

COPY 10

ORDINANCE NO. 23

RELATING TO BEER REGULATIONS; REPEALING CHAPTER 7, SECTIONS 5-7-1; 5-7-2; 5-7-3; 5-7-4; 5-7-5; 5-7-6; 5-7-7; and 5-7-8, OF THE CODE OF THE CITY OF MALTA, IDAHO, AND ESTABLISHING PROCEDURES FOR THE PROCESSING AND ACTING ON APPLICATIONS FOR BEER LICENSES; SETTING REQUIRED FEES; PROVIDING THAT LICENSES ARE NON-TRANSFERABLE EXCEPT BY OPERATION OF LAW AND AN EXPIRATION DATE; PROHIBITING THE ISSUANCE OF LICENSES TO CERTAIN PERSONS; METHOD OF ISSUANCE OF LICENSE; REGULATIONS AND RESTRICTIONS; PROVIDING FOR THE TRANSFER OF LICENSES, POSTING REQUIRED AND PROCEDURE ON CHANGE OF LOCATION; PROVISIONS FOR REVOCATION OR SUSPENSION OF LICENSE; PROVIDING THE PROCEDURE FOR PROCESSING OF APPLICATION OF LICENSES, TRANSFERS OR RENEWALS; PROVIDING FOR INVESTIGATION OF APPLICANTS PRIOR TO ISSUANCE OF LICENSE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of
Malta, Idaho:

Section 1. That Chapter 7 of Title 5, Sections 5-7-1 through 5-7-8, Malta City Code, be, and the same are hereby repealed.

Section 2. That A NEW CHAPTER 7, Title 5 be, and the same is added to the City Code of the City of Malta, Idaho, to read as follows:

CHAPTER 7

BEER REGULATIONS

SECTION:

5-7-1: Definitions
5-7-2: License Required; Fees

5-7-3: Application For License
 5-7-4: Form Of License; License Not Transferable
 5-7-5: License Prohibited To Certain Persons
 5-7-6: Issuance Of License
 5-7-7: Regulations And Restrictions
 5-7-8: Transfer Of License; Posting Required; Change
 Of Location
 5-7-9: Revocation Or Suspension Of License
 5-7-10: Procedure For Processing Applications For Licenses,
 Transfers, Or Renewal
 5-7-11: License, Investigation Of Applicant

5-7-1: DEFINITIONS: The following words shall have the following specified meanings when used herein:

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt or other ingredients in water.

RETAILER: Any person engaged in the sale or distribution of beer to the consumer within the corporate limits of the City.

BOTTLED BEER or CANNED BEER: Beer sold or dispensed in sealed containers of glass or metal, having a capacity not greater than two (2) gallons.

5-7-2 LICENSE REQUIRED; FEES: No person shall sell, trade, barter or dispose of beer within the City without having a valid subsisting license therefore, issued by the City as hereinafter provided. License fees shall be as follows:

- (A) Where the retailer sells only bottled or canned beer, none of which is consumed on the premises where sold, the fee shall be Twenty-five Dollars (\$25.00) per annum.
- (B) Where the retailer for consumption on the premises draught beer and bottled or canned beer or draught beer only, the fee shall be One Hundred Dollars (\$100.00) per annum.
- (C) When a license is issued hereunder after the first day of July, the fee therefor shall be one-half ~~(1/3)~~ the amount specified above.
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- (D) In the event that a license is revoked for any cause, no part of the license fee shall be refunded.

5-7-3: APPLICATION FOR LICENSE: Each applicant for a license hereunder shall execute and file with the Clerk an application in writing verified by the oath of the applicant, or one of his officers, upon a form to be provided by the City and shall pay to the Clerk the amount of the fee for the license applied for, as specified in Section 5-7-2 hereof. The application shall contain the following information:

- (A) The name, address and occupation of the applicant for the three (3) years preceding the date of the application.
- (B) A description of the room or rooms in which the licensed business is to be conducted.
- (C) A description of the lot or block, or street number of the building in which such room or rooms are located.
- (D) The name of the owner or owners of such premises.
- (E) The interest of the applicant in the premises where the business is to be conducted.
- (F) The name of any other person other than the applicant who is interested financially or otherwise in the business.
- (G) A statement of the following facts concerning the applicant or his associates, if any:
 - 1. That he or they are citizens of the United States and have been bona fide residents of the State of Idaho for a period of not less than thirty (30) days prior to the date of the application.
 - 2. That he or they are over the age of nineteen ²¹~~19~~ years.
 - 3. That he or they are of good moral character, and have never been convicted of any violation of law regulating, governing or prohibiting the sale of beer or intoxicating liquors.
 - 4. Whether the applicant, and any person interested in the applicant's business as a retailer, has ever been convicted of a felony or any crime involving moral turpitude, and if so give details of such conviction.

5-7-4: FORM OF LICENSE; LICENSE NONTRANSFERABLE: The license shall be upon a form to be provided by the City and

shall be for a particular room or place. It shall not be transferable except by operation of the law, and shall expire on December 31 next succeeding the date of its issue.

5-7-5: LICENSE PROHIBITED TO CERTAIN PERSONS: No license shall be granted to, nor the licensee's business carried on under such license by any of the following persons:

- (A) Any person whose license herein provided for is at any time revoked or cancelled for any violation of this Chapter.
- (B) Any person who is not qualified to obtain a retailer's license from the State of Idaho.
- (C) Any person who makes any false statement or representation in any application for a license hereunder.
- (D) Any person who is the business associate, employee, partner or agent of any disqualified person hereunder, or under the laws of the State of Idaho, when such disqualified person is interested in the ownership, management or control of the business of retailer for which application is being made.
- (E) Any person who, at any time prior to making application, has failed, neglected or refused to conduct a quiet, orderly place of business as retailer within the City.

5-7-6: ISSUANCE OF LICENSE: The application shall be presented to the City Council by the Clerk at the Council's next succeeding meeting and after consideration by the Council shall be granted or refused. In the event that the license is granted, the Clerk shall issue to the applicant the license applied for. In the event that the application is denied, the money deposited by the applicant with the City Clerk shall be returned to the applicant.

5-7-7: REGULATIONS AND RESTRICTIONS:

- (A) Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.
- (B) No licensee shall:
 - 1. Sell or dispense any beer outside the licensed premises.

2. Sell, dispense or serve any beer to a person under nineteen (19) years of age.

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3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.

4. Fail to keep the license posted in a conspicuous place within the licensed premises.

5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Cassia and/or Minidoka County.

6. Sell, serve, give away or dispense any beer on a Sunday nor on any day during the hours of one o'clock (1:00) A.M. and seven o'clock (7:00) A.M.

5-7-8: TRANSFER OF LICENSE; POSTING REQUIRED; CHANGE OF LOCATION:

- (A) Nothing in this Chapter shall be construed to create any vested right in any person to assignment, renewal or reissuance or continuance of any license or the right to assign any license, or the right to issue a power of attorney over a license.
- (B) No license shall be assigned or transferred nor power of attorney issued over a license without the written consent and approval of the Mayor and Council. The Chief of Police, Malta City Constable, or any police officer or any officer of the United States Treasury Department or officer of the State of Idaho charged with the enforcement of any of the provisions of the regulations for the retail sale of beer or intoxicating liquor, or the Mayor, shall have the right at any time to make an examination of any licensed premises to ascertain if the licensee of such premises is conforming to the provisions of this Chapter or the laws of the United States applicable thereto.
- (C) All licenses shall be posted in a conspicuous place on the premises and kept posted during the full period of time for which the license is issued.
- (D) In case of death, receivership, assignment, bankruptcy or incompetency of the licensee, the licensee's business may be carried on under the license by the duly appointed, qualified and acting receiver, assignee, trustee in bankruptcy, guardian, executor or administrator of the

licensee; provided, that such receiver, assignee, trustee, guardian, executor or administrator shall file with the City Clerk a certified copy of his appointment and secure the written consent of the Mayor and City Council.

- (E) Any licensed person desiring to change his place of business from one location to another shall file with the City Clerk an application therefor. The City Clerk shall make investigation of the new proposed place of business and within four (4) days make report thereon to the Mayor and City Council, accompanied by the application.

5-7-9: REVOCATION OR SUSPENSION OF LICENSE: Any license issued hereunder may be revoked by the City Council or suspended for a period not to exceed six (6) months or the Council may refuse to grant a renewal of said license after the date of expiration thereof, for any fraud or misrepresentation on the part of the licensee or his employee or agent for any violation of any ordinance of the City or of any law of the State relating to the manufacture, sale or possession of intoxicating liquor or beer.

Whenever information shall be received by the City Council that any licensee has rendered his license subject to revocation or suspension as herein provided, or any complaint in writing is filed with the Council stating facts establishing that such licensee has rendered his license subject to revocation or suspension, a copy of such report or complaint shall be mailed to the licensee together with a notice directing him to appear before the Council at its next succeeding regular meeting and answer said charge. At such meeting the Council shall hear the licensee and any evidence that may be offered by him or the complainant, and thereupon, if it shall find that cause exists for the revocation or suspension of such license, the City Council may revoke such license or suspend the same for a period not to exceed six (6) months and may direct that the license therefore issued shall be taken by the Chief of Police or Malta City Constable and forthwith cancelled or revoked or suspended as the case may be.

5-7-10: PROCEDURE FOR PROCESSING APPLICATIONS FOR LICENSES, TRANSFERS, OR RENEWALS: The City Council shall grant or deny any application within thirty (30) days of the time it is filed with the City Clerk. Prior to any

revocation or suspension of the license, the licensee shall be afforded a hearing according to Section 23-1016, Idaho Code. Whenever the Mayor and City Council deny an application, they shall specify in writing:

- (A) Statutes, ordinances, 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, or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the applicant for a license, transfer, or renewal is denied, a transcribable verbatim record of the proceedings shall be kept for a period of not less than six (6) months after the 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 the expense of the applicant. The City Council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely as otherwise provided by law.

5-7-11: LICENSE, INVESTIGATION OF APPLICANT: No license shall be granted hereunder until there has been an investigation by police or other peace officers as designated by the City of Malta of all applicants applying for a license to sell beer as in this Chapter provided. After investigation the application will be forwarded to the City Council with the recommendation of the responsible law officer. If the law officer recommends that the application be denied it shall be stated in writing:

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

Section 3: This ordinance shall take effect and be in full force and effect upon its passage, approval, and

publication.

22nd PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS
DAY OF July, 1986.

Mayor

ATTEST:

Jane Barber City Clerk

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)
) ss.
 STATE OF IDAHO)
Marge Barendsegt being first

duly sworn, deposes and says that...he is the

Clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of

The South Idaho Press for one consecutive weeks, commencing with the issue dated Sept 4 1986, and ending with the issue dated Sept 4, 1986.

Marge Barendsegt

Subscribed and sworn to before me

this 5th day of Sept

1986

Notary Public

Cost of Publication 271.00

Notary Fee 50

Total Cost 271.50

86-261

ORDINANCE NO. 23

RELATING TO BEER REGULATIONS; REPEALING CHAPTER 7, SECTIONS 5-7-1; 5-7-2; 5-7-3; 5-7-4; 5-7-5; 5-7-6; 5-7-7; and 5-7-8, OF THE CODE OF THE CITY OF MALTA, IDAHO, AND ESTABLISHING PROCEDURES FOR THE PROCESSING AND ACTING ON APPLICATIONS FOR BEER LICENSES; SETTING REQUIRED FEES; PROVIDING THAT LICENSES ARE NON-TRANSFERABLE EXCEPT BY OPERATION OF LAW AND AN EXPIRATION DATE; PROHIBITING THE ISSUANCE OF LICENSES TO CERTAIN PERSONS; METHOD OF ISSUANCE OF LICENSE; REGULATIONS AND RESTRICTIONS; PROVIDING FOR THE TRANSFER OF LICENSES, POSTING REQUIRED AND PROCEDURE ON CHANGE OF LOCATION; PROVISIONS FOR REVOCATION OR SUSPENSION OF LICENSE; PROVIDING THE PROCEDURE FOR PROCESSING OF APPLICATION OF LICENSES, TRANSFERS OR RENEWALS; PROVIDING FOR INVESTIGATION OF APPLICANTS PRIOR TO ISSUANCE OF LICENSE; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Malta, Idaho:

Section 1. That Chapter 7 of Title 5, Sections 5-7-1 through 5-7-8, Malta City Code, be, and the same are hereby repealed.

Section 2. That A NEW CHAPTER 7, Title 5 be, and the same is added to the City Code of the City of Malta, Idaho, to read as follows:

CHAPTER 7

BEER REGULATIONS 34

SECTION:

- 5-7-1: Definitions
- 5-7-2: License Required; Fees
- 5-7-3: Application For License
- 5-7-4: Form Of License; License Not Transferable
- 5-7-5: License Prohibited To Certain Persons
- 5-7-6: Issuance Of License
- 5-7-7: Regulations And Restrictions
- 5-7-8: Transfer Of License; Posting Required; Change Of Location
- 5-7-9: Revocation Or Suspension Of License
- 5-7-10: Procedure For Processing Applications For Licenses, Transfers, Or Renewal
- 5-7-11: License, Investigation Of Applicant
- 5-7-1: DEFINITIONS. The following words shall have the following specified meanings when used herein:

Mailed
to Dick Smith
7-13-94
#23
Amended

ORDINANCE NO. 23

AN ORDINANCE RELATING TO BEER REGULATION;
AMENDING ORDINANCE NO. 23 SECTION 5-7-7; OF
THE CITY OF MALTA, IDAHO, TO PROHIBIT THE
SALE ON SUNDAYS OF ANY BEER.

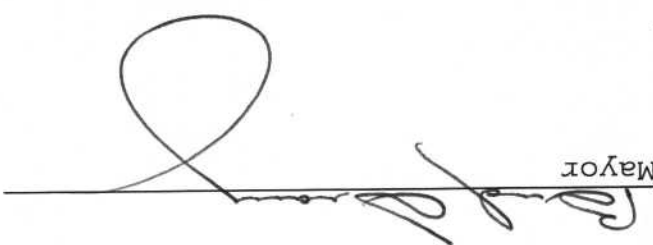
BE IT ORDAINED by the City Council of the City of
Malta, Idaho;

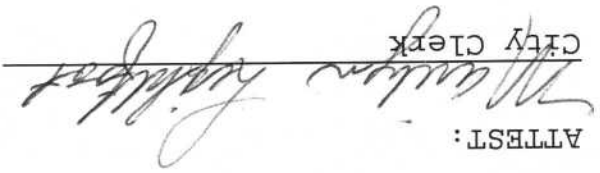
Section 1. That Section 5-7-7 be, and the same is
hereby amended to read as follows:

5-7-7: REGULATIONS AND RESTRICTIONS:

- (A). Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.
- (B) No licensee shall:
 - 1. Sell or dispense any beer outside the licensed premises.
 - 2. Sell, dispense or serve any beer to a person under twenty-one (21) years of age.
 - 3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.
 - 4. Fail to keep the license posted in a conspicuous place within the licensed premises.
 - 5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Cassia and/or Minidoka County.
 - 6. Sell, serve, give away or dispense any beer on a Sunday nor on any day during the hours of one o'clock (1:00) A.M. and seven o'clock (7:00) A.M.

Section 2. This Ordinance shall take effect and be in full force and effect upon its passage, approval and publication. PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 11TH DAY OF JULY, 1994.


Mayor

ATTEST:

City Clerk

Mailed copies to
Dick Smith &
South Idaho press
11-22-93

ORDINANCE NO.

23
Amended

AN ORDINANCE RELATING TO BEER REGULATIONS;
AMENDING ORDINANCE NO. 23 SECTION 5-7-7; OF
THE CODE OF THE CITY OF MALTA, IDAHO, TO ALLOW
FOR THE SALE ON SUNDAYS OF BOTTLED OR CANNED
BEER FOR CONSUMPTION OFF THE PREMISES WHERE
THE BEER IS SOLD.

BE IT ORDAINED by the City Council of the City of
Malta, Idaho:

Section 1. That Section 5-7-7 be, and the same is
hereby amended to read as follows:

5-7-7: REGULATIONS AND RESTRICTIONS:

- (A) Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.
- (B) No licensee shall:
 - 1. Sell or dispense any beer outside the licensed premises.
 - 2. Sell, dispense or serve any beer to a person under nineteen ²¹~~19~~ years of age.
 - 3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.
 - 4. Fail to keep the license posted in a conspicuous place within the licensed premises.
 - 5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Cassia and/or Minidoka County.
 - 6. Sell, serve, give away or dispense any beer on-a-Sunday-~~ner~~ on any day during the hours of one o'clock (1:00) A.M. and seven o'clock (7:00) A.M.
 - 7. Only bottled or canned beer, may be sold or dispensed on Sundays, for consumption off the premises where sold.

Section 2. This Ordinance shall take effect and be in full force and effect upon its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS

12 DAY OF NOVEMBER, 1993.

ATTEST:

Marilyn Lightfoot
City Clerk

[Signature]
Mayor

ORDINANCE NO. 23

AN ORDINANCE RELATING TO BEER REGULATION; AMENDING ORDINANCE NO. 23 SECTION 5-7-7; OF THE CITY OF MALTA, IDAHO, TO PROHIBIT THE SALE ON SUNDAYS OF ANY BEER.

BE IT ORDAINED by the City Council of the City of Malta, Idaho;

Section 1. That Section 5-7-7 be, and the same is hereby amended to read as follows:
5-7-7: REGULATIONS AND RESTRICTIONS:

(A) Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.

(B) No license shall:

1. Sell or dispense any beer outside the licensed premises.

2. Sell, dispense or serve any beer to a person under twenty-one (21) years of age.

3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.

4. Fail to keep the license posted in a conspicuous place within the licensed premises.

5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Cassia and/or Minidoka County.

6. Sell, serve, give away or dispense any beer on a Sunday nor on any day during the hours of one o'clock (1:00) a.m. and seven o'clock (7:00) a.m.

Section 2. This Ordinance shall take effect and be in full force and effect upon its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 11TH DAY OF JULY, 1994.

/s/ Bud Tracy, Mayor

ATTEST:

/s/ Marilyn Lightfoot, City Clerk
published in the South Idaho
August 8, 1994.

SOUTH IDAHO PRESS BURLEY, IDAHO AFFIDAVIT OF PUBLICATION

23

I, Kary Miller, do hereby swear, depose and says that she is the General Manager of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county of Blaine, Idaho. Deponent further states that the attached hereto was duly published according to law in the South Idaho Press for one consecutive week(s), commencing Aug 8, 1994, and ending with the issue Aug 8, 1994.

Kary Miller

_____ day of August in the year of 1994 before me, a Notary Public, personally appeared Kary Miller, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Kelly Stroman

Notary Public for Idaho

Residing at Burley, ID

My commission expires: May 23, 1997

Cost of Publication 25.80

Notary Fee .50

Total Cost 26.30

#23

ORDINANCE NO.

AN ORDINANCE RELATING TO BEER REGULATIONS; AMENDING ORDINANCE NO. 23 SECTION 5-7.7; OF THE CODE OF THE CITY OF MALTA, IDAHO, TO ALLOW FOR THE SALE ON SUNDAYS OF BOTTLED OR CANNED BEER FOR CONSUMPTION OFF THE PREMISES WHERE THE BEER IS SOLD.

BE IT ORDAINED by the City Council of the City of Malta, Idaho:

Section 1. That Section 5-7.7 be, and the same is hereby amended to read as follows:
5-7.7: REGULATIONS AND RESTRICTIONS:

(A) Every person to whom a license is granted hereunder shall, at all times while doing business thereunder, conduct a quiet and orderly place of business.

(B) No licensee shall:

1. Sell or dispense any beer outside the licensed premises.

2. Sell, dispense or serve any beer to a person under twenty-one (21) years of age.

3. Violate any law of the State of Idaho relating to the selling, serving or distribution of beer or alcoholic liquor.

4. Fail to keep the license posted in a conspicuous place within the licensed premises.

5. Fail to keep the licensed premises open to inspection by the police officers of the City and the Sheriff of Cassia and/or Minidoka County.

6. Sell, serve, give away or dispense any beer ~~on a Sunday~~ on any day during the hours of one o'clock (1:00) A.M. and seven o'clock (7:00) A.M.

7. Only bottled or canned beer may be sold or dispensed on Sundays for consumption off the premises where sold.

Section 2. This Ordinance shall take effect and be in full force and effect upon its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 12TH DAY OF NOVEMBER, 1993.

/s/ Bud Tracy

Mayor

ATTEST:

Marilyn Lightfoot

City Clerk

Published in the South Idaho Press on November 29, 1993.

SOUTH IDAHO PRESS BURLEY, IDAHO FFIDAVIT OF PUBLICATION

a) ss
IO)

Miller, being first duly sworn, deposes and says that she is the General
uth Idaho Press, a daily newspaper published at Burley, Idaho, in the
nd that the paper is of general circulation therein. Deponent further
nted notice attached hereto was duly published according to law in
ons of the South Idaho Press for one consecutive week(s),
the issue dated NOV 29 1993, and ending with the issue
1 1993.

Kary D. Miller
KARY D. MILLER

HO)
Cassia)
)

8th day of December in the year of 1993 before me, a
Notary Public, personally appeared Kary Miller,
known of identified to me to be the person whose name is subscribed to the within
instrument, and acknowledged to me that he/she executed the same.

Kelly Blommon
Notary Public for Idaho

Residing at Burley, ID

My commission expires: May 23, 1997

Cost of Publication 31.20

Notary Fee .50

Total Cost 31.70