

Chapter 8

WINE

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**Sec. 8-1. Definitions.**

The following terms as used in this Chapter are hereby defined as follows:

- A. *Commissioner.* The Commissioner of Law Enforcement of the State of Idaho.
- B. *Retail Wine License.* A license issued by the Commissioner, authorizing a person to sell wine at retail.
- C. *Retailer.* A person to whom a retail wine license has been issued.
- D. *Wine.* Any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.
- E. *Wine By The Drink License.* A license to sell wine by the individual glass or opened bottle at retail, or consumption on the premises only.
- F. Any other terms used herein shall have the same definitions and meanings as those terms set forth in Chapter 13, of Title 23, Idaho Code.

**Sec. 8-2. License Required.**

It shall be unlawful for any person to sell wine at retail within the City without

having first procured a license therefor.

Ref. Idaho Code § 23-1306

**Sec. 8-3. 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 approved or rejected by the Clerk.

Ref. Idaho Code § 23-1306; (Ord. 2002-24, 12/16/2002; 2004-33, 08/16/04)

**Sec. 8-4. Qualifications.**

The applicant for a license shall possess all of the qualifications necessary to obtain a license from the Commissioner, 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 Idaho Department of Law Enforcement and by Latah County in addition to a City beer license, shall be prima facie evidence of the applicant's qualifications to receive a license hereunder.

Ref. Idaho Code § 23-1307; (Ord. 2004-33, 08/16/04)

**Sec. 8-5. Issuance of License.**

Upon filing the application for a license and production of evidence as required by Code Section 9-8-4 herein as to the qualifications of the applicant and by the payment of the required license fee, the Clerk shall issue to the applicant a license to sell wine at retail within the City for such calendar year.

Ref. Idaho Code § 23-1306; (Ord. 2004-33, 08/16/04)

**Sec. 8-6. Zoning.**

- A. No license shall be issued for the sale of wine for consumption in the premises located outside the boundaries of a Neighborhood Business Zoning District (NB), Central Business Zoning District (CB), General Business Zoning District (GB), Motor Business Zoning District (MB), Industrial Zoning District (I), and University Zoning District (U) as set forth in the Zoning Code and Moscow Zoning Map, except one day catering permits as allowed by the Idaho Code and this Chapter; provided that any license existing at the time of the adoption of this Chapter

may be renewed for the premises for which the license was issued at the time of the adoption of this Chapter with regard to the location of such licensed premises.

- B. No license shall be issued for any location where liquor is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, that is within three hundred feet (300') of any public school, church, or any other place of worship measured in a straight line to the nearest entrance to the licensed premises, except with the approval of the Council; provided that this limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area but subsequent to licensing came therein.

(Ord. 2004-33, 08/16/04; 2008-25, 12/01/2008)  
(I.C. § 23-1301A)

**Sec. 8-7. Wine Catering Permit.**

- A. Any person holding a retail alcohol license or an Idaho Winery license may serve and sell wine and/or beer, at retail by the drink at a party, gathering or convention at a location other than at the licensed premises for a period not to exceed seven (7) consecutive days upon obtaining a wine catering permit. Applications for such permit shall be made to the Clerk on such form as prescribed by the Clerk, which form shall contain the following information:
1. The name and address of the applicant and the number of said applicant's state alcohol license.
  2. The dates and hours during which the permit is to be effective, not to exceed five (5) consecutive days unless applicant is a holder of an Idaho Winery license, then not to exceed seven (7) consecutive days.
  3. The names and addresses of the event sponsor.
  4. The address at which the alcohol is to be served.
- B. The application shall be verified by the applicant and filed with the Clerk. A filing fee, as set from time to time by

resolution of the Council, for each day the permit is to be effective, shall be paid to the Clerk. Such fee shall not be refunded in any event.

Ref. Idaho Code §§ 23-934A and 23-1337; (Ord. 98-29, 8/24/98; 2003-25, 12/01/03; 2004-33, 08/16/04; 2017-14, 12/04/2017)

**Sec. 8-8. License Non-transferable.**

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 Clerk. A transfer fee shall be adopted by resolution of the Council.

Ref. Idaho Code § 23-1317; (Ord. 2004-33, 08/16/04)

**Sec. 8-9. Consumption on Premises.**

- A. 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 the wine only in its original unbroken, sealed container.
- B. 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 this Code.
- (Ord. 2004-33, 08/16/04)

**Sec. 8-10. Possession.**

No person may, while operating or riding in or upon a motor vehicle upon a public highway, street, or parking area open to the public in the City, have in his or her possession any wine in an open or unsealed container of any kind.

(Ord. 2004-33, 08/16/04)

**Sec. 8-11. Revocation of License.**

- A. The Clerk 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 such licensee's employees or any conduct or act permitted by such licensee 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 the revocation or suspension of the State license by the Commissioner shall be deemed prima facie evidence for revocation or suspension of the license issued herein.

- B. If the Fire Chief or designee, upon inspection of the licensed premises, has reason to believe that occupancy load limits have been exceeded, or that any other violation of health and safety regulations has occurred, such Fire Chief or designee shall have the authority to demand immediate compliance. If such compliance is not obtained, the Fire Chief or designee may issue a citation for such violation to said licensee and may immediately revoke said licensee's license to sell wine.

Ref. Idaho Code § 23-1037; Ref. Idaho Code § 23-1331; (Ord. 2004-33, 08/16/04)

**Sec. 8-12. Renewal of License.**

- A. 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 Idaho Code.
- B. Said application shall state the place of business with respect to which the license is to be renewed and shall 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.
- C. In the event no changes in said matters have occurred since the previous certification or application, then the licensee may so state and need not attach said documents. The application shall be accompanied by a receipt from the Clerk for the amount of the license fee.
- D. Provided further that in the event a written protest or objection to the

renewal of said license or permit is filed with the Clerk, and in that event, said application for renewal shall be submitted to the Council and issued only after approval by the Council.

Ref. Idaho Code § 23-1316; (Ord. 2004-33, 08/16/04)

**Sec. 8-13. Disqualifications.**

No retail wine license, wine by the drink license shall be issued to an applicant who at the time of making the application:

- A. If an individual has not resided within the State for a period of thirty (30) days immediately prior to the application;
- B. If a partnership does not include at least one member thereof who has resided within the State for at least a period of thirty (30) days;
- C. If a corporation has not qualified as required by law to do business in the State;
- D. Has had a retail wine license, wine by the drink license revoked by the Commissioner or City within three (3) years from the date of making such application;
- E. Has been convicted of a violation of the laws of this State or of the United States governing the sale of alcoholic beverages, wine or beer, within three (3) years from the date of making such application;
- F. Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application;
- G. If an individual or partnership, either the individual or at least one of the partners of a partnership is not nineteen (19) years of age or older;
- H. If the application is for a retail wine license or wine by the drink license, the applicant does not possess a retail beer license issued by the City.

Ref. Idaho Code § 23-1307; (Ord. 2002-06, 03/04/2002; 2004-33, 08/16/04)

**Sec. 8-14. Licenses; Suspension; or Revocation; Review.**

The procedure for refusal to issue or renew a license issued under this Chapter or

for suspension or revocation of said license shall be the same as established in Chapter 6, Title 9 of this Code.

Ref. Idaho Code § 23-1331; (Ord. 2004-33, 08/16/04)

**Sec. 8-15. Penalties.**

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 punished pursuant to this Code and the Idaho Code.

(Ord. 2004-33, 08/16/04)

**Sec. 8-16. Repeal.**

All provisions of this Code insofar only as they are in conflict with the provisions of this Chapter are hereby repealed; provided that the repeal as provided herein shall not affect any right which has accrued, any duty imposed, and penalty incurred, or any action or proceeding commenced under or by the virtue of any such provision hereby repealed.

(Ord. 2004-33, 08/16/04)

**Sec. 8-17. Public Places.**

It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any wine in open containers on or in any public street, highway, alley, lane, sidewalk, public or private parking lot conveyance, primary and secondary school facilities, except on the premises of a licensed retail wine establishment or licensed sidewalk café or is otherwise authorized or permitted by City. It shall be unlawful for any person to sell, serve, give away, dispense, consume or carry any wine in open containers except on or in specified public parks, events in City rights-of-way or City buildings and University of Idaho facilities, in accordance with specific regulations, including any permit fee, adopted by the Council by resolution.

(Ord. 2004-33, 08/16/04; 2007-09, 08/20/2007; 2021-11, 08/16/2021)

**Sec. 8-18. False Representation as Being Twenty One or More Years of Age a Misdemeanor.**

A. Any person under the age of twenty one

(21) years who shall by any means represent to any person licensed to sell wine at retail or wholesale, or to any agent or employee of such retail or wholesale licensee, that he or she is twenty one (21) or more years of age for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his or her agent or employee, to sell, serve or dispense wine to him or her shall be guilty of a misdemeanor.

B. Any person who shall by any means represent to any such retail licensee, his or her agent or employee, that any other person is twenty one (21) or more years of age, when in fact such other person is under the age of twenty one (21) years, for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his or her agent or employee, to sell, serve or dispense wine to such other person, shall be guilty of a misdemeanor.

Ref. Idaho Code § 23-1024; (Ord. 2004-33, 08/16/04)