

ORDINANCE NO. 447

AN ORDINANCE DEFINING ALCOHOLIC LIQUOR; REGULATING SALE, POSSESSION, LICENSED PREMISES; PROHIBITING THE SALE OR POSSESSION OF ALCOHOLIC LIQUORS BY CERTAIN PERSONS; PROVIDING PENALTIES AND DECLARING AN EMERGENCY.

The City of Stayton ordains as follows:

Section 1. Definitions.

(1) In Sections 1 to 29 of this ordinance, the following words mean:

(a) Alcoholic liquor. Any alcoholic beverage containing more than one-half of 1 percent of alcohol by volume.

(b) Commission. The Oregon Liquor Control Commission established by the Oregon Liquor Control Act.

(c) Hard liquor. Any alcoholic beverage, including sweet wines and all spirituous liquors, containing 14 percent or more alcohol by volume.

(d) Licensee. A person who has an alcoholic liquor license from the commission authorizing such person to sell or dispense alcoholic liquor.

(e) Licensed premises. The room or enclosure at the address within the corporate limits of the city for which a license has been issued by the commission for the serving, mixing, handling or selling of alcoholic liquor.

(f) Malt beverage. Malt beverage as defined in the Oregon Liquor Control Act.

(g) Oregon Liquor Control Act. The state law so designated by ORS 471.027 as now or hereafter amended and supplemented, and includes the Oregon Distilled Liquor Control Act as defined by ORS 472.020 as now or hereafter amended and supplemented.

(h) Other responsible relative. An adult who is the spouse of a minor; or an adult, related to the minor, who has taken over the parental duties of governing the minor's actions; or a duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

(i) Sell. Soliciting or receiving an order for or keeping, offering or exposing for sale, delivering for value or in any way other than gratuitous, peddling, keeping with intent to sell, to traffic in, for any pretext or by any means whatsoever, procuring or allowing to be procured alcoholic liquor for any other person.

Section 2. Providing Liquor to Certain Persons Prohibited.

(1) No person may sell, give, furnish or serve any alcoholic liquor to:

(a) A minor except as provided in Section 5 of this ordinance.

(b) A person visibly intoxicated.

Section 3. Persons Not Allowed to Drink Alcoholic Liquor on Licensed Premises.

No person may permit any person who is visibly intoxicated, or who is under 21 years of age, to drink or consume any alcoholic liquor upon licensed premises.

Section 4. Purchase or Possession of Liquor by Minor.

Except as provided in Section 5 of this ordinance, no minor may purchase, acquire or have alcoholic liquor in his possession. In this section the word "possession" includes the acceptance or consumption of a bottle of alcoholic liquor, or any part thereof, or a drink of alcoholic liquor.

Section 5. Lawful Consumption of Liquor by Minor.

Nothing in this ordinance shall be construed as prohibiting a parent or other responsible relative of a minor from giving such minor

alcoholic liquor and permitting him to consume the same within the home of such parent or other responsible relative of the minor, or at such other private place not in view of the public where the parent or other responsible relative is present; nor does anything in this ordinance prohibit the acceptance or consumption by such minor of sacramental wine as a part of a religious rite or service.

Section 6. Loitering on Licensed Premises by Minors.

Except as provided in Section 8 of this ordinance, no minor, whether or not he is accompanied by a parent or other responsible relative, may enter, loiter or remain on any licensed premises which have been posted by the commission to prohibit the use thereof by minors.

Section 7. Minors Not Permitted to Drink or Loiter on Licensed Premises.

(1) No licensee or his employee or agent may permit a minor to:

(a) Consume any alcoholic liquor upon any licensed premises, whether or not such alcoholic liquor is given to the minor by a parent or other responsible relative.

(b) Loiter on licensed premises which have been posted by the commission to prohibit the use thereof by minors, except as provided in Section 8 of this ordinance.

(c) Remain upon licensed premises except as provided in Section 8 of this ordinance.

(2) The fact that a parent or other responsible relative has accompanied a minor upon any licensed premises is not a defense to any charge brought for violation of this section, except as provided in Section 8 of this ordinance.

Section 8. Permitting Minors on Licensed Premises.

(1) The provisions of Sections 6 and 7 of this ordinance shall not be construed to prohibit:

(a) A minor from entering any licensed premises for the transaction of any business pursuant to his duties in the regular course of his lawful employment.

(b) A minor spouse from entering and remaining on licensed premises or any portion thereof when he is in the immediate company of his spouse who is 21 years of age or older.

(2) This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on any licensed premises.

Section 9. Delivering or Selling Liquor by Minor.

(1) Except as provided in subsection (2) of this section, no minor, either for himself or as agent or employee of another, may sell, offer for sale or deliver alcoholic liquor.

(2) The provisions of subsection (1) of this section shall not be construed to prohibit any minor 18 years of age or older who, as an employee of a person who holds any package store license from the Oregon Liquor Control Commission from selling any alcoholic liquor authorized by such license on the licensed premises.

Section 10. Sales by Unlicensed Persons Prohibited.

No person may sell alcoholic liquor unless he has a license from the commission to sell alcoholic liquor. Sales by a licensee or his employee shall be only such sales as are authorized by the license issued for the premises.

Section 11. Intoxicated Persons on Licensed Premises.

No licensee or his employee or agent may permit a visibly intoxicated person to enter or remain upon the licensed premises which the licensee controls.

Section 12. Consumption of Liquor in Beer Parlor.

(1) No licensee or his employee or agent may knowingly permit alcoholic liquor containing more than 4 percent of alcohol by weight to be brought upon or consumed or sold upon the premises which he controls where the license of that premises permits only the sale and consumption of malt beverages.

Section 13. Disposal of Liquor Containers.

(1) No licensee or his employee or agent may permit empty or discarded containers of alcoholic liquor to be in the public view on the exterior of his licensed premises or in parking areas maintained in connection with such premises.

(2) Every licensee or his employee or agent who is serving hard liquor under the provisions of a dispenser's license shall break and destroy all hard liquor bottles as such bottles are emptied.

(3) No person may discard, throw away or dispose of any container of alcoholic liquor, whether broken or not, upon any street, alley, public grounds or public place.

Section 14. Election Day.

No person may sell for consumption on the premises any alcoholic liquor during the time the polls are open on any day on which an election is held throughout the state.

Section 15. Lawful Hours of Sale.

A licensee in lawful possession of a club, restaurant or dispenser's license may permit the privileges granted by such licenses between the hours of 7:00 a.m. and 2:30 a.m. of the day following.

Section 16. Sales, Dispensing and Consumption in Licensed Premises Prohibited During Certain Hours.

No licensee or his employee or agent may sell, dispense or allow the consumption of alcoholic liquor on licensed premises, nor may a licensee or his employee or agent deliver or permit the removal of alcoholic liquor to, on or from any licensed premises, between the hours of 2:30 a.m. and 7:00 a.m.

Section 17. Misrepresentation of True Age of Minor.

(1) No minor may falsely represent that he is of any age other than his true age, or produce evidence that would falsely indicate his age, for the purpose of securing a right, benefit or privilege denied minors by Sections 1 to 29 of this ordinance.

(2) No person may falsely represent a minor to be 21 years of age or older for the purpose of securing or assisting such minor in securing a right, benefit or privilege denied to minors by Sections 1 to 29 of this ordinance.

Section 18. Defense of Written Age Statement.

If a licensee or his employee or agent is prosecuted in municipal court under this ordinance for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor or to enter or loiter upon the licensed premises, the licensee or his employee or agent may offer in his defense any written statement made by or for such minor prior to the violation, which statement was made and taken pursuant to the laws of the state of Oregon and the rules and regulations of the commission, and such statement is a prima facie defense.

Section 19. Bartender Not to Drink on Duty.

No bartender may drink or consume alcoholic liquor or be under the influence of alcoholic liquor, while on duty in a licensed premise.

Section 20. Possession of Alcoholic Liquor on Premises to Conform to License.

(1) No licensee or his employee or agent may have in his possession on the licensed premises alcoholic liquor that is not included within the scope of his license.

(2) No licensee or his employee or agent may permit alcoholic liquor that is not within the scope of his license to be brought upon or consumed or sold upon the premises which he controls.

Section 21. Consumption of Alcoholic Liquors in Public Places Prohibited.

No person may drink or consume alcoholic liquor in or upon any street, alley, public grounds or other public place unless such place and activity has been approved by the common council of the City of Stayton and has been licensed for that purpose by the commission.

Section 22. Liquor in Public Dance Hall Prohibited.

No person may possess, keep, sell, give away or otherwise dispose of or consume alcoholic liquor in any public dance hall or in a room or building used for public dancing that is not licensed under the Oregon Liquor Control Act.

Section 23. Nuisances.

(1) Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic liquors in violation of the law, or any place where alcoholic liquors are kept for sale, barter or gift in violation of the law, and all alcoholic liquor whether purchased from or through the commission or purchased or acquired from any source, and all property including bars, glasses, mixes, lockers, chairs, tables, cash registers, music devices and all furniture, furnishings and equipment, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor kept and used in such place, are declared to be a common nuisance.

(2) No person may maintain or assist in maintaining a common nuisance as defined in subsection (1) of this section.

Section 24. Arresting Officer to Seize Property.

When a police officer arrests any person for violation of Sections 1 to 29 of this ordinance, the police officer shall take into his possession all alcoholic liquor and other property included under Section 23 of this ordinance which the person arrested has in his possession or on his premises, which apparently is being used or kept in violation of this ordinance. If the person arrested is convicted and the court finds that the alcoholic liquor and other property have been used in violation of this ordinance, such forfeiture proceedings authorized by ORS 471.605, 471.610 and 471.615 may be instituted.

Section 25. Responsibility of Licensee for Employees.

Each licensee is responsible and liable to prosecution for any violation of any provision of Sections 1 to 29 of this ordinance pertaining to his licensed premises and for any act or omission of any servant, agent or employee of such licensee in violation of any provision of Sections 1 to 29 of this ordinance.

Section 26. Commission to Be Notified.

When a conviction is obtained against any licensee of the commission, or a conviction is obtained against a person where the violation was committed on a licensed premises, the municipal court shall notify the commission of such conviction.

Section 27. Penalties.

Violation of any provision of this ordinance shall be punishable upon conviction in municipal court by a fine not to exceed \$500.00 or confinement in the city jail not to exceed 100 days, or both fine and confinement.

Section 28. Severability Clause.

If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

Section 29. Emergency Clause.

The common council of the City of Stayton finding that an emergency exists and the adoption of this ordinance is necessary for the immediate preservation of the public peace, health and safety, this ordinance shall be in full force and effect from and after its date of passage.

PASSED by the Council this 16 day of JUNE, 1975

APPROVED by the Mayor this 16 day of JUNE, 1975


MAYOR

ATTEST:


CITY RECORDER