

ORDINANCE NO. 99

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS I, III and IX OF ORDINANCE NO. 95 RELATING TO THE DEFINITIONS, LICENSE AND FEES AND LIMITATIONS OF HOURS AND DAYS OF SALE AT RETAIL OF BEER AND LIQUOR AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF:

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WASHBURN, NORTH DAKOTA:

SECTION 1. Amendment. Section I of Ordinance No. 95 is hereby amended and re-enacted to read as follows:

A. SECTION I - DEFINITIONS

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.

2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume

3. "Liquor" shall mean any alcoholic beverage except beer.

4. "Wine" shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

5. "Sparkling wine" shall mean wine made effervescent with carbon dioxide.

6. "Alcohol" shall mean neutral spirits distilled at or above 190° proof, whether or not such product is subsequently reduced, for nonindustrial use.

7. "Distilled spirits" shall mean any alcoholic beverage that is not beer, wine, sparkling wine or alcohol.

8. Off-Sale - The term "off-sale" shall mean the sale of alcoholic beverages in original package for consumption off or away from the licensed premises where sold.

9. On-Sale - The term "on-sale" shall mean the sale of alcoholic beverages for consumption on the licensed premises where sold only.

10. Club or Lodge - The terms "lodge or club" shall mean and include any corporation or association organized for civic, fraternal, social or business purposes, or for the promotion of sports; and which said club or lodge does not engage in the sale of alcoholic beverages for more than 24 days during the year.

11. Retail Sale - "Sell at Retail", "Sale at Retail", when used in this ordinance shall have reference to a sale to a consumer for use or consumption and not for the purpose of resale in any form.

12. Person - The term "person" shall include persons, corporations, partnerships, and other unincorporated associations.

13. Sale - The term "sale" is defined to mean and include any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person whether principal proprietor, agent, servant or employee.

14. Minor - A "minor" shall mean any male or female person under the age of twenty-one (21) years.

B. SECTION I - EXCEPTIONS - Nothing contained in this title shall be construed to apply to the following articles, when they are unfit for beverage purposes:

1. Denatured alcohol produced and used pursuant to acts of Congress, and the regulations thereunder;
2. Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;
3. Flavoring extracts, syrups, and food products;
4. Scientific, chemical, and industrial products;

nor the manufacture or sale of said articles containing alcohol. This title shall not apply to wines delivered to priests, rabbis, and ministers for sacramental use.

SECTION 2. Amendment. Section III of Ordinance No. 95 is hereby amended and re-enacted to read as follows:

SECTION III - LICENSES AND FEES

The fees for licenses under this ordinance shall be as follows:

- A. Off-Sale Beer, Retail - - - - - \$ 200.00
  - B. On-Sale & Off-Sale Beer, Retail - - - - - \$ 200.00
  - C. Off-Sale Liquor, Retail - - - - - \$1,800.00
  - D. On-Sale & Off-Sale Liquor, Retail - - - - - \$1,800.00
  - E. On-Sale Wine & Off-Sale Liquor, Retail - - \$1,800.00
  - F. Clubs and Lodges On-Sale Liquor and Beer  
License - - - - - \$ 50.00
- Subsections A, B, C and D shall not apply to local clubs and lodges.

In application for a new license, the fee may be pro-rated in those instances where such license is effective for fractional part of a year. When an applicant so desires, he may, if the application for license is made between June 30th and December 31st of any year, pay the fee for such license in two (2) installments, the first payment thereof in an amount equal to fifty percent (50%) of the license fee or the pro-rated portion thereof as hereinbefore provided, shall be tendered and paid at the time of the filing of the application for license, either in cash or in the form of a cashiers check drawn upon a solvent bank and the license issued to such applicant shall be revoked on December 31st of the year in which issued unless applicant shall on or before said day, tender and pay in like manner the remaining fifty percent (50%) of the license fee, such revocation being exclusive of all other causes and manners of revocation as provided in this ordinance and the license shall, when issued, bear on its face, a stamp or writing to the effect that the fee for such license has been paid only until December 31st of such year and that such license is not effective after December 31st of said year without the payment of the additional amount of such license fee and when such license fee is paid there shall be stamped or written on such license a statement signed by the City Auditor and to the effect that the remainder of such license fee has been paid, and it shall be unlawful for any person holding such license to sell intoxicating liquor until such fees have been paid as aforesaid.

No license shall be issued to any lodge or club where sales of liquor in such lodge or club are made for the profit of any individual and unless such profits made on the sale of such intoxicating liquor by such lodge or club are used only for benevolent purposes.

Licenses issued to clubs and lodges shall be "On-Sale" only; all other licenses may be "On-Sale", "Off-Sale" or "On and Off-Sale".

SECTION 3. Amendment. Section IX of Ordinance No. 95 is hereby amended and re-enacted to read as follows:

**CITY OF WASHBURN**  
**ORDINANCE NO. 99**  
**AN ORDINANCE TO AMEND**  
**AND REENACT SECTIONS 1, 11, AND**  
**19 OF ORDINANCE NO. 95 RELAT-**  
**ING TO THE DEFINITIONS, LICENSE**  
**AND FEES AND LIMITATIONS OF**  
**HOURS AND DAYS OF SALE AT**  
**RETAIL OF BEER AND LIQUOR AND**  
**PROVIDING PENALTIES FOR**  
**VIOLATIONS THEREOF.**

**PENALTY: ANY PERSON FOUND**  
**GUILTY OF VIOLATING ANY OF**  
**THE PROVISIONS OF THE OR-**  
**DINANCE SHALL BE PUNISHED BY**  
**A FINE OF NOT MORE THAN**  
**\$500.00 OR BY IMPRISONMENT**  
**FOR NOT TO EXCEED 90 DAYS OR**  
**BOTH SUCH FINE AND IMPRISON-**  
**MENT IN THE DISCRETION OF THE**  
**COURT.**

I certify that Ordinance No. 99 of which the above first paragraph represents the title clause was adopted by the City of Washburn, North Dakota on the 3rd day of April, 1978.

John Romanick  
 City Auditor  
 April 4, 1978

# Affidavit of Publication

STATE OF NORTH DAKOTA )  
 County of McLean ) ss

I, W.J. Arenstein, being first duly sworn, on my oath, say that I am the bookkeeper of The Washburn Leader, a weekly newspaper of general circulation, published in the City of Washburn, N.D., in said county and state, and that the advertisement headed:

City of Washburn-Ordinance No. 99

a printed copy of which hereunto annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement, for one consecutive week to-wit:

4-5, 19 78  
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 Publishing fee, \$ 8.24

Subscribed and sworn to before me this 6th day of April A.D. 19 78  
 (Seal) Edith A. Fortberg  
 Notary Public, McLean County, North Dakota  
 My Commission Expires June 30, 1983



SECTION IX - LIMITATION OF HOURS AND DAYS OF SALE

No licensee licensed pursuant to this ordinance shall sell, serve or permit to be sold, served or consumed on the premises named in the license any intoxicating liquor during the following periods:

A. WHEN DAYLIGHT SAVING TIME IS IN EFFECT:

- 1. Between 1:00 o'clock a.m. and 8:00 o'clock a.m. on Saturday, after 1:00 o'clock a.m. on Sunday, Memorial Day, Good Friday or on the day of any statewide, special, primary or general election held within this City while the polls are open or within one hour thereafter.
- 2. Between 12:01 o'clock a.m. and 8:00 o'clock a.m. on any other day of the week.

B. WHEN DAYLIGHT SAVING TIME IS NOT IN EFFECT:

- 1. On Sunday, Good Friday, after 6:00 p.m. Christmas Eve, Christmas Day or on the day of any statewide, special, primary or general election held within this City while the polls are open or within one hour thereafter.
- 2. Between 12:01 o'clock a.m. and 8:00 o'clock a.m. on any other day of the week.

SECTION 4. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after its final passage and adoption.

SECTION 6. Penalty. Any person found guilty of violating any of the provisions of this ordinance shall be punished by a fine of not more than \$500.00 or by imprisonment for not to exceed 30 days or both such fine and imprisonment in the discretion of the Court.

APPROVED: *James Steep*  
President, City Commission

ATTEST: *John Soumerai*  
Auditor

First Reading: 3/20/78

Second Reading: 4/3/78

Final Passage: 4/3/78