

AN ORDINANCE OF THE CITY OF PORTAGE DES SIOUX, MISSOURI, RELATING TO THE REGULATION, CONTROL, MAINTENANCE, BREWING, SALE, POSSESSION, TRANSPORTATION, AND DISTRIBUTION OF INTOXICATING LIQUOR; DEFINING INTOXICATING LIQUOR AND OTHER TERMS USED IN THIS ORDINANCE. PROVIDING FOR THE MANUFACTURE AND SALE, BOTH AT WHOLESALE AND RETAIL OF INTOXICATING LIQUOR.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PORTAGE DES SIOUX, MISSOURI, AS FOLLOWS:

SECTION I

THIS ORDINANCE MAY BE CITED AS THE "LIQUOR CONTROL ORDINANCE".

SECTION II

CITY COUNCIL DEFINED. THE TERM "CITY COUNCIL" AS USED IN THIS ORDINANCE SHALL MEAN AND INCLUDE THE MAYOR AND FULL BOARD OF ALDERMEN OF THE CITY OF PORTAGE DES SIOUX, MISSOURI.

PERSON DEFINED. THE TERM "PERSON" AS USED IN THIS ORDINANCE SHALL MEAN AND INCLUDE ANY INDIVIDUAL, FIRM, ASSOCIATION, STOCK COMPANY, PARTNERSHIP OR CORPORATION.

INTOXICATING LIQUOR DEFINED. THE TERM "INTOXICATING LIQUOR: AS USED IN THIS ORDINANCE SHALL MEAN AND INCLUDE ALCOHOL FOR BEVERAGE PURPOSES, ALCOHOLIC, SPIRITUOUS, ARDENT SPIRITS, MALT, VINOUS, OR FERMENTED, AND ALL PREPARATIONS OR MIXTURES FOR BEVERAGE PURPOSES, ALCOHOLIC CONTENTS IN EXCESS OF THREE AND TWO-TENTHS PERCENT (3.2%) BY WEIGHT.

SECTION III

LICENSES REQUIRED. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM, PARTNERSHIP, OR CORPORATION TO MANUFACTURE, SELL OR EXPOSE FOR SALE, EITHER AT WHOLESALE OR RETAIL, IN THE CITY OF PORTAGE DES SIOUX, MISSOURI, INTOXICATING LIQUOR, AS HEREIN DEFINED, IN ANY QUANTITY WITHOUT FIRST HAVING OBTAINED A LICENSE FROM THE CITY, EXCEPT AS OTHERWISE HEREIN PROVIDED.

SECTION IV

AMOUNT OF LICENSE. THE LICENSE REQUIRED AND IMPOSED UNDER THIS

ORDINANCE SHALL BE AS FOLLOWS:

(a) FOR MANUFACTURING, DISTILLING, OR BLENDING OF INTOXICATING LIQUOR IN EXCESS OF FIVE PERCENT (5%) OF ALCOHOL BY WEIGHT THE SUM OF TWO HUNDRED FIFTY DOLLARS (\$250.00).

(b) FOR MANUFACTURING, DISTILLING, OR BLENDING OF INTOXICATING LIQUOR NOT IN EXCESS OF FIVE PERCENT (5%) OF ALCOHOL BY WEIGHT THE SUM OF ONE HUNDRED DOLLARS (\$100.00).

(c) FOR THE SALE OF INTOXICATING LIQUOR BY WHOLESALE IN EXCESS OF FIVE PERCENT (5%) OF ALCOHOL BY WEIGHT THE SUM OF TWO HUNDRED DOLLARS (\$200.00).

(d) FOR THE SALE OF INTOXICATING LIQUOR NOT IN EXCESS OF FIVE PERCENT (5%) OF ALCOHOL BY WEIGHT BY WHOLESALE THE SUM OF ONE HUNDRED DOLLARS (\$100.00).

(e) FOR THE SALE OF INTOXICATING LIQUOR IN EXCESS OR NOT IN EXCESS OF FIVE PERCENT (5%) OF ALCOHOL BY WEIGHT BY RETAIL IN THE ORIGINAL PACKAGE NOT FOR CONSUMPTION ON THE PREMISES FIFTY DOLLARS (\$50.00).

(f) FOR THE SALE OF INTOXICATING LIQUOR IN EXCESS OF FIVE PERCENT (5%) BY WEIGHT BY RETAIL OR BY THE DRINK FOR CONSUMPTION ON THE PREMISES THE SUM OF TWO HUNDRED DOLLARS (\$200.00).

(g) FOR THE SALE OF INTOXICATING LIQUOR NOT IN EXCESS OF FIVE PERCENT (5%) BY WEIGHT BY RETAIL OR BY THE DRINK FOR CONSUMPTION ON THE PREMISES THE SUM OF ONE HUNDRED FIFTY DOLLARS (\$150.00).

SECTION V

LICENSE NON-TRANSFERRABLE. NO LICENSE USED UNDER THIS ORDINANCE SHALL BE TRANSFERRABLE OR ASSIGNABLE.

SECTION VI

DURATION OF LICENSE. EACH LICENSE ISSUED IN COMPLIANCE WITH THIS ORDINANCE SHALL BE FOR ONE YEAR FROM DATE OF ISSUE, UNLESS REVOKED FOR CAUSE HEREIN PROVIDED.

SECTION VII

RESTRICTIONS TO DAYS OF SALE. NO PERSON HAVING A LICENSE UNDER THE PROVISIONS OF THIS ORDINANCE SHALL SELL, GIVE AWAY, OR OTHERWISE DISPOSE OF OR SUFFER THE SAME TO BE DONE UPON OR ABOUT HIS PREMISES, ANY INTOXICATING LIQUOR IN ANY QUANTITY UPON ANY DATE SO PROHIBITED BY STATE LAW.

SECTION VIII

RESTRICTIONS TO TIME OF SALE. NO PERSON HAVING A LICENSE UNDER THE PROVISIONS OF THIS ORDINANCE SHALL SELL, GIVE AWAY, OR OTHERWISE DISPOSE OF OR SUFFER THE SAME TO BE DONE, UPON OR ABOUT HIS PREMISES, ANY INTOXICATING LIQUOR IN ANY QUANTITY BETWEEN THE HOURS PROHIBITED BY STATE LAW.

SECTION IX

PROHIBITIONS CONCERNING DRUNKARDS AND MINORS. NO PERSON OR HIS EMPLOYEE SHALL SELL OR SUPPLY INTOXICATING LIQUOR OR PERMIT SAME TO BE SOLD OR SUPPLIED TO A HABITUAL DRUNKARD OR TO ANY PERSON WHO IS UNDER OR APPARENTLY UNDER THE INFLUENCE OF INTOXICATING LIQUOR. INTOXICATING LIQUOR SHALL NOT BE GIVEN, SOLD OR OTHERWISE SUPPLIED TO ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS BUT THIS SHALL NOT APPLY TO SUPPLYING OF INTOXICATING LIQUOR TO A PERSON UNDER SAID AGE FOR MEDICINAL PURPOSES ONLY, OR BY THE PARENT OR GUARDIAN OF SUCH PERSON, OR TO ADMINISTERING OF SAID INTOXICATING LIQUOR TO SAID PERSON BY A PHYSICIAN. NO PERSON UNDER THE AGE OF TWENTY-ONE YEARS SHALL SELL OR ASSIST IN THE SALE OR DISPENSING OF INTOXICATING LIQUOR.

SECTION X

APPLICATION OF LICENSE. ALL APPLICATIONS FOR LICENSES UNDER THE PROVISIONS OF THIS ORDINANCE, SHALL BE MADE IN WRITING TO THE CITY COUNCIL. NO LICENSE SHALL BE GRANTED AT THE SAME MEETING OF THE CITY COUNCIL AT WHICH THE APPLICATION IS PRESENTED EXCEPT BY UNANIMOUS VOTE OF THE COUNCIL. PROVIDED, HOWEVER, THAT SAID APPLICATION MAY BE PASSED ON BY THE COUNCIL AT THE FIRST MEETING OF THE CITY COUNCIL AT WHICH THE APPLICATION IS PRESENTED, IF SAID APPLICANT HAS FIRST SERVED NOTICE, IN WRITING, OF HIS INTENTION TO PRESENT SAID APPLICATION UPON EACH MEMBER OF THE COUNCIL AT LEAST FIVE DAYS BEFORE THE MEETING OF THE CITY COUNCIL AT WHICH SAID APPLICATION IS TO BE PRESENTED.

SECTION XI

GRANTING A LICENSE. ON APPROVAL OF THE APPLICATION BY THE CITY COUNCIL AND PAYMENT OF THE LICENSE TAX HEREIN PROVIDED, THE CITY CLERK SHALL GRANT APPLICANT AN INTENTION TO LICENSE. THIS INTENTION WILL BE PRESENTED TO COUNTY AND STATE LICENSING AUTHORITIES. IF THE APPLICANT IS APPROVED BY STATE AND COUNTY AUTHORITIES THE CLERK SHALL GRANT APPLICANT A LICENSE TO CONDUCT

BUSINESS IN THE CITY FOR ONE YEAR FROM THE DATE OF ISSUANCE OF SAID LICENSE. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH PLACE OF BUSINESS. EVERY LICENSE ISSUED UNDER THE PROVISIONS OF THIS ORDINANCE SHALL PARTICULARLY DESCRIBE THE PREMISES AT WHICH INTOXICATING LIQUOR MAY BE SOLD THEREUNDER, AND SUCH LICENSE SHALL NOT BE DEEMED TO AUTHORIZE OR PERMIT THE SALE OF INTOXICATING LIQUOR AT ANY PLACE OTHER THAN THAT DESCRIBED THEREIN.

## SECTION XII

REGULATION OF SALE IN ORIGINAL PACKAGES. INTOXICATING LIQUOR SHALL BE SOLD AT RETAIL IN THE ORIGINAL PACKAGE, ONLY UPON A LICENSE GRANTED BY THE CITY COUNCIL, AND SAID INTOXICATING LIQUOR SO SOLD SHALL NOT BE CONSUMED UPON THE PREMISES WHERE SOLD, NOR THE ORIGINAL PACKAGE OPENED ON SAID PREMISES OF THE VENDOR, EXCEPT AS OTHERWISE PROVIDED IN THIS ORDINANCE. PROVIDED, FURTHER, THAT NO INTOXICATING LIQUOR PURCHASED IN THE ORIGINAL PACKAGE SHALL BE CONSUMED OR PERMITTED TO BE CONSUMED UPON ANY PREMISES WHERE INTOXICATING LIQUOR IS AUTHORIZED LEGALLY TO BE SOLD.

## SECTION XIII

QUALIFICATION OF APPLICANT. NO PERSON SHALL BE GRANTED A LICENSE UNDER THIS ORDINANCE, UNLESS SUCH PERSON IS OF GOOD MORAL CHARACTER AND A NATIVE BORN OR NATURALIZED CITIZEN OF THE UNITED STATES OF AMERICA, AND A QUALIFIED LEGAL VOTER AND TAX PAYING CITIZEN OF THE CITY OF PORTAGE DES SIOUX, MISSOURI; AND NO PERSON SHALL BE GRANTED A LICENSE OR PERMIT HEREUNDER, WHOSE LICENSE AS SUCH DEALER HAS BEEN REVOKED, OR WHO HAS BEEN CONVICTED, SINCE THE RATIFICATION OF THE TWENTY-FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, OF A VIOLATION OF THE PROVISIONS OF ANY LAW APPLICABLE TO THE MANUFACTURE OR SALE OF INTOXICATING LIQUOR OR WHO EMPLOYS OR HAS EMPLOYED IN HIS BUSINESS AS SUCH DEALER, ANY PERSON WHOSE LICENSE HAS BEEN REVOKED OR WHO HAS BEEN CONVICTED OF VIOLATING THE PROVISIONS OF ANY SUCH LAW SINCE THE DATE AFORESAID.

## SECTION XIV

REVOCAION OF LICENSE. THE CITY COUNCIL OF PORTAGE DES SIOUX MAY, ON HEARING, REVOKE ANY LICENSE ISSUED UNDER THE PROVISIONS OF THIS ORDINANCE FOR GOOD CAUSE SHOWN, FIRST HAVING GIVEN SUCH LICENSEE NOT LESS THAN TEN (10) DAYS NOTICE, IN WRITING, OF THE

INTENT TO REVOKE HIS LICENSE PRIOR TO THE ORDER OF REVOCATION BEING ISSUED. THIS NOTICE SHALL CONTAIN THE GROUND OR GROUNDS FOR SUCH REVOCATION SET OUT THEREIN, WHICH NOTICE SHALL COMMAND THE LICENSEE TO BE PRESENT AT THE REGULAR OR CALLED MEETING OF THE CITY COUNCIL AND SHOW CAUSE, IF ANY, WHY SUCH LICENSE SHOULD NOT BE REVOKED. PROVIDED, THAT SAID LICENSEE SHALL HAVE FULL RIGHT TO BE PRESENTED BY COUNSEL AT SAID HEARING. PROVIDED FURTHER, THAT SUCH NOTICE OF REVOCATION HEARING SHALL BE SERVED BY A REGULAR COUNCIL MEMBER OR BY CERTIFIED MAIL TO THE LICENSEE, OR ANY PERSON OR EMPLOYEE IN CHARGE OF THE PLACE OF BUSINESS OF SAID LICENSEE. UPON REVOCATION OF ANY LICENSE UNDER THE PROVISION OF THIS ORDINANCE THE CITY CLERK SHALL INFORM THE COUNTY AND STATE LICENSING AUTHORITIES IMMEDIATELY OF THE REVOCATION.

SECTION XV

REVOCATION SHALL FORFEIT LICENSE FEE. IN CASE OF REVOCATION OR FORFEITURE OF ANY LICENSE GRANTED AND ISSUED UNDER THE PROVISIONS OF THIS ORDINANCE FOR CAUSE OR OTHERWISE, THE CITY SHALL IN NO EVENT RETURN ANY PART OF THE LICENSE FEE PAID FOR SUCH LICENSE.

SECTION XVI

UNCONSTITUTIONALITY CLAUSE. SHOULD ANY SECTION, PARAGRAPH, SENTENCE, CLAUSE OR PHRASE OF THIS ORDINANCE BE DECLARED UNCONSTITUTIONAL OR INVALID FOR ANY REASON, THE REMAINDER OF SAID ORDINANCE SHALL NOT BE AFFECTED THEREBY.

SECTION XVII

REPEAL CLAUSE. ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE SHALL HEREBY BE REPEALED.

THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE BY THE BOARD OF ALDERMEN AND APPROVAL BY THE MAYOR.

PASSED AND APPROVED THIS 2nd DAY OF June, 2003.

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MARK D. WARNER, MAYOR

BILL NO. 261

ORDINANCE NO. 261

ATTEST: \_\_\_\_\_

SUZIE A. CISSELL, CITY CLERK

CITY SEAL

BILL NO. 261

ORDINANCE NO. 261