

ORDINANCE NO. 210.

AN ORDINANCE TO TAX, LICENSE, AND REGULATE THE SALE OF CERTAIN NON-INTOXICATING BEVERAGES WITHIN THE TOWN OF STAYTON, OREGON; TO DEFINE INTOXICATING AND NON-INTOXICATING BEVERAGES; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO REPEAL OTHER ORDINANCES IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

THE TOWN OF STAYTON DO ORDAIN AS FOLLOWS:

Section 1. The term "intoxicating beverage", where and as used in this Ordinance, shall mean and include all beverages containing in excess of three and two-tenths (3.2) percent. of alcohol by weight.

Section 2. The term "non-intoxicating beverage", where and as used in this Ordinance, shall mean and include all beverages which contain in excess of one-half of one percent. of alcohol by weight, but not in excess of three and two-tenths (3.2) percent. of alcohol by weight.

Section 3. It shall be unlawful for any person, firm, or corporation, either directly or indirectly, by or through his, her, their, or its agents and employes, to open, keep, or maintain, within the corporate limits of the Town of Stayton, Oregon, any room, building, garden, or any other kind of place where non-intoxicating beverages are kept for sale, barter, or exchange, or are sold, bartered, exchanged, or consumed, without first having obtained from the Town of Stayton, a license as hereinafter provided, but the term "consumed", as used herein, shall not pertain to private homes and families, and strictly private premises; provided, that no license shall be issued to any person under the age of 21 years.

Section 4. Any person, firm, or corporation desiring a license under the provisions of this ordinance, shall apply in writing to the Council of said Town, and shall at the same time deposit the license fee as hereinafter required, which application shall state that the applicant or applicants are over the age of 21 years; the name or names of the applicants; the name or names of all persons having an interest in the business, if a firm; the names of the officers and directors, if a corporation; a brief description of the premises where said non-intoxicating beverage will be handled; and whether or not said non-intoxicating beverage will be sold, bartered, or exchanged for consumption on the premises, or sold, bartered, or exchanged in the original containers and not to be consumed on the premises, or whether the applicant will deal as a wholesaler. The application shall also be accompanied by a bond in the sum of \$500.00, running to the Town of Stayton, Oregon, executed by applicant with two or more sufficient sureties who are residents and freeholders of and within the Town of Stayton, who shall each justify under oath in double the amount of said bond, or a bond executed by some Surety Company doing business in the State of Oregon, in like amount, which bond shall be approved by the Council of said Town. Such bond shall be conditioned as follows: that the licensee will not permit any disorderly or riotous conduct in or about the place of business of licensee; that licensee will not sell, give, barter, or exchange any non-intoxicating beverage to any person under 18 years of age; that licensee will not violate any of the terms of this ordinance, or of any other ordinance or charter amendment hereafter adopted and pertaining to the regulation of non-intoxicating beverages. In case of a violation of any of the foregoing conditions by such licensee, it shall be the duty of the Council of the Town of Stayton, in the name and for the benefit of said Town, to declare the license of any such licensee cancelled and revoked, and to declare the bond of licensee forfeited, and to prosecute the surety or sureties on such bond, to the extent necessary for the recovery of the amount of such bond. Before issuing any license hereunder, the said Council shall investigate the applicant and approve the issue of the license, and the Council may refuse to issue a license to any applicant.

Section 5. All licenses issued under the provisions of this ordinance shall contain the name or names of the person, persons, firm, or corporation to whom issued; a brief description of the premises to which the license pertains; whether or not consumption of the non-intoxicating beverage is permitted on the premises covered by the license; whether the licensee is licensed as a wholesaler; and the date of issue and date of expiration of the license; and the license shall be signed by the Mayor and Recorder of said Town. No license shall be issued until the full license fee be paid and a proper bond be approved by the Council and filed with the Recorder.

Section 6. The license period for any license issued hereunder shall be six months, to commence as of January first and July first each year; provided, that any license issued between said dates shall cover the period only until the next succeeding license date, and the fee charged therefor shall be proportionate, and any fraction of a month shall be considered as a whole month in fixing the fee. The license fee for each six months period shall be as follows:

- (A) A fee of \$5.00 where the licensee sells, barter, exchanges or delivers the non-intoxicating beverage in the original container, and the same is not opened and/or consumed on the premises of licensee; provided, that such licensee shall not also engage in business as a wholesaler as defined by subdivision (C) hereafter, unless he shall also in addition be licensed as a wholesaler and pay the fee required therefor.
- (B) A fee of \$10.00 where the licensee sells, barter, or exchanges the non-intoxicating beverage for consumption on the premises of licensee, and/or otherwise at the option of the patron; provided, that such licensee shall not also engage in business as a wholesaler as defined by subdivision (C) hereafter, unless he shall also in addition be licensed as a wholesaler and pay the fee required therefor.
- (C) A fee of \$25.00 if a wholesaler, and a wholesaler shall be considered as any person, firm, or corporation who engages in the business of selling, bartering, exchanging and/or delivering such non-intoxicating to others for re-sale, rebarter, re-exchange, or re-delivery by such others pursuant to the terms of subdivisions (A) and (B) above; provided, that a wholesaler shall not also engage in business as provided in said subdivisions (A) and (B), unless he shall in addition be licensed under said subdivisions and pay the fee therein required.

Section 7. All licenses issued under the provisions of this ordinance, may be revoked and cancelled by the Council of said Town of Stayton, for any violation of any of the provisions of this ordinance, or for any violation of any provision of any other ordinance or charter amendment, or any statute or constitutional provision of the State of Oregon or of the United States, pertaining to the regulation and sale of such non-intoxicating beverages, or prohibition thereof. A plea of guilty by, or a verdict of conviction against any such licensee on a charge of any such violation, in the Recorder's Court for said Town of Stayton or in any other Court, shall be deemed conclusive evidence of such violation. Before revoking and cancelling any license, the said Council shall cause the Recorder of said Town to give written notice to such licensee of their intention to revoke such license, which notice shall be mailed or served in person to the licensee at least five days before the license is to be revoked.

Section 8. That it shall be unlawful for any licensee holding a license issued under the provisions of this ordinance, to transfer or assign said license to any other person, persons, firm, or corporation, or to carry on the sale, barter, exchange or delivery of any non-intoxicating beverage in or on any other premises than that provided in such license, unless the written consent of the Council of said Town be first secured.

Section 9. That it shall be the duty of every person, firm, or corporation to whom a license is issued hereunder, to display such license in a conspicuous manner in the place of business to which such license relates.

Section 10. That it shall be unlawful to serve, consume, or permit to be served or consumed, any non-intoxicating beverage at or to any public card table, public pool or billiard table, or other public table or apparatus where similar games are engaged in.

Section 11. That it shall be unlawful for any holder of a license issued under the provisions of this ordinance, to maintain in or about the premises described in such license, or in or about any premises connected therewith, any box, booth, stall, private room, side room, upper room, back room, or similar place of privacy or semi-privacy, where non-intoxicating beverages are served, and it shall be unlawful for licensee to serve, or permit to be served or consumed, any non-intoxicating beverage in any such place, nor shall any non-intoxicating beverage be served or consumed back of or in the rear of any ~~partition~~ wall or semi-partition wall; provided, that this provision shall not be construed to prevent any regularly established restaurant, hotel, or confectionary, where meals are regularly served, from serving any non-intoxicating beverage at a table or counter to a patron to whom food is at the same time being served, if the same be in a booth, box, or stall which is wholly open and unobscured on at least one side, or if the same be in a regular dining room in such establishment, which is open to the view of other patrons in such establishment.

Section 12. That all rooms, buildings or other premises where non-intoxicating beverages are kept for sale, barter, or exchange, or are sold, bartered, or exchanged, for consumption on the premises of licensee, shall have in the wall thereof fronting the street, sufficient clear glass, unobscured by curtains or other obstacles, so that passers-by shall have a clear and unobscured view of the part thereof in which such non-intoxicating beverages are sold, bartered, exchanged and/or consumed; provided, that restaurants, hotels and confectionaries shall be excepted from the provisions hereof so far as necessary in compliance with the provisions of Section 11 hereinabove; provided, that the windows of such establishments as contemplated by this section, shall be sufficient if the lower or bottom part thereof where the clear view commences, shall not be higher than $4\frac{1}{2}$ feet above the sidewalk.

Section 13. That it shall be unlawful for any person, firm, or corporation, to sell, barter, exchange, give, or to in any manner by any subterfuge, furnish to any person under the age of 18 years, any non-intoxicating beverage; provided, that this section shall not apply to giving or serving such non-intoxicating beverage in private families or homes.

Section 14. That it shall be unlawful for any person under the age of 18 years to possess any non-intoxicating beverage; provided, that this section shall not apply to private families or homes.

Section 15. That it shall be unlawful for any person, firm, or corporation, to sell, barter, or exchange any non-intoxicating beverage within a radius of 400 feet from any church or school within the Town of Stayton.

Section 16. That it shall be unlawful for any person, firm, or corporation to sell, barter, exchange, or deliver any non-intoxicating beverage within the Town of Stayton, between the hour of 11 o'clock P. M. of one day and the hour of 5 o'clock A. M. of the next succeeding day, and it shall be unlawful to consume, or permit to be consumed, between said times, any non-intoxicating beverage in any business house, public building, or public place.

Section 17. That it shall be unlawful to drink or consume any non-intoxicating beverage in or on any public sidewalk, street, or alley, or at any public dance, or at any public entertainment, within the Town of Stayton.

Section 18. That it shall be unlawful for any person under the age of 21 years to sell, barter, exchange, ~~or~~ serve, or to be permitted to sell, barter, exchange or serve, any non-intoxicating beverage in or on any premises where the consumption of such beverage is permitted under the provisions of this ordinance.

Section 19. That it shall be unlawful to keep for sale, barter, exchange, or gift, or to sell, barter, exchange, or give away, any non-intoxicating beverage unless the container in which the same is contained shall bear a label stating the name of the manufacturer and the kind of beverage, and it shall be unlawful to serve any non-intoxicating beverage from a container which does not bear a like label; provided, that this section shall not apply to such beverages as are sold and served on draft.

Section 20. That the sale of all intoxicating beverages within the Town of Stayton is hereby prohibited; provided, that this section shall not be deemed to prohibit the sale of so called medicinal beverages, liquors, or alcohol pursuant to the prescription of a duly licensed physician.

Section 21. That for the purpose of determining the liability of any person or persons to prosecution for violation of any of the provisions of this ordinance, it shall be sufficient to show that such person, at the time of the act of violation complained of, was the person in actual charge, management, or control of the premises in or on which such act of violation is alleged to have been committed.

Section 22. That any person, firm, or corporation violating any provision of this ordinance, shall, upon conviction thereof in the Recorder's Court for the Town of Stayton, be punished by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the Town jail for not less than 10 days nor more than 60 days, or by both such fine and imprisonment; and any such punishment shall be in addition to the revoking of any license and forfeiture of any bond as hereinabove provided, and not in lieu thereof.

Section 23. That no license fee paid hereunder shall be returned to any applicant in the event the sale, barter, or exchange of such non-intoxicating beverages shall be declared unlawful by any court, statute, or constitutional provision of the State of Oregon or of the United States.

Section 24. That any and all ordinances of the Town of Stayton, or parts thereof, in conflict with this ordinance or any part hereof, be, and the same hereby are repealed.

Section 25. If any part, paragraph, clause, or provision of this ordinance shall, for any reason, be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect or render invalid the remaining portions of this ordinance.

Section 26. That inasmuch as the Congress of the United States has authorized the sale of non-intoxicating beverages from and after the 7th day of April, 1933, and the Town of Stayton has no ordinance or charter provisions regulating the license and sale of such beverages, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the Council of said Town and approval by the Mayor of said Town.

Passed by the Council of the Town of Stayton, Oregon, on April 5, 1933.

Attest: J. B. Grier Recorder.

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

Geo. A. Smith Mayor of the Town of Stayton, Oregon.

ORDINANCE NO. 210

AN ORDINANCE TO TAX, LICENSE, AND REGULATE THE SALE OF CERTAIN NON-INTOXICATING BEVERAGES WITHIN THE TOWN OF STAYTON, OREGON; TO DEFINE INTOXICATING AND NON-INTOXICATING BEVERAGES; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO REPEAL OTHER ORDINANCES IN CONFLICT HERewith; AND DECLARING AN EMERGENCY.

THE TOWN OF STAYTON DO ORDAIN AS FOLLOWS:

Section 1. The term "intoxicating beverage," where and as used in this Ordinance, shall mean and include all beverages containing in excess of three and two-tenths (3.2) percent. of alcohol by weight.

Section 2. The term "non-intoxicating beverage," where and as used in this Ordinance, shall mean and include all beverages which contain in excess of one-half of one percent. of alcohol by weight, but not in excess of three and two-tenths (3.2) percent. of alcohol by weight.

Section 3. It shall be unlawful for any person, firm, or corporation, either directly or indirectly, by or through his, her, their, or its agents and employees, to open, keep, or maintain, within the corporate limits of the Town of Stayton, Oregon, any room, building, garden, or any other kind of place where non-intoxicating beverages are kept for sale, barter, or exchange, or are sold, bartered, exchanged, or consumed, without first having obtained from the Town of Stayton, a license as hereinafter provided, but the term "consumed," as used herein, shall not pertain to private homes and families, and strictly private premises; provided, that no license shall be issued to any person under the age of 21 years.

Section 4. Any person, firm, or corporation desiring a license under the provisions of this Ordinance, shall apply in writing to the Council of said Town, and shall at the same time deposit the license fee as hereinafter required, which application shall state that the applicant or applicants are over the age of 21 years; the name or names of the applicants; the name or names of all persons having an interest in the business, if a firm; the names of the officers and directors, if a corporation; a brief description of the premises where said non-intoxicating beverage will be sold, bartered, or exchanged for consumption on the premises, or sold, bartered, or exchanged in the original containers and not to be consumed on the premises, or whether the applicant will deal as a wholesaler. The application shall also be accompanied by a bond in the sum of \$500.00, running to the Town of Stayton, Oregon, executed by applicant with two or more sufficient sureties who are residents and freeholders of and within the Town of Stayton, who shall each justify under oath in double the amount of said bond, or a bond executed by some Surety Company doing business in the State of Oregon, in like amount, which bond shall be approved by the Council of said Town. Such bond shall be conditioned as follows: that the licensee will not permit any disorderly or riotous conduct in or about the place of business of licensee; that licensee will not sell, give, barter, or exchange any non-intoxicating beverages to any person under 18 years of age; that licensee will not violate any of the terms of this Ordinance, or of any other ordinance or charter amendment hereafter adopted and pertaining to the regulation of non-intoxicating beverages. In case of a violation of any of the foregoing conditions by such licensee, it shall be the duty of the Council of the Town of Stayton, in the name and for the benefit of said Town, to declare the license of any such licensee cancelled and revoked, and to declare the bond of licensee forfeited, and to prosecute the surety or sureties of such bond, to the extent necessary for the recovery of the amount of such bond. Before issuing any license hereunder, the said Council shall investigate the applicant and approve the issue of the license, and the Council may refuse to issue a license to any applicant.

Section 5. All licenses issued under the provisions of this Ordinance shall contain the name or names of the person, persons, firm, or corporation to whom issued; a brief description of the premises to which the license pertains;

whether or not consumption of the non-intoxicating beverage is permitted on the premises covered by the license; whether the licensee is licensed as a wholesaler; and the date of issue and date of expiration of the license; and the license shall be signed by the Mayor and Recorder of said Town. No license shall be issued until the full license fee be paid and a proper bond be approved by the Council and filed with the Recorder.

Section 6. The license period for any license issued hereunder shall be six months, to commence as of January first and July first each year; provided, that any license issued between said dates shall cover the period only until the next succeeding license date, and the fee charged therefor shall be proportionate, and any fraction of a month shall be considered as a whole month in fixing the fee. The license fee for each six months period shall be as follows:

(A) A fee of \$5.00 where the licensee sells, barterers, exchanges or delivers the non-intoxicating beverage in the original container, and the same is not opened and/or consumed on the premises of licensee; provided, that such licensee shall not also engage in business as a wholesaler as defined by subdivision (C) hereafter, unless he shall also in addition be licensed as a wholesaler and pay the fee required therefor.

(B) A fee of \$10.00 where the licensee sells, barterers, or exchanges the non-intoxicating beverage for consumption on the premises of licensee, and/or otherwise at the option of the licensee's patron; provided, that such licensee shall not also engage in business as a wholesaler as defined by subdivision (C) hereafter, unless he shall also in addition be licensed as a wholesaler and pay the fee required therefor.

(C) A fee of \$25.00 if a wholesaler, and a wholesaler shall be considered as any person, firm, or corporation who engages in the business of selling, bartering, exchanging, and/or delivering such non-intoxicating beverage to others for re-sale, re-barter, re-exchange, or re-delivery by such others pursuant to the terms of subdivisions (A) and (B) above; provided, that a wholesaler shall not also engage in business as provided in said subdivisions (A) and (B), unless he shall in addition be licensed under said subdivision and pay the fee therein required.

Section 7. All licenses issued under the provisions of this Ordinance, may be revoked and cancelled by the Council of said Town of Stayton, for any violation of any of the provisions of this Ordinance, or for any violation of any provision of any other Ordinance or charter amendment, or any statute or constitutional provision of the State of Oregon or of the United States, pertaining to the regulation and sale of such non-intoxicating beverages, or prohibition thereof. A plea of guilty by, or a verdict of conviction against any such licensee on a charge of any such violation, in the Recorder's Court for said Town of Stayton, or in any other Court, shall be deemed conclusive evidence of such violation. Before revoking and cancelling any license, the said Council shall cause the Recorder of said Town to give written notice to such licensee of their intention to revoke such license, which notice shall be mailed or served in person to the licensee at least five days before the license is to be revoked.

Section 8. That it shall be unlawful for any licensee holding a license issued under the provisions of this Ordinance, to transfer or assign said license to any other person, persons, firm, or corporation, or to carry on the sale, barter, exchange, or delivery of any non-intoxicating beverage in or on any other premises than that provided in such license, unless the written consent of the Council of said Town be first secured.

Section 9. That it shall be the duty of every person, firm, or corporation to whom a license is issued hereunder, to display such license in a conspicuous manner in the place of business to which such license relates.

Section 10. That it shall be unlawful to serve, consume, or permit to be served or consumed, any non-intoxicating beverage at or to any public card table, public pool or billiard table, or other public table or apparatus where similar games are engaged in.

Section 11. That it shall be unlawful for any holder of a license issued under the provisions of this Ordinance, to maintain in or about the premises described in such license, or in or about any premises connected therewith, any box, booth, stall, private room, side room, upper room, back room, or similar place of privacy or semi-privacy, where non-intoxicating beverages are served, and it shall be unlawful for licensee to serve, or permit to be served or consumed, any non-intoxicating beverage in any such place, nor shall any non-intoxicating beverage be served or consumed back of or in the rear of any partition wall or semi-partition wall; provided, that this provision shall not be construed to prevent any regularly established restaurant, hotel, or confectionery, where meals are regularly served, from serving any non-intoxicating beverage at a table or counter to a patron to whom food is at the same time being served, if the same be in a booth, box, or stall which is wholly open and unobscured on at least one side, or if the same be in a regular dining room in such establishment, which is open to the view of other patrons in such establishment.

Section 12. That all rooms, buildings, or other premises where non-intoxicating beverages are kept for sale, barter, or exchange, or are sold, bartered, or exchanged, for consumption on the premises of licensee, shall have in the wall thereof fronting the street, sufficient clear glass, unobscured by curtains or other obstacles, so that passers-by shall have a clear and unobscured view of the part thereof in which such non-intoxicating beverages are sold, bartered, exchanged and/or consumed; provided, that restaurants, hotels and confectioneries shall be excepted from the provisions hereof so far as necessary in compliance with the provisions of Section 11 hereinabove; provided, that the windows of such establishments as contemplated by this section, shall be sufficient if the lower or bottom part thereof where the clear view commences, shall not be higher than 4½ feet above the sidewalk.

Section 13. That it shall be unlawful for any person, firm, or corporation, to sell, barter, exchange, give, or to in any manner by any subterfuge, furnish to any person under the age of 18 years, any non-intoxicating beverages; provided, that this section shall not apply to giving or serving such non-intoxicating beverage in private families or homes.

Section 14. That it shall be unlawful for any person under the age of 18 years to possess any non-intoxicating beverage; provided, that this section shall not apply to private families or homes.

Section 15. That it shall be unlawful for any person, firm, or corporation, to sell, barter, or exchange any non-intoxicating beverage within a radius of 400 feet from any church or school within the Town of Stayton.

Section 16. That it shall be unlawful for any person, firm or corporation to sell, barter, exchange, or deliver any non-intoxicating beverage within the Town of Stayton, between the hour of 11 o'clock p. m. of one day and the hour of 5 o'clock a. m. of the next succeeding day, and it shall be unlawful to consume, or permit to be consumed, between

said times, any non-intoxicating beverage in any business house, public building, or public place.

Section 17. That it shall be unlawful to drink or consume any non-intoxicating beverage in or on any public sidewalk, street, or alley, or at any public dance, or at any public entertainment, within the Town of Stayton.

Section 18. That it shall be unlawful for any person under the age of 21 years to sell, barter, exchange, or serve, or to be permitted to sell, barter, exchange, or serve, any non-intoxicating beverage in or on any premises where the consumption of such beverage is permitted under the provisions of this Ordinance.

Section 19. That it shall be unlawful to keep for sale, barter, exchange, or gift, or to sell, barter, exchange, or give away, any non-intoxicating beverage unless the container in which the same is contained shall bear a label stating the name of the manufacturer and the kind of beverage, and it shall be unlawful to serve any non-intoxicating beverage from a container which does not bear a like label; provided, that this section shall not apply to such beverages as are sold and served on draft.

Section 20. That the sale of all intoxicating beverages within the Town of Stayton is hereby prohibited; provided, that this section shall not be deemed to prohibit the sale of so called medicinal beverages, liquors, or alcohol pursuant to the prescription of a duly licensed physician.

Section 21. That for the purpose of determining the liability of any person or persons to prosecution for violation of any of the provisions of this Ordinance, it shall be sufficient to show that such person, at the time of the act of violation complained of, was the person in actual charge, management, or control of the premises in or on which act of violation is alleged to have been committed.

Section 22. That any person, firm, or corporation violating any provision of this Ordinance, shall, upon conviction thereof in the Recorder's Court for the Town of Stayton, be punished by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the Town jail for not less than 10 days nor more than 60 days, or by both such fine and imprisonment; and any such punishment shall be in addition to the revoking of any license and forfeiture of any bond as hereinabove provided, and not in lieu thereof.

Section 23. That no license fee paid hereunder shall be returned to any applicant in the event the sale, barter, or exchange of such non-intoxicating beverages shall be declared unlawful by any court, statute, or constitutional provision of the State of Oregon or of the United States.

Section 24. That any and all ordinances of the Town of Stayton, or parts thereof, in conflict with this Ordinance or any part hereof, be, and the same hereby are repealed.

Section 25. If any part, paragraph, clause, or provision of this Ordinance shall, for any reason, be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect or render invalid the remaining portions of this Ordinance.

Section 26. That inasmuch as the Congress of the United States has authorized the sale of non-intoxicating beverages from and after the 7th day of April, 1933, and the Town of Stayton has no ordinance or charter provisions regulating the license and sale of such beverages, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council of said Town and approval by the Mayor of said Town.

Passed by the Council of the Town of Stayton, Oregon, on April 5, 1933.

Attest: J. B. GRIER, Recorder.

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

GEO. A. SMITH, Mayor of the Town of Stayton, Oregon.