

ORDINANCE _____

AN ORDINANCE OF THE CITY OF STAR, ADA AND CANYON COUNTIES, IDAHO, AMENDING TITLES 4 AND 6 OF THE STAR CITY CODE, ADDING OPEN CONTAINERS IN PUBLIC SECTION, MODIFYING PARK REGULATIONS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Star, Idaho, is a municipal corporation organized and operating under the laws of the State of Idaho, and

WHEREAS, the City of Star, Idaho, has the authority to make and amend all such ordinances not inconsistent with the laws of the state of Idaho as may be expedient to maintain the peace, good government and welfare of the city and its trade, commerce, and industry, and

WHEREAS, the City of Star, Idaho, seeks to update its city code;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STAR, IDAHO, AS FOLLOWS:

Section 1: Title 4, Chapter 9, is hereby added, as follows:

CHAPTER 9
OPEN CONTAINERS IN PUBLIC

SECTION:

- 4-9-1: Definitions
- 4-9-2: Unlawful To Have Possession Of An Open Container
- 4-9-3: Unlawful To Consume Alcoholic Beverages
- 4-9-4: Permits
- 4-9-5: Exceptions
- 4-9-6: Violation And Penalty

4-9-1: DEFINITIONS:

For purposes of this article, the following definitions shall apply:

ALCOHOLIC BEVERAGE: Any beverage containing alcohol, including "beer" and "wine" as defined hereinafter by this article.

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

COMMUNITY EVENT: An event conducted on public property, or private property open to the public, including: streets, beaches, parks, community centers, parking lots and waterways, for the purpose of conducting certain short term events such as art shows, music concerts, fundraising

events, sidewalk sales, amusement attractions, circuses, carnivals, rodeos, swap meets, and sporting events including, but not limited to, organized float trips, contests, street dances, tournaments, walk-a-thons, marathons, races, exhibitions, craft/art shows or related activities. A small community event has an estimated number of attendees of fifty to one hundred (50 - 100). A medium community event has an estimated number of attendees of one hundred one to nine hundred and ninety-nine (101 - 999). A large community event has an estimated number of attendees exceeding one thousand (1,000).

CONTAINER: Any receptacle capable of holding or storing liquid.

LIQUOR: Any beverage as defined in Idaho Code section 23-105.

PARKING LOT: Any place maintained for the outdoor parking of motor vehicles.

PERSON: Any individual, firm, co-partnership, association, corporation, or any group or combination acting as a unit.

STREET: Entire width between the boundary lines of every way or place open to the public for motorized or nonmotorized vehicular travel, including any sidewalk or way intended for pedestrian travel.

WINE: Any beverage obtained through fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

All other words and phrases used in this article, the definition of which is not herein given, shall be given their ordinary and commonly understood and accepted meanings.

4-9-2: UNLAWFUL TO HAVE POSSESSION OF AN OPEN CONTAINER:

Except as otherwise permitted by statute or ordinance, it shall be unlawful for any person to have in his or her possession any open container of any alcoholic beverage in any of the following areas:

- A. On any street;
- B. In any public or private parking lot if open to the public;
- C. In or upon any public or private motor vehicle;
- D. Upon any public or private property if open to the public; and
- E. Within the city park system, it shall only be unlawful to possess or consume any alcoholic beverage upon any street, parking lot, or restroom.

4-9-3: UNLAWFUL TO CONSUME ALCOHOLIC BEVERAGES:

Except as otherwise permitted by statute or ordinance, it shall be unlawful for any person to consume any alcoholic beverage in any of the following areas open to the public:

- A. On any street;

- B. In any public or private parking lot;
- C. In or upon any public or private motor vehicle;
- D. Upon any public or private property if open to the public; and
- E. Within the city park system, it shall only be unlawful to possess or consume any alcoholic beverage upon any street, parking lot, restroom, within 75 feet of a skate park or playground, or within 200 feet of a sanctioned youth league sporting event.

4-9-4: PERMITS:

- A. Permits Required: Possession or consumption of alcohol may be allowed in any of the prohibited areas in sections 4-9-2 and 4-9-3 of this article, upon obtaining a permit as set forth below. Within the city park system permits shall be required for the possession of more than seven and one-half (7 1/2) gallons of alcoholic beverages, or for groups larger than 49 people.
- B. Application: An applicant for such permit shall make application to the city clerk. The applicant shall further remit a twenty dollar (\$20.00) fee and comply with all rules and regulations related to such use. At the discretion of the city clerk, the permit fee for subsequent repetitive events after the initial event in a calendar year may be waived for certain civic, market, art, or other events that may take place more than once per calendar year. When the city clerk determines that the application is complete, the application shall be reviewed as provided in this section and in section 4-9-2 of this chapter. The application for an open container permit shall provide the following information:
 - 1. Name, address and phone number of the applicant; permit applicants shall be at least twenty-one (21) years of age;
 - 2. Dates and hours requested during which the permit is to be effective;
 - 3. The address at which the alcoholic beverages are to be served; and if a public building, or private building open to the public, the rooms in which the alcoholic beverages are to be served;
 - 4. The number of anticipated people who will attend the event including all hosts, employees, sponsors, agents, consumers, and security personnel;
 - 5. A detailed description or diagram of the location where the alcoholic beverages are to be served and sold.
- C. Applications Reviewed:
 - 1. The city clerk shall review the application for open container permit for completeness.
 - a. If the permit is sought in conjunction with a small community event (50 - 100 estimated attendees), the city clerk will forward said application to the Star police chief and Fire District chief for their recommendation. The application shall be submitted to the city clerk not less than five (5) working days prior to the scheduled event.
 - b. If the permit is sought in conjunction with a medium (101 - 999 estimated attendees) or large (1,000+ estimated attendees) community event, the applicant shall obtain written permission from the Star police chief and Fire District chief (or designees) prior to application submittal. The application, including the written recommendation of the Star police chief and Fire District chief or designee, shall be submitted to the city clerk not less than thirty (30) days

prior to the scheduled event.

2. Recommendation of the police chief and Fire District chief or their designees:

a. The police chief and Fire District chief or their designees may recommend conditions, terms, or a reduction in the number of requested dates or times 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, but are not limited to, posting of appropriate signs, and hiring at applicant's expense additional licensed, bonded security personnel. Any such conditions must be attached and displayed as a part of the open container permit.

b. Where the police chief determines that due to the anticipated number of participants, site of open container permit, pedestrian or vehicular traffic, occurrence of special events, ingress or egress of customers, or presence of minors requires additional physical configuration or limitation of the premises for enforcement purposes, the chief may recommend that the site of open container permit be maintained in a specified manner as a condition of the permit.

D. Issuance Or Denial Of Application: The city clerk may impose conditions as determined to be 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. Persons attending an event at which open containers of alcohol are possessed or served are subject to all federal, state, county and city statutes, ordinances, rules and regulations. In the event the issuance of the permit results in the violation of any of the permit conditions, the individual representative and the group will not be granted another permit for a period of one year. Whenever the city clerk shall deny any application the city clerk shall specify in writing:

1. The statutes, ordinances and standards used in evaluating the application;
2. The reasons for denial; and
3. The actions, if any, that the applicant could take to obtain an open container permit.

4-9-5: PUBLIC INTOXICATION:

Any person, who is in public and presents a danger to themselves or others due to intoxication, or creates a disturbance of the peace, shall be guilty of a misdemeanor.

4-9-6: EXCEPTIONS:

Possession or consumption of an alcoholic beverage shall be allowed within the city park system except upon any street, parking lot, restroom, within 75 feet of a skate park or playground, or within 200 feet of a sanctioned youth league sporting event.

4-9-7: VIOLATION AND PENALTY:

Any person who shall violate any of the terms or provisions of this chapter, except as described elsewhere in this ordinance, shall be guilty of an infraction and shall be punishable by a fine of one hundred dollars (\$100.00), excluding court costs and fees. There is no right to a trial by jury of a citation or complaint for an infraction, and such trials shall be held before the court without

a jury. Any person who shall be found guilty of a second or subsequent violation of any provisions of this chapter within a five (5) year time period, or as described elsewhere in this ordinance, shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed three hundred dollars (\$300.00) and/or jail for a period not to exceed one hundred eighty (180) days or both such fine and jail.

Section 2: Title 6, Chapter 1, Section 3 of the Star City Code, USE OF PARK FACILITIES, is hereby amended in part, as follows:

6-1-3: USE OF PARK FACILITIES:

D. Alcohol; Glass Containers; Illegal Drugs:

1. Alcohol:

a. No person shall have in his/her possession, nor shall any person consume (drink) any intoxicating liquor or alcoholic beverages within any city park unless designated on the park permit- except as allowed in Section 1: Title 4, Chapter 9, of the Star City Code, OPEN CONTAINERS IN PUBLIC.

b. No person shall sell or offer for sale any intoxicating liquor or alcoholic beverage in any city park unless designated on the park permit.

2. Illegal Drugs: No person shall smoke, drink or otherwise consume, use or possess any narcotic drug, opiate, or hallucinogen, or any type of controlled substance or illegal drug within any city park.

3. Glass Containers: No person shall use, carry, or be in possession of any beverage container made of glass on any city park property.

4. Tobacco: No smoking is permitted in any public building.

Section 3: This Ordinance shall be published once in full and shall take effect and be in force from and after its passage, approval, and publication.

DATED this _____ day of _____, 2021.

CITY OF STAR, IDAHO

By: _____
Trevor Chadwick, Mayor

ATTEST:

Jacob Qualls, Clerk