

Ordinance No. 26

AN ORDINANCE prohibiting the manufacture, keeping, sale and disposition of intoxicating liquors within the town of Redmond; declaring certain places to be nuisances and providing for their abatement; regulating the transportation of such intoxicating liquors; providing for the search for, seizure and destruction thereof; providing forms of procedure and rules of evidence in cases and proceedings hereunder; and fixing penalties for violations hereof; and repealing all ordinances in conflict herewith.

Be it ordained by the Council of the Town of Redmond:

Section 1. The phrase "Intoxicating liquor" wherever used in this ordinance shall be construed to mean and include whiskey, brandy, gin, wine, beer and any spirituous, vinous, fermented or malt liquor and every other liquor or liquid containing intoxicating properties which is capable of being used as a beverage.

Section 2. It shall be unlawful for any person to manufacture, sell, barter, exchange, give away, furnish, or otherwise dispose of any intoxicating liquor or to keep any intoxicating liquor with intent to sell, barter, exchange or give away or otherwise dispose of the same, except as in this ordinance set forth; provided, however, it shall not be unlawful for a person to give away intoxicating liquor, to be drunk on the premises, to a guest in his private dwelling which is not a place of public resort.

Section 3. It shall be unlawful to permit the manufacture, sale, bartering, exchanging, giving away, or furnishing of intoxicating liquor in any building, vehicle, or premises in the Town of Redmond and all premises, buildings or vehicles in which such intoxicating liquor shall be so bartered, manufactured, sold, exchanged, given away or furnished or where intoxicating liquors are kept with the intent to so sell, barter, exchange, give away or furnish in violation of the provisions of this ordinance are hereby declared common nuisances, and upon the conviction of the owner, tenant or lessee of such premises, building or vehicle of a violation of the provisions of this ordinance the police judge or justice of the peace before whom such person is convicted shall order that such nuisance shall be abated and that such premises, building or vehicle be closed until the owner, tenant or lessee shall give bond with sufficient surety, to be approved by the court making the order, in the penal sum of one thousand dollars, payable to the Town of Redmond, conditioned that intoxicating liquor will not thereafter be sold, bartered, exchanged, given away or otherwise disposed of on the said premises, building or vehicle or kept thereon with intent to sell, barter, exchange, give away or otherwise dispose of the same contrary to law, and until the said bond shall be so furnished the said court shall see that the said nuisance is abated and the said premises, building or vehicle closed to all use of every nature and description. In the event of the breach of the conditions of the said bond the whole amount shall be recoverable as a penalty for the use of the Town of Redmond.

Section 4. Nothing in this ordinance shall be construed to prevent a registered druggist or pharmacist from selling intoxicating liquor providing said sale is made pursuant to the provisions contained in the Laws of the State of Washington as set forth in Chapter 2 session laws of 1915, being otherwise known as initiative measure No. 3.

Section 5. The issuance of an internal revenue special tax stamp or receipt by the United States to any person as a retail dealer in intoxicating liquor shall be prima facie evidence of the sale of intoxicating liquor by such person at the place of business of such person where such stamp or receipt is posted, if at the time the stamp or receipt is in force and effect, provided this section shall not apply to druggists. A copy of such stamp or the records of the United States internal revenue office, certified to by any United States internal revenue officer, deputy or assistant having charge of such records or stamps, which shows that the United States special liquor tax has been paid by any person charged with selling, bartering, exchanging, giving away or otherwise disposing of intoxicating liquor in violation of this ordinance, shall be competent and prima facie evidence that the person whose name appears on such records or stamp, as shown by said certified copy, has paid the special liquor tax for the time shown therein.

Section 6. It shall be unlawful for any person directly or indirectly keep or maintain by himself or by association with others, or to in any manner aid, assist or abet in keeping or maintaining any club room or other place in which intoxicating liquor is kept for the purpose of use, gift, sale or other distribution or for the purpose of division or distribution among the members of any club or association or guests or visitors thereof.

Section 7. If upon the sworn complaint of any person, it shall be made to appear to any police judge that there is reasonable cause to believe that intoxicating liquor is being sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this ordinance, such police judge shall issue a warrant directed to the town marshall, town mayor or any peace officer in the county commanding him to search the premises designated and described in such complaint and warrant and to seize all intoxicating liquor there found together with the vessels in which it is contained, and all implements, furniture and fixtures used in the place where said liquor was so found, and to safely keep the same, and to make a return of said warrant within three days showing all acts and things done thereunder, with a particular statement of all articles seized and the name or names of all persons in whose possession the same were found, if any, and if no person be found in the possession of the same the return shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such intoxicating liquor, furniture or fixtures so seized, and if no person be found in possession thereof a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or if there be no door then upon any conspicuous place on the premises.

Section 8. Upon the return of the warrant as provided in the

next preceding section the police judge shall fix a day not less than ten days nor more than thirty days thereafter, for the hearing of said return, when he shall proceed to hear and determine whether or not the articles so seized or any part thereof, were used in any manner, kept or possessed by any person with the intention of violating any of the provisions of this ordinance. At such hearing any person claiming any interest in any of the articles seized may appear and be heard upon filing a written claim, setting forth particularly the character and extent of his claim and interest therein, but upon such hearing the sworn complaint or affidavit upon which the search warrant was issued and the possession of such intoxicating liquor shall constitute prima facie evidence of the contraband character of the liquor and articles seized, and the burden shall rest upon the claimant to show by competent evidence his property right or interest in the articles so seized and that the same were not used in violation of any of the provisions of this ordinance, and were not in any manner kept or possessed with the intention of violating any of the provisions of this ordinance. If upon such hearing the evidence warrants, or if no person appears as claimant, the police judge shall then enter a judgment of forfeiture and order such articles destroyed forthwith; provided, however, if in the opinion of the police judge any of such articles, aside from intoxicating liquor, are of value and adapted to any lawful use, such police judge shall, as a part of the order and judgment direct that said articles other than intoxicating liquor be sold as upon execution by the officer having them in custody and the proceeds of such sale, after payment of all costs in this proceeding, shall be paid into the city treasury. Action upon this section and the forfeiture, destruction or sale of any articles thereunder shall not be a bar to any prosecution under any other provisions of this ordinance.

Section 9. In any action or proceeding under this ordinance no person shall be excused from testifying before such police judge on the ground that his testimony may incriminate him, but no person shall be prosecuted or punished on account of any transaction or matter concerning which he shall be obliged to testify.

Section 10. It shall be unlawful for any person to transport any intoxicating liquor into the Town of Redmond or from one point to another within the said town unless the said transporting shall be done pursuant to the provisions of Initiative Measure No. 3 of the State of Washington hereinbefore referred to.

Section 11. It shall be unlawful for any person to have in his possession more than one half gallon of intoxicating liquor other than beer, or more than twelve quarts of beer, provided, however, that this section shall not apply to registered pharmacists or to persons keeping alcohol for mechanical purposes only.

Section 12. In any prosecution for the violation of any of the provisions of this ordinance it shall be competent to prove that any person had in his possession more than the quantity of intoxicating liquor in the next preceding section provided and such possession and the proof thereof shall be prima facie evidence that the liquor was so held for the purpose of unlawful sale or disposition thereof.

Section 13. If any part, provision or section of this ordinance shall be held void or unconstitutional, all other parts, provisions, or sections of the ordinance which are not expressly held to be void or unconstitutional shall continue in full force and effect.

Section 14. Every police judge shall recognize and act upon any sworn complaint of a violation of this ordinance filed by any person in the same manner and to the same extent as though the same were filed by the town attorney.

Section 15. Any person convicted of any violation of this ordinance, where the punishment therefor is not herein specifically provided shall be punished by a fine of not less than fifty dollars nor more than ~~one~~ hundred dollars or by imprisonment ~~for~~ in the town jail for a period of not more than 30 days or by both such fine and imprisonment. Any person convicted of a subsequent violation of this ordinance shall be fined ~~one~~ hundred dollars and imprisoned in the town jail for thirty days.

Passed by the town council, *July 26* 1916.

*F. A. Reil*

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Mayor

Attest:

*A. B. Reed*

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Clerk.