



ORDINANCE 1128

AN ORDINANCE REPEALING ORDINANCE 341, 343, 445 and Ordinance 942; REGULATING THE HOURS FOR THE SALE OF BEER AND WINE, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; FIXING THE LICENSE FEE FOR THE RETAIL SALE OF BEER AND WINE IN THE CITY OF REXBURG; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED by the Mayor and City Council of the City of Rexburg, Idaho:

SECTION I: As used in this ordinance the words “person”, “retailer”, “wine”, “beer” 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 “draft 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 “council” and “city 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 wine or 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 wine or 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 fee 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 wine or beer is to be sold or kept for sale by such applicant.

SECTION IV: No license shall be issued to any applicant to engage in the sale of wine or 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 applicant 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 wine or 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 wine or 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.

SECTION V: 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 wine or 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 wine or 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 wine or beer at any place other than that mentioned and described in such application, shall be a violation of the provisions of this ordinance.

SECTION VI: Every place where wine or beer is sold within the City of Rexburg shall be maintained in a sanitary and orderly condition, 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.

SECTION VII: No license shall be granted to sell wine or 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 no wine or beer shall be sold in any room or place which does not have a direct and immediate entrance from a public street.

SECTION VIII: Every person employed to sell wine or beer at retail within the City of Rexburg, shall, before selling or dispensing any wine or 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 IX: No person shall be employed in the dispensing of wine or beer except as provided for by state code.

SECTION X: No license shall be issued to any corporation, to sell wine or beer within the said city, which does not have a regularly established place of business in said city.

SECTION XI: It shall be unlawful to permit wine or beer sold in any 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 XII: The city council reserves the right and power to deny, for cause, any application for a license to sell wine or 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 wine or beer.

SECTION XIII: All places where wine or draft beer is sold at retail shall discontinue the sale of beer and wine each day, at 2:00 a.m. until 6:00 a.m. in the morning of the day following.

SECTION XIV: 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 in accordance with then existing misdemeanor provisions. 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 wine or 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 wine or beer in the City of Rexburg for a period of at least one year after the date of such relocation.

SECTION XV: That No wine or beer shall be sold, offered for sale, or given away, or be permitted to be consumed upon any licensed premises or where wine or beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, on and during the following hours: on any day between the hours of 2:00 a.m. and 6:00 a.m.

SECTION XVI: 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 licensing year. If such application is filed between the first (1st) day of October and the thirty first (31st) day of March, there shall be so deposited the fee for the full year, and if filed between the first (1st) day of April and the thirtieth (30th) day of September, one-half of the yearly fee. All licenses shall expire on the 30th day of September of the licensing year. The license fee to be paid and collected for the respective kinds of licenses hereby authorized, shall be the following:

A. Where the applicant applies for a license to sell as a retailer, only bottled or canned beer and wine, none of which is consumed, or to be consumed, on the premises where sold, the license fee shall be \$50.00 per year until such fee is amended by resolution of the Council.

B. Where the applicant applies for a license to sell wine or beer as a retailer for consumption on premises:

1. Draught beer and bottled or canned beer only, the amount of the license fee shall be \$200.00 per year, or if
2. Bottled, boxed or canned wine only, the amount of the license fee shall be \$200.00 per year.

Otherwise, the fee shall be as set forth and amended from time to time by Resolution of the Council.

SECTION XVII: Ordinances 341, 343, 445, and 942 shall be, and hereby are repealed in their entirety and all other ordinances and parts of ordinances in conflict here with are hereby repealed.

SECTION XVIII: This ordinance shall take effect upon its passage and publication as provided by law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR, this ____ day of _____, 2015.

Richard S. Woodland, Mayor

(SEAL)

ATTEST:

Blair D. Kay, City Clerk

