

CHAPTER 4 WINE

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4-4-1: **DEFINITIONS:** Certain words and phrases used in this Chapter are defined as follows:

DIRECTOR: The director of the Idaho Department of Law Enforcement

DISTRIBUTOR: A person who is employed by or is an agent of, a retailer to sell, serve or dispense wine.

LICENSEE: A qualified person, including a retailer, to whom a license for the retail sale of wine is issued pursuant to this Chapter.

PREMISES: The building, room or place in which the retail sale of wine by a licensee is authorized under this Chapter.

RETAIL WINE LICENSE: A license issued by the Director authorizing a person to sell wine at retail for consumption off the licensed premises. The term also means a license issued by the City authorizing a person to sell wine at retail for consumption off the licensed premises only.

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-BY-THE-DRINK: A license to sell wine by the individual glass or open bottle at retail for consumption on the premises.
(Ord. 2492, 6-12-03; Ord. 3236, 01-31-19)

4-4-2: LICENSE REQUIRED: Except as otherwise provided by this Chapter, no person shall sell wine at retail for consumption off the premises or by the individual glass or open bottle for consumption on the premises within the City, without first obtaining a license under this Chapter or a liquor by the drink license issued pursuant to this Code. A person who holds a valid current wine-by-the-drink license issued by the City may sell on the licensed premises wine at retail for consumption off the premises without obtaining a retail wine license from the City.
(Ord. 3236, 01-31-19)

4-4-3: LICENSE FEES: The fee for a retail wine license shall be in an amount set from time to time by Resolution of the Council. The fee for a wine-by-the-drink license shall be in an amount set from time to time by Resolution of the Council. License fees shall be paid in advance for each calendar year or any portion of a calendar year without proration. (Ord. 2964, 8-14-2014)

4-4-4: APPLICATION FOR LICENSE :

(A) Each applicant for a retail wine license or wine-by-the drink license shall file with the Clerk a written application that states the following:

- (1) The name and residential address of the applicant.
- (2) The street address of the premises where wine is to be sold.
- (3) The name of the owner of the premises for which the license is sought.
- (4) That the applicant, if an individual, is at least nineteen (19) years old.
- (5) That the applicant has not been convicted of a felony or any crime involving moral turpitude.
- (6) The names and addresses of four (4) references as to the good moral character of the applicant.
- (7) That the applicant holds a current, valid license for the retail sale of wine, issued by the County Commissioners of Bonneville County, Idaho, and a current, valid license for the retail sale of wine issued from the State pursuant to the Idaho Code.
- (8) That the applicant agrees to abide by the terms and conditions of this Chapter, and any laws, ordinances, rules or regulations subsequently promulgated by the State, Bonneville County or the City regarding the retail sale of wine licensing within the City.

- (9) Any other information the Clerk requires to determine that the applicant possesses the qualifications and has none of the disqualifications for a license, as provided in this Chapter and the Idaho Code.

(B) On receipt of a written application conforming with subsection (A) of this Section and payment of the license fee, the Clerk shall immediately forward the application to the Chief of Police for review, investigation and recommendation.

- (1) If the Chief of Police recommends approval of the license and the Clerk finds the applicant otherwise qualified, the Clerk shall grant the application and issue a license.
- (2) If the Chief of Police or the Clerk recommends denial of the license application, the Chief or the Clerk shall notify the applicant of the recommendation for denial and state the date, time and place of the next Council meeting at which the recommendation will be considered. The notice shall be in writing and shall be mailed to the applicant at the address in the application no later than seven (7) days prior to the date of the Council meeting.

(C) At the date, time and place stated in the recommendation for denial notice, the Council shall consider the application, the recommendation for denial, and hear testimony and evidence from any interested person. No license application shall be denied unless the written notice required by subsection (B) of this Section has been given and the applicant has been given an opportunity to testify and present evidence in support of the issuance of the license. All applications for a retail wine license or any transfer or renewal of a retail wine license shall be granted or denied within sixty (60) days from the date the application was delivered to the Clerk.

(D) If the Council denies an application for a retail wine license, or any renewal or transfer of a retail wine license, the Council 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, the applicant could take to obtain the license, transfer or renewal.

(E) The Clerk shall keep a transcribable verbatim record of all proceedings concerning applications for wine licenses, or their transfer, renewal or revocation, pursuant to the provisions of this Chapter. If an application for a license, transfer or renewal is denied, or if a license is revoked, the transcribable verbatim record shall be kept for a period of not less than six (6) months after a final decision. Upon request and within the time provided for retention of the record, persons may have the record transcribed at their expense.

(Ord. 2440, 2-15-02; Ord. 3236, 01-31-19)

4-4-5: **QUALIFICATIONS:** An applicant for a retail wine license or wine-by-the-drink license shall possess all qualifications necessary to obtain a license from the Director. Licensees shall maintain qualifications throughout the period for which their license is issued. Possession of licenses regularly issued by the Director and Bonneville County shall be prima facie evidence of the applicant's qualifications to receive a license under this Chapter.

4-4-6: **CONSUMPTION ON PREMISES:** Retailers who do not possess a valid City license for the retail sale of liquor by the drink or wine-by-the-drink shall not permit consumption of wine on the licensed premises. (Ord. 3236, 01-31-19)

4-4-7: **LOCATION RESTRICTIONS:**

(A) No wine-by-the drink license shall be issued to any person to operate at any place that is within three hundred (300) feet of any public school, church or any other place of worship. Such distance shall be measured in a straight line between the nearest entrance to the licensed premises and the nearest property line of such school, church or place of worship.

(B) No person shall sell or dispense wine for consumption on the premises at any place within three hundred (300) feet of any public school, church or other place of worship, between the nearest entrance to such place and the nearest property line of such school, church or place of worship.. Notwithstanding the foregoing, nothing herein shall prohibit the sale or dispensing of wine for consumption on the premises at a public school, church or other place of worship pursuant to a permit issued under this Chapter to an applicant which owns or operates such school, church, or place of worship.

(C) The provisions of subsections (A) and (B) above shall not apply to any premises that met the qualifications of such subsection at the time the premises were first licensed, but thereafter fail to meet such location restrictions because of the construction or commencement of use of such public facility or place of worship subsequent to such first licensing.

(D) The Council may for good cause shown grant a variance to the provisions of this section. Prior to granting such variance, the Council shall hold a public hearing after giving written notice to the owners or occupants of all properties located within three hundred (300) feet of the exterior boundaries of the proposed licensed premises, measured in the manner set forth above. Such notice shall be given at least fifteen days prior to the date of the hearing. Notice shall be deemed to have been given upon its personal delivery to such owner or occupant or upon its deposit in the United States mail, addressed to the owner at the address last shown on the Bonneville County property tax rolls.

(Ord. 2385, 8-10-00; Ord. 2964, 8-14-2014; Ord. 2867, 3-10-11; Ord. 3236, 01-31-19)

4-4-8 POSTING OF LICENSE: All licenses for the sale of wine shall be posted in a place conspicuous to the public at the licensed premises at all times when the premises are open for business. (Ord. 3236, 01-31-19)

4-4-9 TRANSFER OF LICENSE; TRANSFER FEE: A license may be transferred to another person if the transferee competes an application for an initial license to sell wine at retail. If a transferee has all of the qualifications and none of the disqualifications for a license to sell wine at retail, the Clerk shall approve the transfer and re-issue the license in the name of the transferee. The fee to transfer a license for a transfer of a retail wine license or wine-by-the-drink license shall be in an amount set from time to time by Resolution of the Council. The license for the transferring license shall be surrendered to the Clerk before such transfer may be made. (Ord. 3236, 01-31-19)

4-4-10: AGE RESTRICTION ON SALE OR PURCHASE:

- (A) No person under twenty-one (21) years of age shall sell, purchase, possess or consume any wine provided, however, that any person who is nineteen (19) years of age or older may sell, serve, possess and dispense wine in the course of employment in any place, as defined by the Idaho Code, or other place where wine is lawfully present, so long as such place is the place of employment for such person under twenty-one (21) years of age.
- (B) No person shall give, sell or deliver wine to any person under the age of twenty-one (21) years.
- (C) No person under the age of twenty-one (21) shall represent to any retailer or distributor that he or she is twenty-one (21) years or more of age, when in fact he or she is under such age for the purpose of inducing the retailer or distributor, to sell, serve or dispense wine to such person.
- (D) No person shall represent to any retailer or distributor that any other person is twenty-one (21) years or more of age, when in fact that other person is under such age for the purpose of inducing such retailer or distributor to sell, serve or dispense wine to such other person. (Ord. 2975, 12-11-14; Ord. 3236, 01-31-19))

4-4-11: DISPENSING TO INTOXICATED PERSON: Any person who (1) sells, gives, or dispenses any wine to another person who is intoxicated or apparently intoxicated, or (2) who allows such sale or delivery to be made by any employee or agent under his or her control, shall be guilty of a misdemeanor and shall be subject to suspension of any liquor, beer, or wine license issued under this Code. (Ord. 2846, 10-14-10; Ord. 3236, 01-31-19)

4-4-12: WINE SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES - PERMIT REQUIRED:

- (A) Notwithstanding the provisions of this Chapter, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of wine to a

person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (B) of this Section.

(B) Upon delivery to the Clerk of a properly completed application in accordance with the provisions of this Chapter and following receipt of an affirmative recommendation from the Chief of Police, the Clerk may issue to a Qualified Organization a permit authorizing the sale or dispensing of wine at an event sponsored by such qualified organization if the Clerk is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose.

(C) Any permit issued to an applicant who desires to conduct a charitable event within the City shall be subject to the following conditions:

- (1) Except as otherwise provided in subsections (2) and (3) of this Section, all events shall be conducted within a confined area constructed and operated in accordance with the terms and provisions of this subsection. The applicant shall designate in his or her application, an area not to exceed one thousand two hundred fifty square feet (1250 ft²) in which all wine will be sold, dispensed, possessed and consumed. Such area shall be completely surrounded by a fence, barricade, or other physical barrier to pedestrian traffic, except for one (1) opening not to exceed six feet (6') in width. Such defined premises shall be at such location as may be approved by the Chief of Police or his or her designee, which location shall be specified on the permit. Such defined area shall be considered to be the "premises" for the purposes of of this Chapter and the applicant shall not sell or dispense wine outside such area. The applicant shall also erect and maintain in a conspicuous location at all times, a sign with large letters no less than two inches (2") high bearing the following legend: "No Open Container of Wine May Be Possessed or Transported Beyond the Fenced Area," or such other legend which adequately apprises customers of the prohibitions set forth in this Chapter. Failure to construct or maintain such fence, barrier or sign shall be grounds for summary revocation of such permit. The Chief of Police or the Clerk may establish additional conditions or restrictions as reasonably necessary to protect the public health and safety, or alternatively may waive or modify the conditions and restrictions herein provided such waiver or modification does not jeopardize the public health and safety.
- (2) Charitable events may, with the prior approval of the Chief of Police, be conducted in or upon a public street, subject to the terms and conditions of this subsection. Wine may be dispensed at an event conducted in a public street and within an area comprised of no more than one (1) street on one (1) side of a City block, excluding any intersections thereof, provided it is dispensed only between the hours of 5:00 o'clock p.m. and 9:00 o'clock p.m. on any permitted day of the week. Wine shall not be sold on Sundays or legal holidays at such events. Such street area shall be considered to be the "premises" for the purposes of this Chapter and the applicant shall not sell or dispense wine outside such area. The

applicant shall also erect and maintain at all times in a conspicuous location at each end of such street area, a sign with large letters no less than two inches (2") inches high bearing the following legend: "No Open Container of Wine May Be Possessed or Transported Beyond this Point," or such other legend which adequately appraises customers of the prohibitions set forth in this Chapter. Failure to construct or maintain such fence, barrier or sign, or failure to comply with such hours of operation, shall be grounds for summary revocation of such permit.

(D) Permits issued under the subsections above shall not exceed a period of greater than three (3) consecutive days. No Qualified Organization shall conduct more than two (2) events within the Green in any calendar year. Nothing herein shall authorize or allow the issuance of any permit to sell or dispense wine in any park in violation of this Code.

(E) The form of the application shall require the following information:

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- (1) The names, mailing addresses and telephone numbers of the sponsors of the event, the tax identification number of the sponsor or sponsors and satisfactory evidence that the sponsor is a Qualified Organization;
- (2) Quantities and types of wine products to be used at the event;
- (3) Names of the dealer or wholesaler from whom the wine is to be received;
- (4) The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense wine on behalf of the permittee;
- (5) Dates and hours of operation for which the permit is desired;
- (6) The location of the event and a description of the premises where wine will be sold, dispensed or conveyed; and
- (7) Such other information directly related to the event and the applicant that the Clerk or Chief of Police may require.

(F) For the purposes hereof, a "Qualified Organization" shall mean any benevolent, charitable, or public organization or person to whom a permit has been issued by the Director of the Idaho Department of Law Enforcement pursuant to the provisions of the Idaho Code.

(G) Within ninety (90) days after the conclusion of the event, the permittee shall submit an accurate and complete report to the Clerk showing the disposition of funds from the event in accordance with the provisions of this Chapter.

(H) The Clerk shall collect a fee in an amount set from time to time by Resolution of the Council for each permit issued, provided however permits issued for benevolent, charitable, or public purposes may be issued for multiple events conducted within a calendar year, provided that such events are separated by a period of at least six (6) days. Such multiple event permit fee shall be in an amount set from time to time by Resolution of the Council. In the event an applicant seeks a permit to sell beer and wine at the same location, the combined permit fee be in an amount set from time to time by Resolution of the Council.

(I) Should the Chief of Police or City Council determine that an applicant, permittee or its representative is violating any provision of this Chapter, or has in the past violated any law pertaining to the dispensing or sale of wine by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in the Idaho Code or under this Chapter, or has failed in the past to submit such information as may have been requested by the Clerk such permit may be summarily suspended by the Chief of Police prior to hearing, or may be denied or canceled pending a hearing.

(J) A licensed retailer may, on behalf of the permittee, receive or store wine to be used at the event and may dispense such wine to attendees of the benevolent, charitable or public purpose event for which the permit was issued.

(Ord. 2262, 1-8-98, Ord. 2481, 2-28-03; Ord. 2492, 6-12-03; Ord. 2650, 06-08-06; Ord. 2809, 4-23-09; Ord. 2836, 4-22-10; Ord. 2867, 3-10-11; Ord. 2964, 8-14-14; Ord. 3236, 01-31-19)

4-4-13: POSSESSION OF OPEN CONTAINERS PROHIBITED:

(A) Any person who is in possession of an open container of wine within the City of Idaho Falls shall be guilty of a misdemeanor.

(B) Notwithstanding the foregoing, nothing herein shall prohibit the possession of an open container of wine:

- (1) Within a fully enclosed, privately-owned building or upon a private parking lot adjacent or appurtenant to such building provided such parking lot is located more than two hundred (200) feet away from the premises of any licensed liquor vendor. Such distance shall be measured at the shortest distance between the exterior boundaries of such parking lot and licensed premises.
- (2) Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy.

- (3) Within any area for which a liquor catering permit has been lawfully issued under the provisions of this Chapter.
- (4) Within any area included within or being a part of the premises at which a licensee is authorized to sell or dispense wine by the drink under the provisions of this Chapter.
- (5) Within any building or upon any premises for which a permit has been issued under the provisions of this Chapter.
- (6) Within an area directly adjacent to a restaurant, at tables provided for dining, between the hours of 10:00 a.m. and 11:00 p.m. “Restaurant” is defined as an eating establishment which offers for sale food to the public. A restaurant must also have the appropriate license to sell the type of alcohol they offer to the public, including an approved site plan as part of its State alcohol permit. If the adjacent area includes a public sidewalk, the size of the tables and seating must allow sufficient room for public ingress and egress, including being compliant with all ADA laws and regulations for sidewalk use under this Code. All consumption of alcohol in this adjacent area must be done at the table, and the customer cannot carry the alcohol away from the table.

- (7) Within a Permitted Event alcohol sales and consumption area.

(Ord. 2262, 1-8-98, Ord. 2481, 2-28-03; Ord. 2916, 02-28-13; Ord. 3044, 10-12-15; Ord. 3236, 01-31-19)

4-4-14: HOURS OF SALE - RETAIL SALES: It shall be unlawful for any person in any place licensed to sell wine for consumption off the premises, to sell or dispense wine or to permit the consumption of wine on the premises between 2:00 a.m. and 7:00 a.m. of any day (Ord. 3134, 9-14-2017; Ord. 3236, 01-31-19).

4-4-15: HOURS OF SALE - BY THE DRINK:

(A) It shall be unlawful for any person in any place licensed to sell wine for consumption on the premises, whether for pleasure or profit, to sell, offer to sell or dispense wine for consumption on the premises or to permit the consumption of wine on the premises between 2:00 a.m. and 7:00 a.m. of any day.

(Ord. 2385, 8-10-00; Ord. 2447, 5-9-02; Ord. 2804, 3-12-09; Ord. 2818, 7-23-09; Ord. 2847, 10-14-10; Ord. 3134, 9-14-2017; Ord. 3236, 01-31-19)

4-4-16 EXPIRATION: Licenses issued under this Chapter shall expire at midnight on September 30 of the calendar year for which they are issued. (Ord. 3236, 01-31-19)