

**ORDINANCE 2002-17**

**AN ORDINANCE AMENDING TOOELE COUNTY CODE TITLE 9, CHAPTER 3, REGARDING ALCOHOLIC BEVERAGES; REPEALING REQUIREMENTS RELATING TO THE ALCOHOL TRAINING SEMINAR; CLARIFYING THAT THE ALCOHOL ORDINANCE APPLIES ONLY TO UNINCORPORATED AREAS OF THE COUNTY; AND MAKING TECHNICAL CORRECTIONS.**

**THE COUNTY LEGISLATIVE BODY OF THE COUNTY OF TOOELE ORDAINS  
AS FOLLOWS:**

**SECTION I - PURPOSE.** This ordinance is for the purpose of repealing requirements relating to the State's alcohol training seminar, clarifying that this chapter applies only to unincorporated areas of this county, and making technical corrections.

**SECTION II - AMENDMENT.** Title 9, Chapter 3, Section 2 of the Tooele County Code is amended to read:

**9-3-2. License required to sell alcoholic beverages.**

(1) It shall be unlawful for any person to sell beer, either as a wholesaler or retailer, without first having applied for and obtained a license therefore. All licensees shall have qualified under and shall comply with the provisions and regulations of the Alcoholic Beverages Control Act and the Department of Alcoholic Beverage Control, and all other statutes of the State of Utah pertaining thereto.

(2) All licenses granted under the authority of this section shall be subject to revocation as provided in this chapter.

**SECTION III - AMENDMENT.** Title 9, Chapter 3, Section 3 of the Tooele County Code is amended to read:

**9-3-3. Beer licenses classified.**

Licenses issued under this chapter shall be of the following kinds, and shall carry the following privileges:

(1) A Class A beer retail license shall entitle the licensee to sell beer on the premises in the original containers for consumption off the premises.

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(2) A Class B beer retail license shall entitle the licensee to sell beer in the original container or on draft for consumption on the premises where the beer is sold or sell beer in sealed containers for consumption off the premises.

(3) A Class C beer retail license shall entitle the licensee to sell beer for consumption on the premises for single or special events.

(4) Wholesale beer licenses shall entitle the licensee to sell either bottled or keg beer to retailers for resale.

**SECTION IV - AMENDMENT.** Title 9, Chapter 3, Section 4 of the Tooele County Code is amended to read:

**9-3-4. License applications - Fee refund and forfeiture.**

(1) Application for a license to engage in the business of a wholesaler or retailer of beer shall be made to the County Clerk.

(2) If the applicant does not already have a Tooele County business license, applicant shall apply for a business license at the same time as the application for a beer license is made.

(3) Application for a beer license shall be upon a form furnished by the county and signed under oath by the applicant, accompanied by the appropriate license fee. The the application is granted, the fee shall be deposited in the county treasury, otherwise it shall be returned to the applicant.

(4) Each applicant and licensee must be 21 years of age or older, of good moral character and a citizen of the United States. No license shall be granted to any applicant who has been convicted of a felony or misdemeanor involving moral turpitude.

(5) If applicant is a partnership, association or corporation, each partner, association member, or corporate director and officer must meet the requirements of Subsection (4).

(6) No license fee shall be refunded after a license has been issued.

(4) If the Clerk determines that the applicant has complied with the provisions of this chapter and all other applicable county and State laws and regulations, the clerk shall approve the application and issue a license.

**SECTION V - AMENDMENT.** Title 9, Chapter 3, Section 5 of the Tooele County Code is amended to read:

**9-3-5. Beer retailing and wholesaling fees.**

(1) The annual license fees for the retailing or wholesaling of beer shall be as follows:

- |                            |        |
|----------------------------|--------|
| (a) Class A Beer License   | \$ 100 |
| (b) Class B Beer License   | \$ 200 |
| (c) Class C Beer License   | \$ 200 |
| (d) Wholesale Beer License | \$ 200 |

(2) License fees for Class A, B or wholesale licenses may be prorated on a quarter-year basis.

**SECTION VI - AMENDMENT.** Title 9, Chapter 3, Section 6 of the Tooele County Code is amended to read:

**9-3-6. Suspension or revocation of beer license.**

(1) No license issued under this chapter shall be suspended or revoked until an informal hearing is held before the county clerk. Written notice of such hearing shall be served upon the licensee at least ten days prior to the date thereof. Service shall be effective when sent by certified mail to the address indicated in the beer license application. Such notice shall state the ground of the complaint and the time and place of the hearing.

(2) No part of the license fee shall be refunded in cases of suspension or revocation.

**SECTION VII - AMENDMENT.** Title 9, Chapter 3, Section 7 of the Tooele County Code is amended to read:

**9-3-7. Appeal procedures.**

(1) If a beer license is denied by the clerk or if the clerk suspends or revokes a license or if a civil fine is imposed, the applicant or licensee may file an appeal.

(2) Filing of an appeal must be within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, a hearing shall be scheduled before a hearing officer designated by the county commission within 20 days from the date of the appeal, unless such time shall be extended for good cause.

(3) The hearing officer shall hold a public hearing, keep a verbatim record of the proceedings, and shall take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.

(4) The burden of proof shall be on the county clerk.

(5) After the hearing, the hearing officer shall have seven working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and a recommended decision to the county commission.

(6) Either party may object to the recommendation of the hearing officer by filing the party's objections and reasons, in writing, to the county commission within seven days following the recommendation. In the event the hearing officer recommends upholding a suspension or revocation, the license shall be immediately suspended, and shall remain suspended until any subsequent appeal is decided. If no objections are received within the seven days, the county commission may immediately adopt the recommendation of the hearing officer.

(7) If objections are received, the county commission shall have ten working days to consider such objections before issuing a final decision. The county commission may, in its discretion, take additional evidence, hold a hearing or require the submission of written memoranda on issues of fact or law. The standard by which the county commission shall review the decision of the hearing officer is whether evidence exists in the record to support the hearing officer's recommendation.

**SECTION VIII. REPEALER.** Title 9, Chapter 3, Section 8 of the Tooele County Code is hereby repealed.

**SECTION IX - AMENDMENT.** Title 9, Chapter 3, Section 9 of the Tooele County Code is amended to read:

**9-3-9. Sale or possession of beer at certain times unlawful.**

- (1) No off premises beer retailer shall sell beer between the hours of 1:00 a.m. and 7:00 a.m.
- (2) No on premises beer retailer shall sell beer between the hours of 1:00 a.m. to 10:00 a.m.
- (3) No person shall possess or consume beer or liquor on premises licensed under this chapter during the hours for which the sale of beer is prohibited.

**SECTION X - AMENDMENT.** Title 9, Chapter 3, Section 10 of the Tooele County Code is amended to read:

**9-3-10. Distance restrictions.**

(1) Beer retail license premises may not be established within 600 feet of any public or private school, church, public library, public playground, school playground or park except where a variance is obtained from the State Alcoholic Beverage Commission pursuant to Utah Code Annotated 32A-10-201.

(2) The 600-foot limitation is 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 closer to the property boundary of the public or private school, church, public library, public playground, school playground or park. For the purposes of this section, education facility includes nursery schools, infant day care, and trade and technical schools.

(3) Any beer retail premises operating prior to the effective date of this title or any premises for which a beer license has been applied for prior to the effective date of this chapter, is exempt from the distance restrictions of this section so long as said premises complies with the distance restrictions of state law and remains in continuous operation at the same location.

**SECTION XI - ENACTMENT.** Title 9, Chapter 3, Section 11 of the Tooele County Code is enacted to read:

**9-3-11. Applicability.**

This chapter applies to all establishments and persons within the unincorporated limits of the county.

**SECTION XII - AMENDMENT.** Title 9, Chapter 3, Section 12 of the Tooele County Code is amended to read:

**9-3-12. Age restrictions.**

- (1) A minor may not be granted a beer retailer license.
- (2) A minor may not sell beer on the premises of a beer retailer for off-premise consumption except under the supervision of a person 21 years of age or older who is on the premises.
- (3) No person under the age of 21 years shall be employed by or be on the premises of an on-premise beer retailer licensee to sell or dispense beer. Persons under the age of 21 years may not be employed by or be on the premises of any tavern.

**SECTION XIII - AMENDMENT.** Title 9, Chapter 3, Section 13 of the Tooele County Code is amended to read:

**9-3-13. Unlawful sale or supply to minors.**

(1) A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or products to any person under the age of 21 years.

(2) This section does not apply to the furnishing or supplying of an alcoholic beverage or product to a minor for medicinal purposes by the parent or guardian of the minor or by the minor's physician or dentist, in accordance with Utah law.

**SECTION XIV - AMENDMENT.** Title 9, Chapter 3, Section 14 of the Tooele County Code is amended to read:

**9-3-14. Unlawful sale or supply to intoxicated persons.**

A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or product to any person who is apparently under the influence of intoxicating alcoholic beverage or products or drugs or to a person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs.

**SECTION XV - AMENDMENT.** Title 9, Chapter 3, Section 15 of the Tooele County Code is amended to read:

**9-3-15. Container size restrictions.**

(1) A person may not sell, offer to sell, purchase, possess, or otherwise furnish or supply beer to the general public for off-premises consumption in containers larger than two liters.

(2) Other than beer wholesalers or Class A or C licensees no person shall:

(a) possess an alcoholic beverage in a container larger than two liters;

(b) withdraw or dispense an alcoholic beverage from a container larger than two liters;

or

(c) possess or consume an alcoholic beverage which has been withdrawn or dispensed from a container larger than two liters. This subsection shall not apply to persons possessing or consuming draft beer on premises and dispensed by a Class A or C licensee.

**SECTION XVI - RENUMBERING.** Title 9, Chapter 3, Section 17 of the Tooele County Code is renumbered as Section 16 and shall read:

**9-3-16. Unlawful purchase or consumption by minors.**

(1) It is unlawful for any person under the age of 21 years to purchase, possess, or consume any alcoholic beverage or product, unless specifically authorized by law.

(2) It is unlawful for any person under the age of 21 years to misrepresent their age, or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor.

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**SECTION XVII - AMENDMENT.** Title 9, Chapter 3, Section 18 of the Tooele County Code is renumbered as Section 17 and shall read:

**9-3-17. Unlawful purchase by intoxicated persons.**

A person may not purchase any alcoholic beverage or product when he is under the influence of intoxicating alcoholic beverages, products, or drugs.

**SECTION XVIII - AMENDMENT.** Title 9, Chapter 3, Section 19 of the Tooele County Code is renumbered as Section 18 and shall read:

**9-3-19. Lighting.**

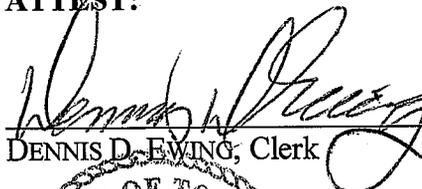
Businesses licensed under this chapter shall maintain throughout the premises and during business hours a minimum of one candle power light measured at a level of five feet above the floor.

**SECTION XIX - EFFECTIVE DATE.** This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date, if more than 15 days after passage.

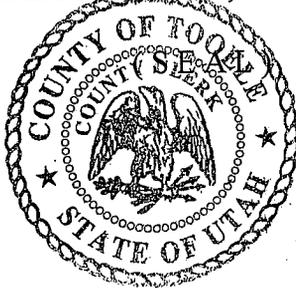
**IN WITNESS WHEREOF,** the Tooele County Legislative Body passed, approved and enacted this ordinance this 06<sup>th</sup> August day of ~~July~~ 2002.

**ATTEST:**

**TOOELE COUNTY COMMISSION**

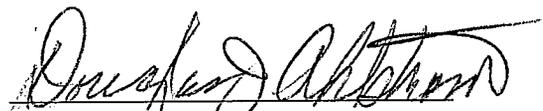
  
DENNIS D. EWING, Clerk

  
DENNIS ROCKWELL, Chairman



Commissioner Rockwell voted aye  
Commissioner Hunsaker voted aye  
Commissioner White voted aye

**APPROVED AS TO FORM:**

  
DOUGLAS J. AHLSTROM  
Tooele County Attorney