

## ORDINANCE NO. 436

Relating to prohibiting the sale of intoxicating liquors

Ord 436

Relating to  
the sale of  
intoxicating  
liquors.  
Rep 732  
1506

Be it Enacted

An Ordinance prohibiting the sale of intoxicating liquors in the City of Albany, and regulating cigar stores, billiard and pool parlors, soft drink parlors and places, restaurants, and other like places of business, and declaring all places in the City of Albany where intoxicating liquors are sold, bartered, or given away in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors, and the intoxicating liquors, bottles, glasses, kegs and other property kept in and used in maintaining such a place, to be common nuisances, and repealing all ordinances and parts of Ordinances in conflict herewith

The People of the City of Albany do ordain as follows:  
Section 1. That it shall be the duty of every person, firm, company or corporation owning, managing or keeping any cigar store, soft drink parlor, billiard or pool hall, restaurant, or other like place of business in the City of Albany, to remove and keep removed all blinds, screens, or other obstructions from all windows, doorways, entries and exits of the same, so that the whole of the interior of all such cigar store, soft drink parlors, billiard and pool halls, restaurants and other like places of business, shall at all times be subject to the plain view of all persons passing such places of business; and it shall be the duty of every person, firm, company or corporation owning any building or buildings in the City of Albany occupied by any cigar store, soft drink parlor, billiard or pool hall, restaurant, or other like place of business, to so alter and arrange said building or buildings that the whole of the interior thereof shall at all times while so occupied be subject to the plain view of all persons passing such places of business; any person, firm, company or corporation violating any of the provisions of this section shall, upon conviction thereof before the City Records, be punished by a fine of not less than \$5.00 nor more than \$50.00.

Section 2. Every person, firm, company or corporation owning or conducting any cigar store, soft drink parlor, billiard or pool parlor, restaurant, or other like place of business in the City of Albany, selling or dealing in soft drinks or bottled goods, shall have

ORDINANCE NO. 436

Relating to prohibiting the sale of intoxicating liquors

or cause to be closed such place or places of business at the hours of twelve o'clock midnight and keep the same so closed until the hour of five o'clock in the morning following; And any person, firm, Company or Corporation violating any of the provisions of this section shall, upon conviction thereof before the City Recorder, be punished by a fine of not less than \$500 nor more than \$2500.

Section 3. It shall be unlawful for any person, firm, company or corporation, to sell, barter or give away to any person or persons whomsoever within the City of Albany any intoxicating liquor; providing, however, nothing herein contained shall prohibit the sale of pure alcohol for scientific or manufacturing purposes, or wines to church officials for sacramental purposes, nor alcoholic stimulants as medicine in cases of actual sickness; but such stimulants shall be sold only upon the written prescription of a regular practicing physician dated and signed by him and certifying, on his honor, that he, the physician, has personally examined the applicant, naming him, and that he finds him actually sick and in need of the stimulant prescribed as medicine, providing that a physician who does not follow the practice of medicine as a principal and usual calling shall not be authorized to give the prescription provided for in this section, and providing further, that no person shall be permitted to sell more than once upon any such prescription, nor shall any person be permitted to sell at all on the prescription of a physician not herein authorized to give it, nor on a prescription which is not dated, signed and certified as above provided, and providing that every person selling such stimulant upon the prescription herein provided for shall, upon filling the same, cancel such prescription by endorsing thereon the word "Cancelled" and the date of cancellation, and shall keep all such prescriptions together and separate from all other prescriptions and open at all times to the inspection of the Officers charged with the enforcement of this Ordinance. Nothing in this Ordinance shall be construed to prohibit one registered pharmacist from selling alcoholic liquors to another registered

## ORDINANCE NO. 136

Relating to prohibiting the sale of intoxicating liquor.

pharmacist; every person, firm, company, or corporation violating any of the provisions of this section shall, upon conviction thereof before the City Recorder, be punished by a fine of not less than \$50<sup>00</sup> nor more than \$200<sup>00</sup> or by imprisonment in the City Jail not less than 25 days nor more than 100 days, or by both such fine and imprisonment; and if any person shall be convicted a second time for violating any of the provisions of this section such person shall be punished for such second and each subsequent violation thereof by both such fine and imprisonment.

Section 4. Any sale of intoxicating liquor in or from any public drinking place, soft drink parlor, cigar store, billiard or pool room, restaurant or other place, by any clerk, bar-keeper, or other employee in such place, shall be deemed the act of the employer as well as that of the person actually making the sale; and every such employer shall be liable to all the penalties provided by this Ordinance for such sale equally with the person actually making such sale.

Section 5. Every person who is Owner, Agent, or Lessee, shall let or sub-let any building, premises, or part of either, knowing that the same is intended to be used in whole or in part for the selling of intoxicating liquor, or with such knowledge assign any lease to any person for such purpose, or knowingly permits any such building, premises, or part of either, belonging to him or under his control, to be used as a place for the sale of intoxicating liquor contrary to the provisions of this Ordinance shall, upon conviction thereof before the City Recorder, be punished by fine of not less than \$25<sup>00</sup> nor more than \$200<sup>00</sup>, or by imprisonment in the City Jail not less than 10 nor more than 50 days, or by both such fine and imprisonment.

Section 6. That all places within the City of Albany where intoxicating liquors are sold, bartered or given away in violation of law or of this Ordinance, or where persons are permitted to meet for the purpose of drinking intoxicating

## ORDINANCE No. 136

Relating to prohibiting the sale of intoxicating liquors.

liquors as a beverage, or where intoxicating liquors are kept for sale or barter in violation of law or of this Ordinance; and all intoxicating liquors, bottles, glasses, kegs and other property kept in and used in maintaining such a place, are hereby declared to be common nuisances; and any person, firm, company or corporation maintaining any such nuisance within the City of Albany shall, upon conviction thereof before the City Recorder, be punished by a fine of not less than \$50.00, nor more than \$200.00, or by imprisonment in the City Jail not less than 25 days nor more than 100 days, or by both such fine and imprisonment.

Section 7. Upon the filing of a Complaint in the Recorder's Court of said City, duly sworn to as by law required, charging that a place within the limits of the City of Albany is kept or maintained as a common nuisance by any person, firm, company or corporation, and that intoxicating liquors are kept therein for sale, barter or delivery in violation of law or of this Ordinance, a warrant shall be issued thereon commanding the Chief of Police or other police officer to whom it shall be directed, to arrest the person charged or described as a keeper thereof, and to search the place described in said Complaint, and seize and take into his custody, and safely keep the same subject to the order of the Recorder's Court.

It shall be the duty of the officer receiving such warrant to demand admission into such place, and upon admission thereto being refused, he is hereby authorized and required to force open the same and execute the said 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 particularly as practicable, but any description, however general, that will enable the officer executing the warrant to identify the place to be searched, and the property to be seized shall be deemed sufficient.

## ORDINANCE No. 436

## Relating to prohibiting the sale of intoxicating liquors.

The officer making such search or arrest shall make return of the said warrant to said Court with his proceedings endorsed thereon.

\* Officers without a warrant may seize intoxicating liquors whenever found by them under circumstances which would have justified the search for and seizure of the same, if armed with a warrant, and they shall arrest any person found in the act of unlawfully selling intoxicating liquors, but shall, within a reasonable time thereafter, make complaint on oath against the person arrested, procure a warrant thereon, and make due return of his proceedings thereon, as in cases where arrest, search or seizure was made upon a warrant already issued.

Section 8. The words "give away" when they occur in this Ordinance shall not apply to the giving away of intoxicating liquor by a person at his home in his private dwelling, unless such private dwelling be a common nuisance as defined in Section 6 of this Ordinance.

Section 9. The Sheriff of Linn County, Oregon, and his duly appointed deputy residing in said City, are hereby constituted and appointed ex-officio peace officers of the City of Albany, and they are hereby vested with the same powers as the police officers of the City of Albany, for the enforcement of this Ordinance.

Section 10. It is hereby made the duty of the police officers of the City of Albany to make complaint against any person found violating any of the provisions of this Ordinance, and to see that the provisions of this Ordinance are strictly enforced.

Section 11. All ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 12. This Ordinance shall be in full force and effect from and after thirty days after its approval by the Mayor.

Attest:  
G. H. Redfield,  
Recorder of the City of Albany

Approved January 30, 1908  
J. P. Wallace  
Mayor of the City of Albany

ORDINANCE NO.

23

City Recorder's Certificate.

STATE OF OREGON.

COUNTY OF LINN.

*J. M. Redfield*  
I, *J. M. Redfield*, Recorder of the City of Albany, in Linn

County, and State of Oregon, do hereby certify that the foregoing ~~and numbered copy of~~

*Ordinance # 436*

has been by me carefully compared with the original *Ordinance Bill No. 470*  
now on file in my office, and that it is a true and correct copy of all and the whole of said

*Ordinance Bill # 470 as passed by the Council of the City of Albany Oregon January 28 - 1908*

WITNESS, my hand and official signature and the seal of the City of Albany, this

*30<sup>th</sup>* day of *January*, 190*8*.

*J. M. Redfield*  
Recorder of the City of Albany.

*Assignment of Franchise*

*A. Welch*  
to  
*Portland Eugene and Eastern Railway Co*

*Filed for Record Feb 3<sup>rd</sup> - 1908.*  
*Recorded Feb 3<sup>rd</sup> 1908.*  
*by J. M. Redfield.*  
Recorder of the City of Albany.

*I know all men by their presents. That J. A. Welch of Portland Oregon, for and in consideration of One (\$1.00) Dollar and other valuable consid- erations, the receipt of which is hereby acknowledged, do bargain, sell, assign, transfer, remove and convey unto the Portland Eugene & Eastern Railway Company, a certain franchise granted by the City of Albany to said A. Welch, entitled "An Ordinance granting A. Welch, his heirs, assigns or successors the right to construct lay-down, maintain and operate railways, and erect and maintain poles, wires and underground conduits in the city of Albany, Linn County, Oregon."*

*Dated this 27<sup>th</sup> day of January, 1908.*

Witness  
*E. W. Hall.*

*A. Welch*