

ORDINANCE NO. 441

AN ORDINANCE LICENSING, REGULATING, AND CONTROLLING THE MANUFACTURE, SALE, AND DISTRIBUTION OF NON-INTOXICATING BEVERAGES; FIXING THE AMOUNT OF LICENSE FEES; PROVIDING FOR REVOCATION OF LICENSES; PROVIDING OTHER TERMS AND CONDITIONS; PROVIDING A PENALTY FOR VIOLATION THEREOF, AND DECLARING AN EMERGENCY.

THE CITY OF LEBANON, OREGON, DOES ORDAIN AS FOLLOWS:

Section 1. DEFINITIONS:

1. Non-intoxicating Beverages: As used in this ordinance the words "non-intoxicating beverages" mean and shall be construed to mean and embrace all beverages intended to be and used as a beverage containing one-half of one per centum, or more, of alcohol by volume and not more than 3.2 per centum of alcohol by weight, or less, brewed or manufactured, stored, sold or removed for consumption or sale in the city, by whatever name such beverages may be called, authorized by the laws of the United States to be brewed, manufactured, stored, sold or removed for consumption or sale. (Act of 73rd Congress First Session).
2. Person: The word "person" as used in this ordinance shall mean and include any person, firm or corporation; the singular number shall be understood to include the plural and the masculine pronoun shall include the feminine.
3. Manufacturer: The word "manufacturer" as used in this ordinance shall mean any person who manufactures or produces non-intoxicating beverages, which beverages are not to be consumed on the premises.
4. Wholesale Dealer: The term "wholesale dealer" as used in this ordinance shall mean any person who keeps, stores, or sells or in any manner disposes of non-intoxicating beverages in the original package for resale purposes and not to be consumed in, on or about the premises of the wholesaler, in larger quantities than five gallons.
5. Retail Dealer: The term "retail dealer" as used in this ordinance shall mean any person who deals in or sells non-intoxicating beverages in original packages of quantities of not more than five gallons, not to be consumed on the premises.
6. Dispenser: The word "dispenser" as used in this ordinance shall mean any person selling such non-intoxicating beverages in the original package and from draught in quantities not to exceed five gallons, to be consumed under the supervision of the dispenser on premises conducted by him.
7. Store: The word "store" as used in this ordinance shall be construed to mean and include any place or mercantile establishment in which goods, wares or merchandise of any kind are sold, or kept for sale.

Section 2. SALE OF NON-INTOXICATING BEVERAGES--LICENSE REQUIRED:

It shall be unlawful for any person to manufacture, produce, keep, store, or offer for sale, sell, serve, or in any manner dispose of non-intoxicating beverages as defined by Section 1, without first obtaining a license therefor from the City of Lebanon.

Section 3. APPLICATION FOR LICENSE:

Any person desiring to secure a license to engage in the manufacture, production, sale, or the serving of non-intoxicating beverages shall first make application therefor, in writing, to the City Recorder on a form prepared and furnished by said City Recorder, which application shall contain such reasonable information touching and concerning the applicant and the proposed location of his place of business as the Council or City Recorder may require.

Section 4. INVESTIGATION OF APPLICANT:

Upon receiving an application for a license the City Recorder shall investigate the statements contained in the application, the premises where the applicant proposes to do business, and make such other and further investigations as he may deem proper to ascertain whether the applicant conforms to all of the requirements of this ordinance and report his findings, together with the original application, to the Council. All applications and the reports of the City Recorder shall be placed by him on the calendar of any special or regular meeting of the Council. The Council shall consider all applications and reports and may grant or refuse to grant a license. Upon the granting of a license by the Council, the City Recorder shall cause to be issued a license, on a form to be furnished and provided for that purpose by the Recorder and signed by him, to the applicant upon the payment to the City Treasurer of the license fees required by this ordinance.

Section 5. LICENSES NOT GRANTED TO CERTAIN PERSONS--REGULATIONS:

No licenses shall be granted to the following persons:

1. A person who is not of good moral character;
2. A person who is not devoted to the government of the United States, the State of Oregon and the City of Lebanon, Oregon, and who is incapable of understanding the laws of the United States, State of Oregon and the ordinances of the City of Lebanon;
3. A person under twenty-one years of age;
4. To a person to sell or dispose of non-intoxicating beverages by peddling;
5. To any person to sell or serve non-intoxicating beverages in any place not within the business district of the City of Lebanon as the same now exists.
6. To any person who has been or shall hereafter be convicted of crime involving moral turpitude;
7. That the Council, without stating any reason therefor, may refuse to grant a license to any applicant and the judgment of the Council shall be final.

Section 6. ALL LICENSES SHALL BE SUBJECT TO THE REGULATIONS IMPOSED BY THIS ORDINANCE--REGULATIONS:

1. It shall be unlawful for a licensee to suffer or permit any minor to consume non-intoxicating beverages in, on or about the licensee's premises, or to sell or give away any such non-intoxicating beverages to any minor, and the burden of proof as to whether any purchaser is not a minor shall be upon the licensee selling said non-intoxicating beverages; that it shall be unlawful for any minor to buy or to attempt to buy or obtain any non-intoxicating beverages as herein defined.
2. Nothing in this ordinance contained shall be construed to create any vested right in any person to the assignment, renewal, reissuance or continuance of any license or the right to assign any license, or the right to issue a power of attorney over a license.
3. No license shall be assigned or transferred nor power of attorney issued over a license.
4. The Marshall or any police officer, or any officer of the United States Treasury Department, or the City Recorder shall have the right at any time to make an examination of any licensed premises to ascertain if the licensee of such premises is conforming to the provisions of the ordinances of the city or the laws of the United States applicable thereto.
5. All licenses shall be posted in a conspicuous place on the premises and kept posted during the full period of time for which the license is issued.
6. In case of death, receivership, assignment, bankruptcy or incompetency of the licensee the licensee's business may be carried on under the permit by the duly appointed, qualified and acting receiver, assignee, trustee in bankruptcy, guardian, executor or administrator of the licensee, provided that such receiver, assignee, trustee, guardian, executor or administrator shall file with the City Recorder a certified copy of his appointment.
7. Any licensed person desiring to change his place of business from one location to another shall file with the City Recorder an application therefor. The City Recorder shall make an investigation of the new proposed place of business and within ten days make his report thereon to the Council, accompanied by the application. Such application and the report of the City Recorder shall be placed upon the calendar of any regular or special meeting of the Council. The Council shall consider said application.
8. No license granted hereunder shall be sold by the licensee, and in the event the licensee sells or transfers his business or any interest therein, a new license shall be required.
9. No license shall be issued until the applicant shall prove that he has secured the proper federal license for the sale of non-intoxicating beverages as herein defined, and/or complied with any and all other federal regulations for the sale thereof.

Section 7. LICENSE FEES:

1. All licenses shall be issued only for the full annual rate, and expire each year at midnight December 31st, and the fee shall be payable semi-annually in advance, except that from the date hereof to July 1, 1933, the license fees to be charged shall be one-fourth of the regular annual fee.

2. License fees shall be as follows:

Wholesaler	Annually	\$40.00
Retailer	Annually	\$20.00
Dispenser	Annually	\$20.00
Manufacturer, or Manufacturer who wholesales	Annually	\$80.00

The license fees required by this ordinance shall be in addition to all other license fees required by other ordinances.

Section 8. REVOCATION OF LICENSE:

The right shall be and remain at all times vested in the Council, and the Council may, as hereinafter provided, revoke and cancel any license for fraud and misrepresentation in its procurement, or for a violation of any of the provisions of this ordinance, or for a violation of any ordinance of the city or laws of the state or of the United States regulating intoxicating liquors or involving moral turpitude or for any conduct or act of the licensee or his employes, or any conduct or act permitted by him or them on the premises where such business is conducted, or in connection therewith or adjacent thereto, tending to render such business or such premises where the same is conducted a public nuisance or a menace to the health, peace, safety or general welfare of the city.

Section 9. NOTICE AND HEARING:

Whenever information shall come to the City Recorder, or to the Marshall, that any licensee has committed any act rendering his license subject to revocation, it shall be the duty of the officer having such information to forthwith submit the facts, in writing, to the City Attorney. Should it appear to the City Attorney from such report or from other information that there is probable cause for the revocation of such license he shall make a report thereof to the Council, stating in general terms the grounds of complaint against such licensee. Such report shall be filed with the Recorder and a copy thereof served upon the licensee, together with a notice citing him to appear before the Council for investigation of said complaint, at a time and place fixed and stated in such notice. The Recorder shall transmit such report to the Council. In case personal service cannot be made upon the licensee the notice shall be mailed to the licensee, addressed to his last known business address. No further pleadings shall be necessary. Such hearing and investigation shall be informal. If upon such hearing or investigation the Council finds that cause exists for the revocation of such license the same may be revoked by the Council.

Section 10. PENALTY:

Any person violating any of the provisions of this ordinance

shall, upon conviction thereof in the Recorder's Court, be punished by a fine not exceeding Two Hundred Dollars (\$200.00) or by imprisonment in the City Jail for a period not exceeding 100 days or by both such fine and imprisonment. The City Recorder shall report all convictions in the Recorder's Court to the City Attorney.

Section 11. CONFLICT OF ORDINANCES:

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 12. EMERGENCY:

Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Lebanon, in this: That the act of Congress (73rd Congress First Session) defining and legalizing non-intoxicating beverages goes into effect on April 6, 1933, and in order to give the people of the City of Lebanon immediate legal right to manufacture, sell and consume such non-intoxicating beverages, therefore an emergency is hereby declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council this 5 day of April , 1933.

Approved by the Mayor this 5 day of April , 1933.

T. H. Hungen
Mayor.

Attest:

L. H. Witman

Recorder.

Ordinance Book #4
Ordinance No 441

Beer License
Ordinance

Passed April 15 1933

W. H. Wetmore

Recorder