

ORDINANCE 1419

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE SECTIONS 5.04.040, 5.04.045, 5.04.110 OF CHAPTER 5 IN TITLE 5, AND SECTIONS 5.08.020, 5.08.050, 5.08.180, 5.08.190 IN CHAPTER 8 OF TITLE 5, WHICH AMENDMENTS PROVIDE FOR THE ISSUANCE OR DENIAL OF BEER, WINE, LIQUOR AND CATERING PERMITS BY THE CITY CLERK OR A DESIGNEE RATHER THAN THE CITY COUNCIL; REPEALING THE REQUIREMENT OF A VERBATIM RECORD WHEN THE COUNCIL IS CONSIDERING AN APPLICATION FOR A LICENSE, TRANSFER, RENEWAL OR REVOCATION; ADDING THE FIRE CHIEF AS A SIGNOR TO AN APPROVAL OR DENIAL OF A LICENSE, TRANSFER, RENEWAL OR REVOCATION; EXTENDING THE TIME PERIOD FOR A CATERING PERMIT FROM THREE TO FIVE DAYS; ALLOWING FOR A PARTY PERMIT FOR TWO DAYS; ADDING NEW SUB-SECTIONS 5.04.115 AND 5.08.200 IN TITLE 5, ALLOWING FOR AN APPEAL OF ACTION; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; PROVIDING A PENALTY.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

Section 1. Sections 5.04.040, 5.04.045, 5.04.110 of Title 5, Chapter 5.04,

5.08.020, 5.08.050, 5.08.180 of Title 5, Chapter 5.08 of the Payette Municipal Code is hereby amended to read as follows:

5.04.040: LICENSE; FEE; PERIOD:

All licenses ~~which are issued~~ shall be granted by the ~~mayer and council~~ city clerk or designee for a period of one year beginning January 1 and ending December 31. A full year's license fee shall be collected for the entire year or any portion thereof. The ~~city council~~ city clerk or designee shall grant or deny the application within thirty (30) days of the time it is filed with the city clerk. Whenever the ~~mayer and city council~~ city clerk or designee denies an application, they shall specify in writing:

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

~~In all cases where the city council is considering applications for licenses, transfers, revocations or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, or there is a revocation, a transcribable, verbatim record of the proceedings shall be kept for a period of not less than six (6) months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 95-1, 1984; prior code § 5-4-4)~~

5.04.045: LICENSE; INVESTIGATION OF APPLICANTS:

No license shall be granted or transferred until there has been an investigation by the police department of all applicants hereunder. ~~After investigation the application will be forwarded to the city council with a recommendation from the chief of police.~~ If the chief of police recommended that an application be denied, he/she shall state in writing:

- A. The statutes or ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- C. The action, if any that the applicant could take to obtain the license, transfer or renewal thereof. (Ord. 951, 1984)

5.04.110: LICENSE; TRANSFER PROCEDURE:

If the ~~council~~ city clerk or designee determines that all of the conditions required of a licensee under the provisions of this chapter have been met by the proposed transferee of said license, then the license shall be endorsed over to the proposed transferee by said licensee for the remainder of the period for which the license has been issued, and the ~~council~~ city clerk or designee shall note its approval thereof upon such license. Such transferee shall accompany each application for transfer with, and shall pay a fee set by resolution. Nothing in this action shall be construed to permit the transfer of a license to premises other than the premises originally designated in the license. (Ord. 1371, 2012)

5.04.115: APPEAL OF ACTION:

Any person whose license is revoked, suspended or denied may file an appeal to the city council within five (5) days of the adverse action. The city council may uphold the action, reverse the action, modify the action or remand the action for further investigation.

5.08.020: LICENSE; ~~COUNCIL'S~~ AUTHORITY TO ISSUE:

The ~~council~~, at any regular or special meeting, city clerk or designee may issue licenses to qualified applicants, as provided in this chapter, whereby the licensee shall be authorized and permitted in the city to sell liquor by the drink at retail. Upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink in the city, but only in accordance with the provisions of this chapter and chapter 9 of title 23 of the Idaho Code, as each may be amended from time to time. (Prior code § 5-5-2)

5.08.050: LICENSE; APPLICATION; INVESTIGATION; ~~COUNCIL~~ ACTION:

Upon receipt of an application for a license under this chapter, accompanied by the necessary license fee, the ~~council~~ city clerk or designee may make such investigation of all matters pertaining thereto as it deems proper. If the ~~council~~ city clerk or designee determines that the contents of the application are true, that such applicant is qualified to receive a license, that his premises are suitable for the carrying on of the intended business, and that the requirements of this chapter have been met and complied with, a license shall be issued; otherwise, the application shall be denied and the license fee returned. (Prior code § 5-5-5)

5.08.180: LICENSE; TRANSFER PROCEDURE:

Application to transfer any license issued pursuant to this chapter shall be made in writing to the city clerk or designee. Upon receipt of such an application, the city clerk or designee shall make the same investigation and determination with respect to the transferee as are required by sections 5.08.040 and 5.08.050 of this chapter. ~~Within four (4) days after the receipt of said application, the city clerk shall report his findings together with the original application to the mayor and council.~~ If the council city clerk or designee determines that all of the conditions required of a licensee under the provisions of this chapter have been met by the proposed transferee, then the license shall be endorsed over to the proposed transferee by said licensee for the remainder of the period for which the license has been issued, and the council city clerk or designee shall note its approval thereof upon such license. Such transferee shall accompany each application for transfer with, and shall pay a fee as set by resolution. Nothing in this action shall be construed to permit the transfer of a license to premises other than the premises originally designated in the license. (Ord. 1371, 2012)

5.08.190: CATERED EVENTS:

- A. Any person who holds a beer, wine or liquor license may apply to the city for a permit to cater special events outside their licensed establishment in accordance with Idaho Code Title 23. The catering permit is designed for special occasions; applicants will not be allowed to request catering permits on a continuous basis such as social gatherings week after week at one establishment.
- B. All persons who serve and sell liquor by the drink, beer and wine, or beer, or wine, at a party, convention or similar event to take place within the city, shall obtain an alcohol beverage catering permit issued pursuant to this chapter. An alcohol beverage catering permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, for a period not to exceed ~~three (3)~~ five (5) consecutive days and a party is limited to two (2) consecutive days. Further, the permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, based upon the type of license which the applicant possesses. Applications for such permit shall be made to the city, on such form as prescribed by the city, which shall contain at a minimum, but not be limited to, the following information:
1. The name and address of the applicant and the number of his/her state liquor, beer or wine license;
 2. The dates and hours during which the permit is to be effective, not to exceed ~~three (3)~~ five (5) consecutive days or two (2) consecutive days for a party;
 3. The names of the organizations, groups, or persons sponsoring the event; and the name of the applicant's designee who will be present at the event;
 4. The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer or wine is to be served. If the location or premises upon which the liquor, beer or wine is to be served is not owned by the applicant, a certified copy of the lease or consent to occupy the premises and a showing of proof that the owner consents to the service and sale of alcoholic beverages on such premises must be included with the application.

- C. The application shall be verified by the applicant and filed with the city clerk not less than three (3) working days prior to the catering date(s) requested. Failure to complete the required portions of the application may result in a denial of the application.
- D. The application shall be accompanied by a filing fee as set by resolution for each day the permit is to be in effect and such fee shall be paid to the city and shall not be refunded in any event.
- E. Any alcohol catering permit issued by the city, shall be valid only under the conditions and terms approved by the city and be valid only within the city limits.
- F. A catering permit issued pursuant to this chapter is nontransferable.
- G. The applicant or the applicant's designee is required to carry, display, or post the original catering permit issued and one or both must be personally present at the approved catering premises at all times during the life of the catering permit.
- H. The right shall be, and at all times shall remain vested in the chief of police and/or the fire chief or their designee to suspend, revoke or cancel any permit issued to any person pursuant to subsection A of this section at any time, without notice, if the chief of police and/or the fire chief or their designee has cause to believe that:
1. The licensee has violated or failed to comply with any law, ordinance or regulation relating to beer, wine or liquor; or
 2. The catered event presents a threat to the health or welfare of the citizens of the city. The decision of the chief of police and fire chief or their designee to suspend, revoke or cancel a permit may be appealed to the city council by the permit holder.
 3. The chief of police and/or fire chief or their designee may, upon good cause shown, require different conditions, terms, or a reduction in the number of requested dates or times for a catering permit as determined reasonable to carry out the policies of the city, which include protection of the health, safety and welfare of the public, or to prevent an unlawful disturbance or nuisance. Such conditions may include execution of an indemnification agreement; posting of appropriate signs; and hiring at the applicant's expense of additional bonded security personnel. (Ord. 1389, 2014)

5.08.200: APPEAL OF ACTION:

Any person whose license is revoked, suspended or denied may file an appeal to the city council within five (5) days of the adverse action. The city council may uphold the action, reverse the action, modify the action or remand the action for further investigation.

Section 2. This Ordinance may be published in summary form allowed by Idaho Code.

Section 3. This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

Section 4. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

Section 5. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

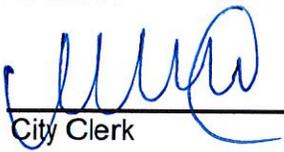
Section 6. Any violation of this ordinance shall be a misdemeanor.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 19 day of December, 2016.

CITY OF PAYETTE, IDAHO

BY 
Jeffrey T. Williams, Mayor

ATTEST:



City Clerk