

Chapter 6-01

GENERAL OFFENSES

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Section 6-01-01 ASSAULT

As assault is: (a) an unlawful attempt, coupled with the apparent ability, to commit a violent injury on the person of another; or (b) an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. A person who commits an assault is guilty of a misdemeanor.

(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 586; 1936 Code, Sec. 4-1206; 1952 Code, Sec. 19-1105)

Section 6-01-02 BATTERY

A battery is any: (a) willful and unlawful use of force or violence upon the person of another; or (b) actual, intentional and unlawful touching or striking of another person against the will of the other; or (c) unlawfully and intentionally causing bodily harm to an individual. A person who commits a battery is guilty of a misdemeanor.

(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 587; 1936 Code, Sec. 4-1206; 1952 Code, Sec. 19-1106)

Section 6-01-03 FAILURE TO DISPERSE

When two or more people congregate in a public place and the acts of such persons create a substantial risk of injury, alarm or serious inconvenience to any person or property, or hinder or obstruct the free passage of any person or vehicle upon a public right of way, a peace officer or other public official engaged in executing and enforcing the law may order the participants and others in the immediate vicinity to disperse. A person who refuses a lawful order to disperse or a person who knowingly and intentionally fails to obey such an order is guilty of a misdemeanor.

- A. Exceptions:
 - 1. No such order shall apply to a news reporter or other person observing or recording the events on behalf of the public press or other news media, unless he is physically obstructing lawful efforts by such officer to disperse the group.
 - 2. Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 616; 1936 Code, Sec. 4-1308; 1952 Code, Sec. 19-1205)

Section 6-01-04 USE OF TOBACCO BY MINORS; SALES TO MINORS

- A. Every person under eighteen (18) years of age who shall buy, accept, or have in his or her possession any cigarette, cigar or tobacco in any form, or any cigarette paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or compounds of tobacco used in the filling or makeup of cigarettes, shall be guilty of a misdemeanor.
- B. Every person who shall give, sell or furnish, directly or indirectly, any cigarettes, cigars or tobacco in any form or any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or any compound of tobacco used in the filling or makeup of cigarettes, or any other equipment or materials used for the consumption of tobacco to any person under the age of eighteen (18) years, shall be guilty of a misdemeanor.
- C. No person under the age of eighteen (18) years shall enter, remain, or loiter in or about the premises of any retail tobacco business, as defined by Boise City Code Section 5-09-01F, nor shall any owner, employee, agent or other person in charge of such business permit or allow any person under the age of eighteen (18) years to enter, remain, or loiter in or about the premises of such place. Any person who violates this section shall be guilty of a misdemeanor.
- D. Every retail tobacco business shall employ a person to sit or stand at each entrance to the retail tobacco business and such person shall demand photographic identification, as defined by Boise City Code Section 5-09-01E, from each person desiring entrance to the business. The failure of the owner, employee, agent or other person in charge of the business to demand and examine photographic identification from all persons prior to the entry into a retail tobacco business shall be a misdemeanor.
- E. It shall be a misdemeanor for a person under the age of eighteen (18) years to provide false identification, or make any false statement, regarding his or her age in an attempt to obtain tobacco products, as defined by Boise City Code Section 5-09-01J, or enter a retail tobacco business, as defined by Boise City Code Section 5-09-01F.

- F. It shall be a misdemeanor for any person to refuse to present identification indicating age, when requested by a peace officer of the state of Idaho when: (a) he or she shall possess, purchase, attempt to purchase or use tobacco products, as defined by Boise City Code Section 5-09-01J; or (b) he or she is on the premise of a retail tobacco business, as defined by Boise City Code Section 5-09-01F.
- G. Exceptions:
 1. A person under the age of eighteen (18) years who is assisting with a random unannounced inspection in accordance with Idaho Code Section 39-5710(2) shall not be in violation of this chapter.
 2. A person under the age of eighteen (18) years may possess, but not sell or distribute tobacco products, in the course of employment, for duties such as stocking shelves or carrying purchases to customers' vehicles.
 3. A person under the age of eighteen (18) years may enter a tobacco business temporarily with a parent or guardian in order for the parent or guardian to purchase tobacco products.

(6725, Amended, 07/07/2009; 6501, Repealed & Replaced, 08/29/2006; 3557, Added, 05/13/1974)

Section 6-01-05 DISORDERLY CONDUCT

Any person who violates the provisions below is guilty of a misdemeanor:

- A. Occupying, lodging or sleeping in any building, structure or place, whether public or private, or in any motor vehicle without the permission of the owner or person entitled to possession or in control thereof; or
- B. Loitering, prowling or wandering upon the private property of another, without lawful business, permission or invitation by the owner or the lawful occupants thereof; or
- C. Loitering or remaining in or about school grounds or buildings, without having any reason or relationship involving custody of or responsibility for a pupil or student, school authorized functions, activities or use.
- D. Law enforcement officers shall not enforce subsection A above (disorderly conduct ordinance), when the individual is on public property and there is no available overnight shelter. The term "available overnight shelter" is a public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. If the individual cannot utilize the overnight shelter space due to voluntary actions such as intoxication, drug use, unruly behavior, or violation of shelter rules, the overnight shelter space shall still be considered available.

This section does not affect Sections 13-03-05(E) or 13-03-09(A), which do not prohibit sleeping in a public park during hours of operation.

(Ord-38-14, Amended, 9/23/2014; 6501, Repealed & Replaced, 08/29/2006; 5378, Amended, 03/10/1992)

Section 6-01-06 PUBLIC INTOXICATION

Any person, who is in public and intoxicated at a level that presents a danger to others or creates a disturbance of the peace, shall be guilty of a misdemeanor.

(6682; Amended, 09/16/2008, 6501, Repealed & Replaced, 08/29/2006; 5545, Amended, 05/17/1994 ; 5155, Amended, 04/18/1989; 4924,

Section 6-01-07 AGGRESSIVE SOLICITATION

Any person who violates the provisions below is guilty of a misdemeanor:

1. Begg in a public place with the intent to intimidate another into giving money or goods; or
2. Obstructs pedestrian or vehicular traffic in a public place.

A. Definitions:

1. Aggressive manner means to:
 - a. Intentionally make any non-consensual physical contact with another person in the course of a solicitation; or
 - b. Approach or follow the person being solicited in a manner that is intended to cause a reasonable person to be intimidated into responding affirmatively to the solicitation for fear of imminent bodily harm to oneself or another, or damage to or loss of property; or
 - c. Continuing to solicit within five (5) feet of the person being solicited after the person has given or expressed a negative response, if continuing the solicitation is intended to cause a reasonable person to be intimidated into responding affirmatively to the solicitation for fear of imminent bodily harm to oneself or another, or damage to or loss of property; or
 - d. Intentionally obstruct the safe or free passage of the person being solicited, causing the person, including a person operating a vehicle, to move from his or her intended path to avoid reasonably imminent non-consensual physical contact with the person making the solicitation; or
 - e. Make any threatening statement or gesture immediately before or during the solicitation or after a refusal to make a donation intended to cause a reasonable person to be intimidated into responding affirmatively to the solicitation for fear of imminent bodily harm to oneself or another, or damage to or loss of property.
2. Solicit or solicitation means to request, ask or beg, whether by words, bodily gestures, signs, or other means, for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation.

B. Prohibited Acts

It shall be unlawful for a person to solicit in an aggressive manner. Any person found guilty of violating this subsection is guilty of a misdemeanor, punishable by up to six months in jail and/or a fine of up to \$1,000.00.

Section 6-01-08 DISORDERLY HOUSEHOLD OR PREMISES

It shall be unlawful for any person or persons to host a party, gathering or event on private property within any residential area of the City:

1. which is disruptive to the public peace, health, safety, or welfare due to the magnitude of the crowd, loud music or other noise, disturbances, unruly behavior by those attending the party, excessive traffic or destruction of property; or
2. where a person under the age of twenty-one (21) years is in possession of, is consuming or is under the influence of an alcoholic beverage and the person or persons responsible for the party knew or reasonably should have known that the person in possession of, consuming, or under the influence of an alcoholic beverage is under the age of twenty-one (21) years.

A. Definitions:

1. “Party” means a party gathering or event or other assembly of persons for a social occasion or activity.
2. “Household or premises” means any home, apartment, condominium, premises or other dwelling unit or meeting room or hall, including the yard and curtilage of such household or premises which are owned, rented, leased or under the control of the person or persons responsible for the party, regardless of whether such premises are occupied on a permanent or temporary basis, or merely occupied as a premises for a social function.
3. “Person responsible for the party” means:
 - a. The person or persons in charge of the premises where the party takes places; and/or
 - b. The person or persons authorizing the use of the premises for the party; and/or
 - c. The person or persons who organized the party.
4. “Minor” means a person under the age of twenty-one (21) years.
5. “Alcoholic beverage” means any beverage containing alcohol, including liquor, spirits, beer, and wine.
6. “Knowingly” for purposes of this Section means having a general knowledge of or reason to know which warrants further inquiry or inspection.

B. The Court may order restitution to be paid by the person or persons responsible for a party or gathering that requires a subsequent law enforcement or emergency response. Such restitution, if ordered, would include actual costs for law enforcement or other emergency services incurred for the purpose of abating any of the conditions or violations described in subsection A.

C. Any person in violation of this Section shall be guilty of a misdemeanor.
(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 576; 1936 Code, Sec. 4-706; 1952 Code, Sec. 19-706)

Section 6-01-09 DISTURBING THE PEACE

Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood, family or person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, is guilty of a

misdemeanor.

(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 589; 1936 Code, Sec. 4-1208; 1952 Code, Sec. 19-1108)

Section 6-01-10 FIGHTING

It shall be unlawful for any person to intentionally, knowingly, or recklessly fight with another person in a public place.

(6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 617; 1936 Code, Sec. 4-1216; 1952 Code, Sec. 19-1115)

Section 6-01-11 INDECENT EXPOSURE

Every person who willfully and lewdly, either: (1) exposes his or her genitals, in any public place, or in any place where there is present another person or persons who are offended or annoyed; or (2) procures, counsels, or assists any person so to expose his or her genitals, where there is present another person or persons who are offended or annoyed thereby is guilty of a misdemeanor.

(6501, Repealed & Replaced, 08/29/2006)

Section 6-01-12 RESISTING AND OBSTRUCTING OFFICERS

Every person who willfully resists, delays or obstructs any public officer, in the discharge, or attempt to discharge, of any duty of his office or who refuses a lawful order of a public officer is guilty of a misdemeanor.

(6501, Repealed & Replaced, 08/29/2006; 1447, Added, 05/04/1926, Sec. 1; 1952 Code, Sec. 20-401)

Section 6-01-13 FALSE REPORTS

It shall be unlawful for any person, firm, partnership, association, corporation, company or organization of any kind:

- A. To make or file, or cause to be made or filed, an accident report as provided by Section 10-3-9 of the Boise City Code, knowing the same to be false;
- B. To knowingly give or cause to be given false information to any law enforcement officer or any state or local government agency or personnel;
- C. To intentionally make a false call or turn in false information regarding the need for police or emergency assistance, or aid or abet in the commission of such act;
- D. To file a knowingly false statement, claim, complaint, or document to be used or reviewed by the Boise City Ethics Commission.

(6501, Added, 08/29/2006)

Section 6-01-14 SUICIDE

(Ord-4-014, Repealed, 10/14/14; 6501, Repealed & Replaced, 08/29/2006; 2609, Added, 05/06/1963)

UNLAWFUL CONSUMPTION OF OR POSSESSION OF ALCOHOLIC BEVERAGES IN A PUBLIC PLACE

- A. Except as otherwise provided by license, permit, or law, it shall be unlawful for any person: (1) to consume any alcoholic beverage in a public place within the city of Boise City, Idaho (“City”); or (2) to possess, in a public place within the City, any alcoholic beverage in any bottle, can, or other receptacle which has been opened, or has a seal broken, or where the contents of which have been partially removed.
- B. The provisions of this Section shall not apply to the possession or consumption of any alcoholic beverage by a person who is at least twenty-one (21) years of age when such possession or consumption occurs:
1. Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house, or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy;
 2. Within an establishment, business place, or other location properly licensed and permitted by the state of Idaho, Ada County, and the City for the consumption of any alcoholic beverage;
 3. While the person is a passenger in the passenger compartment of a vehicle licensed by the City as a Touring Vehicle Service pursuant to Title 5, Chapter 03, of the Boise City Code;
 4. Within the area defined on Exhibit A and depicted on Exhibit B, between the hours of 10:00 a.m. and 10:00 p.m. on any day the Boise State University football team plays a home game at Boise State’s football stadium against an NCAA opponent, or on any day the City hosts an NCAA bowl game at Boise State’s football stadium; provided that the alcoholic beverage is held in an opaque plastic container that is not labeled or branded by an alcohol manufacturer or distributor and that such possession or consumption does not occur on or in the Boise River. Should there be a conflict between the boundary description (Exhibit A) and the approximate boundary depiction (Exhibit B), the description contained in Exhibit A shall control; or
 5. Pursuant to a valid Boise City Special Event Permit issued by the City; provided that the alcoholic beverage is held in an opaque plastic container that is not labeled or branded by an alcohol manufacturer or distributor and that such possession or consumption does not occur on or in the Boise River.
- C. Definitions. As used in this Section, the following words and phrases shall have the meaning given herein 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 number. The word “shall” is always mandatory and not merely directory.
1. Alcoholic Beverage means any beverage containing alcohol that is a product of distillation of any fermented liquor, or synthetic ethyl alcohol, including liquor, spirits, beer, wine, or any liquid containing liquor, spirits, beer, or wine.

2. Public place means an area to which the general public has an unrestricted right of access and that is generally open or used by the public, regardless of whether it is publicly or privately owned. Examples of public places include, without limitation, streets, highways, or public right-of-ways, sidewalks, bridges, alleys, plazas, parks, public driveways, parking lots, transit stations, trains, buses, moving or stationary motor vehicles, shelters, tunnels, and buildings, including, without limitation, stores and restaurants.

(Ord-30-15, Repealed and Re-enacted, 7/7/15; 6501, Repealed & Replaced, 08/29/2006; 4405, Amended, 05/29/1979)

Section 6-01-16 VOYEURISM

It shall be unlawful for any person to enter another person's private property without permission and to peer, peep or look through doors or windows of that property with the intent to intrude upon or interfere with a person's privacy, or within a public place, to peer, peep or look into an area where a person has a reasonable expectation of privacy and has taken steps to conceal themselves from the general public, such as a restroom, locker room, or changing room, without that person's consent and with the intent to invade that person's privacy.

(6501, Repealed & Replaced, 08/29/2006; 3107, Added, 08/02/1971)

Section 6-01-17 INTOXICATION BY INHALATION OF TOXICANTS OR SOLVENTS

It shall be unlawful for any person to become or attempt to become intoxicated by inhaling the fumes of gasoline, toluene or any other solvent or product containing any such solvent.

(6501, Repealed & Replaced, 08/29/2006; 4086, Added, 10/11/1977)

Section 6-01-18 PUBLIC URINATION

It shall be unlawful for any person to excrete human waste, including urine or feces, upon the ground, into a body of water, or upon anything attached or setting upon said surfaces within Boise City, Ada County, State of Idaho, except for toilet facilities used as receptacles for human waste.

(6501, Repealed & Replaced, 08/29/2006; 4405, Amended, 05/29/1979)

Section 6-01-19 POSSESSION OF A FALSE IDENTIFICATION CARD

It shall be unlawful for any person who is under 21 years of age to display or have in his or her possession a driver's license, identification card, or any other written, printed or photographic evidence of age and identity which is fraudulent, reproduced, altered or not actually his or her own. A violation of this Section shall be an infraction. An infraction is a civil public offense, not constituting a crime, which is punishable by a penalty not exceeding one hundred dollars (\$100.00) and for which no period of incarceration may be imposed.

(6593, Amended, 08/28/2007; 6501, Repealed & Replaced, 08/29/2006; 1922, Added, 01/01/1922, 1922 Code, Sec. 578; 1936 Code, Sec. 4-708; 1952 Code, Sec. 19-708)

Section 6-01-20 MINORS-PURCHASE, CONSUMPTION, OR POSSESSION OF ALCOHOL PROHIBITED

Any person under twenty-one (21) years of age who shall purchase, attempt to purchase, consume or otherwise possess any alcohol beverage, including any distilled spirits, beer or wine, shall be guilty of a misdemeanor and shall be punished according to the schedule set out in section 18-1502 in the Idaho Code, which is hereby adopted by the City, as presently in effect or as may hereafter be amended, for the limited purpose of providing penalties for this code section only.

(6728, Added, 07/07/2009)

Section 6-01-21 VIOLATION AND PENALTY

Unless otherwise specified, a violation of this Chapter is a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) and imprisonment in the county jail not to exceed six (6) months.

(6728, Renumbered, 07/ 07/2009; 6593, Amended, 08/28/2007)

EXHIBIT A

**Boundary Description of the Area
in Which Alcoholic Beverages May Be Allowed,
Subject to Certain Conditions**

1. From the easternmost Julia Davis Park entrance/exit on East Myrtle, east along the southern border of East Myrtle Street to the southeast corner of Broadway Avenue and East Myrtle Street intersection.
2. From the southeast corner of the Broadway Avenue and East Myrtle Street intersection, south along the eastern border of Broadway Avenue (including the sidewalk) to the southeast corner of the Broadway Avenue and West. Beacon Street intersection.
3. From the southeast corner of the Broadway Avenue and West. Beacon Street intersection, west along the northern border of West Beacon Street to the northeast corner of the intersection of West Beacon Street and South Oakland Avenue intersection.
4. From the northeast corner of the West Beacon Street and South Oakland Avenue intersection, north along the eastern boundary of South Oakland Avenue to the northeastern corner of the South Oakland Avenue and West Potter Drive intersection.
5. From the northeast corner of the West Potter Drive and South Oakland Avenue intersection, northwest along the northern border of West Potter Drive to the northeastern corner of the West Potter Drive and South Joyce Street intersection.
6. From the northeast corner of the West Potter Drive and South Joyce Street intersection, north along the eastern border of South Joyce Street to the northeast corner of the South Joyce Street and West University Drive intersection.
7. From the northeast corner of the South Joyce Street and West University Drive intersection, northwest along the northern border of West University Drive to the northeastern corner of West University Drive and South Capitol Boulevard intersection.
8. From the northeast corner of the West University Drive and South Capitol Boulevard intersection, north along the eastern border of South Capitol Boulevard to the southeast corner of the South Capitol Boulevard and West Cesar Chavez Drive intersection.
9. From the southeast corner of the South Capitol Boulevard and West Cesar Chavez Drive intersection, southeast along the northern border of West Cesar Chavez Drive to the walking bridge that crosses the Boise River.

10. From West Cesar Chavez Drive to the walking bridge that crosses the Boise River, then north along the walking bridge that crosses the Boise River into Julia Davis Park.
11. The walking bridge across the Boise River into Julia Davis Park and all points north, and east of the walking bridge along the eastern border of Zoo Boise, then north to the Julia Davis pond and creek running from west to east in Julia Davis Park, excepting any portion of Julia Davis Park south of the Boise Greenbelt that runs east to west parallel to the Boise River.
12. From the most southeastern point of the Julia Davis Pond, east to the parking facility (and Bloch Cancer Survivor Plaza), then north to the Julia Davis Park exit/entrance on E. Myrtle Street, excepting therefrom the Bloch Cancer Survivor Plaza and Trevor's Trek Memorial.

EXHIBIT B

**Boundary Depiction of the Area
in Which Alcoholic Beverages May Be Allowed,
Subject to Certain Conditions**

