

CHAPTER 1

ALCOHOLIC BEVERAGES

ARTICLE A. BEER REGULATIONS

SECTION:

- 3-1A-1: Definitions
- 3-1A-2: License Required; Fees
- 3-1A-3: Application
- 3-1A-4: Form; Nontransferable
- 3-1A-5: License
- 3-1A-6: Prohibited To Certain Persons
- 3-1A-7: Issuance
- 3-1A-8: Denial
- 3-1A-9: Records
- 3-1A-10: Regulations And Restrictions
- 3-1A-11: Transfer Of License; Posting; Change Of Location
- 3-1A-12: Revoke, Suspend, Or Deny Renewal Penalty

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 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: When a license is issued hereunder after July 1, the fee therefor shall be one-half (1/2) the amount specified above.
- 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. Citizenship: That he or they are citizens of the United States and have been bona fide residents of the state of Idaho for a period of not less than thirty (30) days prior to the date of the application.
 2. Age: That he or they are over the age of nineteen (19) years.
 3. Character: That he or they are of good moral character, and have never been convicted of any violation of law regulating, governing or prohibiting the sale of beer, or intoxicating liquors.
 4. Felony Conviction: Whether the applicant, and any person interested in the applicant's business as a retailer, has ever been convicted of a felony or any crime involving moral turpitude, and if so give details of such conviction. (Ord. 2-83, 8-8-1983)

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 December 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. **Selling Off Premises:** Sell or dispense any beer outside the licensed premises. (Ord. 2-83, 8-8-1983)
 2. **Underage Persons:** 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. **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. (Ord. 2-83, 8-8-1983)
 6. **Hours:** 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: Whenever information shall be received by the board of county commissioners that any licensee has rendered his license subject to revocation or suspension as herein provided, or any complaint in writing is filed with the board of county commissioners 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 board of county commissioners at its next succeeding regular meeting and answer said charge. At such meeting the board of county commissioners 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 board of county commissioners 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 and forthwith canceled or revoked or suspended as the case may be. (Ord. 2-83, 8-8-1983)

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)

CHAPTER 1

ALCOHOLIC BEVERAGES

ARTICLE B. LIQUOR BY THE DRINK

SECTION:

- 3-1B-1: Definitions
- 3-1B-2: License
- 3-1B-3: Required; Fees
- 3-1B-4: Application
- 3-1B-5: Form Of License; Nontransferable
- 3-1B-6: License Prohibited To Certain Persons
- 3-1B-7: Issuance
- 3-1B-8: Denial
- 3-1B-9: Records
- 3-1B-10: Regulations And Restrictions
- 3-1B-11: Transfer Of License; Posting; Change Of Location
- 3-1B-12: Revoke, Suspend, Or Deny Renewal Penalty

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

LICENSE: A license issued by Cassia County for the retail sale of liquor by the drink.

LICENSEE: A person to whom a license has been issued by Cassia County.

LIQUOR: Every kind of beverage sold by and in a state liquor store operated in the state of Idaho. (Ord. 3-83, 8-8-1983)

3-1 B-2: **LICENSE REQUIRED; FEES:**

A. License Required: No person licensed by the state of Idaho to sell liquor by the drink at retail shall do so within Cassia County unless he is the holder of a valid license to carry on or conduct such business, issued to him by Cassia County.

- B. Fee: The license fee provided and required by this chapter shall be a sum equal to twenty five percent (25%) of the amount collected from the applicant by the director of law enforcement of the state of Idaho pursuant to Idaho Code section 23-904, for the license issued to such applicant by the state of Idaho for the current year.
- C. Proration: When a license is issued hereunder after January 1, the fee therefor shall be one-half (1/2) the amount specified above.
- D. Revocation: In the event that a license is revoked for any cause, no part of the license fee shall be refunded. (Ord. 3-83, 8-8-1983; amd. 2003 Code)

3-1 B-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 3-1B-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. Citizenship: That he or they are citizens of the United States and have been bona fide residents of the state of Idaho for a period of not less than thirty (30) days prior to the date of the application.
2. Age: That he or they are over the age of nineteen (19) years.
3. Character: That he or they are of good moral character, and have never been convicted of any violation of law regulating, governing or prohibiting the sale of beer or intoxicating liquors.
4. Felony Conviction: Whether the applicant, and any person interested in the applicant's business as a retailer, has ever been convicted of a felony or any crime involving moral turpitude and, if so, give details of such conviction. (Ord. 3-83, 8-8-1983)

3-1B-4: **FORM OF LICENSE; 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 the law, and shall expire on August 1 at one o'clock (1:00) A.M. next succeeding the date of its issue. (Ord. 3-83, 8-8-1983; amd. 2003 Code)

3-1B-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 is 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. 3-83, 8-8-1983)

3-1 B-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. 3-83, 8-8-1983)

3-1B-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. 3-83, 8-8-1983)

3-1 B-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. 3-83, 8-8-1983)

3-1B-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. **Sale Off Premises:** Sell or dispense any liquor outside the licensed premises. (Ord. 3-83, 8-8-1983)
 2. **Underage Persons:** Sell, dispense or serve any liquor to a person under twenty one (21) years of age. (Ord. 3-83, 8-8-1983; amd. 2003 Code)
 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. (Ord. 3-83, 8-8-1983)
 6. **Hours:** Sell, serve or dispense any liquor during the following specified hours:
 - a. Memorial Day, Thanksgiving Day and Christmas Day from one o'clock (1:00) A.M. to ten o'clock (10:00) A.M. the following day.
 - b. On any day of a general or primary election until after the time when the polls are closed.
 - c. Except as provided in subsections B6a and B6b of this section, from one o'clock (1:00) A.M. to ten o'clock (10:00) A.M. seven (7) days a week. (Ord. 3-83, 8-8-1983; amd. 2003 Code)

3-1B-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. 3-83, 8-8-1983)

3-1B-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 for any violation of 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. 3-83, 8-8-1983; amd. 2003 Code)

- B. Procedure: Whenever information shall be received by the board of county commissioners that any licensee has rendered his license subject to revocation or suspension as herein provided, or any complaint in writing is filed with the board of county commissioners 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 board of county commissioners at its next succeeding regular meeting and answer said charge. At such meeting the board of county commissioners 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 board of county commissioners 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 and forthwith canceled or revoked or suspended as the case may be. (Ord. 3-83, 8-8-1983)

3-1 B-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)

CHAPTER 1

ALCOHOLIC BEVERAGES

ARTICLE C. WINE REGULATIONS

SECTION:

- 3-1C-1: Definitions
- 3-1C-2: Exceptions To Regulations
- 3-1C-3: Licenses
- 3-1C-4: Required; Fees
- 3-1C-5: Application For License
- 3-1C-6: Issuance Of Licenses
- 3-1C-7: Reasons For Denial Of License
- 3-1C-8: Continuance Of Qualifications
- 3-1C-9: Location Restrictions
- 3-1C-10: Expiration; Renewal Of Licenses
- 3-1C-11: Transfer Of License
- 3-1C-12: Operating Hours
- 3-1C-13: Inspections; Access To Premises
- 3-1C-14: Prohibited Acts; Conditions
- 3-1C-15: Suspension; Revocation Of License Penalty

3-1C-1: **DEFINITIONS:**

DESSERT WINE: Only those beverages that are designated or labeled, pursuant to the federal alcohol administration act, as “sherry”, “madeira” or “port”, which contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty one percent (21%) alcohol by volume.

PERSON: Any individual, firm, copartnership, association, corporation or any other group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give more limited meaning is disclosed by the context in which it is used.

- PREMISES: A building in which the sale of wine is authorized.
- RETAIL WINE LICENSE: A license authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.
- RETAILER: Any person engaged in the sale or distribution of wine to the consumer, and to whom a retail wine license has been issued.
- TABLE WINE: Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.
- WINE: Includes table wine and dessert wine, unless the context requires otherwise.
- WINE BY THE DRINK LICENSE: A license to sell table wine or dessert wine by the individual glass or open bottle at retail, for consumption on the premises only.

All other words and phrases used in this article, the definitions of which are not herein given, shall be given their ordinary, commonly understood and accepted meanings. (Ord. 2004-04-01, 4-5-2004)

3-1 C-2: **EXCEPTIONS TO REGULATIONS:** Nothing contained in this article shall prohibit the state liquor dispensary from acting pursuant to its statutory authority. (Ord. 2004-04-01, 4-5-2004)

3-1C-3: **LICENSES REQUIRED; FEES:** Retailers holding valid licenses for the retail sale of liquor by the drink pursuant to Idaho Code, title 23, chapter 9, and title 3, chapter 1, article B of this code, may sell wine for consumption on or off the licensed premises. Persons holding a valid wine by the drink license may sell wine for consumption on the premises only. Retailers who do not possess a valid license for the retail sale of liquor by the drink, or retailers who do not have a valid wine by the drink license, shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken container.

It shall be unlawful for any person to sell, barter or dispose of wine at retail for consumption on or off the premises within the boundary of Cassia County until a valid license is granted by the board of county commissioners as provided by this article. License fees shall be as follows:

For a retail wine license only, where wine is sold only in closed containers, with no consumption on the premises - per annum.....\$100.00

For a wine by the drink license only, where wine is sold by the individual glass or open bottle at retail, for consumption on the premises only - per annum.....\$100.00

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) calendar 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. (Ord. 2004-04-01, 4-5-2004)

3-1C-4: APPLICATION FOR LICENSE:

A. Prior to the issuance of a license, the applicant shall execute and file with the county commissioners an application, in writing, verified by the oath of the applicant, or one of its officers, upon a form to be provided by the county and containing information and statements relative to the applicant and the premises (in existence or to be constructed in accordance with plans and specifications approved by the county) where the wine is to be sold. The application shall be verified by the affidavit of the applicant before a person authorized to administer oaths. In addition to setting forth the qualifications required by other provisions of this article, the applicant must show:

1. A detailed description of the premises for which a license is sought, its location and street address.
2. The names and addresses of all persons who will have any financial interest in any business to be carried on, in or upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, trusts or any other basis other than open trade accounts incurred in the ordinary course of business, and the amounts of such interest.

3. If the premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of wine on such premises.
 4. The name and address of the applicant which shall include all members of a partnership or association, or the officers and members of the governing board and the principal stockholders of a corporation. If a corporation, it shall also show proof it is qualified to do business in the state of Idaho.
- B. If, during the period of any license issued hereunder, any change shall take place in any of the requirements of this section, the licensee shall forthwith make a verified report of such change to the county clerk.
 - C. Applications shall include a copy of the license issued by the director of the Idaho state police for the premises and for the time for which the application is made.
 - D. If any false statement is made in any part of an application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a misdemeanor.
 - E. Each application shall be accompanied by the required license fee which shall be returned to the applicant if the board of county commissioners refuses to issue the license. (Ord. 2004-04-01, 4-5-2004)

3-1C-5: **ISSUANCE OF LICENSES:** The board of county commissioners shall duly consider and evaluate all new applications and renewal applications for a license to sell or dispense wine and after so evaluating shall determine to grant or deny each application in accordance with the provisions of this article. Prior to said determination, new applications shall be submitted to the sheriff of Cassia County for review, and his assessment of each application shall be considered by the board of county commissioners prior to its decision. If the board of county commissioners so orders, the county clerk shall issue a license to the applicant, which license or licenses shall at all times be prominently displayed in the place of business of the licensee and shall be issued only for the particular premises therein described. Separate retail wine and wine by the drink licenses shall be required for each premises. (Ord. 2004-04-01, 4-5-2004)

3-1 C-6: REASONS FOR DENIAL OF LICENSE:

- A. No license shall be issued to an applicant who at the time of making application:
1. Is not nineteen (19) years of age or older, if the applicant is an individual, or if a partnership, at least one partner is not nineteen (19) years of age or older.
 2. Is not the bona fide owner of such business.
 3. Is not a citizen of the United States, or has not been a bona fide resident of the state of Idaho for at least thirty (30) days preceding the date of the application for a license; provided, that if the applicant is:
 - a. A partnership, all members shall be citizens of the United States, at least one of the partners shall have been a bona fide resident of the state of Idaho for thirty (30) days prior to the date of application and shall be nineteen (19) years of age or older.
 - b. A corporation or association, it must be organized under the laws of the state of Idaho or qualified under the laws of the state of Idaho to do business in the state and the person who is, or will be, the manager of the corporation's or association's business of selling wine must be a citizen of the United States, and said manager of the corporation or association shall have been a bona fide resident of the state of Idaho for at least thirty (30) days prior to the date of application.
 4. That within three (3) years immediately preceding the date of filing the application, the applicant has been convicted, or if the applicant is a partnership, corporation or association and any of its employees, officers or members of the governing board or body, have been convicted or paid any fine, has received a deferred sentence or withheld judgment, has suffered the forfeiture of a bond for failure to appear, or has completed any sentence of confinement, for the violation of any law of the state of Idaho, any other state, or of the United States regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages, wine or beer.
 5. That within five (5) years immediately preceding the filing of the application the applicant, or if the applicant is a partnership, corporation or association and any of its employees, officers or members of the

governing board or body, has been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time.

6. That within three (3) years next preceding the date of filing the application, the applicant, or if the applicant is a partnership, corporation or association and any of its employees, officers or members of the governing board or body, has had any license provided for herein, or any license or permit issued to the applicant pursuant to the laws of this state, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages, wine, or beer, revoked.
 7. Does not possess a retail beer license issued by the director of the Idaho state police and Cassia County, if the application is for a retail wine license or wine by the drink license.
- B. The affirmative showing required with respect to qualifications of an applicant shall be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant, and to each person then employed by an applicant whose duties include the serving or dispensing of wine. (Ord. 2004-04-01, 4-5-2004)

3-1C-7: **CONTINUANCE OF QUALIFICATIONS:** A retail licensee must continue throughout the license period to have all of the qualifications and none of the disqualifications provided for in this article. (Ord. 2004-04-01, 4-5-2004)

3-1 C-8: **LOCATION RESTRICTIONS:** No wine by the drink license shall be issued for any place, where wine is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, that is within three hundred feet (300') of any public school, church, or any other place of worship measured in a straight line to the nearest entrance to the licensed premises. This limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area, but subsequent to licensing, came therein. (Ord. 2004-04-01, 4-5-2004)

3-1 C-9: **EXPIRATION; RENEWAL OF LICENSES:** All licenses issued pursuant to the provisions of this article shall expire at one o'clock (1:00) A.M. on the first day of a designated renewal month for Cassia County, to be determined by the director of the Idaho state police

pursuant to administrative rule. Renewal of the license shall be on forms prescribed and furnished by the county clerk. Renewal forms shall be submitted together with the required license fee and an affidavit verifying that the information contained in the original application is unchanged, or if there are material changes, indicating such changes. Renewal applications must be received by the board of county commissioners on or before the first day of the designated renewal month; provided, however, any licensee holding a valid license who fails to file an application for renewal of his current license on or before the first day of the designated renewal month shall have a grace period of an additional thirty one (31) days in which to file an application for renewal of his license and during which time he shall not be permitted to sell or dispense wine. (Ord. 2004-04-01, 4-5-2004)

3-1C-10: TRANSFER OF LICENSE:

- A. No license may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the written consent and approval of the board of county commissioners to such transfer upon application containing substantially the same information required of an applicant for a license. If the transferee possesses all of the qualifications and none of the disqualifications for such a license, the board shall approve the transfer, which approval shall be attached and made a part of the license. Prior to a decision on a denial or approval of said transfer by the board of county commissioners, the sheriff of Cassia County shall review the transfer application and his assessment shall be considered by the board of county commissioners before they make their determination. The fee for each transfer of a license shall be twenty dollars (\$20.00) which fee shall accompany the application for a transfer.
- B. Application to transfer a license from one location to another shall be made to the board of county commissioners on forms prescribed and furnished by the county clerk. Such a transfer shall not be approved unless the application procedure for a new license has been complied with.
- C. Any licensed person desiring to change its 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 seven (7) days make report thereon to the board of county commissioners, accompanied by the application.

- D. Nothing in this article shall be construed to create any vested right in any person or entity 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. (Ord. 2004-04-01, 4-5-2004)

3-1C-11: OPERATING HOURS:

- A. No wine shall be sold, dispensed or given away on the licensed premises between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M. seven (7) days a week.
- B. Any patron present on the licensed premises after the sale of wine has stopped as provided in subsection A of this section, shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.
- C. Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsections A and B of this section shall be guilty of a misdemeanor. (Ord. 2004-04-01, 4-5-2004)

3-1 C-12: INSPECTIONS; ACCESS TO PREMISES: The sheriff and all deputy sheriffs of the county of Cassia shall have the right at any time to enter in and upon such licensed premises, and it shall be unlawful to refuse any deputy sheriff admittance to or access to such premises for the purpose of police patrol, regulation and inspection of such premises. (Ord. 2004-04-01, 4-5-2004)

3-1 C-13: PROHIBITED ACTS; CONDITIONS:

- A. Prohibited Sales: It shall be unlawful and punishable as a misdemeanor for any person to sell, deliver or give away, or cause or permit to be sold, delivered or given away, any wine to:
1. Any person under the age of twenty one (21) years, proof of which shall be a valid driver's license, identification or military identification card bearing a photograph and date of birth, a valid passport or an identification issued by the Idaho state police.

2. Any person apparently or obviously intoxicated.
 3. Any person to whom sale is prohibited, as defined by the laws of the state.
- B. Minors:
1. Any person who shall procure wine for any person under twenty one (21) years of age, or any person under twenty one (21) years of age who shall purchase, attempt to purchase, or otherwise procure, consume or possess wine shall be guilty of a misdemeanor.
 2. Any person under the age of twenty one (21) years, who shall by any means represent to any person licensed to sell wine or to any agent or employee of such retail licensee, that he or she is twenty one (21) years or more of age, for the purpose of inducing such retail licensee, his agent or employee to sell, serve or dispense to him or her shall be guilty of a misdemeanor.
 3. Any person who shall by any means represent to any person licensed to sell wine or to his agent or employee, that any other person is twenty one (21) years or more of age, when in fact such other person is under the age of twenty one (21) years, for the purpose of inducing such retail licensee, his agent or employee, to sell, serve or dispense wine to such other person shall be guilty of a misdemeanor.
- C. Consumption In Motor Vehicle: No person shall, while operating or riding in or upon a motor vehicle upon a public highway of this state, consume wine or have in his possession any wine in an open or unsealed container of any kind. (Ord. 2004-04-01, 4-5-2004)

3-1C-14: **SUSPENSION; REVOCATION OF LICENSE:** If the board of county commissioners shall find that a licensee has made any false material statement in the application for a license, or did not have, or has not retained, the qualifications for a retailer, or has acquired a disqualification for a retailer, or is in violation of any of the prohibitions of Idaho Code, title 23, chapter 10, the board of county commissioners shall suspend, revoke or refuse to renew such retailer's license.

- A. No pleading shall be necessary, and any hearing before the board of county commissioners shall be informal.
- B. The procedure for suspension, revocation or refusal to grant or renew licenses issued hereunder shall be in accordance with the applicable

provisions of Idaho Code, title 67, chapter 52.

- C. If, after review of said petition for revocation of license, the board of county commissioners determines that the allegations in said petition are true and correct, the board may take the appropriate action to revoke that existing license. The criteria to be used by the board of county commissioners to revoke pursuant to such a petition shall be the same as provided in this section. (Ord. 2004-04-01, 4-5-2004)

3-1 C-15: **PENALTY:** Any person, firm, copartnership, 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. (Ord. 2004-04-01, 4-5-2004) ‘