

CITY OF ROBERTS ORDINANCE # 531

ALCOHOL SALES

AN ORDINANCE REGARDING THE RETAIL SALES OF LIQUOR, BEER AND WINE:
AND REPEALING OF CITY CODE TITLE 5-CHAPTER 8, ORDINANCE #474,
ORDINANCE #476 AND ORDINANCE #506 AND/OR OTHER ALCOHOL ORDINANCES.

WHEREAS, it is necessary to replace the original City Code 5-8 and amending ordinances to correct conflicting and confusing statements;

WHEREAS, the City of Roberts desires to repeal any alcohol, including, but not limited to, liquor, beer and wine ordinances inconsistent with City Code and/or Idaho State Statute:

NOW, THEREFORE:

BE IT ORDAINED by the Mayor and the City Council of the City of Roberts, Idaho, as follows:

REPEAL

Roberts City Code, Title 5, Chapter 8; City Ordinances, #474, 476, 506 and any unknown or existing ordinance pertaining to liquor, beer and wine sales, prior to the date hereof, are hereby repealed.

STATE STATUTES

I. Existing Idaho State Statute prohibits the sale of alcoholic liquor as follows:

§ 23-307. Days when sales are prohibited

It shall be unlawful to transact the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station:

- (a) After the closing hours as established by the division.
- (b) On any Thanksgiving, Christmas or Memorial Day.
- (c) On any Sunday, except as provided by county option pursuant to section 23-308, Idaho Code.
- (d) During such other periods or days as may be designated by the division.

II. Beer, Wine and alcohol sales are controlled by Idaho State Statutes as follows:

§ 23-1012. Hours of sale

(1) It shall be unlawful and a misdemeanor for any person in any place licensed to sell beer or where beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure

or profit, to sell, dispense or give away beer between the hours of one (1) o'clock A.M. and six (6) o'clock A.M.

(2) Any patron present on the licensed premises after the sale of beer has stopped as provided in subsections (1) and (4) herein shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

(3) Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsection (2) shall be guilty of a misdemeanor.

(4) A county or city may, however, extend, until two (2) o'clock A.M., the hours of the sale of beer.

III. City may alter alcohol sales by ordinance.

§ 23-927: (2) a county or city may, however, by ordinance, allow the sale of liquor by the drink on a Sunday, Memorial Day and Thanksgiving, and may also extend until 2 o'clock A.M. the hours of the sale of liquor by the drink.

CITY OF ROBERTS OPTIONS EXERCISED

City Options on Liquor, Beer and Wine.

Section 1: Definitions

Beer: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water containing not more than six percent (6%) of alcohol by weight.

Person: Includes any individual, firm, partnership, association, corporation or any group or combination acting as a unit.

Retailer: Any person engaged in the sale or distribution of beer or wine to the consumer.

Wine: Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar whether or not the other ingredients are added.

Liquor: "Alcoholic liquor," as the term is used in this act, includes:

(a) "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.

(b) "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.

(c) "Wine," meaning any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).

(d) 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 4 per cent of alcohol by weight.

Section 2: License Required; Application; Conditions; Term;

A. Application; Before any retailer shall sell, dispose of or possess for the purpose of sale any liquor, beer or wine under the provisions of this Ordinance, an application, available at the City Hall, shall be completed and submitted with the required license fee to the City Clerk.

B. Conditions for Issuance; Upon such application and payment of the fee prescribed, the City Clerk shall issue such license provided that applicant:

1. Is a citizen of the United States.
2. Is a citizen of the State of Idaho.
3. Is at least twenty-one (21) years of age.
4. Resides within Jefferson County, Idaho.
5. Has not been convicted of a felony within the past five years from application date.
6. Produces proof of valid State of Idaho and Jefferson County licenses for the retail sale of liquor, beer and wine under the provisions of this Ordinance.
7. Has been approved for issuance of a license by the City Council at a regularly scheduled meeting.

C. License Term; All licenses shall be granted by the Mayor and City Council for a term of one (1) year, beginning January 1 and ending December 31. The City Council shall grant or deny the application within thirty (30) days of the filing of the application with the City Clerk.

Section 3: Denial of Issuance; Record of Proceedings; Refusal of License; Appeal; Revocation of License; Appeal;

A. Denial of Issuance; Whenever the Mayor and City Council deny an application, they shall specify in writing:

1. The statutes, ordinances and standards used in evaluating the application;
2. The reason for the denial; and
3. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

B. Record of Proceedings; in all cases where the City Council is considering applications for licenses, transfers or renewals thereof, a transcribable, verbatim record of the proceedings shall

be made. If the applicant for a license, transfer or renewal is denied, the record of the proceedings shall be kept for a period of no less than six (6) months after a final decision on the matter. Upon written request and within the time period provided for the retention of the record, any person may have the record transcribed at their own expense.

C. Refusal of License; Appeal: The City Council hereby reserves the right to refuse any applications and its actions shall be final. However, if any person making an application to sell liquor, beer and/or wine is refused a license on the grounds that applicant is guilty of an offense that, to the City Council, is detrimental to the public peace and quiet of the city, the applicant may make application to the District Court of the district in which the City is located for a review of the case and for final disposition of the matter.

D. Revocation of License; Appeal; Any licensee convicted of a violation of any law of the State or ordinance of the City relative to the illegal selling of beer or other intoxicants, the Mayor and City Council, after notice and hearing, shall revoke the license.
Appeal; Any person who is aggrieved by the action of the City Council in the revocation of said license to sell liquor, beer and/or wine may upon notice of the City Clerk of such action may appeal the decision to the District Court as provided by Statute in such cases.

Section 4: License Fees

License fees are set by the City Council, by Resolution, not to exceed the maximum fees set forth by Idaho Statute Title 23-1016 part (a.) and (b.). The schedule of fees is available at the Roberts City Hall.

Section 5: License Nontransferable

No license herein issued shall be transferable, and the place where beer and wine is sold shall be described with common certainty giving the name of the building, street, or other pertinent information.

Section 6: Hours of Sale

A. Weekday Sales: It shall be unlawful for any person entity, within the City of Roberts, Idaho, to sell liquor, beer or wine in any place licensed to sell liquor, beer and/or wine which is disposed or is to be consumed on the premises as follows: Monday through Sunday between the hours of 1:00 a.m. and 10:00 a.m.

B Sunday Sales: It shall be lawful on Sunday between the hours of 4:00 p.m. and 10:00 p.m. to sell and dispense liquor, beer and/or wine pursuant to the license granted herein. It shall also be lawful to sell liquor, beer and/or wine on Thanksgiving Day as if any other day of normal sales subject to the prohibitions stated herein.

C. It shall be unlawful for any person within the City of Roberts licensed to sell Packaged Liquor Beer and/or Wine to sell it between the hours of 1:00 a.m. and 6:00 a.m. on any day.

D. Christmas Day; Sales of Beer, Wine or Liquor are prohibited in any form.

E. The Mayor or City Council reserves the right to modify the hours of operation on Sunday, except when Christmas falls on Sunday, to accommodate a special event, (e.g. Super Bowl Sunday). Written request for such accommodation must be submitted to the City Clerk within seventy two (72) hours of the event by a licensed entity/individual set forth herein.

Section 7: Penalty

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be subject to the misdemeanor fines, as modified from time to time, per Idaho State Statute; Title 50-302.

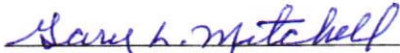
Passed by the City Council of The City of Roberts on the 13 day of April 2010.

Attest:



City Clerk

City of Roberts:



Honorable Gary Mitchell
Mayor, City of Roberts

Approved as to form:

City Attorney