

CITY OF IDAHO CITY

ORDINANCE No. 385

AN ORDINANCE OF THE CITY OF IDAHO CITY, BOISE COUNTY, IDAHO, TO REPEAL AND REPLACE ORDINANCES 260 AND 318 RELATING TO THE LICENSING AND REGULATION OF ALCOHOLIC BEVERAGES AND PROVIDING FOR PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, the City of Idaho City finds it is necessary to update and amend its City Code regarding the licensing and regulation of the sale of beer, wine, and liquor within the City limits.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO CITY, IDAHO:

Section 1. REPEAL OF TITLE 3, CHAPTER 2 OF THE CITY CODE OF IDAHO CITY. Chapter 2 of Title 3 of the City Code of Idaho City, as codified by Ordinance 260, enacted on June 24, 1997, and Ordinance 318 enacted on October 23, 2007, is repealed.

Section 2. ADDITION OF NEW CHAPTER TO TITLE 3 REGULATING ALCOHOLIC BEVERAGES. A new Chapter 2 of Title 3 of the City Code of Idaho City shall be created as follows:

3-2-1: Short Title: This ordinance shall be referred to as the “Alcoholic Beverage Ordinance.”

3-2-2: Definitions: The terms used in this chapter shall have the meanings prescribed by Chapters 9, 10 and 13 of Title 23 of the Idaho Code, unless indicated otherwise specifically or by context. Liquor by the drink, wine, or beer may be collectively referred to as “alcoholic beverage.”

3-2-3: License Required: It is unlawful for any person to offer for sale, sell, or in any manner dispose of an alcoholic beverage without a license as provided in this chapter and the laws of the state of Idaho.

3-2-4: Application: An applicant for a license must submit a complete and signed application on a city-approved form. A complete application includes submission of the required fee(s) established by resolution of the city council, proof of any qualifications in the form required by the application, and the following:

A. The name and address of the applicant and all persons who otherwise will have a financial interest in any business to be carried on, in or upon the premises.

1. If the applicant is a partnership, the applicant must include whether it is a general or limited partnership and the name and address of each partner, and

2. If a corporation or association, the name and address of the officers and the board of directors, trustees, or other governing board.
3. A financial interest will be construed broadly and includes an interest resulting from open loans, mortgages, conditional sales contracts, silent partnerships, trusts, or any other basis than upon trade account incurred in the ordinary course of business.

B. The address and description of the premises for which a license is sought.

C. If the premises to be licensed is not owned by the applicant, a certified copy of documentation showing the applicant's lawful occupation and possession of the property and that the owner or lessor has consented to the sale of liquor, beer, or wine on the premises.

D. A copy of the germane licenses issued by the director of the Idaho State Police and the board of county commissioners for the purpose, premises, and time for which the application is made to the city.

3-2-5: Premises: The premises for the sale of any alcoholic beverages must meet the following:

- A. Conform to the laws and regulations of the state and to the ordinances of the county and the city, which are applicable thereto and which relate to public health, safety, and planning and zoning.
- B. Is not within three hundred feet (300') 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. This provision does not apply to licensed premises which preexisted the public school, church or other places of worship or college or applications pending, or licenses issued prior to September 27, 2023.
- C. Meets the current uniform building code as adopted by the city, except for the renewal of license that was originally issued prior to June 24, 1997, and is in the same location.
- D. Has adequate lighting.
- E. Has a full and unobstructed view of the premises.

3-2-6: Submission to Council: Within thirty (30) days of submission of an initial application, the city clerk will determine whether the application is complete and verify whether the state and county licensing requirements have been met, and thereafter submit it for consideration by the city council at its next regular meeting occurring more than two (2) business days after the clerk's determination.

3-2-7: Term and Expiration: All licenses issued pursuant to this chapter shall expire at twelve o'clock (12:00) midnight on August 31. If the license is issued for less than a full calendar year, the license fee shall be prorated on a daily basis, as of the day of actual issuance.

3-2-8: Renewal: A complete application for renewal of a license shall be submitted no later than August 1 to the city clerk on a city-approved form and including submission of the required fee(s) established by resolution of the city council, and proof of any qualifications. An untimely application or incomplete application may result in a delay of processing or consideration and may result in the expiration of the license.

3-2-9: Catering Permit:

A. **Eligibility:** For benevolent, charitable, or public purposes, any person who has been issued a permit to dispense or sell beer, wine, or both by the director of the Idaho State Police pursuant to the provisions of Sections 23-1007A or 23-1336 of the Idaho Code may submit an application for a beer or wine catering permit to the city clerk. All such permits shall be subject to the provisions and restrictions of Sections 23-1007A and 23-1336 of the Idaho Code.

B. **Required Information:** The application shall contain the following information:

1. The name and address of the applicant and the names of the organizations, groups, or persons sponsoring the event;

2. A copy of the permit issued by the Idaho State Police pursuant to the provisions of Sections 23-1007A or 23-1336 of the Idaho Code;

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

4. The address at which the beer, wine, or both is to be served.

C. **Verification:** The application shall be verified by the applicant and filed with the City.

D. **Fee:** A non-refundable filing fee in the amount of twenty dollars (\$20.00) for each day the permit is to be effective shall be paid to the City.

3-2-10: Report of Change to Information: A licensee must report any changes in the information submitted on an application or regarding the premises within thirty (30) days of the change.

3-2-11: Transfer and Temporary License: In the event that an application for license is filed pursuant to the transfer of ownership of an existing licensed establishment, and contingent upon compliance with all of the terms of this chapter by the applicant, the mayor or the city clerk shall be empowered to issue a temporary license to the applicant valid for a period of up to thirty

(30) days. At such time as the application is addressed by the city council, the temporary license shall terminate.

3-2-12: Posting of License: Alcoholic beverage licenses or catering permit shall be posted in a conspicuous place on the premises and kept and posted at all times during which the license is valid.

3-2-13: Hours of Sale:

A. Prohibited Hours: Two thirty o'clock (2:30) A.M. shall be the required closing time. No alcoholic beverages shall be dispensed, sold, offered for sale, or given away on any day between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M.

B. Consumption After Hours:

1. Allowed: Any patron present on the licensed premises after the sale of alcoholic beverages has stopped as required in subsection A of this Section shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverages already served.

2. Penalty: Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon a licensed premises after the time provided for in subsection A of this Section shall be guilty of a misdemeanor.

3-2-14: Access to Premises: It shall be unlawful to deny or obstruct access to licensed premises to any law enforcement personnel, fire department personnel, or state or public health inspectors acting in official capacity.

3-2-15: Grounds for Denial, Revocation, Suspension or Restriction of License: The city council may deny, refuse to renew, revoke, suspend, restrict, condition, or otherwise take action against a license for the following:

A. Fraud, misrepresentation, or concealment in application or procurement of a license or permit under this chapter;

B. Failure to maintain qualifications for a license;

C. Violation of any federal, state, or local law or regulation relating to the sale, disposition, or other regulation of alcoholic beverages;

D. Violation of any of the provisions of this chapter;

E. Suspension, revocation, or other action taken against the germane state or county license, which shall be prima facie evidence of grounds for reciprocal action.

F. Conduct or act of the licensee or their employees or any conduct or act permitted by the licensee or them on the premises where such business is conducted, or in connection

therewith or adjacent thereto, tending to render such business or such licensed premises as a “moral nuisance”, nuisance, or chronic nuisance as defined by state law or city code.

G. Failure to comply with conditions or restrictions on a license.

3-2-16: Responsibility of Licensee: Violations of this chapter or grounds for denial, revocation, suspension, or other action as set forth in this chapter which occur due to the conduct of an employee or agent or failure of the licensee or its employees or agents to exercise proper control over the licensed premises shall be imputed to the licensee.

3-2-17: Procedure for Denial, Revocation, Suspension or Restriction:

A. Request For Hearing on Denied Application: An applicant who application has been denied may request in writing a hearing before the city council within fifteen (15) days of the date of mailing or hand delivery of the decision by the city council.

B. Notice of Potential Violation: When a report or complaint is filed with the city clerk that a licensee has committed grounds for discipline, the chief of police or his designee will conduct a reasonable investigation into the matter and make a report to the city attorney. The city attorney will make a preliminary assessment of whether a violation probably has been committed, and if so, will notify the clerk to schedule a hearing before the city council.

C. Hearing: Within fifteen (15) days of receipt by the city clerk of written request for hearing, a hearing before the city council will be scheduled, and the clerk will notify the applicant or licensee of the allegations and the hearing date and time of the hearing. The notice of the hearing date and time shall be served upon the licensee by leaving a copy at the licensed premises or by the city clerk mailing the notice by certified mail to the licensee at the licensed premises.

D. Written Decision: In the event the city council denies an application or renewal, or takes other action against a license the city must specify the following in writing:

1. The statutes, ordinances and standards used to evaluate.
2. Specify the reasons for the denial, suspension, revocation, or other action.
3. The actions, if any, the applicant could take to obtain, renew, or reinstate the license or come into compliance.

E. Emergency Suspension. The Chief of Police shall have the authority to close a licensed premises, immediately suspend a license issued pursuant to this chapter, or both any time a situation occurs that endangers the health, safety, or welfare of the public at large. This suspension will continue through the remainder of the business day, but for no more than seventy-two (72) hours. During such time, and as soon as practicable, the authority taking said action will file a complete report with the City Clerk who will notify the Mayor and City Council.

3-2-18: Penalty: Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor for each violation, 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, together with the costs of prosecution.

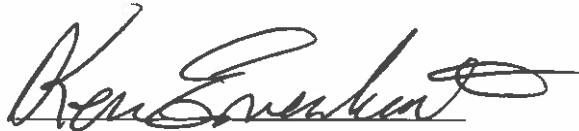
Section 3. SAVINGS CLAUSE. Ordinances 260 and 318 repealed by this ordinance, shall remain in force to authorize the arrest, prosecution, conviction, and punishment of a person who violates those ordinances prior to the effective date of this ordinance.

Section 4. SEVERABILITY CLAUSE. The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

Section 5. EFFECTIVE DATE. That this ordinance shall be in full force and effect upon passage, approval, and publication according to law.

PASSED BY THE COUNCIL of the City of Idaho City this 11th day of October, 2023.

APPROVED BY THE MAYOR of the City of Idaho City this 11th day of October, 2023.



Kenneth Everhart, Mayor

ATTEST:



Nancy L. Ptak, City Clerk/Treasurer

