

ORDINANCE NO. 90

AN ORDINANCE 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; PRESCRIBED LICENSES AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE, FIXING THE TIME WHEN SAID ORDINANCE SHALL BECOME EFFECTIVE.

Be it ordained by the Council of the City of Portage Des Sioux, Missouri as follows:

SECTION I

Ordinance, how cited. This ordinance may be cited as the "Liquor Control Ordinance."

SECTION II

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 (3.2%) percent 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 therefor, 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 (5%) percent 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 (5%) percent 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 (5%) percent 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 not in excess of Five (5%) percent of alcohol by weight by retail the sum of Three Hundred Fifty Dollars (\$350.00)

(f) For the sale of intoxicating liquor in excess of Five (5%) percent of alcohol by weight by retail or by the drink for consumption on the premises the sum of Thirty-Seven Dollars and Fifty Cents (\$37.50)

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

Restriction as 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 on the first day of the week commonly called Sunday, or upon the day of any

general or primary election in this State, or upon any County, City, Town or Municipal election day, or upon any date so prohibited by State Law.

SECTION VIII

Hours 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 for license. All applications for licenses under the provisions of this Ordinance, shall be made in writing to the City council. All applications, except for sale of malt liquors not in excess of five percent (5%) of alcohol by weight, shall be accompanied by an inventory and appraised valuation of stock of goods, at proposed place of business in said application,

other than intoxicating liquor, which inventory and appraisal shall be under oath; according to invoice at the time of making the application for said license. 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 city council at the first meeting of the 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 council at which said application is to be presented.

SECTION XI

Granting of license. On approval of the application by the City council and payment of the license tax herein provided, the City clerk shall grant applicant a license to conduct business in the City for one year from 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. Provided, further, that the City clerk shall not deliver to any person a license under the provisions of this Ordinance, until such person shall produce the receipt of the City collector showing that the taxes levied on the same have been paid. Provided further, that said license shall be transferable when said licensee changes place of business.

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

License; 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

Revocation 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 application to revoke his license prior to the order of revocation issuing, which said 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 represented by counsel at said hearing. Provided further, that such notice of revocation hearing shall be served by the City Marshal and may be served upon the licensee, by leaving a copy thereof with the licensee, or any person or employee in charge of the place of business of said licensee.

SECTION XV

Violation, penalty. Any person violating any of the provisions of this Ordinance, except where some penalty is otherwise provided, shall upon conviction thereof be adjudged guilty of a misdemeanor, and shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) and/ or imprisonment not to exceed 90 days. Provided the provisions of this Ordinance, said conviction shall automatically operate to revoke the license hereunder issued to such person. Provided, further, that the term "Conviction", as herein used shall mean conviction upon final determination of any prosecution of any violation of this ordinance. Provided, further, that no person having been convicted of the violation of any of the provisions of this Ordinance shall be issued a license or a renewal thereof for a period of one year, from the date of said conviction.

SECTION XVI

Person defined The term "Person" as used in this Ordinance shall mean and include any individual, firm, association, stock

company, syndicate, partnership or corporation.

SECTION XVII

Conviction, duty of police judge. Upon conviction of any person under the provisions of this Ordinance, it shall be the duty of the Police Judge to certify such conviction to the City council.

SECTION XVIII

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 XIX

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 XX

Repeal clause. All Ordinances or parts of ordinances in conflict with this ordinance shall hereby be repealed.

SECTION XXI

Enacting section This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the mayor.

Enacted _____

Mayor

Attest: _____
Clerk