

AN ORDINANCE RELATING TO ALCOHOLIC LIQUOR ADOPTING STATE LAW AND MAKING UNLAWFUL CERTAIN ACTS AND TRANSACTIONS IN CONNECTION THEREWITH AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith INCLUDING ORDINANCE NO. 166A AND ORDINANCE NO. 302A AND CONTAINING A SAVING CLAUSE AND DECLARING AN EMERGENCY.

THE CITY OF WARRENTON DOES ORDAIN AS FOLLOWS:

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 spiritous 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 Warrenton 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 present state law so designated by ORS 471.027 and includes the present Oregon Distilled Liquor Control Act as defined by ORS 472.020.
- (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. STATE LAW ADOPTED. The present provisions of ORS Chapter 471 and Chapter 472 relating to the acquisition, possession or disposition of alcoholic liquors and any other present laws of the State of Oregon pertaining to alcoholic liquor and all present duly promulgated laws and regulations of the Oregon Liquor Control Commission are hereby adopted as a portion of this Ordinance so far as applicable, except as otherwise lawfully provided by this and other Ordinances of the City of Warrenton. It shall be unlawful for any person, firm or corporation or officers, agents, or employees thereof, within the limits of the City of Warrenton, to possess, transport, sell, dispose of,

purchase, or in any way to acquire or dispose of alcoholic liquor as herein defined, contrary to the present laws of the State of Oregon and of the United States of America or contrary to the present duly promulgated laws and regulations of the Oregon Liquor Control Commission.

Section 3. UNLAWFUL SALES. It shall be unlawful for any person to sell alcoholic liquor to any person under the age of twenty-one (21) years or to a person who is visibly intoxicated or to a person who has been interdicted, and it shall be unlawful for any person other than a parent, guardian or relative to give or supply any minor with alcoholic liquor at any time, and it shall be unlawful for any person to give any alcoholic liquor to a person visibly intoxicated or to a person under an order of interdiction.

Section 4. PERSONS NOT ALLOWED TO DRINK ALCOHOLIC LIQUOR OR 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 5. PURCHASE OR POSSESSION OF LIQUOR BY MINOR. Except as provided in Section 6 of this Ordinance, no minor shall purchase, acquire or have in his possession any alcoholic liquor.

Section 6. 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 7. LOITERING ON LICENSED PREMISES BY MINORS. Except as provided in Section 9 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 8. 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 9 of this Ordinance.

(c) Remain upon such premises or any portion thereof except as provided in Section 9 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 9 of this Ordinance.

Section 9. PERMITTING MINORS ON LICENSED PREMISES. (1) The provisions of Sections 7 and 8 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 10. 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 11. INTERDICTED PERSONS. No person under an order of interdiction by any Court shall possess, purchase, or attempt to purchase any alcoholic liquor.

Section 12. 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 13. 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, or permit on his premises lewd or disorderly conduct or unreasonable or excessive noise.

Section 14. CONSUMPTION OF LIQUOR IN BEER PARLOR. No licensee or his employee or agent shall knowingly permit any alcoholic liquor containing more than Four 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 15. 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 16. 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 17. LAWFUL HOURS OF SALES. (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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 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 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 25. 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 24 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 26. 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 27. PLACES OF BUSINESS - SCREENS - PARTITIONS. Any place of business where alcoholic liquor is sold or disposed of shall be of such construction and arrangement that all windows in the front of any such place shall be of clear glass, and the view of the interior shall be unobstructed by screens, curtains, or partitions, provided that open ornamental archways from one section of said place of business to another section shall not be deemed ~~to be~~ to be partitions, under the meaning hereof. There shall be no partition, box, stall, screen, curtain or other device which shall obstruct the view of any part of

said room, provided, however, that partitions, subdivisions or panels not higher than four (4') feet from the floor shall not be construed as in conflict with the foregoing, and provided further that nothing contained herein shall prohibit the serving of alcoholic liquors as permitted by law and within the scope of the license for any such place of business, in any private dining or banquet room connected with and a part of such place of business where not less than six persons are so served.

Section 28. DRIVING WHILE DRUNK. It shall be unlawful for any person, while in an intoxicated condition, or under the influence of alcoholic liquor, to drive, operate or run upon or over any street or other thoroughfare within the City of Warrenton any automobile, truck, motor-cycle or other motor vehicle.

Section 29. INSPECTION OF PREMISES. The Chief of Police or any police officer or the City Health Officer shall have the right at any or all times to make an examination of any licensed premises to ascertain if the licensee of such place is conforming with the provisions of the ordinances of the City of Warrenton and the laws of the State of Oregon and the United States. It shall be unlawful for anyone to interfere with or hinder any police officer or health officer or other competent authority in the inspection of any such premises.

Section 30. PENALTY. Violation of any provision of this ordinance is punishable, upon conviction in the Municipal Court, by a fine not exceeding \$300.00, or by imprisonment in the city jail not to exceed 100 days or by both.

Section 31. 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 32. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict herewith are hereby repealed, including Ordinance No. 166A and Ordinance No. 302A.

Section 33. 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.


Section 34. EMERGENCY CLAUSE. Inasmuch as it is necessary to provide a means whereby the Municipal Court shall have jurisdiction over violations of the laws relating to the control of the alcoholic liquor traffic, and further provide additional regulations necessary for proper control of said alcoholic liquor traffic within this city, it is deemed necessary that an emergency be, and the same hereby is declared to exist, and this ordinance shall become immediately operative from and after its passage by the City Commission.

Passed by the City Commission of the City of Warrenton this 18th day of August, 1958.

Approved by the Mayor of the City of Warrenton this 18th day of August, 1958.

ATTEST:

Auditor and Police Judge.


Mayor