

## ORDINANCE 1324

**AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING SECTION(S) 5.04.010; 5.04.020; 5.04.050; 5.04.060; 5.04.070; 5.04.080; 5.04.090; 5.08.030 IN CHAPTER 5.04 & 5.08 OF TITLE 5, BEER AND LIQUOR; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

**Section 1.** Section 5.04.010 of Title 5, Chapter 5.04 of the Payette Municipal Code is hereby amended as follows:

Chapter 5.04  
BEER & WINE

### **5.04.010: DEFINED:**

"Beer" as used in this chapter, means and shall be construed to mean and embrace all spirituous, malt, vinous, fermented or other beverages and all mixtures or preparations reasonably likely or intended to be used as a beverage which shall contain no more than four percent (4%) of alcohol by weight. (Prior code § 5-4-1)

"Wine" is defined as, any alcoholic beverage containing not more than fourteen percent (14%) 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.

### **5.04.020: LICENSE; REQUIRED:**

It is unlawful for any person to sell, trade, barter or dispose of "beer or wine", as defined in section 5.04.010 of this chapter, at retail within the corporate limits for a consideration without first having obtained a license from the council as provided in this chapter. (Prior code § 5-4-2)

### **5.04.050: LICENSE; GRANTED FOR CERTAIN PLACE ONLY:**

No retailer's license should be granted to any person to sell, trade, barter and/or dispose of beer or wine, except in a certain room or building designated in said license which shall be well lighted, and the place of business shall not be changed or moved without the consent of a majority of the council in regular session. (Ord. 1149, 1997: prior code § 5-4-5)

### **5.04.060: RETAILER; SALES RESTRICTIONS:**

It is unlawful for any retailer to suffer or permit any person under the age of twenty one (21) years to consume any "beer or wine", as defined in section 5.04.010 of this

chapter, in or upon his premises; or for any retailer to sell, give away or in anywise dispose of any such beer to any person under the age of twenty one (21) years; or for any retailer to sell, give away or dispose of any such beer or to permit any such beer to be consumed by any person in or upon his premises at any time between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. (Ord. 1120 § 1, 1996: Ord. 951, 1984: prior code § 5-4-6)

**5.04.070: LICENSEE; CONDUCT OF BUSINESS; POSTING AND TRANSFER OF LICENSE; BANKRUPTCY OR INCOMPETENCY:**

- A. Every person to whom a license is granted under the provisions of this chapter shall at all times conduct a quiet and orderly place of business which shall be open at all times to the inspection of any police officer or officer of the United States Treasury Department, who shall have the right at any and all times to make an examination of any licensed premises to ascertain if the licensee of such premises is conforming to the provisions of this chapter and/or the laws of the United States applicable thereto, and to check the alcoholic content of any such beer or wine, being kept for the purpose of sale and distribution on said premises.
- B. All permits or licenses shall be posted in a conspicuous place on the premises and shall be kept so posted during the full period of time for which issued, and said licenses or permits shall not be sold, transferred or assigned without the written consent of a majority vote of the council at a regular session thereof.
- C. In case of a receivership, assignment, bankruptcy or incompetency of the licensee, the licensee's business may be carried on under the permit by the duly appointed, qualified and acting receiver, assignee, trustee in bankruptcy, guardian, executor or administrator of the licensee; provided, that such receiver, assignee, trustee, guardian, executor or administrator shall file with the city clerk a duly certified copy of his appointment and secure the written consent of the council. (Prior code § 5-4-7)

**5.04.080: LICENSE; FEES; EXPIRATION:**

- A. The annual license fees for the retail sale of "beer" or "wine", as defined in section 5.04.010 of this chapter, are fixed as follows:
  - 1. Where such retailer sells bottled, canned or draft beer and such bottled, canned or draft beer is consumed on the premises where sold, two hundred dollars ~~one hundred dollars~~ (\$200.00) ~~(\$100.00)~~ a year;
  - 2. Where such retailer sells bottled, boxed, packaged, or by the drink wine and such bottled, boxed, packaged, or by the drink wine is consumed on the premises where sold, one hundred dollars (\$100.00) a year;

3. Where such retailer sells only bottled or canned beer, none of which is consumed on the premises where sold, the license fee shall be fifty dollars (\$50.00) ~~twenty five dollars (\$25.00)~~ a year.
4. Where such retailer sells only bottled, packaged or boxed wine, none of which is consumed on the premises where sold, the license fee shall be fifty dollars (\$50.00) a year.

B. All licenses issued under the term of this chapter shall expire on December 31 of the year for which they are issued. (Ord. 951, 1984: prior code § 5-4-8)

**5.04.090: LICENSE; ISSUANCE PROHIBITED TO WHOLESALERS AND MANUFACTURERS:**

No retailer's license to sell, trade, barter and/or dispose of "beer or wine", as defined in section 5.04.010 of this chapter, shall be issued to any person holding a wholesale or manufacturer's license. (Prior code § 5-4-9)

**5.08.030: LICENSE; FEE; EXPIRATION; WAIVER OF OTHER FEES:**

- A. Each licensee licensed under the provisions of this chapter shall pay an annual license fee in advance to the city not to exceed the maximum amount allowed by state statute per year, regardless of when during the calendar year such license is issued.

**Section 2.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 3.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

**Section 4.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 5.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED by the Mayor and City Council of the  
City of Payette, Idaho this 1<sup>st</sup> day of November, 2010.

CITY OF PAYETTE, IDAHO

by 

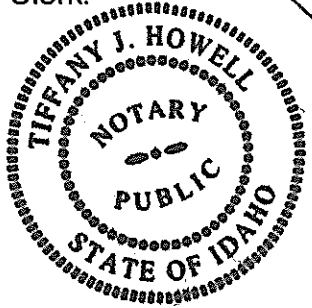
Jeffrey T. Williams, Mayor

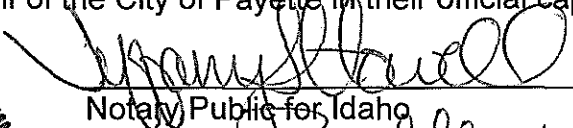
ATTEST:

  
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Mary Cordova, City Clerk

State of Idaho                    )  
  ) ss.  
County of Payette                )

On this 2<sup>nd</sup> day of November, in the year of 2010, personally appeared MARY CORDOVA and JEFFREY T. WILLIAMS, personally known to me to be the persons whose name is subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of the City of Payette in their official capacities as Mayor and City Clerk.




  
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Notary Public for Idaho  
Residing at: Payette, Id  
Commission expires: 5/25/12

SUMMARY OF ORDINANCE 1324

Ordinance 1324 is an ordinance of the City Of Payette, Idaho, adopted November 1, 2010. The ordinance may be descriptively known as Payette ordinance amending the fee portions of the beer and liquor sections of the Payette City Code. Ordinance 1324 amends chapter 5 of title 5 of the Payette Municipal Code by changing sections 5.04.010; 5.04.020; 5.04.050; 5.04.060; 5.04.070; 5.04.080; 5.04.090; 5.08 of the Payette Municipal Code by amending the fee for beer sales on premise to two hundred (\$200) dollars, beer sales off premise to fifty (\$50), wine sales on premise to one hundred (\$100), wine sales off premise to fifty (\$50). The fee for a liquor license will be the maximum amount allowed by state code. Ordinance 1324 adds a definition for wine. Ordinance 1324 provides a severability clause, provides for publication by summary, sets an effective date, and establishes a repealer.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1321 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 2<sup>nd</sup> day of November, 2010.



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Bert L. Osborn