

ORDINANCE NO. 170

// AN ORDINANCE TO PROVIDE FOR THE LICENSING AND REGULATION OF THE MANUFACTURE, SALE AND DISPOSAL OF BEER OR OTHER SIMILAR FERMENTED BEVERAGES, AND FOR THE RAISING AND DISPOSAL OF REVENUE THEREFROM; TO ENFORCE THE "MONTANA BEER ACT"; PROHIBITING ALL ACTS OR OMISSIONS PROHIBITED OR DECLARED UNLAWFUL BY THE "MONTANA BEER ACT"; OR BY THE REGULATIONS OF THE STATE BOARD OF EQUALIZATION THEREUNDER, SAVE AND EXCEPT THOSE RELATING TO PERSONS MAINTAINING OR OPERATING ANY RAILROAD CAR OR TRAIN AS A COMMON CARRIER FOR THE TRANSPORTATION OF PASSENGERS; PROVIDING AND IMPOSING PENALTIES FOR A VIOLATION OF THE SAME; PROHIBITING AND DECLARING UNLAWFUL THE POSSESSION, SALE, OR GIVING AWAY OF BEER IN CERTAIN PLACES; PROVIDING AND IMPOSING PENALTIES FOR A VIOLATION OF THIS ORDINANCE; PROHIBITING AND DECLARING UNLAWFUL CERTAIN USES OF THE PREMISES AND IMPOSING PENALTIES FOR A VIOLATION OF THE SAME; PROHIBITING THE SALE OF BEER TO MINORS AND PERSONS IN AN INTOXICATED CONDITION, AND IMPOSING PENALTIES FOR A VIOLATION OF THE SAME; IMPING DUTIES UPON THE CITY ATTORNEY, CITY TREASURER, CHIEF OF POLICE, POLICE MAGISTRATE, AND POLICE OFFICER OF THE CITY OF POLSON, MONTANA, AND EXTENDING THEIR JURISDICTION TO LICENSE AND REGULATE PLACES OF BUSINESS WHERE BEER IS MANUFACTURED OR SOLD, AND TO ENFORCE THIS ACT; AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF POLSON, MONTANA:

SECTION 1. DUTY OF CITY OFFICERS TO ENFORCE "MONTANA BEER ACT AND THE AMENDMENTS THERETO." The City of Polson, Montana, hereby recognizes the right, among others, reserved by the "Montana Beer Act" to the several cities and incorporated towns of this State, to enact ordinances for the enforcement of said Act. To that end the definitions and penal provisions of the "Montana Beer Act and the Amendments Thereto" are hereby adopted as the law of this City, except as herein modified or extended; and the Police Court of this City is hereby vested with the jurisdiction, and the duty is hereby imposed upon the City Attorney, Chief of Police, Police Magistrate, and Police Officers of this City to enforce the same.

SECTION 2. PROHIBITING ALL, EXCEPT CERTAIN, ACTS OR OMISSIONS PROHIBITED BY THE "MONTANA BEER ACT AND THE AMENDMENTS THERETO" OR BY REGULATIONS OF STATE BOARD OF EQUALIZATION THERE<sup>2</sup> UNDER. All acts or omissions, except and save those relating to persons maintaining or operating any railroad car or train as a common carrier for the transportation of passengers which are prohibited or declared unlawful by the "Montana Beer Act and the Amendments Thereto" or by such regulations as may be made by the State Board of Equalization which shall have the full force and effect of law, are hereby prohibited and declared unlawful, and a violation thereof declared to be a misdemeanor, punishable as hereinafter set forth.

SECTION 3. PENALTIES IN "MONTANA BEER ACT" IN PART ADOPTED AND IN PART MODIFIED. Violations of Section 8 of said Act for failure of any brewer, as in said Act defined, to make the return to the Board, as in said Act defined and provided for in Section 7 of the said Act, and violations of Section 16 of said Act for failure of any wholesaler, as in said Act defined, to make the return to said Board, provided for in Section 15 of said Act, are subject to the penalties provided for in the "Montana Beer Act"; violations of Section 8 of said Act for refusal of any such brewer to allow such examination, as provided for in Section 7 of said Act, or for failure to make an accurate return according to the manner in said Act prescribed, are subject to a fine of not exceeding Three Hundred Dollars(\$300.00); violations of

Section 16 of such Act for refusal of any such wholesaler to allow such examination, as provided for in Section 15 of said Act, or for failure to make an accurate return, according to the manner in said Act prescribed, are subject to a fine of not exceeding Three Hundred Dollars (\$300.00); and violations of any other provisions of said Act or of any of the provisions of this ordinance shall subject the person convicted thereunder or hereunder, to imprisonment in the City Jail for not more than ninety (90) days, or to a fine of not more than Three Hundred Dollars (\$300.00), or both.

SECTION 4. CONCURRENCE WITH STATE LAWS. The City of Polson hereby recognizes that its power to enforce the "Montana Beer Act" and to license and regulate places of business where beer is manufactured or sold, should at all times be exercised in full concurrence with the exercise of the like power of the Legislative Assembly of the State of Montana; and to that end, whenever the Legislative Assembly of the State of Montana shall amend or repeal the "Montana Beer Act", then the provisions of this ordinance shall apply thereto; but nothing in this paragraph contained shall be construed as an abrogation on the part of this City of its rights under the "Montana Beer Act" to license and regulate places of business where beer is manufactured or sold, provided that such regulatory license by this City imposed shall be reasonable and not in excess of the amount imposed by the State of Montana. And to the same end, whenever the State Board of Equalization of the State of Montana shall amend or repeal any regulations which it shall make, or shall make any new or supplementary regulations, under the provisions of this ordinance shall apply thereto.

SECTION 5. CONCURRENCE WITH LOCAL OPTION. The City of Polson hereby recognizes that its power to enforce the "Montana Beer Act" and to license the places of business where beer is manufactured or sold, is dependent upon the electors of Lake County in the exercise of the right accorded them by said Act to determine whether or not the sale of beer, as therein provided for, shall be permitted within the limits of said County; and to that end, if such electors should determine, as therein provided, that the sale of beer, as therein provided for, shall not be permitted within the limits of said County, then this ordinance shall stand suspended and inoperative until and unless such electors reverse their decision.

SECTION 6. "MONTANA BEER ACT" DEFINED. The phrase "Montana Beer Act" as used herein, is defined as the Act (Chapter 106) of the Twenty-third Legislative Assembly (1933) and the Amendments Thereto of the State of Montana, entitled "An Act to Provide for the Licensing and Regulation of the Manufacture, Sale and distribution of Beer and other Similar Fermented Beverages, and for the Raising and Disposition of Revenue Therefrom."

*Amended*  
SECTION 7. CITY LICENSE REQUIREMENT AND AMOUNT OF LICENSE FEES. That under and by virtue of the power granted to the City Councils of the cities and towns of this State, and in aid of the police power and regulations of the City of Polson, Montana, and in exercise of the authority reserved by the "Montana Beer Act" to the cities and incorporated towns of this State, it is hereby ordained that any person who desires to engage in the business of manufacturing or selling beer in said City under the provisions of said Act in the Character of places hereinafter mentioned, and as defined by said Act shall, notwithstanding the fact that the person conducting such place has obtained a license from the State Board of Equalization, first apply for and obtain a license therefor from said City, as herein provided, and if such license is granted, shall pay therefor an annual license fee as follows:

Each brewer manufacturing and selling beer, Three Hundred Seventy-five Dollars (\$375.00);

Each retailer, One Hundred Forty Dollars (\$140.00);

Each Club, Twenty-five Dollars (\$25.00),

*Each Wholesaler - Two hundred Dollars (\$200.00) -*

*amended to read \$100. see Sec. 171*  
all licenses issued in any year shall expire on the 31st day of December at midnight of such year; provided that a transfer of any such license may be made only on application to the City

Council, accompanied by satisfactory evidence of an approval of the transfer of the license issued by the State Board of Equalization of the State of Montana for such business; and, provided further, that where a license hereunder is issued for a period commencing subsequent to the first day of the current year for which such license may be issued, a pro-rata fee, calculated by a quarterly basis, shall be charged for the balance of such current year; and provided further, that nothing herein shall be construed to entitle any licensee hereunder to any refund of any portion of any license fee in the event of his discontinuing such business, or the suspension or revocation of his license, prior to the expiration of such year.

" SECTION 8. DUTY OF CITY TREASURER. APPLICATION FOR AND ISSUANCE OF LICENSE. The City Treasurer of the City of Polson shall be charged with the collection of the license fees herein provided for, and applications for licenses, accompanied by the fee therefor, shall be filed with such City Treasurer. Every person required by this ordinance to obtain license, must, before commencing such business, file with the City Treasurer an application in writing, directed to the City Treasurer of the City of Polson, Montana. Such application shall be accompanied by satisfactory evidence that the applicant is the owner and holder of a subsisting license or permit issued by the State Board of Equalization of the State of Montana under the provisions of the "Montana Beer Act", for conducting the same business at the same location for which application for city license is being made. Such application must also be accompanied by the license fee in the preceding section specified for the business applied for, and, if such applicant is an agent, such applicant must accompany such application with principal's acknowledgment of such agency. Upon the filing of the application prescribed herein, and upon the payment of the required license fee, the City Treasurer shall issue and deliver to the applicant, a license to carry on the business for which the applicant owns and holds a subsisting license or permit issued by said State Board of Equalization for the business and at the place therein described, if the same does not vary from the mentioned in such application.

SECTION 9. NO LICENSE TO ISSUE FOR LOCATION IN CERTAIN PLACES. No license shall be issued for any such business if the same is to be conducted in that portion of the City of Polson lying or being outside of or beyond the "Inner Fire District" as the same is now defined by City Ordinance.

SECTION 10. DISPLAY OF LICENSE. Any and all licenses issued under the provisions of this Ordinance shall be, at all times, prominently displayed in the place of business of such licensee.

SECTION 11. HOURS OF BUSINESS. Except as otherwise in this paragraph provided, the privileges granted by any and all licenses issued under this ordinance, are suspended and inoperative, and shall remain suspended and inoperative between the hours of two o'clock A. M. and the hour of seven o'clock A. M. of the same day, and the sale of beer by any person during such time when said ordinance is suspended and inoperative, is hereby prohibited and declared to be illegal, and any person convicted of so doing, shall be punished as herein provided; provided, however, that such general suspension and inoperativeness shall not apply to the manufacture of beer by brewers, or delivery of it by brewers, to common carriers, nor the delivery of it by common carriers or wholesalers to licensees.

SECTION 12. SALE, POSSESSION, OR GIVING AWAY OF BEER IN CERTAIN PLACES PROHIBITED. The possession, sale, or giving away of beer in any public dance hall within the limits of the City of Polson, is hereby prohibited and declared unlawful, and any person violating this section of this ordinance shall be guilty of a misdemeanor, and upon conviction, punished as herein provided.

SECTION 13. PROHIBITING DANCING IN CERTAIN PLACES. It shall be unlawful for any person, firm or corporation holding and using a license under the "Montana Beer Act" and this ordinance, to allow or permit dancing upon the premises, or any room connected therewith, in any beer parlor, tavern, night club, public dance hall, hotel, resuaurant, or any other public place within the corporate

limits of the City of Polson, by any minor unless such minor is accompanied by his or her parent, and any person violating this section of this ordinance shall be guilty of a misdemeanor, and upon conviction, punished as herein provided.

SECTION 14. SALE OF BEER TO MINORS PROHIBITED. It shall be unlawful for any person, firm or corporation holding or using a license under the "Montana Beer Act." and this ordinance or any person employed by such licensee, to sell, give, dispose of, furnish or supply either directly or indirectly, beer to any minor, or permit any minor to consume beer, wine, spirits, malt or distilled liquor or intoxicating liquor of any kind, upon the premises or in any room connected therewith in any beer parlor, tavern, night club, public dance hall, hotel, restaurant or any other public place within the corporate limits of the City of Polson, unless such minor is accompanied by his or her parent, and any person violating this section of this ordinance shall be guilty of a misdemeanor and upon conviction punished as herein provided.

SECTION 15. SALE OF BEER TO INTOXICATED PERSONS PROHIBITED. It shall be unlawful for any person, firm, or corporation holding and using a license under the "Montana Beer Act" and this ordinance, or any employee of such licensee to sell, give, dispose of, furnish or supply, either directly or indirectly, beer, to any person who may appear to be in an intoxicated or disorderly condition or to permit any intoxicated or disorderly person to congregate, be or remain in or about the premises occupied by such licensee, and any person violating this section of this ordinance shall be guilty of a misdemeanor and upon conviction punished as herein provided.

SECTION 16. POLICE MAGISTRATE TO REPORT CONVICTIONS HEREUNDER TO STATE BOARD OF EQUALIZATION. In the case of the conviction of any licensee hereunder of any violations of this Ordinance in the Police Court of this City, the Police Magistrate, shall, within ten (10) days thereafter, whether or not an appeal has been taken from the judgment of conviction, transmit to the State Board of Equalization of the State of Montana, a certified copy of the record of conviction.

SECTION 17. REVOCATION OR SUSPENSION OF LICENSE. If any license issued by the State Board of Equalization of the State of Montana, under the provisions of the Montana Beer Act, shall be revoked, or shall be suspended under the provisions of said act, the companion license issued under the provisions of this Ordinance shall be automatically revoked or suspended for the same period, and in the event such action by the State Board of Equalization of the State of Montana, shall, on appeal, be sustained, modified or set aside, the suspension or revocation of the license issued under the provisions of the Ordinance, herein, shall likewise be automatically affected.

SECTION 18. INSPECTION AND REGULATION UNDER POLICE POWER. Every person, firm, association or corporation licensed under the provisions of this Ordinance, shall be subject to regulation, inspection, control and supervision under the general police power of the City of Polson, and all of the Ordinances now in force, or which may hereafter be adopted, in aid of such police power and regulations, and each and every such license shall be subject to suspension and revocation as hereinbefore provided.

SECTION 19. If any provision of this Ordinance shall be held invalid or unconstitutional, it shall not be construed to invalidate other provisions of this Ordinance.

SECTION 20. REPEALS. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 21. This Ordinance shall take effect on April 1st, 1934 and shall be in full force and effect on and after said date.

