

CHAPTER 1

ALCOHOLIC BEVERAGES

ARTICLE A. BEER REGULATIONS

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3-1A-1: **DEFINITIONS:** The following words shall have the following specified meanings when used herein:

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

BOTTLED BEER OR CANNED BEER: Beer sold or dispensed in sealed containers of glass or metal, having a capacity not greater than two (2) gallons.

RETAILER: Any person engaged in the sale or distribution of beer to the consumer within the limits of Cassia County, Idaho. (Ord. 2-83, 8-8 1983; amd. 2003 Code)

3-1A-2: **LICENSE REQUIRED; FEES:** No person shall sell, barter or dispose of beer within the county without having a valid substituting license therefor, issued by the county as hereinafter provided. License fees, as provided for under Idaho statute, shall be as follows:

- A. Consumption off Premises: Where the retailer sells only bottled or canned beer, none of which is consumed on the premises where sold, the fee shall be twenty-five dollars (\$25.00) per annum.
- B. Consumption on Premises: Where such bottled or canned beer is consumed on the premises of the retailer, the fee shall be seventy-five dollars (\$75.00) per annum.
- C. Draught Beer: Where the retailer sells draught beer, and bottled or canned beer, or draught beer only, the fee shall be one hundred dollars (\$100.00) per annum.
- D. Prorated Fee: If a license is issued within six (6) calendar months of the first day of the designated renewal month for Cassia County, the applicant shall pay the full annual license fee. If a license is issued after six (6) months from the first day of the designated renewal month for Cassia County, the applicant shall pay one-half (1/2) the annual license fee.
- E. Revocation: In the event that a license is revoked for any cause, no part of the license fee shall be refunded. (Ord. 2-83, 8-8-1983; amd. 2003 Code)

3-1A-3: **APPLICATION:** Each applicant for a license hereunder shall execute and file with the county commissioners an application in writing verified by the oath of the applicant, or one of his officers, upon a form to be provided by the county and shall pay to the county the amount of the fee for the license applied for, as specified in section 3-1A-2 of this chapter. The application shall contain the following information:

- A. Personal Information: The name, address and occupation of the applicant for the three (3) years preceding the date of the application.
- B. Room Description: A description of the room or rooms in which the licensed business is to be conducted.
- C. Lot Description: A description of the lot or block, or street number of the building in which such room or rooms are located.

- D. Owner: The name of the owner or owners of such premises.
- E. Interest in Premises: The interest of the applicant in the premises where the business is to be conducted.
- F. Other Interested Persons: The name of any other person other than the applicant who is interested financially or otherwise in the business.
- G. Statement of Facts: A statement of the following facts concerning the applicant or his associates, if any:
 1. That the applicant is the bona fide owner of the business that will be engaged in the sale of beer at retail.
 2. That the individual applicant, or each partner of a partnership applicant, or a corporation applicant or an association applicant is qualified to do business within the state of Idaho.
 3. That the applicant, if an individual, is not less than nineteen years of age.
 4. That the applicant, or any person interested in the applicant's business, within three (3) years immediately preceding the date of filing the application has not been convicted of any violation of State or Federal law regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquors.
 5. That the applicant, or any person interested in applicant's business, within five (5) years immediately preceding the date of filing of the application, has not been convicted of any felony or paid any fine or completed any sentence of confinement for such conviction.
 6. That the applicant, or any person interested in applicant's business, within three (3) years immediately preceding the date of filing of the application, has not had any license for the sale, manufacture, transport, or possession of alcoholic beverages or intoxicating liquors, revoked.

3-1A-4: **FORM; NONTRANSFERABLE:** The license shall be upon a form to be provided by the county and shall be for a particular room or place. It shall not be transferable except by operation of law, and shall expire on July 31 next succeeding the date of its issue. (Ord. 2-83, 8-8-1983)

3-1A-5: **LICENSE PROHIBITED TO CERTAIN PERSONS:** No license shall be granted to, nor the licensee's business carried on under such license by, any of the following persons:

- A. Revoked License: Any person whose license herein provided for was at any time revoked or canceled for any violation of this chapter.
- B. State Disqualification: Any person who is not qualified to obtain a retailer's license from the state of Idaho.
- C. False Representation: Any person who makes any false statement or representation in any application for a license hereunder.
- D. Associate of Disqualified Person: Any person who is the business associate, employee, partner or agent of any disqualified person hereunder, or under the laws of the state of Idaho, when such disqualified person is interested in the ownership, management or control of the business of retailer for which application is being made.
- E. Previous Operation: Any person who, at any time prior to making application, has failed, neglected or refused to conduct a quiet, orderly place of business as a retailer within the county. (Ord. 2-83, 8-8-1983)

3-1A-6: **ISSUANCE:** The application shall be presented to the county commissioners by the clerk at the commissioners' next succeeding meeting and, after consideration by the commissioners, shall be granted or refused. In the event that the license is granted, the clerk shall issue to the applicant the license applied for. In the event that the application is denied, the money deposited by the applicant with the county clerk shall be returned to the applicant. (Ord. 2-83, 8-8-1983)

3-1A-7: **DENIAL:** If the board of county commissioners denies an application, the board shall specify in writing:

- A. Evaluation Standards: The statutes, ordinances and standards used in evaluating the application.
- B. Reasons: The reasons for denial.
- C. Further Actions: The actions, if any, that the applicant could take to obtain the license. (Ord. 2-83, 8-8-1983)

3-1A-8: **RECORDS:** In all cases where the board of county commissioners is considering applications, suspensions, or revocations for licenses, transfers or renewals thereof, a transcribable, verbatim record of the proceedings shall be made. If the application for a license, transfer or renewal is denied, or a suspension or revocation of the license is done, a transcribable, verbatim record of the proceedings shall be kept for not less than six (6) months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The board of county commissioners shall also provide for the keeping of minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 2-83, 8-8-1983)

3-1A-9: **REGULATIONS AND RESTRICTIONS:**

- A. Conduct of Business: Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.

- B. Prohibited Acts: No licensee shall:
 - 1. Sell or dispense any beer outside the licensed premises. (Ord. 2-83, 8-8-1983)
 - 2. Sell, dispense or serve any beer to a person under twenty-one (21) years of age. (Ord. 2-83, 8-8-1983; amd. 2003 Code)
 - 3. Violate any law of the state of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.
 - 4. Fail to keep the license posted in a conspicuous place within the licensed premises.
 - 5. Fail to keep the licensed premises open to inspection by the police officers of any city and the sheriff of Cassia County. (Ord. 2-83, 8-8-1983)
 - 6. Sell, serve or dispense any beer during the hours of one o'clock (1:00) A.M. to six o'clock (6:00) A.M. seven (7) days a week. (Ord. 88-2, 4-25-1988; amd. 2003 Code)

3-1A-10: TRANSFER OF LICENSE; POSTING; CHANGE OF LOCATION:

- A. **Rights Not Granted:** Nothing in this chapter shall be construed to create any vested right in any person to assignment, renewal or reissuance or continuance of any license or the right to assign any license, or the right to issue a power of attorney over a license.
- B. **Approval Required; Examination:** No license shall be assigned or transferred nor power of attorney issued over a license without the written consent and approval of the board of county commissioners.

The sheriff or any police officer or any officer of the United States treasury department or officer of the state of Idaho charged with the enforcement of any of the provisions of the regulations for the retail sale of beer or intoxicating liquor, or any member of the board of county commissioners, shall have the right at any time to make an examination of any licensed premises to ascertain if the licensee of such premises is conforming to the provisions of this chapter or the laws of the United States applicable thereto.

- C. **Posting of License:** All licenses shall be posted in a conspicuous place on the premises and kept posted during the full period of time for which the license is issued.
- D. **Death, Bankruptcy, Etc.:** In case of death, receivership, assignment, bankruptcy or incompetency of the licensee, the licensee's business may be carried on under the license by the duly appointed, qualified and acting receiver, assignee, trustee in bankruptcy, guardian, executor or administrator of the licensee; provided, that such receiver, assignee, trustee, guardian, executor or administrator shall file with the board of county commissioners a certified copy of his appointment and secure the written consent of the board of county commissioners.
- E. **Change of Location:** Any licensed person desiring to change his place of business from one location to another shall file with the county clerk an application therefor. The county clerk shall make investigation of the new proposed place of business and within four (4) days make report thereon to the board of county commissioners, accompanied by the application. (Ord. 2-83, 8-8-1983)

3-1A-11: REVOKE, SUSPEND, OR DENY RENEWAL:

- A. Cause For Revocation, Suspension, Or Denial Of Renewal: Any license issued hereunder may be revoked by the board of county commissioners or suspended for a period not to exceed six (6) months or the board of county commissioners may refuse to grant a renewal of said license after the date of expiration thereof, for any fraud or misrepresentation on the part of the licensee or his employee or agent or for any violation of any ordinance of the county or of any law of the state relating to the manufacture, sale or possession of intoxicating liquor or beer. (Ord. 2-83, 8-8-1983; amd. 2003 Code)
- B. Procedure:
1. Written Complaint, setting forth the allegations supporting suspension or revocation shall be filed with the Board of Commissioners.
 2. A copy of the written complaint shall be forwarded to the Cassia County Sheriff's Office. The Sheriff's Office shall conduct a thorough investigation of the complaint and prepare a report of findings to the Board of County Commissioners.
 3. Upon receiving the Sheriff's Office report, and if any allegations supporting suspension or revocation are deemed to have foundation for action, then the Board shall provide notice to the licensee of the complaint and the report of findings. The Board shall schedule an Order to Show Cause Hearing and provide notice of that hearing to the licensee. The Order to Show Cause will require the licensee to appear in response to the complaint.
 4. The Order to Show Cause proceedings before the Commission shall be held in accordance with the applicable provisions of chapter 52, title 67, Idaho Code, as from time to time may be amended and/or retitled.
 5. At such hearing, the Board shall hear the licensee and any evidence that may be offered by licensee. If the Board finds that cause exists for suspension or revocation of such license, the Board of County Commissioners may revoke such license for a period not to exceed six (6) months and may direct that the license issued theretofore issued shall be taken by the Sheriff and forthwith cancelled or revoked or suspended as the case may be.

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6. Upon a final determination by the Board of County Commissioners to suspend or revoke any retailer's license, the Board of County Commissioners shall provide written notice of said suspension or revocation to any other licensing authority which has licensed the involved licensee.

3-1A-12: **PENALTY:** Any person, firm, corporation, or individual whether as principal, agent, employee, or otherwise who shall violate the terms of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as set forth in section 1-4-1 of this code. (2003 Code)