



**ORDINANCE NO. 141**

**AN ORDINANCE DECLARING ALL PLACES WITHIN THE CITY OF REXBURG WHERE INTOXICATING LIQUORS ARE SOLD, BARTERED OR GIVEN AWAY IN VIOLATION OF LAW, OR WHERE IDLE OR DISSOLUTE PERSONS ARE PERMITTED TO CONGREGATE FOR THE PURPOSE OF DRINKING INTOXICATING LIQUORS TO BECOME NUISANCES; TO REGULATE CIGAR STORES, BILLIARD AND POOL HALLS, SOFT DRINK STORES AND PLACES, RESTAURANTS AND OTHER LIKE PLACES OF BUSINESS, AND TO PROHIBIT THE SALE OF INTOXICATING LIQUORS IN THE CITY OF REXBURG.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO;

**SECTION I** – That from and after the passage and approval and publishing of this ordinance it shall be the duty of every person, firm, company, corporation, owning, managing or keeping any cigar store, soft drinks store, billiard or pool hall, restaurant or other like place of business in the City of Rexburg, to remove and keep removed all blinds, screens and other obstructions from all windows, doors, entrees, or exits, so that all the interior of such cigar rooms, soft drink rooms, billiard rooms, pool rooms, restaurants and other like places of business shall at all times be subject to the plain view of all persons passing such places of business; and every firm, person, company or corporation violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not less than seventy-five dollars nor more than one hundred dollars and costs, and in default of paying the same shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

**SECTION II** – Every person, firm, company or corporation owning or conducting any such cigar store, soft drinks store, billiard hall, pool hall, restaurant or other like place of business in the city of Rexburg, selling or dealing in soft drinks or bottled goods, shall close or cause to be closed, such place or places of business at the hour of 12 o'clock p.m. and keep the same so closed until the hour of 6 o'clock a.m. following; and every person, firm, company or corporation violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not less than seventy five dollars and costs, and not more than one hundred dollars and costs, and in default of the payment of such fine and costs shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

**SECTION III** – It shall be unlawful for any person, firm, company or corporation to sell, barter or give away to any person or persons whomsoever within the city of Rexburg, any intoxicating liquor, provided, however, nothing herein contained shall prohibit the sale of pure alcohol for scientific and manufacturing purposes or wine to church officials for sacramental purposes, nor alcoholic stimulants as medicine in care of actual sickness, but such stimulants shall only be sold upon the written prescription of a dully licensed and practicing physician of this state, dated and signed by him and certified on his honor that he the physician, has personally examined the applicant, naming him, and the disease for which said alcoholic stimulant is prescribed and that he finds him actually sick and in need of the stimulant prescribed as medicine and the full direction for the use of the liquor or alcoholic stimulant prescribed, provided further that no person shall be permitted to sell more than once on the same prescription, nor shall any person be permitted to sell at all on the prescription of said physician not herein authorized to give it nor on a prescription which is not dated, signed and certified as above required; provided further that every person selling such stimulants upon the prescription herein provided shall immediately cancel such prescription by endorsing thereon the word “cancelled” and date of cancellation. Nothing in this ordinance shall be

construed to prevent one registered pharmacist selling such alcoholic liquors to another registered pharmacist; and every person, firm, company or corporation violating any of the provisions of this section shall be deemed guilty of an offense, and upon conviction thereof shall be punished by a fine of not less than seventy five dollars and costs, and not more than one hundred dollars and costs and in default of paying the same shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

**SECTION IV** – Every licensed physician as aforesaid shall make out in duplicate the prescription named in section three of this ordinance and shall file one of the same with the city clerk, for the use and inspection of the city council at their regular meetings, and the pharmacist filling the duplicate shall endorse on the prescription filled by him the cost of the same as filled. Any person, firm, company or corporation violating any of the provisions of this section shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine not less than ten dollars nor more than one hundred dollars, and costs of prosecution, and default of paying such fine and costs shall be imprisoned in the city jail one day for each one and one half dollars of said fine and costs.

**SECTION V** – In addition to the commonly known alcoholic liquors and stimulants as alcohol, whiskeys, brandy, wines etc. the following are designated and meant by this ordinance as alcoholic liquors and alcoholic stimulants and not to be sold without the prescription named in the foregoing section three, namely; Pain's Celery Compound, Hosteters Stomach Bitters, Peruna, Jamaica Ginger, Champagne, Claret Ayers Sarsaparillas, Burdocks, Blood Bitters, Hood Sarsaparilla and Lydia Prinkhan Compound.

**SECTION VI** – Any sale of intoxicating liquor in or from any public drinking place, soft drinks store, cigar store, billiard room, pool room, restaurant or other place by a clerk, bar-keeper or other employee in such place shall be deemed the act of the employer as well as that of the person actually making the sale; that every such employer shall be liable to all the penalties provided by this ordinance for such sale equally with the person actually making the sale.

**SECTION VII** – Every person who as owner, agent or lessee shall let or sublet any building, premises or part of either knowing that it is intended to be used as a place for the selling of intoxicating liquor, or with such knowledge, assigns any leave or knowingly permits any such building premise or part of either to be used for such purpose shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty five dollars nor more than one hundred dollars and costs and in default of payment shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

**SECTION VIII** – That all places within the limits of the City of Rexburg where intoxicating liquors are sold, bartered or given away in violation of law or where idle or dissolute persons are permitted to congregate for the purpose of drinking intoxicating liquor as a beverage or where intoxicating liquors are kept for sale or barter in violation of law or of this ordinance are hereby declared to be common nuisances, and any person, firm, company or corporation maintaining any such nuisance within the city of Rexburg shall be deemed guilty of any offense and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs, and in default of payment shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

**SECTION IX** – Upon the filing of a complaint in the court of the Police Judge of the said city, duly sworn to as by law required, charging that a place within the limits of the city of Rexburg is kept or maintained as a common nuisance by any person or persons, and that intoxicating liquors are kept therein for sale, barter or delivery in violation of law or this ordinance, a warrant shall be issued thereon commanding the chief of police or other police officer to whom it shall be directed, to arrest the person charged or described as the keeper thereof, and to search the place described in such complaint, and seize and take into his custody all intoxicating liquors which he may find, and safely keep the same subject to the orders of the police court. It shall be the duty of the officer receiving such warrant to demand admissions into such place and upon admission thereto being

refused, he is hereby authorized and required to force open the same and execute said warrant. The complaint shall describe the place to be searched with sufficient particularity to identify the same, and shall describe the intoxicating liquors kept in said place as particularly as practical but any description however general, that will enable the officer executing the warrant to identify the property to be seized shall be deemed sufficient. The officer making such search or arrest shall make return on said warrant to said court with his proceedings endorsed thereon. Such officers without a warrant may seize intoxicating liquors whenever found by him or them, under circumstances which would have justified the search for and the seizure of it if armed with a warrant, and he may arrest any person found in the act of unlawfully selling intoxicating liquors, but he shall within a reasonable time make complaint against the person arrested, procure a warrant thereon, and make due return of his proceedings thereon as in cases where arrest, search or seizure was upon a warrant already issued.

**SECTION X** – The words “give away”, where they occur in this ordinance shall not apply to the giving away of intoxicating liquors by a person at his home in his private dwelling unless such private dwelling be a common nuisance as defined in section eight of this ordinance.

**SECTION XI** – The Sheriff of Fremont County, Idaho, and his dully appointed deputies are hereby constituted ex-officio peace officers of the city of Rexburg, and they are hereby vested with the same power as the police officers of the City of Rexburg for the enforcement of this ordinance.

**SECTION XII** – It is hereby made the duty of the police officers of the City of Rexburg to see that the provisions of this ordinance are strictly enforced.

**SECTION XIII** – That all ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION XIV** – It shall be unlawful for any person, company or corporation operating a cigar stand, billiard and pool halls, and soft drink stores to operate or maintain any booths in the interior of such place of business. It shall also be unlawful for such person, company or corporation to carry on any such business in any side or back room opening from such main rooms or hall where their regular business is carried on.

**SECTION XV** – It shall be unlawful for any person, company or corporation operating cigar stores, billiard and pool halls and soft drinks stores to permit any games of cards to be played in their place of business.

**SECTION XVI** – That for the reason numerous places in the city of Rexburg are now being kept for the sale of intoxicating liquors in violation of laws, and there being no ordinance of the city for the suppression of such places, and it being necessary to the peace, health and good morals of the city that the ordinance immediately become a law of the city, and emergency is therefore declared to exist, and that this ordinance shall become in full force and effect immediately upon its passage and its approval by the Mayor.

PASSED AND APPROVED THIS 14<sup>TH</sup> DAY OF JUNE, 1910.

THOMAS E. RICKS

Mayor

ATTEST: W. E. GEE  
Recorder

I hereby certify that the foregoing is a correct copy of the original ordinance.

W.E. Gee, City Clerk