

12-01

Amended Alcoholic Beverage Ordinance

An ordinance amending the alcoholic beverage ordinance, Title 4, Chapter 3, of Jefferson County Code and providing the effective date of this ordinance.

Be it ordained by the Board of County Commissioners of Jefferson County, Idaho, as follows:

1-6-1: Short Title and Purpose: This Chapter shall be known and cited as the JEFFERSON COUNTY ALCOHOLIC BEVERAGE ORDINANCE. The purpose of this Chapter is to provide for the issuance of beer by the drink, retail beer, retail wine, wine by the drink, and liquor by the drink licenses and licensing fees, to provide regulations; and to establish procedures for renewal, suspension, revocation or termination of such licenses.

1-6-2: Definitions:

Beer	Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, and /or other ingredients in drinkable water, containing not more than four percent (4%) alcohol by weight.
Beer by the Drink License	A license to sell beer by the individual glass, open bottle, or open can at retail for consumption on the premises only.
Bottled Beer	Beer sold or disposed of while securely, tightly and adequately sealed in a glass, metal or other container of a capacity not to exceed two (2) gallons.
Draft Beer	Beer sold or disposed of while securely, tightly and adequately sealed in a glass, metal or other container of capacity exceeding two (2) gallons.
Liquor	Any alcoholic beverage other than beer or wine.
Liquor by the Drink License	A license to sell liquor by the drink at retail for consumption on the premises only (includes wine).
Person	Any individual, firm, co-partnership, association, corporation or any other group or combination acting as a unit.
Premises	A building in which the sale of beer, wine or liquor by the drink is authorized.

Retail Beer	A license authorizing a person to sell beer at retail for consumption off the licensed premises.
Retail Wine	A license authorizing a person to sell wine at retail for consumption off the licensed premises.
License Retailer	Any person engaged in the sale or distribution of beer, wine or liquor by the drink to the consumer.
Wine	Any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other ingredients are added.
Wine by the Drink	A license to sell wine by the drink at retail for consumption on the premises only.

All other words and phrases used in this Chapter, the definitions of which are not herein given, shall be given their ordinary, commonly understood and accepted meanings.

1-6-3: Exceptions to Regulations: Nothing contained in this Chapter shall prohibit the State Liquor Dispensary from acting pursuant to the Idaho Liquor Act, Title 23 of Idaho Code.

1-6-4: License Required: It shall be unlawful for any person to sell beer, wine or liquor at retail for consumption on or off the premises within the boundary of Jefferson County until a license is granted by the Board of County Commissioners as provided by this Chapter.

1-6-5: Application for License:

A. Prior to the issuance of a license, the applicant shall file with the County Clerk an application, in writing, signed by the applicant and containing information and statements relative to the applicant and the premises (existing or to be constructed in accordance with plans and specifications approved by the County) where the beer, wine, or liquor 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 Chapter, the applicant must show:

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

other basis than open trade accounts incurred in the ordinary course of business, and the amounts of such interests.

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 beer, wine or liquor on such premises.

4. The name and address of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board and ten (10) principal stockholders of a corporation.

5. A copy of the articles of incorporation and bylaws of any corporation, the articles of association and the bylaws of any association, or the articles of partnership of any partnership.

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 written report of such change to the County Clerk.

C. Applications for retail beer, retail wine, or liquor by the drink shall be accompanied with the license issued by the Director of the Department of Law Enforcement of the State for the premises and for the time which the application is made, which license shall be returned to the applicant after examination by the Board of County Commissioners.

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 felony and upon conviction thereof shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years and fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both such fine and imprisonment (I.C. § 23-905(7)).

E. Each application shall be accomplished by the required license fee which shall be returned to the applicant if the Board of County Commissioners refuses to issue the license.

1-6-6: Issuance of License: The Board of County Commissioners shall duly consider and evaluate all new applications and renewal applications for a license to sell or dispense beer, wine or liquor at retail, and after do evaluating shall determine to grant or deny each application in accordance with the provisions of this Chapter. Prior to said determination, new applications shall be submitted to the Sheriff of Jefferson County for review, and his/her assessment of each application shall be considered by the Board of County Commissioners prior to its decision. If the Board of County Commissioners so order, 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 beer by the drink, retail beer, retail wine, wine by the drink, and liquor by the drink

licenses shall be required for each premises, except that retailers holding valid licenses for the sale of liquor by the drink may sell wine for consumption on the licensed premises.

1-6-7: Reasons for Denial of License:

A. No license shall be issued to:

1. A person not twenty-one (21) years of age or older.
2. A person not the bona fide owner of such business.
3. A person 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 twenty on (21) 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 is, or will be, the manager of the corporation's or association's business of selling beer, wine or liquor by the drink 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. Any person, or any one (1) of its members, officers, or governing board, who has, within three (3) years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for any license.
5. A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.
6. A person whose license issued under this act has been revoked; an individual who was a member of a partnership or association which was a licensee under this act and whose

license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this act and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this act and whose license was revoked; a corporation one (1) of whose officers, member of the governing board or ten (10) principal stockholders was a licensee under the provisions of this act and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this act and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license has been revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under the provisions of this act and whose license was revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license was revoked.

7. Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages except as provided in section 23-912, Idaho Code. This prohibition shall not apply to officers, agents, or employees of any winery operating a golf course on the same premises as the winery.

8. A person who does not hold a valid retail beer, retail wine, or liquor by the drink license issued under the laws of the state of Idaho.

9. Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked by the County Clerk.

B. The affirmative showing required with respect to qualifications of an applicant under this Section 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 beer, wine or liquor by the drink.

1-6-8: Continuance of Qualifications: A retail license must continue throughout the license period to have all of the qualifications and none of the disqualifications provided for in this Chapter.

1-6-9: Location Restrictions:

A. No license shall be granted unless a certificate of zoning has been issued by the Jefferson County Zoning Department if the establishment is not within an incorporated city. The zoning certificate shall be filed with the application for a license; provided, however, that the zoning certificate shall not be required to renew licenses, unless a zoning certificate was not obtained when the license was originally issued, in which case a zoning certificate is required prior to issuance of the license.

B. No retailer's license shall be issued to any person to sell beer, wine or liquor by the drink for consumption on the premises where any part of the room, or other place, for such sale or consumption is:

1. Within a radius of three hundred feet (300') of any part of a public school, nor
2. Within a radius of three hundred feet (300') of any room within which the regular religious or Sunday school service of a duly organized and established religious sect are, or within which a hospital or nursing home is conducted and were or was so conducted prior to issuance of such license.

C. 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.

1-6-10: Retailers License: License fees, to be collected by the County Clerk, shall be set by resolution, as amended from time to time, by the Jefferson County Commissioners for the following:

Beer:

1. For retail beer, where bottle or canned beer is sold only in closed containers, with no consumption on the premises where sold.
2. For beer by the drink, where bottle or canned beer is sold, for consumption on the premises where sold.
3. For beer by the drink, where draft, bottle or canned beer is sold, for consumption on the premises where sold.

Liquor by the Drink:

1. For liquor by the drink, the fee shall be seventy five percent (75%) of the amount of the license fee collected by the Director of the Department of Law Enforcement of the State of Idaho pursuant to the provisions of Chapter 9, Title 23 of Idaho Code (I.C. § 23-916).

Wine:

1. For wine by the drink, for consumption on the premises.

2. For retail wine, where wine is sold only in closed containers, with no consumption on the premises where sold.

If a license is issued prior to July 1 of the year in which issued, the applicant shall pay the full annual license fee. If a license is issued on or after July 1 of the year which issued, the applicant shall pay one-half (1/2) of the annual license fee.

1-6-11: Expiration, Renewal of License: All licenses issued pursuant to the provisions of this Chapter shall expire at one o'clock (12:00) a.m. October 1 of the year following the year in which the license is issued. 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 no sooner than August 1 and not later than the third (3rd) week of September of the following year. Any licensee holding a valid license who fails to file an application for renewal of his/her current license shall not be permitted to sell and dispense liquor by the drink at retail until the license is renewed.

1-6-12: 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, until the transferee shall first have obtained the 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 Jefferson 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 the transfer of a license shall be ten percent (10%) of the purchase price of the liquor license or the cost of good will, whichever is greater, which fee shall accompany the application for a transfer.

No fee shall be collected in the following events:

1. The transfer of a license between husband and wife in the event of a property division.
2. The transfer of a license to a receiver, trustee in bankruptcy or similar person or officer.
3. The transfer of a license to the heirs or personal representative of the estate in the event of the death of the licensee.

4. The transfer of a license arising out of the dissolution of a partnership where the license is transferred to one (1) or more of the partners.

5. The transfer of a license within a family whether an individual, partnership, or corporation.

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. In addition, before an existing license may be transferred to a new location, the applicant must satisfy all requirements of the Jefferson County Zoning Ordinance.

1-6-13: Operating Hours:

A. Beer and Wine

1. It shall be unlawful and a misdemeanor for any person in any place licensed to sell beer and wine or where beer and wine is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, to sell, dispense or give away between the hours of one (1) o'clock a.m. and six o'clock (6:00) a.m. of any day; provided, however, any beer or wine sold after six o'clock (6:00) a.m. Sunday must be consumed off the premises where sold except for restaurants provided for in subsections (3) and (4). The control and regulation of Sunday beer and wine sales within any incorporated area of Jefferson County shall be governed by that municipal entity.

2. Any patron present on the licensed premises after the sale of beer or wine has stopped as provided for in subsection (1) of this section shall have reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

3. A restaurant licensed to sell beer and wine that derives more than 60 percent of its gross annual revenue from the sale of prepared foods may sell beer and wine to be consumed on the licensed premises only between 12 p.m. and 9 p.m. Sundays.

4. A non-restaurant business that has as an adjunct for the sale of prepared food and has a license to sell beer and wine may do so from 12 p.m. to 9 p.m. Sundays provided such food generates at least 70 percent of gross revenues on weekdays.

B. Liquor:

1. It shall be unlawful and a misdemeanor for any person in any place licensed to sell liquor or where liquor is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, to sell, dispense or give away between the hours of one (1) o'clock a.m. and ten o'clock (10:00) a.m. Monday through Saturday.

2. Any patron present on the licensed premises after the sale of liquor has stopped as provided in subsection (1) of this section shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

3. The sale or distribution of liquor on Sundays is prohibited. The control and regulation of Sunday beer and wine sales within any incorporated area of Jefferson County shall be governed by that municipal entity.

4. No liquor shall be served on Christmas Day from one o'clock (1:00) a.m. until ten o'clock (10:00) a.m. the following day.

1-6-14: Inspections, Access to Premises: The Sheriff and all Deputy Sheriffs of the County of Jefferson 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 patrol, regulation and inspection of such premises.

1-6-15: 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 beer, wine, or liquor to:

1. Any person under the age of twenty-one (21) years of age. Proof of which shall be a valid driver's license or identification card issued by the Department of Law Enforcement of this State.

2. Any person apparently or obviously intoxicated.

3. Any interdicted person as defined by the laws of the State.

B. Minors:

1. Any person who shall procure beer, wine, or liquor for any person under twenty-one (21) years of age who shall purchase, attempt to purchase, or otherwise procure, consume or possess beer, wine or liquor 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 beer, wine, or liquor at retail, or to any agent or employee of such retail license, 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 beer, wine, or liquor at retail 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 beer, wine, or liquor to such other person shall be guilty of a misdemeanor.

4. Whenever any person licensed to sell beer, wine, or liquor, or his agent or employee, shall have reasonable cause to doubt that any person who attempts to purchase or otherwise procure beer, wine or liquor from or through such retail licensee, his agent or employee, is twenty-one (21) such retail licensee, his agent or employee, shall require such person to execute a certificate that he/she is twenty-one (21) years or more years, and to exhibit acceptable proof of age and identity. The form of such certificate, the manner in which it shall be executed, the record to be kept thereof, shall be the responsibility of the retail licensee, his agent or employee with respect to the execution of said certificate and a determination of what shall constitute acceptable proof of the age and identity shall be in accordance with the provisions of Idaho Code, Title 23.

1-6-16: 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, 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 notice, hearing, contest and appeal shall be as provided by Idaho Code, Title 23.

C. In addition, the Board of County Commissioners shall consider a petition for revocation of a valid existing license submitted by at least seventy five percent (75%) of the resident owners of property, or if not occupied and inhabited by a resident owner, the occupant of such property, within a radius of one thousand feet (1,000') of any part of the premises upon which beer, wine or liquor is sold for consumption.

D. 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.

1-6-17: Penalty: Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to the penalty provisions of Title 1, Chapter 4 of the Jefferson County Code.

This ordinance shall become effective upon its passage and approval.

Passed by the Board of County Commissioners of Jefferson County, Idaho on this 12th day of December 2011.



Debbie Karren

Debbie Karren, Chairman

Tad Hegsted

Tad Hegsted, Commissioner

Jerald Raymond

Jerald Raymond, Commissioner

Attest:

Christine Boulter

Christine Boulter, County Clerk