

ORDINANCE NO. 666

(Renumbered administratively by City Clerk – was Ordinance No. 664)

AN ORDINANCE TO AMEND IN WHOLE CHAPTER 9.14 OF THE POLSON MUNICIPAL CODE PROVIDING FOR PUBLIC DISPLAY OR EXHIBITION OF ALCOHOLIC BEVERAGES IN POLSON CITY PARKS; TO PROVIDE FOR A PERMITTING PROCESS; AND TO IMPOSE PENALTIES FOR VIOLATIONS.

WHEREAS, the City of Polson owns and maintains a number of public parks; and,

WHEREAS, the City Council is desirous of instituting a uniform policy regarding the use or display of alcoholic beverages, as further defined below, and providing a penalty for violations thereof; and,

WHEREAS, the City Council also desires to co-operate with the law enforcement arms of the several governmental entities exercising jurisdiction within the City of Polson:

NOW, THEREFORE, BE IT ORDAINED:

Section 1: Chapter 9.14 of the Polson Municipal Codes is hereby repealed; and,

Section 2: Chapter 9.14 is hereby revised and amended in whole, as follows:

“CHAPTER 9.14

PUBLIC DISPLAY OR EXHIBITION OF ALCOHOLIC BEVERAGES

Sections:

9.14.010	Definitions
9.14.020	Unlawful within city limits
9.14.030	Permitted use exemption
9.14.040	Penalty

9.14.010 Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1. "Alcohol" means a compound produced for human consumption as a drink that contains .5% or more of ethyl alcohol by volume.

2. "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half percent of alcohol by volume.
3. "Beer" or "Malt beverage" means any alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without other the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom and with or without other wholesome products suitable for human food consumption, and containing not more than 7% of alcohol by weight.
4. "Liquor" means an alcoholic beverage, except beer and table wine.
5. "Park" or "Park Area" means all city-owned public parks or parks areas including buildings, facilities, trails/pathways, beaches/swim areas, sports fields, bodies of water contained therein and all properties owned, leased or otherwise under the direct supervision and or control of the City of Polson.
6. "Public display or exhibition of beer, wine or liquor" means the carrying, possession, or exhibiting of open cans, bottles, glasses, or any other container of beer, wine, or liquor, even though appearing empty, on or within any public place as defined herein or within any vehicle that is upon a public place as defined herein. This definition does not include carrying or transporting beer, wine or liquor from retail or wholesale liquor or beer establishments in sacks, cases, boxes, cartons or other similar containers if the seal for the alcoholic beverage container is unbroken; nor does this definition include those situations wherein the alcoholic beverage container is being transported or carried to a recycling center or garbage disposal site; nor does this definition include transportation of alcoholic containers in a compartment of a vehicle that is outside the passenger area of the vehicle and which area is not accessible to the driver and passenger of the vehicle from the passenger area while the vehicle is in operation.
7. "Public drinking" means the drinking or consuming of beer, wine or liquor within or upon any vehicle that is upon a public place as defined in this section.

8. "Public place" or "public places" means any city park or any highway, road, alley, lane, parking area, or other public or private place open, adapted, and fitted for public use or public travel or that is in fact commonly used by the public, publicly owned parking lots and privately owned parking lots open to the public for parking in the City of Polson, and including any vehicle thereon. This definition does not include the specific premises licensed for the sale of liquor or beer at retail by the Liquor Division of the Montana Department of Revenue. For purposes of this definition, the term "premises" shall have the same meaning attributed to that term by the Department of Revenue pursuant to its administrative regulations, which term is limited to: the building or any specific portion of any building in which the licensed liquor, beer or wine sale business is conducted and those licensed areas in which the licensee operates a lawful sidewalk cafe, open air restaurant or tavern adjacent to the licensed building and to which patrons are permitted direct access from the building.
9. "Table wine" means wine as defined below which contains not more than sixteen percent (16%) alcohol by volume.
10. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.
11. "Wine" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than one-half percent but not more than twenty-four (24) percent of alcohol by volume. Other alcoholic beverages made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

9.14.020 Unlawful within city limits. Public drinking, public display, or exhibition of beer, wine or liquor as defined in this chapter is prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of beer, wine, or liquor within the city limits. In addition to any permit required by the State of Montana, any organization desiring to serve beer, wine or liquor upon a public place as defined in this chapter as part of a promotion, celebration or other organized activity may apply to the City of Polson for a special use permit under Chapter 9.14. 030. Use of any public place, as applicable, shall include the approval of the owner or lessee of any parking lot open to the public.

9.14.030 Exception by permit. Public display or exhibition of alcoholic beverages as defined in this chapter shall be lawful as follows:

1. The consumption of alcoholic beverages in compliance with state law on the municipal golf course and driving range as regulated by the municipal golf course
2. The consumption of alcoholic beverages in any city park or park facility, as defined in this chapter, in addition to any requirement of the State of Montana, pursuant to a special use permit issued to a private party or organization by the director of the parks department or the police chief, or in his or her absence, an individual designated by the director or chief.

The director of parks department or the chief of police may issue a permit allowing the consumption of alcoholic beverages to adult sports teams represented by a private individual or organization for a single sports event or for a season, or to a private individual or organization pursuant to a facilities application. Upon payment of the appropriate fee, the director of the parks department or the chief of police shall issue a permit with the appropriate conditions unless good cause exists to refuse such application. The director's or chief's refusal to issue such a permit may be appealed to the park board.

3. The consumption of beer and/or wine on any city property in compliance with state law pursuant to a special event permit issued by the city manager to: a) a private individual or organization not covered by subsection 2 of this section, or b) to an organization(s) sponsoring a community event that involves a neighborhood-wide or communitywide impact.

9.14.040 Penalty. Any person convicted of violating any provision of this chapter shall be punishable as provided in Section 1.06.010 of this code. “

Section 3: Any ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, repealed.

First Reading: June 3, 2013.
Second Reading: June 17, 2013.

DATED this 17th day of June, 2013.

Pat DeVries, Mayor

ATTEST:

Cindy Dooley, City Clerk