

TITLE 3

BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1

GENERAL LICENSING PROVISIONS

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3-1-1: **APPLICATIONS:** Applications for all licenses and permits required by this code shall be made in writing to the city clerk-treasurer or designee, unless otherwise specifically provided by law. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be required by the issuing official. (2012 Code)

3-1-2: **PERSONS SUBJECT TO LICENSE OR PERMIT:** Whenever in this code a license is required for the maintenance, operation or conduct of any business or establishment or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to this requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the city. (2012 Code)

3-1-3: **FORMS:** Forms for all licenses and permits, and applications therefor, shall be prepared and kept on file by the clerk-treasurer or designee. (2012 Code)

3-1-4: **SIGNATURES:** Each license or permit issued shall bear the signature of the clerk-treasurer or designee in the absence of any provision to the contrary. (2012 Code)

3-1-5: **INSPECTIONS OR INVESTIGATIONS:** Upon the receipt of an application for a license or permit, where laws of the city necessitate an inspection or investigation before the issuance of such permit or license, the clerk-treasurer or designee shall refer such application to the proper officer for making such investigation within forty eight (48) hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten (10) days after receiving the application or a copy thereof. (2012 Code)

3-1-6: **TERM OF LICENSE:** All annual licenses shall terminate on December 31, where no provision to the contrary is made. (2012 Code)

3-1-7: **BUILDING AND PREMISES:** No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the city. (2012 Code)

3-1-8: **CHANGE OF LOCATION:** In the absence of any provision to the contrary, the location of any licensed business or occupation or of any permitted act may be changed, provided ten (10) days' notice thereof is given to the clerk-treasurer or designee; and further provided, that such new location is in compliance with the building requirements of this code. (2012 Code)

3-1-9: **NUISANCES:** No business, licensed or not, shall be conducted or operated as to amount to a nuisance in fact. (2012 Code)

3-1-10: **POSTING OF LICENSE:** It shall be the duty of any person conducting a licensed business in the city to keep his license posted at all times in a prominent place on the premises used for such business. (2012 Code)

3-1-11: **REVOCAION OF LICENSE OR PERMIT:**

A. **Authority To Revoke:** Any license or permit, for a limited time, may be revoked by the mayor and city council during the life of such license or permit for the apparent violation by the licensee or permittee of any provision relating to the license or permit, the subject of the license or permit, or the premises occupied; such revocation may be in addition to any fine imposed. The mayor and city council shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any business license or permit for a period not to exceed fifteen (15) days.

B. **Hearing; Notice And Procedure:**

1. Within ten (10) days after the city officials have so acted, the mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

2. Notice of hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be sent to the licensee or permittee by certified mail at his last known address or personally served at least five (5) days prior to the date of the hearing.

3. At the hearing, the licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross examine witnesses. The mayor shall preside and shall render the decision and recommendation.

C. **Causes For Revocation:** Business licenses and permits issued under the ordinances of the city, unless otherwise provided, may be revoked by the mayor and city council after notice and hearing as provided in subsection B of this section for any of the following causes:

1. Any fraud, misrepresentation or false statement contained in the application for the license or permit;

2. Any violation by the licensee or permittee of ordinance provisions or state law relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
3. Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
4. Failure of the licensee or permittee to pay any fine or penalty owing to the city;
5. Refusal to permit an inspection or investigation or any interference with a duly authorized city officer or employee while in the performance of his duties in making such inspections, as provided in the city code. (2012 Code)

3-1-12: APPEAL PROCEDURE:

- A. **Right To Appeal:** Any applicant aggrieved by the refusal of the city to issue a license or permit or by the revocation of a license or permit shall have the right to appeal the city's decision to the city council. Such appeal shall be requested by submitting a written request to the mayor within five (5) days of the action of the city which is appealed.
- B. **Council Consideration:** The city council shall consider the appeal at its next regularly scheduled meeting, at which time the applicant shall be entitled to present his appeal orally or in writing. The council shall act on the appeal within seven (7) days of the hearing and shall either uphold the action of the city or shall direct the issuance of a license or permit which the city has denied or the reissuance of a license or permit which the city had revoked. (2012 Code)

3-1-13: REAPPLICATION; REINSTATEMENT; EFFECT OF MULTIPLE REVOCATIONS:

- A. **Reapplication:** Any person whose permit or license has been revoked under this chapter may reapply upon payment of any fines assessed for the violation, after the term of such permit or license has expired.
- B. **Reinstatement:** Any person whose permit or license has been revoked under this chapter may reinstate his permit or license for the duration of the original term upon adequately demonstrating that any

violations have been cured and any fines assessed have been paid in full. The mayor and the city council shall have discretion over reinstatement request but such requests shall not be denied except for any cause listed in this chapter.

- C. Effect Of Multiple Revocations: The rights created in this section are not available as to any person whose permit or license has been finally revoked for any reason impacting the public welfare more than two (2) times in one year. (2012 Code)

CHAPTER 2
LIQUOR CONTROL¹

SECTION:

- 3-2-1: License Required
- 3-2-2: Application For License; Investigation
- 3-2-3: Conditions Of License
- 3-2-4: License Revocation, Suspension Or Denial
- 3-2-5: Record Of Proceedings

3-2-1: **LICENSE REQUIRED:** It shall be unlawful for any person to sell liquor by the drink, beer and wine for consumption on or off the licensed premises within the corporate limit of the city without first having procured a license therefor as hereinafter provided. (2012 Code)

3-2-2: **APPLICATION FOR LICENSE; INVESTIGATION:**

- A. Forms; Time Of Granting: Each applicant shall make application to the city clerk-treasurer on an application form provided therefor. The city council shall grant or deny the application within thirty (30) days of the time it is filed and accepted as complete by the city clerk-treasurer.
- B. Investigation Of Applicant: No license shall be granted hereunder until there has been an investigation by the proper official of the applicant. After investigation, the application will be forwarded to the city council with a recommendation from said proper official. If the proper official recommends that an application be denied, he shall state in writing the following:

- 1. The statutes, ordinances and standards used in evaluating the application;

1. IC §§ 23-901 et seq., 23-1001 et seq., 23-1301 et seq.

2. The reason for the denial; and
3. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof. (2012 Code)

3-2-3: CONDITIONS OF LICENSE:

- A. **State License Required:** No license shall be granted to any person who has not received a license therefor approved by the state of Idaho.
- B. **Term:** All licenses granted by the mayor and city council shall be granted for a period of one year beginning January 1 and ending December 31 of each year.
- C. **License Fee:** The annual license fee imposed and collected shall be as set by resolution of the council.
- D. **License Transfers And Renewals:** Licenses granted under the provisions of this chapter may be renewed or transferred once the license holder has filled out an application provided by the clerk-treasurer, the proper official has completed the investigation provided for herein, and the renewal or transfer has been approved by the city council. The procedure for granting or denying an application for renewal or transfer of a license shall be the same as for issuing or denying a license. (2012 Code)

3-2-4: LICENSE REVOCATION, SUSPENSION OR DENIAL: Prior to any revocation or suspension of a license granted hereunder, the licensee shall be afforded a hearing before the city council. Any person denied a license shall have the right to appeal the decision to the city council by submitting in writing to the clerk-treasurer a request to have the denial of a license reheard on appeal by the city council. Such written request must be received by the clerk-treasurer no later than thirty (30) days after the date of the decision of the city council to deny the license. The hearing date shall be set by the city council and written notice of the date and time set for the hearing shall be sent to the applicant no less than ten (10) days before the hearing. At the hearing, the applicant shall be given the opportunity to present evidence and testimony in support of the issuance of the license. Whenever the mayor and city council revoke or suspend a license granted hereunder or deny an application, they shall specify in writing the following:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof. (2012 Code)

3-2-5: **RECORD OF PROCEEDINGS:** In all cases where the city council is considering applications for licenses, transfers or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the application for a license, transfer or renewal is denied, a transcribable verbatim record of the proceedings shall be kept for a period of not less than six (6) months after the 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 city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (2012 Code)