



ORDINANCE NO. 341

AN ORDINANCE REGULATING AND PROVIDING FOR THE LICENSING OF RETAILING OF BEER IN THE CITY OF REXBURG, IDAHO: FIXING THE AMOUNT OF TAX FOR LICENSES: DEFINING CERTAIN SECTIONS OR PARTS OF SAID CITY IN WHICH BEER, TO BE CONSUMED ON THE PREMISES WHERE SOLD, MAY BE SOLD, MAY BE SOLD AT RETAIL: PROHIBITING THE SALE OF BEER TO BE CONSUMED ON THE PREMISES WHERE SOLD IN CERTAIN PLACES: REQUIRING THAT PLACES WHERE BEER IS SOLD TO CLOSE AT CERTAIN TIMES: PROHIBITING THE SALE OF BEER TO MINORS, AND PROVIDING THE SALE OF BEER TO MINOR, AND PROVIDING OTHER REGULATION: AND REPEALING ORDINANCE NUMBER 334 OF SAID CITY.

BE IT ORDAINED by the City of Rexburg, Idaho:

SECTION I: As used in this ordinance the words *Aperson*, *Aretailer*, and *Abeer* and other words used in connection with the subject matter of this ordinance shall have the same meaning as are given such words in the laws of Idaho relating to Laws of this state and amendments thereof; and words *Adraft beer* as used in this ordinance shall mean and include any and all beer drawn or poured from the container thereof by the vendor, or with his consent, for consumption of same on the premises where sold; and words *Acouncil* and *Acity council* as used herein shall mean the city council of the city of Rexburg.

SECTION II: It shall be unlawful for any person as a retailer to sell deliver, distribute, or otherwise furnish or dispose of, or offer for sale, or keep or have in his possession for sale, delivery or other disposition, any beer, within the limits of the city of Rexburg, except for his own consumption or the consumption of his family or guests, without first paying the tax and obtaining the license herein provided for.

SECTION III: Any person desiring to engage in the business of sale, barter, trade, delivery or disposition of beer as a retailer, within the limits of the city of Rexburg, shall before doing so, make application to the city council for a license and pay the tax herein provided to be paid in such cases. Such application shall be in writing and shall state the name, age and sex of the applicant, the business in which he is engaged, whether an individual, firm, co-partnership, or corporation, or other association of persons, the street number or brief description and location of the place where beer is to be sold or kept for sale by such applicant.

SECTION IV: Every applicant for a license under the provisions of this ordinance shall deposit with the city Clerk for the uses and purposes of the city of Rexburg, at the time of filing of his application, the amount in lawful money of the United States, herein required for the kind of license applied for, for the current calendar year. If such application is filed between the first day of January and the first day of June, there shall be so deposited the tax for full year, and if filed between the first day of June and the 31st day of December, one-half of the yearly tax shall be paid. And all licenses shall expire on the 31st day of December of the year in which issued. The license tax to be paid and collected for the respective kinds of licenses hereby authorized, shall be the following:

- A. Where the applicant applies for license to sell as a retailer, only bottled or canned beer, none of which is consumed, or to be consumed, on the premises where sold, the license tax shall be \$25.00 per year; and if any such bottled or canned beer is consumed, or is to be consumed on the premises where sold, the license tax shall be \$50.00 per year.
- B. Where the applicant applies for a license to sell as a retailer draft beer and bottled or canned beer only, the amount of the license tax shall be \$100.00 per year.

SECTION V: No license shall be issued to any applicant to engage in the sale of beer as a retailer within the said city of Rexburg until the tax has been paid and the application of such applicant shall have been approved by the city council, and an order entered on the journal of the proceedings of the council directing the issuance of such license; and before ordering the issuance of any license under the provisions of this ordinance the city council shall examine into the character and reputation of the applicants and of the place where he proposes to engage in business as a retailer; and city council may refuse to grant a license to any person who, in their judgment, may not be a fit or proper person to conduct the business of selling beer at retail in said city, or if the place where the applicant proposes to carry on such business is not a suitable or orderly place.

Provided also that no license shall be issued to any person to engage in business in said city as a retailer of beer, unless such person shall have first obtained a county license from the Board of County Commissioners of Madison County, as provided by the laws of the State of Idaho, nor shall any license issued to such retailer under this ordinance.

SECTION VI: Every license issued pursuant to the provisions of this ordinance shall be kept posted at all times at the place of business of the licensee named therein, where beer is sold or offered for sale; and such license shall not be transferable and shall not authorize the licensee or any person to sell beer at any place within the city of Rexburg, except the place mentioned and described in the application for such license, and any attempt to transfer such license, or any sale or offering for sale of beer at any place other than that mentioned and described in such application, shall be a violation of the provisions of this ordinance.

SECTION VII: Every place where beer is sold within the city of Rexburg shall be maintained in a sanitary and orderly condition and as a quite orderly place of business, and the same shall be open at all times to inspection by the police officers of the city of Rexburg, or any officers of Madison County, or of the State of Idaho, or of the United States. There shall be no screen or blind at any door or window, or other obstruction to the view of the general public into any building through the doors and windows thereof, where beer is sold.

SECTION VIII: No license shall be granted to sell beer at retail within the city of Rexburg in any room or rooms in any second or third story of any building or in any basement room or cellar, or in any room or rooms not in the first story, or upon the ground floor of any building; and nor beer shall be sold in any room or place which does not have a direct and immediate entrance from a public street, nor in any room or rooms having any connection whatsoever with a place where dancing is engaged in.

SECTION IX: Every person employed to sell beer at retail within the city of Rexburg, shall, before selling or dispensing any draft beer, submit to the examination and test required by the health regulations of the State of Idaho, and obtain a valid health certificate as provided on Chapter 12 of Title 38 of the Idaho Code Annotated.

SECTION X: No person under the age of twenty one years shall be employed in the selling or dispensing of beer within the city of Rexburg, and no beer shall be sold, dispensed or delivered to any person under the age of twenty years within said city.

SECTION XI: No license to sell beer at retail within the city of Rexburg shall be issued to any person who is not an actual or bonafide resident of said city, and no license shall be issued to any corporation, to sell beer within the said city, which does not have a regularly established place of business in said city.

SECTION XII: No license shall be issued to any person to sell or distribute draft beer as a retailer in any room or place of business where groceries or foods are sold to the general public, or in any general merchandise store within the city of Rexburg, and it shall be unlawful to permit beer sold in any such place of business to be consumed at any grocery store or place where groceries or foods are sold to the general public, or at any general merchandise store.

SECTION XIII: No license shall be issued to any person to sell or distribute draft beer, or bottled or canned beer to be consumed on the premises where sold or delivered, in any residential district, or section of said city chiefly occupied by residences. And any such licenses may be issued to retailer to sell or deliver such beer, in retail trade, only in that part of said city, hereinafter

described and designated the business section. And no license shall be issued to any retailer to sell or deliver draft beer, or bottled or canned beer to be consumed on the premises where sold, at or in any place or room within the distance of 200 feet from the county court house, or the Rexburg City building, or any public library, or any school house, room or place in which any kind of instruction or training is given to classes of children of legal school age, as defined by the laws of Idaho or place provided for high school or college students to assemble for receiving instruction or training of any kind, or any public park or play ground, or any public play ground, or any public camp ground, or premises where any camp cabins or cottages for housing or accommodations or tourists or travelers are maintained.

SECTION XIV: The section of the city designated as the business section and in which draft beer may be sold in retail trade, subject to all other regulations and limitations provided in this ordinance, is described as follows:

The North side of Main street, between a point 300 feet West of the County Court House (situated at the Southeast corner of Lot 4, in Block 34 of the Rexburg Townsite,) and a point 330 feet West from central avenue; the South side of Main Street between Second East Street and First East Street; College Avenue on either side between Main Street and a point 330 feet North from Main Street; First East Street on either side between Main Street and Carlson Avenue; First East Street on either side between Main Street and a point 330 feet North from main Street; First East Street South of either side between Main Street and a point 150 feet South of Main Street.

All other parts of said city are hereby declared to be residential sections.

SECTION XV: The city council reserves the right and power to deny, for cause, any application for a license to sell beer at retail within the city of Rexburg, and the power to revoke any license issued under the provisions of this ordinance, if the holder of such license shall be convicted of a violation of any of the provisions of this ordinance, or of any law of the State of Idaho relating to the retail sale of beer.

SECTION XVI: All places where draft beer is sold at retail shall be closed, each day, at twelve o'clock midnight, and kept closed until seven o'clock twelve o'clock midnight and be kept closed until seven in the morning of the day following; and on every Saturday shall be closed at twelve o'clock midnight and be kept closed until seven o'clock in the morning of the Monday following; and it shall be unlawful for any person to sell, or dispense, or deliver any beer on any day, between the hour of twelve o'clock midnight and seven o'clock in the morning of the day following, or to sell, dispense or deliver any beer on the first day of the week, commonly called Sunday, or between the hour of twelve o'clock midnight of Saturday and seven o'clock in the morning of the Monday following.

SECTION XVII: any violations of the provisions of this ordinance shall be a misdemeanor, and any person convicted of a violation of any of the provisions hereof shall be punished by fine in any sum not exceeding \$100.00 in the discretion to the court wherein conviction is had, and the cost of the action, and shall be imprisoned in the city or county jail at hard labor until such fine and cost are paid at the rate of \$1.50 per day. And if any retailer to whom a license has been issued pursuant to the provisions of this ordinance shall be convicted of any violation of the provisions hereof, or of any law of the state of Idaho, relating to the sale of retail sale of beer, the license of such retailer may be revoked or suspended for such time as the council and Mayor may determine by order of the council, and after revocation such retailer shall not be eligible to receive a license to sell beer in the city of Rexburg for a period of at least one year after the date of such relocation.

SECTION XVIII: Ordinance Number 334 of the City of Rexburg passed and approved on the 15th day of December. A.D., 1937, and all other ordinances and parts of ordinances on conflict here with are hereby repealed.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 5th day of January, 1940.

