

ORDINANCE NO. 954

AN ORDINANCE TO PROVIDE PROCEDURES FOR ISSUING PERMITS FOR THE SALE OF LIGHT WINES AND BEER; 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:

Section 1.1. License Required.

The business of transporting, storing, selling, distributing and/or manufacturing beer and light wines having an alcoholic content of not more than five per cent by weight, is hereby declared to be a privilege; and for the exercise of such privilege there is hereby levied an annual privilege tax for each such business conducted; and before any such business shall engage in any such business within the corporate limits of the city he shall, in addition to complying with all of the rules and regulations hereinafter set forth, pay a privilege tax to the city in the sum as hereinafter designed.

Section 1.2. Application; State license to accompany.

No person, firm, corporation, joint stock company, syndicate or association shall engage in the business of transporting, storing, selling, distributing, possessing and/or manufacturing of beer and light wines of alcoholic content of not more than five per cent by weight until he shall receive a license from the city clerk, which license or permit shall at all times be subject to all of the limitations and restrictions herein provided. No such license or permit shall be issued by the city clerk except upon presentation of a permit issued to the applicant by the Arkansas Department of Finance and Administration.

The applicant, upon presentation of proof that the state permit has been secured, shall then make application to the city clerk upon such form as may be designated for said purpose and such application shall provide all of the following information:

- (a) That the applicant is a citizen of the United States and has been a resident of Carroll County for a period of not less than six (6) months.

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(b) That no person will be employed in the storage, sale, and/or manufacture of such beverage except citizens of the United States.

(c) That the applicant will not engage in the sale of such beverages hereinabove mentioned except in the place for which the license has been issued.

(d) That no sale of such beverages will be made except in accordance with the permit granted.

(e) That no sale will be made to minors and that the applicant will not permit disorderly or disreputable persons, heretofore or hereinafter convicted of the violation of the liquor laws, to loiter around or frequent his place of business; that the applicant will not allow gambling or gambling devices on his premises; that applicant will not allow any liquor of alcoholic content greater than five per cent by weight to be brought into his place of business or consumed there.

(f) That neither the applicant nor any person employed or to be employed by him in such distribution or sale of such beverages has been convicted of any violation of the laws against the sale, manufacture or transportation of intoxicating liquors or of any crime involving moral turpitude within the past two years.

(g) That the applicant will conduct the business in person for himself or if he is acting as agent the applicant shall state the person, firm, corporation or association for whom he intends to act.

(h) There shall be attached to said application a certificate signed by at least two reputable citizens and qualified electors residing or doing business in the city stating the residence or place of business of each person signing and certifying that such persons have been acquainted with the applicant for at least one year and stating that they have good reason to believe that all of the statements contained in the application are true and that they join in the request of the applicant for the granting of the license.

#### Section 1.3. False statements on application.

All such statements shall be duly verified under oath, and it shall be unlawful for any person, firm, corporation, or association to make false answers in any application to questions touching his qualification for a permit to sell beer and light wines in the city.

#### Section 1.4. Fees for permits.

Upon the approval of said application the city clerk shall issue the applicant a license to sell such beverages as hereinabove described upon the payment by the applicant of the following fees:

(a) Manufacturers: For each manufacturer of beer and light wine a privilege tax of \$25 0.00 per year.

(b) Wholesale dealers, brokers, or distributors:

For each wholesale dealer, broker, or distributor a privilege

tax of \$250.00 per year.

(c) Retail dealers: The business of storing, transporting, selling and/or dispensing at retail of any and all beer and light wines having an alcoholic content of not more than five (5%) per cent by weight 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 1.5. Due Date for permit fee.

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 Arkansas Department of Finance and Administration grants for the payment of state license fees.

Section 1.6. Posting of license or permit.

The permit or license issued by the city clerk as provided for in this Ordinance shall be prominently displayed in the location for which that permit was issued.

Section 1.7. Wholesale delivery hours limited.

The wholesale delivery of wine or beer between the hours of twelve o'clock midnight Saturday night and twelve o'clock midnight Sunday night is hereby prohibited.

Section 1.8. Hours of sale; Penalty for violation.

It is hereby made a misdemeanor for any person, firm or corporation to sell beer and/or wine or to offer for sale such after the hour of two o'clock a.m. or before the hour of eight o'clock a.m.; except on Saturdays when said sales must cease by twelve o'clock midnight.

Any person who shall sell beer and/or wine on Sunday or during polling hours when two or more candidates are seeking the same office in any lawfully authorized election, or between two o'clock a.m. and eight o'clock a.m. on weekdays or who assists or aids or abets in the violation of this section

shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than twenty-five dollars and not more than two hundred fifty dollars for the first offense; and upon conviction of a second or any successive violation of this section occurring within twelve months of a preceding conviction, shall be fined as set out above or shall be imprisoned for not less than one day or more than thirty days or both, and in addition thereto shall suffer the revocation of his city license to do business as a retail beer dealer, if he possesses such license.

Section 1.9. Definition of beer and wine.

As used in this Ordinance, the following definitions shall apply:

The term "beer" means any fermented liquor made from malt or any substitute therefore and having an alcoholic content.

The term "wine" means any fermented alcoholic liquor made from grapes, berries or other fruits or vegetables, regardless of whether said liquor has an alcoholic content more or less than five per cent weight, and regardless of whether said alcoholic content has been augmented by the addition of alcohol or alcoholic liquors other than those arising from the fermentation.

Section 1.10. Sale in residences prohibited.

It shall be unlawful to sell beer or light wines in any residence, or in any house or building used in part as a residence, or built onto, or is a part of any residence; provided, however, that this section shall not apply to places of business where apartments are located over the same.

Section 1.11. Sale in dance halls; Exceptions.

It shall be unlawful to sell or serve beer or light wines or allow the same to be consumed in any dance hall or place where dancing is carried on, and it shall be unlawful for dancing to be allowed in any place where beer or light wines are being sold, dispensed, served or consumed; provided, however, that no part of this section shall apply to private homes being used exclusively as such, or to those establishments holding "mixed drink" permits applied for and received in accordance with Section 5, of Arkansas Act 132 of 1969.

Section 1.12. Sale near churches and schools prohibited.

It shall be unlawful to sell beer or light wines within three hundred feet of any church or school in the residential section of the city. The residential section of the city shall be any part thereof that is zoned residential or agricultural, as it is now or may hereafter be fixed by the city council and the business section of the city is that part of the city within other zones.

In computing the three hundred feet as set forth herein, the computation shall be made from the nearest point of the church or school to the nearest point of the building or place where beer or light wine is sold.

Section 1.13. Sale to intoxicated person prohibited.

It shall be unlawful to sell beer or light wines to any person who is intoxicated at the time the sale is made.

Section 1.14. Same--Permitting intoxicated person to loiter prohibited.

It shall be unlawful for any person engaged in the retail sale of beer or light wines in the city to allow any intoxicated person or persons to loiter in his place of business.

Section 1.15. Misconduct upon premises of vendor; Revocation of license.

If any person engaged in the sale of beer or light wines in the city shall allow any person or persons under the influence of intoxicating liquors, or any person or persons of dissolute character to loiter in and around his place of business, or shall permit profane language therein, or loud or unnecessary noises, or conduct his place of business in any other way that is in violation of the law or detrimental to the good morals of the community, or in such manner as to constitute a nuisance, or if the city council shall find that any retail dealer in beer or light wines has made false answers to questions touching his qualifications to sell the same, then the city council shall revoke the license of such person to sell beer or light wines in the city.

Section 1.16. Beer not to be sold other than in original containers;

Penalty for violation.

It shall be unlawful for any person, firm or corporation having a license to sell liquor to sell or offer for sale at retail any beer except in the original container, said container not to be opened on the premises.

Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction fined in any sum not less than fifty dollars nor more than three hundred dollars.

Section 1.17. Violations; penalty.

Any person, firm, corporation, or association violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not more than five hundred dollars and each day's violation of said Ordinance shall constitute a separate offense, and in addition to such fine, it shall be the duty of the city council to revoke the license of anyone so convicted.

Section 1.18. 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 1.19. Severability.

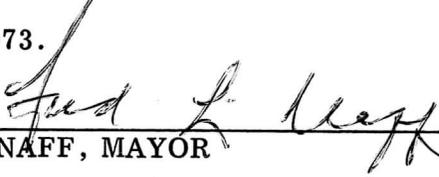
The provisions of this Ordinance are hereby declared to be severable. If any provision shall be held to be invalid or to be inapplicable to any persons or circumstances, such invalidity or inapplicability shall not affect the remainder of the provisions of this Ordinance.

Section 1.20. Emergency.

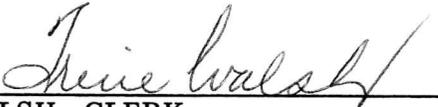
It has been found, and it is hereby declared, that the City badly needs effective controls over the establishment and regulation of businesses selling or serving alcoholic beverages; that this Ordinance and the controls established by it are the only reasonable means available for the alleviation of 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.

  
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FRED L. NAFF, MAYOR

ATTEST:

  
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TRUIE WALSH, CLERK

THOMAS D. LEDBETTER  
ATTORNEY AT LAW

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