



CITY OF  
**REXBURG**  
America's Family Community

## ORDINANCE NO 352

**AN ORDINANCE DEFINING “MILK” AND CERTAIN “MILK PRODUCTS,” “MILK PRODUCER,” “PASTEURIZATION,” ETC., PROHIBITING THE SALE OF ADULTERATED AND MISBRANDED MILK AND MILK PRODUCTS, REQUIRING PERMITS FOR THE SALE OF MILK AND MILK PRODUCTS, REQUIRING THE INSPECTION OF DAIRY FARMS AND MILK PLANTS, THE EXAMINATION, GRADING, LABELING, PLACARDING, PASTEURIZATION, REGRADING, DISTRIBUTION, AND SALE OF MILK AND MILK PRODUCTS, PROVIDING FOR THE PUBLISHING OF MILK GRADES, THE CONSTRUCTION OF FUTURE DAIRIES AND MILK PLANTS, THE ENFORCEMENT OF THIS ORDINANCE, AND THE FIXING OF PENALTIES.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, IDAHO, AS FOLLOWS:

**SECTION I – Definitions** – the following definitions shall apply in the interpretation and the enforcement of this ordinance:

- A. Milk – Milk is hereby defined to be the lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within 15 days before and 5 days after calving, or such longer period as may be necessary to render the milk practically colostrum free; which contains not less than 6 per cent of milk solids not fat, and not less than 3 ¼ percent of milk fat.
- B. Milk fat or butter fat – Milk fat or butter fat is the fat of milk.
- C. Cream and sour cream – Cream is a portion of milk which contains not less than 18 percent milk fat. Sour Cream is cream the acidity of which is more than 0.20 percent, expressed as lactic acid.
- D. Skimmed milk – Skimmed milk is milk from which a sufficient portion of milk fat has been removed to reduce its milk fat percentage to less than 3 ¼ percent.
- E. Milk or skimmed milk beverage – A milk beverage or a skimmed milk beverage is a food compound or confection consisting of milk or skimmed milk, as the case may be, to which has been added a syrup or flavor consisting of wholesome ingredients.
- F. Buttermilk – Buttermilk is a product resulting from the churning of milk of cream, or from the souring or treatment by a lactic acid or other culture of milk, skimmed milk,

- reconstituted skimmed milk, evaporated or condensed milk or skimmed milk, or milk or skimmed milk powder. It contains not less than 8 percent of milk solids not fat.
- G. Vitamin D milk – Vitamin D milk is milk the vitamin D content of which has been increased by a method and in an amount approved by the health officer.
- H. Reconstituted or recombined milk and cream – reconstituted or recombined milk is a product resulting from the recombining of milk constituents with water, and which complies with the standards for milk fat and solids not fat of milk as defined herein. Reconstituted or recombined cream is a product resulting from the combination of dried cream, butter, or butter fat with cream, milk, skimmed milk, or water
- I. Goat Milk – Goat Milk is the lacteal secretion, free from colostrum, obtained by the complete milking of healthy goats, and shall comply with the requirements of this ordinance. The word “cows” shall be interpreted to include goats.
- J. Homogenized milk – Homogenized milk is milk which has been treated in such manner as to insure break-up of the fat globules to such an extent that after 48 hours storage no visible cream separation occurs on the milk and the fat percentage of the top 100 cc. of milk in a quart bottle, or of proportionate volumes in containers of other sizes, does not differ by more than 5 percent of itself from the fat percentage of the remaining milk as determined after thorough mixing.
- K. Milk products – Milk products shall be taken to mean and include cream, sour cream, homogenized milk, goat milk, vitamin D milk, buttermilk, skimmed milk, reconstituted or recombined milk and cream, milk beverages, skimmed milk beverages, and any other product made by the addition of any substance to milk or any of these products and used for similar purposes and designated as a milk product by the health officer.
- L. Pasteurization – The terms “pasteurization,” “pasteurized,” and similar terms shall be taken to refer to the process of heating every particle of milk or milk products to at least 143 degrees Fahrenheit, and holding at such temperature for at least 15 seconds, in approved and properly operated equipment; provided, that nothing contained in this definition shall be construed as disbaring any other process which has been demonstrated to be equally efficient and is approved by the State health authority.
- M. Adulterated milk and milk products – Any milk or milk product which contains any unwholesome substance, or which if defined in this ordinance does not conform with this definition, or which carries a grade label unless such grade label has been awarded by the health officer and not revoked, shall be deemed adulterated and misbranded.
- N. Milk producer – A milk producer is any person who owns or controls one or more cows a part or all of the milk or milk products from which is sold or offered for sale.
- O. Milk distributor – A milk distributor is any person who offers for sale, or sells to another, any milk or milk products for human consumption as such.
- P. Dairy or dairy farm – a dairy or dairy farm is any place or premises where one or more cows are kept, a part or all of the milk or milk products from which is sold or offered for sale.

- Q. Milk plant – A milk plant is any place or premises or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, or prepared for distribution.
- R. Health officer – The term “health officer” shall mean the health authority of the city of Rexburg, Idaho, or his authorized representative.
- S. Average bacterial plate count, direct microscopic count, reduction time, and cooling temperature – Average bacterial plate count and average direct microscopic count shall be taken to mean the logarithmic average, and average reduction time and average cooling temperature shall be taken to mean the arithmetic average, of the respective results of the last four consecutive samples, taken upon separate days, irrespective of the date of grading or re-grading.
- T. Grading period – The grading period shall be such period of time as the health officer may designate within which grades shall be determined for all milk and milk products, provided that the grading period shall in no case exceed 6 months.
- U. Person – The word “person” as used in this ordinance shall mean “person, firm, corporation, or association.”
- V. And/or – Where the term “and/or” is used, “and” shall apply where possible, otherwise “or” shall apply.

**SECTION II** – The sale of adulterated, misbranded, or ungraded milk or milk products prohibited. – No person shall within the city of Rexburg, Idaho, or its police jurisdiction, produce, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated, misbranded, or ungraded. It shall be unlawful for any person, elsewhere than in a private home, to have in possession any adulterated, misbranded, or ungraded milk or milk product.

**SECTION III** – *Permits* – It shall be unlawful for any person to bring into or receive into the city of Rexburg, Idaho, or its police jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage where milk or milk products are sold or served, any milk or milk product defined in this ordinance, who does not possess a permit from the health officer of the city of Rexburg, Idaho.

Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a permit.

Such a permit may be suspended by the health officer, or revoked after an opportunity for a hearing by the health officer, upon the violation by the holder of any of the terms of this ordinance.

**SECTION IV** – *Labeling and placarding* – All bottles, cans, packages, and other containers enclosing milk or any milk product defined in this ordinance shall be plainly labeled or marked with (1) the name of the contents as given in the definitions in this ordinance; (2) the grade of the contents; (3) the word “pasteurized” only if the contents have been pasteurized; (4) the word “raw” only if the contents are raw; (5) the phrase “for pasteurization” if the contents are to be pasteurized; (6) the name of the producer if the contents are raw, and the name of the plant at which the

contents were pasteurized, if the contents are pasteurized; and (7) in the case of vitamin D milk, the designation "Vitamin D Milk" and the source of the vitamin D. The label or mark shall be in letters of a size, kind, and color approved by the health officer and shall contain no marks or words which are misleading.

Every restaurant, café, soda fountain, or other establishment serving milk or milk products shall display at all times, in a place designated by the health officer, a notice approved by the health officer, stating the lowest grade of milk and/or milk products served.

**SECTION V** – Inspection of dairy farms and milk plants for the purpose of grading or re-grading – At least once during each grading period the health officer shall inspect all dairy farms and all milk plants whose milk or milk products are intended for consumption within the city of Rexburg, Idaho, or its police jurisdiction. In case the health officer discovers the violation of any item of sanitation, he shall make a second inspection after a lapse of such time as he deems necessary for the defect to be remedied, but not before the lapse of 3 days; and the second inspection shall be used in determining the grade of milk and/or milk products. Any violation of the same item of this ordinance on two consecutive inspections shall call for immediate degrading.

One copy of the inspection report shall be posted by the health officer in a conspicuous place upon an inside wall of one of the dairy farm or milk plant buildings, and said inspection report shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the health department.

**SECTION VI** – *The examination of milk and milk products* – During each grading period at least four samples of milk and cream from each dairy farm and each milk plant shall be taken on separate days and examined by the health officer. Samples of other milk products may be taken and examined by the health officer as often as he deems necessary. Samples of milk and milk products from stores, cafes, soda fountains, restaurants, and other places where milk or milk products are sold shall be examined as often as the health officer may require. Bacterial plate counts and direct microscopic counts shall be made in conformity with the regulations of the health officer (or board of health). Examinations may include such other chemical and physical determinations as the health officer may deem necessary for the detection of adulteration, these examinations to be made in conformity with the regulations of the health officer (or board of health). Samples may be taken by the health officer at any time prior to the final delivery of the milk or milk products. All proprietors of stores, cafes, restaurants, soda fountains, and other similar places shall furnish the health officer, upon his request, with the names of all distributors from whom their milk and milk products are obtained. Bio-assays of the vitamin D content of vitamin D milk shall be made when required by the health officer in a laboratory approved by him for such examinations.

Whenever the average bacterial count, the average reduction time, or the average cooling temperature falls beyond the limit for the grade then held, the health officer shall send written notice thereof to the person concerned, and shall take an additional sample, but not before the lapse of 3 day, for determining a new average in accordance with section 1. Violation of the grade requirement

by the new average or by any subsequent average during the remainder of the current grading period shall call for immediate degrading or suspension of the permit, unless the last individual result is within the grade limit.

**SECTION VII** – *The grading of milk and milk products* – At least once every 6 months the health officer shall announce the grades of all milk and milk products delivered by all producers or distributors and ultimately consumed within the city of Rexburg, Idaho, or its police jurisdiction. Said grades shall be based upon the following standards, the grading of milk products being identical with the grading of milk except that the bacterial standards shall be doubled in the case of cream, and omitted in the case of sour cream and buttermilk. Vitamin D milk shall be only of grade A or grade B pasteurized, certified, or grade A raw quality.

*Certified milk-raw* – Certified milk-raw is raw milk which conforms with the requirements of the health officer (or board of health), in force at the time of production and is produced under supervision of a medical milk commission and of the State board of health or of the city or county health officer.

*Grade A raw milk* – Grade A raw milk is raw milk the average bacterial plate count of which is determined under section 1 (S) and 6 of this ordinance does not exceed 50,000 per cubic centimeter, or the average direct microscopic count of which does not exceed 50,000 per cubic centimeter if clumps are counted or 200,000 per cubic centimeter if individual organisms are counted, or the average reduction time of which is not less than 8 hours: Provided, that if it is to be pasteurized the corresponding limits shall be 200,000 per cubic centimeter, 200,000 per cubic centimeter, 800,000 per cubic centimeter, and 6 hours, respectively; and which is produced upon dairy farms conforming with all of the following items of sanitation.

Item 1r. Cows, tuberculosis and other diseases – Except as provided hereinafter, a tuberculin test of all herds and additions thereto shall be made before any milk therefrom is sold, and at least once every 12 months thereafter, by a licensed veterinarian approved by the State livestock sanitary authority. Said tests shall be made and reactors disposed of in accordance with the requirements approved by the health officer (or board of health), for accredited herds. A certificate signed by the veterinarian or attested to by the health officer and filed with the health officer shall be evidence of the above test: Provided, that in modified accredited counties in which the modified accredited area plan is applied to the dairy herds the modified accredited area system approved by the health officer (or board of health), shall be accepted in lieu of annual testing.

Within six months after the adoption of this ordinance all milk and milk products consumed raw shall be from herds or additions thereto which have been found free from Bang's disease, as shown by blood serum tests for agglutinins against *Brucella abortus* made in a laboratory approved by the health officer. All such herds shall be retested at least every 12 months and all reactors removed from the herd. A certificate identifying each animal by number, and signed by the laboratory making the test, shall be evidence of the above test.

Cows which show an extensive or entire induration of one or more quarters of the udder upon physical examination, whether secreting abnormal milk or not, shall be permanently excluded from the milking herd. Cows giving bloody, stringy, or otherwise abnormal milk, but with only slight induration of the udder, shall be excluded from the herd until re-examination shows that the milk has become normal.

For other diseases such tests and examinations as the health officer may require shall be made at intervals and by methods prescribed by him, and any diseased animals or reactors shall be disposed of as he may require.

Item 2r – *Dairy barn, lighting* – A dairy or milking barn shall be required and in such sections thereof where cows are milked windows shall be provided and kept clean and so arranged as to insure adequate light properly distributed, and when necessary shall be provided with adequate supplementary artificial light.

Item 3r – *Dairy barn, air space and ventilation* – Such sections of all dairy barns where cows are kept or milked shall be well ventilated and shall be so arranged as to avoid overcrowding.

Item 4r – *Dairy barn, floors* – The floors and gutters of such parts of all dairy barns in which cows are milked shall be constructed of concrete or other approved impervious and easily cleaned material, provided that if the milk is to be pasteurized, tight wood may be used, shall be graded to drain properly, and shall be kept clean and in good repair. No horses, pigs, fowl, calves, etc. shall be permitted in parts of the barn used for milking.

Item 5r – *Dairy barn, walls and ceilings* – The walls and ceilings of all dairy barns shall be whitewashed once each year or painted once every 2 years, or oftener, if necessary, or finished in an approved manner, and shall be kept clean and in good repair. In case there is a second story above that part of the barn in which cows are milked, the ceiling shall be tight. If the feed room adjoins the milking space, it shall be separated therefrom by a dust-tight partition and door. No feed shall be stored in the milking portion of the barn.

Item 6r – *Dairy barn, cow-yard* – All cow-yards shall be graded and drained as well as practicable and kept clean.

Item 7r – *Manure disposal* – All manure shall be removed and stored or disposed of in such manner as best to prevent the breeding of flies therein or the access of cows to piles thereof.

Item 8r – *Milk house or room, construction* – There shall be provided a milk house or milk room in which the cooling, handling, and storing of milk and milk products and the washing, bactericidal treatment, and storing of milk containers and utensils shall be done. (a) The milk house or room shall be provided with tight floor constructed of concrete or other impervious material, in good repair, and graded to provide proper drainage. (b) It shall have walls and ceilings of such construction as to permit easy cleaning, and shall be well painted or finished in an approved manner. (c) It shall be well lighted and ventilated. (d) It shall have all openings effectively screened including

outward-opening, self-closing doors, unless other effective means are provided to prevent the entrance of flies. (e) It shall be used for no other purposes than those specified above except as may be approved by the health officer; shall not open directly into a stable or into any room used for domestic purposes; shall be provided with adequate facilities for the heating of water for the cleaning of utensils; shall be equipped with two-compartment stationary wash and rinse vats, except that in the case of retail raw milk, if chlorine is employed as the principal bactericidal treatment, the three-compartment type must be used; and shall, unless the milk is to be pasteurized, be partitioned to separate the handling of milk and the storage of cleansed utensils from the cleaning and other operations, which shall be so located and conducted as to prevent any contamination of the milk or of cleaned equipment.

Item 9r – *Milk house or room, cleanliness and flies* – The floors, walls, ceilings, and equipment of the milk house or room shall be kept clean at all times. All means necessary for the elimination of flies shall be used.

Item 10r – *Toilet* – Every dairy farm shall be provided with one or more sanitary toilets conveniently located and properly constructed, operated and maintained, so that the waste is inaccessible to flies and does not pollute the surface soil or contaminate any water supply.

Item 11r – *Water supply* – The water supply for the milk room and dairy barn shall be properly located, constructed, and operated, and shall be easily accessible, adequate, and of a safe sanitary quality.

Item 12r – *Utensils, construction* – All multi-use containers or other utensils used in the handling, storage, or transportation of milk or milk products must be made of smooth nonabsorbent material and of such construction as to be easily cleaned, and must be in good repair. Joints and seams shall be soldered flush. Woven wire cloth shall not be used for straining milk. All milk pails shall be of a small mouth design approved by the health officer. The manufacture, packing, transportation, and handling of single-service containers and container caps and covers shall be conducted in a sanitary manner.

Item 13r – *Utensils, cleaning* – All multi-use containers, equipment, and other utensils used in the handling, storage, or transportation of milk and milk products must be thoroughly cleaned after each usage.

Item 14r – *Utensils, bactericidal treatment* – All multi-use containers, equipment, and other utensils used in the handling, storage, or transportation of milk or milk products shall between each usage be subjected to an approved bactericidal process with steam, hot water, chlorine, or hot air.

Item 15r – *Utensils, storage* – All containers and other utensils used in the handling, storage, or transportation of milk or milk products shall be stored so as not to become contaminated before being used.

Item 16r – *Utensils, handling* – After bactericidal treatment, no container or other milk or milk product utensil shall be handled in such manner as to permit any part of any person or his clothing to come in contact with any surface with which milk or milk products come in contact.

Item 17r – *Milking, udders and teats, abnormal milk* – The udders and teats of all milking cows shall be clean and rinsed with a bactericidal solution at the time of milking. Abnormal milk shall be kept out of the milk supply and shall be so handled and disposed of as to preclude the infection of the cows and the contamination of milk utensils.

Item 18r – *Milking, flanks* – The flanks, bellies, and tails of all milking cows shall be free from visible dirt at the time of milking.

Item 19r – *Milkers' hands* – Milkers and milk handlers shall wear clean outer garments while milking or handling milk, milk products, containers, utensils, or equipment.

Item 20r – *Clean clothing* – Milkers and milk handlers shall wear clean outer garments while milking or handling milk, milk products, containers, utensils, or equipment.

Item 21r – *Milk stools* – Milk stools shall be kept clean.

Item 22r – *Removal or milk* – Each pail of milk shall be removed immediately to the milk house or straining room. No milk shall be strained or poured in the dairy barn.

Item 23r – *Cooling* – Milk must be cooled immediately after completion of milking to 50 degrees Fahrenheit or less, and maintained at the average temperature, as defined in section 1 (S), until delivery. If milk is delivered to a milk plant or receiving station for pasteurization or separation, it must be delivered within 2 hours after completion of milking or cooled at 70 degrees Fahrenheit or less and maintained at that average temperature until delivered.

Item 24r – *Bottling and capping* – Milk and milk products shall be bottled from a container with a readily cleanable valve, or by means of an approved bottling machine. Bottles shall be capped by machine. Caps or cap stock shall be purchased in sanitary containers and kept therein in a clean dry place until used.

Item 25r – *Personnel, health* – The health officer or a physician authorized by him shall examine and take a careful morbidity history of every person connected with a retail raw dairy, or about to be employed, whose work brings him in contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment. If such examination or history suggests that such person may be a carrier of or infected with the organisms of typhoid or paratyphoid fever or any other communicable diseases likely to be transmitted through milk, he shall secure appropriate specimens of body discharges and cause them to be examined in a laboratory approved by him or by the State health authorities for such examinations, and if the results justify such person shall be barred from such employment.

Such persons shall furnish such information, submit to such physical examinations, and submit such laboratory specimens as the health officer may require for the purpose of determining freedom from infection.

Item 26r – *Miscellaneous* – All vehicles used for the transportation of milk or milk products shall be so constructed and operated as to protect their contents from the sun and from contamination. All vehicles used for the transportation of milk or milk products in their final delivery containers shall be constructed with permanent tops and with permanent or roll-down sides and back, provided that openings of the size necessary to pass the delivery man may be permitted in the sides or back for loading and unloading purposes. All vehicles shall be kept clean, and no substance capable of contaminating milk or milk products shall be transported with milk or milk products in such manner as to permit contamination. All vehicles used for the distribution of milk or milk products shall have the name of the distributor prominently displayed.

The immediate surroundings of the dairy shall be kept in a neat and clean condition.

*Grade B raw milk* – Grade B raw milk is raw milk which violates the bacterial standard and/or the abortion testing requirements for grade A raw milk, but which conforms with all other requirements for grade A raw milk, and has an average bacterial plate count not exceeding 1,000,000 per cubic centimeter, or an average direct microscopic count not exceeding 1,000,000 per cubic centimeter if clumps are counted or 4,000,000 per cubic centimeter if individual organisms are counted, or an average reduction time of not less than 3 ½ hours as determined under section 1 (S) and 6.

*Grade C raw milk* – Grade C raw milk is raw milk which violates any of the requirements for grade B raw milk.

*Certified milk-pasteurized* – Certified milk-pasteurized is certified milk-raw which has been pasteurized, cooled, and bottled in a milk plant conforming with the requirements for grade A pasteurized milk.

*Grade A pasteurized milk* – Grade A pasteurized milk is grade A raw milk, with such exceptions as are indicated if the milk is to be pasteurized, which has been pasteurized, cooled, and bottled in a milk plant conforming with all of the following items of sanitation and the average bacterial plate count of which at no time after pasteurization and until delivery exceeds 30,000 per cubic centimeter, as determined under sections 1 (S) and 6.

The grading of a pasteurized milk supply shall include the inspection of receiving and collecting stations with respect to items 1p to 15p, inclusive, and 17p, 19p, 22p, and 23p, except that the partitioning requirements of item 5p shall not apply.

Item 1p – *Floors* – The floors of all rooms in which milk or milk products are handled or stored or in which milk utensils are washed shall be constructed of concrete or other equally

impervious and easily cleaned material and shall be smooth, properly drained, provided with trapped drains, and kept clean.

Item 2p – *Walls and ceilings* – Walls and ceilings of rooms in which milk or milk products are handled or stored or in which milk utensils are washed shall have a smooth, washable, light-colored surface and shall be kept clean.

Item 3p – *Doors and windows* – Unless other effective means are provided to prevent the access of flies, all openings into the outer air shall be effectively screened and doors shall be self-closing.

Item 4p – *Lighting and ventilation* – All rooms shall be well lighted and ventilated.

Item 5p – *Miscellaneous protection from contamination* – The various milk-plant operations shall be so located and conducted as to prevent any contamination of the milk or of the cleaned equipment. All means necessary for the elimination of flies shall be used. There shall be separate rooms for (a) the pasteurizing, processing, cooling, and bottling operations, and (b) the washing and bactericidal treatment of containers. Cans of raw milk shall not be unloaded directly into the pasteurizing room. Pasteurized milk or milk products shall not be permitted to come in contact with equipment with which unpasteurized milk or milk products have been in contact, unless such equipment has first been thoroughly cleaned and subjected to bactericidal treatment. Rooms in which milk, milk products, cleaned utensils, or containers are handled or stored shall not open directly into any stable or living quarters. The pasteurization plant shall be used for no other purposes than the processing of milk and milk products and the operations incident thereto, except as may be approved by the health officer.

Item 6p – *Toilet facilities* – Every milk plant shall be provided with toilet facilities conforming with the ordinances of the city of Rexburg, Idaho.

(The next 4 pages of this ordinance are missing.)

**SECTION XVIII** – Unconstitutionality clause – Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid, for any reason, the remainder of said ordinance shall not be affected thereby.

PASSED BY THE COUNCIL OF THE CITY OF REXBURG, IDAHO, ON THIS 12<sup>TH</sup> DAY OF SEPTEMBER, 1945.

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JOSEPH B. DEMOTT  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk