



ORDINANCE NO. 165

AN ORDINANCE RELATING TO ALCOHOLIC LIQUOR, PROVIDING PENALTIES FOR VIOLATIONS, AND DECLARING AN EMERGENCY.

THE CITY OF DUNDEE, OREGON, ORDAINS AS FOLLOWS:

Section 1. Unless the context requires otherwise, the following mean:

(1) Alcoholic liquor. An alcoholic beverage containing more than one-half of one percent of alcohol by volume.

(2) Licensed premises. A room or enclosure at the address within the city for which a license has been issued by the liquor control commission for the serving, mixing, handling, or selling of alcoholic liquor.

(3) Liquor control commission. The Oregon Liquor Control Commission provided by the Oregon Liquor Control Act.

(4) Minor. A person under the age of 21 years.

(5) Oregon Liquor Control Act. The state law so designated by ORS 471.027 as now or hereafter amended and supplemented and includes the Oregon Distilled Liquor Control Act as defined by ORS 472.020 as now or hereafter amended or supplemented.

(6) Person. An individual, partnership, corporation, association, or club.

(7) Responsible relative.

(a) An adult who is the spouse of a minor.

(b) An adult, related to the minor, who has taken over the parental duties of governing the minor's actions.

(c) A duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

(8) Sell. Soliciting or receiving an order; keeping, offering, or exposing for sale; delivering for value or in any way other than gratuitously; peddling; keeping with intent to sell; traffic in, for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means; to procure or allow to be procured for any other person.

Section 2. It shall be unlawful for any person to sell, give, furnish, or serve any alcoholic liquor to any minor, or to any person visibly intoxicated, or to any person interdicted by any court.

Section 3. It shall be unlawful for any minor to purchase, acquire, or have in his or her possession any alcoholic liquor.

Section 4. Nothing in this ordinance contained shall be construed as prohibiting a parent, guardian, or other responsible relative of a minor from giving such minor alcoholic liquor and permitting him to consume the same within the home of such parent, guardian, or responsible relative of the minor, or at such other private place not in view of the public where the parent, guardian, or responsible relative is present.

Section 5. It shall be unlawful for any person to allow or permit any minor, or a person who is visibly intoxicated, or a person who is under an order of interdiction issued by any court pursuant to the provisions of the Oregon Liquor Control Act, to drink or consume any alcoholic liquor upon any licensed premises.

Section 6. It shall be unlawful for any minor, whether or not he or she is accompanied by a parent, guardian, or other person, to loiter on any licensed premises, or to enter or remain on any licensed premises or portion thereof posted by the liquor control commission as being prohibited to the use of minors.

Section 7. It shall be unlawful for any licensee of the liquor control commission to permit any minor to consume any alcoholic liquor upon any licensed premises, whether or not such liquor is given to said minor by a parent or guardian, or to loiter on such premises, or to remain upon such premises or portion thereof posted by the liquor control commission as being prohibited to the use of minors. Accompaniment of a minor by a parent, guardian, or other person shall not constitute a defense to any charge brought for violation of this section.

Section 8. The provisions of Sections 6 and 7 hereof shall not be construed as prohibiting any minor to enter any licensed premises, or portion thereof, for the transaction of any business relating to the regular or authorized duties of such minor in pursuing the course of his lawful employment; nor prohibiting a minor spouse from entering and remaining on licensed premises or any portion thereof when he or she is in the immediate company of his or her spouse who is 21 years of age or older.

Section 9. It shall be unlawful for any minor, either for himself or as agent or employe of another, to sell, offer for sale, or deliver any alcoholic liquor, and it shall be unlawful for any person to employ, hire, or engage any minor to sell, offer for sale, or deliver any such liquor.

Section 10. It shall be unlawful for any minor to represent falsely that he or she is of any age other than his or her true age, or to produce any evidence that would falsely indicate his or her age, for the purpose of securing any right, benefit, or privilege denied minors by this ordinance.

Section 11. It shall be unlawful for any person to represent falsely a minor to be 21 years of age or older for the purpose of securing or assisting such minor in securing any right, benefit, or privilege denied minors by this ordinance.

Section 12. It shall be unlawful for any person under an order of interdiction to possess, purchase, or offer or attempt to purchase any alcoholic liquor.

Section 13. It shall be unlawful for any person to sell, solicit, or take orders for or peddle alcoholic liquor unless such person has a license from the liquor control commission, or for any person having a license from such commission to sell or offer for sale alcoholic liquor of a kind, or in a manner, or to a person, other than his license permits.

Section 14. It shall be unlawful for any licensee of the liquor control commission to allow, permit, or suffer any loud, lewd, noisy, disorderly, or boisterous conduct on the licensed premises for which his license was issued, or to permit any visibly intoxicated person to enter or remain upon such licensed premises.

Section 15. It shall be unlawful for any person or licensee of the liquor control commission holding a license from such commission permitting only the sale and consumption of malt beverages to knowingly permit any alcoholic liquor containing more than 4 per cent of alcohol by weight to be brought upon or be consumed upon the licensed premises.

Section 16. It shall be unlawful for any licensee of the liquor control commission for any licensed premises within the city of Dundee to permit empty or discarded containers of alcoholic liquor to be in public view on the exterior of his licensed premises or in parking areas maintained in connection with such premises.

Section 17. It shall be unlawful for any person to sell for consumption on the premises any alcoholic liquor during the time the polls are open on any day on which an election is held throughout the state.

Section 18. No person shall sell, dispense, deliver, or allow the consumption of any alcoholic liquor on any licensed premises, or deliver or permit the removal of any alcoholic liquor to, on, or from any licensed premises between the hours 1:00 a.m. and 7:00 a.m.; provided, however, that a restaurant or dispenser licensee may exercise the privilege granted by such license between the hours of 7:00 a.m. and 2:30 a.m.

Section 19. Whenever any officer shall arrest any person for violation of this ordinance, such officer shall take into his possession all alcoholic liquor and other property which the person arrested has in his possession, or on his premises, which apparently is being used or kept in violation of this ordinance. In case the person arrested is convicted, and the court finds the alcoholic liquor and other property has been used or kept in violation of this ordinance, the alcoholic liquor shall be forfeited to the Oregon Liquor Control Commission and the other property to the City of Dundee.

Section 20. Each licensee of the liquor control commission for licensed premises within the corporate limites of the City of Dundee shall be responsible and liable to prosecution for any violation of any provision of this ordinance pertaining to his licensed premises and for any act or omission of any servant, agent, or employe of such licensee in violation of any provision of this ordinance.

Section 21. Whenever any licensee of the liquor control commission shall be prosecuted in the municipal court under this ordinance for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor, or to enter or loiter upon the licensed premises, it shall be permissible for such licensee to offer in his defense any written statement made by or for such minor prior to the violation, which statement was made and taken pursuant to the laws of Oregon and the rules and regulations of the liquor control commission, but such statement shall not constitute a conclusive defense, and the judge or jury, as the case may be, may consider and weigh the same.

Section 22. Any person violating any provision of this ordinance shall, upon conviction in the municipal court, be punished by a fine not exceeding \$100.00, or by imprisonment in the city jail not exceeding 30 days, or by both such fine and imprisonment.

Section 23. If a portion of this ordinance for any reason is held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 24. All prior ordinances of the city of Dundee in conflict herewith are hereby repealed.

Section 25. The repeal of any ordinance by Section 24 shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

Section 26. The council desires and deems it necessary for the preservation of the health, peace and safety of the city of Dundee, that this ordinance take effect at once, and therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the council this 3rd day of February, 1975.

AYES: Jim Scott, John Kallen, John Gruff, Sally Jones, Paul Billiak, & Wallace W. Heighele NAYS: None

Submitted to and approved by the mayor on the 3rd day of February, 1975.

Jack H. Miller
Mayor

ATTEST:

Margaret Miller
Recorder