

## TITLE 3 CHAPTER 3A

### WINE REGULATIONS

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#### **3-3A-1: DEFINITIONS:**

**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.

**PERSON:** Any individual, firm, co-partnership, association, corporation or any other group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give more limited meaning is disclosed by the context in which it is used.

**PREMISES:** A building in which the sale of wine is authorized.

**RETAIL WINE LICENSE:** A license authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

**RETAILER:** Any person engaged in the sale or distribution of wine to the consumer, and 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 BY THE DRINK LICENSE: A license to sell table wine or dessert wine by the individual glass or open bottle at retail, for consumption on the premises only.

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

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

### **3-3A-2: EXCEPTIONS TO REGULATIONS:**

Nothing contained in this chapter shall prohibit the state liquor dispensary from acting pursuant to its statutory authority.

### **3-3A-3: LICENSES REQUIRED; FEES:**

Retailers holding valid licenses for the retail sale of liquor by the drink pursuant to chapter 9, title 23, Idaho Code, Cassia County Code Title 3, Chapter 1, Article B, and chapter 3, title 3 of the Albion City Code may sell wine for consumption on or off the licensed premises. Persons holding a valid wine by the drink license may sell wine for consumption on the premises only. Retailers who do not possess a valid license for the retail sale of liquor by the drink, or retailers who do not have 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 container.

It shall be unlawful for any person to sell, barter or dispose wine at retail for consumption on or off the premises within the boundary of the City of Albion, Cassia County, Idaho until a valid license is granted by the City of Albion, Cassia County, Idaho as provided by this chapter. License fees shall be as follows:

For a retail wine license only, where wine is sold only in closed containers, with no consumption on the premises – per annum	\$200.00
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For a wine by the drink license only, where wine is sold, by the individual glass or open bottle at retail for consumption on the premises only – per annum	\$200.00
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If a license is issued within six (6) calendar months of the first day of the designated renewal month for the City of Albion, , the applicant shall pay the full annual license fee. If a license is issued after six (6) calendar months from the first day of the designated renewal month for Cassia County, the applicant shall pay one-half (1/2) the annual license fee.

### **3-3A-4: APPLICATION FOR LICENSE:**

- A. Prior to the issuance of a license, the applicant shall execute and file with the clerk of the City of Albion an application, in writing, verified by the oath of the applicant, or one of its officers, upon a form to be provided by the City Council and containing information and statements relative to the applicant and the premises (in existence or to be constructed in accordance with plans and specifications approved by the City) where the wine is to be sold. The application shall be verified by the affidavit of the applicant before a person authorized to administer oaths. In addition to setting forth the qualifications required by other provisions of this chapter, the applicant must show:
1. A detailed description of the premises for which a license is sought, its location and street address.
  2. The names and addresses of all persons who will have any financial interest in any business to be carried on, in or upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, trusts or any other basis other than open trade accounts incurred in the ordinary course of business, and the amounts of such interest.
  3. If the premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of wine on such premises.
  4. The name and address of the applicant which shall include all members of a partnership or association, or the officers and members of the governing board and the principal stockholders of a corporation. If a corporation, it shall also show proof it is qualified to do business in the state of Idaho.
- B. If, during the period of any license issued hereunder, any change shall take place in any of the requirements of this section, the licensee shall forthwith make a verified report of such change to the City Clerk.
- C. Applications shall include a copy of the license issued by the director of the Idaho state police and Cassia County for the premises and for the time for which the application is made.
- D. If any false statement is made in any part of an application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a misdemeanor.



- E. Each application shall be accompanied by the required license fee which shall be returned to the applicant if the City refuses to issue the license.

### **3-3A-5: ISSUANCE OF LICENSES:**

The City Council shall duly consider and evaluate all new applications and renewal applications for a license to sell or dispense wine and after so evaluating shall determine to grant or deny each application in accordance with the provisions of this chapter. Prior to said determination, new applications shall be submitted to the Albion City Marshall, or sheriff of Cassia County, for review, and his assessment of each application shall be considered by the City Council prior to its decision. If the City Council so orders, the City Clerk shall issue a license to the applicant, which license or licenses shall at all times be prominently displayed in the place of business of the licensee and shall be issued only for the particular premises therein described. Separate retail wine and wine by the drink licenses shall be required for each premises.

### **3-3A-6: REASONS FOR DENIAL OF LICENSE:**

- A. No license shall be issued to an applicant who at the time of making application:
1. Is not nineteen (19) years of age or older, if the applicant is an individual, or if a partnership, at least one partner is not nineteen (19) years of age or older.
  2. Is not the bona fide owner of such business.
  3. Is not a citizen of the United States, or has not been a bona fide resident of the state of Idaho for at least thirty (30) days preceding the date of the application for a license; provided, that if the applicant is:
    - a. A partnership, all members shall be citizens of the United States, at least one of the partners shall have been a bona fide resident of the state of Idaho for thirty (30) days prior to the date of application and shall be nineteen (19) years of age or older.
    - b. A corporation or association, it must be organized under the laws of the state of Idaho or qualified under the laws of the state of Idaho to do business in the state and the person is, or will be, the manager of the corporation's or association's business of selling wine must be a citizen of the United States, and said manager of the corporation or association shall have been a bona fide resident of the state of Idaho for at least thirty (30) days prior to the date of application.
  4. That within three (3) years immediately preceding the date of filing the application, the applicant has been convicted, or if the applicant is a



partnership, corporation or association and any of its employees, officers or members of the governing board or body, have been convicted or paid any fine, has received a deferred sentence or withheld judgment, has suffered the forfeiture of a bond for failure to appear, or has completed any sentence of confinement, for the violation of any law of the state of Idaho, any other state, or of the United States regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages, wine or beer.

5. That within five (5) years immediately preceding the filing of the application the applicant, or if the applicant is a partnership, corporation or association and any of its employees, officers or members of the governing board or body, has been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time.

6. That within three (3) years next preceding the date of filing the application, the applicant, or if the applicant is a partnership, corporation or association and any of its employees, officers or members of the governing board or body, has had any license provided for herein, or any license or permit issued to the applicant pursuant to the laws of this state, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages, wine, or beer, revoked.

7. Does not possess a retail beer license issued by the director of the Idaho State Police, Cassia County, and the City of Albion, if the application is for a retail wine license or wine by the drink license.

B. The affirmative showing required with respect to qualifications of an applicant shall be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant, and to each person then employed by an applicant whose duties include the serving or dispensing of wine.

### **3-3A-7: CONTINUANCE OF QUALIFICATIONS:**

A retail licensee must continue throughout the license period to have all of the qualifications and none of the disqualifications provided for in this chapter.

### **3-3A-8: LOCATION RESTRICTIONS:**

No wine by the drink license shall be issued for any place, where wine is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, that is within three hundred (300) feet of any public school, church, or any other place of worship measured in a straight line to the nearest entrance to the licensed premises. 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.

### **3-3A-9: EXPIRATION; RENEWAL OF LICENSES:**

All licenses issued pursuant to the provisions of this chapter shall expire at one o'clock (1:00) A.M. on the first day of August. Renewal of the license shall be on forms prescribed and furnished by the City Clerk. Renewal forms shall be submitted together with the required license fee and an affidavit verifying that the information contained in the original application is unchanged, or if there are material changes, indicating such changes. Renewal applications must be received by the City Council on or before the first day of August; provided, however, any licensee holding a valid license who fails to file an application for renewal of its current license on or before the first day of August shall have a grace period of an additional thirty one (31) days in which to file an application for renewal of its license and during which time it shall not be permitted to sell or dispense wine.

### **3-3A-10: TRANSFER OF LICENSE:**

- A. No license may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the written consent and approval of the City Council to such transfer upon application containing substantially the same information required of an applicant for a license. If the transferee possesses all of the qualifications and none of the disqualifications for such a license, the City Council shall approve the transfer, which approval shall be attached and made a part of the license. Prior to a decision on a denial or approval of said transfer by the City Council, the Albion City Marshall or sheriff of Cassia County shall review the transfer application and his assessment shall be considered by the City Council before they make their determination. The fee for each transfer of a license shall be twenty dollars (\$20.00) which fee shall accompany the application for a transfer.
- B. Application to transfer a license from one location to another shall be made to the City Council on forms prescribed and furnished by the City Clerk. Such a transfer shall not be approved unless the application procedure for a new license has been complied with, including payment of fee for a new license.
- C. Any licensed person desiring to change its place of business from one location to another shall file with the City Clerk an application therefore, accompanied by appropriate fee. The City Clerk shall make investigation of the new proposed place of business and within seven (7) days make report thereon to the City Council, accompanied by the application.



- D. Nothing in this article shall be construed to create any vested right in any person or entity to assignment, renewal or reissuance or continuance of any license or the right to assign any license, or the right to issue a poser of attorney over a license.

### **3-3A-11: OPERATING HOURS:**

- A. No wine shall be sold, dispensed or given away on the licensed premises between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M. seven (7) days a week.
- B. Any patron present on the licensed premises after the sale of wine has stopped as provided in subsection A, above, shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.
- C. Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsections A and B shall be guilty of a misdemeanor.

### **3-3A-12: INSPECTIONS; ACCESS TO PREMISES:**

The Albion City Marshall and the sheriff and all deputy sheriffs of the county of Cassia shall have the right at any time to enter in and upon such licensed premises, and it shall be unlawful to refuse any marshall, sheriff or deputy sheriff admittance to or access to such premises for the purpose of police patrol, regulation and inspection of such premises.

### **3-3A-13: PROHIBITED ACTS; CONDITIONS:**

- A. Prohibited Sales: It shall be unlawful and punishable as a misdemeanor for any person to sell, deliver or give away, or cause or permit to be sold, delivered or given away, any wine to:
  - 1. Any person under the age of twenty one (21) years, proof of which shall be a valid driver's license, identification or military identification card bearing a photograph and date of birth, a valid passport or an identification issued by the Idaho state police.
  - 2. Any person apparently or obviously intoxicated.
  - 3. Any person to whom sale is prohibited, as defined by the laws of the state.

B. Minors:

1. Any person who shall procure wine for any person under twenty one (21) years of age, or any person under twenty one (21) years of age who shall purchase, attempt to purchase, or otherwise procure, consume or possess wine shall be guilty of a misdemeanor.

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

3. Any person who shall by any means represent to any person licensed to sell wine or to his agent or employee, 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 retail licensee, his agent or employee, to sell, serve or dispense wine to such other person shall be guilty of a misdemeanor.

C. Consumption In Motor Vehicle: No person shall, while operating or riding in or upon a motor vehicle upon a public highway of this city or state, consume wine or have in his possession any wine in an open or unsealed container of any kind.

**3-3A-14: SUSPENSION; REVOCATION OF LICENSE:**

If the City Council shall find that a licensee has made any false material statement in the application for a license, or did not have, or has not retained, the qualifications for a retailer, or has acquired a disqualification for a retailer, or is in violation of any of the prohibitions of title 23, chapter 10, Idaho Code, the City Council shall suspend, revoke or refuse to renew such retailer's license.

A. No pleading shall be necessary, and any hearing before the City Council shall be informal.

B. The procedure for suspension, revocation or refusal to grant or renew licenses issued hereunder shall be in accordance with the applicable provisions of chapter 52, title 67, Idaho Code.

C. If, after review of said petition for revocation of license, the City Council determines that the allegations in said petition are true and correct; the City Council may take the appropriate action to revoke that existing license. The criteria to be used by the City Council to revoke pursuant to such a petition shall be the same as provided in this section.



### **3-3A-15: PENALTY:**

Any person, firm, co-partnership, corporation, or individual, whether as principal, agent, employee or otherwise who shall violate the terms of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as set forth in section 1-4-1 of this code.