

ORDINANCE NO. 1 OF ~~2018~~ 2020

AN ORDINANCE TO PROVIDE FOR THE REPEAL AND RE-ENACTMENT OF SECTION 53 OF THE ORDINANCES OF THE VILLAGE OF DODSON RELATIVE TO THE SALE OF ALCOHOL WITHIN THE VILLAGE; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR RELATED MATTERS.

BE IT ORDAINED by the Mayor and Board of Aldermen of the Village of Dodson, Winn Parish, State of Louisiana, and it is Hereby Ordained by the Same:

SECTION 1.

Section 53 of the Ordinances of the Town of Dodson is hereby repealed and re-enacted as follows:

Sec. 53-1. - Definitions.

For the purposes of this chapter, the following terms have the respective meanings ascribed to them in this section:

1. Alcoholic beverage: Any fluid or any solid capable of being converted into fluid suitable for human consumption and containing more than one-half of one (0.5) percent alcohol by volume, including malt, vinous, spirituous, alcoholic or intoxicating liquors, beer, porter, ale, stout, fruit juices, cider or wine.
2. Alcoholic beverage handling employee: Any alcoholic beverage permit holder, or employee, agent, partner or other person connected with an alcoholic beverage permit holder, his agent, partner or employee who is present on the premises when the alcoholic beverages or containers thereof are handled, dispensed or consumed on the premises, including, but not limited to, waiters, waitresses, barmaids, bartenders, managers, dancers, maintenance men and floormen.
3. Alcoholic beverage permit: A permit required by and issued pursuant to the provisions of article II of this chapter.
4. Beverages of high alcoholic content: Alcoholic beverages containing more than six (6) percent alcohol by volume.
5. Retail dealer: Every person, other than a manufacturer or wholesale dealer, who offers for sale, exposes for sale, has in his possession for sale or distribution, or sells alcoholic beverages in any quantity.
6. Wholesale dealer: Any person who sells alcoholic beverages to other licensed wholesale dealers or to licensed retail dealers.

State Law reference— Definitions, R.S. 26:2, 26:241.

Sec. 53-2. - Sale near schools, churches, etc.

- a) It shall be unlawful for any person to sell or otherwise dispose of any alcoholic beverages from, and no permit shall be granted for, any premises situated within three hundred (300) feet or less distance of a building occupied exclusively as a bona fide church, synagogue, public library, public playground or school, except a school for business education conducted as a business college or school. The three hundred (300) feet shall be interpreted to mean as a person walks using sidewalks from the nearest point of the property line of the church, synagogue, public playground, public library or school to the nearest point of the premises for which an alcoholic beverage permit is sought, as described in the application for the permit.
- b) In the event a retail or wholesale business has an interruption of the continuity of business for a period in excess of six (6) months, in order to reopen for business, the requirements set forth above in this section must be complied with.

State Law reference— Similar provisions, R.S. 26:280C.

Sec. 53-3. - Purchase by or for minors.

- a) It shall be unlawful for any person over the age of seventeen (17) and under the age of twenty-one (21) to purchase any alcoholic beverage, either high or low alcoholic content.
- b) It shall be unlawful for any person under age seventeen (17) to purchase any alcoholic beverage, either of high or low alcoholic content. Whoever is charged with violation of this subsection shall be remanded to juvenile court for hearing and disposition of the case.
- c) It shall be unlawful for any adult to purchase, on behalf of any person under the age of eighteen (21), any alcoholic beverage, either high or low alcoholic content.
- d) Nothing in this section shall be construed as relieving any retail dealer in alcoholic beverages, either high or low alcoholic content, of any of the responsibilities imposed on him under the provisions of this chapter or under the provisions of R.S. Title 26, as amended.

Sec. 53-4. - Sign required relative to sales to minors.

Each and every place or establishment where alcoholic beverages are sold or dispensed at retail, or otherwise, in the Village, shall have a sign displayed in a prominent place, clearly visible to all, stating that no beverages of low or high alcoholic content will be sold or dispensed to persons under twenty-one (21) years of age.

Sec. 53-5. - Drinking in public places.

- a) It shall be unlawful for any person to consume alcoholic beverages of high or low alcoholic content on any public street, sidewalk, park, building, including any public school building, school grounds, football stadium, gymnasium, or any place of amusement holding a retail occupation license from the village including skating rinks, bowling alleys, theaters, pool halls, dance halls, and amusement centers.

- b) It shall be unlawful for a holder of a village occupational retail license, his employees or agents, to permit patrons of his establishment to consume alcoholic beverages on the premises.

Sec. 53-6. - Hours of operation of retail and wholesale dealers.

- a) It shall be unlawful for any retail or wholesale dealer to sell or otherwise dispense alcoholic beverages or to permit or admit any member of the public into an establishment, or part thereof, where alcoholic beverages are the principal commodity sold, between the hours of 12:00 midnight and 6:00 a.m. on week days and between the hours of 12:00 midnight on Sunday until 6:00 a.m. the following Monday.
- b) In any establishment or part thereof where alcoholic beverages are the principal commodities sold or handled the alcoholic beverage permit holder shall remove all patrons and members of the public from the premises by 12:30 a.m. each morning of the week and lights in the premises shall be extinguished and all doors to such premises will be locked. Further, the lights will remain extinguished including outside lights until the premises opens for business as provided in subsection (a) above, except permit holder and his employees or agents may enter the closed premises for the purpose of cleaning, taking stock or other work in the establishment.
- c) No retail dealer, nor his servant, agent or employee shall sell, offer to sell, dispense or give away, beverages of either low or high content within the limits of the municipality on legal holidays which, for purposes of this section, are defined to include:
 - 1) The fourth Thursday in November, Thanksgiving Day; and
 - 2) December 25, Christmas Day.
- d) It shall be unlawful for any person to purchase or solicit any other person to sell beverages of high or low alcoholic content within the village limits at such times and places when and where such sales are prohibited.

Sec. 53-7. - Display or consumption during prohibited hours.

- a) It shall be unlawful for any person to do any of the following acts when the sale of alcoholic beverages is prohibited in any place where alcoholic beverages are sold:
 - 1) To display or allow to be displayed to the view of the public any whiskey, beer or alcoholic beverages after the bottle has been opened, in any bottle, can, glass, cup, vessel or article of any nature.
 - 2) To consume or allow the consumption of alcoholic beverages.
 - 3) For the permit holder, his employees or agents to permit any person to display to view of the public any whiskey, beer or alcoholic beverages after the bottle has been opened in any bottle, can, glass, cup, vessel or article of any nature or allow the consumption of alcoholic beverages on the licensed premises.

Sec. 53-8. - Refusal to allow inspection.

It shall be unlawful for any person to refuse to allow the law enforcement authorities of the village to make an inspection at any time of any place or business where alcoholic beverages are stored, sold, or handled, or otherwise hinder or prevent the inspection. This inspection shall include, but is not limited to, the inspection of business records, coolers, and storage room. The inspection allowed under this section is authorized solely for the purpose of ascertaining whether the business is operating as licensed.

Sec. 53-9. - Acts prohibited on permit premises

No person shall sell for consumption on the seller's premises any alcoholic beverage of any content.

ARTICLE II. - DEALER'S PERMIT^[2]

Sec. 53-10. - Required.

Before engaging in the business of dealing in alcoholic beverages, all wholesale and retail dealers shall obtain from the village a current permit to conduct such business. No person shall sell or otherwise dispose of alcoholic beverages in any quantity whatsoever without first having obtained such permit.

Sec. 53-11. - Separate permit for each place of business.

Separate alcoholic beverage permits shall be required for each place of business operated by a retail or wholesale dealer.

Sec. 53-12. - Applications generally.

All applications for alcoholic beverage permit shall be made on forms supplied by the village and shall be submitted to the mayor or his designee. The applicant for an on-premises permit shall file, as part of his application, a list of all alcoholic beverage handling employees.

Sec. 53-13. - Applicant to be fingerprinted.

On submission of an application for a permit under this article, the applicant shall be fingerprinted.

Sec. 53-14. - Qualifications of applicant.

Applicants for permits under this article shall meet the qualifications and conditions prescribed in R.S. 26:79 and 26:279, and the requirements of this article, and if the applicant, or any other person required to have the same qualifications under the provisions of such sections does not possess the required qualifications, the permit shall be denied.

Sec. 53-15. - Approval or disapproval of application; examination.

1. No alcoholic beverage permit shall be issued or renewed until the application therefore has been approved by the mayor or his designee or the board of aldermen. The mayor or his designee is authorized to approve, without delay, any such application when he determines, in his discretion, that the applicant has the prescribed qualifications for such permit and has complied with all applicable provisions of this chapter. In the event the mayor or his designee disapproves such an application, the applicant may appeal the mayor's ruling to the board of aldermen by giving written notice to village clerk within ten (10) days of the ruling. The board of aldermen will review the application and may reverse the mayor's ruling by a majority vote.
2. No permit shall be issued, or retained after issuance, by any person who is an interposed person for another person or corporation. The mayor or his designee may require the applicant, or permit holder whom he reasonably suspects of being an interposed person for another, to submit to examination under oath either before the mayor or his designee, or the board of aldermen, and to present all records pertaining thereto for examination. If the applicant or permit holder refuses to submit to examination and/or present records requested it shall be presumed that he is interposed for another.

Sec. 53-16. - Fees.

1. The annual fee for an alcoholic beverage permit shall be as follows, which fee shall be paid in full on or before January 1 of each year:
 - a. Wholesale dealers:
 - i. Beverages of low alcoholic content \$175.00
 - ii. Beverages of high alcoholic content \$500.00
 - b. Retail dealers:
 - i. Beverages of low alcoholic content.... \$100.00
 - ii. Beverages of high alcoholic content...\$250.00
2. All permit fees provided for in this article shall be collected by the municipality tax collector. The municipality tax collector is authorized to use such portion of the funds derived from the collection of such fees as may be necessary to cover the expenses incurred to the commissioner of public safety. The municipality tax collector shall pay the balance into the general fund of the village.

Sec. 53-17. - Issuance and signing.

After the application for a permit under this article has been approved in accordance with section 53-15, it shall be submitted to the municipality tax collector, who shall forthwith issue and sign the permit, upon payment of the prescribed fee.

Sec. 53-18. - Transfer.

All alcoholic beverage permits issued under this article shall be personal and nontransferable. If the business is sold during the period for which permit was issued, the owner, or operator must apply and pay for a new permit in the manner and under the conditions set forth in this article. A retail or wholesale dealer shall conduct his business only in premises for which the permit is issued and no permit shall authorize the conduct of business in any changed location, except upon application therefore submitted; provided, however, if the permission is granted to change such location no additional permit shall be required.

Sec. 53-19. - Display.

A permit issued under this article shall be displayed prominently by the permittee in his place of business, so as to be seen and read easily by the public.

Sec. 53-20. - Additional causes for suspension or revocation.

1. In addition to any other causes enumerated in this chapter, the mayor and board of aldermen may suspend or revoke any permit for any of the following causes:
 - a. If there was any misstatement or suppression of fact in the application for the permit.
 - b. If the permit was granted to any person who is or has been engaged in an alcoholic beverage business with a person whose application for a permit has been denied or whose permit has been revoked.
 - c. If the permittee has been found guilty by any court of competent jurisdiction of any of the following offenses:
 - i. Violation of the Sunday closing law;
 - ii. Violation of any municipal, parish or other ordinance providing for Sunday closing hours;
 - iii. Violation of any municipal or parish ordinance relating to beverages of low alcoholic content enacted pursuant to the authorization of R.S. Title 26, as amended.
 - d. If any permittee fails to pay taxes due by any regulated business to the state or to any parish or municipality.
 - e. If the applicant or any persons who must possess the same qualifications fails to possess the qualifications required in R.S. 26:29 and R.S. 26:279 at the time of application or fails to maintain such qualifications during the permit year.
 - f. If the permit was issued to an interposed person in contravention of R.S. 26:81.
 - g. If, without a proper license, a retailer allows any person to consume any alcoholic beverage on the licensed premises or on any parking lot or open or closed space within or contiguous to the licensed premises.

Sec. 53-21. - Revocation or suspension procedure.

1. Before any alcoholic beverage permit is suspended or revoked, the holder thereof shall be entitled to a hearing, and no such permit shall be suspended or revoked unless such a hearing has been held, and the majority of the mayor and board of aldermen thereafter votes for such suspension or revocation.
2. A notice shall be served upon the holder of the permit stating the time and place of the hearing to be held by the mayor and board of aldermen, which shall be not less than ten (10) calendar days from the date such notice is given. The notice shall enumerate the causes for suspending or revoking the permit and shall be sent by registered mail to the holder of the permit at the address of his place of business, as given in his application for the permit; or it may be served on him in person by an officer or employee of the village as provided in R.S. 33:4787.
3. The holder of an alcoholic beverage permit who is aggrieved by a decision of the village board of alderman to suspend or revoke his permit may, within ten (10) days of the notification of the decision, take a devolutive appeal to the district court having jurisdiction over his place of business, and on such appeal, the trial shall be de novo. Within ten (10) calendar days from the signing of the judgment by the district court, the village or the holder of the permit, as the case may be, may devolutively appeal from the judgment of the district court to the court of appeals as in ordinary civil cases.

Sec. 53-22. - Revocation or suspension not exclusive penalty.

1. Notwithstanding any other provision of this chapter to the contrary, the mayor and board of aldermen may, in lieu of or in addition to revocation, or suspension of a permit issued under the authority of this chapter, impose the following schedule of fines to be paid into the village treasury for:
 - a. The first offense, not less than fifty dollars (\$50.00) but not more than five hundred dollars (\$500.00);
 - b. The second offense, which occurs within three (3) years of the first offense, not less than two hundred fifty dollars (\$250.00) but not more than one thousand dollars (\$1,000.00); and,
 - c. The third offense, which occurs within three (3) years of the first offense, not less than five hundred dollars (\$500.00) but not more than two thousand five hundred dollars (\$2,500.00).
2. The fines imposed upon any permittee or the revocation or suspension of a permit is in addition to and is not in lieu of or a limitation upon any other penalty imposed by law and not contained in this chapter.

Sec. 53-23. - Expiration and renewal.

1. A permit issued under this article shall be dated from January 1 of each year and shall be valid for the remainder of the calendar year, unless sooner suspended or revoked. Application for the renewal of such a permit shall be filed in the manner provided by this article on or before November 1 of each year. If a permittee fails to make his application

for renewal and pay the permit fees by that date, there shall be added to the fee, in addition to other penalties provided in this chapter, a delinquency penalty of five (5) percent if the failure is for not more than thirty (30) days, with an additional five (5) percent for each additional thirty (30) days or fraction thereof during which the failure continues. If the dealer fails to make his application before December 31, the mayor or his designee may, without notice or hearing, suspend his right to do business.

2. Any dealer whose application for renewal is filed before December 31, may continue business until issuance of the new permit, under the previous year's permit if it has not been suspended or revoked or the new permit withheld or denied.
3. Renewal permits may be withheld or denied on the same grounds and in the same manner as an original permit.

ARTICLE III. - HANDLING EMPLOYEE CARD

Sec. 53-24. - Required.

Every alcoholic beverage handling employee shall obtain an alcoholic beverage handling employee card prior to entering into employment on an alcoholic beverage permit holder's premises.

Sec. 53-25. - Qualifications of applicant.

1. Each applicant for an alcoholic beverage handling employee card shall meet the following qualifications and conditions:
 - a. He must be a person of good character and reputation and eighteen (18) years of age or older.
 - b. He must not have been convicted of a felony under the laws of the United States, this state or any other state or country.
 - c. Must not have committed prostitution, soliciting for prostitution, pandering, letting premises for prostitution, contributing to the delinquency of juveniles, keeping a disorderly place, letting a disorderly place, illegally dealing in narcotics or any violation of the controlled dangerous substance statute. A conviction is not required.
 - d. He must not have been convicted of violating any of the provisions of this chapter.
 - e. He must not have had his alcoholic beverage handling employee card revoked within two (2) years next preceding the application.
 - f. He must not have been convicted of violating any municipal or parish ordinance relating to alcoholic beverages. In such case, the granting or denial of a card is within the discretion of the mayor or his designee.
 - g. Must not have committed any obscene, lewd or immoral act on any premises for which a permit has been issued under this chapter. A conviction is not required.
2. If the applicant for a card does not possess the required qualifications, the permit shall be denied.

Sec. 53-26. - Issuance or denial.

The mayor or his designee is hereby authorized to issue, without delay, an alcoholic beverage handling employee card when, in his discretion, he finds the applicant to be qualified or may deny the application.

Sec. 53-27. - Contents; fee.

A card issued pursuant to this article shall contain the picture and fingerprints of the person to whom it is issued. A fee of ten dollars (\$10.00) shall be paid for the issuance of each card.

Sec. 53-28. - Term.

All alcoholic beverage handling employee cards shall be for a term of one (1) year and shall expire on the anniversary of the date issued. All applications for renewal may be made within thirty (30) days of the expiration of the old card.

Sec. 53-29. - Valid on premises of any permit holder; exception.

A card for an alcoholic beverage handling employee shall be good and valid for use on the premises of any alcoholic beverage permit holder; provided that, the permit holder has notified the department of public safety of the name and address of the alcoholic beverage handling employee card holder.

Sec. 53-30. - Suspension or revocation—Generally.

1. An alcoholic beverage handling employee card may be suspended or revoked by the mayor or his designee if, at any time, the holder thereof fails to meet the qualifications prescribed by section 53-25 or if he violates any provision of this chapter or if he makes any misstatement of fact or suppresses any pertinent information on his application.
2. Before any alcoholic beverage handling employee card is suspended or revoked, the holder thereof shall be given notice of his right to a hearing before the mayor or his designee. Such notice shall inform the card holder of the reason for which the mayor proposes to suspend or revoke the card and shall inform the card holder that, unless a hearing is requested within ten (10) days from the date the notice is sent, the mayor will suspend or revoke the card. Such notice shall be delivered either personally to the card holder or shall be sent by registered mail to the card holder's address given on his application for a card. In the event a hearing is not requested within ten (10) days of the date such notice is sent, the mayor may proceed forthwith to revoke or suspend the alcoholic beverage handling employee card. In the event a hearing is requested by the card holder, the mayor shall inform the card holder of the date of such hearing, which

hearing shall be held within ten (10) days of the date of the receipt of the request for a hearing.

Sec. 53-31. - Same—Appeal.

The holder of an alcoholic beverage handling employee card who feels aggrieved by a decision of the mayor in suspending or revoking or denying such card may, within ten (10) days of the notification of the decision of the mayor, appeal to the board of aldermen. The decision of the mayor shall be affirmed, unless a majority of the board of aldermen, at a hearing on such appeal, votes to overrule or modify such action.

Sec. 53-32. - Responsibilities of alcoholic beverage permittees.

It shall be unlawful for any alcoholic beverage permit holder to allow any alcoholic beverage handling employee including, but not limited to managers, cashiers, maintenance men and floormen to be present on the premises when alcoholic beverages or containers thereof are handled or dispensed on the premises, unless such alcoholic beverage handling employee is in possession of an alcoholic handling employee card issued under authority of this article. Immediately after employment of any alcoholic beverage handling employee, the permit holder shall notify the Village of such employment and such alcoholic beverage handling employee.

SECTION 2.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

SECTION 3.

That this ordinance shall become effective on the _____ day of _____, 2018.

Said Ordinance was introduced on the _____ day of _____, 2018, and notice of Public Hearing published on the _____ day of _____, 201 in the Winn Parish Enterprise. Said Public Hearing having been held, title having been read and Ordinance considered, on motion by _____, seconded by _____ to adopt the Ordinance, a record vote was taken and the following result was had:

YEAS:

NAYS:

ABSENT:

Whereupon, the Mayor declared the above Ordinance duly adopted on the
_____ day of _____, 201.

MAYOR

Attest:

CLERK