

ORDINANCE NO. 953

AN ORDINANCE TO PROVIDE PROCEDURES FOR ISSUING PERMITS FOR THE PACKAGE SALE OF ALCOHOLIC BEVERAGES: REGULATING THE CONTROL THEREOF WITHIN THE CITY OF EUREKA SPRINGS, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF EUREKA SPRINGS, ARKANSAS THAT:

DIVISION 1. ALCOHOLIC LIQUOR LICENSES

Section 1.1. Application; State license to accompany.

Before any person, firm, or corporation shall engage in the wholesale or retail liquor business in the city, an application shall be made to the city clerk for the granting of a license.

Said application shall contain a sworn statement of the name of the business sought to be licensed; the names and addresses of all of the persons owning, managing, or holding any interest in said business, and the proposed location of said business; the owner or owners of the building or premises in which said store is to be located; and said applicant's state license shall accompany such application, then the city clerk shall issue such license upon the payment of the license fee provided in this division and upon compliance with all other requirements of law related to operation of said business. Such permit or license shall be prominently displayed in the location for which that permit was issued.

Section 1.2. Fee for wholesale dealers permit.

The business of storing, transporting and/or selling of spirituous, vinous and/or malt liquors at wholesale within the city is hereby declared to be a privilege; and for the exercise of such privilege there is hereby levied an annual privilege tax in the sum of two hundred fifty (\$250.00) dollars for each such business conducted.

Section 1.3. Fee for retail dealers permit.

The business of storing, transporting, selling and/or dispensing at retail of any and all vinous, spirituous and/or malt liquors within the city is hereby declared to be a privilege, and for the exercise of such privilege

there is hereby levied an annual privilege tax in the sum of one hundred twenty-five (\$125.00) dollars for each such retail store operated within the city.

Section 1.4. Term.

It is hereby declared to be the intent of the city, in order to avoid confusion, to issue such licenses as are herein provided for in such a manner that they will run for such a length of time as will be concurrent with the licenses issued by the state government. The city clerk shall have the right to accept installment payments of the license fees due the city for such periods of time as the State Commissioner of Revenues grants for the payment of state license fees.

Section 1.5. Licensee not to have interest in other liquor establishment.

No person, firm or corporation shall be granted any license or permit for the sale within the city either at wholesale or retail of any liquor where such person, firm or corporation, or any member or stockholder thereof, has any interest of any kind in a business or club operating in adjoining premises where liquor is kept or permitted to be kept and/or consumed.

Section 1.6. Prosecutions: Previous violations admissible in evidence.

In any prosecution or proceedings for any violation of this Ordinance in court the general reputation of the defendant for moonshining, bootlegging, drinking or being engaged in the unlawful manufacture of, or trade in, intoxicating liquors, shall be allowed to be introduced in evidence by the city.

DIVISION 2. SALE REGULATED

Section 1.7. Containers--Size limited; penalty.

It shall be unlawful for any person to sell liquor in containers of less than one-half pint or more than one gallon. Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction therefore shall be fined in any sum not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars.

Section 1.8. Same--Opened containers prohibited.

It shall be unlawful for any person to have in his possession or

control on the premises where liquor is allowed to be sold, any bottle or container containing liquor which has been opened.

Adjoining premises shall be deemed to come within the prohibition of this section when any person has any interest therein and in addition has any interest in the regularly licensed retail or wholesale liquor store.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars. Any person operating a regularly licensed liquor store, having any interest in any establishment operating in adjoining premises where persons are found to be or permitted to drink liquor, shall be subject to having his license revoked by the City Council.

Section 1.9. Soliciting or accepting orders for delivery prohibited; Penalty for violation.

It shall be unlawful to sell, offer for sale or give away, or cause or permit to be sold, offered for sale, or given away, any vinous, spirituous and/or malt liquors through salesmen going from house to house soliciting orders; or to accept retail orders for any such liquors for delivery.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than two hundred fifty (\$250.00) dollars nor more than five hundred (\$500.00) dollars, and each such violation shall constitute a separate and distinct offense.

Section 1.10. Premises to be open to public view; Notice to correct violations; Revocation of license.

No person shall be granted a license to sell liquor either at wholesale or retail within the city upon or in connection with any premises wherein there are located any screened partitions, doors or windows hindering or obstructing the view of the interior, private alcoves, blind or curtained booths, lockers,

or where any other means or method is used, designed or adapted to induce or invite persons to open and consume liquor upon such premises. If, after a license has been granted, the licensee then changes or allows the premises to be changed to violate this section, the city council shall order such license revoked, after a five-day notice of such violation and such licensee fails and refuses to conform to the provisions of this section. Operation after the revocation of a license shall be punishable as provided in section 1.9.

Section 1.11. Police register--Habitual drunkards defined; Monthly notice to dealers.

An habitual drunkard within the meaning of this section shall be "any person who has been convicted of drunkenness three times in any twelve month period."

It shall be the duty of the chief of police to keep a separate register, which shall be at all reasonable hours subject to public inspection, of every person convicted of drunkenness in the city, both in the municipal court and the circuit court. Such register shall show the number of times any person has been so convicted. A bulletin containing the names of each and every person convicted three times within a year of drunkenness shall be mailed once each month, if necessary, by the chief of police to each liquor dealer licensed by the city.

It shall be unlawful for any person to sell or give away any liquor to any person when such person is in an intoxicated condition.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of the first offense be punishable by a fine of not less than fifty (\$50.00) dollars nor more than three hundred (\$300.00) dollars and for a second offense, in addition to such fine, shall be subject to the revocation of his license at the discretion of the city council.

Section 1.12. Same--Persons convicted of nonsupport; sale of liquor to prohibited; Penalty for violation.

It shall be the duty of the chief of police to receive from the proper county official a list of any and all persons adjudged by proper procedure

in the county courts to be guilty of failing and refusing to properly support their families, and such list as furnished shall be included by the chief of police in the monthly report provided for in section 1.11. It shall be unlawful for any person to sell, offer for sale or give liquor to any such person. Any person convicted of a violation of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to the same penalties as provided in Section 1.11.

Section 1.13. Minors; Furnishing of liquor to unlawful.

It shall be unlawful for any person engaged in the sale at wholesale or retail of any liquor in the city to sell, offer for sale or give away under any conditions any liquor to any person under the age of twenty-one years of age. The burden of determining the age of any person shall be upon the seller.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to the same punishment as is provided in Section 1.11.

Section 1.14. State excise tax; Possession of untaxed beverages.

It shall be unlawful for any person to have in his possession or control either on his person or on his premises any spirituous, vinous, and/or malt liquors on which the state excise tax has not been paid.

Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five (\$5.00) dollars nor more than one hundred (\$100.00) dollars or imprisoned in the city jail not less than five nor more than thirty days or being both such fined and imprisoned in the discretion of the court or jury.

Section 1.15. Hours of sale; Violations; Penalty.

It shall be unlawful for any person, firm or corporation to sell, offer for sale or give away at wholesale any spirituous vinous, malt or other intoxicating alcoholic liquor before the hour of eight o'clock a.m. or after the hour of seven o'clock p.m.

It shall be unlawful for any person, firm or corporation to sell, offer for sale or give away at retail any spirituous, vinous, malt or other intoxicating alcoholic liquor after the hour of two o'clock a.m. or before the hour of eight o'clock a.m.; except on Saturday when all sales shall cease by twelve o'clock midnight.

Any person who shall sell intoxicating liquor on Sunday or during polling hours when two or more candidates are seeking the same office at any lawfully authorized election, or between two o'clock a.m. and eight o'clock a.m. on weekdays shall be guilty of a misdemeanor and for the first offense be punishable by a fine of not less than one hundred (\$100.00) dollars nor more than two hundred fifty (\$250.00) dollars and for the second or subsequent offenses he shall be guilty of a misdemeanor and punishable by a fine of not less than two hundred fifty (\$250.00) dollars and not more than five hundred (\$500.00) dollars or by imprisonment in the county jail for not less than ten days or more than six months or being so fined and imprisoned in the discretion of the court or jury, and in addition to such fine or imprisonment shall be subject to revocation of his permit at the discretion of the City Council.

Section 1.16. Repeal.

All ordinances and resolutions, and parts thereof, in conflict, in whole or in part, with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 1.17. Severability.

The provisions of this Ordinance are hereby declared to be severable. If any provision shall be held to be invalid or to be inapplicable to any persons or circumstances, such invalidity or inapplicability shall not affect the remainder of the provisions of this Ordinance.

Section 1.18. Emergency.

It has been found, and it is hereby declared, that the City badly needs effective controls over the establishment and regulation of businesses selling or serving alcoholic beverages; that this Ordinance and the controls

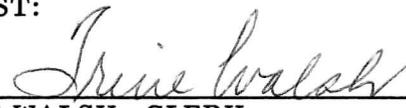
established by it are the only reasonable means available for the alleviation of these needs; and that the control of sales or distribution of alcoholic beverages are essential to the continued development of the City and to the welfare of the inhabitants thereof. This Ordinance, therefore, being necessary for the preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall be in effect from and after its passage and approval.

PASSED AND APPROVED by the City Council of Eureka Springs,
Arkansas, this 19 day of July, 1973.



FRED L. NAFF, MAYOR)

ATTEST:



TRUIE WALSH, CLERK

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