

CHAPTER 1

BEER

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2-1-1: **TITLE:** This chapter shall be known and designated as the
BEER ORDINANCE OF THE CITY OF POTLATCH. (Ord. 152,
6-9-1980)

2-1-2: **DEFINITIONS:** As used in this chapter, unless the context
otherwise indicates, the following words and terms shall have
the meanings ascribed to them as follows:

BEER: Any beverages obtained by the alcoholic
fermentation of an infusion or decoction of

- barley, malt, and/or other ingredients in drinkable water.
- CITY:** The city of Potlatch, Idaho.
- CLERK:** The clerk of the city of Potlatch, Idaho.
- COUNCIL:** The city council of the city of Potlatch, Idaho.
- LICENSED PREMISES:** The building and contiguous property owned, or leased or used under government permit by a licensee as part of the business establishment in the business of sale of beer at retail, which property is improved to include decks, docks, boardwalks, lawns, gardens, golf courses, ski resorts, courtyards, patios, poolside areas or similar improved appurtenances in which the sale of beer at retail is authorized under the provisions of law.
- LICENSEE:** The person or persons to whom a license is issued under the provisions of this chapter.
- PERSON:** Includes any individual, copartnership, firm, association, corporation or any group or combination acting as a unit, and the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context.
- RESTAURANT:** Any restaurant, cafe, hotel dining room, coffee shop, cafeteria, railroad dining car or other eating establishment having kitchen and cooking facilities for the preparation of food and where hot meals are regularly served to the public.
- RETAILER:** A person licensed to sell beer to consumers at premises described in the license. (Ord. 152, 6-9-1980; amd. 2010 Code)

2-1-3: LICENSE:

- A. Required: No retailer shall sell or serve beer at any location within the corporate limits of the city without having first obtained a license therefor for each such location in accordance with the terms of this chapter. (Ord. 152, 6-9-1980)
- B. Qualifications: The applicant for a license shall possess all of the qualifications necessary to obtain a license from the director of the Idaho state police, as prescribed by the laws of the state, and maintain such qualifications throughout the period for which such license is issued. The possession of licenses regularly issued by the director of the Idaho state police and the county shall be prima facie evidence of the applicant's qualifications to receive a license hereunder. (Ord. 154, 6-9-1981; amd. 2010 Code)
- C. License Fees: Every person licensed under the provisions of this chapter shall pay to the city an annual license fee for each location, as established by the rules and regulations of the clerk, which said rules and regulations shall be in effect upon passage and approval, by resolution, duly adopted by the city council. Said rules and regulations shall provide for a prorated fee in the event said license is issued for a portion of the year.
- D. Issuance By Clerk: Licenses required under this chapter shall be issued by the clerk, but only to qualified licensees. The clerk shall issue such licenses only with the approval and under the direction of the council.
- E. Display Of License: Each licensee shall at all times keep the license issued for each location prominently displayed in a conspicuous place on the licensed premises.
- F. Expiration Of Licenses: Each license issued under the provisions of this chapter shall expire at twelve o'clock (12:00) midnight on December 31 of the year for which it is issued.
- G. Renewal Of License:
 - 1. Application: All beer licenses as herein provided shall be renewed by the clerk after written application for renewal which said written application shall be filed with the clerk accompanied by an affidavit of the applicant showing such applicant to be qualified by the provisions of this chapter and the laws of the state of Idaho. Said application must state the place of business with respect to which

the license is to be renewed and must contain a floor plan for the building for which the permit or license is requested and shall be accompanied by a copy of the lease of said building and said lease shall show the consent of the owner of the building. In the event no changes in said matters have occurred since the previous certification or application, then the licensee may so state and need not attach said documents.

2. License Fee; Written Protest Or Objection: The application must be accompanied by a receipt from the clerk for the amount of the license fee. In the event a written protest or objection to the renewal of said license or permit is filed with the clerk, then and in that event, said application for renewal shall be submitted to the council and issued only after approval by the council.

- H. License Per Location: No more than one beer license shall be issued under this chapter for any one location.
- I. Vested Right: There shall be no vested right in any license or the transfer or renewal thereof. It is hereby declared to be the public policy of the city to make the possession of a license to sell beer a personal privilege, revocable or nonrenewable or suspendible upon any violation or conviction of any law set forth in section 2-1-16 of this chapter which may be suspended, revoked or not renewed upon the violation or conviction of any federal, state, or city ordinance pertaining, regulating, governing or prohibiting the sale, manufacturing, transportation, or possession of any alcoholic beverage or intoxicating liquor.
- J. Transferability: Licenses issued under this chapter shall not be transferred from one person to another, either by contract or operation of law, or otherwise, or from one location to another location, without the prior approval of the council. Application to transfer any license issued hereunder shall be made to the clerk. Upon receipt of such application, together with a transfer fee as established by the clerk and approved by the city council, the clerk shall thereafter and within thirty (30) days submit said application for transfer to the city council and the city council shall, by resolution, grant or deny the transfer of said license. In the event the city council grants the transfer of said license, the license shall be endorsed over to the proposed transferee by said licensee for the remainder of the period for which said license has been issued and the clerk shall note the approval thereof upon such license. (Ord. 152, 6-9-1980)

2-1-4: PREMISES OPERATED AS RESTAURANTS:

- A. Sworn Statement: Every applicant for a license for the sale of beer for consumption on the premises claiming that the premises for which such license is sought constitutes and is operated as a "restaurant", as defined in this chapter, shall, with each application for license and with each application for renewal of license, file with the city a statement, under oath, setting forth that such premises constitutes and is operated as such "restaurant" as defined in this chapter.
- B. Endorsement: Upon issuance of license for the sale of beer for consumption on the premises constituting and operated as a restaurant, the licensee of which has filed the sworn statement herein required, the clerk shall, with the consent of the council, endorse on the face of the license the fact that it has been issued to a "restaurant" as defined in section 2-1-2 of this chapter.
- C. Failure To File Sworn Statement And Obtain Endorsement: Unless such sworn statement shall have been filed and said endorsement shall appear on the face of the license, the premises shall not be deemed to be a restaurant for the purpose of this chapter and the restrictions contained in section 2-1-7 of this chapter shall apply, notwithstanding that the premises shall in fact constitute and be operated as a restaurant.
- D. False Statement: The filing of a false statement sworn to as herein required shall be grounds for suspension or revocation of license.
- E. Failure To Meet Qualifications: If premises licensed as a restaurant under this chapter subsequently cease to meet the qualifications of a "restaurant" as defined in section 2-1-2 this chapter, the premises shall not be deemed to be a restaurant for the purposes of this chapter and the restrictions contained in section 2-1-7 of this chapter shall apply, notwithstanding that the premises shall in fact constitute and be operated as a restaurant, and the licensee shall immediately advise the city, in writing, that the premises no longer constitute a "restaurant" as defined in section 2-1-2 of this chapter so that the certificate of endorsement may be recalled. (Ord. 152, 6-9-1980; amd. 2010 Code)
- F. Licensed Prior To Adoption; Statement Required: Every licensee who, prior to the effective date hereof, has obtained a license for the year 1981, and who claims that such licensed premises constitutes and is operated as a "restaurant", as defined in section 2-1-2 of this

chapter, shall, within thirty (30) days after the effective date hereof, file with the city the statement required under subsection A of this section. Upon the filing of such statement, the clerk shall, with the consent of the council, issue a certificate showing that the particular license has been issued to a "restaurant" as defined in section 2-1-2 of this chapter; provided, that the clerk shall give notice of the requirements of this section to each such licensee within fifteen (15) days after the effective date of this chapter.

- G. Certification Fee: Every applicant for a restaurant certification under this chapter shall submit with the application a fee to be established by the clerk and approved by resolution adopted by the city council. (Ord. 152, 6-9-1980)

2-1-5: **APPLICATION PROCEDURE:**

- A. Application; Fee: Every person who shall apply for a license to sell beer at retail under this chapter shall tender the license fee to, and file written application for license with, the clerk.
- B. Application Form; Required Information: The application shall be on a form prescribed by the city which shall require such information concerning the applicant, the premises for which license is sought and the business to be conducted thereon by the applicant as the city may deem necessary or advisable, and which shall enable the city to determine that the applicant and premises are eligible and have none of the disqualifications for the license for which the application is made, as provided in this chapter.

1. Such information shall include the following:

a. The name and place of residence of the applicant and length of his residence within the state of Idaho, and if the applicant is a partnership, the names, places of residence and lengths of residence within the state of Idaho of each partner, and, if the applicant is a corporation or association, the date and place of incorporation or organization, the location of its principal place of business in Idaho and the names and places of residence of its officers, and directors or members of its governing board, and of the person who manages or will manage the business of selling beer at retail.

b. The particular place for which the license is desired, designating the same by a street and number, if practicable, or by

such other apt description as definitely locates such place, and the name of the owner of the premises for which license is sought.

2. The application shall affirmatively show:

a. The applicant is the bona fide owner of the business which will be engaged in the sale of beer at retail and with respect to which license is sought;

b. The condition and location of the place or building wherein it is proposed to sell beer at retail conforms to all laws and regulations of the state of Idaho and to the ordinances of the county of Latah, Idaho, and the city applicable thereto relating to public health and safety and to the zoning ordinances of the city;

c. There is no stamp or permit outstanding and in force which has been issued to any person by the United States government for the premises for which license to sell beer at retail is sought which stamp or permit denotes payment of any special tax imposed by the United States government on a retail dealer in liquor or wines, unless said premises are premises for which a retail license for sale of liquor by the drink, issued under the provisions of Idaho Code title 23, chapter 9, is in force and effect.

d. The individual applicant, or each partner of a partnership applicant, is a citizen of the United States; or, with respect to a corporation or association, that is qualified to do business within the state of Idaho and that the person who is or will be the manager of the corporation's or association's business of selling beer at retail is a citizen of the United States; further, that such individual applicant, at least one of the partners of the partnership applicant, and said manager of the corporation or association applicant, shall have been a bona fide resident of the state of Idaho for at least thirty (30) days prior to the date of application. (Ord. 152. 6-9-1980)

e. The applicant, if an individual, is not less than nineteen (19) years of age; (Ord. 403, 10-20-1997; amd. 2010 Code)

f. Within three (3) years immediately preceding the date of filing the application, the applicant has not been convicted of the violation of any law of the state of Idaho, any other state, or of the United States, or of any ordinance of any county, or of the city, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages, intoxicating liquors, narcotic drugs or controlled substances, or within said time, suffered the

forfeiture of a bond for failure to appear in answer to charges of any such violation;

g. Within five (5) years immediately preceding the date of filing the application the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;

h. Within three (3) years next preceding the date of filing said application the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law or ordinance of the state of Idaho, or any other states or of the United States, or of the city to sell, manufacture, transport, or possess alcoholic beverages or intoxicating liquors, revoked.

- C. Affirmative Showing: The affirmative showing required with respect to an applicant under subsections B2e, B2f, B2g and B2h of this section shall also be required to be made with respect to: 1) each partner of a partnership applicant, and 2) to each incumbent officer, director, and member of the governing board of a corporation or association applicant, and 3) to each person employed by an applicant whose duties include the serving or dispensing of beer.
- D. Application Subscribed And Sworn: The application must be subscribed and sworn to by the individual applicant, or by a partner of a partnership applicant, or by an officer of a corporation or association applicant, before a notary public or other person authorized by law to administer oaths.
- E. False Material Statement: If an applicant shall be unable to make any affirmative showing required in this section or if an application shall contain a false material statement, knowingly made, the same shall constitute a disqualification for license and license shall be refused. If a license is issued to any applicant on any application containing a false material statement, knowingly made, such license shall be revoked. The licensee and licensed premises shall at all times during the period for which the license is issued continue to have all of the qualifications and none of the disqualifications set forth in this section. If at any time during the period for which license is issued, a licensee becomes unable to make the affirmative showings as required by this section the license shall be revoked, or, if the disqualification can be removed, the license shall be suspended until the same shall be removed. The procedure to be followed upon refusal, revocation or suspension of license as herein

provided for shall be in accordance with the procedure set forth in this chapter. (Ord. 152, 6-9-1980)

2-1-6: **CHANGES IN QUALIFICATIONS OF LICENSEES AND LICENSED PREMISES:** If at any time during the period for which a license is issued under this chapter, a licensee becomes unable to make the affirmative showings required under the provisions of section 2-1-5 of this chapter, or if there should be any change or changes in the information submitted under sections 2-1-5 of this chapter, such licensee shall immediately notify the city, in writing, of the inability of the licensee to make such showing, or of such change or changes, as the case may be, specifying in such notice, in ordinary and concise language, the showing or showings which the licensee is unable to make, or the changes or change in the information submitted under sections 2-1-5 of this chapter, as the case may be. Such notification shall be filed with the clerk. (Ord. 152, 6-9-1980; amd. 2010 Code)

2-1-7: **PREMISES:**

- A. Lighting: Each room of a licensed premises wherein beer is sold or consumed shall be sufficiently lighted with sufficient illumination and to the extent that objects and persons are clearly distinguishable from one end of the room to the other.
- B. Entrances: The main entrance of each licensed premises shall be accessible to entrance by police officers of the city, Latah County, and state of Idaho at all times during which beer is sold or consumed on the licensed premises.
- C. Inspections: Any police officer of the city, Latah County, or of the state of Idaho, shall have the right, at any time, to enter and make an inspection of any premises licensed under the provisions of this chapter for the purpose of determining whether the laws and ordinances of the state of Idaho, Latah County, and the city relating to the sale of beer are or have been complied with, and any person making application for a license to sell beer under the terms of this chapter shall be deemed to have consented to such entry and inspection; and any refusal of any licensee to permit any such entry or inspection shall be a violation of this chapter. (Ord. 152, 6-9-1980)

2-1-8: **HOURS OF SALE:** No beer shall be sold dispensed or served in any licensed premises, whether for profit or pleasure, between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. on each day of the week, whether Pacific Standard Time or Pacific Daylight Saving Time. It shall be unlawful during such period of time to consume any beer or other alcoholic beverage on the premises at any time after two thirty o'clock (2:30) A.M. until the authorized time to sell beer in accordance with this section. (Ord. 403, 10-20-1997; amd. 2010 Code)

2-1-9: **RESTRICTIONS ON SALES:**

- A. Intoxicated, Habitual Drunkard Or Interdicted Person: It shall be unlawful for any licensee to sell, dispense or serve beer to any actually, apparently or obviously intoxicated, or to any habitual drunkard or to any interdicted person.
- B. Public Places: It shall be unlawful to sell or consume beer on any public street, alley, sidewalk, public park or public parking lot within the corporate limits of the city; provided, however, the city council may designate certain days, by resolution, to be community days, during which designated days, beer may be sold and consumed in designated areas of the city park.
- C. Sale Off Licensed Premises: Except when otherwise expressly permitted under the laws of the state of Idaho, it shall be unlawful for any licensee to sell or serve beer except on the licensed premises of the licensee. (Ord. 152, 6-9-1980)

2-1-10: **MINORS:**

- A. Lawful: It shall be lawful for any person nineteen (19) years of age or older to sell, serve or dispense beer, and it shall be lawful for musicians eighteen (18) years of age and older to be on licensed premises while performing.
- B. Consumption By Underage Persons: It shall be unlawful for any person to procure for or serve beer to any person under twenty one (21) years of age or for any person under twenty one (21) years to purchase, attempt to purchase or otherwise procure, consume or possess beer irrespective of whether or not such person is accompanied by his parent or guardian, or other person, and irrespective of whether or not such person is acting solely as an

agent or messenger sent to purchase beer by another person or persons. (Ord. 403, 10-20-1997)

- C. **Proof Of Age:** Whenever any person licensed to sell beer, his agent or employee, shall have reasonable cause to believe that any person who attempts to purchase or otherwise procure beer from or through such licensee, his agent or employee, is under twenty one (21) years of age, such licensee, his agent or employee shall cause such person to execute a certificate that such person is twenty one (21) years or more years of age, and to exhibit acceptable proof of age and identity. The form of such certificate, the manner in which it is executed, the record to be kept thereof, the responsibility of the licensee, his agent or employee of what shall constitute acceptable proof of age and identity shall be in accordance with such regulations as the commissioner of law enforcement of the state of Idaho shall, from time to time, prescribe relating thereto; providing, however, that proof of age for every resident of the state of Idaho shall be a valid driver's license or an identification card issued by the department of law enforcement of the state of Idaho, and no other proof of age shall be accepted by a licensee, or his agent or employee, from any resident of the state of Idaho; or a valid picture identification card from the person's state of residence, or a military identification card. (Ord. 403, 10-20-1997; amd. 2010 Code)
- D. **False Representations:** It shall be unlawful for any person under twenty one (21) years of age to by any means represent to any licensee, or to any agent or employee of any licensee, that he or she is twenty one (21) or more years of age for the purpose of inducing such licensee, his agent or employee, to sell, serve or dispense beer to such person.
- E. **Loitering:**
1. **Prohibited:** No person under the age of twenty one (21) years shall, except as otherwise provided in subsection E2 of this section, enter, remain in or loiter in or about any premises licensed to sell beer for consumption on the premises; nor, except as otherwise provided in subsection E2 of this section, shall any licensee of any such premises, or any person in charge thereof, or on duty while employed by the licensee therein, permit or allow any person under the age of twenty one (21) years to enter, remain or loiter in or about any such licensed premises. (Ord. 403, 10-20-1997)

2. Exceptions: It shall not be unlawful for, nor shall subsection E1 of this section be construed to restrict any person under the age of nineteen (19) years from entering or being:

a. Upon premises which constitute and are being operated as a "restaurant" as defined in this chapter; provided, that the license to sell beer issued by the city to such premises has endorsed thereon a certificate that it has been issued for a "restaurant" as defined in this chapter; or (Ord. 152, 6-9-1980)

b. In any building, a part or portion of which is used as a "place" as defined in subsection E2c of this section, provided such place is separated or partitioned from the remainder of said building and access to such place through a door or doorways or other means of access can be controlled to prevent persons under the age of twenty one (21) years from entering such place, and provided further, that access to such place is, at all times, controlled to prevent persons under the age of twenty one (21) years from entering therein; beer shall not be drawn, poured or served for consumption in any other portion of the premises except the "place". (Ord. 403, 10-20-1997)

c. The word "place" as used in this section shall mean any room or area of any premises licensed for the sale of beer for consumption on the premises where beer is drawn or poured or served for consumption therein. (Ord. 152, 6-9-1980)

2-1-11: **MUSIC:** It shall be unlawful for any licensee to play or permit to be played any radio, phonograph, television set, juke box, or other musical device, or music of any kind, on any licensed premises, except premises licensed as a "restaurant" as defined in this chapter, during the hours that the sale of beer for consumption on such premises is prohibited under provisions of this chapter. (Ord. 152, 6-9-1980)

2-1-12: **ADVERTISING:** The advertising of beer by any sign, placard or notice, window display or other device which may be perceived or seen from any street, sidewalk or alley within the corporate limits of the city shall be unlawful. (Ord. 152, 6-9-1980)

2-1-13: **GAMBLING:** It shall be unlawful for any licensee to conduct or permit to be conducted, played or carried on any game or faro, monte, roulette, lansquenet, rouge et noir, rando, Indian stick game,

poker, or any game played with cards, dice or other device for money, checks, credit or other representative of value upon any licensed premises. (Ord. 152, 6-9-1980)

2-1-14: **LIQUOR:** No licensee of any licensed premises, or any employee thereof, shall bring or keep any intoxicating beverage other than beer on the licensed premises, or knowingly suffer or permit any person to bring or consume any intoxicating beverage other than beer on the licensed premises, unless the premises are licensed by the city to sell such intoxicating beverage. (Ord. 152, 6-9-1980)

2-1-15: **CLERK TO MAKE REGULATIONS:** For the purpose of the administration of this chapter, the clerk shall promulgate such rules and regulations as the clerk may deem necessary for the provisions of this chapter and for the orderly and efficient administration hereof. (Ord. 152, 6-9-1980)

2-1-16: **REVOCAION; SUSPENSION:**

A. Power Of Mayor And City Council: The mayor and city council may suspend, revoke, deny or refuse to renew a license issued pursuant to the terms of this chapter for any violation of or failure to comply with the provisions of this chapter.

B. Revocation:

1. Violation Of Licensee Or Employee Of Licensee: The mayor and city council shall have the right to revoke the license of any person for any violations by the licensee or any employee of said licensee, or for any violation of the laws of the state of Idaho as contained in Idaho Code title 23, chapter 9, or any amendments thereto.

2. Written Or Oral Complaint; Notice: Upon any written or oral complaint, the mayor and city council shall cause notice to be served personally, or by mail, upon said licensee, or by leaving said notice with an adult person employed or apparently employed in the premises, requiring said licensee to appear before said mayor and city council to be heard upon said complaint.

3. Revocation Without Further Process: If it shall appear at said hearing that cause exists and there has been a violation by the

licensee or any employee of said licensee of any provision of this chapter or any violation of the laws of the state of Idaho as contained in Idaho Code title 23, or any amendments thereto, or said licensee has failed to maintain any of the qualifications for a license or has obtained any of the disqualifications, said license shall be revoked without further process of law. No refund of any unused portion of said license fee shall be made.

4. Revocation Of State License: Any revocation by the state of Idaho of the state license for retail sale of liquor by the drink shall automatically revoke the city license.

- C. Automatic Suspension Or Revocation Of Beer Or Wine Licenses: The suspension or revocation of a state or county liquor by the drink license or a state, county or city license for the sale of beer or wine shall automatically result in the suspension or revocation of any license for the sale of liquor held by the same licensee and issued for the same premises or location. The suspension or revocation shall be equal in length to and run concurrently with the period of the original suspension or revocation.
- D. Violation Of Obscenity Laws: Any conviction for violation of Idaho Code title 18, chapter 41, relating to obscenity laws, by any licensee, agent or employee, shall also result in a suspension as described in Idaho Code section 23-933A.

In the event of the conviction or violation of the licensee under the provisions of this chapter of any law of the United States of America, or of the state of Idaho, or any ordinance of Latah County, governing or prohibiting the sale, manufacture, transportation, or consumption of any alcoholic beverage or intoxicating liquor, or if any licensee licensed under the provisions of this chapter shall violate any of the provisions of this chapter, the council may seek, in its discretion, the revocation, suspension or nonrenewal of said license. (2010 Code)

2-1-17: **CERTIFIED ANALYSIS PRIMA FACIE EVIDENCE OF ALCOHOL CONTENT:** A certificate, signed by any state agency, in writing, as an analyst, as to the percentage of alcohol contained in any liquid, drink, beverage or liquors, when produced in any court shall be prima facie evidence of the percentage of alcohol contained therein. (Ord. 152, 6-9-1980)

2-1-18

2-1-19

2-1-18: **VIOLATION BY EMPLOYEES:** A violation of any of the provisions of this chapter by any employee, agent, servant or other person in any way acting on behalf of the licensee shall be deemed to be a violation by the licensee. (Ord. 152, 6-9-1980)

2-1-19: **VIOLATION; PENALTY:** Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof in a court of competent jurisdiction, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 152, 6-9-1980; amd. 2010 Code)