

CHAPTER 2

LIQUOR

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2-2-1: **DEFINITIONS:** The following terms as used in this chapter are hereby defined as follows:

HOTEL: Every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty (20) or more rooms are used for the sleeping accommodations to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building, in connection therewith and such structure being provided, in the judgment of the council, with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for its guests.

MOTEL:

Every group of buildings or other structures kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations, together with automobile accommodations are offered for pay to transient guests, in which fifteen (15) or more units are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping and automobile accommodations and dining rooms being grouped in one area, in connection therewith, and such structures being provided, in the judgment of the council, with adequate and sanitary kitchen and dining room equipment and capacity for preparing, cooking and serving suitable food for its guests and with adequate parking and garage facilities for the automobiles of its guests.

RESTAURANT:

Any restaurant, café, hotel dining room, coffee house, cafeteria, railroad dining car, or other eating establishment having kitchen and cooking facilities for the preparation of food where hot meals are regularly served to the public. (Ord. 176, 5-8-1989)

2-2-2: **LICENSE REQUIRED:** It shall be unlawful for any person to sell liquor by the drink at retail within the corporate limits of the city without having first procured, and only after having received, a license therefor. (Ord. 176, 5-8-1989)

2-2-3: **LICENSE TO RETAIL LIQUOR:** The city clerk is hereby empowered, authorized, and directed to issue licenses to qualified applicants as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink but only in accordance with the rules and regulations promulgated by the clerk and approved by the council and the provisions of this chapter. Provided, however, that in addition to the qualifications hereinafter set forth, no license to sell liquor by the drink shall be issued to a person, organization or business establishment which is not included within the following classifications as the same are herein defined:

- A. Fraternal, Benevolent Or Charitable Organization: Any bona fide fraternal, benevolent or charitable organization having a valid national charter.
- B. Hotels And Motels: Hotels and motels, the applicant owner or applicant manager of which have been residents of the city for a period of thirty (30) days immediately prior to the filing of an application for a license under this chapter, except as noted herein.
- C. Cafes And Restaurants: Cafes and restaurants, the applicant owner or applicant manager of which have been residents of the city for a period of thirty (30) days immediately prior to the filing of an application for a license under this chapter.
- D. Catering Permits: Catering permits for one day may be issued to any person or organization or establishment licensed under this chapter.
- E. Other Classification: Any other classification approved by the state of Idaho for which the state shall issue a license, the applicant owner or applicant manager of which has been a resident of the city for a period of thirty (30) days immediately prior to the filing of an application under this chapter. (Ord. 176, 5-8-1989)

2-2-4: **APPLICATION OF LICENSEE; PENALTY FOR FALSE STATEMENTS:**

- A. Application: Prior to the issuance of a license as herein provided, the applicant shall file with the clerk an application, in writing, signed by the applicant and containing such information and statements relative to the applicant and the premises where the liquor is to be sold as may be required by the clerk. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths and shall be accompanied with the license fee herein required.
- B. Required Information: In addition to setting forth the qualifications required by other provisions of this chapter, the application must show:
 1. A detailed description of the premises for which a license is sought and its location.
 2. A detailed statement of the assets and liabilities of the new applicant.

3. The names and addresses of all persons who will have any financial interest in any business to be carried on in and upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trusts or any other basis than open trade accounts incurred in the ordinary course of business, and the amount of such interest.

4. If the premises to be licensed is not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of liquor by the drink on such premises.

5. The names and addresses of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board, and ten (10) principal stockholders of a corporation.

6. A copy of the articles of incorporation and bylaws of any association, or the articles of partnership of any partnership.

7. If during the period of any license issued hereunder, any change shall take place in any of the requirements of subsections B3 through B6 of this section, the licensee shall forthwith make a certified report of such change to the clerk.

C. False Statement: If any false statement is made in any part of said application, or any subsequent report, the applicant or applicants shall be deemed guilty of a misdemeanor. (Ord. 176, 5-8-1989)

2-2-5: **QUALIFICATIONS OF APPLICANTS:** The following qualifications must be met by any applicant for a license under this chapter: (Ord. 176, 5-8-1989)

A. 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 Idaho Code, title 23, chapter 9, as amended. (Ord. 176, 5-8-1989; amd. 2010 Code)

B. Residency: No application for a license shall be considered by the city unless such applicant, or the applicant manager of such corporation, partnership, association, or organization applying for such license shall have been a resident of the city for at least thirty (30) days. (Ord. 176, 5-8-1989)

2-2-6: INVESTIGATION OF APPLICANT:

- A. Investigation; Submittal To Council: Upon receipt of an application for a license under this chapter, accompanied by the necessary license fee, the clerk, within thirty (30) days thereafter, shall cause to be made a thorough investigation of all matters pertaining thereto. The clerk shall thereafter submit said application to the city council and the city council shall thereafter act on said application. (Ord. 176, 5-8-1989)
- B. Powers Of Clerk: In making the investigation required by this section, the clerk shall have the power to investigate and examine the books and records of the licensee and any person having a financial interest in any business to be considered on the licensed premises including, but not limited to, their bank accounts, returns filed under the Idaho property relief act, as amended, and any other sources of information deemed to be desirable by the clerk relative to the application and not specifically prohibited by law. The clerk shall be aided in the investigation by the chief of police. (Ord. 176, 5-8-1989; amd. 2010 Code)

2-2-7: LICENSE FEE; TERM:

- A. Fee Established By Resolution; Term: The license fee imposed and collected shall be established by resolution adopted by the council for each license year, which license year shall be from January 1 to December 31; provided, however, that if the license is issued for less than a full calendar year, the license fee shall be prorated as of the month of actual issuance up to one-half ($\frac{1}{2}$) of the total year.
- B. Contents Of License: Every license issued under this chapter shall be issued by the clerk upon the directive of the council and shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises, and such other information as the clerk shall deem necessary. If issued to a partnership, the names of the persons constituting such a partnership shall be set forth. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth. Such license shall be signed by the licensee. Every license issued under the provisions of this chapter is separate and distinct and no person except the licensee therein named, except as herein otherwise provided, shall exercise any of the privileges granted thereunder.

- C. Expiration: All licenses shall expire at twelve o'clock (12:00) midnight, December 31, of the year for which said license was issued.
- D. Limitation On Licenses: No person shall be granted more than one license for any one year; and no partnership, association or corporation holding a license under this chapter shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or any officer of another corporation holding a license in the same city for the same year; provided, that this section shall not prevent any person, firm or corporation, owning two (2) or more buildings on connected property from making application for and receiving licenses permitting the sale of liquor by the drink in such buildings.
- E. Application To Transfer: Application to transfer any license issued hereunder shall be made to the clerk. Upon receipt of such application, together with a transfer of fee as established by resolution of the council, the clerk shall make the same investigation and determination and take the same action with respect to the transferee as is required by section 2-2-6 of this chapter. 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 license has been issued and the clerk shall note his approval thereof upon such license. (Ord. 176, 5-8-1989)

2-2-8: **RENEWAL OF LICENSE:** All liquor 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 application 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. 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. (Ord. 176, 5-8-1989)

2-2-9: HOURS OF SALE OF LIQUOR:

- A. Restricted Hours: No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet during the following hours: (Ord. 176, 5-8-1989)
1. Sunday, Memorial Day, Thanksgiving and Christmas from two o'clock (2:00) A.M. to ten o'clock (10:00) A.M. the following day; provided however, that on any Sunday not otherwise being a prescribed holiday, it shall be lawful for a licensee having a banquet area or meeting room facilities, separate and apart from the usual dispensing area (barroom) and separate and apart from a normal public dining room unless such dining room is closed to the public, to therein dispense liquor between the hours of two o'clock (2:00) P.M. to two o'clock (2:00) A.M. to bona fide participants of banquets, receptions, or conventions for consumption only within the confines of such banquet area or meeting room facility.
 2. On any other day between two o'clock (2:00) A.M. and ten o'clock (10:00) A.M. (Ord. 403, 10-20-1997)
 3. On any day of a general or primary election until after the time when the polls are closed.
- B. Reasonable Time To Consume Beverages Already Served: Any person present on the licensed premises after the sale of liquor has stopped as provided in subsection A of this section shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverages already served.
- C. Consumption After Time Allowed: Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon licenses premises after the time provided for in subsection B of this section shall be guilty of a misdemeanor.
- D. Duty To Lock Up Unsealed Containers: It shall be the duty of every person who is employed at or upon a licensed premises or who owns or manages a licensed premises and is present upon the licensed

premises during the hours and at the time set forth in subsection A of this section to lock up and keep locked up in a locked room or locked cabinet all unsealed containers of liquor during the hours and at the times set forth in subsection A of this section, and any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor. (Ord. 176, 5-9-1989)

2-2-10: **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 the 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".

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. 403, 10-20-1997)

2-2-11: CLERK TO MAKE REGULATIONS:

- A. For the purpose of the administration of this chapter, the clerk shall promulgate such rules and regulations as the clerk may deem necessary for carrying out the provisions of this chapter and for the orderly and efficient administration hereof, and, except as may be eliminated or prohibited by law and the provisions of this chapter, such rules and regulations so made and promulgated shall have the force of ordinance. Said rules and regulations shall be in effect from and after approval by resolution duly adopted by the city council. (Ord. 176, 5-9-1989; amd. 2010 Code)
- B. Without limiting the generality of the foregoing provision, the said clerk shall be empowered and it is made his duty to 1) prescribe forms to be used in the administration of this chapter, the proof to be furnished and conditions to be observed in the issuance of the licenses, 2) prescribing notices required by this chapter or the regulation thereof, and the manner of giving and serving the same, 3) prescribing, subject to the provisions of this chapter, the conditions and qualifications necessary to obtain a license, and providing for the inspection of such licensed premises, and 4) make regulations respecting the sale and consumption of liquor in all places of business of said licensee.
- C. Notice that each proposed rule and regulation shall be considered by the council and shall be published once in a newspaper of general circulation in the city prior to consideration by the city council. Said notice may summarize the substance of each proposed rule and regulation. (Ord. 176, 5-9-1989)

2-2-12: REVOCATION, SUSPENSION OR NONRENEWAL OF LICENSES: In the event of the conviction or violation of the licensee licensed under the provisions of this chapter or any law of the United States of America, or of the state, or any ordinance of Latah County, Idaho, regulating, governing or prohibiting the sale, manufacture, transportation, or consumption of any alcoholic beverage or intoxicating liquor, or if the 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. (Ord. 176, 5-8-1989)

2-2-13: **LICENSES; SUSPENSION OR REVOCATION REVIEW:** The procedure for refusal to issue or renew a license issued under this chapter or for suspension or revocation of said license shall be the same as established by chapter 1 of this title. (Ord. 176, 5-8-1989)

2-2-14: **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. 176, 5-8-1989; amd. 2010 Code)