

ORDINANCE NO. 351

AN ORDINANCE AMENDING THE CODE OF THE CITY OF POLSON BY ADDING ANOTHER CHAPTER, 8 TO TITLE 5, REGULATING AND LICENSING GAMES OF CHANCE AND CERTAIN CARD GAMES; DEFINING TERMS; PROVIDING FOR INSPECTION OF PREMISES AND INVESTIGATION OF LICENSE APPLICANTS; PROVIDING FOR HEARINGS ON APPLICATION AND REVOCATION OF LICENSES; LIMITING HOURS OF GAMES THAT CAN BE PLAYED IN ANY PREMISES; PROVIDING FOR PAYMENT OF FEES; DECLARING THE PRESENCES OF AN EMERGENCY; AND AUTHORIZING PENALTIES FOR VIOLATION.

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

WHEREAS, the Legislature of the State of Montana has enacted the Montana Card Games Act and the Bingo and Raffles Act, and has legalized certain card games, sports pools, bingo and raffles under Title 62, Chapter 700, and has in said acts provided for licensing and regulation by local governments; and

WHEREAS, the City Council of the City of Polson deems it in the public interest to exercise the authority delegated in said acts and enact regulations and licensing provisions; and

WHEREAS, the City Council finds that an emergency exists because the State Gambling Laws are now effective and because gambling is now being carried on within the City of Polson; and it is immediately necessary for the preservation of peace, health and safety of the public of the City of Polson and therefore this is an emergency ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON:

Section 5-8-1: This ordinance may be cited as the Polson Gaming Ordinance.

Section 5-8-2: License Required. Pursuant to the provisions of Sections 62-707 and 62-719, R.C.M. 1947, except as herein provided, no gambling game shall be conducted within the incorporated limits of the City of Polson by anyone, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, on any premises, without having first procured and thereafter maintained in full force and effect a gaming license issued by the governing body.

Section 5-8-3: Social Games. Nothing in these regulations shall be construed to prohibit social games played in private homes or residences.

Section 5-8-4: Definitions. For the purposes of this Ordinance, and any documents adopted pursuant to them, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

Section 5-8-5: Churches, Defined. "Churches" as used in these regulations means an organization represented by a priest, minister, rector or authorized representative of any bona fide church or religion where such priest, minister, rector or representative holds or operates under a certificate of credit, commission or ordination under the ecclesiastical laws of a religious corporation incorporated under the laws of any state or territory of the United States of America, or any voluntary religious association, and who fully conforms to the rites and practices prescribed by the Supreme conference, convocation, convention, assembly, association or synod of the system of faith with which they are affiliated.

Section 5-8-6: Unrecognized Churches, Defined. Any church or religious organization which is organized for the primary purpose of conferring certificates of commission, credit or ordination for a price and not primarily for the purpose of teaching and practicing a religious doctrine or belief, shall not be deemed to be a bona fide church or religious organization.

Section 5-8-7: Non-Profit Organizations, Defined. "Non-profit organizations" as used in these regulations means:

1. Governmental entities organized under the laws of the State of Montana, if such entities are instrumentalities of the State or its subdivisions.
2. Corporations and any community chest, fund, foundation, or other organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in or intervene in any political campaign on behalf of any candidate for public office.
3. Civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare or education, or local associations of employees, the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.
4. Labor, agricultural, or horticultural organizations.
5. Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.
6. Fraternal beneficiary societies, orders or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system. The governing body may require any proof it deems necessary to determine the nature of alleged non-profit organizations, and may deny that status to organizations not satisfying a majority of the governing body that it is a non-profit organization as defined herein.

Section 5-8-8: Gambling Game, Defined. "Gambling game" means any game or contest of chance whereby one risks money, checks, or tokens redeemable in money, no matter how conceived or operated, and includes, but is not limited to every game described in Chapter 700, Title 62, R.C.M., 1947, provided, however, that any gambling game exempted from local regulation and licensing by state law shall not be included in this definition.

Section 5-8-9: Equipment, Defined. "Equipment" means:

1. With respect to bingo, keeno or any other game derived from the term "lotto", the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct and playing of bingo; or
2. With respect to raffles, the implements, devices and machines designed, intended or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence of right to participate in raffles.

Section 5-9-10: Card Room, Defined. "Card room" means any place or premises in the City of Polson in or on which any table is used or offered for use by the public for the playing of cards for or from which card table any revenue or charge is derived by the owner or operator of such card table, place or premises.

Section 5-8-11: Card Table, Defined. "Card table" means any piece of equipment which is used or offered for use by the public for the playing of cards for or from which any revenue or charge is derived by owner or operator of the piece of equipment. The having or keeping of any card table in any card room shall be conclusive evidence that such card table is used or offered for use by the public for the playing of cards.

Section 5-8-12: Card Games, Defined. "Card game" means any game played with standard playing cards held in the hand, for which the prize is money or any item of value.

Section 5-8-13: Authorized Card Games, Defined. "Authorized card games" are authorized gambling games and are limited to the card games known as bridge, cribbage, hearts, panguingue, pinoacle, pitch, rummy, whist, solo and poker. All other card games are unauthorized, and are prohibited to be played in card rooms.

Section 5-8-14: Poker, Defined. "Poker" means draw, stud or low ball, or any combination thereof, played with five (5) or more cards per player.

Section 5-8-15: Bingo, Defined. "Bingo" means a game of chance whereby prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Bingo, as defined in Section 62-716, R.C.M. 1947, is an authorized gambling game.

Section 5-8-16: Raffle, Defined. "Raffle" means a game of chance whereby prizes are awarded on the basis of a winning number or ticket selected in a drawing. Raffles, as defined in Section 62-716 R.C.M. 1947, are authorized gambling games.

Section 5-8-17: Governing Body, Defined. "Governing body" means the City Council of the City of Polson or any board or commission designated by them to act in gambling matters.

Section 5-8-18: Person, Defined. "Person" means every individual, co-partnership, corporation, or other legal entity.

Section 5-8-19: Minor, Defined. "Minor" means an individual under the age of eighteen (18) years.

Section 5-8-20: Premise, Defined. "Premise" means any building, structure, lot or parcel of real property under the control of any person, firm or corporation.

Section 5-8-21: Temporary License. No temporary license shall be issued by the governing body to any person, firm, or corporation for any purpose whatsoever.

Section 5-8-22: Dealer's permit, Defined. "Dealer's Permit" means a permit issued by this City authorizing an individual to deal, supervise, participate in, conduct and operate authorized card games and games of chance as an agent, servant, employee, or independent contractor for a licensee on a premise for which a gaming license has been issued pursuant to this Ordinance.

Section 5-8-22(a): Gaming Machine, Defined. "Gaming machine" means any implement, device, equipment, or machine designed, intended or used for the conduct of raffles or the receptacle and master board used for the conduct of bingo.

Section 5-8-22(b): Gaming License, Defined. "Gaming license" means a license issued by this City to a qualified person under which it shall be lawful for the licensee to provide a place and equipment for the conduct of and operate games of chance and authorized card games, as provided in this chapter and the Montana Card Games Act, the Bingo and Raffles Law, and the Sports Pool Act.

Section 5-8-22(c): Licensee, Defined. "Licensee" means the person, firm, or corporation to whom a license is issued.

Section 5-8-23: Application Fees. Upon application for a gaming license or dealers license, the City Clerk shall charge and collect for each individual applicant, a non-refundable investigation fee in the amount of FIFTY DOLLARS (\$50.00) to be paid into the general fund. The application fee shall not apply to churches or non-profit organizations, but organizations who apply for this status and are found not to qualify therefor shall pay the full investigation fee before a license, if any, is issued.

Section 5-8-24: Fees. Before issuing any licenses as defined in this ordinance, the City Clerk shall charge and collect from each applicant license fees as follows:

1. From each owner or operator of any premise which has been licensed for card games as defined in this ordinance a premises license of THREE HUNDRED DOLLARS (\$300.00).
2. From each owner or operator of any premise and any individual, other than non-profit organizations or churches, who operate a bingo, keeno or any other game derived from the term "lotto", as defined in this ordinance a premises license of FIFTY DOLLARS (\$50.00) per year.
3. From each owner, operator or any individual other than non-profit organizations or churches, who operates a raffle as defined in this ordinance, a license fee shall be charged as follows:
  - A. A license fee of FIFTY DOLLARS (\$50.00) for any prize not exceeding THREE HUNDRED DOLLARS (\$300.00).
  - B. A license fee of FIVE HUNDRED DOLLARS (\$500.00) for any prize in excess of THREE HUNDRED DOLLARS (\$300.00).

Section 5-8-25: Non-profit Organizations and Churches. Licenses may be issued to non-profit organizations and churches as defined in this ordinance upon the filing of a proper application therefor and approval by the governing body following an investigation and report verifying the information contained in the application. There shall be no fees charged for the issuance of such licenses.

Section 5-8-26(a): Dealer's Licenses and Fees. Upon application for a dealer's license as herein defined, the City Clerk shall collect a non-refundable fee of FIFTY DOLLARS (\$50.00) to be paid into the general fund, and at the time of issuance of the license. A license fee of TWENTY FIVE DOLLARS (\$25.00) shall be collected.

(b) All dealers without regard to the fact that such person may also be the holder of a gambling license shall be licensed as a dealer if they are actively engaged in the conduct of one or more of the gambling activities licensed herein.

Section 5-8-27: Fees to be Paid and Applications to be Delivered to City Clerk. All fees and applications mentioned herein shall be paid and delivered to the City Clerk. All license fees shall be annual and shall expire June 30 of each year and such fee shall be pro-rated semi-annually, i.e. the fee for all licences provided

for by this ordinance, issued between July 1 and December 31 of each year shall be one hundred percent (100%) of the annual fee and the fee for licenses issued between January 1 and June 30 of each year shall be fifty percent (50%) of the annual fee.

Section 5-8-28: Licensing, Qualifications and Issuance. Gaming licenses and dealer licenses may be issued to qualified applicants as herein provided, whereby the licensee shall be authorized and permitted to provide gaming equipment and card tables for authorized gambling games and to operate and conduct authorized gambling games. No person shall permit the operation or conduct of any gambling game on his premises until he has obtained a gaming license and all persons actively involved in conducting said gambling have obtained dealer licenses.

Section 5-8-29: Persons Unqualified to Hold Licenses. No gaming or dealer license or permit shall be issued to:

1. A person who has been convicted of being the keeper or is keeping a house of ill fame;
2. A person who has been convicted of pandering or any gambling offense or other crime or misdemeanor exposed to decency and morality, under the laws of the federal government or any state of the United States;
3. A person whose license issued under this regulation or the ordinance or regulation of any other city, town or county in this state relating to gaming, has been revoked for cause;
4. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
5. A person who is not a citizen of the United States and who has not been a resident of the State of Montana for at least one (1) year immediately preceding the filing of the application for license;
6. In the case of applicants for licenses, a person who is not the legal owner or operator of the business or establishment to be licensed, except for non-profit organizations and churches, unless the governing body determines the owner or operator shall make application.
7. Minors and incompetents.
8. A person who has been convicted of any crime or misdemeanor involving moral turpitude or violence against an individual.

Section 5-8-30: License - When Not Effective. No license shall be effective until a permit shall have been first secured under the laws of the United States, if such a permit is necessary or is required under such laws.

Section 5-8-31: Unqualified Locations. A gaming license may be denied if the governing body deems that the place or location for which the license is sought is unsuitable for the conduct of gaming operations. Without limiting the generality of the foregoing, the following places or locations may be deemed unsuitable:

1. Premises located in a place where gaming would be contrary to a zoning ordinance;
2. Premises difficult to police by reason of physical layout or construction.

Section 5-8-32: All Persons Financially Interested to Make Application. Applications for licenses shall be in the names of all persons financially interested or to be financially interested in the business to be conducted pursuant thereto, and the names of all such persons shall appear on such licenses. A disqualification of any one or more such persons to hold such licenses, shall disqualify all thereof. This requirement shall not apply to non-profit organizations or churches unless the governing body determines it necessary.

Section 5-8-33: Licenses may be Denied Because of Ownership. The governing body may deem that premises are unsuitable for the conduct of gaming operations by reason of ownership of any interest whatsoever in such premises by a person who is unqualified or disqualified to hold a gaming license regardless of the qualifications of the person who seeks or holds a license to operate gaming in or upon such premises.

Section 5-8-34: Applicants to Disclose True Owner of Premises. In all cases in which the premises wherein or whereon the gaming operation for which a gaming license is sought are not wholly owned by the applicant, the applicant shall furnish to the governing body a statement of the name and address of the owner or owners of such premises, a copy of all agreements whereby the applicant is entitled to possession of the premises and such other information as the governing body may require.

Section 5-8-35: Applicants to Disclose Persons with Security Interests in Property. In all cases in which the premises are not wholly owned by the applicant, the governing body may in its sole discretion require the applicant to furnish complete information pertaining to the interests held by any person other than the applicant, including interest held under any mortgage, deed of trust, bonds, or debentures, pledge of corporate stock, voting trust agreement or other device whatever, together with such other information as the governing body may require. This requirement shall not apply to non-profit organizations or churches unless the governing body determines it necessary.

Section 5-8-36: Changes in Ownership of Interests in Premises to be Reported. Every licensee shall furnish to the governing body complete information pertaining to any change of ownership of any such interest in the premises wherein or whereon the licensed gaming is operated at least thirty (30) days before the date of such change; or if the licensee is not a party to the transaction effecting such change of ownership, immediately upon acquiring knowledge of such change of ownership or any contemplated change of ownership.

Section 5-8-37: All Persons with Interest May Be Required to Apply for License. If the governing body determines that a landlord or financier by reason of the extent of his holdings, or his inherent financial control, cannot in fact be separated from the gaming operation and that as a practical matter a single entity exists regardless of the form of organization, it may, in its sole discretion, require that all such individuals be licensed. Without limiting the generality of the foregoing, such a situation may be deemed to exist in any instance where an owner of premises leases the same to operators under terms which are not in accordance with the usual and accepted business practice.

Section 5-8-38: Separate Applications for each Establishment. A separate application is required for each establishment for which a license is sought, irrespective of the ownership of such establishment.

Section 5-8-39: Governing Body May Limit Number of Individuals on Application. The governing body may, whenever it deems the public interest to so require in any particular case, limit the number of individuals who may be named in any initial application for a license; or may deny an application to add new parties to, or approval of a new interest under an existing license.

Section 5-8-40(a): Licenses Not Transferable. All licenses issued pursuant to the provisions of this ordinance shall bear, in addition to other information, the address of the licensed premises. No license may be transferred from the licensed premises to any other premises without the prior written approval of the governing body. If such transfer be approved by the governing body the new address shall be affixed by the City Clerk to the face of the license.

(b) Any license or permit set forth herein is personal to the owner or licensee and is unassignable and non-transferable and upon transfer of the premises or business on which gambling is being operated said licenses shall be terminated and purchaser must make a new application for licensing as herein provided.

Section 5-8-41: Public to be Protected - Gaming a Privilege. It is declared policy of the City of Polson that all premises on which authorized gambling games are conducted or operated are licensed and controlled so as to better protect the public health, safety, morals, good order and welfare of the inhabitants of the City of Polson. Any license which is issued is a revocable privilege, and no person holding such a license is deemed to have acquired any vested rights therein.

An applicant for a license is seeking the granting of a privilege, and the burden of proving his qualification to receive any license is at all times on the applicant. An applicant must accept the natural and probable consequences flowing from the act of making an application for a gaming license and expressly waives any claim resulting therefrom.

Section 5-8-42: Applicants may Assert Constitutional Rights. An applicant may claim any privilege afforded by the Constitution of the United States or of the State of Montana in refusing to answer questions by the governing body. However, a claim of privilege with respect to any material testimony or evidence pertaining to an application may, in the sole discretion of the governing body, constitute sufficient grounds for denial.

Section 5-8-43: Applications. All applications for gaming licenses shall be made to the governing body upon blanks supplied by the governing body. Upon receipt of such application and the appropriate application fee, the governing body will make or cause to be made a thorough investigation as to the qualifications of the applicant and the suitability of the premises for operating a gambling game. If, upon such investigation, it appears that the applicant is qualified under the law and that the premises are suitable for conducting gambling games under the laws of the State and the rules and regulations of the body, the governing body will issue a gaming license if all other requirements of the laws and these rules and regulations are fulfilled.

As a prerequisite to filing, all of the following must be completed and presented:

1. Application form under oath in duplicate for the individual or business entity, along with the appropriate application fee.
2. Personal history record under oath in duplicate, including criminal record for each individual, partner, joint venturer, trustee or corporate officer who has any financial interest direct or indirect in the business entity, said personal history to be deemed a part of the application form.
3. Two copies of each of the following if applicable:
  - A. Articles of Incorporation and Certificate of Incorporation;

- B. Partnership Agreement;
- C. Trust Agreement;
- D. Joint Venture Agreement;
- E. Purchase Agreement;
- F. Lease Agreement;
- G. Bill of Sale;
- H. Management Agreement.

4. When deemed necessary by the governing body, two finger print cards for each individual, partner, or corporate officer.

Section 5-8-44: Additional Information may be Required. Each applicant shall promptly furnish the governing body with all additional information pertaining to the application or to the applicant which it may require. Failure to supply the information requested within five (5) days after the request has been received by the applicant, shall constitute grounds for delaying consideration of the application.

Section 5-8-45: Governing Body may Summon and Examine Applicants. The governing body may summon any person named in an application to appear and testify before it or its agent at such time and place as it may designate. All such testimony may be required to be under oath and embrace any matter which the governing body or its agent may deem relevant to the application. Failure to so appear and testify fully at the time and place designated unless excused, shall constitute grounds for denial of the application without further consideration by the governing body.

Section 5-8-46: Notice. Written notice by certified mail will be given by the governing body to all applicants of the time and place when their application for gaming license will come before the governing body for consideration. Applicants are expected to attend said meeting of the governing body. Applicants may be represented at the meeting by counsel. The governing body will notify the applicant in writing of the disposition of his application.

Section 5-8-47: Unsuitable Methods of Operation. Responsibility for the employment and maintenance of suitable methods of operation rests in the first instance with the licensee. However, willful or persistent use or toleration of methods of operation deemed unsuitable by the governing body will constitute grounds for license revocation or other disciplinary action.

The governing body deems that any activity on the part of any licensee, his agents or employees which is inimical to the public health, safety, morals, good order and general welfare of the people of this community is operating in an unsuitable manner and shall be grounds for disciplinary action by the governing body in accordance with the Montana Gambling Laws and the regulations of the governing body. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:

1. Failure to exercise discretion and sound judgment to prevent incidents which might reflect on the repute of this City.
2. Permitting persons who are visibly intoxicated or otherwise not in full control of their faculties to participate in gaming activity.
3. Complimentary service of intoxicating beverages in the gaming area to persons who are visibly intoxicated.
4. Failure to conduct advertising and public relations activities in accordance with decency, dignity, good taste and honesty..



5. Catering to, assisting, employing or associating with, either socially or in business affairs, persons of notorious or unsavory reputation, or who have extensive police records, or a person who has defied congressional investigation committees, or other officially constituted bodies acting on behalf of the United States or any state, or persons who are associated with or support subversive movements or the employing either directly or through a contract or any other means of any firm or individual in any capacity where the reputé of this City is liable to be damaged because of the unsuitability of the firm or individual or because of the illegal or unethical methods of operation of the firm or individual.
6. Employing in any card room any person who has not obtained a dealer's license as defined and provided in this ordinance.
7. Employing in any capacity in or about any licensed establishment any person who has been denied a gaming license on the grounds of unsuitability or whose past activities and reputation would tend to bring discredit on this City.
8. Employing in any gaming operation any person whom the governing body or any court has found guilty of cheating or using any improper device in connection with any game, whether as a licensee, dealer or player at a licensed game; as well as any person whose conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation or suspension of the license of such licensee.
9. Employing in any gaming operation any person who has been convicted of pandering, any gambling offense, or any crime or misdemeanor opposed to decency or morality, under any law of the United States or any state of the United States.
10. Permitting games to be played by the use of credit extended by the house to a player or between players.
11. Not posting rules of game in accordance with Section 62-705, R.C.M., 1947, and in addition posting the value of colors of chips used in play.
12. Violating any state gaming or liquor or beer laws.
13. Failing to cooperate with any police officer of the City of Polson or failure to answer fully and candidly any relevant question or inquiry by the governing body or police officer of the City of Polson.

Section 5-8-48: Licensees may not Refuse to Open Records to Official Inspection. No applicant or licensee shall neglect or refuse to produce records or evidence or fully give all relevant information upon proper and lawful demand by an authorized agent of the governing body or shall otherwise interfere or attempt to interfere with any proper or lawful efforts by the governing body or any agent of the governing body to procure such information.

Section 5-8-49: Governing Body may Summon and Examine Licensees and Their Agents. The governing body may by written summons, either served personally or by certified mail, require any licensee or his agents or employees to appear to testify before it or its agents with regard to the conduct of any licensee or the agents or employees of any licensee. All such testimony shall be under oath and may embrace any matters which the governing body or its agents may deem relevant to the discharge of their official duties. Any persons so summoned to appear shall have the right to be represented by counsel. Any testimony so taken may be used by the governing body as evidence in

any proceeding or matter then before it or which may later come before it. Failure to so appear and testify fully at the time and place designated unless excused, shall constitute grounds for the revocation or suspension of any license held by the persons summoned, his principal, or his employer.

Section 5-8-50(a): License Forfeiture. In the event any application for licensing misrepresents or has misrepresented any fact requested or required under this ordinance or Title 62, Chapter 700, R.C.M., 1947, as amended, or violated any of the requirements or rules of this ordinance and/or the laws of the State of Montana pertaining to gambling or liquor laws, said license is and shall be subject to forfeiture and revocation upon hearing being had in accordance with the provisions of this ordinance.

(b) Conviction of a violation of the gambling laws and this ordinance shall constitute forfeiture of a dealer's license.

Section 5-8-51: No Unauthorized Gambling Games Permitted. No licensee shall permit any game other than those specifically enumerated in Section 62-703, 62-716, 62-727, R.C.M. 1947, or these regulations, to be operated on the premises for which the license has been issued.

Section 5-8-52: Relatives and Law Enforcement Employees Ineligible. No licensee shall employ any person or any member of his or her family while that person is in the employment of a law enforcement agency including part-time employees and auxiliary units thereof or any member of the governing body or their immediate family.

Section 5-8-53: Premises to be Open to Law Enforcement Inspection. The governing body or its duly authorized representative or any police officer shall have the right at any time to make an examination of the premises and to check the licensee's books, records, and gaming equipment.

At all times when any person or persons other than the licensee or his employees are within or upon any premises licensed for gambling games, such premises shall be open to immediate inspection by any police officer, and any authorized representative of the governing body. Such persons shall have immediate access to the premises and all parts thereof. Doors of licensed premises shall not be locked while persons other than the licensee or his employees are within or upon such licensed premises.

Section 5-8-54: Card Table Operations. Each card table shall have assigned to it a person whose duty shall be to supervise the game, and insure that it is played strictly in accordance with Montana law and the terms of this ordinance.

Every operator and employee of a card room licensee shall at all times when on duty have a dealer's license and wear an identification badge, containing his photograph, name, age, address and description.

Section 5-8-55: Closing Hours. The closing hours of gambling establishments shall coincide with the liquor sale hours as set forth in Section 4-414, R.C.M. 1947, and no game of chance or authorized card game may be operated in any premise during these closing hours.

Section 5-8-56: Records to be Kept. Every licensee shall keep complete and accurate records of all transactions pertaining to gambling in the licensed establishment. All accounting records shall be retained for a period of three (3) years unless written permission to do otherwise is obtained from the governing body. All accounting records shall be retained within the boundaries of the City of Polson unless written approval of the governing body is obtained to store them outside the City.

Records shall be available for examination by any police officer or duly appointed agent of the governing body upon request made to such licensee management personnel as are in charge of the establishment during normal business hours. The licensee shall provide adequate working space for the police officer or other agent of the governing body to make such examination. Police officers and other agents of the governing body have the power to inspect, copy or have photostatic copies made of any records of the licensee which relate to the operation of the gaming establishment.

Section 5-8-57: Records to Reflect Gross Income and Expense. Every holder of a gaming license shall maintain records adequate to reveal gross income and expense relating to gaming operations.

Section 5-8-58: Financial Statement may be Required. The governing body may order a copy of a licensee's financial statement as prepared by independent public accountants reporting all activities in the city and its activities without the city if required by the governing body. If in the opinion of the governing body an independent audit is necessary, it shall be required at the expense of the licensee.

Section 5-8-59: Business Records to be Kept. Corporate licensees shall keep available for inspection:

1. Certified copy of Articles of Incorporation and any amendments thereof;
2. A current copy of the By-Laws;
3. A current list of officers and directors;
4. Minutes of all meetings of stockholders and directors;
5. A current list of all stockholders, including their names and addresses and the number of shares held by each and date acquired;
6. A complete record of all transfers of stock;
7. A record of amounts paid to the corporation for issuance of stock and other capital contributions.

Partnerships shall maintain individual accounts in the general ledger for each partner showing separately:

1. Dates of capital contributions and percent of interest held;
2. Withdrawals of partnership funds or assets;
3. Salaries paid to each partner.

A sole proprietorship shall maintain adequate records to reflect original investment, subsequent additions thereto and withdrawals therefrom.

Section 5-8-60: Officials Holding Licenses. No gaming license shall be issued to or held by any person holding office in or employed by any agency of the City of Polson or Lake County or the State of Montana when the duties of such office or agency have to do with the enforcement of the gaming laws and these regulations. This regulation applies specifically but without limiting its effect to any person employed in the office of any attorney representing the governing body, the Sheriff of Lake County, the police department of the governing body, and any member of the governing body. This regulation shall apply to any person mentioned herein who has any pecuniary interest, direct or indirect, in any establishment to be operated under a gaming license within the boundaries of this City.

Section 5-8-61: Montana Corporation. No gaming license shall be issued to a Montana corporation unless both of the following requirements are met:

1. The corporation was organized and has existed as a Montana corporation at least one (1) year prior to making application for a gaming license; and,
2. A majority of the issued stock of said corporation is owned by persons who have been residents of the State of Montana for a period of one (1) year immediately before making application for a gaming license.

Section 5-8-62: Corporate Applications. A corporate application shall be accompanied by a sworn statement showing the names of all the owners of all issued stock of such corporation, together with the amount of stock owned by each stockholder and the residence addresses of said owners.

Section 5-8-63: Dual Interest. Any person owning stock in a corporation which holds a gaming license shall not be qualified to have an interest, either as owner, partner, or stockholder, in another gaming license issued by any other governing body within the State of Montana. If such stockholder interest is such that it would not be influential in the operation of either the gambling or other business of the corporation, then the governing body may waive the restriction of dual interest.

Section 5-8-64: Interest Holder Ineligible. No person who owns any interest of any sort whatever in or to any licensed gaming operation and who also actively participates in the management or conduct of the licensed games or establishment shall play or be permitted to play either in person or through an agent at any gaming table in such establishment in which the establishment's bankroll or any part thereof is at risk.

Section 5-8-65: Dealer License Required. No person shall be employed in a gaming operation without first obtaining a dealer's license.

Section 5-8-66: Dealer License to be Issued by Governing Body, When. Employees in card rooms must obtain a dealer license from the governing body. Applications for such dealer license may be obtained from the City Clerk and shall be submitted under oath and contain such information as may be deemed by the governing body necessary to determine whether the applicant is a proper person to be employed in a card room.

No dealer license shall be issued to any person who is not a citizen of the United States and who has not been a resident of the State of Montana for at least one (1) year. The governing body may deny such applicant a dealer license if in their opinion good cause appears why such person should not be permitted to be employed in a card room.

Section 5-8-67: Permittees to Wear Identification. Every operator and employee of an operator of a card room licensed hereunder shall at all times when on duty have his license on his person and identification badge, containing his recent photograph, name, age, address and description.

Section 5-8-68: Any Governing Body, as defined herein, May Revoke or Suspend License for Cause, Notice of Appeal. The governing body shall have the right for cause to revoke or suspend any license issued hereunder and take possession of such licenses. The action of the governing body in this respect shall be subject to an appeal to the District Court of the Fourth Judicial District of the State of Montana in and for the County of Lake. Notice of such appeal shall be filed with the City Clerk and City Attorney within ten (10) days following written notification of action by the governing body suspending or revoking any license issued hereunder. Otherwise, the

action of the governing body in revoking or suspending the gaming licenses shall be final and conclusive.

Section 5-8-69: Rules of Play - Bingo. (1) No prize shall be awarded to a player of bingo, keeno or any other game derived from the term lotto, as such game is defined in this ordinance, except in tangible personal property. The awarding of such prizes in money, cash, stocks, bonds, bills, notes, tokens, chips, or any other evidence of indebtedness or intangible personal property is strictly prohibited.

(2) No prize shall be awarded to a player of bingo, keeno or any other game derived from the term lotto as an individual award which shall exceed the value of ONE HUNDRED DOLLARS (\$100.00). It shall be unlawful to, in any manner, combine any awards so as to increase the ultimate value of such award.

(3) The price paid by a player for an individual bingo, keeno or any other game derived from the term lotto, card shall not exceed FIFTY CENTS (\$.50).

Section 5-8-70: Rules of Play - Poker. (1) No prize shall be awarded to a player of poker for any individual game exceeding the value of ONE HUNDRED DOLLARS (\$100.00). Games shall not be combined in any manner so as to increase the value of the ultimate prize awarded.

(2) Rules governing the conduct of each game shall be prominently posted on the premises of any licensed establishment where such game is conducted. Such rules shall include notice of the maximum percentage rake-off if any, and shall require that the person taking the rake-off do so in an obvious manner and only after announcing the amount of each rake-off, which shall only be taken at the conclusion of each game when the winner of each individual pot has been determined.

(3) In every gambling game conducted pursuant to this ordinance the consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play the gambling game at the time the game is played. No check, credit card, note, I.O.U. or other evidence of indebtedness shall be offered or accepted as part of the price of participating in a gambling game or as payment of a gambling debt.

(4) No action based on a gambling debt is maintainable in a court of this state.

Section 5-8-71: Criminal Penalty. (1) Any person convicted of violating any provision of this ordinance or the terms of his license shall be punished by a fine of not more than THREE HUNDRED DOLLARS (\$300.00) or a jail sentence of not more than ninety (90) days or by both such fine and jail sentence.

(2) The punishment established by this section shall be in addition to and not in substitution of the suspension or revocation of any license or any other disciplinary procedure provided for in this ordinance.

Section 5-8-72: Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and, to this end the provisions of this act are declared to be severable.

REPEALING CLAUSE: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

EMERGENCY: A public emergency is hereby declared to exist and this ordinance is hereby declared to be necessary for the immediate preservation of public peace, health and safety, and therefore this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 2nd day of December, 1974.

*Norven Mosley*  
MAYOR

ATTEST:

*Adair E. Moton*  
City Clerk