

AN ORDINANCE OF THE CITY OF CLARK FORK, IDAHO, PROVIDING FOR THE RETAIL SALE OF WINE IN ACCORDANCE WITH CHAPTER 156 SESSION LAWS, FIRST REGULAR SESSION FORTY-FIRST LEGISLATURE, STATE OF IDAHO, BY PROVIDING DEFINITIONS; REQUIRING A CITY LICENSE; DEFINING THE QUALIFICATIONS OF A LICENSEE; ESTABLISHING THE LICENSE FEE; SETTING RESTRICTIONS ON TRANSFER OF LICENSES; REGULATION PLACES OF CONSUMPTION; SETTING FORTH CONDITIONS OF POSSESSION; PROHIBITING MISREPRESENTATION OF AGE FOR PURPOSES OF SALE, CONSUMPTION OR POSSESSION; PROHIBITING PERSONS FROM DRIVING UPON A PUBLIC HIGHWAY OR STREET WHILE CONSUMING OR IN POSSESSION OF AN OPEN CONTAINER OF WINE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The following terms used in this act are hereby defined as follows:

(a) "Wine" shall mean 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.

(b) "Commissioner" means the Commissioner of Law Enforcement of the State of Idaho.

(c) "Retail Wine License" means a license issued by the Commissioner, authorizing a person to sell wine at retail.

(d) "retailer" means a person to whom a retail wine license has been issued.

(e) "Person" 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.

Section 2. License Required: It shall be lawful for any person to sell wine at retail within the corporate limits of the City after having first procured a license therefor.

Section 3. APPLICATION FOR License: Application for license shall be in writing, signed and sworn to by the applicant upon forms furnished by the clerk. Such application shall be filed by the clerk and presented to the mayor and council at the next meeting of the council for their approval, rejection, or further consideration.

Section 4. Qualifications: The applicant for a license shall possess all of the qualifications necessary to obtain a license from the Commissioner 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.

Section 5. License Fee: The license fee imposed and collected shall be the sum of \$ 25.00 per year. Such license year shall be from 12:01 am, January 1 through December 31, provided, however, should a license be issued for less than a full calendar year, the license fee shall be prorated in accordance with the actual months of issuance.

Section 6. Issuance of License: Upon filing the application for a license and production of evidence as required by Section 4 herein as to the qualifications of the applicant and by the payment of the required license fee, the clerk shall upon approval of the council issue to the applicant a license to sell wine at retail within the municipality for such calendar year of the remainder thereof.

Section 7. License Restrictions. All wine licenses shall be non-transferrable.

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\$ 2.08 per mo.

Section 8. Consumption of Premises: 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 wine only in its original unbroken, sealed container. Wine sold for consumption on the retailers premises may be sold only during hours that liquor by the drink may be sold pursuant to the laws of this State. 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 the State.

Section 9. Possession: No person may, while operating or riding in or upon a motor vehicle upon a public highway of this State, have in his possession any wine in a open or unsealed container of any kind.

Section 10. Misrepresentation of Age:

(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, to any agent or employee of such retailer or distributor that he or she is twenty-one (21) years or more of age for the purpose of inducing such retailer or distributor, or his agent or employee, to sell, serve or dispense wine to such person.

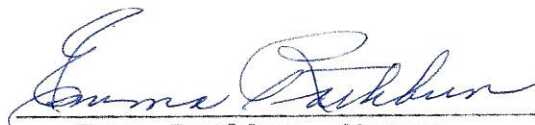
(d) No person shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty-one (21) years or more of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of inducing such retailer or distributor, to sell, serve, or dispense wine to such other person.

Section 11. Revocation of License: The right shall be and remain at all times vested in the mayor and council, and the mayor and council 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 ordinance, or for any conduct or act of the licensee or his employees or any conduct or act permitted by him 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 Commissioner of Law Enforcement shall be deemed prima facie evidence for revocation or suspension of the license issued herein.

Section 12. Penalty: Any person who violates any of the provisions of this act or fails to comply with any of the terms and conditions of this act shall be guilty of a misdemeanor.

Section 13. Severability: The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Passed under suspension of the rules this 17th day of March 1972.


Emma Rathbun, Mayor

ATTEST:


Viola P. Moore, City Clerk