

ORDINANCE NO. 1871

AN ORDINANCE to license, tax, regulate and restrain the manufacture, sale and/or disposal of alcoholic beverages within the City of Albany, Linn County, Oregon, defining what shall constitute alcoholic beverages; prohibiting the manufacture, sale and/or disposal thereof without license; providing a penalty for violation thereof and declaring an emergency.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Definitions.

That for the purpose of this ordinance the term "Alcoholic Beverage" is hereby defined as any spirituous, vinous or malt beverage containing more than one half of one percent of alcohol by volume and not to exceed 3.2 percent of alcohol by weight.

"Manufacturer" is hereby defined to be any person, firm or corporation engaged in the manufacture of alcoholic beverages for sale at retail, wholesale or otherwise.

"Retailer" is hereby defined as any person, firm or corporation engaged in the sale and/or disposal of alcoholic beverages at retail.

"Wholesaler" is hereby defined as any person, firm or corporation engaged in the sale and/or disposal of alcoholic beverages to retailers for the purpose of reselling the same.

"Restaurant Keeper" is hereby defined as any person, firm or corporation operating a place, the principal business of which is that of selling meals to the public or who operates a restaurant or public dining room in connection with a hotel as a part of the regular hotel business.

Section 2. It shall be unlawful for any person, firm or corporation to keep for sale, sell or otherwise dispose of alcoholic beverages, as herein defined, within the City of Albany, Oregon, without first having obtained a license therefor in accordance with the provisions of this ordinance.

Section 3. It shall be unlawful for any person, firm or corporation to keep for sale, sell or otherwise dispose of any alcoholic beverages within the City of Albany, having a greater alcoholic content than that herein defined.

Section 4. Any person desiring to engage in the manufacture or sale of alcoholic beverages, as defined in Section 1 hereof, shall first make application to the City Recorder of the City of Albany for a license therefor, specifying therein whether such license is desired as a manufacturer, wholesaler, retailer or restaurant keeper. Such application shall be made upon a form furnished by the Recorder, and shall contain such reasonable information concerning the applicant and proposed location of his place of business as the City Council or Recorder may require.

Section 5. Applications for licenses shall be forthwith transmitted by the Recorder to the Police Committee of the Council, which said committee shall make such investigation as to the licensee, the proposed location, and such other and further information as such committee shall deem proper, and the police committee shall thereupon, and within a reasonable time, and at the next meeting of the Council, if practicable, report their findings to the Council, and accompany the same with a recommendation on said application. The Council shall thereupon and with reasonable dispatch consider such application, report and recommendation, and the applicant may, if desired, himself be heard, and the Council may grant or refuse to grant such license. Should the license be granted the Recorder shall issue to the applicant a license and permit upon a form to be supplied by the Recorder licensing such applicant to handle such alcoholic beverages as a manufacturer, wholesaler, retailer or restaurant keeper until and including the 30th day of June next ensuing from the date of issuance of the license, upon the payment to the said by the applicant of the license fee required by this ordinance.

Section 6. No license shall be granted to:

- (a) A person not of good moral character.
- (b) A person who is not wholly devoted to the principles of this government.
- (c) A person under the age of twenty-one years.
- (d) An incompetent person or one not in full possession of his mental faculties.
- (e) To any one proposing to conduct his business within 200 feet of any premises occupied by any public or private school, college or church building.
- (f) To any one for the purpose of manufacturing, selling or otherwise disposing of alcoholic beverages, as defined herein, within any gasoline service station, public garage or auto repair shop.
- (g) To any person for the purpose of manufacturing, selling or otherwise disposing alcoholic beverages, as defined herein, within any pool hall, card room, cigar store, dance hall, skating rink or any room or building operated directly or indirectly in connection with, or as a subsidiary to any pool hall, card room, cigar store, dance hall, or skating rink.
- (h) To any person for the purpose of manufacturing, selling or otherwise disposing of alcoholic beverages, as defined herein, except on the first or main floor of a business room, having a full width frontage and an entrance upon a public street.

Section 7. It shall be unlawful for any licensee to manufacture, sell, or otherwise dispose of any such alcoholic beverages in any other place than that place for which said license is granted, and no licensee shall permit such alcoholic beverages to be drunk within the premises where sold, nor shall such licensee sell or dispose of any such alcoholic beverages, except in ~~sealed~~ unopened packages, provided however, that restaurants, as herein defined, may serve such

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beverage with meals at regular dining tables within the dining rooms of such. It shall be unlawful for restaurants to serve such alcoholic beverages at eating counters. No restaurant keeper licensed under the provisions of this ordinance shall permit alcoholic beverages to be consumed, nor shall any person consume such beverages within any licensed restaurant where the person so consuming the same is screened from public view, or within a room closed from public view.

Section 8. Any qualified and acting police or peace officer shall have the right at any and all times to enter and make an examination of any licensed premises to ascertain if the licensee is conforming to the provisions of this ordinance and/or to check the alcoholic content of any beverage handled within such premises.

Section 9. It shall be unlawful for any person licensed to manufacture or sell alcoholic beverages under the provisions of this ordinance to sell or to otherwise dispose of such beverages to any minor under the age of twenty-one years or to a common drunkard, or to an intoxicated or incompetent person.

It shall be unlawful for any manufacturer or wholesaler to own or have any financial interest in any retail place of business, restaurant or hotel licensed under the provisions of this ordinance, or to provide or guarantee any premises, lease or equipment used or owned by such licensee upon the premises for which a license has been granted under the provisions of this ordinance. No license shall be assigned or transferred, nor power of attorney issued in connection therewith.

It shall be unlawful for any licensee to sell or otherwise dispose of any such alcoholic beverages between the hours of one A.M. and six A.M.

2. It shall be unlawful for any person to drink or consume any alcoholic beverage upon any street, alley, public highway, public sidewalk, park or any other public place, within the City of Albany, except as in this ordinance provided.

Section 10. Before obtaining a license to handle alcoholic beverages under the provisions of this ordinance each applicant shall pay to the Recorder of the City of Albany, Oregon, a license fee as follows:

- Manufacturer, \$500.00 per annum,
- Wholesaler, 50.00 per annum,
- Retailer, 15.00 per annum,
- Restaurant keeper, 35.00 per annum.

Provided that a restaurant keeper as defined herein, operating a hotel in connection therewith shall pay a license fee of \$20.00 per annum.

License fees may be made payable in semi-annual installments, provided that the same shall always be paid in advance and if not so paid the license shall be null and void without any further action or proceeding on the part of the City of Albany, Oregon.

For the purpose of this ordinance the years shall be divided into halves as follows:

The first half extending from midnight December 31 to midnight on the 30th day of June, next following, and the second half extending from midnight on June 30 to midnight on the 31st day of December following. Each license granted hereunder shall be issued so as to expire at midnight of the 30th day of June or midnight of the 31st day of December. The license fee shall be paid semi-annually in advance, provided, however, that for licenses issued hereunder covering the period prior to July 1, 1933, the license fee charged shall be one-half of the regular semi-annual payment required, as aforesaid, and such licenses so issued shall run from date of issuance to midnight of June 30, 1933

Section 11. The right shall be and remain at all times vested in the City Council of the City of Albany, and the Council may as hereinafter provided, revoke and cancel any license for fraud or misrepresentation

in its procurement or for a violation of any of the provisions of this ordinance or of any ordinance of the City of Albany, or any law of the state of Oregon or of the United States regulating intoxicating liquors, or for any act or conduct upon the part of the licensee or his employees suffered or permitted by such licensee upon the licensed premises or in connection therewith or adjacent thereto tending to render such business on such premises a public nuisance or menace to the peace, health, safety or general welfare of the City of Albany.

Section 12. It shall be the duty of the Chief of Police or any peace officer of the City of Albany, upon any of the matters set forth in the preceding section, coming to his attention, to submit such facts to the chairman of the police committee, which committee shall forthwith make investigation of such report and transmit the result of such investigation to the Council, together with recommendations thereon, and should the Council deem it necessary notice shall be served upon the licensee, in person if he be found at his place of business, and if he cannot be so found then such notice shall be mailed to him at his last known business address, directing him to appear before the Council at such time and place as the Council shall direct for a hearing. Such hearing shall be informal, and if, upon such hearing and investigation, the Council finds that sufficient cause exists for the revocation of the licensee's license the same may thereupon be revoked by the Council.

Section 13. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

revised by Ord. 1371
Repealed by Ord. 1506

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Section 14. If any of the provisions of this ordinance shall be held void and/or unconstitutional it is hereby expressly provided that all other parts hereof which are not expressly held to be void and/or unconstitutional shall continue in full force and effect.

Section 15. Any person violating any of the provisions of this ordinance, shall, upon conviction thereof, in the City Recorder's Court, be punished by a fine not exceeding \$200.00, or by imprisonment in the City jail not exceeding three months, or by both such fine and imprisonment, and in default of the payment of such fine shall be imprisoned in the city jail one day for each \$2.00 of the fine unpaid.

Section 15. Whereas the act of Congress legalizing the sale of alcoholic beverages with a content as herein defined becomes effective on April 6, 1933, and the City of Albany has no regulations regulating the sale and distribution of such beverage, an emergency is hereby declared to exist and it is hereby declared to be necessary for the immediate preservation of the peace, health and safety of the City of Albany that this ordinance go into effect immediately upon its passage by the Council and approval by the Mayor, and it is so ordered.

Passed by the Council April 12, 1933.

Approved by the Mayor April 12, 1933.

W.L.JACKSON,
Mayor

Attest:

F.P.Nutting,
City Recorder.

STATE OF OREGON,
County of Linn, ss.

I, F.P.Nutting, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the foregoing and annexed copy of ordinance No. 1371 is a true and correct copy of Ordinance Bill No.1474, on file in my office, that it has been compared with the original Ordinance bill No. 1474, passed by the Council April 12, 1933 and approved by the Mayor April 12, 1933, verifying its correctness.
~~xxxxxx~~ Witness my hand and official signature and the seal of the City of Albany this 14th day of April, 1933.


City Recorder.