ORDINANCE 2001-02

AN ORDINANCE REGULATING THE PURCHASE AND SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF WENDOVER, TOOELE COUNTY, UTAH.

Preamble

A. The City of Wendover, Tooele County, Utah is authorized by Utah Code Annotated Section 10-8-42 to regulate the possession, manufacture and sale of alcoholic beverages.

B. The City of Wendover, Tooele County, Utah is authorized by Utah Code Annotated Section 32A-10-101, et seq, to regulate the sale of beer and to regulate businesses engaged in the sale or distribution of beer.

C. The City of Wendover, Tooele County, Utah is authorized and given discretion by Title 32A, Utah Code Annotated, to give its consent to the issuance of licenses for the sale of alcoholic beverages within the City.

D. The City desires to adopt requirements for the purchase and sale of alcoholic beverages within the City and to regulate businesses and clubs engaged in the sale and distribution of alcoholic beverages in the City, and deems it necessary and in the best interests of the City to adopt an ordinance to accomplish the purposes described in this preamble.

BE IT ORDAINED BY THE CITY COUNCIL OF WENDOVER, TOOELE COUNTY, UTAH AS FOLLOWS:

Section 1. Adoption of Ordinance -- Repeal of Prior Ordinances, Rules and Regulations. An Ordinance regulating the purchase and sale of alcoholic beverages in the City is adopted, to read in its entirety as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. All ordinances, rules or regulations of the City which conflict with the provisions of this ordinance are repealed.

Section 2. Name of Ordinance. The ordinance adopted herein shall be known and referred to as the Wendover City Alcoholic Beverage Ordinance.

Posted: 2/9/01 - FRED'S Market, Wendover, UT City Offices, Wendover, Utah Post Office, & Mailed to The Wendover Times.

Section 3. Penalty and Remedies. In addition to any remedies described in the ordinance attached as Exhibit "A," any person who violates the requirements of the Wendover City Alcoholic Beverage Ordinance shall be guilty of a Class B misdemeanor, and subject to the penalties provided by law. The City is authorized to initiate administrative procedures to enforce the provisions hereof, including, without limitation, proceedings for the suspension or revocation of licenses issued by the City. The City is further authorized to initiate civil actions to enforce the provisions hereof. In the event any administrative or civil action is commenced to enforce the provision of this Ordinance, the City shall be entitled to recover from a licensee the City's costs and attorney's fees incurred in the enforcement of its Alcoholic Beverage Ordinance.

Section 4. Severability. If any section, paragraph, clause or provision of this ordinance shall be held invalid, unlawful or unenforceable, the same shall not effect the validity or enforceability of the remaining provisions of this Ordinance.

Section 5. Effective Date. This ordinance shall become effective immediately upon passage, deposit with the office of the City Recorder and publication or posting.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WENDOVER, TOOELE COUNTY, UTAH THIS 7th DAY OF FEBRUARY, 2001.

THE CITY OF WENDOVER

BY: Stephen B. Perry
STEPHEN B. PERRY
MAYOR

ATTEST:

Margaret L. Wheeler
MARGARET L. WHEELER
CITY RECORDER

wendover\ordinances\Alcohol-Adopt.final

EXHIBIT "A"

CITY OF WENDOVER, UTAH
ALCOHOLIC BEVERAGE ORDINANCE

PART 1 -- GENERAL PROVISIONS.

1-101. Name, Authority, Policy and Penalty for Violations of Ordinance.

1. This ordinance shall be referred to as the Wendover City Alcoholic Beverage Ordinance.

2. The City of Wendover, Utah (hereinafter the "City") is authorized by law to enact ordinances, rules and regulations governing the possession, manufacture, distribution and sale of alcoholic beverages within the City.

3. It is the policy of the City of Wendover to permit the operation of establishments serving alcoholic beverages in a manner consistent with provisions of this Ordinance, the Alcohol Beverage Control Act (U.C.A. § 32A-1-101, et. seq.), and related rules, regulations and provisions of State Law. It is also the policy of Wendover City to place the primary responsibility for maintaining order and preventing breaches of the peace within establishments selling and serving alcoholic beverages on the owners, managers and employees of those establishments.

4. Any violation of this Ordinance shall be a Class B Misdemeanor as that term is defined under the law of the State of Utah. In addition, any violation of the Alcohol Beverage Control Act (U.C.A. § 32A-1-101, et. seq.), and related rules, regulations and provisions of State law shall be a Class B Misdemeanor as that term is defined under the law of the State of Utah.

1-102. Definitions.

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

1. State Definitions Adopted by Reference. As used in this ordinance, the definitions found at Utah Code Annotated Section 32A-1-105, or any successor statute, are adopted by reference as though fully set forth herein.

2. "Act" means the Alcohol Beverage Control Act (U.C.A. § 32A-1-101, et. seq.), and related rules, regulations and provisions of State law, and any successor act, rules, regulations and provisions.

3. "Beer," "light beer," "malt liquor" or "malted beverages" have the meaning of "Beer" as defined in Utah Code Annotated Section 32A-1-105.

4. "Cabaret" means any premises, room, house, building, structure or place, occupied by any person which is permitted to sell any alcoholic beverage for consumption on the premises, where a dance floor is provided for patrons or entertainers to dance.

5. "Chief" means the Chief of the Wendover City Police Department.

6. "City License Official" means the Mayor of the City of Wendover, or with the approval of the Council, the Mayor's designee.

7. "Council" means the City Council of Wendover City , Utah.

8. "Licensee" means any person issued an alcoholic beverage license under this ordinance. The term "Licensee" shall also include any employee of a licensee.

9. "Licensed Premises" means any premises, room, house, building, structure or place occupied by any person licensed to sell alcoholic beverages or to allow the consumption of alcoholic beverages on such premises under this title.

10. "Lounge" means any room, building or structure, or place occupied by any person having a Class C beer license, where no dance floor is provided for patrons to dance.

11. "Nuisance" means any room, building, structure or place which is licensed under the provisions of this chapter, where:

a. Alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used, contrary to the Liquor Control Act of Utah (U.C.A. § 32A-1-101, et.seq, or this Ordinance, or where persons resort for drinking beverages contrary to the Liquor Control Act of Utah, or of this Ordinance; or

b. Any act or conduct considered contrary to the public welfare and morals, prohibited by U.C.A. § 32A-10-206(10) and (13).

c. Persons under the age of twenty-one are permitted to purchase or drink alcoholic beverages;

d. Any applicable laws or ordinances governing licensee's business operation are violated by the licensee or his agents, employees or patrons with the consent or knowledge of the licensee.

12. "Ordinance" means the Wendover City Alcoholic Beverage Ordinance and any rules, regulations or fee resolutions related thereto.

13. "Restaurant," as used in connection with the issuance of a Class B retail license, means a place of business where a variety of food is prepared and cooked and complete meals are served to the general public for consumption on the premises.

14. "Tavern" means any establishment wherein the primary or main purpose of the establishment is the sale of beer, determined by whether the sale of beer exceeds the sale of food. The term "tavern" includes, without limitation, establishments commonly known or described as bars, beer bars, beer parlors, lounges, nightclubs, cabarets and similar establishments.

1-103. Sales at Retail.

It is unlawful for any person to engage in the business of the sale of alcoholic beverages at retail within the City without first procuring a license therefor, as hereinafter provided. A separate license shall be required for each place of sale. The license shall identify the specific premises covered thereby and shall at all times be conspicuously displayed in the place at which it shall refer or for which it shall be issued. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act of Utah and the regulations of the Liquor Control Commission and this Ordinance. A violation of the Alcoholic Beverage Control Act of Utah or of the regulations of the Liquor Control Commission shall constitute a violation of this Ordinance.

1-104. Sales at Wholesale.

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

1-105. Alcoholic Beverage Licenses, Classification, Fees, etc.

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. Beer Licenses. There shall be seven (7) categories of Beer Licenses under this Ordinance, as follows:

   A. Class A. Retail Sale for Off Premise Consumption.
   B. Class B. Restaurant Retail Sale for On Premise Consumption.
   C. Class C. Tavern Retail Sale for On Premise Consumption.
   D. Class D. Public Recreation Facility Retail Sale for On Premise Consumption.
   E. Class E. Brew Pub Retail Sale for On Premise Consumption.
   F. Class F. Recreational Business Sale for On Premise Consumption.
   G. Class G. Single Event Retail Sale for On Premise Consumption.

2. Liquor Licenses. There shall be three (3) categories of Liquor Licenses under this Ordinance, as follows:

   A. Class 1. Restaurant.
   B. Class 2. Private Club.
   C. Class 3. Special Events

3. Fees. The City may impose application and licensing fees for any license issued under this Ordinance. Said fees shall be adopted pursuant to ordinance or resolution duly passed and adopted by the Council. The fees required under this Ordinance shall be in addition to the business licensing fee of the City.

4. Transferability. There shall be no transfer, sale or conveyance, either as to the location of a licensed premises or of the named Licensee, of any license under this Ordinance without full prior compliance with the provisions of this Ordinance. Any transfer shall require the prior consent of the governing body of the City.

5. Monetary Value of License. A person shall not sell, exchange, barter, give or in any way attempt to dispose of a License, whether for monetary gain or not. A License granted under this Ordinance has no monetary value for the purpose of any transfer or disposition.

1-106. Processing of Applications.

Upon receipt of an application for a License, the application shall be referred to the City Administrator (or other designee of the Mayor) who shall distribute copies of the application and other information to the Chief, to the County Health Department and to other appropriate departments of the City for their review and comment. The application shall be reviewed by the Council at a regularly scheduled meeting not more than 45 days after receipt of the complete application. The Council shall take public comments on the application. After reviewing the application and receiving comment thereon, the Council shall vote on whether to grant or deny the requested License.

1-107. Local Consent.

1. On Premise Beer Retailer License. The issuance by the City of a Class B, C, D, E, F or G Beer License shall constitute local consent for the issuance of an On Premise Beer Retailer License under U.C.A. § 32A-10-201, et. seq.

2. Restaurant Liquor License. The issuance by the City of a Class 1 Restaurant Liquor License shall constitute local consent for the issuance of a Restaurant Liquor License under U.C.A. § 32A-4-101, et. seq.

3. Private Club Liquor License. The issuance by the City of a Class 2 Private Club Liquor License shall constitute local consent for the issuance of a Private Club License under U.C.A. § 32A-5-101, et. seq.

4. Special Event Liquor License. The issuance by the City of a Class 3 Special Event Liquor License shall constitute local consent for the issuance of a Single Event Permit under U.C.A. § 32A-4-101, et. seq.

5. City License Not Effective Until Issuance of State License or Permit.

A. City Beer Licenses. No Class B, C, D, E, F or G beer license issued by the City under this Ordinance shall be effective until the State has issued an On-Premise Beer Retailer License to the applicant pursuant to U.C.A. § 32A-10-201, et. seq..

B. City Liquor Licenses. No Class 1, 2 or 3 liquor license issued by the City under this Ordinance shall be effective until the State has issued the license to the applicant pursuant to U.C.A. §§ 32A-4-101, et. seq., 32A-5-101, et. seq., or 32A-4-101, et. seq., respectively.

1-108. Renewal of Existing Licenses.

All applications for renewal licenses filed by the holders of existing licenses shall be filed with the City at least thirty days prior to the expiration date of the then-issued license. Any person who fails to file such application within the time limit shall close the Licensed Premises on the expiration date of the then-issued license and shall keep the premises closed for any and all business for the sale of alcoholic beverages until the date his new license is issued by approval of the Council.

1-109. Expiration and Renewal -- Payment of Fees.

All licenses issued under this Ordinance shall expire on the thirty-first day of December of each year and shall be issued for one year, except single event licenses, which shall be issued for a the period set by the Council. In the event renewal fees are not received at the City offices by January 15th of each year when due, the licensee must reapply for an alcoholic beverage license, and, in addition to the annual licensing fee, shall pay a late fee equal to fifty percent (50.0%) of the licensing fee. In the event the renewal fees are not received at the office of the license official by March 15th of each year when due, the licensee must reapply for an alcoholic beverage license and pay the entire amount due for application and licensing fees.

1-110. Suspension and Revocation.

1. Suspension and Revocation for Violation of Ordinance or Statute. Licenses may be suspended or revoked by the City for the violation of any provision of this Ordinance, or of any other applicable ordinance or law relating to alcoholic beverages, or if the person to whom the

license was issued no longer possesses the qualifications required by this Ordinance and the statutes of the State.

2. Suspension and Right to Hearing. All licenses issued pursuant to this title may be suspended and the licensed premises closed by the Chief without a prior hearing. At the time of a suspension, notice shall be given to the Licensee of his right to petition the Council for a prompt hearing within fifteen days from the date of such suspension, and the cause or causes for such suspension shall be listed on the notice of closure. If a cause for the suspension is established at the hearing, the suspension order may be continued for up to one year in duration. However, no License shall be revoked or suspended beyond the initial hearing without first establishing cause therefor, nor shall any license be revoked without first giving the licensee an opportunity for a hearing on the causes specified for revocation.

3. Sale During Suspension or After Revocation. It is unlawful for any person to sell or dispense any alcoholic beverage at the licensed premises during the period of suspension, or after the revocation of his beer license.

4. Suspension or Revocation by State. The suspension or revocation of any alcoholic beverage license issued by the State under U.C.A. § 32A-1-101, et. seq. shall cause the immediate suspension or revocation of the Licensee's license issued by the City.

1-111. Transfer of Location or Ownership.

1. Approval Required. Licenses issued pursuant to this Ordinance may be transferred to a new proper location upon application to the City, and upon the payment of a non-refundable transfer fee. Approval may be granted at the discretion of the Council, and only upon demonstration by the Licensee of its compliance with all requirements of the Ordinance. Where required by State law, the City's approval of any transfer is conditioned upon, and shall not be effective until, the Licensee has obtained the approval of the Division.

2. Transfer of Ownership. It shall be unlawful for a Licensee to sell or transfer his or her License, or otherwise cease operating the business without first providing written notice to the City and surrendering said License to the City. Any new owner of a business requiring a License under this Ordinance shall not be entitled to sell or dispense any alcoholic beverage without first obtaining the License required by this Ordinance.

1-112. Premises Requirements -- Light and Open View.

Any premises licensed under this Ordinance shall meet the following requirements:

1. During business hours, a minimum of one candlepower light, measured at a level five feet above the floor, shall be maintained;

2. No enclosed booths, blinds or stalls shall be erected or maintained;

3. A clear, unobstructed view of all portions of the interior shall be available at all times from a point within the licensed premises at or near the main public entrance.

1-113. Advertising Restrictions.

It is unlawful to advertise the sale or availability of alcoholic beverages except under such regulations as are made by the Commission.

1-114. Nuisances Prohibited.

It is unlawful for any person to keep or maintain a nuisance, as the same is defined in this Ordinance.

1-115. Age Identification.

A Licensee may require patron or customer on the Licensed Premise to present a valid driver's license or other form of identification containing a photograph of the patron/customer, date of birth, height, weight, and color of hair and eyes, before permitting a patron to purchase or consume any alcoholic beverage

1-116. City Park Restrictions.

It is unlawful for any person to possess or consume beer or other alcoholic beverages upon the premises of any City Park or recreation facility except upon the express written approval of the Council.

1-117. Premises -- Inspection.

The Chief and the Mayor (or his designee) shall be permitted to have access to all premises licensed or applying for license under this chapter, and they shall make periodic inspections of such premises and report their findings to the Council.

1-118. Severability.

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

PART 2 -- BEER LICENSES

2-101. Class A Beer Licenses -- Retail Sale for Off Premise Consumption.

1. License Description. A Class A retail license shall entitle the licensee to sell beer, on the premises described therein, in original containers of a size not to exceed two liters, for consumption off the premises.

2. Application. A person seeking a Class A License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class A License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any school or church;

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. No Class A License shall be issued to any person where the premises would be located within 500 feet of a school or church. This distance shall be measured from the nearest entrance of the Licensed Premises by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular traffic along public thoroughfares, whichever is closer, to the property boundary of the school or church.

4. Bond. Each Class A Beer license shall post a cash, corporate or surety bond in the penal amount of $1000.00 dollars payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission

B. If the cash, corporate or surety bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City. No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. Minors. A minor may not be granted a Class A License.

6. Number of Licenses. The total number of Class A beer licenses issued by the City shall not exceed eight (8).

7. Operational Restrictions.

A. Unlawful Consumption. It shall be unlawful for a Class A Licensee to permit the consumption of any alcoholic beverage on any Class a Licensed Premises. It shall be unlawful for any person to consume any alcoholic beverage on any Class A Licensed Premises.

B. Hours of Sale. A Class A Licensee may sell beer beginning at the hour of 7:00 a.m. and ending at 1:00 a.m.

C. Sales Restrictions. Beer may not be sold, delivered or furnished to any:

(1) Minor;

(2) Person actually, apparently, or obviously under the influence of any intoxicating beverage or controlled substance;

(3) Known habitual drunkard; or

(4) Known interdicted person

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

E. Unlawful to Permit Intoxicated Person on Licensed Premises. It shall be unlawful for any Class A Licensee, or any of his agents or employees, to allow intoxicated persons to remain in or about any Licensed Premises

F. Records Requirements. Holders of Class A Licenses shall maintain records which shall disclose the gross sale of beer during each and every month and each and every year. Such records shall be available for inspection and audit by the Chief or by another authorized City employee at any time. All such records shall be maintained for a period of at least two (2) years. Failure of a Licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be a violation of this Ordinance and shall be cause for suspension or revocation of the License.

G. Beer as a Percent of Sales. Each Class A Licensee shall limit beer sales to no more than fifth percent (50%) of its total business.

H. Shoplifting Controls. A Class A Licensee shall make every reasonable effort to limit the potential for theft of beer from Licensed Premises. A clear, unobstructed view of all portions of the interior shall he available at all times from a point within the licensed premises at or near the main public entrance. A beer inventory shrinkage record shall be kept by the Licensee and made available at any time upon request to the Chief of Police or other authorized City employee for inspection or audit. Said records shall be maintained for a period of at least two (2) years. Failure of a Licensee to properly maintain the alcoholic beverage inventory shrinkage or failure to submit such records for inspection and audit shall be a violation of this Ordinance and shall be cause for suspension or revocation of a the License.

I. Malt Beverage Sales. If malt beverage coolers of malt liquor is sold by a Licensee, the Licensee shall display a sign at the location on the premises where said beverages are sold stating: "Many malt beverages contain alcohol. Please read the label."

J. State Law Restrictions. The restrictions found at U.C.A. § 32A-10-102 are adopted and made a part of this Ordinance by reference. The violation of said restrictions is a violation of this Ordinance.

2-102. Class B Licenses -- Retail Sale of Beer in Restaurants.

1. License Description. A Class B License shall entitle the Licensee to sell beer for consumption on the premises of a licensed Restaurant in open containers in any size not to exceed two liters capacity and on draft, in conjunction with an order of food which is prepared, sold and served at the Restaurant. Only bona fide Restaurants shall be entitled to Class B licenses.

2. Application. A person seeking a Class B License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class B License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any public or private school, church, public library, public playground or park.

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. A completed and signed copy of the application to be submitted to the Department to obtain the license or permit required under State Law, together with all attachments and other materials required by the Act.

F. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. The location restrictions found at U.C.A. §§ 32A-10-201 through 204 are adopted and made part of this Ordinance by reference. An applicant or Licensee shall comply with the location restrictions described herein. For purposes of interpreting this Ordinance, the provisions of U.C.A. §§ 32A-10-201 through 204 which relate to consideration of a variance from the distance requirements, the word "Council" shall be substituted for the word "commission" as it appears in State law.

4. Bond. Each Class B Beer Licensee shall post a cash, corporate or surety bond in the penal amount of $10,000.00 (AW) dollars payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission.

B. If the cash, corporate or surely bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City. No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. Number of Licenses. The total number of Class B beer licenses issued by the City shall not exceed eight (8).

6. Qualification Restrictions. The Qualification regulations set forth at U.C.A. § 32A-10-203 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Qualification regulations shall be a violation of this Ordinance.

7. Operational Restrictions.

A. State Law Restrictions. The Operational Restrictions found at U.C.A. § 32A-10-206 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Operational Restrictions shall be a violation of this Ordinance.

B. Other Restrictions.

1. Records of Sales. All holders of a Class B License shall maintain records which shall disclose the gross sales of beer and the gross sales of food served, and any other items sold for consumption on or off the premises during the semiannual periods ending June 30th and December 31st of each year. Such sales shall be shown separately.

2. Minimum Sales of Food. Each holder of a Class B retail License shall maintain at least fifty percent of its total restaurant business from the sale of food. Each licensee shall retain all invoices, vouchers, sales slips, receipts and other records of beer and other commodity purchases from all suppliers. Such records shall be available for inspection and audit by the City at any time following the close of the semiannual period, and for two (2) years thereafter. Failure to properly maintain such records for such inspection and audit shall be cause for revocation of the Class B License. If any audit or inspection discloses that the sale of food on the licensed premises is not at least fifty percent (50%) of the gross dollar volume of business for any period, the Class B license shall immediately be suspended or revoked and shall not be reinstated until the licensee is able to demonstrate to the satisfaction of the Council that in the future the sale of food on the licensed premises will consist of at least sixty percent of the gross dollar volume of business.

3. Sale of Food Required -- Exception. It shall be unlawful to sell beer except in conjunction with an order for food prepared, sold, and served at the restaurant. Beer may be sold in sealed containers not larger than two liters for consumption off the premises.

2-103. Class C Licenses -- Retail Sale in Taverns.

1. License Description. A Class C License shall be required for all Taverns and any other premises where the primary or main business is that of selling beer for consumption on the licensed premises. A Class C license shall entitle the licensee to sell beer for consumption on the licensed premises in any size of open container not exceeding two liters, and on draft. Class C licenses shall be required of Taverns 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.

2. Application. A person seeking a Class C License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class C License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any public or private school, church, public library, public playground or park.

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. A completed and signed copy of the application to be submitted to the Department to obtain the license or permit required under State Law, together with all attachments and other materials required by the Act.

F. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. The location restrictions found at U.C.A. §§ 32A-10-201 through 204 are adopted and made part of this Ordinance by reference. An applicant or Licensee shall comply with the location restrictions described herein. For purposes of interpreting this Ordinance, the provisions of U.C.A. §§ 32A-10-201 through 204 which relate to consideration of a variance from the distance requirements, the word "Council" shall be substituted for the word "commission" as it appears in State law.

4. Bond. Each Class C Beer Licensee shall post a cash, corporate or surety bond in the penal amount of $10,000.00 payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission.

B. If the cash, corporate or surely bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City. No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. Number of Licenses. The total number of Class C beer licenses issued by the City shall not exceed eight (8).

6. Qualification Restrictions. The Qualification regulations set forth at U.C.A. § 32A-10-203 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Qualification regulations shall be a violation of this Ordinance.

7. Operational Restrictions.

A. State Law Restrictions. The Operational Restrictions found at U.C.A. § 32A-10-206 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Operational Restrictions shall be a violation of this Ordinance.

B. Other Restrictions -- Minors Prohibited. No person under the age of twenty-one years shall be allowed on the premises of a Class C establishment.

2-104. Class D Licenses -- Retail Sales at Public Recreation Facilities.

1. License Description. A Class D retail license shall entitle the licensee to sell beer for consumption on publicly owned recreation facilities. The licensee shall be the holder of a concession contract from the public body owning the recreation area involved. Under this license, no beer shall be sold in the original containers, but must be first emptied into suitable temporary

containers. No person under the age of twenty-one years may sell or serve beer under this license. All sales and deliveries under this license shall be made directly to the ultimate consumer.

2. General Requirements. The applicant or licensee shall comply with the following requirements:

A. The Application requirements set forth in Section 2-102.2, above;

B. The Location Restrictions set forth in Section 2-102.3, above;

C. The Bond requirements set forth in Section 2-102.4, above;

D. The Qualification regulations set forth at U.C.A. § 32A-10-203; and

E. The Operational Restrictions set forth in U.C.A. § 32A-10-206, subparagraphs (1) through (4), (6) through (10) and (12) through (16).

2-105. Class E License -- Retail Sale in Brew Pubs.

1. License Description. A Class E license may be issued to a business that produces beer for consumption in connection with an on-premises restaurant. It is unlawful for a brew pub to manufacture beer for sale at wholesale or for retail sales other than in conjunction with an on-premises restaurant. At least fifty percent of the beer sold on the premises shall also be brewed on the premises.

2. General Requirements. The applicant or licensee shall comply with the following requirements:

A. The Application requirements set forth in Section 2-102.2, above;

B. The Location Restrictions set forth in Section 2-102.3, above;

C. The Bond requirements set forth in Section 2-102.4, above;

D. The number of licenses permitted shall be included with, and limited by, the total number of licenses authorized under Section 2-102.5, above;

E. The Qualification regulations set forth at U.C.A. § 32A-10-203;

F. The Operational Restrictions set forth in Section 1-108.6, above;

G. A brew pub may contain a "designated brew pub area" which shall not exceed twenty percent of the total seating area of the restaurant, subject to City review and approval. A "designated brew pub area" shall be separated from the general seating area by a physical barrier; and

F. A brew pub shall abide by all requirements imposed by this chapter on Class B establishments, except brew pubs shall not be required to sell food in conjunction with beer in the "designated brew pub area." No person under the age of twenty-one years shall be permitted in the "designated brew pub area."

2-106. Class F Licenses -- Recreation Business Retail Beer Licenses.

1. License Description. A Class F License may be issued to business which have as their primary business physical recreational activities such as tennis, bowling, golf, fitness, aerobics or swimming. These activities must constitute at least fifty percent of such businesses' gross revenue. A recreation license shall enable the licensee to all of the rights, privileges and responsibilities imposed upon a holder of a Class B beer license except that beer need not be sold in conjunction with a meal as long as the 50/50 food-to-beer ratio is maintained at all times by the licensee. The licensee shall be required to maintain the same business records required by the holder of a Class B retail license.

2. General Requirements. The applicant or licensee shall comply with the following requirements:

A. The Application requirements set forth in Section 2-102.2 above;

B. the Location restrictions set forth in Section 2-102.3, above;

C. The Bond requirements set forth in Section 2-102.4, above;

D. The number of licenses permitted shall be included with, and limited by, the total number of licenses authorized under Section 2-102.5, above;

E. The Qualification regulations set forth at U.C.A. § 32A-10-203; and

F. The Operational Restrictions set forth in U.C.A. § 32A-10-206, subparagraphs (1) through (4), (6) through (10) and (12) through (16).

2-107. Class G -- Single Event Licenses.

1. License Description. A Class G license shall enable a licensee to sell beer, including draft, for consumption in conjunction with a special event in open containers not exceeding one liter. A single event license shall be valid for a period of time not to exceed seven (7) consecutive calendar days.

2. General Requirements. The applicant or licensee shall comply with the following requirements:

A. The Application requirements set forth in Section 2-102.2, above;

B. The Location Restrictions set forth in Section 2-102.3, above;

C. The Bond requirements set forth in Section 2-101.4, above;

D. The number of licenses permitted shall be any given time and in any given year shall be within the discretion of the Council;

E. The Qualification regulations set forth at U.C.A. § 32A-10-203; and

F. The Operational Restrictions set forth in U.C.A. § 32A-10-206, subparagraphs (1) through (4), (6) through (10) and (12) through (16).

G. Beer shall be sold in an area separated from the event by a barrier, approved by the City, where minors shall not be allowed. The sale and consumption of beer shall be restricted to the immediate proximity of the event.

H. It is unlawful for any Class G Licensee or any agent or employee of such licensee to permit or allow any person under the age of twenty-one years to remain in or about the restricted area where beer is sold.

PART 3 -- LIQUOR LICENSES

3-101. Class 1 -- Restaurant Licenses

1. License Description. A Class 1 Restaurant Liquor License shall entitle the Licensee to sell Alcoholic Beverages for consumption on the premises of a licensed Restaurant in conjunction with an order of food which is prepared, sold and served at the Restaurant. Only bona fide Restaurants shall be entitled to Class 1 Liquor Licenses.

2. Application. A person seeking a Class 1 Restaurant Liquor License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class 1 Liquor License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any public or private school, church, public library, public playground or park.

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. A completed and signed copy of the application to be submitted to the Department to obtain the Restaurant Liquor License required under State Law, together with all attachments and other materials required by the Act.

F. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. The location restrictions found at U.C.A. § 32A-4-101 are adopted and made part of this Ordinance by reference. An applicant or Licensee shall comply with the location restrictions described herein. For purposes of interpreting this Ordinance, the provisions of U.C.A. § 32A-4-101 which relate to consideration of a variance from the distance requirements, the word "Council" shall be substituted for the word "commission" as it appears in State law.

4. Bond. Each Class 1 Liquor Licensee shall post a cash, corporate or surety bond in the penal amount of $10,000.00 dollars payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission.

B. If the cash, corporate or surely bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. State Regulations and Restrictions. The Qualification requirements found at U.C.A. § 32A- 4-103 and the Operational Restrictions found at U.C.A. § 32A-4-106 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Qualification requirements or of the Operational Restrictions shall be a violation of this Ordinance.

3-102. Class 2 -- Private Club Licenses.

1. License Description. A Class 2 Private Club Liquor License shall entitle the Licensee to sell Alcoholic Beverages for consumption on the premises of a licensed Private Club in compliance with U.C.A. § 32A-5-101, et. seq.

2. Application. A person seeking a Class 2 Private Club Liquor License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class 2 Private Club Liquor License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any public or private school, church, public library, public playground or park.

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. A completed and signed copy of the application to be submitted to the Department to obtain the Private Club Liquor License required under State Law, together with all attachments and other materials required by the Act.

F. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. The location restrictions found at U.C.A. § 32A-5-101 are adopted and made part of this Ordinance by reference. An applicant or Licensee shall comply with the location restrictions described herein. For purposes of interpreting this Ordinance, the provisions of U.C.A. § 32A-5-101 which relate to consideration of a variance from the distance requirements, the word "Council" shall be substituted for the word "commission" as it appears in State law.

4. Bond. Each Class 2 Liquor Licensee shall post a cash, corporate or surety bond in the penal amount of $10,000.00 (AP) dollars payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission.

B. If the cash, corporate or surely bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. State Regulations and Restrictions. The Qualification requirements found at U.C.A. § 32A-5-103 and the Operational Restrictions found at U.C.A. § 32A-5-107 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Qualification requirements or of the Operational Restrictions shall be a violation of this Ordinance.

3-103. Class 3 -- Special Event Permits

1. License Description. A Class 3 Special Event Liquor License shall entitle the Licensee to sell Alcoholic Beverages for consumption on the premises of a licensed Private Club in compliance with U.C.A. § 32A-7-101, et. seq.

2. Application. A person seeking a Class 3 Special Event Liquor License shall provide a written application on forms provided by the City. The application shall be accompanied by:

A. The Fees, if any, required under ordinance or resolution of the City;

B. A copy of the applicant's business license or business license application, a site plan accurately showing the licensed premises, and the application to, or written approval of, the City Planning Commission if a conditional use permit is required for the proposed premises. Before a Class 3 Single Event License is issued by the City, the applicant shall demonstrate that it has received a business license, and a conditional use permit, where required by City land use regulations.

C. Evidence of the proximity to any public or private school, church, public library, public playground or park.

D. A floor plan of the premises, including a description of where the applicant proposes to keep, store and sell beer; and

E. A completed and signed copy of the application to be submitted to the Department to obtain the Private Club Liquor License required under State Law, together with all attachments and other materials required by the Act.

F. Any other information the City may require to accurately and completely evaluate the merits of the application.

3. Location Restrictions. The location restrictions found at U.C.A. § 32A-7-101 are adopted and made part of this Ordinance by reference. It is the policy of the City that it holds the discretion and authority to consider the proximity of any educational, religious or recreational facility, or any other relevant factor, in deciding whether to grant a single event permit.

4. Bond. Each Class 3 Liquor Licensee shall post a cash, corporate or surety bond in the penal amount of $10,000.00 dollars payable to the City which the Licensee has procured and thus maintained for so long as the Licensee continues to hold its Class A License.

A. The bond shall be in a form approved by the City Attorney conditioned upon the Licensee's faithful compliance with this Ordinance, the Alcoholic Beverage Control Act and the rules and regulations of the Commission.

B. If the cash, corporate or surely bond is canceled due to the licensee's negligence, a one hundred dollar ($100.00) reinstatement fee may be assessed by the City No part of any cash or corporate bond so posted may be withdrawn during the period the License is in effect or while revocation proceedings are pending against the Licensee. The bond filed by the Licensee may be forfeited if the license is finally revoked.

5. State Regulations and Restrictions. The Qualification requirements found at U.C.A. § 32A-7-103 and the Operational Restrictions found at U.C.A. § 32A-7-106 are hereby adopted and incorporated herein and made part of this Ordinance. A violation of said Qualification requirements or of the Operational Restrictions shall be a violation of this Ordinance.