

**APPLE VALLEY
ORDINANCE O-2022-55**

NOW THEREFORE, be it ordained by the Council of the Apple Valley, in the State of Utah, as follows:

SECTION 1: **AMENDMENT** “5.10.020 Beer Licenses” of the Apple Valley Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

5.10.020 Beer Licenses

- A. LICENSE REQUIREMENTS; WHOLESALERS: It is unlawful for any person to engage in the business of selling beer at wholesale within the limits of the Town without meeting the requirements for a wholesale license therefor from the state alcohol beverage control commission. The Town's license shall be deemed "local consent" as required by Utah Code § 32A-11-102(1)(c), 1953, as amended.
- B. LICENSE REQUIREMENTS; RETAIL SALES:
1. It is unlawful for any person to engage in the business of the sale of beer at retail, in bottles, cans or draft, within the corporate limits of the Town without first having procured a license therefor from the Mayor or the Mayor's designee, as hereinafter provided.
 2. A separate license shall be required for each place of sale, and the license itself shall identify the specific premises covered thereby. Each license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued.
 3. All licensees shall comply with the provisions of the Act, or its successor; the regulations of the alcoholic beverage control commission; and this Chapter. Every license shall recite that it is subject to revocation under this Chapter, or its successor.
 4. All licenses shall comply with all land use ordinances and with the location restrictions of this Chapter, or its successor, applicable to the location of the premises for which the license is issued.
- C. RETAIL LICENSE CLASSIFICATIONS: Retail licenses 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:
1. Class A Retail License;
 2. Class B Retail License;
 3. Class C Retail License;
 4. Class D Special Event License;
 5. Class E Arena/Facility License;
 6. Class F Brewpub and Microbrewery License;

7. Temporary License;
8. Government Owned Facility License.

D. CLASS A RETAIL LICENSES:

1. A Class A Retail License shall entitle the licensee to sell beer on the premises described in such license in original containers for consumption off the premises, in accordance with the Act and this code; provided, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.
2. It is unlawful for a licensee of a Class A Retail License at any hotel, motel, rooming house or boarding house to sell beer in original containers from multiple beer dispensing facilities located in separate rooms of the hotel, motel, rooming or boarding house, unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to hotel, motel, rooming or boarding house patrons who are twenty one (21) years of age or older and who have duly rented such room in which such dispensing facility is located. For purposes of this section, the consumption of beer in such room duly rented by such patron shall be deemed consumed off the premises of the hotel, motel, rooming or boarding house.
3. It is unlawful for a minor to sell beer on the premises of a Class A licensee for off-premise consumption unless the sale is done under the supervision of a person 21 years of age or older who is on the premises and the minor is at least 16 years of age.
4. Class A licensees shall comply with all requirements of Utah Code § 32A-10-10 2.
5. No person shall sell, offer for sale, or be allowed to sell any beer or alcoholic beverage from the premises of a Class A licensee until they have complied with the requirements of Utah Code § 32A-10-103. The Class A licensee is strictly liable to assure compliance with the provisions of Utah Code § 32A-10-103 and failure by any person to strictly abide by such provisions shall entitle the Town to impose fines and other sanctions as set forth in such section.

E. CLASS B RETAIL LICENSES:

1. A Class B Retail License shall entitle the licensee to sell beer in draft or in the original containers only for consumption on the premises.
2. Only bona fide restaurants, where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations, and which food sales constitute at least seventy percent (70%) of the gross dollar value of licensee's business during each month of the license period, shall be entitled to Class B Retail Licenses.
3. The holders of Class B Retail Licenses shall maintain records which shall disclose the gross sales of beer and the gross sales of food served for consumption on the licensed premises during each and every month of the year, and shall maintain those records for a minimum of two (2) calendar years from the date such records are made. In those licensed premises which are also licensed to allow consumption of liquor on the premises in accordance with

Title or its successor, the sale of carbonated and noncarbonated soft drinks, soda water, water and other mixers shall not constitute the sales of food within the meaning of this chapter. Each licensee shall maintain a separate record which shall disclose the gross sales of such drinks during each and every month of the year. The foregoing sales shall be shown separately in the records and each licensee shall retain all invoices, vouchers, sales slips, receipts and other records of purchases of beer, soft drinks and food from the licensee's suppliers. Such records and supporting data shall be available for inspection and audit by the Town. Failure to maintain or supply the records shall be cause for suspension or revocation of the license. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee may be suspended by the Mayor or the Mayor's designee, after the licensee has been afforded notice and a hearing regarding such license in accordance with the Town's license hearing procedures.

4. It is unlawful for any licensee, operator, manager or any other person in charge of a restaurant holding a Class B Retail License to:
 - a. Sell food for consumption on the premises in an amount which constitutes less than seventy percent (70%) of the restaurant's gross dollar volume of business during any monthly period; or
 - b. Sell beer or liquor, if such establishment is licensed for such, other than in conjunction with the purchase of food menu items; or
 - c. Advertise the sale of beer or liquor, except in compliance with state alcohol beverage commission rules on advertising; or
 - d. Hire or allow or permit any person under twenty one (21) years of age to serve beer or liquor for consumption on the premises.
5. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee shall immediately be suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the Mayor or the Mayor's designee that in the future the sales of food served for consumption on the licensed premises will exceed seventy percent (70%) of the gross dollar volume of business.

F. CLASS C RETAIL LICENSES: A Class C Retail License shall entitle the licensee to sell beer on draft for consumption on the premises or for consumption off the premises, in containers not larger than two liters, in compliance with the Act, or its successor. Consumption of beer shall not be allowed in parking lots of licensees, nor in any area not within the area of the licensee's premises approved for consumption of beer.

G. CLASS D SPECIAL EVENT LICENSES:

1. Special Events: A Class D Special Event License shall entitle a bona fide corporation, church, political organization, or incorporated association or a subordinate lodge, chapter, or other local unit thereof that is conducting a convention, civic, or community enterprise to sell beer at such event in

accordance with the provisions in this section.

2. Application Requirements: In addition to the application requirements set forth in the Town's business licenses Chapter and this Chapter, or their successors, an application for a Class D Special Event License shall include the following:

- a. The times, dates, location, nature, and purpose of the event;
- b. A description or floor plan designating:
 - (1) The area in which the applicant proposes that alcohol be stored;
 - (2) The sites from which the applicant proposes that alcohol be sold or served, including all dispensing points. Dispensing points include booths, tables, and other areas set apart for the sale of alcoholic beverages;
 - (3) The areas in which the applicant proposes that alcohol be allowed to be consumed;
- c. A statement of the purpose of the association, corporation, church, or political organization, or its local lodge, chapter, or other local unit conducting the event;
- d. A signed consent form stating that any law enforcement officers or representatives of the Town authorized by the Mayor shall have unrestricted right to enter the premises during the event.

3. Operational Restrictions:

- a. All persons involved in the storage, sale, or serving of alcohol at the event shall do so only under the supervision and direction of the licensee.
- b. No alcohol, other than that furnished by the licensee, shall be brought by any person onto the premises of the event.
- c. Alcohol purchased for the event may not be stored in any place other than that described in the application as designated on the license.
- d. Alcohol purchased for the event may not be sold or served in any place other than the sites described in the application and designated on the permit.
- e. Alcohol purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.
- f. Class D Special Event Licenses are not transferable.
- g. No Class D Special Event License shall have a duration longer than seven days.
- h. No more than two Class D Special Event Licenses shall be granted in any calendar year to the same association, corporation, church, or political organization, or subordinate lodge, chapter, or other local unit thereof.
- i. No sale of beer or other alcoholic beverage shall exceed a sixteen (16) ounce serving.

H. CLASS E ARENA/FACILITY LICENSES:

1. No beer may be sold or dispensed to the public on or within any publicly

owned recreation facility, or any privately owned sports arena, or recreation or convention facility, designed to accommodate more than five thousand (5,000) persons, by any person, corporation or organization except by the holder of a Class E Arena/Facility License for such premises, or by an operator, manager, food service licensee or employee of such holder. For the purposes of this Chapter, "premises" shall not include separately licensed businesses operating within the same arena or facility which businesses may be subject to other beer and/or alcoholic beverage requirements.

2. A Class E Arena/Facility License shall entitle the licensee to sell beer for consumption on publicly owned recreation facilities or on privately owned sports arenas or recreation or convention facilities designed to accommodate more than five thousand (5,000) persons; provided, however, that no such Class E Arena/Facility License shall be issued for the sale of beer for consumption on publicly owned recreation facilities unless such prospective licensee shall first obtain a concession contract from the public body owning the facility involved. Under the Class E Arena/Facility License, no beer shall be dispensed in original containers in areas accessible to the general public nor shall beer in original containers be allowed in areas accessible to the general public, but must first be emptied into suitable temporary containers. No person under the age of twenty one (21) years of age may sell or serve beer. With the exception of privately leased suites, all sales and deliveries under this license shall be made directly to the consumer.
3. For purposes of this Chapter, "privately leased suite" means space within a Class E facility which is leased by the Class E licensee to private individuals twenty one (21) years of age or older for periods of one year or longer and which shall not be open to the general public.
4. All beer or other alcoholic beverages which are dispensed within a Class E facility, except within a "privately leased suite" as defined above, shall be dispensed only by the Class E licensee or its operator, manager, food service licensee or employee. No alcoholic beverages, except for beer, shall be dispensed at any location within a Class E facility other than within privately leased suites as defined above or within other privately rented or privately occupied space which is not open to the general public. No beer or other alcoholic beverage shall be removed from within the building of a publicly owned or privately owned sports arena or recreation or convention facility holding a Class E license except by the Class E licensee or its operator, manager, food service licensee, or employee operating in the course of business under the Class E Arena/Facility License.
5. It is unlawful for a licensee of a Class E Arena/Facility License to sell beer in original containers from multiple beer dispensing facilities located in privately leased suites of the Class E premises or to allow storage of beer or other alcoholic beverages within such dispensing facilities located in privately leased suites of the Class E premises unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to suite lessees twenty one (21) years of age or older who have duly

rented such private suites in which such dispensing facility is located.

I. CLASS F BREWPUB AND MICROBREWERY LICENSE:

1. DEFINITIONS. The following definitions are applicable to the provisions of this section through this subsection:

- a. "**Bar area**" means an area of the licensed premises separated from the restaurant service area by a substantial physical barrier.
- b. "**Brewpub**" means a restaurant type establishments that also has a beer brewery, producing beer in batch sizes not less than seven (7) U.S. barrels (31 gallons), on the same property and which produces, except as provided in subsection B of this section, only enough beer for sale and consumption on site or for retail carryout sale in containers holding less than two liters for wholesale as outlined in subsections B,2 and B,5 of this section. Automated bottle or canning production is prohibited. At least fifty percent (50%) of the beer sold shall be brewed on the premises. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding retail carryout sales of beer and the sales allowed pursuant to subsection B of this section. Brewpubs are limited to a total brewing capacity of two thousand five hundred (2,500) barrels per year or one hundred twenty (120) barrels of fermentation at any one time, whichever is less.
- c. "**Major streets**" means those streets identified as major streets on Town maps.
- d. "**Microbrewery**" means a brewpub which, in addition to retail sale and consumption on site, markets beer wholesale in an amount not to exceed sixty thousand (60,000) barrels (31 gallons) per year. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding wholesale and retail carryout sales of beer.

2. PRODUCTION LIMITS. Brewpubs may sell beer in keg (larger than 2 liters) containers for the following purposes and in the following amounts:

- a. An unlimited number of kegs (not to exceed 2,500 barrel capacity) for "brew fests" which, for the purpose of this section, means events, the primary purpose of which is the exposition of beers brewed by brewpubs and microbreweries, which include the participation of at least three (3) such brewers;
- b. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events sponsored by charitable organizations exempt from federal income tax pursuant to 26 USC, section 501(c) (3) or its successor;
- c. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events operating under a single event license from the state and the Town where the purpose of the event is not for commercial profit and where the beer is not wholesaled to the event sponsor but is, instead, dispensed by employees of the brewpub;

- d. Unlimited distribution to other restaurants of same ownership or control (not to exceed 2,500 barrel capacity). "Ownership or control" means more than fifty percent (50%) ownership in the actual business or controlling interest in any management partnership; and
 - e. No more than five hundred (500) barrels for wholesale distribution (not to exceed 2,500 barrel capacity).
- 3. ALLOWABLE ZONING. Brewpubs and microbreweries may be allowed as conditional uses only in such zones as specified in the Town Land Use Code.
- 4. PROXIMITY REQUIREMENTS. The provisions of subsection N of this Section shall apply to Class F licenses.
- 5. SPACING. Brewpubs and microbreweries shall be located so as to front on a major street or be within a building the main entrance of which building fronts on a major street. This provision may be waived or modified in the same manner as for Class C and Class B private club licenses. Only one brewpub or microbrewery may be located on either side of a major street between the intersections of two (2) major streets.
- 6. OTHER APPLICABLE PROVISIONS. The provisions of subsections E,3 through E,4, except subsection E,4,b of this Section, shall apply to class F licenses.
- 7. INTERIOR DESIGN. The application for a Class F license shall provide an interior design drawn to scale showing the restaurant area, the bar area (if any) and describing the physical barrier separating the restaurant area from the bar area.
- 8. PERSONS UNDER TWENTY ONE YEARS OF AGE. Any other provision of this Chapter notwithstanding, no person under twenty one (21) years of age, unless accompanied by a person twenty one (21) years of age or older, shall be permitted in Class F licensed establishments subject to the provisions of subsection E,4,d of this Section or its successor.
- 9. STATE AND FEDERAL PERMITS REQUIRED. All licensees of brewpubs or microbreweries shall obtain all required state and federal permits prior to opening for business.
- 10. CRIMINAL PROVISIONS. It is unlawful and shall constitute an offense of strict liability for a licensee of a Class F license to serve or allow the consumption of beer in single serving containers larger than twenty three (23) fluid ounces except in the bar area of the licensed premises.

J. CLASS G TEMPORARY LICENSES:

- 1. A temporary license shall be issued as a temporary Class B restaurant license, a temporary Class B private club license, a temporary Class C private club license, or a temporary Class C beer license.
- 2. A temporary Class B restaurant licensee shall comply with all requirements of this code relating to a Class B restaurant license.
- 3. A temporary Class B private club licensee shall comply with all requirements of this code relating to a Class B private club license.
- 4. A temporary Class C private club licensee shall comply with all requirements

of this code relating to a Class C private club license.

5. A temporary Class C beer licensee shall comply with all requirements of this code relating to a Class C retail beer license.
6. A temporary license may be issued for a period not to exceed two hundred ten (210) days.

K. GOVERNMENT OWNED FACILITY LICENSE:

1. A government owned facility license may be issued to state and local governmental units for government operated events. Any such license shall be issued subject to the following terms and conditions:
 - a. Sales of alcohol shall be made only by persons who have been trained for such sale in accordance with state law;
 - b. Dramshop liability insurance shall be obtained and maintained during the period the license is in effect at coverage levels approved by the Town attorney;
 - c. No sale of beer or other alcoholic beverage shall exceed a sixteen (16) ounce serving;
 - d. All applicable business license and other fees shall be paid as set forth in the Town business license Chapter, the Town Consolidated Fee Schedule and this Chapter; and
 - e. All requirements of the Act shall be met.

L. APPLICATION, FILING AND VERIFICATION PROCEDURES:

1. Applications for licenses, for renewal or reissuance of licenses, and for transfer of licenses authorized by this chapter shall be verified and filed with the license officer, addressed to the Mayor or the Mayor's designee, and shall state the applicant's full name and that such applicant has complied with the requirements and possesses the qualifications specified in the Act, or its successor. If the applicant is a partnership, the application shall state the names and addresses of all partners thereof. If the applicant is a corporation, the application shall state the names and addresses of all officers and directors thereof and all stockholders who hold at least twenty percent (20%) of the issued and outstanding stock of the corporation. If the applicant is a limited liability company, the application shall state the names and addresses of all managers thereof and all members who have at least a twenty percent (20%) ownership interest therein. If the business is to be operated by a person other than the applicant, such operator shall sign the application and file the same information required of an applicant.
2. If any business required to be licensed by this chapter is operated by a person who has not filed his or her operator's information at the time of renewal of the license, or, if operation is assumed by another person during the license period, at least thirty (30) days prior to assuming operation of the business, such license may be revoked.
3. The application and operator's information shall be subscribed to by the applicant and operator, who shall state under oath that the information contained therein is true.
4. In addition to the requirements of the Town business license Chapter, or their

successors, the application shall require the applicant to list:

- a. All criminal convictions or pleas of nolo contendere, except those which have been expunged and except for traffic offenses, which were not alcohol related, and the disposition of all such convictions or pleas of nolo contendere for the applicant, individual or other entity subject to disclosure under this chapter, for ten (10) years prior to the date of the application;
- b. All alcohol and controlled substance citations and arrests (including alcohol related traffic law citations), for the applicant, individual or other entity subject to disclosure under this chapter, for five (5) years prior to the date of the application;
- c. All criminal citations issued to, or arrests of, the applicant, individual or other entity subject to disclosure under this chapter which are still pending adjudication, other than non-alcohol related traffic citations or arrests;
- d. Three (3) character references with addresses and telephone numbers of such references; and
- e. All business license revocations for businesses in which the applicant had at least a twenty percent (20%) legal or equitable interest.

M. FEES AND RECORDS:

1. Applications provided for in this Chapter shall be accompanied by the fees as set forth in the Town Consolidated Fee Schedule, or its successor, per year or any part thereof, which fees shall be deposited in the Town treasury if the license is granted, and returned to the applicant if denied.
2. Holders of alcohol licenses shall maintain records, which shall disclose the gross sales of alcohol by such holder during each and every year. Such records shall be available for inspection and audit by the Town license officer at any time following the end of each year and for eighteen (18) months thereafter, unless another time is set by ordinance applicable to a specific license class.
3. 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 an alcohol license.

N. LOCATION RESTRICTIONS:

1. Permissible Locations: The permissible locations of establishments licensed with either a Class C beer license, a Class B or C private club license, or a temporary Class C beer license or a temporary Class B or C private club license, or any combination thereof, shall be determined by geographical proximity, based upon the following criteria:
 - a. There shall be no more than two (2) licensed establishments located on any linear block. A "linear block" means both sides of a major street between two (2) intersecting major streets. For the purposes of this section, a corner establishment having abutting front footage on two (2) major streets shall be included in the linear block in which the establishment has the greatest number of front footage abutting the

major street, or, if such abutting footage is equal, then the address originally filed with the Town shall determine in which linear block the establishment shall be located.

- b. No licensed establishment shall be located within six hundred feet (600') of another licensed establishment as measured from the nearest point on the property line of one establishment to the nearest point on the property line of the other establishment.
 - c. All major streets will be those designated on official Town maps. All establishments holding a Class C beer or a Class B or C private club license must be located so as to front on a major street or be within a building whose main entrance fronts on a major street.
2. Proximity To Park, School Or Church: No Class C beer establishment and no Class B or C private club may be licensed or operate under the provisions of this code which is in close proximity to a public park, public elementary, junior high or high school, or a church, without having first received approval from the Town Council. Such approval shall be given only after:
- a. The Town Council has received recommendations regarding such an establishment from the planning commission and law enforcement; and
 - b. A public hearing has been held, with actual written notice having been given, where applicable, to the director of the public services, to the school superintendent or to the church, and with notice having been given to the Town and the residents thereof by at least one publication in a paper of general circulation in Washington County at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - c. A finding by the Town Council that the proposed location will not materially interfere with the activities and functions of such parks or school, or interfere with church worship or church related activities. For the purposes of this section, a public park or public elementary, junior high or high school or church which is located six hundred (600) or more feet from the proposed establishment shall not be considered to be in close proximity to such establishment and no notices or hearings need be given or held prior to the granting of a Class C beer license or Class B or C private club license. With respect to the six hundred foot (600') limitation, it shall be measured from the nearest entrance of the proposed establishment by following the shortest route of either ordinary pedestrian traffic, or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public school, church, public park.
 - d. The applicant shall pay an additional sum asset out in the Town Consolidated Fee Schedule to cover the cost of advertising the hearing. The fee shall be paid before such hearing shall be set or

advertised.

- e. The subsequent location of a school, church or park within the spacing requirements of a licensed establishment subject to proximity requirements shall be deemed to be a waiver of spacing requirements as specified under Town Codes.
3. Exceptions: Class C beer establishments or Class B or C private clubs may be allowed on streets other than those outlined in subsection A of this section, and may be allowed within the interior of a block, upon receiving approval from the Town Council. Such approval shall be given only:
- a. After the Town Council has received recommendation from the planning commission and law enforcement; and
 - b. If the street is at least sixty feet (60') in width, or if, within the interior of the block, the entrance to the establishment is from a courtyard or mall-like area with paved vehicular access and proper lighting; and
 - c. If the addition of such requested establishment would not cause the number of such licensed establishments to exceed twelve (12) on the exterior and interior of any block. The foregoing notwithstanding, no more than six (6) such establishments may be located on any street located in the interior of any such block, and no more than six (6) such establishments may be located within the interior of any such block;
 - d. After a public hearing has been held, with actual written notice thereof having been given to the abutting property owners, and public notice thereof having been given to the residents of the Town by at least one publication in a newspaper of general circulation in Washington County at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - e. A finding by the Town Council, after the holding of such hearing, that the proposed location for said establishment will not:
 - (1) Create an undue concentration of Class C beer establishments or Class B or C private clubs;
 - (2) Materially interfere with the free flow of pedestrian or vehicular traffic;
 - (3) Create an undue burden in controlling and policing illegal activities in the vicinity;
 - (4) Create a nuisance to the community; or
 - (5) Adversely affect the health, safety and morals of the residents of the Town.
4. Prior Location: The provisions of this section shall in no way affect the rights of the present licensees to continue their operations, so long as their licenses remain in good standing, and they continue to have their licenses reissued as provided by law until revoked or terminated for any reason.
5. Zoning Restrictions: Notwithstanding any of the provisions of subsection A of this section, all Class C beer or Class B or C private club establishments must

be located within the zoning districts as set forth in the Town Land Use Code.

O. APPLICATIONS; REVIEW BYLAW ENFORCEMENT:

1. All applications filed in accordance with the provisions of this Chapter shall be referred to appropriate law enforcement and fire authorities for inspection and report. Law enforcement and fire authorities shall, within thirty (30) days after receiving such application, make report to the Mayor or the Mayor's designee. The report shall include:
 - a. The results of a criminal background or other required application verification of the proprietor, partner, or, in the case of a corporation, any man aging agent, officer, director, and any stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporation or, in the case of a limited liability company, any managers and any members with at least a twenty percent (20%) ownership interest in such company;
 - b. The result of any law enforcement or fire authority inspection made of the proposed licensed premises; and
 - c. A recommendation as to whether or not the application should be granted.
2. No license or renewal of a license shall be issued to any of the following:
 - a. A person under the age of twenty one (21) years.
 - b. A person convicted of an unexpunged felony, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
 - c. A person convicted of any violation of any federal or state law concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages or controlled substances, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
 - d. A person convicted of a crime involving moral turpitude, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later; or
 - e. A licensee which has three (3) or more violations of local Code in a thirty six (36) month period related to a business involving the sale or distribution of beer or other alcoholic beverages, whether or not by the licensee or by such licensee's employees, unless a period of not less than ten (10) years shall have elapsed since the expiration of said thirty six (36) month period.
 - f. In the case of a partnership, a corporation, a limited liability company, or association, the proscription under subsections O,2,b through O,2,e of this section shall apply if any partner, managing agent, manager, officer or director has been so convicted or if any stockholder or

member owning at least twenty percent (20%) of the total issued and outstanding stock or having a twenty percent (20%) ownership interest has been so convicted.

- g. Any person who has had a license involving the sale or distribution of alcohol revoked within the three (3) years preceding the date of the application for a license or renewal of a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.
- h. Any person who has been convicted of driving a vehicle while under the influence of alcohol or a controlled substance, or of being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving such vehicle, within the five (5) years immediately preceding application for a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.

P. APPLICATIONS; REVIEW BY HEALTH DEPARTMENT: All applications filed in accordance with this Chapter shall be referred to the health department which shall inspect all premises to be licensed to assure sanitary compliance with the laws of the state, the Codes of the Town, and the rules and regulations of the health department. If the premises and all equipment used in the storage, distribution or sale of beer fulfill all such sanitary requirements, the health department shall issue a pennit to the licensee, a copy of which shall be attached to the application for license.

Q. RENEWAL PROCEDURES; FORFEITURE CONDITIONS:

1. Time For Filing Application: All applications to renew licenses shall be filed by the holders of existing licenses with the Town license office at least thirty (30) days prior to the expiration date of the then issued license. To avoid late fees and charges as provided by this Chapter, or its successor, the renewal applications shall state whether or not the business is presently operating and, if not, the date when it ceased daily operation, together with such other information as the license office shall reasonably require to verify or determine the status of such business. Any person who fails to file such application with the required fees within thirty (30) days after the expiration date of a license shall terminate such person's sale of alcohol on the thirty first day after such expiration, and shall keep the premises closed for the sale of alcohol until the date a new license is issued by order of the Mayor or the Mayor's designee.
2. Renewal Of License: A licensee has the right to apply for license renewal annually unless such license has been revoked for cause or until the licensee no longer actively operates the business authorized by such license for a period longer than thirty (30) days.

- R. LATE FILING FOR RENEWAL; PENALTY: If any application, notice or petition for renewal is not filed at least thirty (30) days prior to the expiration of the current license, but is filed prior to the expiration of the license, the applicant shall pay a penalty equal to fifty percent (50%) of the license fee. If the application, notice or petition is filed within thirty (30) days after the expiration of the license, a penalty equal to one hundred percent (100%) of the license fee shall be paid. Upon failure to file a timely application, notice or petition required by this Chapter on or before the thirtieth day after the expiration of the current license, the license shall be void on the thirty first day after the expiration date. No business may be conducted thereafter unless and until the Mayor, or the Mayor's designee, approves an application, notice or petition for renewal of a license or for a new license.
- S. ESTABLISHMENT NAME CHANGE; FEE AND NOTICE TO TOWN: The licensee shall not change the name of his or her business establishment until such licensee has given written notice to the Town license officer ten (10) days prior to the name change, and has paid the fee as provided in the town Consolidated Fee Schedule, or its successor.
- T. TRANSFER TO NEW LOCATION; FEE: Licenses issued pursuant to this Chapter may be transferred to a new proper location upon application to the Mayor or his/her designee, filed with the Town license officer, and upon the payment of the fee as provided in the Town's Consolidated Fee Schedule, or its successor.
- U. SUBLEASE, TRANSFER OR ASSIGNMENT PROHIBITED: No license may be transferred, assigned or subleased in any manner. Any violations of this section shall be grounds for revocation of the license or refusal to renew license.
- V. EXPIRATION DATE: All licenses shall be issued for one year so long as the license is renewed annually without interruption, except that temporary licenses shall be issued for not longer than two hundred ten (210) days and Class D special events licenses shall be issued for not longer than seven (7) days. All licenses involving disproportionate regulatory license fees issued pursuant to this Chapter on or after May 1, 2010, shall date from issuance by the Town and shall expire in the next calendar year on the first day of the same month in which original issuance occurred. The annual base business license for all businesses regulated under this Chapter shall be issued on the same date and shall expire on the same date as the disproportionate regulatory license issued under this Chapter.
- W. FORFEITURE CONDITIONS: If any licensee, licensed to do business under the provisions of this Chapter, sells his or her place of business, together with the entire assets of such business, his or her license shall expire and be forfeited.
- X. CONFORMANCE WITH TOWN LAWS REQUIRED: The licensee shall be responsible for the operation of the business in conformance with the Town Code, and it shall be grounds for revocation of the license if a violation of such Codes occurs through an act of a licensee, operator, employer, agent or person who is allowed to perform for patrons of the licensee's business, whether or not such person is paid by the licensee for the performance, or any person who violates such Codes with the consent or knowledge of licensee or his or her agents or employees or operator of the business.

Y. SUSPENSION AND REVOCATION:

1. Suspended or Revoked by the Mayor: License s may be suspended or revoked by the Mayor for:
 - a. The violation on the licensed premises of any provision of this Chapter, whether an infraction or a misdemeanor, or of any other applicable Code or law relating to alcoholic beverages;
 - b. If the licensed premises is used for the commission of any illegal act or activity by any person; or
 - c. If the person to whom the license was issued no longer possesses the qualifications required by this code and the statutes of the state.
2. Suspension Procedure: The procedure for suspension or revocation of a license shall be governed by the provisions of the Town business license Chapter or their successors.

AFTER AMENDMENT

5.10.020 Beer Licenses

- A. LICENSE REQUIREMENTS; WHOLESALERS: It is unlawful for any person to engage in the business of selling beer at wholesale within the limits of the Town without meeting the requirements for a wholesale license therefor from the state alcohol beverage control commission. The Town's license shall be deemed "local consent" as required by Utah Code § 32A-11-102(1)(c), 1953, as amended.
- B. LICENSE REQUIREMENTS; RETAIL SALES:
 1. It is unlawful for any person to engage in the business of the sale of beer at retail, in bottles, cans or draft, within the corporate limits of the Town without first having procured a license therefor from the Mayor or the Mayor's designee, as hereinafter provided.
 2. A separate license shall be required for each place of sale, and the license itself shall identify the specific premises covered thereby. Each license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued.
 3. All licensees shall comply with the provisions of the Act, or its successor; the regulations of the alcoholic beverage control commission; and this Chapter. Every license shall recite that it is subject to revocation under this Chapter, or its successor.
 4. All licenses shall comply with all land use ordinances and with the location restrictions of this Chapter, or its successor, applicable to the location of the premises for which the license is issued.
- C. RETAIL LICENSE CLASSIFICATIONS: Retail licenses 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:
 1. Class A Retail License;
 2. Class B Retail License;
 3. Class C Retail License;

4. Class D Special Event License;
5. Class E Arena/Facility License;
6. Class F Brewpub and Microbrewery License;
7. Temporary License;
8. Government Owned Facility License.

D. CLASS A RETAIL LICENSES:

1. A Class A Retail License shall entitle the licensee to sell beer on the premises described in such license in original containers for consumption off the premises, in accordance with the Act and this code; provided, however, that it is unlawful for the licensee to sell or distribute beer in any container larger than two (2) liters.
2. It is unlawful for a licensee of a Class A Retail License at any hotel, motel, rooming house or boarding house to sell beer in original containers from multiple beer dispensing facilities located in separate rooms of the hotel, motel, rooming or boarding house, unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to hotel, motel, rooming or boarding house patrons who are twenty one (21) years of age or older and who have duly rented such room in which such dispensing facility is located. For purposes of this section, the consumption of beer in such room duly rented by such patron shall be deemed consumed off the premises of the hotel, motel, rooming or boarding house.
3. It is unlawful for a minor to sell beer on the premises of a Class A licensee for off-premise consumption unless the sale is done under the supervision of a person 21 years of age or older who is on the premises and the minor is at least 16 years of age.
4. Class A licensees shall comply with all requirements of Utah Code § 32A-10-10 2.
5. No person shall sell, offer for sale, or be allowed to sell any beer or alcoholic beverage from the premises of a Class A licensee until they have complied with the requirements of Utah Code § 32A-10-103. The Class A licensee is strictly liable to assure compliance with the provisions of Utah Code § 32A-10-103 and failure by any person to strictly abide by such provisions shall entitle the Town to impose fines and other sanctions as set forth in such section.

E. CLASS B RETAIL LICENSES:

1. A Class B Retail License shall entitle the licensee to sell beer in draft or in the original containers only for consumption on the premises.
2. Only bona fide restaurants, where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations, and which food sales constitute at least seventy percent (70%) of the gross dollar value of licensee's business during each month of the license period, shall be entitled to Class B Retail Licenses.
3. The holders of Class B Retail Licenses shall maintain records which shall disclose the gross sales of beer and the gross sales of food served for consumption on the licensed premises during each and every month of the

year, and shall maintain those records for a minimum of two (2) calendar years from the date such records are made. In those licensed premises which are also licensed to allow consumption of liquor on the premises in accordance with Title or its successor, the sale of carbonated and noncarbonated soft drinks, soda water, water and other mixers shall not constitute the sales of food within the meaning of this chapter. Each licensee shall maintain a separate record which shall disclose the gross sales of such drinks during each and every month of the year. The foregoing sales shall be shown separately in the records and each licensee shall retain all invoices, vouchers, sales slips, receipts and other records of purchases of beer, soft drinks and food from the licensee's suppliers. Such records and supporting data shall be available for inspection and audit by the Town. Failure to maintain or supply the records shall be cause for suspension or revocation of the license. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee may be suspended by the Mayor or the Mayor's designee, after the licensee has been afforded notice and a hearing regarding such license in accordance with the Town's license hearing procedures.

4. It is unlawful for any licensee, operator, manager or any other person in charge of a restaurant holding a Class B Retail License to:
 - a. Sell food for consumption on the premises in an amount which constitutes less than seventy percent (70%) of the restaurant's gross dollar volume of business during any monthly period; or
 - b. Sell beer or liquor, if such establishment is licensed for such, other than in conjunction with the purchase of food menu items; or
 - c. Advertise the sale of beer or liquor, except in compliance with state alcohol beverage commission rules on advertising; or
 - d. Hire or allow or permit any person under twenty one (21) years of age to serve beer or liquor for consumption on the premises.
5. If any audit or inspection discloses that the sales of food served for consumption on any licensed premises under this chapter are less than seventy percent (70%) of the gross dollar volume of business for any month, the Class B Retail License of such licensee shall immediately be suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the Mayor or the Mayor's designee that in the future the sales of food served for consumption on the licensed premises will exceed seventy percent (70%) of the gross dollar volume of business.

F. CLASS C RETAIL LICENSES: A Class C Retail License shall entitle the licensee to sell beer on draft for consumption on the premises or for consumption off the premises, in containers not larger than two liters, in compliance with the Act, or its successor. Consumption of beer shall not be allowed in parking lots of licensees, nor in any area not within the area of the licensee's premises approved for consumption of beer.

G. CLASS D SPECIAL EVENT LICENSES:

1. Special Events: A Class D Special Event License shall entitle a bona fide

corporation, church, political organization, or incorporated association or a subordinate lodge, chapter, or other local unit thereof that is conducting a convention, civic, or community enterprise to sell beer at such event in accordance with the provisions in this section.

2. Application Requirements: In addition to the application requirements set forth in the Town's business licenses Chapter and this Chapter, or their successors, an application for a Class D Special Event License shall include the following:

- a. The times, dates, location, nature, and purpose of the event;
- b. A description or floor plan designating:
 - (1) The area in which the applicant proposes that alcohol be stored;
 - (2) The sites from which the applicant proposes that alcohol be sold or served, including all dispensing points. Dispensing points include booths, tables, and other areas set apart for the sale of alcoholic beverages;
 - (3) The areas in which the applicant proposes that alcohol be allowed to be consumed;
- c. A statement of the purpose of the association, corporation, church, or political organization, or its local lodge, chapter, or other local unit conducting the event;
- d. A signed consent form stating that any law enforcement officers or representatives of the Town authorized by the Mayor shall have unrestricted right to enter the premises during the event.

3. Operational Restrictions:

- a. All persons involved in the storage, sale, or serving of alcohol at the event shall do so only under the supervision and direction of the licensee.
- b. No alcohol, other than that furnished by the licensee, shall be brought by any person onto the premises of the event.
- c. Alcohol purchased for the event may not be stored in any place other than that described in the application as designated on the license.
- d. Alcohol purchased for the event may not be sold or served in any place other than the sites described in the application and designated on the permit.
- e. Alcohol purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.
- f. Class D Special Event Licenses are not transferable.
- g. No Class D Special Event License shall have a duration longer than seven days.
- h. No more than two Class D Special Event Licenses shall be granted in any calendar year to the same association, corporation, church, or political organization, or subordinate lodge, chapter, or other local unit thereof.
- i. No sale of beer or other alcoholic beverage shall exceed a sixteen (16)

ounce serving.

H. CLASS E ARENA/FACILITY LICENSES:

1. No beer may be sold or dispensed to the public on or within any publicly owned recreation facility, or any privately owned sports arena, or recreation or convention facility, designed to accommodate more than five thousand (5,000) persons, by any person, corporation or organization except by the holder of a Class E Arena/Facility License for such premises, or by an operator, manager, food service licensee or employee of such holder. For the purposes of this Chapter, "premises" shall not include separately licensed businesses operating within the same arena or facility which businesses may be subject to other beer and/or alcoholic beverage requirements.
2. A Class E Arena/Facility License shall entitle the licensee to sell beer for consumption on publicly owned recreation facilities or on privately owned sports arenas or recreation or convention facilities designed to accommodate more than five thousand (5,000) persons; provided, however, that no such Class E Arena/Facility License shall be issued for the sale of beer for consumption on publicly owned recreation facilities unless such prospective licensee shall first obtain a concession contract from the public body owning the facility involved. Under the Class E Arena/Facility License, no beer shall be dispensed in original containers in areas accessible to the general public nor shall beer in original containers be allowed in areas accessible to the general public, but must first be emptied into suitable temporary containers. No person under the age of twenty one (21) years of age may sell or serve beer. With the exception of privately leased suites, all sales and deliveries under this license shall be made directly to the consumer.
3. For purposes of this Chapter, "privately leased suite" means space within a Class E facility which is leased by the Class E licensee to private individuals twenty one (21) years of age or older for periods of one year or longer and which shall not be open to the general public.
4. All beer or other alcoholic beverages which are dispensed within a Class E facility, except within a "privately leased suite" as defined above, shall be dispensed only by the Class E licensee or its operator, manager, food service licensee or employee. No alcoholic beverages, except for beer, shall be dispensed at any location within a Class E facility other than within privately leased suites as defined above or within other privately rented or privately occupied space which is not open to the general public. No beer or other alcoholic beverage shall be removed from within the building of a publicly owned or privately owned sports arena or recreation or convention facility holding a Class E license except by the Class E licensee or its operator, manager, food service licensee, or employee operating in the course of business under the Class E Arena/Facility License.
5. It is unlawful for a licensee of a Class E Arena/Facility License to sell beer in original containers from multiple beer dispensing facilities located in privately leased suites of the Class E premises or to allow storage of beer or other alcoholic beverages within such dispensing facilities located in privately

leased suites of the Class E premises unless such dispensing facilities are securely locked and access to the contents of such facilities is restricted by the licensee to suite lessees twenty one (21) years of age or older who have duly rented such private suites in which such dispensing facility is located.

I. CLASS F BREWPUB AND MICROBREWERY LICENSE:

1. DEFINITIONS. The following definitions are applicable to the provisions of this section through this subsection:

- a. "**Bar area**" means an area of the licensed premises separated from the restaurant service area by a substantial physical barrier.
- b. "**Brewpub**" means a restaurant type establishments that also has a beer brewery, producing beer in batch sizes not less than seven (7) U.S. barrels (31 gallons), on the same property and which produces, except as provided in subsection B of this section, only enough beer for sale and consumption on site or for retail carryout sale in containers holding less than two liters for wholesale as outlined in subsections B,2 and B,5 of this section. Automated bottle or canning production is prohibited. At least fifty percent (50%) of the beer sold shall be brewed on the premises. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding retail carryout sales of beer and the sales allowed pursuant to subsection B of this section. Brewpubs are limited to a total brewing capacity of two thousand five hundred (2,500) barrels per year or one hundred twenty (120) barrels of fermentation at any one time, whichever is less.
- c. "**Major streets**" means those streets identified as major streets on Town maps.
- d. "**Microbrewery**" means a brewpub which, in addition to retail sale and consumption on site, markets beer wholesale in an amount not to exceed sixty thousand (60,000) barrels (31 gallons) per year. Revenue from food sales shall constitute at least fifty percent (50%) of the total business revenues, excluding wholesale and retail carryout sales of beer.

2. PRODUCTION LIMITS. Brewpubs may sell beer in keg (larger than 2 liters) containers for the following purposes and in the following amounts:

- a. An unlimited number of kegs (not to exceed 2,500 barrel capacity) for "brew fests" which, for the purpose of this section, means events, the primary purpose of which is the exposition of beers brewed by brewpubs and microbreweries, which include the participation of at least three (3) such brewers;
- b. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events sponsored by charitable organizations exempt from federal income tax pursuant to 26 USC, section 501(c)(3) or its successor;
- c. No more than one hundred (100) kegs per year (not to exceed 2,500 barrel capacity) to events operating under a single event license from

- the state and the Town where the purpose of the event is not for commercial profit and where the beer is not wholesaled to the event sponsor but is, instead, dispensed by employees of the brewpub;
- d. Unlimited distribution to other restaurants of same ownership or control (not to exceed 2,500 barrel capacity). "Ownership or control" means more than fifty percent (50%) ownership in the actual business or controlling interest in any management partnership; and
 - e. No more than five hundred (500) barrels for wholesale distribution (not to exceed 2,500 barrel capacity).
- 3. ALLOWABLE ZONING. Brewpubs and microbreweries may be allowed as conditional uses only in such zones as specified in the Town Land Use Code.
 - 4. PROXIMITY REQUIREMENTS. The provisions of subsection N of this Section shall apply to Class F licenses.
 - 5. SPACING. Brewpubs and microbreweries shall be located so as to front on a major street or be within a building the main entrance of which building fronts on a major street. This provision may be waived or modified in the same manner as for Class C and Class B private club licenses. Only one brewpub or microbrewery may be located on either side of a major street between the intersections of two (2) major streets.
 - 6. OTHER APPLICABLE PROVISIONS. The provisions of subsections E,3 through E,4, except subsection E,4,b of this Section, shall apply to class F licenses.
 - 7. INTERIOR DESIGN. The application for a Class F license shall provide an interior design drawn to scale showing the restaurant area, the bar area (if any) and describing the physical barrier separating the restaurant area from the bar area.
 - 8. PERSONS UNDER TWENTY ONE YEARS OF AGE. Any other provision of this Chapter notwithstanding, no person under twenty one (21) years of age, unless accompanied by a person twenty one (21) years of age or older, shall be permitted in Class F licensed establishments subject to the provisions of subsection E,4,d of this Section or its successor.
 - 9. STATE AND FEDERAL PERMITS REQUIRED. All licensees of brewpubs or microbreweries shall obtain all required state and federal permits prior to opening for business.
 - 10. CRIMINAL PROVISIONS. It is unlawful and shall constitute an offense of strict liability for a licensee of a Class F license to serve or allow the consumption of beer in single serving containers larger than twenty three (23) fluid ounces except in the bar area of the licensed premises.

J. CLASS G TEMPORARY LICENSES:

- 1. A temporary license shall be issued as a temporary Class B restaurant license, a temporary Class B private club license, a temporary Class C private club license, or a temporary Class C beer license.
- 2. A temporary Class B restaurant licensee shall comply with all requirements of this code relating to a Class B restaurant license.
- 3. A temporary Class B private club licensee shall comply with all requirements

- of this code relating to a Class B private club license.
4. A temporary Class C private club licensee shall comply with all requirements of this code relating to a Class C private club license.
 5. A temporary Class C beer licensee shall comply with all requirements of this code relating to a Class C retail beer license.
 6. A temporary license may be issued for a period not to exceed two hundred ten (210) days.

K. GOVERNMENT OWNED FACILITY LICENSE:

1. A government owned facility license may be issued to state and local governmental units for government operated events. Any such license shall be issued subject to the following terms and conditions:
 - a. Sales of alcohol shall be made only by persons who have been trained for such sale in accordance with state law;
 - b. Dramshop liability insurance shall be obtained and maintained during the period the license is in effect at coverage levels approved by the Town attorney;
 - c. No sale of beer or other alcoholic beverage shall exceed a sixteen (16) ounce serving;
 - d. All applicable business license and other fees shall be paid as set forth in the Town business license Chapter, the Town Consolidated Fee Schedule and this Chapter; and
 - e. All requirements of the Act shall be met.

L. APPLICATION, FILING AND VERIFICATION PROCEDURES:

1. Applications for licenses, for renewal or reissuance of licenses, and for transfer of licenses authorized by this chapter shall be verified and filed with the license officer, addressed to the Mayor or the Mayor's designee, and shall state the applicant's full name and that such applicant has complied with the requirements and possesses the qualifications specified in the Act, or its successor. If the applicant is a partnership, the application shall state the names and addresses of all partners thereof. If the applicant is a corporation, the application shall state the names and addresses of all officers and directors thereof and all stockholders who hold at least twenty percent (20%) of the issued and outstanding stock of the corporation. If the applicant is a limited liability company, the application shall state the names and addresses of all managers thereof and all members who have at least a twenty percent (20%) ownership interest therein. If the business is to be operated by a person other than the applicant, such operator shall sign the application and file the same information required of an applicant.
2. If any business required to be licensed by this chapter is operated by a person who has not filed his or her operator's information at the time of renewal of the license, or, if operation is assumed by another person during the license period, at least thirty (30) days prior to assuming operation of the business, such license may be revoked.
3. The application and operator's information shall be subscribed to by the applicant and operator, who shall state under oath that the information

contained therein is true.

4. In addition to the requirements of the Town business license Chapter, or their successors, the application shall require the applicant to list:
 - a. All criminal convictions or pleas of nolo contendere, except those which have been expunged and except for traffic offenses, which were not alcohol related, and the disposition of all such convictions or pleas of nolo contendere for the applicant, individual or other entity subject to disclosure under this chapter, for ten (10) years prior to the date of the application;
 - b. All alcohol and controlled substance citations and arrests (including alcohol related traffic law citations), for the applicant, individual or other entity subject to disclosure under this chapter, for five (5) years prior to the date of the application;
 - c. All criminal citations issued to, or arrests of, the applicant, individual or other entity subject to disclosure under this chapter which are still pending adjudication, other than non-alcohol related traffic citations or arrests;
 - d. Three (3) character references with addresses and telephone numbers of such references; and
 - e. All business license revocations for businesses in which the applicant had at least a twenty percent (20%) legal or equitable interest.

M. FEES AND RECORDS:

1. Applications provided for in this Chapter shall be accompanied by the fees as set forth in the Town Consolidated Fee Schedule, or its successor, per year or any part thereof, which fees shall be deposited in the Town treasury if the license is granted, and returned to the applicant if denied.
2. Holders of alcohol licenses shall maintain records, which shall disclose the gross sales of alcohol by such holder during each and every year. Such records shall be available for inspection and audit by the Town license officer at any time following the end of each year and for eighteen (18) months thereafter, unless another time is set by ordinance applicable to a specific license class.
3. 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 an alcohol license.

N. LOCATION RESTRICTIONS:

1. Permissible Locations: The permissible locations of establishments licensed with either a Class C beer license, a Class B or C private club license, or a temporary Class C beer license or a temporary Class B or C private club license, or any combination thereof, shall be determined by geographical proximity, based upon the following criteria:
 - a. There shall be no more than two (2) licensed establishments located on any linear block. A "linear block" means both sides of a major street between two (2) intersecting major streets. For the purposes of

this section, a comer establishment having abutting front footage on two (2) major streets shall be included in the linear block in which the establishment has the greatest number of front footage abutting the major street, or, if such abutting footage is equal, then the address originally filed with the Town shall determine in which linear block the establishment shall be located.

- b. No licensed establishment shall be located within six hundred feet (600') of another licensed establishment as measured from the nearest point on the property line of one establishment to the nearest point on the property line of the other establishment.
 - c. All major streets will be those designated on official Town maps. All establishments holding a Class C beer or a Class B or C private club license must be located so as to front on a major street or be within a building whose main entrance fronts on a major street.
2. Proximity To Park, School Or Church: No Class C beer establishment and no Class B or C private club may be licensed or operate under the provisions of this code which is in close proximity to a public park, public elementary, junior high or high school, or a church, without having first received approval from the Town Council. Such approval shall be given only after:
- a. The Town Council has received recommendations regarding such an establishment from the planning commission and law enforcement; and
 - b. A public hearing has been held, with actual written notice having been given, where applicable, to the director of the public services, to the school superintendent or to the church, and with notice having been given to the Town and the residents thereof by at least one publication in a paper of general circulation in Washington County at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - c. A finding by the Town Council that the proposed location will not materially interfere with the activities and functions of such parks or school, or interfere with church worship or church related activities. For the purposes of this section, a public park or public elementary, junior high or high school or church which is located six hundred (600) or more feet from the proposed establishment shall not be considered to be in close proximity to such establishment and no notices or hearings need be given or held prior to the granting of a Class C beer license or Class B or C private club license. With respect to the six hundred foot (600') limitation, it shall be measured from the nearest entrance of the proposed establishment by following the shortest route of either ordinary pedestrian traffic, or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public school, church, public park.
 - d. The applicant shall pay an additional sum asset out in the Town

Consolidated Fee Schedule to cover the cost of advertising the hearing. The fee shall be paid before such hearing shall be set or advertised.

- e. The subsequent location of a school, church or park within the spacing requirements of a licensed establishment subject to proximity requirements shall be deemed to be a waiver of spacing requirements as specified under Town Codes.
3. Exceptions: Class C beer establishments or Class B or C private clubs may be allowed on streets other than those outlined in subsection A of this section, and may be allowed within the interior of a block, upon receiving approval from the Town Council. Such approval shall be given only:
- a. After the Town Council has received recommendation from the planning commission and law enforcement; and
 - b. If the street is at least sixty feet (60') in width, or if, within the interior of the block, the entrance to the establishment is from a courtyard or mall-like area with paved vehicular access and proper lighting; and
 - c. If the addition of such requested establishment would not cause the number of such licensed establishments to exceed twelve (12) on the exterior and interior of any block. The foregoing notwithstanding, no more than six (6) such establishments may be located on any street located in the interior of any such block, and no more than six (6) such establishments may be located within the interior of any such block;
 - d. After a public hearing has been held, with actual written notice thereof having been given to the abutting property owners, and public notice thereof having been given to the residents of the Town by ~~at least one publication in a newspaper of general circulation in Washington County~~ posting at the Apple Valley Town Hall, the Utah Public Meeting Notice website <http://pmn.utah.gov> and the Town Website www.applevalleyut.gov at least ten (10) days before the hearing, in each case stating the purpose, time, date and location of such hearing; and
 - e. A finding by the Town Council, after the holding of such hearing, that the proposed location for said establishment will not:
 - (1) Create an undue concentration of Class C beer establishments or Class B or C private clubs;
 - (2) Materially interfere with the free flow of pedestrian or vehicular traffic;
 - (3) Create an undue burden in controlling and policing illegal activities in the vicinity;
 - (4) Create a nuisance to the community; or
 - (5) Adversely affect the health, safety and morals of the residents of the Town.
4. Prior Location: The provisions of this section shall in no way affect the rights

of the present licensees to continue their operations, so long as their licenses remain in good standing, and they continue to have their licenses reissued as provided by law until revoked or terminated for any reason.

5. Zoning Restrictions: Notwithstanding any of the provisions of subsection A of this section, all Class C beer or Class B or C private club establishments must be located within the zoning districts as set forth in the Town Land Use Code.

O. APPLICATIONS; REVIEW BYLAW ENFORCEMENT:

1. All applications filed in accordance with the provisions of this Chapter shall be referred to appropriate law enforcement and fire authorities for inspection and report. Law enforcement and fire authorities shall, within thirty (30) days after receiving such application, make report to the Mayor or the Mayor's designee. The report shall include:
 - a. The results of a criminal background or other required application verification of the proprietor, partner, or, in the case of a corporation, any man aging agent, officer, director, and any stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the corporation or, in the case of a limited liability company, any managers and any members with at least a twenty percent (20%) ownership interest in such company;
 - b. The result of any law enforcement or fire authority inspection made of the proposed licensed premises; and
 - c. A recommendation as to whether or not the application should be granted.
2. No license or renewal of a license shall be issued to any of the following:
 - a. A person under the age of twenty one (21) years.
 - b. A person convicted of an unexpunged felony, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
 - c. A person convicted of any violation of any federal or state law concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages or controlled substances, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
 - d. A person convicted of a crime involving moral turpitude, unless a period of not less than ten (10) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later; or
 - e. A licensee which has three (3) or more violations of local Code in a thirty six (36) month period related to a business involving the sale or distribution of beer or other alcoholic beverages, whether or not by the licensee or by such licensee's employees, unless a period of not less than ten (10) years shall have elapsed since the expiration of said thirty six (36) month period.

- f. In the case of a partnership, a corporation, a limited liability company, or association, the proscription under subsections O,2,b through O,2,e of this section shall apply if any partner, managing agent, manager, officer or director has been so convicted or if any stockholder or member owning at least twenty percent (20%) of the total issued and outstanding stock or having a twenty percent (20%) ownership interest has been so convicted.
- g. Any person who has had a license involving the sale or distribution of alcohol revoked within the three (3) years preceding the date of the application for a license or renewal of a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.
- h. Any person who has been convicted of driving a vehicle while under the influence of alcohol or a controlled substance, or of being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving such vehicle, within the five (5) years immediately preceding application for a license. In the case of a partnership, a corporation, a limited liability company, or association, this prohibition applies to any partner, managing agent, manager, officer or director and to any stockholder or member who holds at least twenty percent (20%) of the total issued and outstanding stock or has a twenty percent (20%) ownership interest therein.

P. APPLICATIONS; REVIEW BY HEALTH DEPARTMENT: All applications filed in accordance with this Chapter shall be referred to the health department which shall inspect all premises to be licensed to assure sanitary compliance with the laws of the state, the Codes of the Town, and the rules and regulations of the health department. If the premises and all equipment used in the storage, distribution or sale of beer fulfill all such sanitary requirements, the health department shall issue a pennit to the licensee, a copy of which shall be attached to the application for license.

Q. RENEWAL PROCEDURES; FORFEITURE CONDITIONS:

- 1. Time For Filing Application: All applications to renew licenses shall be filed by the holders of existing licenses with the Town license office at least thirty (30) days prior to the expiration date of the then issued license. To avoid late fees and charges as provided by this Chapter, or its successor, the renewal applications shall state whether or not the business is presently operating and, if not, the date when it ceased daily operation, together with such other information as the license office shall reasonably require to verify or determine the status of such business. Any person who fails to file such application with the required fees within thirty (30) days after the expiration date of a license shall terminate such person's sale of alcohol on the thirty first day after such expiration, and shall keep the premises closed for the sale of alcohol until the

- date a new license is issued by order of the Mayor or the Mayor's designee.
2. Renewal Of License: A licensee has the right to apply for license renewal annually unless such license has been revoked for cause or until the licensee no longer actively operates the business authorized by such license for a period longer than thirty (30) days.
- R. LATE FILING FOR RENEWAL; PENALTY: If any application, notice or petition for renewal is not filed at least thirty (30) days prior to the expiration of the current license, but is filed prior to the expiration of the license, the applicant shall pay a penalty equal to fifty percent (50%) of the license fee. If the application, notice or petition is filed within thirty (30) days after the expiration of the license, a penalty equal to one hundred percent (100%) of the license fee shall be paid. Upon failure to file a timely application, notice or petition required by this Chapter on or before the thirtieth day after the expiration of the current license, the license shall be void on the thirty first day after the expiration date. No business may be conducted thereafter unless and until the Mayor, or the Mayor's designee, approves an application, notice or petition for renewal of a license or for a new license.
- S. ESTABLISHMENT NAME CHANGE; FEE AND NOTICE TO TOWN: The licensee shall not change the name of his or her business establishment until such licensee has given written notice to the Town license officer ten (10) days prior to the name change, and has paid the fee as provided in the town Consolidated Fee Schedule, or its successor.
- T. TRANSFER TO NEW LOCATION; FEE: Licenses issued pursuant to this Chapter may be transferred to a new proper location upon application to the Mayor or his/her designee, filed with the Town license officer, and upon the payment of the fee as provided in the Town's Consolidated Fee Schedule, or its successor.
- U. SUBLEASE, TRANSFER OR ASSIGNMENT PROHIBITED: No license may be transferred, assigned or subleased in any manner. Any violations of this section shall be grounds for revocation of the license or refusal to renew license.
- V. EXPIRATION DATE: All licenses shall be issued for one year so long as the license is renewed annually without interruption, except that temporary licenses shall be issued for not longer than two hundred ten (210) days and Class D special events licenses shall be issued for not longer than seven (7) days. All licenses involving disproportionate regulatory license fees issued pursuant to this Chapter on or after May 1, 2010, shall date from issuance by the Town and shall expire in the next calendar year on the first day of the same month in which original issuance occurred. The annual base business license for all businesses regulated under this Chapter shall be issued on the same date and shall expire on the same date as the disproportionate regulatory license issued under this Chapter.
- W. FORFEITURE CONDITIONS: If any licensee, licensed to do business under the provisions of this Chapter, sells his or her place of business, together with the entire assets of such business, his or her license shall expire and be forfeited.
- X. CONFORMANCE WITH TOWN LAWS REQUIRED: The licensee shall be responsible for the operation of the business in conformance with the Town Code, and it shall be grounds for revocation of the license if a violation of such Codes occurs through an act of a licensee, operator, employer, agent or person who is allowed to

perform for patrons of the licensee's business, whether or not such person is paid by the licensee for the performance, or any person who violates such Codes with the consent or knowledge of licensee or his or her agents or employees or operator of the business.

Y. SUSPENSION AND REVOCATION:

1. Suspended or Revoked by the Mayor: License s may be suspended or revoked by the Mayor for:
 - a. The violation on the licensed premises of any provision of this Chapter, whether an infraction or a misdemeanor, or of any other applicable Code or law relating to alcoholic beverages;
 - b. If the licensed premises is used for the commission of any illegal act or activity by any person; or
 - c. If the person to whom the license was issued no longer possesses the qualifications required by this code and the statutes of the state.
2. Suspension Procedure: The procedure for suspension or revocation of a license shall be governed by the provisions of the Town business license Chapter or their successors.

SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE This Ordinance shall be in full force and effect from October 19, 2022.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Frank Lindhardt	_____	_____	_____	_____
Council Member Andy McGinnis	_____	_____	_____	_____
Council Member Barratt Nielson	_____	_____	_____	_____
Council Member Kevin Sair	_____	_____	_____	_____
Council Member Robin Whitmore	_____	_____	_____	_____

Attest

Presiding Officer

Jenna Vizcardo, Town Clerk, Apple
Valley

Frank Lindhardt, Mayor,, Apple
Valley