

CHAPTER 3

WINE

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2-3-1: **DEFINITIONS:** The following terms as used in this chapter are hereby defined as follows:

DESSERT WINE: Only those beverages that are designated or labeled, pursuant to the federal alcohol administration act, as "sherry", "madeira" or "port", which contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty one percent (21%) alcohol by volume. "Dessert wine" as defined herein shall not be deemed to be a spirit based beverages for the purposes of this chapter.

DIRECTOR: The director of the Idaho state police.

PERSON: Includes an individual, firm, copartnership, association, corporation or any group or combi-

nation acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

**RETAIL WINE
LICENSE:**

A license issued by the director, authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

RETAILER:

A person to whom a retail wine license has been issued.

TABLE WINE:

Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, whether or not other ingredients are added.

WINE:

Includes table wine and dessert wine, unless the context requires otherwise.

**WINE BY THE DRINK
LICENSE:**

A license to sell table wine or dessert wine by the individual glass or opened bottle at retail, for consumption on the premises only. (Ord. 154, 6-9-1981; amd. 2010 Code)

2-3-2: **LICENSE REQUIRED:** It shall be lawful for any person to sell wine at retail within the corporate limits of the city after having first procured a license therefor. (Ord. 154, 6-9-1981)

2-3-3: **APPLICATION FOR LICENSE:** Application for license shall be in writing, signed and sworn to by the applicant upon application forms furnished by the clerk. Such application shall be filed by the clerk and presented to the mayor and council at the next meeting of the council for their approval, rejection or further consideration. (Ord. 154, 6-9-1981)

2-3-4: **QUALIFICATIONS:** The applicant for a license shall possess all of the qualifications necessary to obtain a license from the director of the Idaho state police, as prescribed by the laws of the state,

and maintain such qualifications throughout the period for which such license is issued. The possession of licenses regularly issued by the director of the Idaho state police and the county in addition to a city beer license, shall be prima facie evidence of the applicant's qualifications to receive a license hereunder. (Ord. 154, 6-9-1981; amd. 2010 Code)

2-3-5: **LICENSE FEES:** The license fee imposed and collected for the retail wine license shall be established by resolution duly adopted by the council. Such license year shall be from one minute after twelve o'clock (12:01) A.M. January 1 through December 31. (Ord. 154, 6-9-1981)

2-3-6: **ISSUANCE OF LICENSE:** Upon filing the application for a license and production of evidence as required by section 2-3-4 of this chapter as to the qualifications of the applicant and by the payment of the required license fee, the clerk shall, upon approval of the council, issue to the applicant a license to sell wine at retail within the municipality for such calendar year. (Ord. 154, 6-9-1981)

2-3-7: **TRANSFERABILITY; TRANSFER FEE:** No license issued hereunder may be transferred from one person to another, either by contract or operation of law, or from one location to another, without the consent of the council, in writing, spread on the minutes of a regular or special meeting of the council. A transfer fee shall be adopted by resolution of the council. (Ord. 154, 6-9-1981)

2-3-8: **CONSUMPTION ON PREMISES:** Retailers who do not possess a valid license for the retail sale of liquor by the drink or a valid wine by the drink license shall not permit consumption of wine on the licensed premises and may sell wine only in its original unbroken, sealed container. Wine sold for consumption on the retailer's premises may be sold only during hours that beer may be sold for consumption on the premises pursuant to the revised ordinances¹. (Ord. 154, 6-9-1981)

2-3-9: **POSSESSION:** No person may, while operating or riding in or upon a motor vehicle upon a public highway in the city, have

1. See section 2-2-9 of this title.

in his possession any wine in an open or unsealed container of any kind.
(Ord. 154, 6-9-1981)

2-3-10: **MINORS:**

- A. Purchase, Consumption Or Possession Prohibited: No person under the age of twenty one (21) years may purchase, consume or possess wine.
- B. Give, Sell Or Delivery Prohibited: No person shall give, sell, or deliver wine to any person under the age of twenty one (21) years of age.
- C. Misrepresentation Of Age By Minor: No person under the age of twenty one (21) years shall, by any means, represent to any retailer or distributor or to an agent or employee of such retailer or distributor that he or she is twenty one (21) years or more of age for the purpose of inducing such retailer or distributor or his agent or employee to sell, serve or dispense wine to such person.
- D. Misrepresentation Of Age By Other Person: No person shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty one (21) years or more of age, when in fact such other person is under the age of twenty one (21) years, for the purpose of inducing such retailer or distributor, or agent or employee of such retailer or distributor, to sell, serve or dispense wine to such other applicant. (Ord. 403, 10-20-1997)

2-3-11: **RENEWAL OF LICENSE:** All wine licenses as herein provided shall be renewed by the clerk after written application for renewal which said written application shall be filed with the clerk accompanied by an affidavit of the applicant showing such application to be qualified by the provisions of this chapter and the laws of the state of Idaho. Said application must state the place of business with respect to which the license is to be renewed and must contain a floor plan for the building for which the permit or license is requested and shall be accompanied by a copy of the lease of said building and said lease shall show the consent of the owner of the building. In the event no changes in said matters have occurred since the previous certification or application then the license may so state and need not attach said documents. The application must be accompanied by a receipt from the clerk for the amount of the license fee. Provided further, that in the event a written protest or

objection to the renewal of said license or permit is filed with the clerk, said application for renewal shall be submitted to the council and issued only after approval by the council. (Ord. 154, 6-9-1981)

2-3-12: REVOCATION OF LICENSE:

- A. Revocation: The right shall be and remain, at all times, vested in the mayor and council, and the mayor and council may, as hereinafter provided, revoke or cancel any license for fraud or misrepresentation in its procurement, or for a violation of any of the provisions of this chapter, or for any conduct or act of the licensee or his employees or any conduct or act permitted by him or them on the premises where such business is conducted, or in connection therewith or adjacent thereto, tending to render such business or such premises where the same is conducted as a public nuisance or a menace to the health, peace, safety or general welfare of the city; provided, that revocation or suspension of the state license by the director of the Idaho state police shall be deemed prima facie evidence for revocation or suspension of the license issued herein. (Ord. 154, 6-9-1981; amd. 2010 Code)
- B. Procedure: The procedure for refusal to renew a license issued under this chapter or for suspension or revocation of said license shall be the same as established in section 2-1-16 of this title. (Ord. 154, 6-9-1981)

2-3-13: CLERK TO MAKE REGULATIONS: For the purpose of the administration of this chapter, the clerk shall promulgate such rules and regulations as the clerk may deem necessary for the provisions of this chapter and for the orderly and efficient administration hereof. Said rules and regulations shall be adopted under the procedures set forth in section 2-2-11 of this title. (Ord. 154, 6-9-1981)

2-3-14: VIOLATION; PENALTY: Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof in a court of competent jurisdiction, shall be subject to penalty as provided in section 1-4-1 of this code. (2010 Code)