

CHAPTER 2 LIQUOR BY THE DRINK

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4-2-1: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

BARTENDER: Any person, whether agent, servant, employee, or person acting in any other capacity, who pours, mixes, or prepares any liquor by the drink upon any licensed premises. This shall not apply to any person who solely pours, mixes or prepares wine by the drink at retail as defined by Section 4-4-1 of this Code.

DIRECTOR: The Director of the Idaho Department of Law Enforcement.

INTERDICTED PERSON: A person to whom the sale of liquor is prohibited under the laws of the State.

LICENSE: A license issued by the Council to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail.

LICENSEE: The person to whom a license to sell and dispense liquor by the drink is issued under the provisions of this Chapter.

LIQUOR: Any kind of liquor which may be sold by a State liquor store.

PREMISES: The building, room or place in which the sale of liquor by the drink at retail by a licensee is authorized under the provisions of Title 23, Chapter 9, Idaho Code, as amended, and under this Chapter.

4-2-2: LICENSE REQUIRED: No person shall sell or dispense liquor by the drink at retail on any premises in the City without first obtaining licenses as required by this Chapter and Title 23, Chapter 9, Idaho Code, as amended.

4-2-3: LICENSE FEE: Each licensee shall pay in advance an annual license fee in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-2014)

4-2-4: APPLICATION FOR LICENSE:

(A) Each applicant for a license shall file with the Clerk an application in writing, verified under oath, stating the following:

- (1) That the applicant lawfully holds a license issued by the Director pursuant to the provisions of Title 23, Chapter 9, Idaho Code, as amended.
- (2) A description of the premises for which the license is sought, their location and the name of the owner of the premises.
- (3) The names and addresses of all persons who will have any ownership or equity interest in any business to be carried on in the licensed premises, including without limitation interests arising from conditional sales contracts, partnerships, trusts or shares of corporate stock and the amount and nature of such interest.
- (4) The names and addresses of the applicant and all members of a partnership or association and all officers, members of the governing board and all stockholders of any corporation or any entity identified pursuant to subsection (C) above.
- (5) Any other information reasonably necessary for the City Clerk to determine the applicant's qualifications or disqualifications for a license.

(B) If during the term of any license issued under this Chapter any change shall take place in any of the information stated in the application, the licensee shall deliver a verified report of the change to the Clerk no later than seven (7) working days after the change occurs.

(C) The names and addresses of the applicant and all members of a partnership or association and all officers, members of the governing board and all stockholders of any corporation or any entity identified pursuant to subsection (A) above.

(D) Any other information reasonably necessary for the City Clerk to determine the applicant's qualifications or disqualifications for a license.

If during the term of any license issued under this Chapter any change shall take place in any of the information stated in the application, the licensee shall deliver a verified report of the change to the Clerk no later than seven (7) working days after the change occurs. (Ord. 2440, 2-15-02; Ord. 2545, 4-12-04)

4-2-5: INVESTIGATION: Upon receipt of an application for a license or for a transfer of a license under this Chapter, accompanied by the necessary license or transfer fee, the Clerk and Chief of Police shall investigate all information stated in the application and report the results of the investigation to the City Council. If the Council determines that the contents of the application are true, that the applicant is qualified to receive a license, that the premises are suitable for carrying on the intended business and that the requirements of this Chapter have been met, a license shall be issued or transferred. Otherwise, the application shall be denied and the license or transfer fee refunded.

4-2-6: FORM OF LICENSE; DISPLAY: Every license issued under this Chapter shall state the name of the person or business entity to whom issued and the location by street and number or other definite designation of the premises. If issued to a partnership, the names of the persons constituting the partnership shall be stated. If issued to a corporation or association, the names of the principal officers and the members of the governing board shall be stated. The license shall be signed by the licensee and shall be posted on the licensed premises in a place conspicuous to the public. No person except the named licensee shall exercise any of the privileges granted under the license. Licenses issued under this Chapter apply only to premises for which they have been issued.

4-2-7: EXPIRATION OF LICENSES: All licenses shall expire at midnight on December 31 of the calendar year for which they are issued.

4-2-8: MULTIPLE LICENSES PROHIBITED: No person shall be granted more than one license in any calendar year. No partnership, association or corporation holding a license under this Chapter shall have as a member, officer or stockholder any person who has financial interest of any kind in, or is a member of, another partnership or association or an officer or shareholder of another corporation holding a license under this Chapter.

4-2-9: **TRANSFER OF LICENSES:** No license may be transferred to another person, unless the transferee first obtains approval of the City Council upon application containing substantially the same information required by Section 4-2-4 of this Chapter. If the proposed transferee is qualified for the license, the Council shall approve the transfer and the City Clerk shall reissue the license in the name of the transferee. The fee for each license transfer shall be in an amount set from time to time by Resolution of the Council. The fee shall accompany the application for transfer. (Ord. 2964, 8-14-2014)

4-2-10: **PERSONS NOT QUALIFIED TO BE LICENSED:** No license shall be issued or transferred to:

(A) Any person, or any partnership, corporation, trust, association or other legal entity, at least one of whose members, officers or governing board, within three years prior to the date of making application, 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 who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, or completed any sentence of confinement for, any felony within five (5) years prior to the date of making application for a license.

(B) A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.

(C) A person whose license issued under this Chapter has been revoked; an individual who was a member of a partnership or association which was a licensee under this Chapter and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this Chapter and whose license was revoked; a corporation one (1) of whose principal stockholders was a licensee under this Chapter and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this Chapter and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked; a corporation, one (1) of whose officers, members of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under this Chapter and whose license has been revoked; a corporation, one (1) of whose officers, members of the governing board or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked.

(D) Any officer or employee of the State of Idaho or of any of its counties or municipalities.

(E) Any officer, agent or employee of any distillery, winery, brewery, or any wholesaler or jobber of liquor or malt beverages, except as provided by Section 23-912, Idaho Code.

(F) A person who does not hold a retail beer license issued by the State.

Any license, held by any person who later becomes disqualified under the provisions of this Section, shall be promptly revoked by the Council. (Ord. 2545, 4-12-04; Ord. 2646, 5-25-06)

4-2-11: SANITARY REQUIREMENTS: All licensed premises shall be maintained in a sanitary condition according to the applicable laws of the State and ordinances of the City.

4-2-12: LOCATION RESTRICTIONS:

(A) No license shall be issued for any premises in any residential zone or within three hundred (300) feet of any public school, church or any other place of worship measured in a straight line between the nearest property line of such public building or place of worship and the nearest entrance to the licensed premises. This limitation shall not apply to any duly licensed premises that at the time of first licensing did not come within the restricted area but subsequent to first licensing came therein. (Ord. 2385, 8-10-00)

(B) No license shall be issued to any person for the operation of a licensed business upon any premises which were used by any occupant whose license under this Chapter was revoked within one (1) year prior to the date of the new application for issuance or transfer of a license. (Ord. 2385, 8-10-00)

(C) The City Council may for good cause shown grant a variance to the provisions of Section (A) or (B) above. Prior to granting such variance, the City Council shall hold a public hearing after giving written notice to the owners or occupants of all properties located within three hundred (300) feet of the exterior boundaries of the proposed licensed premises, measured in the manner set forth above. Such notice shall be given at least fifteen days prior to the date of the hearing. Notice shall be deemed to have been given upon its personal delivery to such owner or occupant or upon its deposit in the United States mail, addressed to the owner at the address last shown on the Bonneville County property tax rolls. (Ord. 2385, 8-10-00)

4-2-13: BARTENDER'S IDENTIFICATION REQUIRED: No person shall act as a bartender in any premises licensed within the City to sell liquor by the drink unless that person holds a valid State of Idaho Driver's License or State of Idaho Identification Card. Any person acting as a bartender must have their valid State of Idaho Driver's License or State of Idaho Identification Card in their possession at all times when they are tending bar. (Ord. 2545, 4-12-04)

4-2-14: RIGHT OF ENTRY: Any duly authorized police officer shall have the right at any time to enter and examine the premises of any licensee to ascertain compliance with the laws

of the State and the City. It shall be unlawful to refuse any police officer admittance to the premises for such purpose. (Ord. 2545, 4-12-04)

4-2-15: HOURS OF SALE: No liquor shall be sold, offered for sale or given away upon any licensed premises during the following hours:

(A) Between one o'clock (1:00) a.m. on Christmas and ten o'clock (10:00) a.m., of the following day.

(B) Between one o'clock (1:00) a.m. and ten o'clock (10:00) a.m. of any day. (Ord. 2385, 8-10-00; Ord. 2545, 4-12-04; Ord. 2820, 8-27-09; Ord. 2847, 10-14-10)

4-2-16: RESTRICTION ON SALES BY LICENSEE: No licensee or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, any liquor to:

(A) Any person under the age of twenty-one (21) years, proof of which, for every resident of this State, shall be a valid driver's license, military identification card or an identification card issued by the Idaho Department of Transportation.

(B) Any person actually or obviously intoxicated.

(C) A habitual drunkard.

(D) An interdicted person.

(Ord. 2545, 4-12-04)

4-2-17: SALES TO DISQUALIFIED PERSONS UNDER AGE 21:

(A) Any person under the age of twenty-one (21) years who shall purchase, attempt to purchase, possess, serve, dispense, or consume beer, wine or other alcoholic liquor shall be guilty of a misdemeanor provided, however, that any person who is nineteen (19) years of age or older may sell, serve, possess and dispense liquor, beer or wine in the course of his employment in any place as defined in Section 23-942(C), Idaho Code, or other place where liquor, beer or wine are lawfully present so long as such place is the place of employment for such person under twenty-one (21) years of age. No person under twenty-one (21) years of age may serve alcoholic beverages in an establishment that sells liquor by the drink or beer or wine to be consumed on the premises, unless that establishment is also a bona fide restaurant.

(B) Any person who knowingly misrepresents his or her age or qualifications for the purpose of obtaining liquor from a licensee shall be guilty of a misdemeanor.

(C) No person shall represent to any licensee, to any agent or employee of a licensee, or to any bartender that any other person is twenty-one (21) years or more of age, when in fact the other person is under the age of twenty-one (21) years, for the purpose of inducing

such licensee, or the licensee's agent or employee, or a bartender to sell, deliver or give away any liquor to such other person.

(D) No person shall purchase liquor for the purpose of delivering the same to any person under the age of twenty-one (21) years, nor shall such person sell, give away or deliver liquor to any person under the age of twenty-one (21) years.

(E) It is unlawful for an employer to knowingly employ a person in violation of this Chapter. It shall be unlawful for any person to conspire with, or abet any person to violate any provision of this Chapter. (Ord. 2545, 4-12-04)

4-2-18: LIQUOR CATERING PERMIT: Any person holding a retail liquor license may serve and sell liquor, retail by the drink at a party or convention at a location other than at the licensed premises for a period not to exceed three (3) consecutive days, upon obtaining a liquor catering permit. Applications for such permit shall be made to the City Clerk on such form as prescribed by the Clerk, which form shall contain the following information:

(A) The name and address of the applicant and the number of his state liquor license.

(B) The dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days.

(C) The names and addresses of the organizations, groups, or persons sponsoring the event.

(D) The address at which the liquor is to be served, and if a public building, the rooms in which the liquor is to be served.

The application shall be verified by the applicant and filed with the Clerk. A filing fee in an amount set from time to time by Resolution of the Council for each day the permit is to be effective shall be paid to the City Clerk. Such fee shall be nonrefundable irrespective of whether the party or convention is held. (Ord. 2964, 8-14-2014)

4-2-19: APPROVAL OF LIQUOR CATERING PERMIT: Upon the filing of an application for a liquor catering permit, the Council shall upon the advice and recommendation of the Chief of Police approve or disapprove the application and indicate the determination on the face of the application by endorsement signed by the Clerk. Copies of the application with signed endorsements thereon shall be mailed or delivered immediately to the Chief of Police, the Director of the Idaho Department of Law Enforcement and the applicant, and a signed copy shall be retained by the Clerk. An application approved in this manner shall constitute a permit, unless disapproved by the Director by notice served upon the applicant for the retail sale of liquor by the drink, beer and wine for the period authorized by the permit. (Ord. 2545, 4-12-04)

4-2-20: PERSONS UNDER SPECIFIED AGES PROHIBITED TO BE AT LICENSED PLACES: No person under the age of twenty-one (21) years shall enter, remain in or loiter in or

about any premises licensed for the sale of liquor by the drink at retail, or sale of beer for consumption on the premises, nor shall any licensee of either such place, or any person in charge of a licensed premises or on duty while employed by the licensee therein, permit or allow any person under such age to remain in or loiter in or about such place. Provided, however, it is lawful for persons who are musicians and singers eighteen (18) years of age or older, to enter and to remain in any place as defined in Section 23-942, Idaho Code, but only during and in the course of their employment as musicians and singers. Provided further, that it is lawful for persons who are nineteen (19) years of age or older to sell, serve, possess or dispense liquor, beer or wine in the course of their employment in any place as defined in Section 23-942, Idaho Code, or in any other place where liquor, beer or wine are lawfully present, so long as such place is the place of employment for such person. However, the foregoing shall not permit the sale or distribution of any alcoholic beverages to any person under the ages specified for sale of alcoholic beverages. (Ord. 2545, 4-12-04)

4-2-21: EXCEPTIONS: Notwithstanding the preceding section, any person under the age of twenty-one (21) years may enter or be upon or within:

(A) Any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcoholic beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(B) Any building, a part or portions of which are used as a licensed premises, provided such premises are separate or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under twenty-one (21) years of age from entering therein.

(C) Any baseball park, sports arena or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of beer for consumption on the premises or that beer is dispensed and served and consumed therein.

(D) The premises of any licensed winery notwithstanding that such premise or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that wine is dispensed and served and consumed therein.

(E) The licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery. (Ord. 2545, 4-12-04)

4-2-22: POSSESSION OF OPEN CONTAINERS PROHIBITED:

(A) Any person who is in possession of an open container of liquor within the City of Idaho Falls shall be guilty of a misdemeanor.

(B) Notwithstanding the foregoing, nothing herein shall prohibit the possession of an open container of liquor:

- (1) Within a fully enclosed, privately-owned building or upon a private parking lot adjacent or appurtenant to such building provided such parking lot is located more than two hundred (200) feet away from the premises of any licensed liquor vendor. Such distance shall be measured at the shortest distance between the exterior boundaries of such parking lot and licensed premises.
- (2) Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy.
- (3) Within any area for which a liquor catering permit has been lawfully issued under the provisions of this Chapter.
- (4) Within any area included within or being a part of the premises at which a licensee is authorized to sell or dispense liquor by the drink under the provisions of this Chapter.
- (5) Within an area directly adjacent to a restaurant, at tables provided for dining, between the hours of 10:00 a.m. and 11:00 p.m. "Restaurant" is defined as an eating establishment which offers for sale food to the public. A restaurant must also have the appropriate license to sell the type of alcohol they offer to the public, including an approved site plan as part of its State alcohol permit. If the adjacent area includes a public sidewalk, the size of the tables and seating must allow sufficient room for public ingress and egress, including being compliant with all ADA laws and regulations for sidewalk use under Idaho Falls City Code 8-8-9. All consumption of alcohol in this adjacent area must be done at the table, and the customer cannot carry the alcohol away from the table.

(Ord. 2262, 1-8-98; Ord. 2481, 2-28-03; Ord. 2545, 4-12-04; 2916, 03-28-13)

4-2-23: (Repealed): (Ord. 2385, 8-10-00; Ord. 2447, 5-9-02; Ord. 2545, 4-12-04; Ord. 2804, 3-12-09)