

TITLE 3 CHAPTER 2

BEER REGULATIONS

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3-2-1: 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 water.

RETAILER:

Any person engaged in the sale or distribution of beer to the consumer within the corporate limits of the City.

3-2-2: LICENSE REQUIRED: No person shall sell, trade, barter or dispose of beer within the City without having a valid license therefor, issued by the City as hereinafter provided. All beer licenses shall be granted by the Mayor and Council for a period of one year beginning August 1st and ending July 31st. A full year's license fee shall be collected for any license issued after August 1st as well.

(A) For the period of January 1, 2002 through July 31, 2002, all beer licenses granted by the Mayor and City Council, pursuant to other provisions of this ordinance, shall pay a fee to the City Clerk of 7/12 of the full yearly City fee, as and for beer license fee to sell, trade, barter or dispose of beer within the City. [*Section 3-2-2, amended December 4, 2001, Ordinance 2001-12-1*]

3-2-2-1: APPLICATION FOR LICENSE: Each applicant for a license hereunder shall execute and file with the city clerk an application in writing verified by the oath of the applicant, or one of his officers, upon a form to be provided by the city and shall pay to the city the amount of the fee for the license applied for, as specified in section 3-2-6 of this chapter. The application shall contain the following information:

- A. Personal Information: The name and place of residence of the applicant for the three (3) years preceding the date of the application.

- B. Place Description: A description of the particular place for which the license is desired, designating the same by street and number, if practicable, or by such other apt description as definitely locates such place, and the name of the owner of the premises for which the license is sought.
- C. Owner: That the Owner is the bona fide owner of the business which will be engaged in the sale of beer, for which the license is sought.
- D. Interest In Premises: The interest of the applicant in the premises where the business is to be conducted.
- E. Other Interested Persons: The name of any other person other than the applicant who is interested financially or otherwise in the business.
- F. Statement Of Facts: A statement of the following facts concerning the applicant or his associates, if any:

1. Age: That the applicant is not less than the age of nineteen (19) years.

2. Record: That within three (3) years immediately preceding the date of filing the application, the applicant has not been convicted of any violation of law regulating, governing or prohibiting the sale of beer or intoxicating liquors.

3. Felony Conviction: That within five (5) years immediately preceding the date of filing the application, that the applicant, and any person interested in the applicant's business as a retailer, has not been convicted of a felony or paid any fine or completed any sentence of confinement therefore within said time.

4. That within three (3) years next preceding the date of filing said application the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law of the state of Idaho, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked. *[Section 3-2-2-1 added December 2, 2003, Ordinance 2003-12-2.]*

3-2-2-2: FORM OF LICENSE; NONTRANSFERABLE: The license shall be upon a form to be provided by the city and shall be for a particular room or place. It shall not be transferable except by operation of the law, and shall expire on August 1 at one o'clock (1:00) A.M. next succeeding the date of its issue. *[Section 3-2-2-2 added December 2, 2003, Ordinance 2003-12-2.]*

3-2-2-3: 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 is at any time revoked or cancelled for any violation of this chapter.

- B. State/County Disqualification: Any person who is not qualified to obtain a retailer's license from the state of Idaho and/or Cassia County.
- 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 city. *[Section 3-2-2-3 added December 2, 2003, Ordinance 2003-12-2.]*

3-2-3: GRANTING OR DENIAL OF LICENSE: The City Clerk shall grant or deny the application within 28 days of the time it is filed with the City Clerk=s Office. In the event that an application for a license is denied by the City Clerk, or there is a revocation or suspension of an existing license by the City Clerk, the licensee or applicant shall be afforded a hearing pursuant to 23-1016, Idaho Code, before the City Council. A licensee or applicant may appeal the Clerk=s denial by filing a written notice of appeal with the City Clerk=s Office within 28 days of the Clerk=s denial, revocation or suspension of license. At the appeal hearing before the City Council, the Mayor and City Council, if upholding a Clerk=s decision to deny or revoke a license, shall specify in writing:

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

[Section 3-2-3, Amended July 2, 2002, Ordinance 2002-07-1]

3-2-4 RECORD OF PROCEEDINGS: In all cases where the City Council is hearing an appeal on denial of a license, transfer or renewal thereof, a transcribable verbatim record of the proceedings shall be made. If the appeal from the denial of the applicant for the beer 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 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 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.

[Section 3-2-4, Amended July 2 , 2002, Ordinance 2002-07-1]

325: INVESTIGATION OF APPLICANTS: No beer license shall be granted hereunder until there has been an investigation by law enforcement officials of all applicants for such license. After investigation the applicants will be forwarded to the City Council with a recommendation from the investigating official. If the investigating official recommended that an application be denied he/she shall state in writing:

(A) The statutes or ordinances and standards used in evaluating the application;

(B) The reason for the recommendation of denial; and

(C) The action, if any, that the applicant could take to obtain a recommendation of approval of the application for the license, transfer or renewal thereof.

326: LICENSE FEES: The license fees for the City of Albion shall be as follows:

(A) Where the applicant sells for consumption on the premises where sold, draught beer and bottled or canned beer or draught beer only, a sum to be determined by resolution of the City Council.

(B) Where the applicant sells only bottled or canned beer; none of which is consumed on the premises where sold, a sum equal to 25% of the fee set forth in Section 3-2-6 (A) above.

3-2-7: 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. Sale Off Premises: Sell or dispense any beer or alcoholic liquor outside the licensed premises.

2. Underage Persons: Sell, dispense or serve any beer or alcoholic liquor to a person under twenty one (21) years of age.

3. State Law: Violate any law of the state of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.

4. Posting License: Fail to keep the license posted in a conspicuous place within the licensed premises.

5. Inspection: Fail to keep the licensed premises open to inspection by the police officers of any city and the sheriff of Cassia County.

6. Hours: Sell, serve, dispense, or give away any beer between the hours of one (1:00) o'clock A.M. and six (6:00) o'clock A.M.

[Section 3-2-7 added December 2, 2003, Ordinance 2003-12-2.]

3-2-8: 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 city council. 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 the Mayor of Albion or any member of the Albion City Council, 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, the laws of the state of Idaho, 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 City Clerk a certified copy of his appointment and secure the written consent of the City Council.
- E. Change Of Location: Any licensed person desiring to change his place of business from one location to another shall file with the city clerk an application therefor. The city clerk shall make investigation of the new proposed place of business and within four (4) days make report thereon to the mayor and city council, accompanied by the application.

[Section 3-2-8 added December 2, 2003, Ordinance 2003-12-2.]

3-2-9: REVOKE, SUSPEND, OR DENY RENEWAL:

- A. Cause For Revocation, Suspension, Or Denial Of Renewal: Any license issued hereunder may be revoked by the city council or suspended for a period not to exceed six (6) months or the city council 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 city, county, or of any law

of the state relating to the manufacture, sale or possession of intoxicating liquor or beer.

- B. Procedure: Whenever information shall be received by the mayor and/or city council that any licensee has rendered his license subject to revocation or suspension as herein provided, or any complaint in writing is filed with the mayor and/or city council stating facts establishing that such licensee has rendered his license subject to revocation or suspension, a copy of such report or complaint shall be mailed to the licensee together with a notice directing him to appear before the city council at its next succeeding regular meeting and answer said charge. At such meeting the mayor and city council shall hear the licensee and any evidence that may be offered by him of the complaint, and thereupon, if it shall find that cause exists for the revocation or suspension of such license, the city council may revoke such license or suspend the same for a period not to exceed six (6) months and may direct that the license theretofore issued shall be taken by the sheriff or city police chief and forthwith cancelled or revoked or suspended as the case may be.

[Section 3-2-9 added December 2, 2003, Ordinance 2003-12-2.]

3-2-10: 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.

[Section 3-2-10 added December 2, 2003, Ordinance 2003-12-2.]