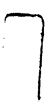


ORDINANCE No. 103

AN ORDINANCE REGULATING AND CONTROLLING THE MANUFACTURE,
TRANSPORTATION, POSSESSION AND TRAFFIC IN ALCOHOLIC
BEVERAGES: DEFINING CERTAIN OFFENSES AND PROVIDING A
PENALTY; REPEALING ORDANANCE NO. 100, ENTITLED "AN
ORDINANCE LICENSING, TAXING, REGULATING AND RESTRAIN-
ING THE SALE OF BEER OR MALT LIQUORS AND/OR WINES,
DEFINING THE WORDS 'BEER OR MALT' LIQUORS, AND 'WINES',
PROVIDING A PENALTY, AND REPEALING ALL ORDINANCES AND
PARTS OF ORDINANCES IN CONFLICT HEREWITH," AND REPEAL-
ING ORDINANCE No. 99, ENTITLED "AN ORDINANCE TO PRO-
HIBIT THE RECEIVING, IMPORTING, POSSESSING, TRANSPORT-
ING, DELIVERING, MANUFACTURING, SELLING, GIVING AWAY
OR BARTERING OF INTOXICATING LIQUOR WITHIN THE CITY OF
DRAIN, DEFINING 'INTOXICATING LIQUOR', PROVIDING A
PENALTY, AND REPEALING ORDINANCE NO. 90 OF SAID CITY,"
AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDIN-
ANCES IN CONFLICT HEREWITH, AND DECLARING AN EMERGENCY.

oooooooooooooooooooooooooooo



Ord 103

- Section 1. Definitions.
- Section 2. Unlawful to possess, manufacture or sell alcoholic liquor.
- Section 3. Procedure on application for recommendations by the Council.
- Section 4. General regulations.
- Section 5. Nuisances.
- Section 6. Liquor for scientific, manufacturing or sacramental purposes.
- Section 7. Sale of beer in gallon quantities.
- Section 8. Sales on prescriptions.
- Section 9. Regulating time of sale of alcoholic liquors.
- Section 10. Repeal.
- Section 11. Penalty.
- Section 12. Emergency.

THE PEOPLE OF THE CITY OF DRAIN ORDAIN AS FOLLOWS:

Section 1. DEFINITIONS.

- 1. ALCOHOLIC LIQUOR.
- 2. CLUB.
- 3. HOTEL.
- 4. RESTAURANT.
- 5. TO SELL.
- 6. PERSON.
- 7. OREGON LIQUOR CONTROL COMMISSION.
- 8. LICENSE.
- 9. PERMIT.

For the interpretation of this ordinance, unless the context indicates a different meaning:

1. The words "ALCOHOLIC LIQUOR" mean any alcoholic beverage containing more than one-half of one per cent of alcohol by volume, and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.

2. The word "CLUB" means an association of persons, whether incorporated or unincorporated, for the promotion of some common object, owning, hiring, renting, or leasing a building, or

space in a building, of such extent and character as in the judgment of the Council may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment, implements and facilities, and employing a sufficient number of servants or employes for cooking, preparing and serving food and meals for its members and their guests; provided, that no member or any officer, agent or employe of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the disposition or sale of alcoholic liquor to the club or to the members of the club or its guests introduced by members, beyond the amount of such salary as may be fixed and voted at annual meetings by the members or by its directors or governing body, and as shall, in the judgment of the Council be reasonable and proper compensation for the services of such member, officer, agent or employe.

3. The word "HOTEL" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests, and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings, in connection therewith, and such structure or structures being provided, in the judgment of the Council, with adequate and sanitary kitchen and dining room equipment and capacity, and having employed therein such number and kinds of servants and employes as the Council may by regulation prescribe for preparing, cooking and serving suitable food for its guests.

4. The word "RESTAURANT" means space in a suitable building approved by the Council, kept, used, maintained, advertised or held out to the public to be a place where meals are served without sleeping accommodations, such space being provided, in the judgment of the Council, with adequate and sanitary kitchen and

dining room equipment and capacity and having employed therein such number and kind of servants and employes as the Council may by regulation prescribe for preparing, cooking and serving suitable food for its guests.

5. Whenever the words "TO SELL" refer to anything forbidden under this ordinance, and relate to alcoholic liquor, said words include: To solicit or receive an order for; to keep or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; to traffic in; for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever, to procure or allow to be procured for any other person; and the word "sale" includes every act of selling as above defined.

6. The word "PERSON" includes an individual, association, voluntary or incorporated, partnership, corporation or club.

7. The word "OREGON LIQUOR CONTROL COMMISSION" shall mean the act of the second special session of the 37th Legislative Assembly, beginning November 20, and ending December 9, 1933, entitled, "An Act to provide for the regulation and control of the manufacture of and traffic in alcoholic beverages; to establish a commission to administer said act and define the duties thereof, and making an appropriation therefor; to provide a system of licenses and permits; to define certain offenses and the punishments thereof; repealing certain acts herein specified; and declaring an emergency, and annotated as chapter 17, Laws of Oregon, second special session 1933, and the commission created by said act.

8. The word "LICENSE" means a license issued by the State of Oregon, by and through the Oregon Liquor Control Commission, for the purpose of manufacturing, distilling, rectifying, transporting, selling, possessing, purchasing and/or trafficking in alcoholic liquor.

9. The word "PERMIT" shall mean the permit issued to an individual by the Oregon Liquor Control Commission to purchase

Oct 10, 1933

liquor containing over fourteen per cent of alcohol by volume.

Section 2. UNLAWFUL TO POSSESS, MANUFACTURE OR SELL ALCOHOLIC LIQUOR. It shall be unlawful, except as hereinafter provided, for any person to bring into the city, manufacture, produce, keep, store, offer for sale, sell or serve, or in any other manner dispose of alcoholic liquor in the city without first obtaining a license therefor.

Section 3. PROCEDURE ON APPLICATIONS FOR RECOMMENDATIONS BY THE COUNCIL. When the Oregon Liquor Control Commission requires of every applicant for a license a recommendation, in writing, of the Council, such applicant for a license shall present the form prescribed by the Oregon Liquor Control Commission to the Recorder, accompanied by a fee of Five Dollars (\$5.00). Upon receipt of such application the Recorder shall transmit the same to the Marshal for a report, and thereupon it shall be the duty of the said Marshal to report, in writing, to the Recorder any and all facts he may have of record concerning the applicant, or the place where it is proposed to sell liquor, and shall recommend either for or against favorable action on the part of the Council on the application, and such report shall be made upon the blank form prescribed by the Recorder, and signed by the Marshal. Upon receipt of such report the Recorder shall also investigate the statements contained in the application and the premises and shall make such other and further investigations as he may deem proper to ascertain whether the applicant is entitled to receive the recommendation of the Council, and report his findings, in writing, together with the report of the Marshal and the original application to the Council. The Council shall consider all applications and reports and may grant or refuse the recommendation to the Oregon Liquor Control Commission.

Section 4. GENERAL REGULATIONS.

1. BREWING, FERMENTING, DISTILLING, BLENDING OR RECTIFYING.
2. USE OF MARK OR LABEL ON CONTAINER.
3. MIXING.

4. PEDDLING.
5. SALE TO UNAUTHORIZED PERSONS.
6. PURCHASING AND IMPORTING FOR RESALE LIQUOR OVER FOURTEEN PER CENT.
7. LIQUOR FOR SACRAMENTAL PURPOSES.
8. SALE TO MINORS.
9. FINANCIAL OR OTHER ASSETS FROM MANUFACTURERS OR WHOLESALERS.
10. NUISANCES.
11. SALE WITHOUT A LICENSE--PEDDLING.
12. SALE TO LIQUOR HABITUES.
13. MASH, WORT, OR WASH FOR DISTILLATION OR MANUFACTURE.
14. DISTILLERY.
15. IN PROSECUTIONS FOR VIOLATIONS, NOT NECESSARY TO PROVE EXACT VARIETY
16. WINDOW OR OUTSIDE DISPLAY PROHIBITED.
17. PREMISE INSPECTION BY OFFICERS.
18. RESPONSIBILITY OF LICENSEE FOR EMPLOYEES AND CONDUCT OF PREMISES.
19. DELIVERY ON SUNDAY.
20. DEPOSIT OF BEER KEGS ON SIDEWALK.
21. SALE ON ELECTION DAY.
22. PRIVATE BOXES PROHIBITED; WINDOWS KEPT CLEAR.
23. SALOON OR BARROOM PROHIBITED.
1. BREWING, FERMENTING, DISTILLING, BLENDING OR RECTIFYING.

It shall be unlawful for any person to brew, ferment, distill, blend, or rectify any alcoholic liquor, unless licensed by the State of Oregon, by and through the Oregon Liquor Control Commission; provided that nothing herein shall apply to the making of naturally fermented wines and fruit juices or beer in the home, for home consumption, and not for sale.

2. USE OF MARK OR LABEL ON CONTAINER. It shall be unlawful for the holder of any license to use, or allow the use of, any mark or label on the container of alcoholic liquor which is kept for sale, which container does not precisely and clearly indicate the nature of the contents of each container, or which in

any way might deceive any customer as to the nature, composition, quantity, age or quality of such liquor.

3. MIXING. It shall be unlawful for any person possessed with a license, to mix or permit the mixing of any alcoholic liquor which such person is authorized to sell, with any alcoholic liquor, the sale of which is not authorized by such person's license.

4. PEDDLING. It shall be unlawful for any person to deliver alcoholic liquor to or at any place where, without a license, alcoholic liquor is sold or offered for sale.

5. SALE TO UNAUTHORIZED PERSONS. It shall be unlawful for any person possessed with a license to sell, or offer for sale, any alcoholic liquor of a kind or in a manner or to a person other than such person's license permits such person to sell; or for any person other than a parent, guardian, or other responsible relative to give any alcoholic liquor to any person under the age of twenty-one, and it shall be unlawful for any person under the age of twenty-one to drink alcoholic liquor unless such liquor is given to such person by a parent, guardian, or other responsible relative.

6. PURCHASING AND IMPORTING FOR RESALE LIQUOR OVER FOURTEEN PER CENT. It shall be unlawful for any person to purchase or import into this city for resale any alcoholic liquor containing over fourteen per cent of alcohol by volume from any source, except from or through the Oregon Liquor Control Commission, and having a permit to so purchase from the Oregon Liquor Control Commission, and having a permit to so purchase from the Oregon Liquor Control Commission; provided, however, that this provision shall not prohibit a person entering the city from another state from having in such person's possession not to exceed two quarts of alcoholic liquors.

7. LIQUOR FOR SACRAMENTAL PURPOSES. It shall be unlawful for any person to purchase or import, except for sacramental purposes, alcoholic liquor containing more than fourteen per cent of alcohol by volume from any source, except through the Oregon Liquor Control Commission.

8. SALE TO MINORS. It shall be unlawful for any person to sell alcoholic liquor to any person under the age of twenty-one years, or to an Indian.

9. FINANCIAL OR OTHER ASSETS FROM MANUFACTURERS OR WHOLESALERS. It shall be unlawful for any person, being the holder of a license to sell alcoholic liquor, either for consumption on such person's premises, or in sealed packages, to receive assistance financially, or in some other material manner, from any manufacturer or wholesaler of alcoholic liquor, or agent thereof, or for any manufacturer or wholesaler, or agent thereof, to give such assistance.

10. NUISANCES. It shall be unlawful for any person to maintain, or assist in maintaining, a common nuisance as defined by this ordinance, or for any person possessed with a license to make any contribution to any candidate for political office, or to any political party or measure.

11. SALE WITHOUT A LICENSE - PEDDLING. It shall be unlawful for any person not being possessed with a license to sell alcoholic liquors or to peddle alcoholic liquor.

12. SALE TO LIQUOR HABITUES. It shall be unlawful for any person possessed of a license to sell alcoholic liquors to persons who habitually drink alcoholic liquor to excess.

13. MASH, WORT, OR WASH FOR DISTILLATION OR MANUFACTURE. No mash, wort or wash, fit for distillation or for the manufacture of spirituous alcoholic liquors shall be made, fermented or possessed within this city by any person who does not at the time own a distiller's license under the Oregon Liquor Control Act; provided, however, that nothing herein shall prevent possession of mash for the purpose of manufacturing wine or beer for home consumption as allowed by chapter 17, Laws of Oregon, second special session 1933.

14. DISTILLERY. No distillery shall be set up or operated in this city for the purpose of manufacturing alcoholic liquor for beverage purposes, nor to be used in the manufacture thereof, except by a person duly licensed under the provisions of the Oregon Liquor Control Act to operate a distillery. Any device or any process

which separates alcoholic spirits from any fermented substance shall be regarded as a distillery. A distillery shall be regarded as set up when the still is in a position over a furnace or is connected with a boiler so that heat may be supplied, although the worm or worm tank is not in position. Any mash, wort, wash or distillery found in any house or on any premises, or within any inclosure, shall, in the case of the mash, wort or wash, be deemed prima facie to have been made and fermented by, and in the case of a distillery, shall be deemed prima facie to have been set up by, and to be the property of the person who is in possession of such house, premises or inclosure.

15. IN PROSECUTIONS FOR VIOLATIONS, NOT NECESSARY TO PROVE EXACT VARIETY. In any prosecution for the sale, manufacture or possession of alcoholic liquor under this ordinance, it shall not be necessary to prove the exact variety, or to mention the quantity of alcoholic liquor sold, except in the case where the variety or quantity are essential to establish the offense. As regards quantity, it shall be sufficient to allege the sale of a quantity, the sale of which quantity is unlawful.

16. WINDOW OR OUTSIDE DISPLAY PROHIBITED. It shall be unlawful for any manufacturer, wholesaler, retailer, or any other person possessed with a license, to maintain any window or outside display of any kind of alcoholic liquors.

17. PREMISE INSPECTION BY OFFICERS. The City Marshal, or any police officer, or the City Health Officer, or any License Inspector, 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 and the laws of the State of Oregon and of the United States. It shall be unlawful for anyone to interfere with or hinder any police officer or inspector of the city or other competent authority in the investigation of any infringement of this ordinance or of the Oregon Liquor Control Act, or in the making of any lawful search, examination, or seizure in the performance of his duties to that end.

18. RESPONSIBILITY OF LICENSEE FOR EMPLOYEES AND CONDUCT OF PREMISES. No alcoholic beverages containing more than fourteen per cent of alcohol by volume shall be possessed, stored, sold or disposed of by any person possessed with a license, in his place of business, restaurant, hotel, railroad club, dining car, boat or barge, and it shall be the duty of the licensee of said place not to permit any alcoholic liquor containing more than fourteen per cent of alcohol by volume to be sold by any employe of such place, to any of the patrons or customers thereof. No such holder of a license may for any reason mix alcoholic liquor, the sale of which is not authorized by his license, and said licensee shall not serve, nor permit the said liquors to be served, by any employe, and shall at all times be responsible for the conduct of his licensed place and not permit any noisy, lewd, disorderly or insanitary establishment.

19. DELIVERY ON SUNDAY. It shall be unlawful for any person to deliver beer in the city upon Sunday, except in an enclosed vehicle, which vehicle shall not carry any identification of a brewery, distributor, or of beer, or carry any advertising of any nature whatsoever relating to the brewery, distributor, or beer. No delivery of beer shall be made by any person possessed with a brewery license or a wholesaler's license, their agents or employes, upon a Sunday, except in cases of emergency, and then only as provided in this ordinance.

20. DEPOSIT OF BEER KEGS ON SIDEWALK. It shall be unlawful for any person to deposit, place, keep, or leave upon the sidewalk, or to permit the placing, keeping, or storage of beer kegs, or allow beer kegs to remain on any sidewalk in the city.

21. SALE ON ELECTION DAY. It shall be unlawful for any person to deliver or sell intoxicating liquor at retail in the city upon any day during voting hours on which an election is held in the city, or to permit any person to enter or remain in such place for the purpose of buying or drinking any intoxicating liquor.

22. PRIVATE BOXES, PROHIBITED; WINDOWS KEPT CLEAR. It

shall be unlawful to maintain in any place authorized to sell intoxicating liquors any private box, booth or other inclosure. Stalls or compartments shall not exceed four (4) feet in height and shall not have any doors, draperies, hangings or screens in front of the entrance thereof, and it shall be unlawful to have the windows of any such place obscured from a clear vision from the street or the interior of said place.

23. SALOON OR BARROOM PROHIBITED. It shall be unlawful for any person to establish, maintain or conduct within the city a place commonly known as a saloon or barroom.

Section 5. NUISANCES. Any rooming house, building, boat, structure, or place of any kind in the city where alcoholic liquor is sold, manufactured, bartered or given away in violation of this ordinance, or where persons are permitted to resort for the purpose of drinking alcoholic beverages, in violation of the provisions of this ordinance, or any place where such beverages are kept for sale, barter or gift in violation of the provisions of this ordinance, and all alcoholic liquor and all property kept and used in said place hereby are declared to be a common nuisance, and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this ordinance, and if it shall be proven that the owner of any building or premises knowingly has suffered the same to be used or occupied for the manufacture, sale or possession of alcoholic beverages, contrary to the provisions of this ordinance, such building or premises shall be subject to a lien for and may be sold to pay all fines and costs assessed against the occupant of such building or premises for any violation of this ordinance, and such lien shall be enforced immediately by civil action in any court having jurisdiction, by the City Attorney. The Council may instruct the City Attorney to commence such appropriate proceedings as is authorized by the laws of the State of Oregon to abate or to temporarily or permanently enjoin such nuisance.

Section 6. LIQUOR FOR SCIENTIFIC, MANUFACTURING OR

SACRAMENTAL PURPOSES. This ordinance shall not be so construed as to prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, or of alcohol stimulants where the same shall have been prescribed by a regularly practicing physician, dated and signed by him, as herein provided; and provided further that this section shall not be construed so as to prevent any person residing in the city from ordering and having delivered to such person's home, for the personal use of such person and the family, alcoholic liquors purchased from persons duly licensed to sell the same under the Oregon Liquor Control Act, and no provision of this ordinance shall by reason only that such product contains alcoholic liquor prevent the sale of any perfume, lotion, tincture, varnish, dressing fluid, extracts, or acid, vinegar, or of any patent medicinal or pharmaceutical preparations, or of any patent or proprietary medicine intended solely for medicinal purposes.

Section 7. SALE OF BEER IN GALLON QUANTITIES. Any person possessed with both a retail beer license and a Class "A" package store license, as defined by the Oregon Liquor Control Act, may sell beer in sealed glass or metal containers of not more than one gallon capacity and for consumption off the premises, not in a public place.

Section 8. SALE ON PRESCRIPTIONS. Registered pharmacists possessed of a druggist's license and/or employed by any person or firm possessed of a druggist's license as defined by the Oregon Liquor Control Act may allow the sale of alcoholic liquors in containers of not more than one quart capacity, when licensed so to do, upon a prescription issued by a duly licensed and practicing physician of the State of Oregon, on the condition that the prescription so tendered shall include the name and address of the person for whom prescribed, and it shall be personally signed and dated by the physician issuing the same, with his full name and address. The prescription so issued shall be filled only once, and written on the face thereof the number of

AAB283

the same, date of sale, and delivery, all of which shall take place within twenty-four hours from the date of issuance, and not otherwise, and said druggist shall keep same on file and made available at all reasonable times for inspection, and under no circumstances shall a druggist licensed be permitted to fill a prescription issued in blank, and if any such prescription shall be tendered to him for filling, it shall be his duty to immediately report the same to the City Recorder.

Section 9. REGULATING TIME OF SALE OF ALCOHOLIC LIQUORS.

It shall be unlawful for any person granted and possessed of license, except a druggist's license, to sell, serve or dispose of and/or to permit the consumption of alcoholic liquors on the premises, at retail or wholesale, in the City of Drain, between the hours of one o'clock A. M. and seven o'clock A. M.. It shall be unlawful for any person except a licensed druggist, or a registered pharmacist employed by druggists possessed with a license, to sell, serve or dispose of and/or permit the consumption of alcoholic liquors on the premises at retail or wholesale in the City of Drain between the hours of one o'clock A. M. and seven o'clock A. M..

Section 10. REPEAL. That Ordinance No. 100, entitled "An Ordinance Licensing, Taxing, Regulating and Restraining the sale of beer or malt liquors and/or wines, defining the words 'Beer or Malt' Liquors, and 'Wines,' providing a penalty, and repealing all ordinances and parts of ordinances in conflict herewith," and Ordinance No. 99, entitled "An ordinance to prohibit the receiving, importing, possessing, transporting, delivering, manufacturing, selling, giving away or bartering of intoxicating liquor within the City of Drain, defining 'Intoxicating Liquor,' providing a penalty, and repealing Ordinance No. 90 of said City," and all other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 11. PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction thereof in the Recorder's Court for the City of Drain, be punished by a fine not

exceeding TWO HUNDRED AND FIFTY DOLLARS (\$250.00) or by imprisonment in the city jail for a period not exceeding four (4) months, or by both such fine and imprisonment.

Section 12. EMERGENCY. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Drain, in this: That the provisions of the present ordinances regulating alcoholic liquors are inadequate in that all of the provisions do not conform to the provisions of the Oregon Liquor Control Act, and in order that the city may assist the Oregon Liquor Control Commission to enforce said act, and because of the further fact that it is deemed expedient by the Council, 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 Common Council of the City of Drain, in Douglas County, State of Oregon, on this April 2, 1934.

Approved by the Mayor of the City of Drain, in Douglas County, State of Oregon, this April 2, 1934.

ATTEST:

Mayor

City Recorder.

STATE OF OREGON)
COUNTY OF DOUGLAS) SS.
CITY OF DRAIN)

I hereby certify that on the _____ day of April, 1934, I posted copies of the within Ordinance in three public and conspicuous places in the City of Drain, to-wit: One on the front wall of the City Hall; One on the telephone pole at the corner of C Street and First Street; and one of the telephone pole at the corner of E Street and First Street, all in the City of Drain, Douglas County, State of Oregon.

City Recorder.

o-o

AAB283

ORDINANCE NO.105

AN ORDINANCE TO PREVENT DRUNKENNESS WITHIN THE CORPORATE LIMITS OF THE CITY OF DRAIN, PROVIDING PENALTIES, AND DECLARING AN EMERGENCY.

THE PEOPLE OF THE CITY OF DRAIN ORDAIN AS FOLLOWS:

Section 1: No person or persons shall be drunk or intoxicated in, on, or about any public place or building within the corporate limits of the City of Drain; and no person or persons shall be drunk or intoxicated in, on, or about any private place, building, or premises within the corporate limits of the City of Drain to the annoyance of any other person or persons.

Section 2: Any person or persons violating any of the provisions of Section One (1) of this ordinance, upon conviction thereof before the City Recorder, shall be punished by a fine not exceeding the sum of \$100.00, or by imprisonment in the city jail for a period not exceeding 50 days, or by both such fine and imprisonment.

Section 3: The Common Council does deem it expedient that this ordinance shall be in full force and effect from and after its passage, and hereby does adjudge and declare that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health, and safety, and hereby does declare that an emergency exists, and this ordinance shall take effect immediately from its passage by the Common Council.

Passed by the Common Council in the City of Drain, Oregon this 4th day of February, 1935.

Approved by the Mayor this 4th day of February, 1935.

ATTEST:

MAYOR