

AN ORDINANCE AMENDING ADA COUNTY CODE, TITLE 4, CHAPTER 3, TO PROVIDE THAT AN APPLICANT MAY, WITHIN TWENTY EIGHT DAYS OF A DENIAL, REQUEST A RECONSIDERATION OF THE DECISION, AND THE BOARD OF COUNTY COMMISSIONERS MAY, UPON A SHOWING OF GOOD CAUSE AND AFTER A PUBLIC HEARING, GRANT A LICENSE THAT WOULD OTHERWISE BE PROHIBITED; AND TO FURTHER PROVIDE THAT, IN UNINCORPORATED AREAS OF ADA COUNTY, WHERE THE NEAREST ENTRANCE TO THE LICENSED PREMISES IS WITHIN 300 FEET OF A PUBLIC SCHOOL OR CHURCH, UPON A SHOWING OF GOOD CAUSE, THE BOARD OF COUNTY COMMISSIONERS MAY ISSUE THE LICENSE OR CONDITION THE LICENSE IN ACCORDANCE WITH SUBSECTION D OF SECTION 9.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO, THAT ADA COUNTY CODE, TITLE 4, CHAPTER 3, BE AMENDED AS FOLLOWS:

Section 4-3-6 is hereby amended as follows:

4-3-6: ISSUANCE OF LICENSES:

The board of county commissioners shall duly consider and evaluate all new applications and renewal applications for a license to sell or dispense alcoholic beverages at retail, and requests for license transfers, and after so 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 Ada County for review, and his assessment of each application shall be considered by the board of county commissioners prior to its decision. Once a completed application, renewal, or request for a transfer has been submitted to the board of county commissioners, the board of county commissioners shall have no longer than one hundred twenty (120) days to make a decision on a complete application, renewal or request for a transfer. If the board of county commissioners so orders, the county clerk shall issue a license to the applicant, which license or licenses shall at all times be prominently displayed in the place of business of the licensee and shall be issued only for the particular premises therein described. Separate 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 retail sale of liquor by the drink may sell wine for consumption on or off the licensed premises. If the board of county commissioners denies an application for a new license, renewal or license transfer, it shall state, in writing, the statutes and/or ordinances used in evaluating the application, the reasons for the denial, and the actions, if any, that the applicant can take to obtain the license, renewal or transfer thereof. The applicant may, within twenty eight (28) days, appeal the board of county commissioners' determination, in writing, and request a hearing to reconsider the denial, which shall be conducted under the procedures provided in chapter 52, title 67, Idaho Code, as may from time to time be amended and/or retitled, and for such purposes, the county shall be construed to mean an agency. The board of county commissioners may, upon a showing of good cause, after a public hearing on the matter, grant a license that would otherwise be prohibited under the provisions of this chapter.

Section 4-3-9 is hereby amended as follows:

4-3-9: LOCATION RESTRICTIONS AND DISCRETIONARY CONDITIONS ON LICENSES:

- A. A license to sell alcoholic beverages for consumption upon the premises of an establishment located within an unincorporated area of Ada County may not be granted unless the applicant obtains the written consent of at least seventy five percent (75%) of the resident owners of property, or if not occupied or 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 alcoholic beverages are to be sold for consumption. At the time the application is submitted to the county clerk, no signature may be over one hundred eighty (180) days old. The written consent shall be filed with the application for a license; provided, however, that the consent of owners or occupants of property shall not be required to renew or to transfer such license. Where the required written consent of at least seventy five percent (75%) of the resident owners/occupants of property within a radius of one thousand feet (1,000') of any part of the premises upon which alcoholic beverages are to be sold for consumption is not obtained, the board of county commissioners, upon a showing of good cause, and upon a finding that the applicant has met all other requirements for licensure under this chapter, may issue the license or condition the license in accordance with subsection D of this section.
- B. No license shall be granted unless a certificate of zoning has been issued by the Ada 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 or transfer a license, unless a zoning certificate was not obtained when the license was originally issued, in which case a zoning certificate is required prior to renewal or transfer of the license.
- C. A license to sell alcoholic beverages for consumption upon the premises of an establishment located within an unincorporated area of Ada County may not be granted. No retailer's license shall be issued to any person to sell alcoholic beverages for consumption on the premises where the nearest entrance to the licensed premises is within three hundred feet (300') of any part of a public school or any church or other place of worship, measured in a straight line; provided that this limitation shall not apply to any duly licensed premises that, at the time of licensing, was not within a restricted area. Where the nearest entrance to the licensed premises is within three hundred feet (300') of any part of a public school or any church or other place of worship, the board of county commissioners, upon a showing of good cause, and upon a finding that the applicant has met all other requirements for licensure under this chapter, may issue the license or condition the license in accordance with subsection D of this section.
- D. Licenses may be conditioned, upon good cause, by the board of county commissioners in any reasonable manner that would benefit or protect the public safety, welfare or interest.

E. When the board of county commissioners is contemplating conditioning a license, it will give notice to the applicant or licensee of the reason or reasons for the condition and the applicant or licensee shall have fourteen (14) calendar days to respond in writing informing the board of county commissioners of any reasons why such a condition should not be placed upon the license and providing any supporting information. No hearing shall be required unless the board of county commissioners chooses in its sole discretion to hold a hearing.

ADOPTED this 20 day of May, 2014.

Board of Ada County Commissioners

By: _____
David L. Case, Commissioner

By: _____
Jim Tibbs, Commissioner

By: _____
Rick Yzaguirre, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

PUBLISHED: _____