of the licensee's restaurant may be utilized as a bar.

3-7-10 **LICENSE FEES:**

- A. There shall be a non-refundable one hundred dollar (\$100.00) fee, which shall be paid at the time of application for an alcohol license which shall be applied towards the fee for the alcohol license.
- B. The fee for an alcohol license, which shall be in addition to any other fee or charge imposed by the Providence City Code, shall be:
 1. Class "A" beer license - \$250.00
 2. Class "B" limited restaurant alcohol license - \$500.00
 3. Class "C" full service restaurant alcohol license - \$750.00

3-7-11 **DISQUALIFICATIONS OF AN ALCOHOL LICENSE:** No alcohol license of any class shall be issued to any manager or supervisory employee convicted of a felony as defined by the Utah Alcoholic Beverage Control Act.

3-7-12 **PROCEDURE TO OBTAIN A LICENSE:** Applicants for an alcohol license shall submit a properly completed application form and the appropriate licensing fee to the business license department. The application shall be forwarded to the court clerk, who shall endorse thereon whether the applicant or owner(s) has been convicted of the disqualifying acts described above in this chapter. In determining whether any such disqualifying act has been committed, a criminal history check of the applicant shall be completed, including a Utah criminal history check. A material error or omission in the information given on the application form may be the basis for disapproving an application, and no application disapproved for such reason shall be reconsidered for six (6) months. If the endorsement of the court clerk does not show the commission of a disqualifying act, and the issuance of the requested license is otherwise consistent with applicable law, the licensing clerk shall approve the application and a license shall be issued. If the endorsement of the court clerk shows the commission of a disqualifying act, or if the issuance of the requested license would otherwise violate applicable law, the licensing clerk shall disapprove the application and a license shall not be issued.

3-7-13 **PERMIT FROM THE BEAR RIVER HEALTH DEPARTMENT:** An applicant may be required to procure from the Bear River Health Department a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution, or sale of alcohol complies with all health regulations of Providence City and of the State of Utah; and on recommendation of the health department, any license issued may be revoked or suspended when any reasonable order, rule, or regulation of the health department has not been complied with.

3-7-14 **BOND:** An applicant for an alcohol license shall file a cash or corporate bond in the amount of \$1,000 guaranteeing faithful performance of the provisions of this chapter in favor of Providence City. In the event a license is revoked for a violation of the provisions of this chapter, the bond shall be forfeited (without any showing of damage or loss) to Providence City.

3-7-15 **TERMS AND CONDITIONS OF LICENSE:** All alcohol licenses shall be for the term of one (1) year, from the first day of July to the last day of June, unless sooner revoked. Licenses issued under this chapter shall not be transferable. An alcohol license may be revoked for any violation of this chapter demonstrated at an administrative hearing before the Providence City Council. A license issued pursuant to this chapter shall be displayed at all times on the licensed premises in a place readily visible to the public. License fees shall not be refunded, except in the event the State of Utah denies a state license to sell alcohol. In such event and upon request by the applicant, any license fee paid shall be refunded except for the one hundred dollar (\$100.00) non-refundable fee required by Providence City Code 3-7-10.

3-7-16 **REGULATIONS:** It shall be unlawful and shall constitute an offense of strict liability to violate any of the following; any one (1) of which shall constitute a sufficient basis for revoking an alcohol license:

- A. Alcohol shall not be sold or dispensed in any billiards hall, bowling alley, dance hall, sexually-oriented business, or theater or within 200 feet of any church, school, public library, public playground, or public park measured in a straight line from the nearest public entrance of the proposed outlet to the nearest property boundary of the school, public library, public playground, or public park.
- B. Alcohol shall not be sold or dispensed from any drive-up window.
- C. Alcohol shall not be sold by or to any intoxicated person or any person less than twenty-one (21) years of age.

- D. No person shall obtain an alcohol license who has committed one (1) or more of the disqualifying acts described in Providence City Code 3-7-11.
- E. No person shall make any false or misleading statement on an application for an alcohol license.
- F. No alcohol license of any class shall be issued to any manager or supervisory employee convicted of a felony as defined by the Utah Alcoholic Beverage Control Act.
- G. No owner, manager, or employee at a licensed premises shall consume or be under the influence of alcohol while on duty (including "breaks").
- H. Days and hours of sale:
 - 1. A class "A" beer license has no restriction for days or hours of sale.
 - 2. A class "B" limited restaurant alcohol license and a class "C" full service restaurant alcohol license are restricted by the Utah Alcoholic Beverage Control Act for hours of sale. No restriction on days of sale shall apply.
- I. All licensed premises shall be subject to inspection by any officer, agent, or peace officer of Providence City at any time during open business hours.