

**ORDINANCE NO. 2415****AN ORDINANCE RELATING TO ALCOHOLIC LIQUOR; PROVIDING A PENALTY; AND DECLARING AN EMERGENCY.**

Be it ordained by the City of Baker, Oregon:

Section 1. Definitions:

1. As used in this ordinance:

(a) "Alcoholic liquor" means any alcoholic beverage containing more than one-half of one per cent of alcohol by volume.

(b) "Commission" means the Oregon Liquor Control Commission as provided for by the Oregon Liquor Control Act.

(c) "Hard Liquor" means any alcoholic beverage, including sweet wines and all spirituous liquors, containing 14 per cent or more alcohol by volume.

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

(e) "Licensed Premises" means the room or enclosure at the address within the corporate limits of the City of Baker for which a license has been issued by the commission for the serving, mixing, handling or selling of alcoholic liquor.

(f) "Malt Beverage" means malt beverage as defined in the Oregon Liquor Control Act.

(g) "Minor" means any person under the age of 21 years.

(h) "Oregon Liquor Control Act" means 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.

(i) "Other Responsible Relative" means:

(1) An adult who is the spouse of a minor,

(2) An adult, related to the minor, who has taken over the parental duties of governing the minor's actions; or

(3) A duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

(j) "Person" includes an individual, partnership, corporation, association or club.

(k) "Sell" includes: 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 consideration, promised or obtained, direct or indirect, or under any pretext or by any means whatsoever, procuring or allowing to be procured alcoholic liquor for any other person.

2. As used in this ordinance the singular includes the plural and the masculine includes the feminine.

Section 2. Providing Liquor to Certain Persons Prohibited.

No person shall sell, give, furnish or serve any alcoholic liquor to:

- (1) Any minor except as provided in Section 5 of this ordinance.
- (2) Any person visibly intoxicated.
- (3) Any person under an order of interdiction by any court.

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

No person shall allow or permit any person who is visibly intoxicated, or who is under an order of interdiction issued by any court, to drink or consume any alcoholic liquor upon any licensed premises.

Section 4. Purchase or Possession of Liquor by Minor.

Defining possession for this section and Section 10 hereof:

- (1) Except as provided in Section 5 of this Ordinance, no minor shall purchase, acquire, or have in his possession any alcoholic liquor.
- (2) For the purpose of sub-section (1) of this section, and for Section 10 of this ordinance, possession of alcoholic liquor includes the acceptance or consumption of any container of such liquor, or portion thereof or a drink of such liquor. However, this does not prohibit the consumption by any person of sacramental wine as part of a religious rite or service.

(Section 4 as amended by Ord. No. 2594, 10/11/65)

Section 5. Lawful Consumption of Liquor by Minor.

Nothing in this ordinance contained 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.

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, shall enter, loiter or remain on any licensed premises, or any portion thereof, which has 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 shall permit any minor to:

- (a) Consume any alcoholic liquor upon any licensed premise, whether or not such alcoholic liquor is given to the minor by a parent or other responsible relative.
- (b) Loiter on such 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 such premises or any portion thereof 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 premise shall not constitute 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) Any minor from entering any licensed premise, or portion thereof, 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 premise.

Section 9. Delivering or Selling Liquor by Minor.

(1) No minor, either for himself, or as agent or employee of another, shall sell, offer for sale or deliver any alcoholic liquor.

(2) No person shall employ, hire or engage any minor to sell, offer for sale or deliver any alcoholic liquor.

Section 10. Interdicted Persons.

No person under an order of interdiction by any court shall possess, purchase or attempt to purchase any alcoholic liquor.

Section 11. Sales by Unlicensed Persons Prohibited.

No person shall 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 12. Intoxicated Persons on Licensed Premises.

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

Section 13. Consumption of Liquor in Beer Parlor.

No licensee or his employee or agent shall knowingly permit any alcoholic liquor containing more than 4 per cent of alcohol by weight to be brought upon or consumed upon the premise which he controls where the license of that premise permits only the sale and consumption of malt beverages.

Section 14. Disposal of Liquor Containers.

(1) No licensee or his employee or agent shall permit any 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 his 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 shall 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 15. Election Day.

No person shall 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 16. Lawful Hours of Sale.

(1) Subject to the provisions of subsection (2) of this section, no person shall sell, dispense or allow the consumption of any alcoholic liquor on any licensed premise, nor shall any licensee or his employee or agent deliver or permit the removal of any alcoholic liquor to, on or from any licensed premise, between the hours of 1:00 a.m. and 7:00 a.m.

(2) 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, and may allow, after closing hours, any person who is not visibly intoxicated to remove from the club or restaurant premises alcoholic liquor lawfully brought upon the licensed premises by such person.

Section 17. Misrepresentation of True Age of Minor.

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

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

Section 18. Defense of Written Age Statement.

If a licensee or his employee or his agent is prosecuted in the 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 Oregon and the rules and regulations of the commission, and such statement shall constitute a prima facie defense.

Section 19. Bartender Not to Drink on Duty.

No bartender shall drink or consume any 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.

No licensee or his employee or agent shall have in his possession on the licensed premise any alcoholic liquor that is not included within the scope of his license.

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

No person shall drink or consume any alcoholic liquor in or upon any street, alley, public grounds, or other public place unless such place has been licensed for that purpose by the Oregon Liquor Control Commission.

Section 22. Liquor in Public Dance Hall Prohibited.

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

Section 23. Nuisances.

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 liquor 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 Oregon Liquor Control Commission or purchased or acquired from any source, and all property including bars, glasses, mixers, 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, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance is guilty of a violation of this ordinance.

Section 24. Arresting Officer to Seize Property.

When an officer arrests any person for violation of this ordinance, the 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 as are 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 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 this ordinance.

Section 26. Penalty.

Violation of any provision of this ordinance is punishable, upon conviction in the Municipal Court, by a fine not exceeding \$500.00, or by imprisonment in the city jail not to exceed 90 days or by both.

Section 27. Liquor Commission to be Notified.

When a conviction is obtained against any licensee of the Commission, or a conviction is obtained against any person where the violation was committed on a licensed premise, the Municipal Court shall notify the Oregon Liquor Control Commission of such conviction.

Section 28. Saving Clause.

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this

ordinance; and it hereby is expressly declared that every other section, subdivision,

paragraph, provision or clause of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared or adjudged to be unconstitutional or invalid, is valid.

Section 29. Emergency.

It is hereby determined and found that it is in the best interests and welfare of the people of the city of Baker that the use of alcoholic liquor be controlled within the city.

By virtue of the foregoing reason, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon and after its passage by the City Council and approval by the Mayor of the city of Baker, Oregon.

Passed by the Council this 7th day of May, 1957.

Approved by the acting Mayor this 7th day of May, 1957.