

UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1625 South 900 West • PO Box 30408 • Salt Lake City, Utah • 84130-0408 (801) 977-6800 • Fax 977-6889
website: www.abc.utah.gov

**SPECIAL USE PERMIT
(HEALTH CARE)
APPLICATION CHECKLIST**

Dear Applicant:

The items below must be completed and submitted before any action can be taken by the Utah Alcoholic Beverage Control Commission. You will be notified of the next monthly meeting at which your application will be considered.

1. Completed application (form enclosed).
2. Criminal history background check information (see application).
3. Local Consent from either city/town council if premises in incorporated area, or county commission if unincorporated area (form enclosed).
4. \$50.00 one time permit fee (refundable if permit not granted). Make check payable to Utah Department of Alcoholic Beverage Control.

Enclosed for your information are copies of the Utah Code and the Utah Department of Alcoholic Beverage Control Rules pertaining to Special Use Permits. If you have any questions, please contact the Licensing and Compliance Division at (801) 977-6800.

**UTAH DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
APPLICATION FOR SPECIAL USE PERMIT**

(Health Care)

1. Applicant/Organization: _____

2. Business Name: _____

3. Address: _____
 Street PO Box City State Zip

4. Phone: _____ Person to Contact _____

5. Ownership: Check appropriate box and provide the requested information in the space below.
(add additional sheets if necessary)

Applicant is an **individual**: List below information for: (a) Individual

Applicant is a **partnership**: List below information for: (a) All Partners

Applicant is a **corporation**: List below information for: (a) Any Stockholder owning at least 20% of the corporation
(b) All Corporate officers and Directors

Applicant is a **limited liability company (LLC)**:
List below information for: (a) Any members owning at least 20% of the company

TITLE _____ **NAME** _____ **HOME ADDRESS** _____

HOME PHONE# _____ **DR LIC#** _____ **SS#** _____ **DOB** _____ **%OWNED** _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ **NAME** _____ **HOME ADDRESS** _____

HOME PHONE# _____ **DR LIC#** _____ **SS#** _____ **DOB** _____ **%OWNED** _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ **NAME** _____ **HOME ADDRESS** _____

HOME PHONE# _____ **DR LIC#** _____ **SS#** _____ **DOB** _____ **%OWNED** _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status.

TITLE _____ **NAME** _____ **HOME ADDRESS** _____

HOME PHONE# _____ **DR LIC#** _____ **SS#** _____ **DOB** _____ **%OWNED** _____

Are you a United States Citizen? _____ If no, must attach a copy of residency status

6. Criminal History. The law prohibits persons who have been convicted of certain crimes from being in the alcoholic beverage business. This applies to any applicant, proprietor, partner, managing agent, director, or officer of the business. This also applies to any stockholder owning at least 20% of the corporation stock, or if a limited liability company, any member owning at least 20% of the company. Please list all criminal offenses other than minor traffic offenses of which you or any of these persons (including persons listed in subparagraph 5) have ever been convicted.

<u>NAME</u>	<u>CRIMINAL OFFENSE</u>	<u>DATE OF CONVICTION</u>
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In addition, a criminal history **background check** must be furnished on each person listed above and in subparagraph 5. This may be done as follows:

- a. Utah residents:** If any person listed has been a **resident of Utah for at least two years**, he/she shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the Utah Bureau of Criminal Identification.
- b. Non Residents: Out of state residents or persons who have resided in Utah for less than two years** shall submit a fingerprint card to the DABC and consent to a fingerprint criminal background check by the **Federal Bureau of Investigation (F.B.I)**.

An informed consent and release of liability form is included with this application.

Fingerprint cards are available at law enforcement agencies. You may download the fingerprint card at this web address: <http://www.fbi.gov/hq/cjisd/pdf/fpcardb.pdf>

Submit the form(s) to the DABC with a processing fee of:

- \$20.00 per card for BCI background checks, or
- \$39.25 per card for FBI background checks.

In the case of an undue delay in the processing of a B.C.I or F.B.I. criminal background check, here are the rules and procedures for obtaining a third-party national background check: An application that requires a B.C.I or F.B.I. criminal history background report(s) may be included on a commission meeting agenda, and may be considered by the commission for issuance of a license, permit, or package agency if:

- 1). the applicant has completed all requirements to apply for the license, permit, or package agency other than the department receiving the B.C.I or F.B.I. criminal history background report(s);
- 2). the applicant attests in writing that he or she is not aware of any criminal conviction of any person identified in the application that would disqualify the applicant from applying for and holding the license, permit, or package agency;
- 3). the applicant has submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s) by the B.C.I. or F.B.I.
- 4). the applicant at the time of application supplies the department with a current criminal history background report conducted by a third-party background check reporting service on any person for which an F.B.I. background check is required; and
- 5). the applicant stipulates in writing that if a B.C.I. or F.B.I. report shows a criminal conviction that would disqualify the applicant from holding the license, permit, or package agency, the applicant shall immediately surrender the license, permit, or package agency to the department.

A suggested attestation/stipulation letter that satisfies the above requirements is enclosed.

A third-party national criminal background check can be obtained by;

- searching the yellow pages under Background Screening
- searching the internet under Background Screening or Background Checks

Because the DABC is State Agency, we cannot recommend any one background screening service over another. It is your responsibility however, to obtain the most complete, nationwide, criminal history available for the application process.

7. List the types of alcoholic products to be used and the purpose:

8. List the location for storage of alcoholic products: _____

9. By signing below, the applicant attests that:

a) the applicant is at least 21 years of age.

b) consent is granted to representatives of the Alcoholic Beverage Control Department, Commission, State Bureau of Investigation (Bureau of Alcoholic Beverage Law Enforcement), and other law enforcement agencies to be admitted immediately and permitted without hindrance or delay to inspect the entire premises and all records of the permit holder.

c) he/she has read and will abide by the provisions of Section 32A-6, Utah Code and all rules and directives of the Utah Department of Alcoholic Beverage Control; and understands that failure to adhere thereto shall constitute grounds for removal of said permit.

d) the applicant does not and will not discriminate against persons on the basis of race, color, sex, religion, ancestry, or national origin.

e) he/she has read and understands the statements made herein; that execution thereof is done voluntarily and by authorization of said organization.

10. The undersigned hereby makes application to the Utah Alcoholic Beverage Control Commission for a Special Use (Health Care) permit and certifies that the information contained herein to be true and correct.

Date: _____

Applicant/owner of business

Authorized signature

Name/title

STATE OF _____
COUNTY OF _____
Subscribed & sworn to before me this _____ day of _____, _____.
_____ Notary Public
SEAL:

**LOCAL CONSENT
SPECIAL USE PERMIT**

(Health Care Facility)

Date: _____

Utah Department of Alcoholic Beverage Control
Licensing and Compliance Section
1625 South 900 West
PO Box 30408
Salt Lake City, Utah 84130

Gentlemen:

_____ (City)(Town)(County)

hereby grants its consent to the issuance of a Special Use permit to

_____, Special Use permittee, located

at _____, pursuant to the provisions

of Section 32A-6, Utah Code for the purpose of purchase, storage and/or other

lawful use of alcoholic products as authorized by the Utah Department of Alcoholic

Beverage Control.

Sincerely,

Authorized Signature

Name/Title

INFORMED CONSENT AND RELEASE OF LIABILITY

PURPOSE: To determine, in accordance with Utah Code 32A-1-702 and 32A-1-703, if an applicant with the Department of Alcoholic Beverage Control has been:

- convicted of a felony under federal or state law;
- convicted of a violation of a federal law, state law, or local ordinance concerning the sale, manufacture, distribution, warehousing, or transportation of an alcoholic beverage;
- convicted of a crime involving moral turpitude;
- convicted on two or more occasions within the previous five years, driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug.

RELEASE

I hereby authorize the Department of Alcoholic Beverage Control (DABC) to investigate my criminal history records to ascertain any and all information which may be pertinent to my qualifications as an applicant with the DABC. The release of any and all information is authorized whether it is of record or not, and I do hereby release all persons, firms, agencies, companies, groups or installations, whomsoever, from any damages of or resulting from, furnishing such information to the DABC. I further agree that a copy of this release will remain in my application file.

Name (please print; last, first, middle initial)

Formerly used last names (please print)

Applicant/ doing business as

Signature

Date

(suggested attestation/stipulation letter to the DABC for a third-party national criminal background check)

Date: _____

To whom it may concern:

I, _____, attest:

- 1. That I have submitted to the DABC the necessary fingerprint card(s) required for the application and consented to the fingerprint criminal background check(s).**
- 2. That I am not aware of any criminal conviction that would disqualify me from applying for and holding a Utah Department of Alcoholic Beverage Control license or permit.**

I stipulate that if a criminal history report shows a criminal conviction that would disqualify me from holding the license, permit, or package agency, I shall immediately surrender the license, permit, or package agency to the department.

I am enclosing a national criminal history background report from a third party background check reporting service.

Signature

Name/Title

TITLE 32A - ALCOHOLIC BEVERAGE CONTROL ACT
(Updated through May 2008)

Chapter 6 - Special Use Permits

PART 1 - GENERAL PROVISIONS

32A-6-101. COMMISSION'S POWER TO ISSUE PERMITS -- LIMITATIONS.

(1) The commission may issue a special use permit for the purchase, storage, sale, use, consumption, or manufacture of alcoholic products for limited purposes specified by this chapter and the rules of the commission. The permit entitles the permittee to purchase, store, sell, use, consume, or manufacture alcoholic products only in quantities and types and for purposes as stated in the permit.

(2) The commission may prescribe by policy, directive, or rule consistent with this title, the general operational requirements of permittees relating to:

- (a) physical facilities;
- (b) conditions of purchase, sale, storage, use, consumption, or manufacture of alcoholic beverages;
- (c) purchase, storage, and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

32A-6-102. APPLICATION AND RENEWAL REQUIREMENTS.

(1) A person seeking a special use permit of any kind under this chapter shall file a written application with the department in a form prescribed by the department. The application shall be accompanied by:

- (a) a nonrefundable application fee if required by any section of this chapter;
- (b) an initial permit fee if required by any section of this chapter, which is refundable if a permit is not granted;
- (c) a one-time special use permit fee if required by any section of this chapter, which is refundable if a permit is not granted;
- (d) a statement of the purpose for which the applicant has applied for the special permit;
- (e) written consent of the local authority;
- (f) a bond, where required by any section of this chapter;
- (g) where required by any section of this chapter, a floor plan of the immediate area within the premises in which the applicant proposes that alcoholic products are stored, used, mixed, sold, or consumed;
- (h) a signed consent form stating that the permittee will permit any authorized representative of the commission, department, or any other law enforcement officer unrestricted right to enter the permittee's premises;
- (i) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the special use permit application are authorized to so act on the behalf of the partnership, corporation, or limited liability company;
- (j) a description of the types of alcoholic product the applicant intends to use under authority of the special use permit; and
- (k) any other information the commission or department may require by rule or policy to allow complete evaluation of the application.

(2)(a) All special use permits expire on December 31 of each year unless otherwise provided on the permit.

(b) Persons desiring to renew a renewable special use permit shall submit a completed renewal application to the department no later than November 30.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing permit expires.

(d) Renewal applications shall be in a form prescribed by the department.

(3) To ensure compliance with Subsection 32A-6-105(8), the commission may suspend or revoke a special use permit if any special use permittee does not immediately notify the department of any change in:

- (a) ownership of the permittee's business;
- (b) for a corporate owner, the:
 - (i) corporate officers or directors; or
 - (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:

- (i) managers; or
- (ii) members owning at least 20% of the limited liability company.

32A-6-103. Qualifications.

(1) Special use permits may be granted only to the following persons or organizations:

(a) a religious wine use permit may be granted to a church or religious organization;

(b) an industrial or manufacturing use permit may be granted to a person or organization engaged in an industrial or manufacturing pursuit;

(c) a scientific or educational use permit may be granted to a person or organization engaged in a scientific or educational pursuit;

(d) a health care facility use permit may be granted to a hospital or health care facility; and

(e) a public service permit may be granted to an operator of an airline, railroad, or other public conveyance.

(2) (a) The commission may not issue a special use permit to any person who has been convicted of:

(i) a felony under any federal or state law;

(ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products;

(iii) any crime involving moral turpitude; or

(iv) on two or more occasions within the five years before the day on which the special use permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company the proscription under Subsection (2)(a) applies if any of the following has been convicted of any offense described in Subsection (2)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation; or

(vii) a member who owns at least 20% of an applicant limited liability company.

(c) The proscription under Subsection (2)(a) applies if any person employed to act in a supervisory or managerial capacity for a special use permittee has been convicted of any offense described in Subsection (2)(a).

(3) The commission may immediately suspend or revoke a special use permit if after the day on which the special use permit is granted, a person described in Subsection (2)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (2)(a) prior to the permit being granted; or

(b) on or after the day on which the permit is granted:

(i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (3)(b)(ii)(A).

(4) The director may take emergency action by immediately suspending the operation of a special use permit according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (2)(a), (b), or (c):

(a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (4)(b)(i).

(5) (a) (i) The commission may not grant a special use permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a special use permit to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a special use permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a special use permit if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of a limited liability company that had any type of license, agency, or permit revoked within the last three years.

(6) (a) A minor may not be:

(i) granted a special use permit; or

(ii) employed by a permittee to handle alcoholic beverages.

(b) The commission may not grant a special use permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(7) If any person to whom a permit has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

32A-6-104. DUTIES OF COMMISSION AND DEPARTMENT BEFORE ISSUING PERMITS.

(1) Before any special use permit is issued by the commission, the department shall conduct an investigation for the purpose of gathering information and making recommendations to the commission as to the issuance of the permit. The information shall be forwarded to the commission to aid in its determination.

(2) Before issuing any special use permit, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a permit, as provided by Sections 32A-6-102 and 32A-6-103, and that the application is complete;

(b) consider the applicant's ability to properly utilize the special use permit within the restrictions of this title and the commission rules including, but not limited to, the proposed use of the permit, and the nature and type of organization making use of the permit;

(c) consider the physical characteristics of the premises where alcoholic products are proposed to be stored, used, mixed, or sold, such as the condition of the premises, public visibility, and safety considerations;

(d) consider specific factors or circumstances regarding the specific type of permit sought by the applicant;

(e) approve of the location and equipment utilized by the applicant to distill alcohol for experimental testing purposes or use as a fuel; and

(f) consider any other factors or circumstances it considers necessary.

32A-6-105. OPERATIONAL RESTRICTIONS.

Each person granted a special use permit and the employees and management personnel of the permittee shall abide by the following conditions and requirements. Failure to comply may result in a revocation of the permit, or other disciplinary action taken against individual employees or management personnel. Suspension or revocation of a permit may be done by the commission with or without cause.

(1) Where authorized by the permit, a permittee may purchase and receive non-consumable alcoholic products directly from a manufacturer for industrial, educational, scientific, manufacturing, or health care facility use purposes.

(2) Except as otherwise provided, liquor may not be purchased by any permittee except from state stores or package agencies. Liquor so purchased may be transported by the permittee from the place of purchase to the permittee's premises. All liquor shall be purchased at prices set by the commission.

(3) Alcoholic products may not be stored, used, manufactured, blended, sold, or consumed in any place other than as designated in the permittee's application.

(4) A permittee may not purchase, store, sell, use, consume, or manufacture any alcoholic products for any purpose other than that authorized by the special use permit.

(5) Except as otherwise provided, alcoholic products may not be sold, served, or otherwise furnished to any:

(a) minor;

(b) person actually, apparently, or obviously intoxicated;

(c) known habitual drunkard; or

(d) known interdicted person.

(6) Each permittee shall keep records and accounts, as required by commission rule, of all alcoholic products purchased, manufactured, used, and sold.

(7) A special use permit may not be transferred from one location to another, without prior written approval of the commission.

(8) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to any other person whether for monetary gain or not.

PART 6 - HEALTH CARE FACILITIES AND PROFESSIONS

32A-6-601. LICENSED HEALTH CARE FACILITY EXEMPTION.

(1) Any state licensed health care facility that administers or allows to be administered any alcoholic product to a patient of the facility when the alcoholic product is prescribed by a person licensed by the state to write prescriptions does not violate this title and is not required to hold a special use permit or license to make or allow the administration of the alcoholic product.

(2) This exemption does not apply to alcoholic beverages purchased by a health care facility for administration to patients or uses other than stated in Subsection (1).

32A-6-602. HEALTH PROFESSIONS EXEMPTION.

Any licensed physician, dentist, veterinarian, or pharmacist, acting within the scope of professional responsibility, who prescribes, prepares, or administers alcoholic products to any person being treated or

serviced professionally, does not violate this title and is not required to hold any type of permit or license in order to use alcoholic products professionally.

32A-6-603. APPLICATION REQUIREMENTS.

Each application for a health care facility use permit shall, in addition to the requirements of Section 32A-6-102, include a \$100 one-time special use permit fee.

R81-1. Alcoholic Beverage Control, Administration.

R81-6. Special Use Permits.

R81-6-1. Application.

An application for a special use permit shall be included in the agenda of the monthly commission meeting for consideration for issuance of a special use permit when the requirements of Sections 32A-6-102 and -103 have been met, and a completed application has been received by the department.

R81-6-2. Warning Sign.

All public service permittees which utilize a hospitality room shall display in a prominent place therein a "warning sign" as defined in R81-1-2.

R81-6-3. Direct Delivery.

Industrial, manufacturing, scientific, educational, and health care special use permittees may purchase alcohol directly from the manufacturer and have it shipped directly to the permittee's address, provided the alcohol is used for industrial, manufacturing, scientific, educational, or health care purposes.