

SUMMIT COUNTY, UTAH
ORDINANCE NO. 853
AN ORDINANCE REPEALING SUMMIT COUNTY CODE
TITLE 3, CHAPTER 2 "ALCOHOLIC BEVERAGES" AND ENACTING A NEW
TITLE 3, CHAPTER 2 "ALCOHOLIC BEVERAGES"

WHEREAS, the last time amendments were made to Summit County Code related to Alcoholic Beverages was in 2009; and

WHEREAS, the classifications of alcoholic beverage licenses in Summit County do not mirror the state-issued licenses found in the State of Utah's Alcoholic Beverage Control Act; and

WHEREAS, the County Council of Summit County ("the Council") desires to ensure consistency between the Alcoholic Beverage Control Act and Summit County Code and an overhaul of the existing Summit County Code is necessary to ensure such consistency; and

WHEREAS, the Council believes that these changes will provide both Summit County staff and the public a better level of predictability and ease in the way alcoholic beverage licenses are issued.

NOW THEREFORE, the Council of Summit, State of Utah, hereby ordains as follows:

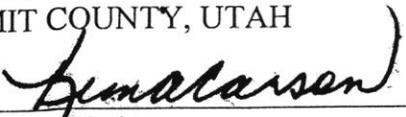
Section 1: The Council hereby repeals Summit County Ordinance No. 722, An Ordinance Amending Summit County Code Title 3, Chapter 2 Alcoholic Beverages dated July 15, 2009.

Section 2: The Council hereby enacts a new Title 3, Chapter 2 Alcoholic Beverages attached hereto as Exhibit A.

Section 3: This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this 2nd day of December 2015.

SUMMIT COUNTY COUNCIL
SUMMIT COUNTY, UTAH



By Council Chair

ATTEST:



SUMMIT COUNTY CLERK

Date of Publication 12/5/15, 2015.



**TITLE 3 CHAPTER 2
ALCOHOLIC BEVERAGES**

3-2-1: PURPOSE AND POLICY:

It is the purpose of this chapter to normalize the regulation of alcoholic beverages by the county by: a) simplifying alcoholic beverage control regulations by not duplicating state regulations, b) limiting the county's regulatory interests to business licensing and to local consent as required by law; and c) place the primary responsibility for maintaining order and preventing breaches of the peace within establishments selling and serving alcoholic beverages on the owners and managers of those establishments.

3-2-2: DEFINITIONS:

A. The definition of each term which is defined in Utah Code Title 32B, Alcoholic Beverage Control Act, as amended, is hereby adopted into this chapter, except to the extent modified by this chapter.

B. In addition to definitions under Utah State Code:

OFF PREMISES BEER RETAILER: A business that is engaged, primarily or incidentally, in the retail sale of beer to a patron for consumption off the beer retailer's premises and is licensed in accordance with title 32B, Utah Code Annotated and this chapter.

3-2-3: RECOGNITION OF STATE LAW:

A. The sales and distribution of alcoholic beverages are regulated under state law as found in Title 32B of Utah Code Annotated. It is the intent of this chapter to regulate in those areas that state law specifically leaves to local control and also in areas of local concern not directly covered by state law.

B. The County adopts the State of Utah's Alcoholic Beverage Control Act, Title 32B, Utah Code Annotated, 1953, in its entirety, as amended from time to time. It is the responsibility of any applicant under this chapter to be in compliance with identified conditions and requirements of state law and this chapter prior to making application with the County. It is the obligation of each applicant under this chapter to stay in compliance with state law and this chapter regardless of changes to those laws. To the extent permitted by state law, the officers and administrators of the County shall enforce both the provisions of state law regulating alcoholic beverages as well as the provisions of this chapter.

3-2-4: LOCAL CONSENT FOR STATE LICENSE:

A. Prior to the Clerk's Office issuing an initial alcohol license/permit, an applicant must obtain local consent. The County may provide its consent for the following categories of state licenses:

- 1) Clubs (equity, fraternal, dining or social);
- 2) Restaurants (full service, limited service, beer-only);
- 3) On premises (recreational, banquet/catering, tavern)
- 4) Reception centers
- 5) Manufacturing (distillery, brewery, winery, brewery with on-premise consumption)
- 6) Package Agency
- 7) Special Use
- 8) Event permit (single event or temporary special event beer)
- 9) Liquor warehouse
- 10) Beer wholesaling
- 11) Any category of state license not otherwise listed herein

3-2-5: LOCAL CONSENT APPLICATION AND REQUIREMENTS

Local consent shall be conditioned upon any applicant satisfying the following criteria:

A. Qualifications: Local consent shall not be granted to any applicant that does not meet all of the following qualifications:

1. must be twenty-one (21) years of age or older;
2. must not have been convicted of:
 - a. a felony under federal or state law;
 - b. any crime concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product;
 - c. a crime involving moral turpitude;
 - d. on two (2) or more occasions within the five (5) years before the day on which the license or permit is issued of driving under the influence of alcohol, drugs, or any combination of alcohol and drugs.
3. must not have had any type of beer or liquor license or permit revoked within the last three (3) years;
4. must comply with federal and state laws pertaining to the payment of taxes and contributions to unemployment and insurance funds.

5. must meet all other state requirements for the applicable license or permit.
6. is not in default under the provisions of any County ordinance;
7. is not indebted or obligated in any manner to the county, except for current taxes.

B. Ownership: Each applicant for local consent shall disclose to the County the identity and mailing addresses of every owner of twenty (20) percent or more of a proprietorship; every partner controlling twenty (20) percent or more of a partnership; every shareholder owning twenty (20) percent or more of the shares of a corporation and every officer and director of the corporation; every manager of an LLC or owner of twenty (20) percent or more of an LLC; and every manager, director, managing agent or similar officer. Each of these individuals must meet the qualifications set forth in section A above.

C. Application: Each new applicant for local consent shall file a written application with the County, which shall be verified and filed with the county clerk. The application must be subscribed by the applicant, who shall state under oath that the facts therein contained are true. Failure to provide all required information or providing false or misleading information in the application shall constitute grounds for denial of the application or revocation of local consent, and shall constitute a misdemeanor, if done willfully with the intent to mislead the county. The application shall include:

1. The applicant's name in full;
2. The applicant's mailing address;
3. The applicant's proposed location;
4. The category or categories of state license requested under section 3-2-4, if applicable, and statement of the purpose for which the applicant has applied for the consent;
5. A description of the control measures to be imposed by the DABC and where alcohol will be stored, served and sold;
6. A signed consent form stating that law enforcement and authorized County representatives shall have the unrestricted right to enter and inspect the premises to ensure compliance with state law and County ordinance;
7. Acknowledgement that the applicant has complied with the requirements and possesses the qualifications specified in section 3-2-5(A) above and the Alcoholic Beverage Control Act;
8. Acknowledgement that the applicant is subject to all operational restrictions imposed by the DABC under its state permit;

9. Acknowledgement that the proposed use of any premises by the applicant will not be in violation of county zoning regulations and that the applicant will otherwise be in full compliance with all applicable county, state and federal laws and ordinances;
10. Acknowledgement that no alcohol may be stored, served, or sold unless the applicant also obtains the appropriate state permit; and
10. The application shall also contain such information as shall from time to time be required by the county clerk or county manager.

D. Review and inspection: In order for an application to receive local consent, the County Clerk must receive a positive recommendation from all of the following Summit County departments:

1. Summit County Sheriff: All applications filed in accordance with the provisions of this chapter shall be referred to the county sheriff or designee for inspection and report. Prior to issuance of any local consent license or permit, all applicants and their supervisory personnel shall submit to a Utah Bureau of Criminal Identification (BCI) check conducted through the county sheriff and/or the state of Utah. In the event new supervisory personnel are hired during the term of the license/permit, said new personnel shall submit to a BCI check within thirty (30) days of the hire date. The sheriff shall, within ten (10) days of his/her receipt of the application, make report to the county clerk. In conducting an investigation and making a recommendation, the county sheriff or designee may base a decision upon factors such as:

- a. The general reputation and character of the persons who habitually frequent such place;
- b. The nature and the kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place;
- c. Whether such place is or has been conducted in a lawful, quiet and orderly manner;
- d. The nature and kind of entertainment, if any, at such place;
- e. Whether gambling is or has been permitted on the premises or by the applicant at any other place;
- f. Whether the premises meets the proximity requirements outlined in subsection E, below;
- g. Results of the BCI check from the state;
- h. Whether the applicant meets the qualifications under this chapter or state code;

- i. Whether any criminal violations or charges against the applicant exist where the criminal violation at issue would make an applicant ineligible for a license or permit under this chapter or state code;
- j. Compliance with the Alcoholic Beverage Control Act and this chapter;
- k. Policies and safety protections the applicant has in place to restrict minors from accessing the portion or portions of a premise where alcoholic beverages are sold or to prevent minors from gaining access to and/or consuming alcoholic beverages.

The county sheriff or designee shall also add to such report his recommendation as to whether local consent should be granted. If recommending denial, the county sheriff or designee shall submit a detailed report of the investigation, record the recommendation on the application, and sign the application. If recommending approval, the county sheriff or designee shall record such recommendation on the application, sign the application, and may, at his/her sole discretion, submit a detailed report of the investigation.

- 2. Health Department Inspection: All applications filed in accordance with the provisions of this chapter shall be referred to the health department, which shall inspect all premises to assure sanitary compliance with the laws of the state, the ordinances of Summit County, and health department rules and regulations on the preparation, storage, distribution or sale of alcoholic products and food. The health department shall make its report to the county clerk within ten (10) days after his/her receipt of the application.
- 3. Fire Department Inspection: All applications filed in accordance with the provisions of this chapter shall be referred to the appropriate fire authority, which shall inspect all premises to assure compliance with all fire standards of the state, the ordinances of Summit County, and fire authority rules and regulations. The fire authority shall make its report to the county clerk within ten (10) days after his/her receipt of the application.
- 4. Community Development Inspection: All applications filed in accordance with the provisions of this chapter shall be referred to the Summit County department of community development, which shall inspect all premises to be licensed, to assure compliance with all zoning and land use regulations and applicable building codes of the state and county. The department of community development shall make its report to the county clerk within ten (10) days after his/her receipt of the application.
- E. Proximity Requirements: The applicant's proposed location must meet the proximity requirements outlined in the state's alcoholic beverage control act or have received a variance to said proximity requirement as outlined in the state's alcoholic beverage control act and in Section 3-2-10, below. This section shall not apply to event permits.
- F. Training Requirement: No applicant shall be granted local consent unless the applicant has shown by certificate(s) granted by the DABC or by adequate proof of the existence of such certificate(s), that each employee of the business engaging in the servicing, selling, or

furnishing of alcohol on the premises has completed the Alcohol Training and Education Seminar as required by the state alcoholic beverage control act. Each new employee of a licensee who is required to complete this seminar shall complete the seminar within thirty (30) days of commencing employment.

- G. Fees: Applications shall be accompanied by fees as established by the county council, which are in addition to the general business license fees and any other basic license fees or regulatory fees which may apply, as required under law. If the application is denied, fifty percent (50%) of the license fee will be retained to pay the costs of processing the application.

3-2-6: EVENT PERMITS:

- A. Additional Application Requirements: In addition to the application requirements set forth in Section 3-2-5 above, if an applicant is requesting local consent for an event permit, the applicant must also include the following information:

1) The applicant must designate the event as either a single event permit or a temporary beer event permit as set forth below. The event is subject to the time limitations applicable to the state issued event permit.

a) Single Event Permit: A single event permit authorizes for a period not to exceed 120 consecutive hours (5 consecutive days) or 72 hours (3 consecutive days), the storage, sale, offering for sale, furnishing, and consumption of alcoholic beverages, for on-premise consumption in a manner consistent with title 32B, Utah Code Annotated. An applicant shall state on the application whether the single event permit is a 120 hour or 72 hour single event permit.

b) Temporary Beer Event Permit: A temporary beer event permit authorizes the storage, sale, offering for sale, furnishing and consumption of beer at retail for on-premise consumption at an event for a period not to exceed 30 days. No alcoholic beverage other than beer may be sold under a temporary beer event permit;

2) The applicant must include the time, dates, location, and estimated number to be in attendance of the event;

3) The applicant must describe the nature and purpose of the event;

4) The applicant shall acknowledge his/her understanding that the event permit is nontransferable.

- B. Limitations on Number of Events:

1) Single Event Permits: In any one calendar year, an applicant may obtain up to 12 event permits provided that all such permits in the calendar year are for seventy-two (72) hours or fewer. If any permit issued to an applicant within one calendar year exceeds 72 hours, the applicant may obtain no more than four (4) single event permits for that one calendar year.

2) Temporary Beer Event Permits: No applicant shall in any one calendar year operate temporary beer events for more than a total of ninety (90) days.

C. Exemptions:

1) Local consent is not required for an event permit if the entity applying is a state agency or a political subdivision of the state.

2) Events or assemblies held at private residences, where alcoholic beverages are not sold, shall be exempt from the requirements of this chapter.

D. Nontransferable: Events permits are not transferrable from person to person or location to location.

3-2-7: OFF PREMISES BEER RETAILERS; OPERATIONAL REQUIREMENTS AND ENFORCEMENT:

A. An off-premise beer retailer license shall entitle the licensee to possess, sell, offer for sale, or furnish beer in its original packaging and in containers no larger than 2 liters for consumption off the premises in a manner consistent with the state's alcoholic beverage control act and this chapter.

B. Off premises beer retailers are subject to the operational requirements set forth in section 32B-7-202 and Part 3, Off-Premises Beer Retailer Enforcement Act.

C. For violations related to underage sale of beer, the enforcement process set forth at section 32B-7-201, Utah Code Annotated (2011), or its successor provisions, applies.

3-2-8: LOCAL CONSENT APPROVAL; TERM

A. The County Clerk shall make a determination of whether local consent is appropriate under the provisions of this chapter, and is not authorized to deviate from this chapter's requirements.

B. Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the County proof of state licensure. No local consent shall be effective until the state has issued a license or permit to the applicant pursuant to state statute.

C. Providing consent for purposes of state law does not authorize any action or business practice which is prohibited by or inconsistent with this chapter.

E. Local Consent License: Local Consent licenses shall be signed by the County Clerk and shall contain the following information:

1. The street address of the premises and mailing address if different;
2. The state license classification(s);
5. The name of the person to whom such license has been issued and the name of a local contact person;
6. The name of the business;
7. The term including commencement and expiration dates; and
8. That local consent is subject to revocation by the county for violation of this chapter and/or the Alcoholic Beverage Control Act.

F. Term: Except as outlined in Section 3-2-9(I), "Transfers," local consent is a one-time requirement and must be obtained for all new applicants. Unless otherwise provided under this chapter once local consent is obtained, one must renew his/her license by January 15th of each year, unless revoked or suspended under this chapter or unless the applicable state license is suspended, revoked or denied. A license issued hereunder may be granted for a term of six (6) months at one-half ($1/2$) the yearly license fee; provided that any such license shall expire on July 15th of the year of issuance or January 15, in the year following the year of issuance, whichever date shall first occur after the granting of such license.

G. Display: The local consent license shall at all times be conspicuously displayed to the public in the place to which it shall refer and for which it shall be issued.

3-2-9: RENEWAL, DENIAL, SUSPENSION, REVOCATION AND TRANSFER OF LICENSE:

A. Renewal of Existing Licenses: In December of each year, the county clerk shall send via first class mail, notice to each business with local consent that the license is scheduled to expire. Businesses desiring to renew shall file with the County clerk a renewal fee, a completed renewal application in a form prescribed by the county clerk, and copies of their current state license(s) at least thirty (30) days prior to expiration. The county clerk shall issue a new license valid through January 15th of the next licensing year if the above requirements are met.

B. Failure To Renew: Upon written notification by the county clerk, the local consent holder must close his/her licensed premises on the date the existing license expires and shall keep the premises closed for any and all business for the sale of alcohol until the date the new license is issued. In the absence of such notice, pending action on license renewals, the

license is deemed extended provided a renewal application was filed on or before thirty (30) days prior to expiration. Those failing to file in a timely manner shall be assessed a penalty equal to twenty five percent (25%) of the renewal fee pursuant to the County fee schedule.

C. Grounds for Denial, Suspension And Revocation:

1. Initiated: The County Clerk may, on his or her own initiative or in response to complaints from the general public or any County department, investigate and gather evidence of violations of this chapter or other circumstances which may give rise to a denial, suspension or revocation. The County Clerk may request County staff to investigate further or obtain additional evidence before making a determination. The County Clerk will determine whether sufficient grounds and evidence exist to initiate denial/revocation/suspension of local consent/license.

2. The County Clerk shall have the authority, without a hearing, to deny an application for local consent under this chapter if:

- a. The application does not contain all of the required information;
- b. The application fee is not paid;
- c. The applicant and owners and/or premises did not meet all of the requirements of section 3-2-5, where applicable;
- d. The applicant intentionally misrepresented or concealed information required by this chapter in an application for local consent;
- f. The applicant holds local consent for other premises under this chapter, which are not in good standing, or upon which premises the provisions of this chapter and state laws are frequently violated; or
- h. The applicant does not hold a current Summit County business license.

3. The County Clerk shall have the authority to suspend or revoke, without a hearing, local consent under this chapter for the following reasons. However, the suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this chapter below has passed.

- a. The applicant and owners under section 3-2-5(B), if applicable, do not meet the qualifications set forth in section 3-2-5(A) or in state code, or local consent could be denied for any of the reasons listed in Section C2, above;
- b. The local consent holder has violated state or local alcoholic beverage laws or regulations;

- d. The local consent holder does not pay an application fee, renewal fee or fine;
- e. The local consent holder does not hold a current Summit County business license;
- f. The local consent holder fails to follow the transfer process outlined in section 3-2-9(I);
- g. The local consent holder has failed to comply with the terms of its related land use permit (e.g. conditional use permit or low impact permit);
- h. Three or more serious or grave disciplinary sanctions, as defined by the Utah DABC, within a three (3) year period;
- i. Failure to maintain current and appropriate licensure under the state's alcoholic beverage control act, or its successor provisions.
- j. Failure to complete the training requirements outlined in section 3-2-5(F), unless the licensee provides to County Clerk proof of compliance within thirty (30) days of the time that licensee is first notified that such violation occurred.

D. Procedure for Denial, Suspension or Revocation: The County Clerk shall give notice to any applicant or local consent holder of the decision to deny, suspend or revoke under this chapter by mailing notice by certified mail to the individual identified in the application at the address listed on the application. The notice shall include the following information:

1. Name of applicant/local consent holder;
2. Reason for denial/suspension/revocation including indication of county, state or federal law violated;
3. Explanation of right of applicant/local consent holder to appeal the decision of the County Clerk;
4. Time frames and process for appeal; and
5. Indication that if the applicant/local consent holder chooses not to appeal within the specific time frame, the decision of the County Clerk shall be considered final and the applicant/local consent holder will be expected to comply immediately.

E. Appeals: Decisions herein by the County Clerk may be appealed to the Summit County Council within 10 calendar days of the date of mailing of the certified letter notifying the applicant/local consent holder of the denial/suspension/revocation.

F. Licensing after Revocation: In the event an application has been denied or local consent revoked or suspended, the applicant may not reapply for a license for the same location until one (1) year has expired from the date of said denial/suspension/revocation.

G. Validity of Business License or Local Consent During Appeal: Throughout the appeal process, an individual with a suspended or revoked business license or suspended or revoked local consent may continue to operate his or her business in accordance with federal, state and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

H. Emergency Suspensions by County Sheriff: Local consent under this chapter may be suspended by the county sheriff or designee without prior hearing provided there is probable cause to believe violations of this chapter or state law are occurring, and the conditions are such that the public health and safety are endangered. Such temporary suspension shall occur only if the management or the licensee fails to remedy the situation within fifteen (15) minutes of notification by the county sheriff or designee that a suspension will occur if the conditions complained of are not remedied in a manner that eliminates the immediate danger to public health and safety. No emergency suspension by the county sheriff or designee shall extend beyond the ordinary close of business on the day on which the suspension was given.

I. Transfers: Local consent licenses may not be transferred from one person to another or one premises to another without reapplying for local consent and following the provisions set forth in Section 3-2-5. Applicants must also present proof that the transfer was approved by the DABC as outlined in title 32B, Utah Code Annotated.

3-2-10: MISCELLANEOUS

A. County Park Restrictions: It is unlawful for any person to possess or consume beer or other alcoholic beverages upon the premises of a county park, except upon the express written approval of the county manager. Those parks under the jurisdiction of a Special Service District of the county shall comply with the regulations, policies, or procedures of that Special Service District.

B. Inspection of Premises: The county sheriff, health department official the county clerk, and the county code enforcement officer or their designees shall be permitted to have access to all licensed premises or those establishments applying for license under this chapter, and they may make periodic inspections of such premises and report their findings to the county clerk.

C. Proximity Variances: All licenses/local consent holders issued pursuant to this chapter shall comply with the proximity requirements as set forth above. With respect to a premises that sells, serves or distributes alcohol, the County Council may authorize a variance that reduces the proximity requirements and may give written consent to the state's DABC if the County Council holds a public hearing and determines that

1) Alternative locations for the premises in the community are limited and

2) The location would not be detrimental to the public health, peace, safety, and welfare of the community.

D. Penalties: Unless otherwise provided, any person who violates any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction thereof, punishable as provided by state law.