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BONNEVILLE COUNTY

ORDINANCE NO. 121-80

AN ORDINANCE OF THE COUNTY OF BONNEVILLE, A MUNICIPAL CORPORATION OF IDAHO, PROVIDING FOR THE RETAIL SALE OF WINE IN ACCORDANCE WITH CHAPTER 13, TITLE 23, IDAHO CODE, BY PROVIDING DEFINITIONS: REQUIRING A COUNTY LICENSE; REQUIRING THAT A SEPERATE WINE BY THE DRINK LICENSE SHALL BE REQUIRED FOR CONSUMPTION OF WINE ON THE PREMISES; PROVIDING QUALIFICATIONS FOR WINE BY THE DRINK LICENSE; PROVIDED FOR FEES TO PAID FOR A WINE BY THE DRINK LICENSE AND TRANSFER THEREOF PROVIDING FOR THE REGULATION OF THE TIME WHEREIN WINE MAY BE CONSUMED ON THE LICENSE PREMISES AND PROVIDING THAT A BEER LICENSE IS REQUIRED BEFORE A WINE LICENSE IS ISSUED; DEFINING THE QUALIFICATIONS OF A LICENSEE; ESTABLISHING THE LICENSE FEE; SETTING RESTRICTIONS ON TRANSFER OF LICENSES; REGULATING PLACES OF CONSUMPTION; SETTING FORTH CONDITIONS OF POSSESSION; PROHIBITING MISREPRESENTATION OF AGE FOR PURPOSES OF SALE, CONSUMPTION OR POSSESSION; PROHIBITING PERSONS FROM DRIVING UPON A PUBLIC HIGHWAY OR STREET WHILE CONSUMING OR IN POSSESSION OF AN OPEN CONTAINER OF WINE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT AFTER ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BONNEVILLE, STATE OF IDAHO, AS FOLLOWS:

Section 1. The following terms as used in this act are hereby defined as follows:

(a) "Wine" shall mean any alcoholic beverage containing nor more than fourteen percent (14%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar.

(b) "Commissioner" mean the Commissioner of Law Enforcement of the State of Idaho.

(c) "Retail Wine License" means a license issued by the Commissioner, authorizing a person to sell wine at retail for consumption off the licensed premises.

(d) "Retailer" means a person to whom a retail wine license has been issued.

(e) "Person" includes and individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by

the context in which it is used.

(f) "Wine by the Drink License" means a license to sell wine by the individual glass or opened bottle at retail, for consumption on the premises only.

Section 2. LICENSE REQUIRED: It shall be unlawful for any person to sell wine at retail for consumption off the licensed premises or to sell by the individual glass or opened bottle for consumption on the premises within the incorporated limits of Bonnevillie County without first obtaining a license therefore under the provision of this ordinance.

Section 3. APPLICATION FOR LICENSE: Application for retail wine license or wine by the drink license shall be in writing, signed and sworn to by the applicant upon the application forms furnished by the Clerk. Such application shall be filed by the Clerk and presented to the Board of Commissioners at the next regular meeting of the Board of Commissioners for their approval, rejection, or further consideration.

Section 4. QUALIFICATIONS: That if a retail wine license or wine by the drink license shall possess all of the qualifications necessary to obtain a license from the Commissioner of Law Enforcement of the State, as prescribed by the laws of the State, and maintain such qualifications throughout the period for which such license is issued. The possession of a beer license regularly issued by the Department of Law Enforcement and the County shall be prima facie evidence of the applicant's qualifications to receive a license hereunder.

Section 5. LICENSE FEE: The license fee imposed and collected for retail wine license shall be the sum of One Hundred Dollars (\$100.00) per year.

The license fee imposed and collected for wine by the drink license shall be the sum of One Hundred Dollars (\$100.00) per year.

All licenses issued pursuant to the provisions of this ordinance shall expire at 1:00 a.m. on January 1 of the year following the year in which the license is issued.

Section 4 herein as to the qualifications of the applicant and by the payment of the required license fee, the Clerk shall upon approval of the Board of Commissioners, issue to the applicant a license to sell wine at retail within the County for such calendar year or the remainder thereof.

Section 7. LICENSE RESTRICTIONS: The assignment or transfer of a wine license shall be the same as provided by I.C. 23-1317 to the County Clerk and the fee for such assignment or transfer of a retail wine license shall be Twenty Dollars (\$20.00).

Section 8. CONSUMPTION ON PREMISES: Retailers who do not possess a valid license for the retail sale of beer by the drink shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken, sealed container. Wine sold for consumption on the retailer's premises may be sold only during hours that beer by the drink may be sold pursuant to the laws of this State. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of this state.

Section 9. POSSESSION: No person may, while operating or riding in or upon a motor vehicle upon a public highway of this State, have in his possession any wine in an open or unsealed container of any kind.

Section 10. MISREPRESENTATION OF AGE: (a) No person under the age of nineteen (19) years may purchase, consume or possess wine.

(b) No person shall give, sell, or deliver wine to any person under the age of nineteen (19) years.

(c) No person under the age of nineteen (19) years shall by any means represent to any retailer or distributor or to any agent or employee of such retailer or distributor that he or she is nineteen (19) years or more of age for the purpose of inducing such retailer or distributor- or his agent or employee, to sell, serve or dispense wine to such person.

(d) No person shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is nineteen (19) years or more of age, when in fact such other person is under the age of

nineteen (19) years, for the purpose of inducing such retailer or distributor, or the agent or employee of such retailer or distributor, to sell, serve, or dispense wine to such other person.

Section 11. REVOCATION OF LICENSE: The right shall be and remain at all times vested in the Board of Commissioners, and the Board of Commissioners may, as hereinafter provided, revoke or cancel any license for fraud or misrepresentation in its procurement, or for a violation of any of the provisions of this ordinance, or for any conduct or act of the licensee or his employees or any conduct or act permitted by him or them on the premises where such business is conducted, or in connection therewith or adjacent thereto, tending to render such business or such premises where the same is conducted as a public nuisance or a menace to the health, peace, safety or general welfare of the County provided, that revocation or suspension of the State License by the Commissioner of Law Enforcement shall be deemed preim facie evidence for revocation or suspension of the license issued herein.

Section 12. PENALTY: Any person who violates any of the provisions of this act or fails to comply with any of the terms and conditions of this act shall be guilty of a mesdemaneor and punishable by a fine of not to exceed Three Hundred Dollars (\$300.00) or by imprisonment in the County jail for not to exceed thirty (30) days, or by both such fine and imprisonment.

Section 13. SEVERABILITY: The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Section 14. This ordinance shall be in full force and effect upon its passage, approval and publication according to law.

Section 15. SHERIFF; ACCESS TO PREMISES: The Sheriff and all Deputy Sheriffs of the County of Bonneville shall have the right at any time to enter in and upon such licensed premises, and it shall be unlawful to refuse any Deputy Sheriff admittance to or access to such premises for the purpose of police patrol, regulation and inspection of such premises.

PASSED AND APPROVED THIS 19th day of November, 1980

BONNEVILLE COUNTY COMMISSIONERS

Clyde A. Burtenshaw
Clyde A. Burtenshaw, Chairman

Thomas F. Loertscher
Thomas F. Loertscher, Member

A. Wylie Smarr
A. Wylie Smarr, Member

ATTEST:

Ronald Longmore
Ronald Longmore, County Clerk

CERTIFICATION

STATE OF IDAHO)
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: Ordinance No. 121-80 - Retail Sale of Wine.

Ronald Longmore
Ronald Longmore, County Clerk

ADOPTED: November 19, 1980

PUBLISHED: November 23, 1980