

Chapter 4

ALCOHOLIC BEVERAGES

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3-4-1: DEFINITIONS:

As used in this chapter:

ALCOHOLIC BEVERAGES: Includes "beer" and "liquor", as defined in this section.

BEER, LIGHT BEER, MALT LIQUOR OR MALTED BEVERAGES: All products that contain sixty three one-hundredths of one percent (0.63%) of alcohol by volume or one-half of one percent (0.5%) 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.

- A. Beer Retailer: Any business establishment engaged, primarily or incidentally, in the retail sale or distribution of beer to public patrons, whether for consumption on or off the establishment's premises, and that is licensed to sell beer by the town, by other local authority, or both.
- B. On Premises Beer Retailer: Any beer retailer engaged, primarily or incidentally, in the sale or distribution of beer to public patrons for consumption on the beer retailer's premises. It includes taverns.
- C. Tavern: Any business establishment engaged primarily in the retail sale or distribution of beer to public patrons for consumption on the establishment's premises, and that is licensed to sell beer under this chapter. "Tavern" includes beer bars, parlors, lounges,

cabarets, and nightclubs 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.

INTERDICTED PERSON: A person to whom the sale, gift or provision of an alcoholic beverage is prohibited by law or court order.

LICENSED PREMISES: Any room, enclosure, building, structure or place occupied by a person licensed to sell and/or permit the consumption of alcoholic beverages on such premises under this chapter.

LIQUOR: 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 (0.5%) of alcohol by volume and is suitable to use for beverage purposes. "Liquor" 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.

MINOR: Any person under the age of twenty one (21) years.

NONPROFIT CLUB: A social, recreational, fraternal, athletic or kindred association incorporated and regulated under the provisions of Utah Code Annotated [title 32A, chapter 5](#), as amended.

NONPROFIT CLUB LICENSE: The license provided for in Utah Code Annotated [title 11, chapter 10](#), as amended, which entitles the nonprofit club to hold, store, possess or consume alcoholic beverages, subject to applicable provisions of the alcoholic beverage control act. This license shall also constitute consent for the nonprofit club to apply for a state store license to sell liquor; however, before this license is issued, the applicant shall obtain conditional use approval from the planning commission. This license also entitles the licensee to sell beer on the licensed premises of a size not to exceed two (2) liter capacity, for consumption on the licensed premises, and to all of the privileges granted to a holder of a beer license, except such sales shall be limited to members and their guests.

NUISANCE: Any licensed premises where:

- A. Alcoholic beverages are sold, kept, bartered, stored, given away or used, contrary to the alcoholic beverage act or this chapter, or where persons resort for drinking beverages, contrary to the alcoholic beverage control act, or of this chapter; or
- B. Any persons are allowed to perform or simulate sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation, or any sexual acts prohibited by law; or
- C. Any persons are allowed to simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia; or
- D. Any persons are allowed to actually display or simulate the display of pubic hair, buttocks, vulva, anus, genitalia, or female breasts below a point immediately above the top of the areola; or
- E. Films, pictures or other visual reproductions are displayed depicting acts which are prohibited in subsections B, C and D of this definition; or

- F. Minors are permitted to purchase or drink alcoholic beverages; or
- G. Laws or ordinances are violated by the licensee, or the licensee allows patrons to violate such laws or ordinances upon such premises, or, upon leaving such premises, perform acts or omissions which tend to negatively affect or place in jeopardy the public health, peace, morals, welfare, comfort or safety of patrons or citizens of Brian Head Town; or
- H. Paid or unpaid dancers, performers or entertainers mingle, perform, dance or provide services in violation of this title; or
- I. Any violation of the terms of this chapter or breach of the public peace or morals takes place.

PERSON: Any individual, partnership, firm, corporation, association, business trust or other form of business enterprise or entity, 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.

RESTAURANT: Any business establishment where a variety of foods is 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.

SELL, SALE AND TO SELL: Any transaction, exchange or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor or as an agent, servant or employee, unless otherwise defined in this title or the rules adopted by Brian Head Town. (Ord. 91-003, 4-9-1991)

3-4-2: STATUTES ADOPTED BY REFERENCE:

The town hereby adopts Utah Code Annotated section [32B-12-201](#) et seq., "Criminal Offenses"; Utah Criminal Procedure"; Utah Code Annotated section [32B-15 part 2](#) et seq., "Alcoholic Beverage Liability"; and Utah Code Annotated section [32B-16](#) et seq., "Minor Liability Act". (Ord. 91-005, 4-23-1991; amd. 2010 Code)

3-4-3: LICENSE REQUIRED:

It shall be unlawful for any person to sell an alcoholic beverage at retail and/or permit the consumption of an alcoholic be is licensed for such sale and/or consumption. A separate town alcoholic beverage license shall be required for each state license on each business premises. Each day of noncompliance shall constitute a separate violation. (Ord. 91-003, 4-9-1991)

3-4-4: APPLICATION FOR LICENSE:

The alcohol beverage license application and renewal form shall be in a format and require such information as the Town Manager deems necessary to enforce this title. The application format may be amended or revised from time to time, as the Town Manager deems necessary. (Ord. 91-003, 4-9-1991)

3-4-5: FEE FOR LICENSE:

- A. All alcoholic beverage license fees shall be established by resolution of the Town Council.
- B. Alcoholic beverage license fees shall not be prorated and are nonrefundable once the license has been issued. (Ord. 91-003, 4-9-1991)

3-4-6: PAYMENT DATES OF LICENSE FEES:

- A. New Licenses: Alcohol beverage license fees for new licenses shall be due and payable upon making application to the business license division. The application shall not be processed until the fee is paid and the application is complete.
- B. Renewal: Alcohol beverage license fees for renewal licenses shall be due and payable on or before June 1 of each year. If the fee plus penalty is still not paid prior to July 1, then the business shall be considered to be operating without a license in violation of section [3-2A-1](#) of this title, and subject to prosecution for every day of operation on or after July 1. If a license is not renewed prior to July 1, as set forth in this section, and the business shall apply for an alcohol license on or after July 1, the application shall be treated as a new license application and applicant shall pay a new license fee. (Ord. 91-003, 4-9-1991)

3-4-7: QUALIFICATIONS OF LICENSEE:

- A. Offenses Designated:
 - 1. A license shall not be granted to any business whose proprietor has been convicted or pled nolo contendens to:
 - a. A felony under any federal or state law;
 - b. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, transportation, consumption or possession of alcoholic beverages;
 - c. Any crime involving moral turpitude; or
 - d. Any gambling or gambling related offense.

2. In the case of a partnership or corporation, the proscription under subsection A1 of this section applies if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation has been convicted of any offense as provided in this subsection.

B. Emergency Revocation:

1. If any employee or proprietor of a licensee is convicted of any offense designated in subsection A1 of this section, the town may take emergency action by revoking the license according to the procedures and requirements of [chapter 2, article B](#) of this title.
2. In the case of a partnership or corporation that has been granted a restaurant liquor license, if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation is convicted of any offense designated in subsection A1 of this section, the Town Manager may take emergency action by immediately revoking the license.

C. Suspension Of Operation Upon Arrest: Upon the arrest of any licensee on any charge set forth in subsection A1 of this section, the town manager may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements in chapter 2, article B of this title for the period during which the criminal matter is being adjudicated.

D. Prior Revocations:

1.
 - a. The Town Manager may not grant an alcoholic beverage license to any person who has had any type of license, agency or permit issued under this title or Utah Code Annotated title 32A, revoked within the last three (3) years.
 - b. The Town Manager may not grant an alcoholic beverage license to any corporation or partnership applicant if any partner, managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant is or was a partner or managing agent of any partnership, or is or was a managing agent, officer, director or a stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation that had a liquor license, agency or permit revoked within the last three (3) years.
2. A corporation or partnership applicant may not be granted an alcoholic beverage license if any partner or managing agent of the partnership or any managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporate applicant had a license, agency or permit issued pursuant to this title or Utah Code Annotated title 32A, revoked while acting in their individual capacity within the last three (3) years.
3. A person acting in an individual capacity may not be granted an alcoholic beverage license if that person was a partner or managing agent of a partnership, or a managing agent, officer, director or stockholder who held at least twenty percent (20%) of the total issued and outstanding stock of a corporation that had a license, agency or permit issued pursuant to this title or Utah Code Annotated title 32A, revoked within the last three (3) years.

- E. Minors: A minor may not be granted an alcoholic beverage license.
- F. Licensee No Longer Qualified: If any person to whom a license has been issued under this title no longer possesses the qualifications required by this title for obtaining that license, the town manager may suspend or revoke that license. (Ord. 91-003, 4-9-1991)
- G. Outstanding Warrants: Even after meeting the requirements provided for in this chapter, the applicant shall not receive approval if there are any outstanding warrants on the applicant. (Ord. 91-003, 4-9-1991; amd. 2010 Code)

3-4-8: ALCOHOL TRAINING AND EDUCATION:

- A. Required: No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the town, if such person operates an establishment which as part of its business serves "alcoholic beverages", as defined in Utah Code Annotated section 32A-1-105, to the public for consumption on the premises, unless that person shall show by certificate granted by the state division of alcoholism and drugs that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the alcohol training and education seminar, as required in Utah Code Annotated section 62A-15-401. (Ord. 87-009, 9-8-1987; amd. 2010 Code)
- B. Current, New Employees: Every current business employee and/or new employee hired after the licensee has been licensed in compliance with subsection A of this section, shall complete the seminar, either: 1) within sixty (60) days of commencing employment; or 2) within sixty (60) days of the effective date hereof, whichever occurs first. An extension of this subsection shall only be tolerated upon a showing that no seminar was scheduled within the allotted time period set for compliance.
- C. Revocation: Violation of this subsection will result in revocation of the license granted under subsection A of this section. (Ord. 87-009, 9-8-1987)

3-4-9: ISSUANCE OF LICENSE:

- A. Verification Of Application: An applicant for an alcoholic beverage license shall fill out the application in full and sign it and have it notarized as verification under penalty of law that all information contained therein is true.
- B. Applicability: All applications for a license defined in this chapter shall be made pursuant to this section, regardless of whether the application is for a new license, or there is a change of ownership or a change of lessees of an existing licensed premises, or an existing licensee is moving his business to another location in the town.
- C. Application, Fee Submitted: The application shall be returned to the town offices, along with full payment of the license fees.

- D. Content Of Certificate: The certificate of license shall be signed by the Town Manager and the Town Clerk, and shall contain the following information:
1. The name of the person to whom the certificate is issued;
 2. The expiration date of the license; and
 3. The address of the place of business licensed.
- E. New Businesses: All applicants who are beginning a new business shall also comply with all applicable business licensing requirements.
- F. Duration, Expiration: The duration and expiration of each alcoholic beverage license under this chapter, shall coincide with the term and expiration of the underlying town business license. (Ord. 91-003, 4-9-1991)

3-4-10: RENEWAL OF LICENSE:

- A. Application; Fee: Each year, licensees shall renew their alcoholic beverage licenses by completing an application for a license renewal, signed under penalty of law that all information contained therein is true, and returning it along with the proper fees to the town offices within the time period set forth in subsection [3-4-6B](#) of this chapter.
- B. Review; Issuance: Upon receipt of the application and fees, the Town Manager shall review application under the same criteria as original application, and prepare and issue a certificate of license as provided in this chapter.

3-4-11: TERM OF LICENSE:

All alcoholic beverage licenses, no matter when issued, shall expire on the same date the licensee's underlying town business license expires. (Ord. 91-003, 4-9-1991)

3-4-12: DISPLAY OF LICENSE REQUIRED:

Every certificate of license issued pursuant to this chapter shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business next to the certificate of business license so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted within the place of business. (Ord. 91-003, 4-9-1991)

3-4-13: NONTRANSFERABLE LICENSE:

Alcoholic beverage licenses are not transferable or assignable to any other person. (Ord. 91-003, 4-9-1991)

3-4-14: NUISANCE PROHIBITED:

It shall be unlawful for any licensee to keep or maintain a "nuisance", as defined under common law or by the alcoholic beverage control act, on the licensed premises. (Ord. 91-003, 4-9-1991)