Chapter 5-05

ALCOHOLIC BEVERAGES

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Section 5-05-01 DEFINITIONS

As used in this Chapter the following words and phrases shall have the following meaning when not inconsistent with the context. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural. The word shall is always mandatory and not merely directory.

A. Alcoholic Beverage

Any beverage containing alcohol which is a product of distillation of any fermented liquor, or synthetic ethyl alcohol, including beer, wine, spirits, or any liquid containing alcohol, beer, wine or spirits.

B. Beer

Any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, and/or other ingredients in drinkable water.

C. Beer Garden

A geographically designated or enclosed area surrounded by fencing, with posted signage restricting consumption, approved by the City Council upon recommendation of the Police Chief and Fire Chief, where persons twenty-one (21) years of age or older may consume or possess alcoholic beverages in compliance with the provisions of this section and state law.

D. 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.

E. Catering Permit

A permit issued by the City Council to serve and sell alcoholic beverages, valid for no more than three (3) days and may be designated for less by the City Council.

F. City
The city of Boise City, Idaho.

G. City Council
The City Council of the city of Boise City, Idaho.

H. City Clerk's Office
The Office of the City Clerk or its designee.

I. Convention
A formal meeting of members, representatives, or delegates, including a political party, fraternal society, profession or industry.

J. Event
A Convention or a Party.

K. Event Venue
The physical location where an Event occurs.

L. Fire Chief
The Fire Chief of the city of Boise City, Idaho, or his designee.

M. Fire Department
The Boise City Fire Department.

N. License
A license issued by the Boise City Clerk to a qualified person, under which it shall be lawful for the licensee to sell and dispense alcoholic beverages, as provided by this ordinance.

O. Licensee
The person to whom a license is issued under the provisions of this ordinance and who holds a valid Idaho alcoholic beverage license issued by the Department of Law Enforcement.

P. Liquor
All kinds of liquor sold by and in a state liquor store of the State of Idaho.

Q. Off-Premise Beer or Wine license
A license authorizing a person to sell beer or wine at retail for consumption off of the licensed premises.

R. On-Premise beer or wine license
A license to sell beer or wine by the individual glass or opened bottle at retail for consumption on the premises only.

S. Party
A social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be

limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

T. Person
Includes an individual, firm, partnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

U. Place of Business
The place where business is carried on by the owners or agents of owners and under the control of those owners or agents.

V. Police Chief
The Chief of Police for the city of Boise, Idaho, or his designated agent.

W. Police Department
The Boise City Police Department.

X. Premises
The business place in which the service and sale of any alcoholic beverage is authorized under this ordinance and pursuant to Idaho statute.

Y. Retailer
Any person engaged in the sale or distribution of alcoholic beverages, with the exception of keg beer sold by Idaho State licenses wholesalers.

Z. Spirits
Any beverage which contain alcohol obtained by distillation mixed with drinkable water or other substances in solution, including, among other things, brandy, rum, whiskey, vodka and gin.

AA. State
The State of Idaho.

BB. Wine
Any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.) containing not more than fourteen percent (14%) alcohol by volume.

(Ord-2-15 Amended 7/7/15; 5407, Added, 07/21/1992)

Section 5-05-02 LICENSE

It shall be unlawful for any person or licensee to sell, keep for sale, or dispense any alcoholic beverage without first obtaining the appropriate license or permit required by law. Further, it shall be unlawful for licensees to give away or otherwise dispose of any liquor in the original containers or otherwise than by retail sale by the drink.
(5407, Added, 07/21/1992)

Section 5-05-03 APPLICATIONS

Prior to the issuance of a license, as herein provided, the applicant shall file with the City Clerk an application, in writing, signed by the applicant and containing such information and statements relative to the applicant and the premises (in existence or to be constructed in accordance with plans and specifications approved by City) where the alcoholic beverages are to be sold. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths and shall be accompanied with the license fee herein required. In addition to setting forth the qualifications required by other provisions of this Chapter, the application must show:

A. A detailed description of the premises for which a license is sought, its location, the street address, and name of any managers, agents or employees.

B. If the premises to be licensed are not owned by the applicant, then a certified copy of a document showing that the owner consents to the sale of alcoholic beverages on such premises.

C. 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 City Clerk.

D. Such application 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 for which the application is make, which license shall be returned to the applicant after examination by the City Clerk.

E. The application shall be accompanied with the license issued by the Board of County Commissioners for the premises and for the time for which the application is made, which license shall be returned to the applicant after examination by the City Clerk.

Section 5-05-04 APPLICATION HEARING AND DETERMINATION BY CITY CLERK

A. The City Council has determined that the City Clerk shall be delegated the authority to process, grant or deny all alcoholic beverage license applications, other than certain circumstances involving catering permits as herein provided in this Chapter.

B. Whenever the Clerk shall determine that an application for alcoholic beverage license, transfer or renewal is complete the Clerk shall approve or deny such application.

C. Whenever the Clerk or Council shall deny any application the Clerk 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, that the applicant could take to obtain the license, transfer or renewal thereof.

D. A transcribable verbatim record of all appeals of denials of license, transfer or renewal shall be kept for six (6) months from the date of appeal. Appeals shall be heard before the City Council.

E. The 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.

(5407, Amended, 07/21/1992; 5015, Added, 06/23/1987)

Section 5-05-05 QUALIFICATIONS

A. No person shall sell or dispense alcoholic beverages at retail until licensed in accordance with the provisions of this Chapter, and no retailer's license shall be issued to any applicant, or such license transferred to any person including the executor, administrator or trustee in bankruptcy of the estate of the holder of a retail license, when that person:

1. Is under the age of nineteen (19) years;
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 for at least thirty (30) days next preceding the date of application for a license; provided, that if the applicant is:
   a. A partnership, all members thereof shall be citizens of the United States and have been residents of the State for at least thirty (30) days preceding the date of application for a license; or
   b. A corporation or association, it must be organized under the laws of the State or qualified under the laws of the State to do business in the State and the principal officers and the members of the governing board must be citizens of the United States and residents of the State for at least thirty (30) days next preceding the date of application for such license;
4. The Licensee or any of its employees, officers or members, or members of the governing board or body, has been convicted or paid any fine, or has received a deferred sentence or withheld judgment, or has suffered the forfeiture of a bond for failure to appear, or has completed any sentence of confinement:
   a. That within three (3) years immediately preceding the date of filing the application the applicant has not been convicted of 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 or intoxicating liquors, or, within said time, suffered the forfeiture of a bond for failure to appear in answer to charges of any such violation;
   b. That within five (5) years immediately preceding the date of filing the application the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;
   c. 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 this State, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked.
5. Has engaged in the operation, or interests therein, or any of its employees, officers or members of its governing board or body has been so engaged in the operation, or interests therein, of any house or place for the purpose of prostitution or who have been convicted of any crime or misdemeanor opposed to decency or morality;
6. Has had a license revoked by this City, the State, or any city and county of this State; was a member of a partnership or association whose license has been revoked by this City, the State, or any city and county of this State; was an employee, officer or member of the governing board, or one of the principal stockholders of a corporation licensed to sell alcoholic beverages at retail and whose license has been revoked by this City, the State or any city and county of this State.

B. The affirmative showing required with respect to qualifications of an applicant shall also be required to be made with the 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 alcoholic beverages.

Section 5-05-06 CONTINUANCE OF QUALIFICATIONS

A retailer licensee must continue throughout the license period to have all of the qualifications and none of the disqualifications provided in this Chapter.

Section 5-05-07 PAYMENT OF LICENSE FEE

Each application shall be accompanied by the required license fees.

Section 5-05-08 RETAILER'S LICENSE FEE

A. All licenses for the retail sale of alcoholic beverages within the City shall terminate at midnight on December 31 of the year in which such license is issued, unless application for renewal has been made. If application for renewal has been made, the current license shall remain in force until the City Clerk has acted on the application for renewal and has given notice of the action taken.

B. License fees, to be collected by the Clerk, shall be in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule:

(6419, Amended, 09/20/2005; 5015, Amended, 06/23/1987; 4971, Amended, 12/16/1986; 4921, Added, 05/13/1986)

Section 5-05-09 RENEWAL

Renewal of a license shall be on forms prescribed and furnished by the Clerk. Renewal forms shall be submitted thirty (30) days prior to the expiration of the current license. The required license fee and an affidavit verifying that the information contained in the original application is unchanged must accompany a renewal form.

(4971, Added, 12/16/1986)

Section 5-05-10 LICENSE; TRANSFER

A license may be transferred, but the transferee, including any executor, administrator, or trustee in bankruptcy of the estate of the retailer shall not be authorized to retail alcoholic beverages thereunder until the transferee shall have filed under oath an application therefore containing the same information required in an application for a license, and if the transferee possesses the qualifications and none of the disqualifications of a retailer as provided in this Chapter, the Council shall approve such transfer and the Clerk shall amend the license to reflect the transfer.

A. Each such beer or wine license shall be accompanied with a transfer fee of ten percent (10%) of annual license fee. Application to transfer a beer or wine license from one authorized location to another shall be made to the Council on forms prescribed and furnished by the Clerk. Each application for transfer of location shall be accompanied by a transfer fee of ten percent (10%) of annual license fee.

(6240, Amended, 07/01/2003; 4921, Added, 05/13/1986)

Section 5-05-11 BEER ZONES

A. Zone A

A license to sell beer for consumption upon premises situate within the boundaries of the following described area shall be by application only. Beginning at the intersection of the center of Sixth with the center of Jefferson Streets, thence west along Jefferson Street to the center of Eleventh Street and Jefferson Street, thence south along Eleventh Street to the center of Eleventh and Bannock Streets; thence west along Bannock Street to the center of Thirteenth and Bannock Streets; thence south along Thirteenth to the center of Thirteenth and Idaho Streets, thence west along Idaho Street to the center of Sixteenth and Idaho Streets; thence south along Sixteenth Street to the alley between Idaho and Main Streets, thence west along the alley to the center line of Twenty-second Street; thence south along the center of Twenty-second Street to the center of Main Street; thence west along Main Street to the center of Twenty-eighth Street, thence south along the center of Twenty-eighth Street to the center line of Fairview Avenue; thence east along the center line of Fairview Avenue to the center line of Twenty- fifth Street; thence south along the center line of Twenty-fifth Street to the center line of Ark Street; thence East along the center line of Ark Street; and northeasterly along the center line of south Eighteenth Street to the center line of River Street; thence southeasterly along the center of River Street to the center of Americana Boulevard; thence northeasterly along the center line of Americana Boulevard to Front Street; thence easterly along Front Street to the center of Ninth and Front Streets; thence south along the center line of Ninth Street to the center of Ninth and Borah Streets, thence west along the center line of Borah Street to the Center of Borah and Tenth Streets; thence south along the center line of Tenth Street to the intersection of the north line of Shoreline Drive; thence easterly along the north line of Shoreline Drive and the north line of Julia Davis Park to the center line of Capitol Boulevard; thence north along said center line of Capitol Boulevard to the center line of Front Street; thence east along the center line of Front Street to the intersection of the center line of Front Street and Fifth Street; thence north along the center line of Fifth Street to the intersection of extended center line of the alley between Idaho and Bannock Streets, thence westerly along the center line of said alley between Idaho and Bannock Streets to the center line of Sixth Street; and thence north along the center line of Sixth Street to the place of beginning.

B. Zone B

A license to sell beer for consumption upon the premises where the premises are located outside of Zone A shall not be granted unless the applicant shall first obtain the written consent of 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 three hundred feet (300') of any part of the premises upon which beer is to be sold for consumption. Said written consent shall be filed with the application for a license; provided, however, that the aforesaid consent of owners or occupants of property shall not apply to renewals or transfers of such licenses or where applicant provides proof to the Clerk at the time of initial application that such property is zoned for the sale of alcohol.

(5305, Added, 04/23/1991)

Section 5-05-12 SCHOOLS; CHURCHES; EXCEPTIONS

No alcoholic beverage license shall be issued to any person to sell beer for consumption on the premises where any part of the room, or other place, for such sale or consumption is:

A. Within a radius of three hundred feet (300') of any part of building within which any public school activities are conducted, nor

B. Within a radius of one hundred fifty feet (150') of any room within which the regular religious or Sunday school services of a duly organized and established religious sect are, or within which a hospital is conducted and were or was so conducted prior to issuance of such license; provided, that this Section shall not apply to that portion of Zone A bounded on the south by the south side of Grove Street and on the north by the north side of Bannock Street and lying between the east side of 6th Street and west side of 13th Street; and provided further that Subsection B. shall not apply to a room or other place for such sale and consumption for which such a retailer's license had been issued prior to the conduct of such services or hospital and except for any period of three (3) months have continuously been in effect.

Section 5-05-13 CONSUMPTION ON AND OFF PREMISES

Retailers holding valid licenses for the retail sale of liquor may sell wine for consumption on or off the licensed premises. Retailers holding a valid on-premise wine license may sell wine for consumption on the premises only. Retailers who do not possess a valid license for the retail sale of liquor or retailers who do not have a valid on-premise wine license shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken container. Wine sold for consumption on or off the licensed premises may be sold only during hours and on the days beer can be sold.

Section 5-05-14 POLICE; ACCESS TO PREMISES

All police officers of the City shall have the right at any time to enter in and upon any such licensed premises, and it shall be unlawful to refuse any officer of the police force of the City admittance to or access to such premises for the purpose of police control, regulation and inspection of such premises.

Section 5-05-15 LIQUOR CATERING PERMIT

A. LEGAL AUTHORITY. Idaho Code Sections 23-934A through 23-934C authorize the City to issue catering permits.

B. PURPOSE. This section provides the procedures and guidelines to obtain an alcoholic beverage catering permit pursuant to Idaho Code, Title 23.

C. CATERING PERMIT REQUIRED. No person shall serve and sell any alcoholic beverage by the drink at an Event, without first obtaining a Catering Permit issued by the City Clerk’s Office.

D. APPLICATION FOR PERMIT.

1. Application for a Catering Permit shall be made to the City Clerk’s Office in such form and manner as may be prescribed.

2. The written application for a Catering Permit shall include, at a minimum, the following:

a. The name and address of the applicant; and if a partnership, the name and address of the general partner; and if a corporation or association, the name and address of the agent for service of process; and such other information as may be required.

b. The number and a photocopy of the applicant’s Idaho State retail liquor license, Idaho state retail beer or wine license, or permit issued pursuant to Idaho Code Section 23-1007A.

c. The dates and hours requested during which the permit will be effective, not to exceed three days.

d. The name of the organization, group, or person sponsoring the party or

convention; and if applying pursuant to a Planned Special Event Permit, the name and number of the Planned Special Event Permit.

e. If not the applicant, the name, phone number, physical and mailing address, and email address of the applicant's designee who will present at the premises for the duration of the Event.

f. The address at which the Catering Permit is to be used; and if a public building or private building open to the public, the rooms in which the alcoholic beverages are to be served.

g. A detailed description or diagram of the location where the alcoholic beverages are to be served and sold, including a detailed scale drawing of the area.

h. The number of people anticipated to attend the event, including all hosts, employees, sponsors, agents, consumers, and security personnel.

3. Upon receipt of an application for a permit, the City Clerk's Office shall cause the application to be forwarded to the Boise City Police Chief and Boise City Fire Chief. In addition, the City Clerk's Office shall cause an investigation to be made to the extent necessary to determine whether the applicant is qualified to receive a Catering Permit.

4. Every application for a Catering Permit shall be accompanied by a non-refundable permit fee in an amount established by the state of Idaho and listed on the most current City Clerk License Fee Schedule. An applicant shall pay a fee for each day the Catering Permit is to be in effect.

5. The application must be made to the City Clerk's Office no less than five business days prior to the Event. In the event an applicant submits an application within five business days of the Event, the applicant may request an expedited review. The request for expedited review must be in writing and must explain the reasons for requesting the expedited review. Upon good cause shown, in the City Clerk's sole discretion, the City Clerk may waive the application filing deadline. If the City Clerk's fails to find good cause for an expedited review, the City Clerk shall provide such a decision to the applicant in writing. The application deadline may also be waived if an applicant is applying to use the Catering Permit at a Pre-approved Event Venue and the number of persons attending the Event is less than 200. In either waiver situation, the application shall be submitted no later than twelve o'clock p.m. (12:00 p.m.) the day before the Event.

E. DISQUALIFYING CIRCUMSTANCES. No person shall be issued a Catering Permit if the person:

1. Does not possess a valid retail liquor license, Idaho state retail beer or wine license, or permit issued pursuant to Idaho Code Section 23-1007A; or

2. Has, within five (5) years prior to the date of making application for the permit, been convicted of any felony; or

3. Has, within three (3) years prior to the date of making application for the permit, been convicted of, received a withheld judgment for, or any other determination of, a drug or alcohol related violation, whether criminal, civil or administrative, 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; or

4. Is required to obtain a Planned Special Event permit as provided by Boise City Code and has not obtained approval of said permit; or

5. Has requested a Catering Permit for more than three consecutive days; or

6. The Police Chief or Fire Chief recommend denial of the Catering Permit.

F. POLICE AND FIRE APPLICATION REVIEW.

1. Upon receipt of an application from the City Clerk's Office, the Police and Fire Chiefs, or their designees, may recommend approval of the application, approval of the

application with conditions, or denial of the application, for any of the following reasons:

a. Police Chief. To carry out the policies of the City, including to protect the health, safety and welfare of the public, or to prevent an unlawful disturbance or nuisance, the Police Chief may recommend the Catering Permit be issued with conditions. The Police Chief may consider such factors as the anticipated number of participants, the location of the venue, pedestrian and vehicular traffic, the occurrence of other events in the area at the same time, ingress or egress of customers to the business and surrounding businesses, the presence of minors, and any other relevant factors. The conditions the Police Chief may impose include, but are not limited to, posting signs, hiring additional security personnel at the applicant's expense, hiring trained alcohol servers, reducing the number of dates or times of the Event, or maintenance of the Event Venue in a specified manner, including restricted area and access points.

b. Fire Chief. The Fire Chief shall review the application to confirm that the proposed size, configuration, location, and number of people attending the Event is consistent with the Fire Code, and to determine if the Event will impede the access of emergency vehicles or emergency personnel to the area. The Fire Chief may recommend that the Event Venue be maintained in a specified manner as a condition of the Catering Permit to ensure compliance with the Fire Code and access of emergency vehicles and personnel.

G. EVENT VENUE.

1. A proposed Event Venue shall meet all of the following conditions:

a. The Event Venue abuts or is contiguous to or has sufficient sanitation services;

b. The boundaries of the Event Venue are identified by the placement of one or more continuous physical barriers with a minimum height of three feet;

c. Any conditions required by the Police Chief or Fire Chief that establish and limit access of the public to and from the area where alcoholic beverages are served and sold;

d. The proposed placement or description of any required signs is satisfactory to the Police Chief;

e. None of the Event Venue's furnishings, tables, chairs or barriers encroach on any sidewalk, and are not closer than eight feet from a roadway, alley, or edge of the payment used for motor vehicle traffic, not including private parking areas; and

f. The Event Venue obtains and maintains in good standing all required State, County and City licenses and is in compliance with all applicable federal, state and local statutes, rules and regulations.

H. ISSUANCE OR DENIAL OF CATERING PERMIT. The City Clerk's Office shall issue a Catering Permit if all of the following are met and shall deny the application if one or more of the following are not met:

1. The applicant is disqualified as set forth in Section 5-05-15E;
2. The Police Chief and Fire Chief recommend issuance of a Catering Permit either with or without conditions, and, if with conditions, the applicant accepts any such conditions; and
3. The Event Venue meets all of the requirements of Section 5-05-15G.

I. PRE-APPROVED EVENT VENUE.

1. An Event Venue that routinely hosts Catering Permit events may be pre-approved as an Event Venue ("Pre-approved Event Venue"), provided the Event Venue meets all of the following conditions:

a. The Event Venue hosts at least 20 events each year at which a Catering Permit is required;

b. The Event Venue obtains and maintains in good standing all required State, County and City licenses and is in compliance with all applicable federal, state and local statutes, rules and regulations; and

c. The Event Venue shall not, within 120 days of its request to be on the Pre-approved Event Venue list, have any violations of its State, County and City licenses, or any criminal violations regarding the serving of alcoholic beverages.

2. Despite meeting the above qualifications, the City Clerk's Office may deny pre-approval status to an Event Venue if the City deems that inclusion on the pre-approval list is contrary to public safety or inconsistent with the purpose for which Catering Permits should be used.
3. A venue must re-submit its request to be a Pre-approved Event Venue each January, or at the time of the first Catering Permit application to use that venue for the year.
4. The City Clerk, Boise Police Department, or Boise Fire Department may remove a venue from the Pre-approved Event Venue list at any time for any violation of Boise City Code, or any civil or criminal violation. Both inclusion on the Pre-approved Event Venue list and removal from the list is within the discretion of the City Clerk's Office, and no right of appeal exists for failure to be included on the list or removal from the list.

J. MULTI-DAY PLANNED SPECIAL EVENT. If, pursuant to Title 5, Chapter 10, a Planned Special Event is scheduled for more than three days, two or more separate applicants may apply for and receive two or more separate Catering Permits, which may run consecutively to each other and last the duration of the Planned Special Event. Provided, however, that no individual applicant may receive two Catering Permits that run consecutively or receive a Catering Permit that exceeds three consecutive days.

K. CATERING PERMIT EVENT.

1. At the Event for which the Catering Permit was obtained, the applicant or applicant's designee listed on the application shall be personally present at the Event Venue for the duration of the permit.
2. The Catering Permit shall be displayed in a conspicuous location at the Event Venue for the duration of the event.

L. GROUNDS FOR REVOCATION. The City Clerk, Police Chief, or Fire Chief may revoke a Catering Permit for the following reasons:

1. When, subsequent to issuance of the Catering Permit, the Clerk's Office finds that the permittee failed to meet the qualifications and none of the disqualifications of this Section;
2. The permittee obtained his permit by fraud or misrepresentation;
3. The permittee fails to comply with any of the minimum standards, requirements, policies or procedures set forth in this Section;
4. The Catering Permit is being exercised contrary to the conditions of the Catering Permit; or
5. The permittee is operating the Catering Permit in such a manner as to be detrimental to the public health, safety, or welfare.

M. REVOCATION DUE TO EXIGENT CIRCUMSTANCES. Where there exists a clear danger to the health, safety or welfare of the public resulting from the use of the Catering Permit, or where the permittee or his agents fail to perform in conformance with the conditions and terms set forth on the Catering Permit, the City Clerk, Police Chief or Fire Chief may revoke the Catering Permit by immediately demanding and seizing the permit.

Upon receipt of the revoked permit, or where the permit cannot be seized due to the unavailability of the permittee or his designee, or where the permittee or his designee refuses to surrender the permit, the Chief of Police may direct the seizure and removal of all alcoholic beverages. The Chief of Police shall keep the alcoholic beverages as evidence and, upon conviction of the person for violation of the provisions of this Section or any other local, County or State law, forfeit the alcoholic beverages, including all packages and bottles, to the state of Idaho.

N. PROCEDURE UPON DENIAL, REVOCATION; AND APPEAL. Except as otherwise provided

in this Section, the procedures for denial, revocation and appeal shall be as set forth in Title 5, Chapter 02.

O. VIOLATIONS.

1. A person who fails to display or surrender a Catering Permit as provided in this Section shall be guilty of an infraction for a first time offense. A second or subsequent offense shall be a misdemeanor.
2. A person holding a Catering Permit, or any person employed or acting on the behalf a person holding a Catering Permit, who permits, allows, or fails to correct conduct in violation of the conditions or terms of a Catering Permit is guilty of an infraction for a first time offense. A second or subsequent offense shall be a misdemeanor.
3. It shall be a misdemeanor for any person to obtain multiple Catering Permits for the sole purpose of circumventing state or local laws and regulations.

Section 5-05-16 PENALTY

A. Penalty for Misdemeanor Violation. Every misdemeanor is punishable by a fine not to exceed one thousand dollars ($1,000.00), or imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment.

B. Penalty for Infraction Violation. Every infraction is punishable by a fine not to exceed three hundred dollars ($300.00).

(Ord-2-15, Repeal and Re-enacting, 7/7/15; 6191, Amended, 10/08/2002)

Section 5-05-17 SEPARABILITY

If any clause, sentence, paragraph, section, or any part of this act, shall be declared and adjudged to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect, invalidate, or nullify the remainder of this section.
(5407, Added, 07/21/1992)