



ORDINANCE NO. 147

AN ORDINANCE DECLARING ALL PLACES WITHIN THE CITY OF REXBURG WHERE INTOXICATING LIQUORS ARE SOLD, BARTERED OR GIVEN AWAY IN THE VIOLATION OF LAW OR WHERE IDLE OR DISSOLUTE PERSONS ARE PERMITTED TO CONGREGATE FOR THE PURPOSE OF DRINKING INTOXICATING LIQUORS OR FOR PLAYING CARDS TO BECOME NUISANCES; TO REGULATE THE CIGAR STORES, BILLIARD AND POOL HALLS, SOFT DRINK STORES, AND RESORT RESTAURANTS, AND OTHER LIKE PLACES OF BUSINESS AND TO PROHIBIT THE SALE OF INTOXICATING LIQUORS IN THE CITY OF REXBURG AND REPEALING THIS ORDINANCE NO. 141 PASSED AND APPROVED THE 14TH DAY OF JUNE 1910 RELATING TO THE SALE OF INTOXICATING LIQUORS IN THE CITY OF REXBURG.

BE IT ORDAINED BY THE MAYOR AND CIY COUNCIL OF THE CITY OF REXBURG.

SECTION I: That from and after the passage and approval and publishing of this ordinance it shall be the duty of person, firm, company, corporation owning, managing or keeping any cigar store, soft drink store, billiard or pool hall, restaurant or other like places of business in the City of Rexburg, to remove and keep removed all blinds, screens, and other obstructions from all windows, doors, entries, or exits so that all the interior of such cigar rooms, soft drink rooms, billiard rooms, pool rooms, restaurant and other like places of business shall at all times be subject to the plain view of all persons passing such place of business; and every person, firm, company, or corporation violating any of the provisions of this section shall be deemed guilty of an offense, and upon conviction thereof shall be punished by a fine not less than seventy five dollars not more than one hundred dollars and costs, and in default of paying the same shall be imprisoned in the city jail one day for each one and one half dollar of the fine and costs.

SECTION II: Every person, firm, company, or corporation owning or conducting any such cigar store, soft drink store, billiard hall, pool hall, restaurant, or other like place of business in the City of Rexburg, selling or dealing in soft drinks or bottled goods, shall close or caused to be closed such place or places of business at the hour of 12 o'clock p.m. and keep the same so closed until the house of 6 a.m. following; and every person, firm, company, or corporation violating any of the provisions in this section shall be deemed guilty of an offense and upon conviction thereof shall

be punished by a fine of not less than twenty-five dollars of costs, and not more than one hundred dollars and costs, and in default of the payment of such fine and costs shall be imprisoned in the city jail one day for each one, and one half dollars of the fine and costs.

SECTION III: 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 Rexburg, any intoxicating liquors provided, however nothing herein contained shall prohibit the sale of pure alcohol for scientific and manufacturing purposes, or wine to church officials for sacramental purposes, nor alcoholic stimulants as medicine in case of actual sickness, but such stimulants shall only be sold upon the written prescription of a duly licensed and practicing physician of this state, dated and signed by him and certified, on his honor that he, the physician, has personally examined the applicant, naming him and the disease for which said alcoholic stimulant is prescribed and that he finds him actually sick and in need of the stimulant prescribed as medicine, and the full direction for the use of the liquor or alcoholic stimulant prescribed, provided further that no person shall be permitted to sell more than once on the same prescription, nor shall any person be permitted to sell at all on the prescription of a physician not here in authorized to give it nor on a prescription which is not dated, signed, and certified as above required; provided further that every person selling such stimulant upon the prescription here in provided shall immediately cancel such prescription by endorsing there on the word "Cancelled" and date of cancellation, nothing in this ordinance shall be construed to prevent one registered pharmacist selling such alcoholic liquors to another registered pharmacist, and every person, firm, company, or corporation violating any of the provisions of this section shall be deemed guilty by an offense, and upon correction thereof shall be punished by a fine of not less than seventy five dollars and costs and not more than one hundred dollars and costs, and in default of paying the same shall be imprisoned in the city jail one day for each one and one half dollars of the fine and costs.

SECTION IV: Every licensed physician aforesaid shall make out in duplicate the prescription named in section three of this ordinance and shall file one of the same with the city clerk for the use and inspection of the city council at their regular meetings and the pharmacist filling the duplicate shall endorse on the prescription filled by him the cost of the same as filled.

Any person, firm, company, corporation violating any of the provisions of this section shall be deemed guilty of an offense, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and costs of prosecution, and default of paying such fines and costs shall be imprisoned in the city jail one day for each one and one half dollar of said fine and costs.

SECTION V: In addition to the commonly known alcohol liquors stimulant as alcohol, whiskey, brandy, wines, etc., the following are designated and meant by this ordinance as alcohol liquors and alcoholic stimulants and not to be sold without the prescription named in the forgoing section three namely: Pain's Celery Compound, Hostetter's Stomach Bitters, Peruna, Jamaica Ginger Champagne, Claret, Ayer's Sarsaparilla, Burdock's Blood Bitters, Hood's Sarsaparilla, and Lydia Pinkham's Compound.

SECTION VI: Any sale of intoxicating liquors in or from any public drinking place, soft

drinks store, billiard room, pool room, restaurant, or other place by a 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; that every such employer shall be liable to all the penalties provided by this ordinance for such sale equally with the person actually making the sale.

SECTION VII: Every person who as owner, agent, or lessee shall let or sublet any building, premises, or part of either knowing that it is intended to be used as a place for the selling of intoxicating liquors, or with such knowledge assigns any lease or knowingly permits any such building premises or part of either to be used for such purposes shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty five dollars nor more than one hundred dollars and costs, and in default of payment shall be imprisoned in the city jail one day for each one and one half dollar of the fine and costs.

SECTION VIII: That all places within the limits of the City of Rexburg where intoxicating liquors are sold , bartered, or given away in violation of law or this ordinance or where idle or dissolute persons are permitted to congregate for the purpose of drinking intoxicating liquors as a beverage or where intoxicating liquors are kept for sale or barter in violation of law or of this ordinance are hereby declared to be common nuisances; and any person, firm, company, or corporation maintaining any such nuisance within the City of Rexburg shall be deemed guilty of an offense and upon correction there of shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs and in default of payment shall be imprisoned in the city jail one day for each one and one half dollar of the fine and costs.

SECTION IX: Upon the filing of the complaint in the court of the Police Judge of the said city duly sworn to as by law required, charging that a place within the limits of the City of Rexburg is kept or maintained as a common nuisance by any person or persons, and that intoxicating liquors are kept therein for sale, barter, or delivery in violation of law or 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 the keeper thereof and to search the place described in such complaint, and seize and take into his custody all intoxicating liquors which he may find and safely keep the same subject to the orders of the place court. It shall be the duty of the officers receiving such warrant to demand admission into such place, and upon admission there to being authorized and required to force open the same and execute said warrant. The complaint shall describe the place to be searched with sufficient particularity to identify the same, and complaint shall describe the liquors kept in said place as particularly as practical but any description however general, that will enable the officer executing the warrant to identify the property to be seized shall be cleaned sufficient. The officer making such search or arrest shall make return on said warrant to said court with his proceedings endorsed thereon. Such officers without a warrant may seize intoxicating liquors whenever found by him or them under circumstances which would have justified the search for the seizure of it if armed with a warrant, and he may arrest any person found in the act of unlawfully selling intoxicating liquors, but he shall within a reasonable time make complaint against the person arrested, procure a warrant thereon and make due return of his proceedings thereon as in cases of arrest search of seizure was upon a warrant already issued.

SECTION X: The words “Give Away” where they occur in this ordinance shall not apply to the giving away of intoxicating liquors by a person at his home in his private dwelling unless such private dwelling be a common nuisance as defined in section eight of this ordinance.

SECTION XI: It shall be unlawful for any person, or company, or corporation operating cigar stores, billiard and pool halls and soft drink stores to operate or maintain any booths in the interior of such places of business. It shall also be unlawful for such persons, company, or corporation to carry on any such business in any side or back room opening, from such main room or hall where their regular business is carried on. Any person, firm, company or corporation, violating any the provisions of this section shall be deemed guilty of an offense, and upon conviction there of shall be punished by a fine of not less than ten dollars nor more than seventy five dollars and costs of prosecution and in default of paying such fine and costs shall be imprisoned in the city jail one day for each one and one-half dollar of said fine and costs.

SECTION XII: It shall be unlawful for any person, company or corporation operating cigar stores, billiard and pool halls and soft drink stores to permit any games of cards to be played in their place of business. Any person, firm, company or corporation, violating any the provisions of this section shall be deemed guilty of an offense, and upon conviction there of shall be punished by a fine of not less than ten dollars and costs of prosecution, and in default of paying such fine and costs shall be imprisoned in the city jail one day for each one and one half dollars of said fine and costs.

SECTION XIII: That for the reason numerous places in the City of Rexburg are being kept among other things for the sale of intoxicating liquors, and it being necessary for the peace , health and good morals of the city the same being an educational center and there being no law of the city covering same, this ordinance shall become in full force and effect immediately upon its passage and its approval by the mayor and publication; that Ordinance No.141 in relation to the sale of intoxicating liquors, passed and approved on the 14th day of June 1910 be and the same is hereby repealed, together with all other ordinances and parts of ordinances in conflict herewith.

Passed this 3rd day of April, 1911.

Approved this 3rd day of April, 1911.

R.G. Archibald, Mayor

Attest:

J.C. Anderson, City Clerk

I hereby certify that the foregoing is a correct copy of the original ordinance.

J.C. Anderson, City Clerk

