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Ordinance Bill No 23

Ordinance No 89

An Ordinance to regulate and prohibit the sale, barter and giving away of Intoxicating Liquors, Beer, or any imitation of beer, or "Near Beer" within the corporate limits of the City of Lebanon, Linn County, Oregon, and to provide for the search of any premises within the said City of Lebanon, Linn County, Oregon, where such Intoxicating Liquors, beer or "Near Beer" are believed to be kept for sale in violation of law and to provide for the search and seizure of such Intoxicating Liquors and "Near Beer" or imitation of Beer kept in violation of law or for the violation of law, and to provide for the disposition of such Liquors when seized; to provide and regulate the manner of issuing prescriptions by Physicians for the sale of intoxicating Liquors and alcoholic Liquors for medicinal purposes, and prescribing what the prescription shall contain, and to limit the amount of Liquor to be prescribed in any one prescription to one person, and to limit the number of prescriptions to be issued to one person in one day; to prescribe the duties of Officers in the enforcement of this ordinance regarding the sale of such Liquors; and to provide for the punishment by fine or imprisonment or both for any violation of this Ordinance, and to repeal all ordinances in conflict herewith, and declaring an emergency.

The People of The City of Lebanon Do. Ordain as follows:

Section 1 It shall be unlawful for any person, firm,

company, association or corporation to sell, barter or give away to any person whomsoever within the corporate limits of the City of Lebanon, Linn² County, Oregon, any malt, vinous, spirituous or intoxicating liquors, or any "Near Beer" or imitation of Lager Beer or imitation of Malt liquors; ~~the violation of law~~ Provided that nothing in this section or this Ordinance shall be construed as to prohibit the sale of pure alcohol for scientific or manufacturing purposes, or wine to Church officials for sacramental purposes, nor alcoholic stimulants as medicine in cases of actual sickness, but such stimulants shall only be ~~served~~ upon the written prescription of a regularly licensed and practicing Physician of this state dated and signed by him and certified on his honor, that he the said physician has personally examined the applicant naming him, or her at the time of issuing the prescription, and that he finds him or her actually³ sick and in need of the prescription and stimulant prescribed to him or her, and all of it; which said prescription shall also describe briefly the disease or sickness or ailment for which the same is prescribed. Provided further, that the issuing of a prescription for more than one-half pint of such stimulant to any one person on any one day or at one time shall be prima facie evidence of the violation of this ordinance, and in all cases where a quantity exceeding one-half pint is prescribed to one person at one time or on one day, or where more than one prescription is issued to one person on the same day, it shall be the duty of the Marshall of the City of Lebanon, Oregon, or any other person⁴ whose duty it is to see that this Ordinance is enforced to cause to be filled in the

Recorder's Court of The City of Lebanon
 a complaint against the person or persons
 so prescribing such an amount or writing
 such prescription, charging such person with
 the violation of this Ordinance, and it shall
 be the duty of the said recorder to issue
 a warrant of arrest for the said person or
 persons named in the said complaint
 and cause him or them to be brought
 before him and stand trial on said
 charge, and the burden of proof of the
 necessity for said quantity prescribed and
 the number of prescriptions shall be on the
 defendant and accused. And provided
 further that a physician who does not
 reside in Oregon, and who does not follow
 the practice of medicine as a principal and
 usual calling shall not be authorized
 to give the prescription or make the
 certificate provided for in this Ordinance;
 and provided further that no person shall
 be permitted to sell more than once on the
 same prescription, nor sell more than the
 prescription calls for, nor shall any person
 be permitted to sell at all on a prescription
 of a Physician not herein authorized to give
 it as herein provided, nor on a prescription
 which is not dated, signed and certified
 as herein provided and required; provided
 that every person or persons selling such
 stimulants upon the prescription therein
 provided for shall at the time of filling
 the same cancel such prescription by
 endorsing thereon or stamping thereon in plain
 letters the word "Cancelled" and the date
 of the cancellation and file the same away.
 Nothing in this Ordinance shall be construed
 to prevent one registered and licensed
 Pharmacist selling such alcoholic liquors
 to another registered and licensed pharmacist.

Every person upon conviction before the Recorder's Court of the City of Lebanon, Linn County, Oregon, for any violation of this Ordinance shall be punished by a fine of not less than \$25⁰⁰ nor more than \$200⁰⁰ or by imprisonment in the City Jail not less than 12 days nor more than 100 days or by both such fine and imprisonment in the discretion of the Court.

Section 2 It is hereby provided that all Pharmacists, Druggists and vendors of such spirituous, vituous, Malt, or Alcoholic liquors for medicinal purposes shall keep a record of all prescriptions on which such liquors are sold or given away to any person, and that they shall preserve all such prescriptions and that the same be numbered consecutively, beginning with the number one, and the same shall be kept separate and apart from all other prescriptions, and the said record and prescriptions shall be open to inspection of the Mayor and City Attorney of Lebanon and to any officers whose duty it is to see that this Ordinance is enforced and observed, at any time during business hours. Any person refusing to allow such inspection, or violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof before the Recorder's Court of the City of Lebanon, Oregon, shall be punished by a fine of not less than \$25⁰⁰ nor more than \$200⁰⁰ or by imprisonment in the City Jail not less than 12 days nor more than 100 days or by both such fine and imprisonment in the discretion of the Court.

Section 3

Any Physician who shall issue any prescription for any intoxicating Liquors, Beer, or Near Beer without giving the certificate as

as herein provided, or without dating and signing the same, or without making the examination as herein provided, or who shall make a false certificate as to the physical condition of the applicant at the time of issuing the said certificate and the giving the said prescription, or who shall do any other thing or act in violation of this Ordinance or who shall issue a prescription for more than the quantity provided herein, or who shall issue more than one prescription to one person on the same day, shall be deemed guilty of a misdemeanor and upon conviction thereof before the Recorder's Court of the City of Lebanon, Oregon, shall be punished by a fine of not less than \$25⁰⁰ nor more than \$200⁰⁰, or by imprisonment in the City Jail not less than 12 days nor more than 100 days or by both such fine and imprisonment in the discretion of the Court.

Section 4

Any sale of intoxicating Liquors Beer or Near Beer in or from any public drinking place or soft drinking parlors, Cigar store, Billiard or Pool Room, restaurant or other place within the Corporate limits of the City of Lebanon, by any Clerk, bar tender, keeper or other employee in such place, shall be deemed the act of the employer as well as that of the employee or other person actually making the sale, and every such person and employer shall be liable to all the penalties provided for by this ordinance for such sale equally with the person actually making such sale, provided such employer knew or had reason to believe or opportunity to know the said clerk made the sale or was making such sales, and any warning by any person to the said employer.

that he believes or it is believed such employee is selling such intoxicating liquors Beer or Near Beer in violation of this Ordinance, shall be sufficient knowledge to said employer.

Section 5

Every person who shall as owner, agent or lessee let or sublet any building, premises or part thereof, knowing that the same is intended to be used in whole or in part for the selling or giving away of intoxicating liquors, Beer or Near Beer in violation of this Ordinance, or who shall with such knowledge assign or transfer any lease to any person for such purpose, or who shall knowingly permit any such Building, premises or part thereof or any room in any building belonging to him or under his control to be used as a place for the sale or giving away of intoxicating liquors Beer or Near Beer contrary to law or this Ordinance shall upon conviction thereof before the Recorder's Court of the City of Lebanon, Oregon, be punished by a fine of not less than \$25.⁰⁰ nor more than \$200.⁰⁰ or by imprisonment in the City Jail not less than 12 days nor more than 100 days or by both such fine and imprisonment in the discretion of the Court.

Section 6

That all places within the City of Lebanon where intoxicating liquors are sold, bartered or given away in violation of law or of this ordinance, or where persons are permitted to resort ¹³ for the purpose of drinking intoxicating liquors as a beverage, or where intoxicating liquors are kept for sale, barter or to be given away in violation of law or in violation of this ordinance, and all intoxicating liquors, bottles, glasses, kegs and other property kept in or used in maintaining such place are hereby declared to be a common nuisance, and any person, firm, company, association

on corporation maintaining any such place or nuisance within the City of Lebanon, Linn County, Oregon, shall upon conviction thereof before the recorder's Court of said City be punished by a fine of not less than \$25⁰⁰ nor more than \$2000⁰⁰ or by imprisonment in the City jail not less than 12 days nor more than 100 days¹⁴ or by such fine and imprisonment in the discretion of the Court.

Section 7

Upon the filing of a complaint in the Recorder's Court of the City of Lebanon, Linn County, Oregon, duly sworn to as by law required charging that a place within the City limits of the City of Lebanon is kept or maintained by any person, persons, firm, company, association or corporation, and that intoxicating liquors are kept therein for sale, barter or delivery, or to be given away in violation of law or this ordinance, a warrant shall be issued thereon; commanding the Marshall or other officer to whom it shall be directed and delivered to arrest the person, or persons charged or described as the keeper thereof, and to search the place described in said complaint and seize and take into his custody all intoxicating liquors Beer or near Beer which he may find and safely keep the same subject to the order of the Court. It shall be the duty of the officer receiving the warrant to demand admission into such place, and upon being refused admission he is hereby authorized to force open the same and execute the warrant. The Complaint shall describe the place to be searched with sufficient particularity to identify the same, and shall describe the intoxicating liquors kept in said place as particular as practicable, but any description however

general that will enable the officer executing the warrant to identify the place to be searched shall be deemed sufficient. The officer making such search or seizure or arrest shall make return of said warrant to said Court with his doings and proceedings endorsed thereon. Officers without a warrant may seize intoxicating liquors Beer or Near Beer whenever found under circumstances which would have justified a search and seizure of the same if armed with a warrant, and they shall arrest any person found in the act of unlawfully selling or giving away any intoxicating liquors, but shall within a reasonable time thereafter make a complaint on oath against the person arrested, procure a warrant thereon and make due return of his proceedings thereof, as in cases where arrest, search and seizure are made upon a warrant already issued.

Section 8

The word "give away" where they occur in this Ordinance shall not apply to the giving away of intoxicating liquors by a person at his home, or in his private dwelling, unless such private dwelling or home be a common nuisance as defined in this Ordinance.

Section 9

Any deputy Sheriff of Linn County, Oregon, and any constable of Linn County, Oregon, who is a bona fide resident of and within the limits of the City of Lebanon, and all policeman of Lebanon, Oregon, are hereby constituted and appointed Peace Officers of the City of Lebanon, Oregon, and as such they are hereby vested with all powers and authority as the Marshall of the said City of Lebanon for the enforcement of this Ordinance.

Section 10

It is hereby made the duty of the Marshall of Lebanon and all peace officers as herein mentioned, to make complaint as herein provided, against any person or persons, firm, company, association or corporation found violating any of the provisions of this ordinance, and it is hereby made their special duty to see that its provisions are strictly enforced and observed.

Section 11

All Ordinances or part thereof in conflict herewith are hereby repealed.

Section 12

In as much as there is doubt as to the validity and effectiveness of the ordinance of the City of Lebanon on the subject of this ordinance, and the City of Lebanon is in need of better and more complete ordinances of the subject covered by this ordinance, and the peace and safety of the City and the good government of the said City requires that this ordinance be effective at once, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the common Council, of the said City of Lebanon, and its approval by the Mayor of the said City.

Section 13

That more than three-fourth of all the Council having voted in favor of this ordinance, it shall be in full force and effect from and after its approval by the Mayor of the said City.

Passed by this common Council this th 18 day of May 1909
Approved by the Mayor this 24 day of May 1909

attest

G. Lovell Mayor of the City of Lebanon.
Recorder of the City of Lebanon.

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J. C. Mayer