

1

ORDINANCE NO. 31-40

By Mr. Stackhouse

Providing for the regulation of the use, trafficking in, sale or possession of beer and intoxicating liquors in the City of Bexley, Ohio.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, STATE OF OHIO:

Section 1. That the following phrases and terms, if and when used in this ordinance, shall have the meaning and definition as herein set forth:

The phrase "intoxicating liquor" includes any and all liquids and compounds containing more than 3.2 per centum of alcohol by weight and are fit for use for beverage purposes, from whatsoever source and by whatsoever process produced, by whatsoever name called and whether or not the same are medicated, proprietary, or patented; alcohol and any and all solids which contain any alcohol, and any and all confections which contain any alcohol.

The term "alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever may be the origin thereof, and includes synthetic ethyl alcohol; but such term excludes denatured alcohol and wood alcohol.

"Beer" includes all malt beverages containing one-half of one per centum or more of alcohol by weight but not more than 3.2 per centum of alcohol by weight.

"Wine" includes all intoxicating liquor containing not less than 3.2 per centum of alcohol by weight and not more than 21 per centum of alcohol by volume, which is made by the fermentation of the juices of sound, ripe and undried grapes, fruits and includes pure wine and compound wine as those terms defined in sections 5798 and 5800 of the General Code and exceeding the alcoholic content herein provided.

The term "spirituous liquor" includes all intoxicating liquors containing more than twenty-one per centum of alcohol by volume.

2

The term "sealed container" means any container having a capacity of not more than 128 fluid ounces, the mouth or other opening of which is stopped, capped or otherwise closed with a view to preventing the entrance of air.

"Department" means the department of liquor control; "board" means the board of liquor control; and "director" means the director of liquor control, as provided for by the liquor control act of the general code of Ohio.

"Person" includes firms and corporations.

"Commission" means the tax commission of Ohio.

"Manufacture" includes all processes by which intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner whatsoever; and "manufacturer" means any person engaged in the business of manufacturing intoxicating liquor as herein defined.

The terms "wholesale distributor" and "Distributor" mean a person engaged in the business of selling to retail dealers for purposes of resale.

"Hotel" shall have the meaning defined in Section 843-1 of the General Code, subject to the exceptions mentioned in Section 843-3 of the General Code.

"Restaurant" means a place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold and served at noon and evening, as the principal business of the place; but the meaning of said word excludes drug stores, confectionery stores, lunch stands, night clubs and filling stations.

"Club" means a corporation or association of individuals organized or formed in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part thereof operated solely for such

21111

purposes and membership in which entails the prepayment of regular dues and includes the place so operated.

"Night Club" means a place regularly and habitually operated for profit after the hour of midnight, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration which may be in the form of a cover charge, or may be included in the price of the food and beverages, or both, purchased by the patrons thereof.

The term "at retail" means for use or consumption by the purchaser and not for resale. The term "drug store" means an establishment as defined in section 12705 of the general code of Ohio, which is under the management or control of a legally registered pharmacist.

The term "contract carrier" includes all persons transporting intoxicating liquor or alcohol belonging to or consigned to others or intended for sale to others, otherwise than as common carriers.

Section 2. That whoever, either directly or indirectly, himself or by his clerk, agent or employee, manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale, of any beer, or intoxicating liquor in the city of Bexley, except when authorized so to do by permit issued by the department of liquor control of the State of Ohio, in force at the time, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than fifty dollars, together with the costs of prosecution.

This section shall not apply to the transportation and delivery of beer or intoxicating liquor purchased or to be purchased from the holder of a permit issued by the department of liquor control, in force at the time, and authorizing the sale of the beer or intoxicating liquor so transported, nor of beer, intoxicating liquor or alcohol

purchased from the department of liquor control, or the tax commission of Ohio.

Section 3. That whoever, within the limits of the City of Bexley, being the holder of a permit issued by the department of liquor control, in force at the time, either directly or indirectly, himself or by his clerk, agent, or employee, sells, keeps or has in his possession for sale any intoxicating liquor not purchased from the department of liquor control, the tax commission of Ohio, or from the holder of a permit issued by the department of liquor control authorizing the sale of such intoxicating liquor, unless the same has been purchased with a special consent of the department, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed fifty dollars, together with the costs of prosecution.

Section 4. That whoever, within the limits of the City of Bexley, being the holder of a permit for the sale of beer or intoxicating liquor for consumption on the premises, issued by the department of liquor control, in force at the time, either directly or indirectly, himself or by his clerk, agent or employee, or whoever being the agent or employee of such permit holder, (a) makes a sale except in accordance with a printed price list posted conspicuously in a prominent place on the premises and furnished to the purchaser, or (b) serves beer or intoxicating liquor over a bar, for consumption thereat; or (c) serves beer or intoxicating liquor to a person unless he is seated at a table; excepting that beer or intoxicating liquor may be served by a hotel in the room of a bona fide guest thereof; or (d) gives away food of any kind in connection with the sale of beer or intoxicating liquor; or (e) permits the purchaser to remove intoxicating liquor so sold from the premises, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than fifty

dollars, together with the costs of prosecution.

Section 5. That whoever, within the limits of the City of Bexley, being the holder of a permit issued by the department of liquor control, in force at the time, either directly, ^{or indirectly} by himself or by his clerk, agent or employee, or whoever being the agent or employee of such permit holder, (a) sells beer to any person unless he shall have attained the age of eighteen years; or (b) sells to any person or permits any person to handle intoxicating liquor unless he shall have attained the age of twenty-one years; or (c) sells any beer or intoxicating liquor to an intoxicated person; or (d) sells intoxicating liquor to any individual who habitually drinks intoxicating liquor to excess or to whom the department of liquor control has after investigation determined to prohibit the sale of such intoxicating liquor because of cause shown by the husband, wife, father, mother, brother, sister, or other person dependent upon or in charge of such individual, or by the mayor; or (e) sells intoxicating liquor on Sunday; provided, however, that this sub-section shall not apply to the holder of a class G permit, issued by the department of liquor control; or (f) sells intoxicating liquor on any election day between the hours of 5:00 o'clock a.m. and 7:30 o'clock p.m.; provided, however, that this sub-section shall not apply to the holder of class G permit issued by the department of liquor control; or (g) gives away any beer or liquor of any kind or description at any time in connection with his business, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars, together with the costs of prosecution.

Section 6. That whoever, within the limits of the City of Bexley, has in his possession an opened bottle, flask or container containing intoxicating liquor, in a

state liquor store, or on the premises of the holder of a permit issued by the department of liquor control authorizing the sale of such intoxicating liquor, unless such intoxicating liquor shall have been lawfully purchased for consumption on such premises, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than fifty dollars, together with the costs of prosecution.

Section 7. That whoever, within the limits of the City of Bexley, consumes any intoxicating liquor in a motor vehicle shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than fifty dollars, together with the costs of prosecution.

Section 8. That whoever, within the limits of the city of Bexley, being the holder of a permit class A-2, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-5, or F, issued by the department of liquor control, in force at the time, either directly or indirectly, himself, or by his clerk, agent or employee, or whoever, being the agent or employee of such permit holder, shall, between the hours of 12:00 o'clock midnight on any Saturday and 5:30 o'clock a.m., on Monday following, or between the hours of 12:00 o'clock midnight on Monday, Tuesday, Wednesday, Thursday or Friday and 5:30 o'clock, a.m., of the following morning, of any week, sell, offer for sale, or serve, any beer or intoxicating liquor, or shall during such hours keep open, or cause to be kept open, any place where such beer or intoxicating liquor is sold, kept or offered for sale by reason of the issuing of such permit or permits, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars, together with the costs of prosecution.

Provided, however, that the owner, proprietor, or person having in charge a "Hotel" or "restaurant," lunch stand, "amusement park", or persons operating a "club" in which, or in connection with which, beer or intoxicating liquor is sold, kept or offered for sale under such permit or permits, shall be held to have complied with the closing provisions of this section when the bar, place or portion of said premises from which such beer or intoxicating liquor is sold, kept or offered for sale, is securely closed and kept closed and no liquor sold or furnished therein or therefrom. It is further provided, however, that the closing provisions of this section shall not apply to a drug store.

Section 9. That whoever, within the limits of the city of Bexley shall, either directly or indirectly, himself, or by his clerk, agent or employee, in a place where beer or intoxicating liquor is sold under a permit issued to such person by the department of liquor control, other than a permit class D-3a or D-5 issued to the owner or proprietor of a night club, gives, conducts or permits any theatrical or dramatic performance, variety show, sparring, boxing, or wrestling exhibition, fan or exhibition dance, review, or any other like entertainment, except vocal or instrumental music, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars, together with the costs of prosecution.

Section 10. That whoever, within the limits of the city of Bexley being the owner or proprietor of a place where beer or intoxicating liquor is sold or dispensed, either directly or indirectly, himself, or by his clerk, agent or employee, or whoever being the agent or employee of such owner or proprietor, shall employ or permit to be employed any musician or entertainer under twenty-one years of age to furnish any music or entertainment in such place

where beer or intoxicating liquor is sold or dispensed, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than fifty dollars, together with the costs of prosecution.

Section 11. That whoever, within the limits of the city of Bexley, being the holder of a permit class A-2, C-1, C-2, D-1, D-2, D-3, D-3a, D-4, D-5, or F, issued by the department of liquor control, in force at the time, shall between the hours of 12:00 o'clock midnight on Saturday and 5:30 o'clock a.m., on Monday, following or between the hours of 12:00 o'clock midnight on Monday, Tuesday, Wednesday, Thursday or Friday, and 5:30 o'clock a.m., of the following morning, of any week, either directly or indirectly, himself, or by his clerk, agent or employee, permit any person to drink any beer or intoxicating liquor on the premises designated in such permit, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than fifty dollars, together with the costs of prosecution.

That any person who drinks any beer or intoxicating liquor during the hours specified in the first paragraph of this section on the premises designated in such permits, covering the permission of drinking beer or intoxicating liquor respectively, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than five dollars nor more than twenty-five dollars, together with the costs of prosecution.

Section 12. That whoever, within the limits of the City of Bexley, being the holder of a permit, or permits, issued by the department of liquor control, for the sale of beer or intoxicating liquor, or both, in force at the time, shall permit the place designated in such permit, or permits, where such beer or intoxicating

liquor, or both, may be sold, or offered for sale, to be used, frequented or resorted to by any riotous, noisy or disorderly persons, by any gamblers or common prostitutes, or permits any breach of the peace or disturbance of public order and decorum, by noisy, riotous and disorderly conduct in such place, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars, together with the costs of prosecution.

Section 13. That whoever, within the limits of the city of Bexley, being the owner or operator of a night club, restaurant, hotel, or club, as defined in section 1 of this ordinance, or any place of amusement, entertainment or of business, and not being the holder of a Class D-3, D-3a, D-4, or D-5 permit, issued by the department of liquor control, in force at the time, either directly or indirectly, himself or by his clerk, agent or employee, or whoever being the agent or employee of such owner or operator, shall, in such place, add any intoxicating liquor to any beer or beverage or in such place permit any person, patron or customer to add any intoxicating liquor to any beer or beverage, or any person who has in his possession in such place any beer or beverage to which intoxicating liquor has been added, raising the alcoholic content thereof to more than 3.2 per cent by weight, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, together with the costs of prosecution.

Nothing in this section shall be deemed to prohibit the owner or operator of a hotel or his employes from supplying any glass, ice, non-intoxicating beverage or other article, for use in connection with the consumption

of any intoxicating liquor, to a bona fide guest of such hotel in the room so occupied by him, or prohibit such guest from possessing or adding any intoxicating liquor to such beverage in such room.

Section 14. That any person, within the limits of the city of Bexley, operating a night club, or any person operating a public place where one or more forms of entertainment are provided or permitted, shall provide a stage or designate a definite place in the room or building in which such forms of entertainment are provided or permitted, on which or within which such forms of entertainment, may be given, and any person operating such night club or such place where such forms of entertainment are provided or permitted without providing such stage or such designated place, or permits or allows the entertainers to leave such stage or place so designated during the performance thereof and mingle with the patrons of such place, or come in physical contact with such patrons, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars, together with the costs of prosecution.

Section 15. The sections and parts of sections included in this ordinance are hereby declared to be independent sections and parts of sections; if any such section or part of section shall be held invalid, such holding shall not affect the remainder of this ordinance, nor the context in which such part of section so held invalid may appear, excepting to the extent that an entire section or part of section may be inseparably connected in meaning and effect with a section or part of section to which such holding shall directly apply.

Section 16. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed April 23, 1940.

Attest: S.W. Roderick
 Approved April 23, 1940.

F. H. Bonnet
 F. H. Bonnet
 President of Council

W. A. Schneider
 W. A. Schneider
 Mayor

I, S. W. Roderick, Auditor of the City of Bexley, Ohio, do hereby certify that there is no newspaper published in said municipality and that publication of the foregoing ordinance was duly made by posting true copies thereof at five of the most public places in said corporation as determined by the Council as follows: Main Street and Parkview Avenue, Main Street and College Avenue, Main Street and Drexel Avenue, Broad Street and Drexel Avenue and Parkview Avenue and Clifton Avenue each for a period of fifteen days commencing on the 24th day of April, 1940.

S. W. Roderick
 S. W. Roderick
 Auditor of the City of
 Bexley, Ohio.

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