

ORDINANCE BILL # 2 FOR 1923.

A BILL FOR AN ORDINANCE.

ORDINANCE NO. 296

An Ordinance prohibiting the receiving, importing, possessing, transporting, delivering, manufacturing, selling, giving away or bartering intoxicating liquor, mash, wort, wash, stills, stillworts and still condensers within the corporate limits of the City of Lebanon, Linn County, Oregon, except where permitted by law, and defining the term "intoxicating liquor"; declaring what allegations and proofs shall not be required in prosecutions under this ordinance; declaring what shall be prima facie evidence of possession or ownership; providing for filing of complaints and issuing of search warrants for violations of this ordinance; providing for the seizure, confiscation and disposal of intoxicating liquor, mash, wort, and wash; declaring the penalty for the violation of this ordinance; declaring that if any provision of this ordinance shall be declared unconstitutional, all other parts of the same shall, nevertheless, continue in effect; declaring that all ordinances and parts of ordinances in conflict herewith be repealed; and declaring an emergency.

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

Section 1. This entire ordinance shall be deemed an exercise of the police powers of the City of Lebanon for the protection of the public health, peace and morals, and all of its provisions shall be liberally construed for the attainment of that purpose.

Section 2. The words "intoxicating liquor" as used in this act shall be construed to embrace all spirituous, malt, vinous, fermented or other intoxicating liquors; and all mixtures or preparations reasonably likely to be used or intended to be used as a beverage, which shall contain in excess of one half of one per

centum of alcohol by volume, shall be deemed to be embraced within such term, independently of any other test of their intoxicating character, and all mixtures, compounds or preparations, whether liquid or not, which are intended, when mixed with water or otherwise, to produce, by fermentation or otherwise, an intoxicating liquor, shall also be deemed to be embraced within such term.

Section 3. It shall be unlawful for any person to receive, import, possess, transport, deliver, manufacture, sell, give away or barter any intoxicating liquor, as herein defined, within the corporate limits of the City of Lebanon, Linn County, Oregon, except in such cases where permission is granted therefor by any of the laws or regulations of the United States or of the State of Oregon then in full force and effect.

Section 4. In prosecutions for any of the offenses described in section 3 of this ordinance, it shall not be necessary to allege or prove the kind or quantity of intoxicating liquor, nor the place where the same was located, except that it be located within the corporate limits of the City of Lebanon, Linn County, Oregon.

Section 5. It shall be unlawful for any person to receive, import, possess, transport, deliver, manufacture, sell, give away or barter, within the corporate limits of Lebanon, Linn County, Oregon, any mash, wort, or wash fit for, used or intended for distillation or for the manufacture of spirituous, malt, vinous, fermented, alcoholic or other intoxicating liquor, except where permission therefor has been duly and regularly obtained under the laws and regulations of the United States or of the State of Oregon. Provided, however, that where such permission is claimed, the burden proof for the establishment thereof shall be upon the defendant.

Section 6. It shall be unlawful for any person to receive, import, possess, transport, deliver, manufacture, sell, give away

or barter, within the corporate limits of the City of Lebanon, Linn County, Oregon, any still, stillworm or still condenser, except where permission therefor has been duly and regularly granted under the laws and regulations of the United States or of the State of Oregon. Provided, also, that wherever such permission is claimed, the burden of establishing the same shall be upon the defendant.

Section 7. Whenever any intoxicating liquor, as defined in this ordinance, or any mash, wort, wash, still, stillworm or still condenser, shall be found in any building, structure, enclosure vehicle, or upon any other premises or place within the corporate limits of the City of Lebanon, Linn County, Oregon, the owner, or other person in possession of said building, structure, enclosure, vehicle, premises or other place shall be prima facie presumed to be the person in possession thereof, and if said building, structure, enclosure, vehicle, premises or other place shall not be in the possession of any person, then the owner thereof shall prima facie be presumed to be in possession thereof.

Section 8. Whenever it shall appear from the verified complaint of any person, filed with the City Recorder of Lebanon, Linn County, Oregon, that intoxicating liquor, as defined in this ordinance, or any mash, wort, wash, still, stillworm or still condenser, is being unlawfully kept in any building, structure, enclosure, vehicle, premises or any other place, particularly describing the same, within the limits of the City of Lebanon, Linn County, Oregon, it shall be the duty of the said City Recorder, upon proper showing by affidavit being made, to issue a search warrant, directing and authorizing the city marshal of said city to make strict search of such building, enclosure, structure, vehicle, or other premises or place, so described, for the presence of such liquor, mash, wort, wash, still, stillworm. Provided, however, that nothing in this section contained shall be construed to prevent search without warrant where such search is now permitted by any of the laws of this State.

Section 9. Any such intoxicating liquor, mash, wort or wash, as above described, found in the possession of any person, or in any building, structure, enclosure, vehicle, or other premises or place shall be securely kept by the City Marshal and be disposed of according to the order of the City Recorder.

Section 10. If any person shall be convicted of a violation of any of the provisions of this ordinance, he shall be punished by a fine of not more than \$200.00 or by imprisonment in the City jail for not more than 100 days, or by both said fine and imprisonment.

Section 11. If any provision of this ordinance shall be held void and unconstitutional, nevertheless all other parts of the same shall continue in full force and effect.

Section 12. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 13. This ordinance being necessary for the immediate protection of the public peace, health, safety and morals, the same shall be in full force and effect from and after the date of its passage by the Council and approval by the Mayor.

Passed by the council this 1st day of May, 1923.

Approved by the Mayor this 1st day of May, 1923.

THAD STERLING
Mayor.

Attest

C. W. Witman
Recorder.

Ord Bill # 21923

Ord No. 296

Liquor Ordinance

Passed May 1st 1923

C. J. Johnson

City Recorder