

ORDINANCE 80-9
AMENDED ~~11-11-96~~ 12-09-96

AN ORDINANCE REGULATING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE CITY OF NEWCASTLE, TEXAS. DEFINITION OF TERMS: PERMIT TO MANUFACTURE, SELL, DISTRIBUTE, OR STORE; HOURS FOR SALE OF BEER AND WINE; PRIVATE CLUBS; DRUNKENNESS; CONSUMPTION ON STREETS, SIDEWALKS AND IN PARKS; SALE TO INTOXICATED PERSONS PROHIBITED; SALE TO MINORS PROHIBITED; EMPLOYMENT OF MINORS TO SELL PROHIBITED; PURCHASE BY MINORS PROHIBITED; POSSESSION AND CONSUMPTION BY MINORS PROHIBITED; UNLAWFUL CONDUCT ON PREMISES WHERE BEER OR WINE IS SOLD; PENALTY; SEVERABILITY.

Whereas, the serving and sale of alcoholic beverages is primarily pre-empted by the Texas Liquor Control Act, and

Whereas, the City Council of Newcastle, Texas, in order to provide for the general welfare of the citizens of this City is permitted to enact certain rules and regulations; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF NEWCASTLE, TEXAS:

SECTION 1: DEFINITION OF TERMS. For the purpose of this ordinance all definitions of words, terms, and phrases as set forth in the Texas Liquor Control Act are hereby adopted and made a part of this ordinance.

SECTION 2: PERMIT TO MANUFACTURE, SELL, DISTRIBUTE, OR STORE. No person shall manufacture, sell, distribute, or store any intoxicating liquor, malt liquor, or other alcoholic beverages, or engage in any other activity with relation to the same, for which a permit is required by the Texas Liquor Control Act, within the City without first obtaining a permit to do so from the City. The fee for such license shall be an amount equal to one-half (1/2) the permit or license fee charged by the State under the TEXAS LIQUOR CONTROL ACT.

SECTION 3: PREREQUISITE TO ISSUANCE OF PERMIT. No permit required under the terms of this Ordinance shall be issued to any person until he shows that he holds a State permit for the particular phase of liquor traffic in which he desires to engage in the City, and until the fee required by the City for such permit shall have been paid to the City.

SECTION 4: DURATION OF PERMIT. All permits issued under the terms of this Ordinance shall expire at the time shown in the State permit presented by the applicant. If the permit sought is issued for a period of time of less than one year, only a proportionate part of the annual fee shall be exacted and collected; provided, however a fractional part of any month shall become counted as one month in calculating the fee which is to be paid.

SECTION 5: LOCATION RESTRICTED. It shall be unlawful for any person to sell, or engage in the business of selling, intoxicating liquor, beer or wine within the City where the place of business of such person is situated within three hundred (300) feet of any church, school or other educational institution; the measurement to be along the property line of the street front; and from front door to front door, and in direct line across intersections where they occur.

SECTION 6: HOURS FOR SALE OF BEER AND WINE. It shall be unlawful for any person to sell beer or wine or offer the same for sale during the following times:

- a. Between the hours of 12:01 A.M. on Saturday and 12:01 P.M. on Sunday. *
- b. On any day at any time between the hours of 12:01 A.M. and 7 A.M., Monday thru Saturday.

SECTION 7: PRIVATE CLUBS. It shall be unlawful for any private club to cause, permit, or allow any person to consume, or to be served any alcoholic beverage on private club premises at any time on Sunday between the hours of 1:15 A.M. and 1 P.M., or on any other day between the hours of 12:15 A.M. and 7:00 A.M.

SECTION 8: DRUNKENNESS. Whoever shall get drunk or be found in a state of intoxication in any public place, or at any private house, except his own, shall be fined.

SECTION 9: CONSUMPTION ON STREETS, SIDEWALKS, AND IN PARKS. It shall be unlawful for any person to consume any alcoholic beverage while on any street, sidewalk, or other public way of the City. It shall be unlawful for any person to sell, give away, or drink any beer, wine or intoxicating liquors of any kind or nature whatever within the City of Newcastle municipal parks.

SECTION 10: SALE TO INTOXICATED PERSONS PROHIBITED. It shall be unlawful for any person to sell any alcoholic beverage to any person who is under the influence of intoxicating liquor for either on-premises or off-premises consumption.

SECTION 11: SALE TO MINORS PROHIBITED. It shall be unlawful for any person to sell any alcoholic beverage to any person under the age of twenty-one (21) years.

SECTION 12: EMPLOYMENT OF MINORS TO SELL PROHIBITED. It shall be unlawful for any person engaged in the business of selling alcoholic beverage to employ any person under the age of eighteen (18) years to sell, handle, transport, or dispense alcoholic beverages, or to assist in selling, handling transporting, or dispensing any alcoholic beverages.

SECTION 13: PURCHASE BY MINORS PROHIBITED. It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase any alcoholic beverage.

SECTION 14: POSSESSION AND CONSUMPTION BY MINORS PROHIBITED. It shall be unlawful for any person under the age of twenty-one (21) years of age to consume any alcoholic beverage in any public place unless, at the time of such possession or consumption, such person is accompanied by his parent, guardian, adult husband or adult wife, who is actually visible and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years.

SECTION 15: POSSESSION AT SCHOOL ATHLETIC EVENTS PROHIBITED. It shall be unlawful for any person to bring, or carry, into any enclosure, field, or stadium where athletic events sponsored or participated in by any public school are being held, any alcoholic beverages or to have any alcoholic beverage in his possession while in, or on, such enclosure, field or stadium.

SECTION 16: UNLAWFUL CONDUCT ON PREMISES WHERE BEER OR WINE IS SOLD. Conduct that is lewd, immoral, or offensive to public decency by any person at a place of business where the sale of beer or wine at retail is authorized is hereby declared to include, but not be limited to, the following prohibited acts (and it shall be unlawful for any person engaged in such business or any agent, servant, or employee of such person-to engage in or to permit such conduct on the premises of the retailer):

- a. Using-or permitting the use of loud, vociferous, obscene, vulgar, indecent, or abusive language.
- b. Exposing of one's person or permitting any persons to expose their bodies.

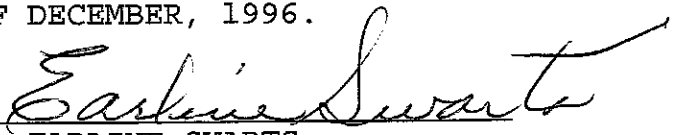
- c. Displaying or permitting any person to display a pistol or a deadly weapon or switchblade knife in a manner calculated to disturb the inhabitants of such place.
- d. Soliciting of any person for coin to operate musical instruments or devices.
- e. Becoming intoxicated on the licensed premises or permitting any intoxicated person to remain on the premises.
- f. Permitting solicitation of persons for immoral or sexual purposes or relations.
- g. Failing or refusing to comply with, or failing or refusing to maintain the retail premises in accordance with the sanitary or health provisions of the City.
- h. Possessing any narcotics.
- i. Possessing any equipment used or designed for the use of administering narcotics.
- j. Permitting any person on the licensed premises to possess any narcotics or any instrument used for, or designed for, the use of administering any narcotics.

SECTION 17: PENALTY. Any person violating the provisions of this ordinance pertaining to drunkenness shall be deemed guilty of a misdemeanor, and shall be subject to a fine.

Any person violating any of the other provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor, and, upon conviction, shall be subject to a fine. Each transaction in violation of any of the provisions hereof shall be deemed a separate offence.

SECTION 18: SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are seperable, and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgement or decree of any court or competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

PASSED AND APPROVED THIS 9th DAY OF DECEMBER, 1996.


MAYOR, EARLINE SWARTS


ATTEST: CITY SECRETARY