

CHAPTER 3

BEER

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4-3-1: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water and which contains not more than six percent (6%) alcohol by weight and as defined by State law or regulation.

DISTRIBUTOR: A person who is employed by or is an agent of a retailer to sell, serve or dispense beer.

LICENSE: A license issued by the City Council authorizing a licensee to sell beer at retail.

LICENSEE: A qualified person to whom a license for the retail sale of beer is issued under the provisions of this Chapter.

PREMISES: The building, room or place in which the retail sale of beer by a licensee is authorized under this Chapter.

RETAILER: A person to whom a beer license has been issued.

4-3-2: LICENSE REQUIRED: Except as otherwise provided in this Chapter, no person shall sell or dispense beer at retail within the City without first obtaining a license from the City as required by this Chapter.

4-3-3: LICENSE FEES: License fees for the retail sale of beer in the City shall be as follows:

- (A) Where the retailer sells draught, bottled or canned beer for consumption on or off the premises, two hundred dollars (\$200.00) per annum;
- (B) Where the retailer sells bottled or canned beer only for consumption off the premises, fifty dollars (\$50.00) per annum.

4-3-4: APPLICATION FOR LICENSE:

- (A) Each applicant for a license for the retail sale of beer shall file with the City Clerk a written application that states the following:
 - (1) The name and residential address of the applicant.
 - (2) The street address of the premises where beer is to be sold.
 - (3) The name of the owner of the premises for which the license is sought.
 - (4) That the applicant, if an individual, is at least nineteen (19) years old.
 - (5) That the applicant has not been convicted of a felony or any crime involving moral turpitude.
 - (6) The names and addresses of four (4) references as to the good moral character of the applicant.
 - (7) That the applicant holds a current, valid license for the retail sale of beer, issued by the County Commissioners of Bingham County, Idaho.
 - (8) That the applicant agrees to abide by the terms and conditions of this Chapter, and any laws, ordinances, rules or regulations subsequently promulgated by the State, Bingham County or the City regarding the retail sale of beer within

the City.

- (9) Any other information the Clerk requires to determine that the applicant possesses the qualifications and has none of the disqualifications for a license, as provided in this Chapter and in Sections 23-1010 and 23-1016, Idaho Code, as amended.
- (B) On receipt of a written application conforming with subsection (A) of this Section and payment of the license fee, the City Clerk shall immediately forward the application to the Chief of Police for review, investigation and recommendation. If the Chief of Police recommends denial of the license application, the Chief shall notify the applicant of the recommendation and state the date, time and place of the next City Council meeting at which the recommendation will be considered. The notice shall be in writing and shall be mailed to the applicant at the address in the application no later than seven (7) days prior to the date of the City Council meeting.
- (C) At the date, time and place stated in the notice, the City Council shall consider the application and hear testimony and evidence from any interested person. No license application shall be denied unless the written notice required by subsection (B) of this Section has been given and the applicant has been given an opportunity to testify and present evidence in support of the issuance of the license. All applications for a retail beer license or any transfer or renewal of a retail beer license shall be granted or denied within sixty (60) days from the date the application was delivered to the City Clerk.
- (D) If the Council denies an application for a retail beer license, or any renewal or transfer of a retail beer license, the Council shall specify in writing:
 - (1) The statutes, ordinances and standards used in evaluating the application;
 - (2) The reasons for denial; and
 - (3) The actions, if any, the applicant could take to obtain the license, transfer or renewal.
- (E) The City Clerk shall keep a transcribable verbatim record of all proceedings concerning applications for beer licenses, or their transfer, renewal or revocation, pursuant to the provisions of this Chapter. If an application for a license, transfer or renewal is denied, or if a license is revoked, the transcribable verbatim record shall be kept for a period of not less than six (6) months after a final decision. Upon request and within the time provided for retention of the record, persons may have the record transcribed at their expense.

4-3-5: PROHIBITED LICENSES: No license for retail sale of beer shall be issued to any person holding a wholesaler's or manufacturer's license issued by the State.
Title 4-3-3

4-3-6: LICENSE FOR DESIGNATED ADDRESS ONLY: A license for the retail sale of beer shall be granted only for the place designated in the application. The place of business shall not be changed or moved without the consent the Council.

4-3-7: LOCATION RESTRICTIONS:

- (A) No license shall be issued for any premises that is within three hundred (300) feet of any public school, church, or any other place of worship except with the approval of the city council. Such distance shall be measured in a straight line between the nearest entrance to the licensed premises and the nearest property line of such school, church or place of worship.(Ordinance 633 04/26/22)
- (B) No person shall sell or dispense beer for consumption on the premises at any place within three hundred (300) feet of any public school, church or other place of worship, measured in a straight line between the nearest entrance to such place and the nearest property line of such school, church or place of worship except with the approval of the city council.(Ordinance 633 04/26/22)
- (C) The provisions of subsections (A) and (B) above shall not apply to any premises that met the qualifications of such subsection at the time the premises were first licensed, but thereafter fail to meet such location restrictions because of the construction or commencement of use of such public facility or place of worship subsequent to such first licensing.

4-3-8: POSTING OF LICENSE: All licenses for the sale of beer shall be posted in a place conspicuous to the public at the licensed premises at all times when the premises are open for business.

4-3-9: TRANSFER OF LICENSE; TRANSFER FEE: No license may be transferred to another person who has not obtained approval of the City Council after making an application containing the information required by Section 4-3-5. If a transferee has all of the qualifications and none of the disqualifications for a license to sell beer at retail, the City Council shall approve the transfer and the City Clerk shall re-issue the license in the name of the transferee. The fee for transfer of a license to sell beer at retail shall be twenty-five dollars (\$25.00) for bottled or canned beer sold only for consumption off the premises and one hundred dollars (\$100.00) for draught, bottled or canned beer sold for consumption on or off the premises. The license for the transferring license shall be surrendered to the City Clerk before such transfer may be made.

4-3-10: RIGHT OF ENTRY: Any police officer shall have the right at any time to enter and examine the premises of any licensee or of any place where beer is sold at retail to ascertain the alcoholic content of any beer kept for sale on the premises or to ascertain compliance with the laws of the State and the City. It shall be unlawful to refuse any police officer admittance to the premises for such purposes.

Title 4-3-4

4-3-11: SALE TO MINORS PROHIBITED:

- (A) No person under twenty-one (21) years of age shall sell, purchase, possess or consume any beer. This restriction shall not apply to persons at least nineteen (19) years old who sell, dispense, deliver or possess beer in the course of their employment by a licensee under this Title.
- (B) No person shall give, sell or deliver beer to any person under the age of twenty-one (21).
- (C) No person under the age of twenty-one (21) shall represent to any retailer or distributor or to any agent or employee of a retailer or distributor that he or she is twenty-one (21) years or more of age, when in fact he or she is under the age of twenty-one (21) years, for the purpose of inducing the retailer or distributor, or his agent or employee, to sell, serve or dispense beer to such person.
- (D) No person shall represent to any retailer or distributor or to any agent or employee of a retailer or distributor that any other person is twenty-one (21) years or more of age, when in fact the other person is under the age of twenty-one (21) years, for the purpose of inducing the retailer or distributor, or his agent or employee, to sell, serve or dispense beer to such other person.

4-3-12: CONDUCT OF BUSINESS: Every person licensed under this Title to sell beer at retail shall at all times conduct a quiet and well-lighted, orderly place of business.

4-3-13: HOURS OF SALE: It shall be unlawful for any person in any place licensed to sell beer, or where beer is sold or dispensed for consumption on the premises, whether for pleasure or profit, to sell or dispense beer for consumption on the premises or to permit the consumption of beer on the premises between the following hours:

- (A) Upon any Memorial Day as proclaimed by the State of Idaho, Thanksgiving Day or Christmas Day between the hours of 1:00 a.m. of said day to 6:00 a.m. of the following day for consumption of beer on the premises or for the consumption of beer off the premises. (Ordinance 576 4/28/15)
- (B) Upon any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday which do not fall upon the holidays above defined between the hours of 1:00 a.m. and 6:00 a.m. of said days.

4-3-14: ADOPTION OF STATE BEER LAWS: It is hereby adopted for the purpose of governing the licensing, manufacture, distribution and sale and use of beer with the city of Shelley the laws of the State of Idaho being particularly Title 23, Idaho Title 4-3-5

Code, as it relates to the regulation of beer and as presently in effect or as may hereafter be amended by the legislature and as the same may be revised from time to time by the legislature or by the governing body of the City of Shelley and the same are hereby adopted and incorporated as an ordinance of the City as fully as though set forth at length herein.

4-3-15: COPIES OF STATE BEER LAWS AVAILABLE FOR INSPECTION: Three copies of the "Idaho Liquor and Beer Laws" a compilation of the laws of the State of Idaho relating to the licensing, manufacture, distribution, sale and use of alcoholic beverages published by authority of the Department of Law Enforcement Liquor Law Division together with all amendments thereto and all duly certified by the City Clerk, shall be kept on file in the office of the City Clerk for use and examination of and by the public.

4-3-16: REVOCAION OF LICENSE: The right shall be and at all time remain vested in the City Council to conduct hearings for the revocation, suspension or cancellation of any license for any alleged violation of this chapter or any other rule of the City of Shelley or the State of Idaho upon the complaint being filed with the City Clerk, the Council shall cause the licensee to be notified and shall call for a hearing giving reasonable notice in writing to the licensee and such hearing shall be held in accordance with the provisions of Section 23-1016 of the Idaho Code. Whenever the Mayor and City Council proposed to revoke, suspend or cancel a license, they shall specify in writing the reasons as set forth in 4-3-4(D). The Clerk shall keep a transcribable, verbatim record of such proceedings concerning such revocation, cancellation or suspension as required in Section 4-3-4(E).