

CHAPTER 4

BEER SALES

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2-4-1: APPLICABILITY

The following provision of this code shall govern and be applicable to the issuance of licenses, the rejection thereof, the qualifications of licensees and other matters pertaining to licenses for the sale of beer.

2-4-2: DEFINITIONS

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, and/or other ingredients in drinkable water.

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

2-4-3: LICENSE REQUIRED

It is unlawful and punishable as a misdemeanor for any person to sell, deal in, lend or dispose of by gift, sale or otherwise any beer without first having obtained a license under the provisions of this ordinance.

2-4-4: NATURE OF APPLICATION

A. Application: All applications for license to sell beer as a retailer shall be made on forms to be supplied by the city clerk setting forth under oath the following:

1. Name of the person applying for such license.
2. Age.
3. Representations as to his character as may be required.
4. Citizenship.
5. The exact location where the business is to be carried on.
6. The business in connection with which the proposed licensee will operate.

7. Whether the applicant is owner or operator of the business.
- B. Statement Under Oath: State under oath what persons, if any, other than himself have any interest, financial or otherwise, in the business proposed to be carried on at such licensed premises, and setting forth in the application the names of any person to whom the applicant is indebted in connection with the business and any other matters that may be required.
- 2-4-5: QUALIFICATIONS OF LICENSEE
- A. No retail license shall be issued to any applicant or for a transfer there of to any transferee who:
1. Is not a bona fide owner of such business, or is not a citizen of the United States, or has not been a bona fide resident of the state for a period of thirty (30) days prior to the date of application.
 - a. If the applicant is a partner ship, all partners shall be such citizens, and at least one (1) thereof, or the actual active manager therefore, shall have been such resident.
 - b. If the applicant is a corporation, such corporation shall be qualified to do business within the state, and the manger of such business place shall be such citizen and shall have been such resident.
 2. Has, or any partner has, or actual manager of officer or employee or spouse of who has, within three (3) years preceding such application, been convicted of the violation of any law of the State, or of the United States, regulating, governing or prohibiting the sale of alcoholic beverages or intoxicating liquor, or has within two (2) years forfeited or suffered the forfeiture of a bond for his appearance to answer charges to any such violation.
 3. Has, or any partner or actual active manager or officer of whom has been convicted of any felony within five (5) years or has paid a find or completed any sentence of confinement therefore within five (5) years.
- B. A retailer licensee must continue through the license period to have all of the foregoing qualifications and none of the foregoing disqualifications, and for failure therein upon proof thereof that such qualifications, have ceased to exist, then the governing body may suspend or revoke the license previously issued.
- C. A retail license shall not be issued to:
1. Any person whose license has been revoked.
 2. Any person, or any one of its members, officers, or governing board who has been convicted of any violation of the laws of the United States, the State of Idaho, or any other state of the United States, relating to the importation, transportation, manufacture or sale of liquor or beer as described in this Ordinance or who has been convicted of any felony or has paid any fine or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for license.
 3. A person who is engaged in the operation, or is interested therein, of any house or place for the purpose of prostitution or who has been convicted of any action or misdemeanor opposed to decency or morality.

4. Any person under the age of nineteen (19) years.
 5. Any place where beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit that is within three hundred (300) feet of any public school, church or other place of worship, or college, measured in a straight line from the nearest corner of said building to the nearest entrance of the licensed premises.
- D. Investigation of Applicants: No license shall be granted hereunder until there has been an investigation by the police department of all applicants hereunder. After investigation the applicants will be forwarded to the city council with a recommendation from the chief of police. If the chief of police recommends that an application be denied he shall state in writing:
1. The statutes or ordinances and standards used in evaluating the application.
 2. The reason for the denial.
 3. The action, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

2-4-6: REFUSAL OF LICENSE TRANSFER OR RENEWAL

- A. The city council reserves the right to refuse application, transfer, or renewal for beer license under the provisions of section 23-1016 of the Idaho Code. The city council shall within thirty (30) days from submission of application to the city clerk make their decision as to denial or approval.
- B. Prior to any revocation or suspension the licensee shall be afforded a hearing according to section 23-1016, Idaho Code. Whenever the mayor and city council denies an application, they shall specify in writing:
 1. The statutes, ordinances and standards used in evaluating the application.
 2. The reason for the denial.
 3. The actions, if any, that the applicant could take to obtain the license, transfer or renewal.
- C. In all cases where the city council is considering applications for licenses, transfers, or renewals thereof, a transcribable verbatim record of the proceeding shall be made.
 1. If the applicant for a license, transfer or renewal is denied, a transcribable, verbatim record of the proceedings shall be kept for a period of not less than six (6) months after a final decision on the matter.
 2. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense.
 3. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

2-4-7: PERIOD FOR WHICH LICENSE IS ISSUED

- A. All licenses issued under the provision of this Ordinance shall run from January 1 through December 31.

- B. All such licenses shall expire on December 31 of the year in which they shall be issued, notwithstanding the fact that such license may have been issued after January 1.

2-4-8: REVOCATION OR SUSPENSION OF LICENSE

- A. Any violation of any of the provisions of this Ordinance or any falsification or any misrepresentation in the application shall be cause for revocation or suspension; provided, however, that prior to any revocation or suspension the licensee shall be afforded an opportunity for a hearing according to section 23-1016, Idaho Code.
- B. The right is hereby vested in the city council to revoke or cancel any beer license at any time for violation of the provisions of the Idaho Code or the provisions of this Ordinance of the City Code by the licensee or licensee's employees.

2-4-9: LICENSE FEE

- A. All applications for a retailer's beer license shall be accompanied by receipt from the city clerk for the required annual fee for the respective license and such fee shall be paid into the General Fund. Upon rejection of any application for a license, the city clerk shall refund the amount collected.
- B. The annual fee for a retailer's beer license shall be:
 - 1. Two hundred dollars (\$200.00) where such retailer sells bottled, canned, or draft beer and the same is consumed on the premises.
 - 2. Fifty dollars (\$50.00) for retailing of bottled or canned beer none of which is to be consumed on the premises where sold.
 - 3. A transfer fee of twenty dollars (\$20.00) shall be paid to the city prior to any transfer of a beer license.
- C. The approved applications and licenses and license transfers shall be obtained and issued by the city clerk upon approval of the city council, police chief, and/or fire chief.
- D. A full year's license fee shall be collected for any license issued after January 1.

2-4-10: FINANCIAL INTEREST LIMITED

No manufacturer, wholesaler, stockholder, partner or owner of any other interest of any corporation, association or partnership, financially interested in the manufacture, transportation (except the public carriers) or sale of beer shall hold any interest in any premises licensed under this Ordinance for the sale of beer or receive any rental or remuneration for such premises.

2-4-11: PREMISES DESCRIBED; NAME INTERESTED PERSONS; APPROVAL OF OWNER OR PREMISE

In addition to the foregoing qualifications required and the other provisions of this Ordinance, no person shall receive a license for the sale of beer unless and until his application for such license under oath shall set forth the following:

- A. A detailed description of the premises for which a license is ought and its location.
- B. The names and addresses of all persons who will have any financial interest in any business to be carried on, in or upon the licensed premises, whether such

interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trust, or any other basis than upon trade accounts incurred in the ordinary course of business and the amounts and nature of such interests including shareholders with names and addresses provided.

- C. If the premises to be licensed are not owned by the applicant, then it shall be incumbent upon the lessee to furnish a certified copy of the lease by which he will occupy the premises, or, if the owner is a corporation, that it has consented to the sale of beer on the premises, and further furnishing evidence that the lease, by which the lessee is entitled to possession of the property, has been recorded with the county recorder.

2-4-12: PRESCRIBED AND PROHIBITED CONDUCT OR ACTIVITIES

- A. It is unlawful, and the license therefore issued to the person and place of business shall be subject to revocation or suspension upon the happening of any of the following events or development of any of the following circumstances upon proof being furnished to the city clerk or the police department:
1. If it appears to the police department that the place of business or licensed premises is being frequented by intoxicated and/or disorderly person, or if the place of business is frequented by person known to be law violators.
 2. When the place of business to which a license has been issued is being operated by any person other than the licensee named in the license.
 3. Prior to the issuance of a beer license provided for in this Code, the applicant shall have satisfied the city building official that adequate parking area illumination has been installed to prevent theft and vandalism.
 4. The licensee shall provide for adequate security of the interior and exterior of the premises for the duration of any live music performance at the establishment covered by this license.
- B. It is unlawful, and the license shall be subject to revocation or suspension as provided for in this Ordinance, should any licensee sell beer not to be consumed on the premises or if to be consumed on the premises, permit the sale of beer by any person and/or employee under the age of nineteen (19) years or leave beer on the premises under the supervision and control of or accessible to persons and/or employees other than the licensee under the age of nineteen (19) years.

2-4-13: HOURS OF SALE

It is unlawful to sell, or to offer for sale, on any premises, beer as defined in this Ordinance between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. (Ord. 32, 3-12-1984; Ord. 2008-2; Ord. 2010-2)