

ORDINANCE # 2010-10

**AN ORDINANCE AMENDING MOAB MUNICIPAL CODE SECTION
5.20 PERTAINING TO ALCOHOLIC BEVERAGES**

WHEREAS, the City of Moab ("City) from time to time has found it necessary to amend the Municipal Code to in regards to alcoholic beverages to maintain consistency with the State of Utah Alcoholic Beverages Control Act; and,

WHEREAS, the State of Utah has made changes to the Alcoholic Beverages Control Act; and,

WHEREAS, City Staff has identified that there are specific conflicts within the City's Alcoholic Beverages Code and the State of Utah Alcoholic Beverages Control Act.

NOW, THEREFORE, BE IT ORDAINED BY THE MOAB CITY COUNCIL THAT Title 5.20, specifically, is hereby amended as follows:

5.20.155 Club retail license.

A club license shall entitle the licensee to sell liquor in accordance with state law.

A. A club retail license shall entitle the licensee to sell beer in open containers, in any size container not exceeding two-liters and on draft, without obtaining a separate on-premise beer retailer license from the city of Moab. The club retail license shall serve as the alcohol and business license for the purposes of Moab City regulatory licensing and the term of which shall coincide with the calendar year.

5.20.250 Fees.

Fees shall be adopted by Resolution by action of the Governing Body of the City of Moab.

ARTICLE III. GENERAL REGULATIONS

5.20.031 Community Location

A "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

5.20.360 Location restrictions for beer sales.

- A. 1. Beginning January 1, 1991, Class I or Class II licensee premises may not be established within six hundred feet of any public or private school, church, public library, public playground, or park, as measured by the method in subsection (A)(2) of this section.
- 2. Beginning January 1, 1991, Class I or Class II licensee premises may not be established within two hundred feet of any community location measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the community location.

B. The restrictions of subsection (A) of this section govern unless one of the following exemptions applies:

1. The city council finds after full investigation that the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a Class I or Class II license. In that event, the city council may, after giving full consideration to all of the attending circumstances, following a public hearing, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.
2. With respect to the establishment of any Class I or Class II licensee in any location, the city council may, after giving full consideration to all of the attending circumstances, following a public hearing, reduce the proximity requirements, in relation to a church if the local governing body of the church in question gives its written approval.
3. With respect to any Class I or Class II license issued by the city council before July 1, 1991, to an establishment that undergoes a change in ownership after that date, the city council may waive the proximity restrictions of this section in considering whether to grant an on-premises retailer beer license to the new owner.

C. With respect to any community location, the six hundred foot limitation is measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic to the property boundary of the community location.

D. Nothing in this section prevents the city council from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

Effective immediately upon passage.

PASSED AND APPROVED in open Council by a majority vote of the Governing Body of Moab City Council on April 13, 2010.

SIGNED:

David L. Sakrison, Mayor

ATTEST:

Rachel Ellison, City Recorder