

Mapleton City Council Staff Report

Meeting Date: August 6, 2013

Applicant: Holiday Oil
Location: 1042 N 1600 W
Prepared by: Sean Conroy, Community Development Director
Public Hearing Item: No
Zone: GC-1

REQUEST

Consideration of a request to obtain a beer sales license for a new service station located at 1042 N 1600 W in the General Commercial (GC-1) zone.

BACKGROUND AND PROJECT DESCRIPTION

The subject site is approximately 30,492 square feet in size (.7 acres) and is developed with a 2,978 square foot commercial building. In 1999 the City approved a conditional use permit (CUP) and a project plan for a new service station at the subject location. The service station also included a fast food component, most recently a Polar King. The gas station has been out of use for several years.

On February 13, 2013 a new CUP was issued to reopen the service station. Holiday Oil has now purchased the station and plans on opening in the near future. The applicant is requesting a class "A" license, which would allow the sale of beer on the premises in original containers for consumption off the premises in accordance with the Liquor Control Act of Utah.

EVALUATION

Mapleton City Code (MCC) Chapter 5.16.010 requires City Council approval for a beer sales license. MCC Chapter 5.16 outlines several requirements that include meeting all applicable standards of the Liquor Control Act of Utah, obtaining a permit from the board of health, and prohibition on the consumption of alcohol on the property. MCC Chapter 5.16.140 also states the following:

"The council may with or without a hearing, at its discretion, refuse to grant any license applied for, and may revoke at any time, and in no such case need any cause be stated. No license shall be issued, and any license issued shall be revoked if the applicant or licensee shall not possess, or shall cease to possess, all of the qualifications required by the liquor control act, or fails to comply with the provisions of this code or rules, regulations and orders of the board of health, relating to health matters."

Granting of a beer license is completely at the discretion of the City Council. Allowing the sale of beer at a service station is a standard request. Staff has not identified any reason not to allow the proposed license.

STAFF RECOMMENDATION

Approve the beer sales license with the attached special conditions.

SPECIAL CONDITIONS

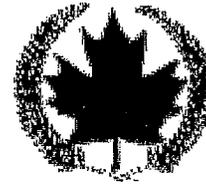
1. This permit constitutes a Class "A" license as defined in MCC Chapter 5.16.040.
2. The applicant shall obtain a license from the Utah Liquor Control Commission.
3. The applicant shall obtain a permit from the board of health.
4. It shall be unlawful for any person to consume beer on any premises licensed under this section or to have on the premises any open vessel or container containing beer.
5. The applicant shall comply with all other all other applicable requirements outlined in MCC Chapter 5.16.

ATTACHMENTS

- 1. Application materials.
- 2. Beer Sales Ordinance.

Beer License

Mapleton City Corporation
 125 West Community Center Way (400 North)
 Mapleton, UT 84664
 Phone: (801) 489-5655 Web: www.mapleton.org
 Fax: (801) 489-5657



BUSINESS LICENSE APPLICATION

BUSINESS LICENSE NUMBER

Commercial Business
 Home Occupation Business
 Temporary/Seasonal Sales

Name of Business: <i>Holiday Oil #22</i>	Business Phone Number: <i>801-973-7002</i>	Business Fax Number: <i>801-973-7395</i>
Business Address: <i>1042 N. Hwy 89 84664</i>	Email Address: <i>Mike@HolidayOil.com</i>	
Mailing Address: <i>3115 W. 21005 - West Valley City, 84119</i>		

State Registration: <input type="checkbox"/> Sole-Proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> LP <input type="checkbox"/> LLP	DBA # Expires <i>1 1</i>	State Tax # (if applicable) 	Corporation # (Must attach a copy of Articles of Incorporation)	Federal Tax ID # (if applicable)
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Business Owner Name(s) <i>Mike Wagstaff</i>	Owner's Address <i>2559 Cupecog Dr. 3LL, UT</i> City: <i>3LL, UT</i> State <i>UT</i> Zip <i>84121</i>	Owner's Phone Number(s) <i>801-598-4683</i>
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Nature of Business: Manufacturing Wholesale Retail Services Daycare/Preschool - Number of children _____
 Other _____

Total Number of Employees: 5 Number of Full-time Employees: 2 Number of Part-time Employees: 3

Briefly describe your business: *Gasoline station - C-store*

Annual License fee rates:

- Business License - \$50 plus \$25 per employee
- Home Occupation - \$100 Application Fee
- Home Occupation Renewal - \$50 per year
- Temporary/Seasonal Sales
 Administrative Approval - \$50
 Planning Commission Approval - \$100

Beer \$200.00

\$ 175.00

The receipt for payment of license fees does not constitute being approved to operate a business. The actual license will only be issued when all inspections are complete and approved. Business Licenses expire annually on December 31st. Renewal is the responsibility of the business owner. Failure to receive a renewal notice does not excuse this responsibility. License renewal fees are due on or before January 31st. Any license fee not paid within thirty (30) days of the due date will be issued a late fee.

I hereby agree to conduct said business strictly in accordance with the Laws and Ordinances set forth by Mapleton City, Utah County, the State of Utah, and Federal standards, covering such business, and swear under penalty of law that the information contained herein is true to the best of my knowledge. I also agree that no other type of business will be conducted other than what has been stated above.

X *Mike Wagstaff* *7/15/13*
 Signature Date

THIS SECTION FOR OFFICE USE ONLY

Planning & Zoning	Date:	Zone:	Signature:	Approved Yes / No
Police Department	Date:	Comments:	Signature:	Approved Yes / No
Fire Department	Date:	Comments:	Signature:	Approved Yes / No

Comments From Planning & Zoning:

Chapter 5.16 BEER SALES

5.16.010: LICENSE REQUIRED:

5.16.020: DEFINITIONS:

5.16.030: WHOLESALER'S LICENSE:

5.16.040: LICENSE PRIVILEGES:

5.16.050: APPLICATION FOR LICENSE:

5.16.060: QUALIFICATIONS OF LICENSEE:

5.16.070: BOND REQUIRED:

5.16.080: REFUSAL OF LICENSE:

5.16.090: PERMIT FROM BOARD OF HEALTH REQUIRED:

5.16.100: TRANSFER OF LICENSE:

5.16.110: FEES:

5.16.120: LICENSE RESTRICTIONS:

5.16.130: BEER CONSUMPTION ON PREMISES PROHIBITED:

5.16.140: REVOCATION OF LICENSE:

5.16.150: INSPECTION:

5.16.160: VIOLATION; PENALTY:

5.16.010: LICENSE REQUIRED:

It shall be unlawful for any person to engage in the business of the sale of light beer at retail, in bottles or draft, within the city without first having procured a license therefor from the council 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 licenses shall comply with the liquor control act of Utah and the regulations of the liquor control commission. (1986 Code)

5.16.020: DEFINITIONS:

The following words and phrases used in this chapter shall have the meanings ascribed to them in this section unless a different meaning clearly appears from the context:

BEER: Any beverage containing not less than one-half of one percent of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of any malted grain or similar products. "Heavy beer" means beer containing more than 3.2 percent of alcohol by weight. "Light beer" means beer containing not more than 3.2 percent of alcohol by weight. Beer may or may not contain hops or other vegetable products. "Beer" includes ale, stout and porter.

RETAILER: Any person engaged in the sale or distribution of beer to the consumer.

SELL OR SALE: When used in this chapter in any prohibition, includes to solicit, or to receive an order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell or to traffic in, for any consideration promised or obtained directly or indirectly or under any pretext or by any means whatsoever to procure or allow to be procured for any other person.

WHOLESALER: Any person other than a brewer or retailer engaged in the importation for sale or in the sale of beer in the wholesale or jobbing quantities. (1986 Code)

5.16.030: WHOLESALER'S LICENSE:

It shall be unlawful for any person to engage in the business of selling beer at wholesale within the city without first obtaining a license therefor from the liquor control commission of Utah and paying the required fee therefor. (1986 Code)

5.16.040: LICENSE PRIVILEGES:

A. Retail licenses issued under this chapter shall be of the following kinds and shall carry the following privileges and be numbered numerically commencing from the number one:

1. A class A retail license shall entitle the licensee to sell beer on the premises licensed in original containers for consumption off the premises in accordance with the liquor control act of Utah.
2. A class B retail license shall entitle the licensee to sell beer in the original containers on the premises for consumption on the premises and to all of the privileges granted to the holder of a class A retail license and in accordance with the liquor control act of Utah.
3. A class C retail license shall entitle the licensee to sell beer on draft for consumption on or off the premises and to all the privileges granted the holders of class A and B retail licenses in accordance with the liquor control act of Utah.
4. A "seasonal license" shall carry the privileges of a class C retail license and shall be for a period less than one year.

B. It shall be unlawful for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he shall have lawfully purchased from a brewer or wholesaler licensed under the privileges of the liquor control act of Utah. (1986 Code)

5.16.050: APPLICATION FOR LICENSE:

All applications for licenses authorized by this chapter shall be verified and filed with the council and shall state the applicant's name in full, and that he has complied with the requirements and possesses the qualifications specified in the liquor control act, and if the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, and must be subscribed by the applicant who must state under oath that the facts stated therein are true. Applicants must furnish such information, including a certificate of at least five (5) resident freeholders of the city to the effect that the licensee bears a good moral character and is a fit and proper person to be granted a license, as and when the council shall require. (1986 Code)

5.16.060: QUALIFICATIONS OF LICENSEE:

No person shall be granted a retail license unless he shall be qualified as provided in the liquor control act and under the provisions of section 32-4-14 thereof. (1986 Code)

5.16.070: BOND REQUIRED:

No license shall be granted by the council until the applicant shall have filed with the council a bond which bond shall be made in the favor of the city. The amount of the bond is to be set by resolution. (1986 Code)

5.16.080: REFUSAL OF LICENSE:

The council may, with or without hearing, in its discretion, refuse to grant any license applied for and in no such case need any cause be stated. No license shall be issued if the applicant or licensee shall not possess all the qualifications required by the liquor control act, or fails to comply with the provisions of this code, or the rules, regulations and orders of the board of health of the city. (1986 Code)

5.16.090: PERMIT FROM BOARD OF HEALTH REQUIRED:

No license shall be issued until the applicant therefor shall have first produced from the board of health a permit therefor, which permit shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage or distribution, or sale of such beer, complies with all health regulations of the city and of the state. (1986 Code)

5.16.100: TRANSFER OF LICENSE:

Licenses issued under this chapter shall not be transferable, and upon revocation thereof by the council, the fee paid by the licensee to the city for the license shall be forfeited to the city. (1986 Code)

5.16.110: FEES:

A. Applications provided for in this chapter shall be accompanied by the fees provided in this section, which fees shall be deposited in the treasury if the license is granted and returned to the applicant if denied:

1. For class A retail license, per year, or any part thereof, two hundred dollars (\$200.00);
2. For class B retail license, per year, or any part thereof, two hundred dollars (\$200.00);
3. For class C retail license, per year, or any part thereof, three hundred dollars (\$300.00);
4. For "seasonal license" at the rate of thirty five dollars (\$35.00) per month for the season for which issued.

B. All licenses issued under this chapter shall expire on January 1 of each year except seasonal licenses or unless sooner canceled. (1986 Code)

5.16.120: LICENSE RESTRICTIONS:

A. No person shall sell beer at any public dance or to any person intoxicated, or under the influence of an intoxicating beverage. No license shall be granted to sell beer in any dance hall, theater, or in the proximity of any church or school. No person shall sell beer to any person under the age of twenty one (21) years, and it shall be unlawful to sell beer on Sunday or between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. on any other day. It shall be unlawful to advertise the sale of light beer except under such regulations as is made by the liquor control commission of Utah; provided, that a simple designation of the fact that beer is sold under city license may be placed in or upon the window or front of the licensed premises.

B. No licensee shall violate the terms of the license issued, nor unless he shall be so licensed shall he sell bottled or draft beer for consumption on the premises, or permit any beer to be consumed on the premises. (1986 Code)

5.16.130: BEER CONSUMPTION ON PREMISES PROHIBITED:

A. It shall be unlawful for any person to consume beer on any premises licensed under this section or to have on the premises any open vessel or container containing beer.

B. It shall be unlawful for any licensee hereunder, his agent or employee, to allow the consumption of beer or similar beverage on any premises licensed hereunder, or to allow any vessel or container containing beer or similar beverage to remain open on the premises. (1986 Code)

5.16.140: REVOCATION OF LICENSE:

The council may with or without a hearing, at its discretion, refuse to grant any license applied for, and may revoke at any time, and in no such case need any cause be stated. No license shall be issued, and any license issued shall be revoked if the applicant or licensee shall not possess, or shall cease to possess, all of the qualifications required by the liquor control act, or fails to comply with the provisions of this code or rules, regulations and orders of the board of health, relating to health matters. (1986 Code)

5.16.150: INSPECTION:

All licensed premises shall be subject to inspection by any officer, agent or peace officer of the city or the liquor control commission, or the state board of health, and every licensee shall at the request of the board of health of the city furnish to it samples of beer which he shall have for sale. (1986 Code)

5.16.160: VIOLATION; PENALTY:

It shall be unlawful for any person to violate any provision in this chapter, and any person convicted of violating any provision of any ordinance contained herein shall be punished by a fine not exceeding two hundred ninety nine dollars (\$299.00), or by imprisonment for a period not longer than six (6) months, or by both such fine and imprisonment.