

## Chapter 19 FESTIVAL BLOCKS

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### **3-19-1: LEGAL AUTHORITY:**

Idaho Code sections 50-301, 50-302, 50-307, and 50-314 authorize the City to regulate occupations and businesses within the City, to regulate and control encroachments and obstructions on streets, public places, and sidewalks within the City, and to adopt ordinances, rules, and regulations to promote and protect the health, welfare, and safety of its populace.

### **3-19-2: PURPOSE:**

Within Boise's jurisdiction, there is a growing number and variety of public social events that significantly add to the vibrancy of the City. A few specific geographical locations within the City are used regularly as the sites for these special events. Some of these sites are of a nature and location that could accommodate the implementation of a temporary open container zone within those areas during special events. The City seeks to balance the public's safety and preserve those locations' commercial viability and character against the benefit of allowing alcohol open container zones. This ordinance provides for the application and designation of sites as "festival blocks." Special event permit applicants within a designated festival block site may apply to have the area be an open container zone during the permitted special event.

### **3-19-3: SCOPE:**

This chapter establishes minimum standards and procedures for the designation and operation of a festival block within the City.

### **3-19-4: GENERAL LICENSING PROVISIONS APPLICABLE:**

To the extent not inconsistent with this chapter, the provisions set forth in chapter 1, article A of this title shall apply with full force and effect to all provisions and sections of this chapter, and chapter 1, article A of this title is hereby incorporated herein by reference and applies to those rights and responsibilities not further defined herein.

### **3-19-5: DEFINITIONS:**

For the purposes of this chapter, the following terms, phrases, words, and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, 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. Words used throughout this chapter, but not defined herein or in chapter 1, article A of this title, shall have their plain, ordinary, and common meaning. Words in any gender shall apply to the feminine, masculine, and neuter genders.

**ALCOHOL (OR "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.

**ALCOHOL LICENSE:** A permit issued by a licensing agency such as the Alcohol Beverage Control division of the Idaho State Police, Ada County, or the City of Boise, under which it shall be lawful for the licensee to sell and dispense alcohol at retail, as provided by law.

**APPLICANT:** An owner of a business, which holds current and valid alcohol licenses (issued by the State, County, and City) and which is located within the proposed festival block area that submits an application to the City Clerk's Office for a festival block designation.

**CATERING PERMIT:** A permit issued by the City Council under Title 3, Chapter 17 of this Code, to serve and sell alcoholic beverages, which is valid for no more than two (2) consecutive days for parties, or five (5) consecutive days, with an option to request one extension for festivals or conventions. Said permits, however, may be designated for less time, and requests for extension may be denied at the sole and absolute discretion of the City Council.

**CITY CLERK:** The City Clerk for the city of Boise City, Idaho, or designee.

**CITY COUNCIL:** The City Council for the city of Boise City, Idaho.

**COUNTY:** The county of Ada, Idaho.

**FESTIVAL BLOCK:** A public place or portion of a public place that the City Council has designated for the temporary implementation of open container zones within the designated place during permitted special events and with the specific permission and conditions of the Special Events Team.

**FIRE CHIEF:** The Fire Chief for the city of Boise City, Idaho, or designee.

**FIRE DEPARTMENT:** The Boise City Fire Department.

**POLICE CHIEF:** The Chief of Police for the city of Boise City, Idaho, or designee.

**POLICE DEPARTMENT:** The Boise City Police Department.

**PUBLIC RIGHT-OF-WAY:** For the limited purposes of this chapter, any public street, roadway, highway (including shoulders, berms, and median strips), alley, plaza, sidewalk, or other publicly owned property within the City's boundaries.

**PREMISES:** The business building or grounds on which the service and sale of any alcoholic beverage are authorized under the City and State Code.

**SPECIAL EVENT:** A planned gathering or series of gatherings that require a special event permit as set forth under Boise City Code Title 3, Chapter 17.

**SPECIAL EVENT PERMIT:** A permit issued by the SET to conduct a special event upon public or private property within the City.

**SPECIAL EVENTS TEAM (OR "SET"):** The committee delegated responsibility to review each application for a special event permit as set forth in Boise City Code Title 3, Chapter 17.

**STAKEHOLDER BUSINESS:** Any business located within the boundaries of a festival block.

**STATE:** The state of Idaho.

**3-19-6: DESIGNATION OF FESTIVAL BLOCKS:**

- A. **Request for Designation:** Only an applicant, as defined in this chapter, may request that an area be granted festival block designation by the City Council. The City Clerk shall review the applicant's request and application for conformance with festival block standards. The City Clerk may deny a request for a festival block designation if the proposed site does not meet standards and regulations.
- B. **Application Process:** The applicant requesting a festival block designation shall provide a true, valid, and complete application to the City Clerk.
- C. **Review of Complete Application Recommendations:** The City Clerk shall initially review the application for completeness and forward it to the Police and the Fire Chiefs for their recommendations.
- D. **Recommendations:** The Police and Fire Chiefs shall provide the City Clerk in writing their recommendations whether to approve or deny the application and the facts and reasoning supporting their recommendations. The Police and Fire chiefs may recommend special conditions to be placed upon the festival block designation to protect the public's health, safety, and welfare, prevent unlawful disturbances or nuisances, and allow for emergency personnel access to the area. Recommended special conditions may include but are not limited to restrictions on the size or layout of the designated festival block site.
- E. **Application Investigation:** The City Clerk shall investigate the required factors and standards for the proposed festival block site.
- F. **City Clerk's Denial of Application:** The City Clerk may deny an application for festival block designation for any of the following reasons:
  - 1. The application is incomplete or inaccurate;
  - 2. The application fee is not submitted with the application;
  - 3. The Police Chief and Fire Chief do not recommend granting of the designation either absolutely or conditionally;
  - 4. The commercial or residential premises within the proposed festival block have a history of alcohol license violations or criminal violations;
  - 5. The proposed festival block site does not meet the factors and standards as set forth within section 3-19-8 of this chapter; or
  - 6. Less than 75% of the stakeholder businesses support the designation of the proposed festival block.

- G. Public Hearing: The City Clerk's Office shall conduct a public hearing concerning any proposed festival block that the City Clerk has determined meets the initial designation factors, standards, and application requirements. The public hearing shall be held only after notice is published in the City's newspaper of record as set forth in 1-5-1 of this Code and written notification has been distributed to all the properties within three hundred feet (300') of the affected area at least fourteen (14) days prior to the date set for the hearing.
- H. Recommendation to City Council: After conducting its investigation and public hearing, gathering other public input, and reviewing the application and recommendations by the Police and Fire Chiefs, the City Clerk may submit a written recommendation to the City Council regarding the designation of the proposed festival block. The written recommendation shall include the facts and reasoning the City Clerk relied upon to make their recommendation.
- I. Action by City Council: The City Council may approve or deny the City Clerk's recommendation for a proposed area to be granted a festival block designation. The City Council may impose special conditions or terms on a designated festival block.
- J. Determinations: The City Clerk shall determine the following for all designated festival blocks:
  - 1. The geographical parameters of the festival block, which the Clerk's Office shall keep and maintain a copy thereof for the public to review upon request;
  - 2. The design and proper posting requirements for all the festival block perimeter signs; and
  - 3. The specific requirements for a special event application within a designated festival block to opt into an open container zone during such an event.
- K. Appeal: Festival block designation applications denied by the City Clerk may request an appeal review of the denial following the review procedure set forth in section 3-19-14 of this chapter.

### **3-19-7: APPLICATION FOR DESIGNATION:**

- A. Manner, Form: Application for a festival block designation shall be made to the City Clerk's Office in such form and manner as may be prescribed.
- B. Included Information: In addition to the application requirements set forth in chapter 1, article A of this title, the written application for a festival block designation shall include, at minimum, the following information:
  - 1. The name, address, phone number, and email address of the applicant;
  - 2. The name and physical address of the applicant's business located within the proposed festival block site;
  - 3. The name, address, phone number, and email address of all stakeholder businesses within the proposed festival block;
  - 4. A list of all the remaining addresses within the proposed festival block and a description of the use at each address (e.g., residential, non-profit, governmental, etc.);
  - 5. Copies of the applicant's current and valid alcohol licenses issued by the State of Idaho, Ada County, and City for the applicant's business located within the proposed festival block;
  - 6. A map depicting the physical parameters of the proposed festival block and a written description of the same;

7. A detailed statement of whether the applicant has had any actions against its business's alcohol licenses within the past five (5) years taken by the State, a county, or a city;
  8. A list of all the other businesses within the proposed festival block that also hold alcohol licenses;
  9. Signed letters of support for festival block designation from the stakeholder business owners;
  10. Signed letters of support for festival block designation from non-commercial properties (e.g., residential, non-profit, governmental, etc.) located within the proposed site, if any; and
  11. Any other relevant information required by Code or the City Clerk's Office.
- C. Investigation: Upon receipt of an application for a festival block designation, the City Clerk's Office shall investigate whether the applicant is qualified to request such designation and the proposed area meets the standards of a festival block site.
- D. Change in Information: Every applicant must notify the City Clerk's Office in writing within ten (10) business days of any material change in the information contained in the application for a festival block designation including, but not limited to, change of name, address, telephone number, and email address.
- E. Nonrefundable License Fee: Every application for a festival block designation shall be accompanied by a nonrefundable license fee in an amount established by the City Council and listed on the most current fine and fee schedule.
- F. Timing: In addition to all of the festival block application requirements listed above, all designation applications must be completed and submitted at least sixty (60) business days prior to the proposed commencement of operation as a festival block.
- G. Designation Conditions: Festival block designation will contain standard conditions and may contain special conditions to protect the public's health and safety and the right to equal access to public property for normal pedestrian access. The City Clerk may deny, suspend, or revoke any festival block designation that the City Clerk determines at any time has violated these conditions, or cannot meet the conditions.

**3-19-8: DESIGNATION FACTORS AND STANDARDS:**

- A. Designation Factors: The following factors are used to evaluate all applications for the festival block designation:
1. The geographic size, layout, and location of the proposed festival block site;
  2. The nature and usage of the public rights-of-way affected by the proposed festival block;
  3. The types of buildings within the proposed festival block and their respective uses;
  4. The number of residential premises located within the proposed festival block site;
  5. The nature of all commercial or other non-residential premises on the proposed festival block site;
  6. The number and nature of businesses within the proposed festival block site that are licensed premises for the sale, consumption, distribution, or production of alcohol;
  7. The number of stakeholder businesses that support the proposed festival block designation;
  8. Any past actions against any of the alcohol licenses for the businesses located within the proposed festival block site;
  9. Any history of City code or criminal complaints and citations occurring within the proposed festival block site; and

10. Any letters or public hearing testimony in support of or against the proposed festival block site.

- B. Designation Standards: The City will weigh each factor to determine if the proposed festival block site is appropriate for the location, and whether such designations would negatively impact the vehicular and pedestrian traffic, the right of use and enjoyment of the site by residential property tenants, businesses, or other properties within the proposed festival block site.

**3-19-9: AUTHORITY; NO PROPERTY INTEREST GRANTED:**

- A. Authority to Regulate: The City Clerk has the authority to regulate all designated festival blocks to maintain the integrity of such affected areas.
- B. No Property Interest Granted: Designation as a festival block and the related use of the public right-of-way shall be considered temporary and revocable. In no way does the designation of a festival block create or confer any property interest or entitlement to the granting or continuation of any such designation.

**3-19-10: DESIGNATION REQUIRED; NONTRANSFERABLE; TERM; COMPLIANCE:**

- A. Only geographic areas that the City has approved may operate as festival blocks.
- B. Designation is Nontransferable: All festival block designations are nontransferable. A festival block's privilege to allow opt-in an open container zone for special events may not be transferred or used in any other geographical location than within the parameters of the designated festival block.
- C. Term; Renewal: All festival block designations are granted for a one (1) year period from the date of designation and shall automatically renew for five (5) consecutive years unless the designation is suspended, revoked, or there is a petition for designation reassessment. Upon the fifth year, the festival block designation must be renewed following the renewal process as developed and implemented by the City Clerk.
- D. Legal Compliance: Festival block designation and any activity pursuant to such designation shall comply with all other applicable governmental restrictions or requirements.

**3-19-11: REQUIRED SIGNAGE:**

- A. Signs Required: All commercial properties within the festival block parameters shall clearly and prominently post open container signs at all points of entry and exit onto their premises.
- B. Sign Dimensions; Placement; Text: The sign face shall be no smaller than nine inches by twelve inches (9" x 12") and displayed at the height of five feet (5'). It shall read as applicable:
1. "It is unlawful to bring any alcoholic beverages not purchased at (premises' name) onto (premises' name's) business property;" or
  2. "It is unlawful to bring any open alcoholic beverages onto (business name) business property."

### **3-19-12: DESIGNATION USE:**

- A. Only a special event permit applicant, as provided in chapter 17 of this title, may request to opt-in for an open container zone for an event within a designated festival block as part of the special event permit process. If granted, the public right-of-way areas within the festival block area shall be exempt from City regulations governing open containers of alcohol in public as set forth in title 5, chapter 2 of this Code for the term of that special event.
- B. Open Container Zone Opt-in Configurations: There are two configurations in which the open container zone may be used:
  - 1. The special event applicant does not seek an alcohol catering permit for use with its event within the festival block site, but instead allows alcohol to be purchased in the licensed premises within the parameters of the festival block and be carried and consumed off such premises into the open container zone in the public right-of-way; or
  - 2. The special event applicant seeks one or more catering permits for the event within the festival block site in addition to the sale and removal of alcohol from licensed premises within the parameters of the festival block and be carried and consumed off such premises into the open container zone in the public right-of-way. The catering permit under this configuration shall be set up within the open container zone, and the parameter of the catering permit premises shall be limited to just the edges of the sales booth.
- C. Events Without Open Container Zone Opt-in: Whenever a special event applicant does not opt-in to the open container zone for their event, or the event does not meet the special event permit requirements and does not undergo the special event permit process, all City regulations on open containers of alcohol shall be in force.
- D. Notification to Stakeholder Businesses: The special event permittee shall be required to provide written notice whether the permittee opted-in to an open container zone for that event to the stakeholder businesses within a designated festival block no less than seventy-two (72) hours in advance of the event.
- E. Alcohol Licensee Duty: Unless under an open container zone as part of a permitted special event, all alcohol licensed premises within the festival block site shall prohibit patrons from removing alcoholic beverages purchased on the premises to the public right-of-way. Additionally, alcohol licensed premises shall be responsible for strictly prohibiting alcohol purchased outside the licensed premises from being brought onto the premises.
- F. Special Event Permit Conditions: The special event permittee shall obey all the permit's conditions, which may require security staff, patron wrist-banding, and other safety measures.

### **3-19-13: DESIGNATION REASSESSMENT:**

- A. Petition for Reassessment of Designation: After the first year of designation, any stakeholder business owner may petition the City Clerk's Office in writing to request a reassessment of the festival block designation.
- B. Reassessment Petition Requirements: A petition for festival block designation reassessment must demonstrate that less than 75% of the stakeholder businesses support the designation, or the

petition shall automatically fail. The Clerk's Office will review all viable petitions and reassess the festival block designation based on the standards and factors. The Clerk's Office will make a recommendation to the City Council regarding the petition, and City Council shall vote to continue the designation or revoke it. Petitions for designation reassessment shall not be considered more frequently than once a year.

- C. Special Events and Reassessment: Upon receiving a petition for festival block designation reassessment, the special events team shall not approve any new special events with the open container zone opt-in until the petition either fails or is approved by City Council. If a festival block designation is revoked under the reassessment process, any previously approved special events with the open container zone opt-in shall be allowed to proceed as originally approved.

**3-19-14: DENIAL, SUSPENSION, REVOCATION OF DESIGNATION; AND REVIEW:**

A. Notices:

1. All Notices regarding festival block designation approvals, denials, renewals, suspensions, or revocations shall be sent to the applicant and the list of stakeholder businesses listed in the application. It is the applicant and the stakeholders' duty to ensure that the contact information is current and correct with the City Clerk's Office.
2. All notices of denial shall include the actions, if any, that the applicant could take to obtain the designation or renewal thereof.

B. Suspension and Revocation of Designation: The City Clerk may suspend or revoke a festival block designation under this chapter when:

1. After the issuance of the designation, it is determined that the application did not meet the requirements set forth in this chapter;
2. There are grounds for suspension or revocation as provided in chapter 1, article A of this title; or
3. A reassessment of designation reveals that the festival block does not have 75% minimum support from the stakeholder businesses, and the designation is consequently revoked

- C. Procedure for Denial, Suspension, or Revocation of Designation, and Review: Except as otherwise provided in this subsection, the procedures set forth in chapter 1, article A of this title for license denial, suspension, or revocation, and the appeal thereof shall be followed for festival block designations.

**3-19-15: PENALTY:**

Violation of any of the provisions of this chapter may result in the suspension or revocation of the festival block designation pursuant to this chapter and chapter 1, article A of this title.

In addition to any action on the festival block action, violation of any of the provisions of this chapter, or the failure or omission to perform any duty imposed by the provisions of this chapter, is hereby declared unlawful and punishable as a general misdemeanor, subject to penalty as provided in section 1-4-1 of this code.