

ORDINANCE NO. 114-79

AN ORDINANCE MAKING UNLAWFUL THE POSSESSION OF ALCOHOLIC LIQUOR OR BEER WITHIN PUBLIC PARKS OUTSIDE THE INCORPORATED AREAS WITHIN THE COUNTY OF BONNEVILLE; PROVIDING FOR EXCEPTION THEREFOR AND EXPRESSLY SETTING THEM FORTH; DEFINING TERMS; FIXING PENALTIES FOR VIOLATION OF THE ORDINANCE; AND PROVIDING WHEN THE ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BONNEVILLE, IDAHO:

Section 1. Definitions: As used in this Ordinance (a) the word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, and/or other ingredients in drinkable water and which beverage contains not more than four percent (4%) of alcohol by weight.

(b) The term "alcoholic liquor" as used in the Ordinance includes:

- (1) "Alcohol", meaning the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, or synthetic ethyl alcohol.
- (2) "Spirits", meaning any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, whiskey, and gin.
- (3) "Wine", meaning any alcoholic beverage obtained by the fermentation of natural sugar content of fruits (grapes, apples, etc.) or other agricultured products containing sugar (honey, milk, etc.).
- (4) any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes, and containing more than four percent (4%) of alcohol by weight.

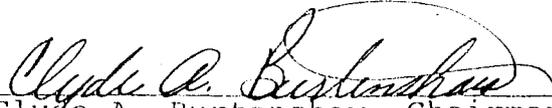
Section 2. Exercise of Police Power: This Ordinance shall be deemed an exercise of the police power of the County for the protection of the public health and safety of the citizens, and all its provisions shall be liberally construed for the attainment of that purpose.

Section 3. Unlawfull to Possess Alcoholic Liquor or Beer in any Public Park: It shall be unlawful for any person to possess, or have in his or her possession, any alcoholic liquor or beer in any public park or any outdoor public recreation area or in any public parking lot adjacent to such park or recreation area outside the incorporated areas of the County of Bonneville, Idaho, except in those areas and under those circumstances hereinafter in this Ordinance set forth.

Section 4. Exceptions: Any provisions in this Ordinance to the contrary notwithstanding, beer may be possessed, and consumed, in any public park within the area for which a local retailer's license for sale and disposition of beer has been duly issued by the County. The boundaries of such "licensed areas" shall be clearly posted by the County, and any person possessing or carrying said beverage into any "non licensed" areas of a public park shall be in violation of the provisions of this Ordinance. The retail licensee and his agents and suppliers shall be permitted to transport beer into the licensed area of the park for sale and disposition. Further, this Ordinance shall not apply to Sandy Downs or Russet Noise Park.

Section 5. Penalty: Any person who shall violate any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than three-hundred dollars (\$300.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

Section 6. Effective: This Ordinance shall be in full force and effect from and after its passage, approval and due publication.


Clyde A. Burtenshaw, Chairman
Board of Commissioners
Bonneville County, Idaho

ATTEST:


Ronald Longmore, Clerk

CERTIFICATION

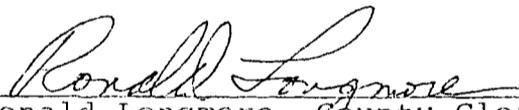
STATE OF IDAHO)
 : ss.
COUNTY OF BONNEVILLE)

I, Ronald Longmore, County Clerk of the County of Bonneville, State of Idaho, do hereby certify that the above and foregoing is a full, true, and correct copy of an Ordinance entitled:

AN ORDINANCE MAKING UNLAWFUL THE POSSESSION OF ALCOHOLIC LIQUOR OR BEER WITHIN PUBLIC PARKS OUTSIDE THE INCORPORATED AREAS WITHIN THE COUNTY OF BONNEVILLE; PROVIDING FOR EXCEPTION THEREFOR AND EXPRESSLY SETTING THEM FORTH; DEFINING TERMS; FIXING PENALTIES FOR VIOLATION OF THE ORDINANCE; AND PROVIDING WHEN THE ORDINANCE SHALL BECOME EFFECTIVE.

PASSED by the County Commissioners and APPROVED by the Chairman of the Board on the 4th day of September, 1979.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County of Bonneville, State of Idaho, this 4th day of September, 1979.



Ronald Longmore, County Clerk
Bonneville County

PUBLISHED:

September 9, 1979

County plans beer ban too

AUG 7 1979
There will be no drinking in Bonneville County parks. County Board Chairman Clyde Burtenshaw says the county board will soon adopt an ordinance banning consumption of alcoholic beverages and beer in the parks.

The chairman made his statement despite the fact that a public hearing on the ordinance has not yet been held. County residents will be able to express their opinions on the beer ban Aug. 27 at 1:30 p.m.

Affected by the ordinance would be all county-owned parks. Presently that list includes three facilities — Lincoln Park, Noise Park and Sandy Downs.

Any future parks outside incorporated areas within the county would also be affected.

Burtenshaw said the board's expected approval of the ban is justified because he feels 90 percent of his constituents are non-drinkers.

The board chairman maintained that allowing drinking in the parks provides potential for spoiling the enjoyment of the facilities by non-drinkers.

He said allowing drinking can lead to nuisances and rowdiness in the parks.

The ordinance is patterned after a similar ban approved by the City of Idaho Falls.

The commissioners simply took the city ordinance and substituted the word "county" for "city" and made a few other minor changes.

The ordinance says, "This ordinance shall be deemed an exercise of the police power of the county for the protection of the public health, safety and morals of the citizens, and all its provisions shall be liberally construed for attainment of that purpose."

The ordinance goes beyond consumption and makes it unlawful to possess "any alcoholic liquor or beer."

Violation of the ban carries a maximum fine of \$300 or a 30-day jail sentence.

Burtenshaw pointed out that the ban is not total since special gatherings such as conventions could obtain special permits to allow beer. Those permits would be issued by the county board.

Adoption of the ordinance can not be considered until after the public hearing. Burtenshaw did allow that the hearing may change the ordinance, but remained confident that the board would pass some sort of beer ban.

BOARD OF COMMISSIONERS

500 BOLLING CAPITAL AVENUE
BOZEMAN, MONTANA 59717-3401
PHONE: 406-529-1300



Date: August 10, 1979

On August 7, 1979, an article appeared in the Post-Register where I was misquoted relative to banning beer and alcoholic beverages in the county parks.

It has been suggested that we should adopt an ordinance to ban beer in county parks, therefore, an ordinance was drafted patterned after the city of Idaho Falls ordinance.

The article would leave you to believe that we were going to pass the ordinance without considering the input from the public; this is not true! Where a decision involves a public hearing, the decision cannot and will not be made until after the public hearing and all facts are considered.

I did say, I felt 80 to 90 percent of the people using the parks were non-drinkers, this is based, in my opinion, that families with small children use the parks. Realizing there are exceptions when parks are used for special events such as rodeos, moto^{motor} racing, snowmobile racing, and etc., at these events this would certainly be a wrong percentage, therefore, I sincerely apologize if I have offended anyone by using these percentages.

There are exceptions in the proposed ordinance that will allow the consumption of beer in licensed areas of the parks subject to designation by the Board of County Commissioners.

The purpose of a public hearing is for input from the public for any possible changes, deletions, or additions in the proposed ordinance to make it more workable for the people if adopted.

Because of requests from citizens asking for a night hearing, we have scheduled the public hearing for August 28, 1979, at 7:30 p.m.

BONNEVILLE COUNTY COMMISSIONERS


Clyde A. Burtenshaw, Chairman

BOARD OF SUPERVISORS

CLEVELAND A. BURTONSHAW, Chairman
WYLLIE SNABH, District #1
THOMAS F. LOFRESCHE, District #2

ROBERT W. ZIEGLER, District #3
JAMES W. WOODS, District #4
JAMES W. WOODS, District #5

September 4, 1979

Mr. Chairman, now that the time has arrived for the decision to be made on the matter of the proposed ordinance making unlawful the possession of alcoholic liquor or beer within public parks has arrived, I wish to make a few comments. Since the public hearing, I have changed my mind on this matter a dozen times, also, since that time I have taken time to review the petitions which were submitted, listened to the tapes of the hearing, and read the transcript of the minutes.

With your permission Mr. Chairman, I would like to read the following statement which I have prepared that should explain how I feel about the hearing and how, I feel, we should move on this matter.

First, I would like to discuss the comments that were made at the hearing. Some of the testimony given was completely irrelevant and did not pertain to the issue at hand. Ownership of the parks or who funds their construction, maintenance, or on-going programs is not the question to be addressed in this matter. No matter who owns or administers the parks in the unincorporated areas, the proposed ordinance is a law enforcement jurisdictional matter. All parks that are outside the city limits become the responsibility of the county sheriff as far as law enforcement is concerned.

The tone of some of the comments would lead one to believe that no beer or other alcoholic beverages are consumed at the present time other than in public parks located in the county. This reasoning, I find, to be of no value in helping to make a decision on this proposed ordinance.

The possibility of someone's civil rights being violated is, of course, of great concern to me. I feel, however, that this is not the central matter in the proposed ordinance. Neither is the matter raised concerning religious preference. These two accusations seem to always come up to prevent discussion of what the real issues are. All too often, these issues are raised to arouse the emotions of opposing points of view. The real issue here is a behavioral one. Whether or not this ordinance should be passed should be based on consideration of the facts as they are available to us, and not based on emotional irrelevant material.

Another point brought up at the hearing was the parks should be divided in half for those who drink and those who do not, this would seem to me to be totally impracticable and impossible.

Saying that there is no problem and that nothing should be done until there is one, is the "head-in-the-sand approach". Prevention is, of course, much better than a cure.

The input received at the public hearing has been very helpful to me in formulating, as objectively as possible, a resolution in my mind to the matter of the proposed ordinance.

Mr. Chairman, I think that compromise is in order, and after discussion with our prosecuting attorney as to the legality of doing so. I move that the ordinance be amended as follows:

In Section 2, delete the word "morals". (This Ordinance shall be deemed an exercise of the police power of the County for the protection of the public health and safety of the citizens, and all its provisions shall be liberally construed for the attainment of that purpose).

Also, under Exceptions Section 4, add a paragraph, "Further this Ordinance shall not apply to Sandy Downs or Russet Noise Park."

The Board of County Commissioners is responsible for all phases of County Government, and are bound by law in most areas.

We are responsible to all the 58,000 people residing in Bonneville County, and we have to consider the needs and wants of everyone.

At the public hearing held Aug. 28th, 1979, a lot of comment was made relative to the part the County plays in the Parks and Recreation Dept. By law we are allowed to levy a maximum of 1/2 mill, which we have done plus an additional appropriation from Revenue Sharing funds.

Another area in which we are governed by law is Welfare. The maximum we are allowed to levy there is 5 mills, not only are the welfare expenses going up at an alarming rate because of inflation, but because of an ever increasing number of people needing and wanting help in that department.

At least 1/2 of the welfare problems, not only in the County, but the State and Federal government as well, can be attributed to alcohol.

Many other areas of County government see the devastation created by the same problem; the Courts and the Law Enforcement people to name a few.

The accidents that are caused, creating hospital bills, family separations, food, shelter, court cases, jail, loss of lives, child probation, divorces, and many more problems where we see the effects of alcohol.

I would like to see the ordinance rephrased because I feel we need to protect our investment in People, in their lives, their families, their homes and their happiness. So that all will be able to enjoy the parks.