

CHAPTER 3

ALCOHOLIC BEVERAGES

ARTICLE A. LIQUOR SALES

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3-3A-1: **DEFINITIONS:** The following terms, as used in this article, are defined as follows:

CORPORATE LIMITS: The legally incorporated boundaries of the city.

INTERDICTED PERSON: A person to whom the sale of liquor is prohibited under law.

LICENSE: A license issued by the proper state, county, or city authority, as the case may be, authorizing a person to sell and dispense liquor by the drink at retail, as provided by law.

LICENSEE: A person to whom a license has been issued under the provisions of law.

LIQUOR:	All kinds of liquor authorized to be sold by state liquor stores of the state of Idaho.
LIQUOR CATERING PERMIT:	A permit issued by the city pursuant to Idaho Code section 23-934A upon proper application and approval as authorized by that code section.
MUNICIPALITY OR CITY:	The city of Driggs, Idaho.
PERSON:	Every individual, firm, partnership, corporation, organization, or association, or any group or combination acting as a unit, and any of their agents, employees, servants, or other persons acting in behalf of a licensee, and includes the plural as well as the singular unless the intent to give a more limited or expanded meaning is disclosed by the context in which it is used. (1985 Code § 5.08.010)

3-3A-2: **LICENSE AND COMPLIANCE REQUIRED:** It is lawful in the city to sell liquor by the drink as provided in Idaho Code title 23, chapter 9, as amended, provided a license shall first be obtained as provided in this article and the rules and regulations and provisions concerning the licensing and operation of a place of business for the sale of liquor are adhered to as provided. (1985 Code § 5.08.020)

3-3A-3: **INELIGIBILITY FOR LICENSE:** No license shall be issued for the sale of liquor by the drink to any person not qualified for a license under Idaho Code title 23, chapter 9, as amended, nor upon any premises in any neighborhood which is predominantly residential, nor within three hundred feet (300') of any school, church or other place of public worship. (1985 Code § 5.08.040)

3-3A-4: **APPLICATION FOR LICENSE; ISSUANCE:**

A. Before there is any lawful sale of liquor by the drink, an application by the proposed licensee must be made for such license and filed with the city clerk in form and manner provided in this article. Such application shall provide the name of the applicant, the location of

the proposed business, and such other information as may be prescribed and required by the city council. At the time such application is filed, the applicant shall also present a copy of an application for a state license and also the license issued by the state for the sale of liquor by the drink at retail. No license will be issued until a license is first obtained from the state of Idaho and the county of Teton.

- B. All applications filed with the city clerk shall be referred to the city council for final approval. The city clerk shall receive the license fee hereinafter provided at the time of filing an application, and upon approval of the application by the city council, the license will be issued and delivered to the applicant. (1985 Code § 5.08.030)

3-3A-5: **LICENSE FEE:** The license fee required of an applicant for the sale of liquor by the drink shall be the maximum allowed by the state of Idaho per calendar year or portion thereof, payable in advance. The payment shall be made with the application for the balance of the calendar year in which the license is issued. (1985 Code § 5.08.050)

3-3A-6: **NUMBER OF LICENSES:** The number of licenses issued under the provisions of this article shall be limited to the number authorized in Idaho Code section 23-903, as amended; provided, however, that any licenses existing at the effective date hereof may be continuously renewed each year upon compliance with all the other provisions of this article. (1985 Code § 5.08.080)

3-3A-7: **TERMINATION OF LICENSE; RENEWALS:** All licenses issued shall expire at twelve o'clock (12:00) midnight on December 31 of each calendar year. Renewals may be granted upon application if the record of the applicant is satisfactory to the city council and in accordance with the provisions of law and this article and upon payment of fees for the ensuing year. Any operation under an expired license shall constitute a violation of this code for each day of operation, and all fees are nonrefundable. (1985 Code § 5.08.050)

3-3A-8: **TRANSFER OF LICENSE:**

- A. No city license may be transferred to another person unless the transferee first shall have obtained approval of the transfer from the

required state and county authorities and from the city council upon application containing substantially the same information required by sections 3-3A-3 and 3-3A-4 of this article. If the transferee possesses all of the qualifications and none of the disqualifications for the license, the city council shall approve the transfer, and the city clerk shall endorse the license in the name of the transferee. Approval and endorsement of the transfer by the Idaho department of law enforcement and the county shall be prima facie evidence of the transferee's qualifications to receive a transfer of the city license under this article.

- B. The fee payable by the transferee to the city for such endorsement and transfer shall be one hundred dollars (\$100.00).
- C. Upon approval of the transfer, the city shall cancel the original license and issue a new license to the transferee. The new license issued to the transferee shall be valid only for the remainder of the period for which the original city license was issued. (1985 Code § 5.08.070)

3-3A-9: **POSTING LICENSE:** The license issued under this article shall be posted conspicuously in the place of business named therein. (1985 Code § 5.08.060)

3-3A-10: **CATERING PERMIT:** Liquor catering permits for a single party or convention may be obtained from the city by any person holding an Idaho retail liquor license to serve and sell liquor at retail by the drink at a party or convention not to exceed three (3) consecutive days, in accordance with Idaho Code sections 23-934A and 23-934B, as amended. A filing fee in the amount of fifty dollars (\$50.00) for each permit shall be paid to the city clerk and is nonrefundable. (1985 Code § 5.08.130)

3-3A-11: **HOURS SALES PROHIBITED:**

- A. No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet, between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
- B. Any patron on city licensed premises shall have not more than thirty (30) minutes after the one o'clock (1:00) A.M. deadline to consume

any liquor served prior to the deadline. Any person who intentionally consumes or permits the consumption of any alcoholic beverage upon city licensed premises after this time shall be guilty of a misdemeanor. (1985 Code § 5.08.140; amd. 2010 Code)

3-3A-12: PREMISES REQUIREMENTS: The premises of every licensee must be in conformance with all regulations and laws of the state of Idaho and the provisions of this article. Full and unobstructed view of the inside of the premises where liquor by the drink is sold shall always be maintained by the licensee, and no obstructions whatsoever shall be placed upon the windows or the doors that are located on such premises, and no coloring shall be placed upon the glass in order that a full view from the sidewalk or street may be had into the interior of such premises. All premises shall be adequately lighted and subject to periodic sanitary inspection. (1985 Code § 5.08.110)

3-3A-13: MINORS; SALES TO CERTAIN PERSONS PROHIBITED:

- A. It is unlawful for any person under twenty one (21) years of age to sell, serve, dispense, purchase, consume, or possess liquor; provided, that any person who is nineteen (19) years of age or older may sell, serve, possess, or dispense liquor in the course of his/her employment by the licensee.
- B. It is unlawful for any person to permit the consumption of, give away, sell, or deliver any liquor to any person under twenty one (21) years of age, or to any person actually, apparently or obviously intoxicated or known to be a habitual drunkard, or to be an interdicted person. (1985 Code § 5.08.120)
- C. The city adopts and incorporates Idaho Code section 23-943, as amended, and the exceptions under Idaho Code section 23-944, as amended, regarding persons under specified ages who are forbidden to enter, remain in, or loiter at city licensed premises. The licensee shall at all times maintain conspicuous signage over any entrance to any place from which persons under the age of twenty one (21) years are restricted, giving public notice of such restriction. (1985 Code § 5.08.120; amd. 2010 Code)

3-3A-14: **GAMBLING PROHIBITED:** No gambling of any kind or character shall be operated upon such premises, and no gambling devices shall be maintained thereon. (1985 Code § 5.08.110)

3-3A-15: **ACCESS TO PREMISES:** All peace officers appointed by the state or the city or the county shall have free access at all times to the licensed premises, and any information touching the manner and method of the operation of such premises or the sale of liquor may be submitted to the city council upon any investigation made of such licensee. (1985 Code § 5.08.100)

3-3A-16: **REVOCAION OF LICENSE:**

- A. If any licensee or employee of a licensee of a liquor by the drink establishment violates any of the provisions of this article or is convicted of the violation of any of the provisions of Idaho Code title 23, chapter 9, as amended, the city council is authorized and empowered to revoke the license issued to such licensee; provided, however, that in the event it is brought to the attention of the city council that a violation has taken place, before revoking such license, the city council shall cause notice to be served upon the licensee, setting forth in general terms the violation or violations claimed to have been committed, and such notice shall provide a time for hearing thereon by the city council, which date of hearing shall not be less than five (5) days nor more than ten (10) days from the date of the service of notice that the provisions of this article or the provisions of the laws of the state or the county have been violated. Upon the conclusion of such hearing, the city council may revoke any license heretofore issued to such licensee, and no refund of any unused portion of the license fee shall be made to the licensee.
- B. Upon revocation by the commissioner of law enforcement of the state of Idaho of any license theretofore issued by the state, the city shall automatically revoke the license issued by the city to that licensee, and no refund of any fee therefor paid shall be made. (1985 Code § 5.08.090)

CHAPTER 3
ALCOHOLIC BEVERAGES
ARTICLE B. WINE SALES

SECTION:

- 3-3B- 1: Definitions
- 3-3B- 2: License Required
- 3-3B- 3: Eligibility For License
- 3-3B- 4: Application For License
- 3-3B- 5: License Fees
- 3-3B- 6: Issuance Of License
- 3-3B- 7: Expiration Of License
- 3-3B- 8: Transfer Of License
- 3-3B- 9: Posting License
- 3-3B-10: Sales And Consumption Restrictions
- 3-3B-11: Open Containers In Vehicles Prohibited
- 3-3B-12: Minors
- 3-3B-13: Revocation Or Suspension Of License

3-3B-1: **DEFINITIONS:** The following terms, as used in this article, are 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 beverage for the purposes of "low proof spirit beverages".

DIRECTOR: The director of law enforcement of the state of Idaho.

- LOW PROOF SPIRIT BEVERAGES:** Any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the state liquor dispensary system.
- PERSON:** Means and includes an individual, firm, copartnership, association, corporation, or any group or combination 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 wine at retail.
- 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. (1985 Code § 5.08.150; amd. 2010 Code)
- 3-3B-2: LICENSE REQUIRED:** It is lawful for any person to sell wine at retail within the corporate limits of the city after having first procured a license therefor. (1985 Code § 5.08.160)
- 3-3B-3: ELIGIBILITY FOR LICENSE:** The applicant for license shall possess all of the qualifications necessary to obtain a license from the director of law enforcement of the state, 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 department of law enforcement 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. (1985 Code § 5.08.180)

3-3B-4: APPLICATION FOR LICENSE: Application for license shall be in writing, signed and sworn to by the applicant, upon application forms furnished by the city clerk. Such application shall be filed by the city clerk, along with proof of equivalent state and county licenses, and presented to the city council at the next meeting of the city council for their approval, rejection or further consideration. (1985 Code § 5.08.170)

3-3B-5: LICENSE FEES: The license fee imposed and collected for a retail wine license shall be up to the maximum allowed by the state of Idaho per calendar year and for a wine by the drink license shall be up to the maximum allowed by the state of Idaho per calendar year. The license fee shall be paid for an entire year or for any part of a year without prorating, and all fees are nonrefundable. (1985 Code § 5.08.190)

3-3B-6: ISSUANCE OF LICENSE: Upon filing the application for a license and production of evidence, as required by section 3-3B-3 of this article as to the qualifications of the applicant, and by payment of the required license fee, the city clerk shall, upon approval of the city council, issue to the applicant a license to sell wine at retail within the municipality for such calendar year or the remainder thereof. (1985 Code § 5.08.200)

3-3B-7: EXPIRATION OF LICENSE: All licenses issued under this article shall expire at one o'clock (1:00) A.M. on January 1 of the year following the date of issuance. (1985 Code § 5.08.190)

3-3B-8: TRANSFER OF LICENSE: The requirements for assignment or transfer of a wine license shall be the same as provided by the city for the assignment or transfer of a liquor license¹. (1985 Code § 5.08.220)

1. See section 3-3A-8 of this chapter.

3-3B-9: **POSTING LICENSE:** The license issued under this article shall be posted conspicuously in the place of business named therein. (1985 Code § 5.08.210)

3-3B-10: **SALES AND CONSUMPTION RESTRICTIONS:**

- A. Retailers who do not possess a valid license for the retail sale of liquor by the drink 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 liquor by the drink may be sold pursuant to this article.
- C. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of this state or the ordinances of the city. (1985 Code § 5.08.230)

3-3B-11: **OPEN CONTAINERS IN VEHICLES PROHIBITED:** No person may, while operating or riding in a motor vehicle upon a public street of the city, have in his/her possession any wine in an open or unsealed container of any kind. (1985 Code § 5.08.240)

3-3B-12: **MINORS:**

- A. No person under the age of twenty one (21) years may purchase, consume or possess wine.
- 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) years shall, by any means, represent to any retailer or distributor, or to any agent or employee of such retailer or distributor, that he/she is twenty one (21) years or more of age for the purpose of inducing such retailer or distributor, or his/her agent or employee, to sell, serve or dispense wine to such person.

- D. 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 the agent or employee of such retailer or distributor, to sell, serve or dispense wine to such other person. (1985 Code § 5.08.250)

3-3B-13: **REVOCATION OR SUSPENSION OF LICENSE:** The right shall be and remain at all times vested in the city council, and the city council may, as hereinafter provided, revoke or cancel any license for fraud or misrepresentation in its procurement, or for violation of any of the provisions of this article, or for any conduct or act of the licensee or his/her employees, or any conduct or act permitted by him/her 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 law enforcement shall be deemed prima facie evidence for revocation or suspension of the license issued in this article. (1985 Code § 5.08.260)

CHAPTER 3

ALCOHOLIC BEVERAGES

**ARTICLE C. BEER, WINE AND/OR LOW PROOF SPIRIT
BEVERAGE SALES FOR CHARITABLE OR PUBLIC
PURPOSES ON PUBLIC WAYS AND PROPERTY**

SECTION:

- 3-3C-1: Definition
- 3-3C-2: Authority Of Licensed Dealers, Wholesalers And Retailers;
Permit Required
- 3-3C-3: Application For Permit
- 3-3C-4: Permit Fees
- 3-3C-5: Issuance Of Permit
- 3-3C-6: Conditions Of Permit
- 3-3C-7: Duration Of Permit
- 3-3C-8: Report Required
- 3-3C-9: Denial Or Suspension Of Permit

3-3C-1: **DEFINITION:** For the purposes of this article, 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 Idaho Code section 23-1007A. (Ord. 268-06, 6-20-2006)

3-3C-2: **AUTHORITY OF LICENSED DEALERS, WHOLESALERS
AND RETAILERS; PERMIT REQUIRED:**

- A. Notwithstanding the provisions of any other city ordinance, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of beer or kegs of beer, wine and/or low proof spirit beverage 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 section 3-3C-5 of this article.

- B. A licensed retailer may, on behalf of the permittee, receive or store beer, wine and/or low proof spirit beverage to be used at the event and may dispense such beer, wine and/or low proof spirit beverage to attendees of the benevolent, charitable or public purpose event for which the permit was issued. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

3-3C-3: **APPLICATION FOR PERMIT:** The permit application shall require the following information:

- A. 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.
- B. Quantities and types of beer, wine and/or low proof spirit beverage products to be used at the event.
- C. Name of the dealer or wholesaler from whom the beer, wine and/or low proof spirit beverage is to be received.
- D. The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense beer, wine and/or low proof spirit beverage on behalf of the permittee.
- E. Dates and hours of operation for which the permit is desired.
- F. The location of the event and a description of the premises where beer, wine and/or low proof spirit beverage will be sold, dispensed or conveyed.
- G. Such other information directly related to the event and the applicant that the city clerk or city council may require. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

3-3C-4: **PERMIT FEES:** The clerk shall collect a twenty five dollar (\$25.00) fee for each permit issued; provided, however, permits may be issued for multiple events conducted within a calendar year; provided further, that such events are separated by a period of at least six (6) days. Such multiple event permit fee shall be the sum of fifty dollars (\$50.00). (Ord. 268-06, 6-20-2006)

3-3C-5: ISSUANCE OF PERMIT: Upon delivery to the city clerk of a properly completed application in accordance with the provisions of this article and following receipt of an affirmative recommendation from the city council, the city clerk may issue to a qualified organization a permit authorizing the sale or dispensing of beer, wine and/or low proof spirit beverage at an event sponsored by such qualified organization if the city council is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

3-3C-6: CONDITIONS OF PERMIT: Any permit issued to an applicant who desires to conduct an event upon a public street, alley, sidewalk or publicly owned property shall be subject to the following conditions:

- A. The applicant shall designate in his or her application an area, not to exceed one thousand two hundred fifty (1,250) square feet, in which all beer, wine and/or low proof spirit beverage 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 opening not to exceed six feet (6') in width. Such defined premises shall be at such location as may be determined by the city council in its sole discretion, which location shall be specified on the permit. Such defined area shall be considered to be the "premises" for the purposes of local rules and regulations, and the applicant shall not sell or dispense beer, wine and/or low proof spirit beverage 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 Beer, Wine And/Or Low Proof Spirit Beverage May Be Possessed Or Transported Beyond The Fenced Area", or such other legend which adequately apprises customers of the prohibitions against open containers in public areas. Beer, wine and/or low proof spirit beverage shall not be sold, conveyed or dispensed between the hours of ten o'clock (10:00) P.M. and ten o'clock (10:00) A.M. of the following day. 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; or
- B. Beer, wine and/or low proof spirit beverage will be dispensed only between the hours of two o'clock (2:00) P.M. and ten o'clock (10:00) P.M., unless otherwise approved during the permit process, and such event shall be conducted in a public street and within an area

comprised of no more than one street on one side of a city block, excluding any intersections thereof. Such street area shall be considered to be the "premises" for the purposes of local rules and regulations, and the applicant shall not sell or dispense beer, wine and/or low proof spirit beverage 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") high bearing the following legend: "No Open Container Of Beer, Wine And/Or Low Proof Spirit Beverage May Be Possessed Or Transported Beyond This Point", or such other legend which adequately apprises customers of the prohibitions against open containers in public areas. Failure to construct or maintain such fence, barrier or sign shall be grounds for summary revocation of such permit; or

- C. The event is conducted solely within the confines of: 1) a designated public plaza; or 2) such area as may be designated by the city council that may be readily contained within a fence, which plaza or area shall be considered to be the "premises" for the purposes of local rules and regulations, and the applicant shall not sell or dispense beer, wine and/or low proof spirit beverage outside such area. The applicant shall also erect and maintain, in a conspicuous location within such plaza or area, at least two (2) signs with large letters no less than two inches (2") high bearing the following legend: "No Open Container Of Beer, Wine And/Or Low Proof Spirit Beverage May Be Possessed Or Transported Beyond The Boundaries Of This Plaza (Or Area)", or such other legend which adequately apprises the customer of the prohibitions against open containers in public areas. Failure to construct or maintain such sign shall be grounds for summary revocation of such permit. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

3-3C-7: DURATION OF PERMIT: Permits issued under section 3-3C-6 of this article shall not exceed a period of greater than three (3) consecutive days, or multiple one day events over no more than a three (3) month period of time. Nothing herein shall authorize or allow the issuance of any permit to sell or dispense beer, wine and/or low proof spirit beverage in contradiction of any rules or regulations relating to issues other than place and time. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

3-3C-8: REPORT REQUIRED: Within ninety (90) days after the conclusion of the event, the permittee shall submit an accurate and complete report to the city clerk showing the disposition of

funds from the event in accordance with the provisions of this article. (Ord. 268-06, 6-20-2006)

3-3C-9: **DENIAL OR SUSPENSION OF PERMIT:** Should the city council determine that an applicant, permittee or its representative is violating any provision of this article, or has in the past violated any law pertaining to the dispensing or sale of beer, wine and/or low proof spirit beverage by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in Idaho Code section 23-1013, or under this article, or has failed in the past to submit such information as may have been requested by the city clerk, such permit may be summarily suspended by the city clerk prior to hearing, or may be denied or canceled pending a hearing. (Ord. 268-06, 6-20-2006; amd. 2010 Code)

