

ORDINANCE 396  
By Councilman Pence

AN ORDINANCE DEFINING BEER, REGULATING THE SALE, TRADE, BARTER AND DISTRIBUTION OF THE SAME WITHIN THE CITY OF PAYETTE, STATE OF IDAHO, PROVIDING FOR A LICENSE FOR THE RETAIL OF BEER, FIXING THE LICENSE FEE THEREFORE AND PRESCRIBING REGULATIONS UNDER WHICH THE SAME MAY BE SOLD WITHIN THE CORPORATE LIMITS OF THE CITY OF PAYETTE; PROVIDING TERMS AND CONDITIONS FOR THE APPLICATION FOR LICENSES FOR RETAIL DEALERS; FIXING THE AMOUNT OF LICENSE FEES; PROVIDING PENALTY FOR VIOLATION OF ANY OF THE TERMS AND/OR CONDITIONS OF THIS ORDINANCE; PROVIDING FOR REVOCATION OF LICENSES AND DECLARING AN EMERGENCY TO EXIST:

BE IT ORDAINED BY THE MAYOR AND COUNCILMEN OF THE CITY OF PAYETTE, IDAHO:

SECTION 1.--PURPOSE--This ordinance shall be deemed an exercise of the police power of the City of Payette, Idaho, for the protection of the public health, peace and morals of the citizens of the City of Payette, and all of its provisions shall be liberally construed for the attainment of that purpose.

SECTION 2.--DEFINITION--

(a) BEER--The word "beer" as used in this ordinance shall mean and be construed to mean and embrace all spiritous, malt, vinous, fermented or other beverages and all mixtures or preparations reasonably likely or intended to be used as a beverage which shall contain  $\frac{1}{2}$  of 1 per cent or more of alcohol by volume and not more than 3.2 per cent of alcohol by weight; and such beverages are hereby declared to be non-intoxicating, in fact, and/or all of such beverages which are now or may hereafter be declared to be non-intoxicating beverages by acts of Congress of the United States of America and/or the laws of the State of Idaho.

(b) PERSON--The word "person" as used in this ordinance shall mean and include any person, firm, corporation, partnership, joint stock company or association, and the singular number shall be understood to include the plural and the masculine pronoun shall be

understood to include the feminine.

(c) Every person who shall sell, trade, barter or dispose of beer at retail which may or may not be consumed on the premises shall be designated as a "retail dealer".

SECTION 3.--It shall be unlawful for any person to sell, trade, barter or dispose of beer, as defined in Section 2 (a), at retail within the corporate limits of the City of Payette, Idaho, for a consideration without first having obtained a license from the city council of the City of Payette, Idaho, as herein provided.

SECTION 4.--Every person desiring to obtain a license for the sale, barter, trade or distribution of beer at retail within the corporate limits of the City of Payette, Idaho, as defined by this ordinance shall make a written application to the city council of the City of Payette, Idaho, and said application shall contain the following information:

(a) Name and residence of applicant.

(b) Description of the room or building in which said business shall be conducted.

(c) That the applicant is now and for more than six months immediately prior thereto has continuously been a bona fide resident of the County of Payette, Idaho.

(d) That the applicant is of good moral character and over the age of 21 years.

(e) That the applicant has not been convicted of any felony or any crime involving moral turpitude.

(f) The name and address of four references as to the good moral character of the applicant.

(g) That the applicant agrees to abide by the terms and conditions of this ordinance and/or any ordinance amendatory there-

of and/or any rules or regulations hereafter promulgated by the City of Payette, relative to the sale, trade, barter and/or disposal of beer at retail within the corporate limits of the City of Payette.

SECTION 5.-- The city council of the City of Payette, does hereby reserve the right to refuse any and all applications and its action shall be final and conclusive.

SECTION 6.--That no retailers license should be granted to any person to sell, trade, barter and/or dispose of beer, except at a certain room or building designated in said license, which said room or building shall be well lighted and the place of business shall not be changed or moved without the consent of a majority of the council of the City of Payette, Idaho, in regular session.

SECTION 7.--It shall be unlawful for any retailer to suffer or permit any person under the age of 18 years to consume any beer as defined in this ordinance, in or upon his premises, or for any retailer to sell, give away or in any wise dispose of any such beer to any person under the age of 18 years.

SECTION 8.--That every person to whom a license shall be granted, hereunder, shall at all times conduct a quiet and orderly place of business which shall be open at all times to the inspection of any police officer or officer of the United States treasury department, and that said persons or either of them shall have the right at any and all times to make an examination of the said licensed premises to ascertain if the licensee of such premises is conforming to the provisions of this ordinance and/or the laws of the United States applicable thereto, and to check the alcoholic content of any such beer being kept for the purpose of sale and

distribution on said premises; that all permits or licenses shall be posted in a conspicuous place on the premises and kept so posted during the full period of time for which said license is issued and that said license shall not be sold, transferred or assigned without the written consent of a majority vote of the city council of the City of Payette, at a regular session thereof; that in case of a receivership, assignment, bankruptcy or incompetency of the licensee, the licensees business may be carried on under the permit by the duly appointed, qualified and acting receiver, assignee, trustee in bankruptcy, guardian, executor or administrator of the licensee, provided that such receiver, assignee, trustee, guardian, executor or administrator shall file with the City Clerk of the City of Payette, Idaho, a duly certified copy of his appointment and secure the written consent of the city council of the City of Payette, Idaho.

SECTION 9.--License fees for the retail sale of beer as defined in Section 2 of this ordinance is hereby fixed at the sum of \$12.50 per annum, payable in advance.

SECTION 10.--No retailers license to sell, trade, barter and/or dispose of beer as defined by Section 2 of this ordinance shall be issued to any person holding a wholesale or manufacturers license.

SECTION 11.--Any person violating this ordinance or any part thereof shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than \$10.00 or more than \$100.00 and costs, and upon failure to pay said fine, shall be imprisoned in the city jail in the City of Payette, Idaho, one day for each \$2.00 of such fine and costs and/or fraction thereof; and in addition thereto the city council may, upon such conviction, re-

voke the said license.

SECTION 12.--The right shall be and at all times remain vested in the city council of the City of Payette, Idaho, to revoke or cancel any license for any violation of this ordinance or of any other ordinance of the said City of Payette, and upon complaint being filed with the City Clerk, the city council of the City of Payette shall notify the offender, and shall call a hearing in a summary manner, and if at the said hearing it shall appear to said council that cause exists for the cancelation or revocation of said license, they may do so without further process of law.

SECTION 13.--If any Section, provision or clause of this ordinance shall be declared invalid, such invalidity shall not be construed to affect the portions of this ordinance not so held invalid.

SECTION 14.--There being no present ordinance to control the matters herein set out, and it being deemed essential to the people of the City of Payette, it is hereby declared that this ordinance is for the immediate preservation of the peace, health, morals and safety of the citizens of the City of Payette, Idaho, and that an emergency does now exist, and that this ordinance shall be in full force and effect from and after its passage by the council, approval by the Mayor and publication in the official newspaper of the City of Payette, Idaho,

Passed by the city council of the City of Payette, Idaho, this 7th day of Augy, 1933.

Approved by the Mayor of the City of Payette, Idaho, this 7th day of August, 1933.

ATTEST: *W. J. Johnson*  
City Clerk

APPROVED: *J. J. Wood*  
Mayor