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## ORDINANCE 2024-01

AN ORDINANCE AMENDING TITLE 3, CHAPTER 2 OF THE LAVERKIN  
CITY CODE ADDING DEFINITIONS FOR A RECREATIONAL FACILITY,  
CREATING A

CLASS C AND CLASS D ALCOHOL LICENSE; ALLOWING ON-SITE  
ALCOHOLIC BEVERAGE SALES, SETTING QUOTAS AND LICENSING  
REQUIREMENTS FOR DISTRIBUTION OF ALCOHOLIC BEVERAGES IN A  
RECREATIONAL FACILITY, AND AMENDING AND UPDATING VARIOUS  
SECTIONS OF THE CODE

WHEREAS, the La Verkin City Council is interested in economic development for the  
city and believes that the economic development of the city will be increased by allowing for  
alcoholic beverage sales within Recreational Facility; and

WHEREAS, request has been made by desirable development to allow for on-site  
alcoholic beverage sales in Recreational Facility settings.

BE IT THEREFORE ORDAINED by the La Verkin City Council that Title 3,  
Chapter 2 of the La Verkin City Code addressing liquor control be amended as follows:

## CHAPTER 2 LIQUOR CONTROL

### **3-2-0: ADOPTION OF ALCOHOLIC BEVERAGE CONTROL ACT:**

A. Subject to the provisions of subsections B and C hereof, the *Alcoholic Beverage Control Act*, as contained in Title 32B, *Utah Code Annotated* (1953, as amended in and through 2023), is hereby adopted and incorporated as a part of the *La Verkin City Code* and incorporated as part of the Ordinances of the City of La Verkin; *provided that* where a legislatively-adopted addition to, change in, or amendment to said portion of the *Alcoholic Beverage Control Act* does not become effective until a date subsequent to the effective date of this Section—such addition, change or amendment shall not be effective hereunder until the effective date of such provision of the *Alcoholic Beverage Control Act*.

B. Those portions of the Alcoholic Beverage Control Act, as adopted by this Section, referring to or dealing with felonies or other offenses which are not subject to or authorized for enforcement by the City of La Verkin, or punishments associated therewith are not made a part of the adopted La Verkin City Code.

C. Where and to the extent that the provisions of the Alcoholic Beverage Control Act, as adopted by this Section, are in conflict with the provisions of the La Verkin City Code, they shall supersede such La Verkin City Code provisions; provided that, where such conflict exists because the City has enacted legislation that is more restrictive than provided by State law, and the City is not prevented by State law from being more restrictive, then the conflicting La Verkin City provision(s) shall govern. Where and to the extent that provisions of the Alcoholic Beverage Control Act are not in conflict with the provisions of the La Verkin City Code, they shall supplement said City Code.

D. Where a citation, information, or complaint is issued under or pursuant to the State codes and/or provisions adopted herein, it shall be sufficient to use the section number of the Utah Code to designate the section number of the La Verkin City Code that is applicable and/or has been violated. (Ord. 2019-06, 8-7-2019; amd. Ord. 2020-04, 9-2-2020; Ord. 2021-04, 7-21-2021; Ord. 2022-06, 6-15-2022; Ord. 2023-09, 6-7-2023)

### **3-2-1: DEFINITIONS:**

The following definitions shall apply in the interpretation and enforcement of this chapter:

**ALCOHOLIC BEVERAGES:** Beer and liquor as the terms are defined in Utah Code Annotated section 32B-1-102, as amended.

**CLASS A LIQUOR LICENSE:** A business license entitling the licensee to sell beer on the licensed premises for consumption off the premises in connection with an off-premise beer retailer license issued by the state of Utah. A Class A Liquor License shall be referred to hereafter as a “Class A” license.

**CLASS B LIQUOR LICENSE:** A business license for a full-service restaurant that entitles the licensee to sell alcoholic beverages on the licensed premises of the restaurant, in connection with a full-service restaurant license issued by the state of Utah, and subject to the requirement that food sales must constitute no less than seventy percent (70%) of the gross monetary receipts of the licensee's business. A Class B Liquor License shall be referred to hereafter as a “Class B” license.

**CLASS C LIQUOR LICENSE:** A business license for a Recreational Facility that entitles the licensee to sell beer for consumption on the licensed premises, in connection with an on-premise beer retailer license issued by the state of Utah. A Class C Liquor License shall be referred to hereafter as a "Class C" license.

**CLASS D LIQUOR LICENSE:** A business license for a Recreational Facility that entitles the licensee to sell alcoholic beverages for consumption on the licensed premises in connection with a bar establishment license issued by the state of Utah. A Class D Liquor License shall be referred to hereafter as a "Class D" license.

**LAW ENFORCEMENT AGENCY:** The agency enforcing federal, state and city laws and ordinances on behalf of the city of La Verkin.

**LICENSED PREMISES:** Any property, building, enclosure, room or equipment used in connection with the sale, storage, distribution or consumption of alcoholic beverages or products.

**LICENSEE:** Any person or entity issued a Class A, B, C, or D license.

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

**OFF SITE RETAILER:** Any person operating a bona fide regularly established retail store selling beer, together with other commodities, and engaged in the sale of beer only in the original package, to be taken away from the premises of the retailer and to be consumed off the premises.

**ON SITE RETAILER:** Any person operating a restaurant or other establishment where beer is sold in the original container for consumption on the premises and in individual portions for consumption on the premises.

**RECREATIONAL FACILITY:** Any premises or building with a minimum of two acres of real property (including contiguous parcels with the same owner) which is owned or leased by a licensee, and which is used in connection with a business whose primary purpose is commercial recreational use where sales of alcoholic beverages is an ancillary purpose or offering to the commercial recreational use. The following shall be considered a Recreational Facility: a commercial pool and/or hot tub operation which contains pools and/or hot tubs that have a combined surface area that exceeds 10,000, a commercial natural hot springs operation, or a golf course, not including a miniature golf course.

**PACKAGE AGENCY:** A retail liquor location operated under a contractual agreement with the state, by a person other than the state.

**PERSON:** Includes partnership, association, company or corporation, as well as a natural person.

**PREMISES:** The area from which the licensee is authorized to sell, dispense or serve alcoholic beverages under the provision of the license.

**PUBLIC BUILDING:** Any building or permanent structure owned or leased by the state, a county or local government entity that is used for public education, transacting public business or regularly conducting government activities. "Public building" does not mean or refer to any building owned by the state or a county or local government entity when the building is used by anyone in whole or in part for proprietary functions.

**RESTAURANT:** A place of business where a variety of food is prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and whose primary purpose is the service of meals to the public.

**SALE:** Includes soliciting or receiving an order for, keeping or exposing for sale, delivering for value, peddling, keeping with intent to sell, and trafficking in.

**SCHOOL:** Any building used primarily for the general education of minors, including nursery schools, infant daycare centers or trade or technical schools.

**SINGLE EVENT:** A short period on site consumption event not to exceed five (5) days, which is sponsored by a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association, subordinate lodge chapter or other local unit thereof that is conducting a civic or community enterprise or convention. The organization shall have been in existence as a bona fide organization for at least one year prior to the date of application. (Ord. 2007-05, 1-17-2007; amd. Ord. 2023-09, 6-7-2023)

### **3-2-2: LIQUOR SALE CLASSES AND LICENSES:**

- A. Classes Allowed: Retail alcoholic beverage sales permitted in the city shall be Class A, B, C, or D licenses.
- B. Class A Quota: There shall be no established quota for Class A licenses, except as determined by location requirements.
- C. Class B Quota: There shall be no established quota for Class B licenses that will sell liquor except as determined by location requirements.
- D. Class C License Quota: There shall be no established quota for Class C licenses, except as determined by location requirements.
- E. Class D License Quota: There shall be no established quota for Class D licenses, except as determined by location requirements.
- F. Consent For a License: The city council shall hear all requests for new Class A, B, C, and D licenses in a public hearing and must give its written consent before any license is granted by the city.
- G. Duration: All Class A, Class B, Class C, and Class D licenses shall expire on December 31 of each year. (Ord. 2007-05, 1-17-2007)

### **3-2-3: LICENSE REQUIRED:**

It is unlawful for any person, licensee, permittee, or their officers, managers, employees or agents to keep for sale, or to directly or indirectly or upon any pretense or device, offer to sell, sell or otherwise furnish or supply to another any alcoholic beverage or product, within the city without first having procured a license therefor from the city council as hereinafter provided. A separate license shall be required for each place of sale, and the license shall at all times be conspicuously displayed on the premises. All licenses shall comply with the alcoholic beverage control act of Utah, the regulations of the alcoholic beverage control commission, and all applicable ordinances of the city. (Ord. 2007-05, 1-17-2007)

### **3-2-4: APPLICATION FOR LICENSE:**

A. Application: An application for a Class A, B, C, or D license shall be made in writing on forms provided by the city clerk/recorder, and such application must state the applicant's name in full, social security number, date of birth, citizenship, and residence address; the location of proposed license premises, the class of license desired, and any convictions for crimes which could disqualify the applicant as a licensee as outlined in this chapter. The application shall include a space for the applicant to sign under penalty of law, certifying that the applicant has complied with all requirements and possesses the qualifications for issuance of a license, and that all information in the application is true. If the applicant is a partnership, corporation, limited liability company or other entity, the applicant shall set forth the names and addresses of all managers, officers, trustees or directors. The applicant shall also set forth the names and addresses of all partners, members, joint ventures, or shareholders holding any interest greater than twenty percent (20%) in the application. Application by a partnership, limited liability company or joint venture must be subscribed and sworn to by all partners or members. Applications by a corporation must be subscribed and sworn to by the president and secretary or trustees.

B. Accompanying Materials:

An application for a Class A, B, C or D license shall also include the following:

1. The application shall include evidence of the distance to the nearest school, church, public library, public playground, and park.
2. The application shall include a bond as set forth in this chapter and the nonrefundable license fees as set forth in this title.
3. The application shall include a certified report from the bureau of criminal identification, dated within thirty (30) days of the application, showing any criminal history of the applicant and any partner, officer, director, managing agent, member or stockholder who holds at least twenty percent (20%) of the stock of the applicant corporation, and all employees who will either supervise or personally handle sales of alcoholic beverages to the public.
4. The applicant must also indicate whether each partner, officer, director, managing agent, member or stockholder who holds at least twenty percent (20%) of the stock of the applicant corporation, and all employees who will either supervise or personally handle sales of alcoholic beverages to the public meet the qualifications in section 3-2-5 of this chapter. (Ord. 2007-05, 1-17-2007)

**3-2-5: QUALIFICATIONS OF LICENSEE:**

A. Citizenship: Every licensee hereunder shall be a bona fide citizen of the United States or a legal resident alien. If a partnership, each partner shall be a bona fide citizen or a legal resident alien of the United States. If a corporation, it shall be a domestic corporation or a foreign corporation which is qualified to do business in the state, and the corporation shall hold its license through an agent. All employees who will either supervise or personally handle sales of alcohol to the public shall be bona fide citizens of the U.S. or legal resident aliens.

B. Corporations; Agent: A corporation which conforms to the qualifications prescribed by subsection A of this section shall own the entire equitable interest in its license through an agent, provided the agent is otherwise qualified to hold a license under the provisions hereof. The agent shall be subject to the penalties prescribed for any violation of the law relating to alcoholic beverages. Upon the death or resignation or discharge of an agent of a corporation holding a license, the license shall be assigned to another qualified agent selected by the corporation.

C. Prior Violations: No Class A, B, C, or D license shall be issued to any person, or entity whose principals include a person, who, within one year prior to application, has violated any provision of a license to sell alcoholic beverages issued by the city or any other governmental agency, or has had such a license revoked. No license shall be issued to any person or corporation in which a partner, a managing agent, a manager, an officer, a director, a stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation, or a manager or member who owns at least twenty percent (20%) of the applicant limited liability company, or an employee who will either supervise or personally handle sales of alcohol to the public who, within five (5) years prior to application, has:

1. Been convicted of or plead guilty to a felony under any federal or state law;
2. Violated any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
3. Been convicted of or plead guilty to any crime involving moral turpitude;
4. On two (2) or more occasions within the five (5) years before the day on which the license is granted, plead guilty to or been convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug;
5. Had a revocation or nonrenewal of any alcoholic beverage license of said person.

D. Criminal History: The city clerk/recorder shall request and receive criminal history record information from the applicant for all partners, officers, directors, managing agents, members, joint ventures, shareholders holding any interest greater than twenty percent (20%), and all employees who will either supervise or personally handle sales of alcohol to the public, within thirty (30) days after receiving such application, and the law enforcement agency shall add thereto its recommendation as to the granting or denying of said application.

E. List Of Officers On File: Each corporation shall provide a list of officers, directors, managing agents, members, partners, stockholders of twenty percent (20%) or more, and all employees who will either supervise or personally handle sales of alcohol to the public, to the city upon application and with annual license renewal, and at all other times when there is a change in said list.

F. Age: All applicants and any partner, officer, director, managing agent, member or stockholder who holds at least twenty percent (20%) of the stock of the applicant corporation, and all employees who will either supervise or personally handle sales of alcoholic beverages to the public, shall be over the age of twenty one (21) years. (Ord. 2007-05, 1-17-2007)

### **3-2-6: FEES:**

A. License Fees: Applications provided for in this chapter shall be accompanied by business license fees set forth in this title.

B. Class A, B, C or D License Fee: In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed upon any Class A, B, C or D licensee an annual license fee to be established by resolution which may change from time to time.

C. Issuance After July 1: If a license is issued on or after July 1 in any year, one-half ( $\frac{1}{2}$ ) of all annual license fees shall be charged. (Ord. 2007-05, 1-17-2007)

### **3-2-7: PROXIMITY; INVESTIGATION; INSPECTION:**

The right to a license hereunder shall be conditioned upon compliance with the following:

A. Proximity: No Class A, B, C, or D license shall be issued that fails to meet the proximity requirements of Utah Code § 32B-1201, et seq., as amended or replaced from time to time.

B. Investigation: All applications filed in accordance with the provisions of this chapter shall be referred to the law enforcement agency for inspection and report. The law enforcement agency shall within thirty (30) days after receiving such application, sign the application as notice of approval or deny said signature with a written statement of denial. The law enforcement agency shall include in any report to city council, recommendation as to whether or not the application should be granted.

C. Inspection: All licensed premises shall be subject to inspection by any officer, agent and/or law enforcement officer of the city, the alcoholic beverage control commission, and/or the state board of health, and every licensee shall, at the request of the board of health, furnish to it samples of alcoholic beverages which he shall have for sale or consumption. Any license granted pursuant to this chapter may be revoked by the city council on a finding that the licensee has had ten (10) days' or more notice from the board of health that the licensee is violating one or more health ordinances, rules or regulations of the city, or of the Utah division of health and has failed to comply with such health ordinance, rule or regulation. The city council may direct the law enforcement agency to close down any business licensed under this chapter where the board of health has determined that continued operation of the business presents an eminent danger to the health of the community or persons who may eat or drink at the business. (Ord. 2007-05, 1-17-2007)

### **3-2-8: BOND REQUIRED:**

No Class A, B, C or D license shall be granted by the city council until the applicant has posted a cash or corporate surety bond in an amount set by resolution and payable to the city. Each licensee must procure and maintain said bond for so long as the license is in effect. The bond shall be in a form approved by the city clerk/recorder, conditioned upon the licensee's faithful compliance with this chapter, the Utah alcoholic beverage control act and rules and regulations promulgated by the Utah alcoholic beverage control commission, and any other applicable state or federal statutes. 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. A bond filed by a licensee may be forfeited if the license is finally revoked. (Ord. 2007-05, 1-17-2007)

### **3-2-9: ISSUANCE; CONDITIONS:**

A. Scope Of Class A, B, C, or D License: A Class A, B, C, or D license shall be to sell alcoholic beverages only at the place and in the manner provided therein, and a separate license shall be issued for each specific business, each license specifying the exact location thereof.

B. Applicant Reliability: The city council shall approve the retailing of alcoholic beverages only after satisfactory showing of the capability, qualifications and reliability of the applicant, and that the public convenience requires and that the best interests of the community will be substantially served by the issuance.

C. Current Status Of Other Charges: No license herein provided shall be issued to any applicant who is in arrears in the payment to the city for any other city license, or who is otherwise indebted to the city. Failure to pay business license fees or other charges assessed by the city for any reason promptly when due shall be the basis for revocation of a license issued hereunder.

D. Department Of Health Permit: No license under this chapter shall be issued until the applicant therefor shall have first procured from the department of health a permit which shall show that the premises to be licensed is in a sanitary condition and that the equipment used in the storage, distribution or sale of beer or alcoholic beverages complies with all of the health regulations of the state.

E. Unused License: A license which is not used by the licensee for a period of six (6) months shall revert to the city and shall no longer have any validity.

F. State Law Applicability: A license for the sale of any alcoholic beverage shall be required, as provided in Utah Code Annotated title 32B, the provisions of which are hereby adopted insofar as applicable to this chapter. All licensees must notify the city clerk immediately if their state issued license is denied, suspended or revoked for any reason.

G. Lawful Purchase Of Alcohol: A licensee may not purchase, acquire, possess for the purpose of resale, or sell any alcoholic beverage except that which has been lawfully purchased from a wholesaler or small business brewer properly licensed by the State. (Ord. 2007-05, 1-17-2007; amd. Ord. 2023-09, 6-7-2023))

### **3-2-10: TRANSFER OF LICENSE:**

No Class A, B, C, or D license shall be assigned, transferred or sold, except that in the sole discretion of the city council a transfer may be permitted upon a change of location where the owner remains the same. In either case, the same qualifications as to location of premises or character of licensee shall apply, and the same fees will be required as in the case of an original issuance of license. No Class A, B, C, or D license shall be leased or subleased. (Ord. 2007-05, 1-17-2007)

### **3-2-11: ALCOHOL EDUCATION; TRAINING:**

A. All employees of licensees who will either supervise the sales of alcoholic beverages or shall handle the sales of alcoholic beverages to a customer shall have a valid certificate showing completion of an alcohol training and education seminar outlined by Utah Code Annotated sections 32B-1-701 et seq. and 62A-15-401 as updated. Any individual who directly supervises the sale of alcoholic beverages or sells alcoholic beverages to a customer shall complete the required alcohol training and education seminar within thirty (30) days of the day on which the individual is employed if on the date of employment, the employee does not have a valid certificate that the individual has completed an alcohol training and education seminar for purposes of this section.

B. A local authority may immediately suspend the license of an alcohol beverage retailer that allows an employee to directly supervise the sale of beer or to sell beer to a customer without having a valid certificate showing that the individual has completed an alcohol training and education seminar. (Ord. 2007-05, 1-17-2007; amd. Ord. 2023-09, 6-7-2023)

### **3-2-12: BADGES REQUIRED:**

A. Badge Requirements: Each employee of a licensed retailer who directly supervises the sale of beer or who sells beer to a customer shall wear a unique identification badge on the front of the employee's clothing, visible above the waist, bearing the employee's first or last name, initials or unique identification in letters or numbers. The number or letters on the unique identification badge shall be sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of alcohol beverages.

B. Records: The licensed retailer shall maintain a record of all current employees' unique identification badges as assigned. The record required to be maintained shall be available for immediate inspection by:

1. Any peace officer or representative of the local licensing authority; and
2. Shall include the employee's full name, address and driver's license number or similar identification number.

C. Fines And Penalties: A local authority may impose a fine of up to two hundred fifty dollars (\$250.00) against any retailer that does not comply or require its employees to comply with the requirements of this section. In addition to any criminal penalties that may be imposed, an individual is subject to other administrative penalties as allowed by Utah Code title 32B, as amended.

D. Expunging Records: La Verkin City shall expunge from the records any administrative penalty imposed against a licensee for purposes of determining future administrative penalties, if the licensee or any employee of that licensee, has not been found in violation of any law involving the sale of an alcoholic beverage to a minor for a period of thirty six (36) consecutive months from the day on which the licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic beverage to a minor. (Ord. 2007-05, 1-17-2007; amd. Ord. 2023-09, 6-7-2023)

### **3-2-13: RENEWALS:**

All Class A, B, C, and D licenses shall expire on December 31 of each year. All applications for renewal licenses filed by the holders of existing licenses shall be filed with the city clerk/recorder at least thirty (30) days prior to the expiration date of the then issued license. All renewal applications must attach a copy of a valid state license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the



then issued license and shall keep the premises closed for the sale, dispensing or consumption of beer or alcoholic beverages until the date his new license is issued. If the application is filed with the licensing official within sixty (60) days of expiration and there are no other violations against the license, the licensing official shall prepare the new license. If application for a Class A, B, C, or D license is not filed for renewal by March 1 or violations other than late applications have occurred, the license shall be considered suspended and the licensee must reapply to sell beer or alcohol. A renewal application may be denied if the city finds any of the following:

A. The licensee has attempted to transfer or assign the license to others in violation of this title;

B. The licensee or any partner, officer, director, managing agent, member, shareholder who holds at least twenty percent (20%) of the stock, or employee who supervises or personally handles sales of alcohol to the public does not meet the qualifications in section 3-2-5 of this chapter or the conditions in section 3-2-9 of this chapter, or is otherwise not in compliance with any requirements of this title or state law;

C. The premises has been remodeled or changed in a manner that eliminates required exits or creates closed booths or stalls where alcohol is sold and consumed;

D. The licensee or his employees or agents have been convicted of or plead guilty to more than five (5) violations of this title or state liquor control statutes relative to the conduct of the licensed premises in a single calendar year preceding the renewal, not including violations by patrons; and

E. In the case of Class A licenses, the licensee does not hold a current LaVerkin City business license. (Ord. 2007-05, 1-17-2007)

### **3-2-14: UNLAWFUL ACTS AND REGULATIONS:**

It is unlawful:

A. License Required: For a person to buy for resale, sell or deal in alcoholic beverages without first having procured a Class A, B, C, or D license duly issued by the city council or otherwise complying with the provisions of this chapter and the alcoholic beverage control act. Said license must be publicly displayed at all times.

B. Purchasing:

1. For any retail licensee to purchase alcoholic beverages from any person other than a properly licensed business, in accordance with the provisions of this chapter.

2. For any licensee to purchase or acquire to have or possess for the purpose of sale or distribution or consumption any beer or alcoholic beverage, except that which shall have been lawfully purchased from a brewer or wholesaler licensed under the provisions of the Utah alcoholic beverage control act.

C. Minors:

1. For a licensee or any employee or agent of a licensee to sell, furnish, dispose of, give or cause to be sold, furnished, disposed of or given to a person under the age of twenty one (21) years, or for a person under the age of twenty one (21) years to buy, receive, have in possession or consume, beer or any alcoholic beverage.

Whenever a licensee or its employee has a question regarding the age of a customer seeking to purchase beer or other alcoholic beverages, before making the sale it may request presentation of proof of age of the customer, and shall require the purchaser to sign a form provided by the licensee regarding their age, including the date of signature, and the number assigned to the person's proof of age by the issuing authority. Such form shall be filed alphabetically and

maintained for three (3) years subject to review by a peace officer or representative of the state bureau of investigations or department of public safety.

2. For any person to furnish, provide or offer beer or other alcoholic beverages to a person under the age of twenty one (21) years, or to knowingly aid, induce, permit or otherwise assist in any way the consumption of beer or other alcoholic beverage by a person under the age of twenty one (21) years.

D. Age Of Employees: For a class A licensee to employ a minor to sell or dispose of beer or any alcoholic beverage except under the supervision of a person twenty one (21) years of age or older who is on the premises. It shall be illegal for a Class A, B, C or D licensee to employ a person under the age of twenty one (21) to sell or dispose of beer or any alcoholic beverage.

E. Consumption By Licensee: For a licensee, when engaged in waiting on or serving customers, to consume beer or other alcoholic beverages, or to remain on or about the premises while in an intoxicated or disorderly condition.

F. Employee Purchase: For an employee of a licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume beer or any other alcoholic beverage.

G. Intoxicated And Disorderly Persons: For a licensee or other person to serve, sell or furnish beer or alcoholic beverage to an intoxicated or disorderly person, or for a licensee or employee of a licensee to allow or permit an intoxicated or disorderly person to come into or remain on or about the premises. It is the responsibility of the licensee to maintain proper order and decorum within his establishment by taking appropriate action to prohibit disorderly or prohibited conduct in the premises by a patron or employee.

H. Hours Regulated: For a Class A licensee or an employee of such licensee to sell, deliver or give beer to a person between the hours of one o'clock (1:00) A.M. and seven o'clock (7:00) A.M. For a class B licensee or any employee of such to sell, deliver or give away, or allow a person to consume beer or other alcoholic beverages on the licensed premises after twelve o'clock (12:00) midnight and before twelve o'clock (12:00) noon on any day. Class B licensees shall not sell, deliver, give away or allow to consume any alcoholic beverages on any day of any regular general, primary or special election or municipal, special district or school election until after the polls close. A Class C or Class D licensee or any employee of such shall not sell, deliver or give away, or allow a person to consume beer or other alcoholic beverages on the licensed premises after ten o'clock (10:00) P.M. and before eleven o'clock (11:00) A.M. on any day. Failure to pick up and dispose of all drinks and beverages containing alcohol which have not been fully consumed at closing hours as set forth shall be considered permission to consume after closing hours and shall be a violation of this subsection.

I. Class A License: For a class A retailer to sell beer except in original container or to permit beer or other alcoholic beverages to be consumed on the premises.

J. Class B, Class C, and Class D Consumption On Site: It shall be unlawful for the licensee to allow or permit any person to bring, possess, or consume on the premises any beer or other alcoholic beverage not purchased from the licensee on said premises.

K. Advertising: For a person to advertise the sale of beer or alcoholic beverages, except as may be expressly permitted by the Utah alcoholic beverage control commission. Display of the license issued under this chapter shall be visible to the public and shall not be considered advertisement for alcohol consumption.

L. Lawful Purchasing: For any licensee to purchase or acquire to have or possess for the purpose of sale or distribution or consumption any beer or alcoholic beverage, except that which

shall have been lawfully purchased from a brewer or wholesaler licensed under the provisions of the Utah alcoholic beverages control act.

M. Strict Liability: It shall constitute an offense of strict liability for any licensee to permit or allow any of the violations in this section to occur in or upon the licensed premises, and such licensee may be liable, in addition to an agent or employee.

N. Consumption In Specific Places: For a person to consume alcoholic beverages, including beer, in any place which is open to unrestricted use and access by the public, including, but not limited to, any building or permanent structure owned or leased by the state, county or city, city streets, roads and alleyways, state or county highways or roads, buildings and grounds used for school purposes, churches, parks or playgrounds.

O. Minor Consumption: For any person under the age of twenty one (21) years to purchase, possess or consume any beer or alcoholic beverage or product, or for any person under the age of twenty one (21) years to have any detectable amount of alcohol in the blood or system as a result of having consumed any beer or alcoholic beverage or product, as determined from a totality of the circumstances, including any breath or blood test or the administration of field sobriety tests.

P. Removal From Site Of Purchase: No person shall remove any beer or alcoholic beverage from the premises at which it was purchased except in the original container. It is a violation for a person to carry from the premises an open container that is used for drinking purposes and contains an alcoholic beverage.

Q. Sign Displayed: If malt beverage coolers or malt liquor is sold by the beer retailer for off premises consumption; the beer retailer shall display a sign at the location on the premises where the malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the label."

R. Package Agency: No package agency shall be permitted or licensed.

S. Single Events: No single events shall be permitted or licensed.

T. Taverns: No taverns shall be permitted or licensed.

U. Illumination: Licensed premises shall be kept illuminated at all times while occupied or open for business, and no booth or kind of stall where alcoholic beverages are sold or consumed may be maintained unless all tables, chairs and occupants are kept open to full view from the main floor of the premises.

V. Prohibited Conduct: Acts or conduct on the licensee's premises which constitute a nuisance activity or are otherwise contrary to the public welfare and morals, as addressed or defined by Utah Code Annotated sections 32B-1-104(1), 32B-1-504, 32B-3-301 through 32B-3-305, 32B-6-406.1, and chapter 10 of title 76, as amended, are prohibited. (Ord. 2007-05, 1-17-2007; amd. Ord. 2023-09, 6-7-2023)

### **3-2-15: REVOCATION OR SUSPENSION:**

A. Grounds; Authority: The city council may suspend, revoke, refuse to renew and the city clerk/recorder may suspend after a hearing, any Class A, B, C, or D license issued pursuant to this chapter for any of the following reasons:

1. Violence On Premises: There occurs on the licensed premises repeated acts of violence.
2. Failure To Maintain Qualifications: The licensee fails to satisfactorily maintain the capability, qualifications and reliability requirements of an applicant for a license prescribed in section 3-2-5 of this chapter, or the conditions in section 3-2-9 of this chapter.
3. False Or Fraudulent Information: The licensee knowingly submits false or fraudulent material information on any application or document filed with the city.

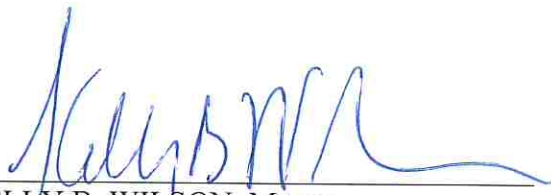
4. **Licensee Under Influence:** The licensee or employees or agents of the licensee on the premises are habitually drunk or under the influence of drugs.
  5. **Delinquent Fees Or Charges:** The licensed business is delinquent for more than sixty (60) days in the payment of any fee or charge due to the city.
  6. **Sale Or Transfer Of License:** The licensee attempts to assign, transfer or sell a license in violation of this chapter.
  7. **Failure To Maintain Records:** The licensee fails to keep for a period of two (2) years or as specified and make available to the city upon reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of beer.
  8. **Felony Conviction:** The licensee is convicted of a felony or any violation of law or ordinance relating to alcoholic beverages or drugs, driving under the influence of alcohol or drugs, or alcohol/drug related reckless driving, keeping a gambling or disorderly house, or any law or ordinance involving moral turpitude.
  9. **Failure To Comply:** The licensee violates or fails to comply with this chapter, the Utah alcoholic beverage control act, or ceases to possess all of the qualifications required by this chapter and the alcoholic beverage control act.
  10. **Remodeled Or Changed Premises:** The premises has been remodeled or changed in a manner that eliminates required exits or creates closed booths or stalls where alcohol is sold and consumed.
  11. **Failure To Maintain Proper Order:** The licensee fails to maintain proper order and decorum within his establishment by taking appropriate action to prohibit disorderly or prohibited conduct in the premises by any patron or employee.
- B. **Hearing:** A hearing may be requested by a person:
1. That is denied or refused a Class A, B, C, or D license by any officer, agent or employee of the city.
  2. Whose Class A, B, C, or D license is revoked, restricted, qualified or limited from that for which it was first issued.
- C. **Request; Time Limit:** The request for hearing must be made in writing to the mayor or city clerk/recorder and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying or restricting the license is mailed or otherwise delivered by the city to the applicant or licensee at his address as it appears on the application or license.
- D. **Examination Of Witnesses; Decision:** Following receipt of a request for hearing, the city council shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witness the city may produce in support of his contention. The city council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council. Such decision shall then be final for purposes of appeal.
- E. **Hearing Procedures; Record Of Hearing:** Hearings before the city council shall be promptly scheduled upon request and shall be open to the public and informal, with technical rules of evidence not applying to the proceeding. The city shall prepare an official record of the hearing, including all testimony recorded mechanically or stenographically and all exhibits introduced. The city is not required to transcribe such record, except that, upon written request with proper notice prior to the hearing desired to be transcribed and receipt of a reasonable fee for transcribing such record, the city may transcribe the record or allow for its transcription by the person requesting it.

F. Limitations; Criminal Complaints: This section shall not be construed so as to afford any aggrieved party more than one hearing before the city council, nor shall the hearing provided for in this section apply to criminal complaint or proceeding. (Ord. 2007-05, 1-17-2007)

**3-2-16: PENALTY:**

In addition to the suspension or revocation of a license authorized by this chapter, the licensee or any other person who shall violate the provisions of this chapter shall be guilty of a class B misdemeanor and shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 2007-05, 1-17-2007)

**PASSED AND ADOPTED** by the City Council of La Verkin City this 3<sup>rd</sup> day of January, 2024.

  
KELLY B. WILSON, Mayor

ATTEST:

  
CHRISTY BALLARD, City Recorder

