

SO, YOU WANT TO BE A BREWERY OR BREWPUB?

TABC & TTB APPLICATIONS

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First, we need an applicant...

CCM LLC dba Guild Grains Brewing



Location! Location! Location!

Important: confirm you can do what you want to do
where you want to do it.



Check on the local option status



Check on local zoning and use



Check on proximity to schools, churches, and public hospitals



Meet with applicable city or county officials *in person* to discuss


Location! Location! Location! cont.

Local Option aka “wet/dry status” – city/county/JP

Zoning / Use - city v. unincorporated county


- Manufacturing
- On-Premises Consumption
- Off-Premises Consumption

Proximity to Protected Uses – TABC authorizes local regs

- Churches & Hospitals – 300’ front door to front door
 - Schools (public, private, parochial) – 300’ property line to property line / 1,000 AB-free zone in qualified areas (Houston)
 - Day-cares w/n 300’ of property – applicable to BP only
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Brewery or Brewpub?

BREWERY:

- Manufacturing Tier
 - License for beer (\$2,151) / Permit for ale (\$3,576)
 - No production cap except as tied to certain privileges
 - Self-distribute up to 40k bbl if under 125k bbl annually and hold self-distribution permits (\$750 for permit and license; \$312 for carriers)
 - On-premises sales – 5k bbl if under 225k bbl annually
 - Off-premises sales (woohoo!) – 5k bbl if under 225k bbl annually / no more than 288 fl oz per customer per day
 - May enter contract brewing and alternating proprietorship arrangements
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Brewery or Brewpub? cont.

BREW PUB:

- Retail Tier
 - BG (\$903 / \$2,553) or MB (\$6,602) – mixed beverage tax
 - Production limited to 10k bbl annually
 - Only BG with no guest taps may self-distribute up to 1k bbl
 - On-premises sales
 - Off-premises sales – MB limited to 1k bbl annually of beer it produces
 - No contract brewing or alternating proprietorship arrangements
- 



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LOCATION?

- Sunroom attached to Meg's house? No
- Light industrial space within 300' of private school in Austin? Probably.
- Strip center next to sex shop next to 30 floor office tower in Houston? You bet.
- Unincorporated Travis County property within 300' of public school? Not without variance approved by Commissioners Court.

TIMING:

On Your Marks, Get Set, Wait!

Barring hiccups, unforeseen delays, government shutdowns, etc., generally looking at 3-4 months from commencement to permit issuance.

Local certifications – Big City v. little city

TABC processing – as of 12/2020, ~60 days from receipt of complete application to permit issuance

TABC notice sign – 60 days – required unless exempt; can file application during posting period

TTB processing – as of 12/2020, ~40 days from filing to approval


TABC APPLICATION FORMS

A **COMPLETE** application is comprised of:

- **Prequalification Packet (L-ON, brewpub / L-W, brewery)** – form used for local certification process; must be completed before application can be filed with TABC.
- **Business Packet (L-B)** – ownership and executive disclosure (L-C, L-LLC, L-P, L-PHS).
- **Location Packet (L-L, brewpub / L-LW, brewery)** – info on property owner (L-OP), lease info, management company (L-SL), projected sales, source(s) of investment, etc.
- **Bonds** – if applicable


TABC APPLICATION FORMS cont.

Prequalification Packet (L-ON, brewpub / L-W, brewery) – local certs & publication

- City Secretary – process varies, may require alcoholic beverage distance surveys, affidavits, inspections, etc.; city cert not required if premises are in unincorporated area of county
 - County Clerk – generally, rubber stamp if premises in city
 - Comptroller – must first register applicant for sales & use tax account; Comptroller agent will vet reported executives for tax liabilities
 - Publication – specific language; two consecutive issues of local newspaper
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TABC APPLICATION FORMS cont.

Business Packet (L-B) – ownership and executive disclosure and qualification (L-C, L-LLC, L-P, L-PHS)

- Executive Qualification – L-PHS form
 - 51% Qualification - L-PHS form / personal info disclosure for remaining owners; no de minimis exception
 - Criminal History Qualification (e.g., felonies, controlled substances, weapons, TABC violations)
 - Criminal History Report
 - Tied-House Qualification
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TABC Application Qualification – must qualify execs & 51%

- Manager-managed LLC with each owning 33 1/3% and each serving as manager: all file PHS
- Managed-managed LLC with Charles and Caroline owning combined 51% and serving as managers and Meg at 49% member only: Charles and Caroline file PHS; personal info only for Meg
- Same but with member-managed LLC: all file PHS, regardless of ownership %
- Corporation with Charles as sole officer/director and 40% shareholder and Caroline and Meg at 20% shareholders: Charles and either Caroline or Meg files PHS
- Limited partnerships / general partnerships / trusts
- Uh-oh – Charles' criminal history!

TABC APPLICATION FORMS cont.

Location Packet (L-L, brewpub / L-LW, brewery) –


- Property Owner info (L-OP) – execs, not owners
 - Management Company (L-SL) – if applicable
 - Projected Annual Sales
 - Investment amount and sources – capital contributions, loans, savings, gifts, etc. – where's the money coming from?
 - Notice to school w/n 1,000'
 - Notice to residences w/n 300' - FB and brewery with no on-premises sales exempt
 - Brewpub: self-distribute?
 - Brewery: contract brew? Alternating proprietorship?
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TABC APPLICATION FORMS cont.

BONDS:


- **Brewpub** – \$5,000 conduct surety bond required unless exempt by shared exec or FB
 - \$,7500 Mixed beverage tax securities required for MB-BP
- **Brewery** – \$30,000 fee interest bond required only if operating under alternating or contract brewing arrangement and applicant does not own fee interest in brewing facility

TABC FILING NEEDS

- **Business entity** – Texas entity or foreign entity registered with Texas Secretary of State
 - **Tax Registration** – EIN from IRS & SUT from Comptroller
 - **Location Address** – preferably one approved by applicable city or county department
 - **Lease, sublease, or concession agreement** – if applicant doesn't own property, how does it have a right to occupy premises? Not required to file copy of agreement but must disclose basic terms
 - **Execs and owners** – vet for criminal history, tied-house, and obtain personal info needed for qualification
 - **Local Certs, Publication, Notice sign posting, Bond (if applicable)**
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AFTER TABC APPLICATION FILING...

File application with local TABC office. TABC currently accepting executed copies of application forms via email. After application filing...

- **Intro Email** – TABC licensing agent assigned; provides estimated processing timeline
 - **Fee Remittance** – TABC will provide invoice and instructions
 - **Inspection?** – COVID limitations; photos or floor plan; menu, etc.
 - **Request for supplemental info / corrections** – typically requires affidavit to respond
 - **Squeaky Wheel** – Be nice. Wait until close to end of estimated processing timeline
 - **Letter of Approval** – received via email; allows commencing operations pending receipt and posting of permit
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TTB APPLICATION

- Brewer's notice – one permit to rule them all
- TTB issuance not required for TABC issuance (v. winery)
- Online - PONL
- Less personal / corporate disclosure required:
 - except arrests, minor traffic violations excluded; and
 - LLCs v. Corporations – 10%
- Focus on diagram – federal tax protection

TTB FILING NEEDS

- **Business entity** – upload formation and governing docs and TTB signature authority form
- **Tax Registration** – EIN from IRS
- **PONL Registration** – online filing only option / wizard
- **Diagram** – compass, doors/windows, bonded area, tavern/taproom
- **Location Address** – preferably one approved by applicable city or county department; not a residence
- **Lease** – need express authority to produce beer/alcoholic beverages
- **Execs and owners** – Personnel Questionnaire / 10%
- **Brewery or Brewpub?** – for TTB purposes, brewpub classification means lines running from production premises to taps

TTB APPLICATION

- **Personnel Questionnaire** – can file separately or as part of brewer's notice application
- **Application for Original Entity** – similar to TABC business packet
 - Personnel Questionnaire
- **Application for Brewery or Brewpub** – similar to TABC location packet
 - Describe the entire tract of land using directions and distances
 - Describe each brewery premises building: provide size (using distances and directions), construction, use of building, and location of doors and windows
 - Describe brewery security to include; locks, access to the brewery and how un-taxpaid goods will be protected during and after business hours
 - Tasting room / tavern description and boundaries
 - Think in terms of TTB agent inspecting in future

AFTER TTB APPLICATION FILING...

- **Confirmation Email**
- **Agent Assigned**
- **Request for supplemental info / corrections**
- **Squeaky Wheel** – wait until close to end of estimated processing timeline to contact TTB hotline
- **Brewer's Notice / Issuance Letter** – received via email

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APPROVED! HAPPY BREWING



Caroline Kolsch

Vallhonrat Hefeweizen



Meg Gose



Questions?

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