CITY OF LOGAN, UTAH
ORDINANCE NO. 08-82

AN ORDINANCE AMENDING THE LOGAN MUNICIPAL CODE FOR BREW RESTAURANT OPERATIONS

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

5.10.040: DEFINITIONS:

By reference the city adopts all definitions contained in the UABC in its entirety and the changes to such, as amended from time to time, without further reference and supplemented by the more specific language as defined in the local ordinances, including:

ADMINISTRATOR OR BUSINESS LICENSE ADMINISTRATOR: The city of Logan business license administrator.

BREW RESTAURANT: A business licensed to sell beer for on-premises consumption in connection with a bona fide restaurant where the revenue from the sale of beer is less than 50 percent of the gross dollar volume. A Brew Restaurant is also licensed to brew beer in batch sizes that provide enough beer for the sale and consumption on site in connection with the restaurant and has any licenses subject to the applicable provisions of DABC.

DABC: The Utah department of alcoholic beverage control.

DIVISION: The city of Logan business license division.

HOME BREW: Means and includes all beer manufactured by individuals and not by regular licensed brewers by process of malting, brewing or fermentation and which contains alcohol in one-half of one percent or more by weight.

LICENSE REVIEW AUTHORITIES: Any departmental or other state, county, or city authorities assigned by the business license administrator to review each application to ascertain code compliance, including, but not limited to: chief of the police department; chief of the fire department; community development department director for zoning, planning and building code compliance; and health officials at city, county and/or state levels, and their designees.

LOCAL CONSENT: Application approval by the administrator based on applicant or consentee compliance with all terms and conditions under this chapter. Such approval shall be communicated to the DABC for their license application/renewal review purposes.

OFF PREMISES BEER RETAILER: Any business establishment which is engaged in the retail sale of beer to public patrons for consumption off the establishment's premises, and which is licensed to sell beer by the city.
ON PREMISES BEER RETAILER/RESTAURANT: Any business establishment licensed by the city and state to sell light beer for consumption on the retailer's premises. Beer sales may not exceed fifty percent (50%) of total sales.

ON PREMISES BEER RETAILER/TAVERN: Any business establishment licensed by the city to sell light beer for consumption on the tavern retailer's premises. Beer sales may exceed fifty percent (50%) of total sales.

POPULATION: Figures used shall be determined by the most recent U.S. decennial or special census or by any other population determination made by the United States government or the state or by calculating the number of residents of Logan using the municipal population estimate provided by the governor's office of planning and adding the number of residents on Utah State University property in the city of Logan boundaries.

UABC: The state of Utah alcoholic beverage control act, title 32A Utah Code Annotated 1953 in its entirety, as amended from time to time. (Ord. 96-64 § 1, 1996)

5.10.600: DIVISION'S POWER TO GRANT CONSENTS; LIMITATIONS:

The division may not issue alcoholic beverage manufacturing consents, except for brew restaurant. Alcoholic beverage manufacturers shall not only locate an alcohol manufacturing business be allowed in conjunction with a brew restaurant within the city. On premises beer retailers and liquor licensees with a current and valid alcoholic beverage license from the city and from the state may purchase wholesale from state licensed manufacturers which are located outside the city limits under terms compliant with state law and city code. Manufacturers wholesaling to local licensees must obtain a motor delivery business license from the business license administrator under the general business license provisions. Businesses that purchase from any manufacturer must first verify the manufacturer's current and valid motor delivery license with the city and appropriate state license(s). (Ord. 96-64 § 1, 1996)

Article VIII. Beer Retailer Licenses

5.10.800: GENERAL RESTRICTIONS:

A. It is unlawful for any person to engage in the business of the sale of light beer at retail in bottles or draft within the corporate limits of the city without first having procured a license from the city as provided in this chapter. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the UABC and use of city licenses granted under this chapter shall not be allowed until the required state and federal licenses have been authorized and are in effect.
B. It is unlawful for any person within the corporate limits of the city to malt, ferment or manufacture home brew or for any person to have in his possession, keep or store for the purpose of sale, giving away or exchanging home brew containing one-half of one percent or more alcohol by weight.

C. It is unlawful for any person to have in her or his possession within the corporate limits of the city any beer which has not been manufactured by a regularly licensed brewer.

D. No person shall sell light beer at any public dance or to any person intoxicated or under the influence of an intoxicating beverage. No person shall sell, serve or give beer to any person under the age of twenty one (21) years.

E. 1. It is unlawful to sell, serve or give away light beer or any other alcoholic beverage except during hours allowed by state law.

2. It is unlawful to sell, serve or give away light beer after one o'clock (1:00) A.M. Sunday and before ten o'clock (10:00) A.M. Monday except at establishments which have valid state restaurant or private club liquor licenses.

3. No licensee shall violate the terms of the license issued. No licensee shall permit light beer or any other alcoholic beverages to be consumed on licensed premises at any time it is unlawful to sell the same.

F. Violation of this section is a class B misdemeanor. Should the city be required to take action to suspend a license on more than one occasion within a three (3) year period, the beer retailer license shall be revoked for a period of not less than one year. (Ord. 96-64 § 1, 1996)

5.10.810: DIVISION’S POWER TO GRANT CONSENTS; LIMITATIONS:

A. The division may issue beer retailer licenses and brew restaurant to businesses located in this city, and may regulate the sale, service, distribution and consumption of alcoholic beverages for each type of license provided by this chapter in conformance with state laws and city codes.
B. The type of licenses issued under this chapter are known as off premises beer retailer, on premises beer retailer/restaurant, and on premises beer retailer/tavern licenses, and brew restaurant.

C. A person may not retail any alcoholic beverage unless a beer retailer license has been issued by this city and state. A separate license is required for each place of business and for each premises having different ownership. A separate business license is required for each business name used. One business name (DBA) may be used for each premises and the most appropriate city alcoholic beverage license may be applied for on behalf of each premises. The applicant shall not misrepresent either the boundaries of the premises, the ownership of the business operation, the type of business conducted nor the business name(s) used. Violation of this subsection is a class B misdemeanor.

D. The division may prescribe by policy, directive, or rule, consistent with this chapter, the general operational requirements of licensees relating to:

1. Physical facilities;

2. Other matters considered appropriate by the division as they are allowed by state law.

E. The division may grant licenses to beer retailers with the following limitations:

1. On premises beer restaurant licenses shall be limited to one per twenty thousand (20,000) population.

2. On premises tavern beer licenses shall be limited to one per twenty thousand (20,000) population.

3. Off premises retail licenses shall not be limited in number. (Ord. 96-64 § 1, 1996)

4. Brew restaurant licenses shall be limited to one per twenty thousand (20,000) population.

5.10.820: APPLICATION AND RENEWAL REQUIREMENTS:

A. Each person seeking a beer retailer license of any kind under this chapter shall file a written application with the division, in a form prescribed by the division. It shall be accompanied by:

1. A nonrefundable application fee (for a determination of all fees under this section, refer to the current alcoholic beverage application and license fee schedule approved by municipal council);
2. An initial annual license fee. The license fee is not prorated and is refundable if license approval is not granted by the city. The denied applicant may submit a new application when conditions render the situation approvable by state law and city code;

3. A statement of the purpose for which the applicant has applied for the beer retailer license;

4. A signed consent form granting an irrevocable license to the city permitting any authorized representative of the division or any law enforcement officer unrestricted right to enter and inspect the premises; and

5. Any other documents and evidence the division may require by rule or policy to allow complete evaluation of the application.

B. Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.

C. Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the business license administrator proof of:

1. Respective state licensure immediately upon state approval (not more than 1 year from approval of the original local consent);

2. A surety compliance bond in the amount of five thousand dollars ($5,000.00);

3. Respective federal licensure immediately upon federal approval.

D. All city beer retailer licenses expire on November 30 of each year. Persons desiring to renew their license shall submit the renewal fee and completed renewal application to the division no later than October 31 of the year the license expires. Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires. Renewal applications shall be in a form prescribed by the division and shall be accompanied by:

1. Proof of a surety compliance bond in the amount of five thousand dollars ($5,000.00);

2. The consent renewal fee; and

3. Copies of current state and federal licenses.

E. If any beer retailer licensee does not immediately notify the division of any change in the ownership of the entity holding the license, or in the case of a Utah corporate owner of any change in the corporate officers or directors, the division may suspend or revoke that license. (Ord. 96-64 § 1, 1996)

5.10.830: QUALIFICATIONS:
A. The division may not grant a beer retailer license to any sole proprietor, partner, managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation that is unqualified to acquire the respective state license because that person has been convicted of any offense identified in the UABC section 32A-8-103 or does not qualify for state licensure for any other reason.

B. If a proprietor, employee, partner, managing agent, officer, director, or stockholder, who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation that has been granted a beer retailer license is convicted of any offense provided in UABC section 32A-8-103, the division may take emergency action by immediately revoking the license without further notice to the licensee. The state will be notified of city action regarding the local license(s). A letter may be sent to the licensee confirming the action taken by the city.

C. Upon the arrest of any beer retailer licensee on any charge set forth in UABC section 32A-8-103, the administrator or chief of police or their designee may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements set forth in title 63, section 46B of the Utah Code Annotated, as amended from time to time, for the period during which the criminal matter is being adjudicated. Any such action taken by the city will be communicated to the DABC and a letter confirming those actions may be sent to the licensee.

D. If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this chapter and title 32A of the Utah Code Annotated for obtaining that license, the business license administrator may suspend or revoke that consent. (Ord. 96-64 § 1, 1996)

5.10.840: DUTIES OF DIVISION BEFORE GRANTING CONSENTS:

A. Before any beer retailer license may be granted by the administrator, the division may conduct investigations and hold on site inspections of the premises by license review authorities as directed by the administrator for the purpose of gathering information and making recommendations to the administrator as to whether or not a license should be granted. This information shall be forwarded to the administrator to aid in the determination regarding licensure. Reviews and inspections conducted by license review authorities, include, but are not limited to:

1. Conformance with all appropriate building codes, as inspected and verified by the building inspection division of the community development department;
2. Police and criminal background check and clearance by the city police department;

3. Zoning and planning review by the community development department to address issues of locality, proximity, building design and conformance with relative code;

4. Fire department inspections of premises and determination of code compliance;

5. Reviews and inspections by various health officers, including city and state representatives making determinations regarding hazardous waste, solid waste, environmental health, pretreatment requirements, and other health issues which may be presented;

6. Division review for state and federal identification of business, including identification of the business ownership and entity structure, employer's withholding account number, federal employer identification number, state sales and use tax number, workers' compensation insurance carrier policy number and expiration date, business name registration number, Utah corporate identification number or limited liability company identification number (when applicable), and proof of bonding with the city as the named insured;

7. Division review for complete information on the individual owner, or any partner, managing agent, officer, director, or stockholder, who holds at least twenty percent (20%) of the total issued and outstanding stock of a corporation, including the provision of:

a. Social security administration number;

b. Number on driver license or non-driver identification issued by the state of Utah;

c. Home address and home telephone number;

d. Date of birth, including month, day and year;

e. Complete personal name, including first, middle and last names;

f. Status as either a United States citizen or valid United States work authorization;

g. Statement under perjury of the accuracy and completeness of the application, the licensee's agreement to notify the division immediately of any changes to the ownership or other qualifying criteria, and granting permission to authorized representatives of the city and state to enter the premises;

h. Authorized signature on the application and written evidence of such authority;

i. Appropriate application and license fees;

j. Compliance with distance and proximity requirements equal to those specified by the UABC for alcoholic beverage retailer categories; and
k. Any other documentation considered necessary to render a determination. (Ord. 96-64 § 1, 1996)

5.10.850: BOND:

A. Off premises beer retailer licensees shall acquire and maintain in force a surety compliance bond in the amount of five thousand dollars ($5,000.00) prior to operating under the authority of the license. Evidence of such bonding shall be provided to the city annually with each license renewal submission.

B. On premises beer retailer licensees shall acquire and maintain in force a surety compliance bond in the amount of five thousand dollars ($5,000.00) prior to operating under the authority of the license. Evidence of such bonding shall be provided to the city annually with each license renewal submission. (Ord. 96-64 § 1, 1996)

5.10.860: OPERATIONAL RESTRICTIONS:

Each person granted a beer retailer license shall conform to all the operational restrictions assigned by the UABC, including the following conditions:

A. Transfers will not be granted from one person, partnership or corporation to another person, partnership or corporation.

B. There shall be no transfer of a beer retailer license from one location to another without prior written approval of the administrator. Transfers may be granted for a change of location within the city by the original licensee providing all qualifying conditions are met.

C. Each separate location must be separately licensed.

D. Each location with more than one type of operation, more than one business name, or more than one specific ownership must have a separate license for each and must submit
applications for licensure which includes diagrams depicting the boundaries of the
premises for each as well as defining the distinctive operations. (Ord. 96-64 § 1, 1996)

5.10.870: ON PREMISES BEER RETAILER/RESTAURANT:

A. An on premises beer retailer/restaurant license shall entitle the licensee to sell light
beer for consumption on the retailer's premises and to all of the privileges granted by
local ordinances to the holder of an on premises beer retailer license and in accordance
with the UABC.

B. Beer sales may not exceed fifty percent (50%) of total sales. If the gross sales of the
business enterprise during any quarter of a calendar year develop so that the primary
revenue resource becomes beer, the on premises beer retailer/restaurant license shall be
automatically suspended until the appropriate revenue basis is regained. Should the city
be required to take action on more than one such noncompliance within a three (3) year
period, the on premises beer retailer license shall be revoked for a period of not less than
one year. The on premises beer retailer shall be required to report to the city on a
quarterly basis the gross revenue from beer sales and gross revenue from all other sales
and may be audited to determine compliance at any point.

C. Live entertainment is allowed only if the licensee obtains a cabaret license for the
premises and complies with all pertinent ordinances.

D. If any portion of relative code is not complied with, all city licenses for the premises
may be revoked or suspended. (Ord. 96-64 § 1, 1996)

5.10.875: BREW RESTAURANT:

A. A brew restaurant license shall entitle the licensee to sell light beer for consumption
on the retailer's premises and to all of the privileges granted by local ordinances to the
holder of a brew restaurant and liquor retailer license and in accordance with the UABC.

B. Beer sales may not exceed fifty percent (50%) of total sales. If the gross sales of the
business enterprise during any quarter of a calendar year develop so that the primary
revenue resource becomes beer, the brew restaurant license shall be automatically
suspended until the appropriate revenue basis is regained. Should the city be required to
take action on more than one such noncompliance within a three (3) year period, the brew
restaurant license shall be revoked for a period of not less than one year. The brew
restaurant shall be required to report to the city on a quarterly basis the gross revenue
from beer sales and gross revenue from all other sales and may be audited to determine
compliance at any point.
C. Live entertainment is allowed only if the licensee obtains a cabaret license for the premises and complies with all pertinent ordinances.

D. If any portion of relative code is not complied with, all city licenses for the premises may be revoked or suspended.

5.10.880: ON PREMISES BEER RETAILER/TAVERN:

A. An on premises beer retailer/tavern license shall entitle the licensee to sell light beer for consumption on the tavern retailer's premises and to all of the privileges granted by local ordinance to the holder of an on premises beer retailer license and in accordance with the UABC.

B. Beer sales may exceed fifty percent (50%) of total sales of beer and food, although food need not be sold in the establishment.

C. Live entertainment is allowed only if the licensee obtains a cabaret license for the premises and complies with all pertinent ordinances.

D. If any portion of relative code is not complied with, all city licenses for the premises may be revoked or suspended. (Ord. 96-64 § 1, 1996)

5.10.890: OFF PREMISES BEER RETAILER:

A. An off premises beer retailer license shall entitle licensee to sell light beer on the licensed premises in original containers for consumption off the premises in accordance with state and local law.

B. Off premises beer retailer licenses shall be granted only to those applicants whose business enterprise at the proposed location is one which would typically be classified as primarily a grocery store and which sells a variety of food items and other items typically found in a grocery store. Beer sales shall not exceed fifty percent (50%) of the total revenue for any off premises beer retailer. If the gross sales of the business enterprise during any quarter of a calendar year develop so that the primary revenue resource becomes beer, the off premises beer retailer license shall be automatically suspended until the appropriate revenue basis is regained. Should the city be required to take action on more than one such noncompliance within a three (3) year period, the off premises
beer retailer license shall be revoked for a period of not less than one year. The off premises beer retailer shall be required to report to the city on a quarterly basis the gross revenue from beer sales and gross revenue from all other sales and may be audited to determine compliance at any point.

C. Off premises beer retailers must post a clearly visible sign approved by the city business license division which is no less than one square foot in size which warns customers of the penalty consequent to the sale or distribution of alcoholic beverages to minors (persons under 21 years of age).

D. Off premises beer retailers shall not be established within six hundred feet (600') of any public or private school, church, public library, public playground, or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park. Off premises beer retailer licensee premises shall not be established within two hundred feet (200') of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park. (Ord. 96-64 § 1, 1996)

approvable by state law and city code;

3. A statement of the purpose for which the applicant has applied for the beer retailer license;

4. A signed consent form granting an irrevocable license to the city permitting any authorized representative of the division or any law enforcement officer unrestricted right to enter and inspect the premises; and

5. Any other documents and evidence the division may require by rule or policy to allow complete evaluation of the application.

B. Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.

C. Prior to operating under the authority of this chapter, each approved applicant must obtain and provide to the business license
SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS __ day of DECEMBER 2008, BY THE FOLLOWING VOTE:
AYES:
NAYS:
ABSENT: /s/ Tami W. Pyfer, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR
The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this __ day of December, 2008.

/s/ Tami W. Pyfer, Chair

MAYOR’S APPROVAL OR DISAPPROVAL
The foregoing ordinance is hereby approved this __ day of December, 2008.

/s/ Randy Watts, Mayor