



## Business License Ordinance Framework

(6/13/22 Draft; redline new text)

### PURPOSE:

The purpose of this chapter is to provide personnel charged with the responsibility of protecting the health and safety of the public and the environment with information relating to business operations within the City of Polson that will aid them in providing police, fire, and environmental protection, as well as information regarding contact persons in the event of an emergency. These programs will include annual education to the public and business community by the City of Polson. It is the further purpose of this chapter to provide the city with information regarding the types of businesses operating within the community in order to facilitate recruitment and retention of businesses, and to further the economic development of the community.

### Definitions:

The following words and phrases when used in this Chapter shall have the following meaning:

1. "Joint license" A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for conducting each of such businesses but shall be issued a single license if the requirements are met.
2. "Buildings, office or retail space or premises" means all buildings, structures, rooms, offices, or portions thereof which are situated on a permanent structural foundation and permanently connected to City water and sewer service wherein a business or organization is located and which is or may be accessible to the public, employees, or members or located in such close proximity to other buildings, structures, rooms, offices, or portions thereof so as to constitute a public threat in the event of a uniform safety code violation.
3. "Business or organization" means any occupation, trade, profession, commercial activity, social activity, fraternal activity, or religious activity located in or meeting regularly in buildings, offices or premises whether sole proprietorships, partnerships, corporations, nonprofit corporations, religious organizations, or social and fraternal organizations.

4. "Home occupation" means a commercial or light industrial activity conducted in a dwelling or a building accessory to a dwelling as permitted by the Polson Development Code, AND having no more than one full-time equivalent, on-premises, employee who is not a member of the resident family.

5. "Non-resident vendor" means any person engaged or employed in the business of selling to consumers by going from consumer to consumer, either on the streets or to their places of residence or employment and soliciting, selling or taking orders for future delivery of any goods, wares or merchandise.

6. "Sidewalk vendor" means any person vending food or other merchandise from the sidewalk with no street address or from push carts, vehicles, trailers, or other readily mobile sources to customers within the city limits. No vendor shall park a vehicle or any other moveable or temporary entity on any public street, alley or private lot for more than four (4) hours in any eight-hour period at one (1) location. The parking of a vehicle or other movable entity within three hundred (300) feet of the original location is considered one (1) location.

7. "Safety inspection certificate" or "certificate" as used herein is issued to a business at a specific building, office or premise which has passed an inspection pursuant to the codes or other ordinances and regulations enacted for the purpose of protecting health, safety, and welfare of the public. The certificate is not intended and shall not be used in any manner to regulate the manner in which any commercial, professional, fraternal, or religious enterprise is conducted.

8. "Square footage" means the total number of square feet contained within the exterior walls of a building or buildings, suite or office used in the business operation and open to the public, employees or members.

9. A "Temporary premises" means any structure, vehicles, or other mobile device without a foundation and not permanently connected to City water and sewer service which is temporarily occupied for business. A temporary premise can exist for no more than ninety (90) calendar days in any twelve-month period. Temporary premise does not include sales booths, concession stands etc., which are operated in conjunction with a community sponsored event authorized by the City Commission.

10. A "Non-resident merchant" means any person who brings into temporary premises, a stock of goods, wares or articles of merchandise or notions or other articles of trade, and who solicits, sells or offers to sell, or exhibits for sale, such stock of goods, wares or articles of merchandise or notions or other articles of trade. A non-resident merchant can operate out of temporary premises for a period of ninety (90) calendar days in any twelve-month period.

11. A "Non-resident service contractor" means any person or business not residing within the city limits of Polson engaged or employed in providing services for hire and includes persons or businesses engaged in contract construction, painting and drywall,

landscape installation and maintenance, janitorial, and service contractors of all kinds including computer technicians and copier maintenance.

12. A "Resident service contractor" means any person or business residing within the city limits of Polson and engaged or employed in providing services for hire which does operate out of a building, office space or premise in the city and includes persons and businesses engaged in contract construction, painting and drywall, landscape installation and maintenance, janitorial, and service contractors of all kinds including computer technicians and copier maintenance.

13." Temporary Business" is a business that has no more than two events per year in City of Polson, with each event lasting no longer than one month.

14. "Uniform Safety Codes" used herein means the most recent version of the Fire Code, and all other applicable codes adopted by the City of Polson.

14. "Special business license" or license, means a license issued to a business or organization which engages in providing services or selling food or merchandise away from a fixed street address within the City, such as sidewalk vendors, non-resident vendors, non-resident merchants, resident and non-resident service providers. The mere fact that a space is used adjacent to or near a fixed street address on a regular basis does not qualify as a street address. The license is not intended and shall not be used in any manner to regulate the manner in which any commercial, professional, fraternal, or religious enterprise is conducted.

### **APPLICABILITY:**

The provisions of this chapter shall be applicable to all wholesale and retail businesses and all activities, occupational callings, trades, pursuits or professions that conduct business from or at a location within the City of Polson with the object of gain, profit, benefit or advantage or that operate a business at a special event or use the public right of way for a special event, on a temporary basis, including mobile food and merchandise vendors.

Each business location shall be deemed a separate business if it has a separate address unless it is a specific annex to the main location of the business. Some examples would be --

- Store front with a small business in a room in the back that is the same owner or
- A business with multiple out buildings used for the main business (ie Western Bee)
- A furniture store that has separately addressed warehouse with one use to supply the main business.

The license is not intended to repeal any license or franchise provisions of any other ordinance of the city of Polson, nor is the license to be considered a waiver of any other requirements of compliance with any federal, state and local laws.

## **TRANSITION:**

A 'transition period' of twenty-four months (24) from the effective date of this ordinance shall be established, during which the City of Polson will initiate a public education and fire inspection program in accordance with the initial business license framework. Although business license applications will be required for all existing and new businesses, during the transition period, no business license fees will be charged.

The Business License public education program will involve a mix of educational sessions, literature, traditional media, social media, and website accessed information to increase the awareness of property/business owners regarding Fire Code requirements AS WELL AS how they can reach and maintain compliance.

During this transition period, the City of Polson will primarily utilize the fire inspection process for

- Advising property/business owners where potential fire hazards need to be mitigated in their structures; through written fire inspection reports.
- Assisting property/business owners in the development of a plan to mitigate fire hazards;
- Providing information regarding grants, and other financial assistance, that may be available for modifications necessary to meet Fire Code. The City will not be responsible for grant application submission or administration on the behalf of individual property/business owners, or other private entities.
- Gathering data necessary to initiate 'pre-planning' activities that can be utilized in preparing for, and responding to, an emergency at that location.

During the transition process the City of Polson retains the right to require property/business owners to undertake any mitigation efforts necessary as the result of life and/or fire code inspections that are deemed a serious and/or immediate threat to life, safety, or property.

## **IMPLEMENTATION:**

Immediately upon expiration of the transition period described above, the City of Polson shall require payment of a Business License fee as set by resolution of the City of Polson and a satisfactory Fire Inspection will be required for the issuance of a new and/or existing business license. While the City of Polson will continue its public education efforts, individual mitigation of existing or new fire hazards will be expected in a timely manner.

## **LICENSE REQUIRED:**

A. No person shall engage in any business within the City of Polson for which licensing is required by this chapter without having submitted a license application to the finance department or a designee and receiving a general business license in accordance with the provisions of this chapter. This license shall be in addition to any other license required by other chapters of this title. Such license shall be valid from the date it is issued through December of that same year, so long as the ownership, nature of the business, and location of the business remain unchanged.

B. No person shall engage in any temporary business within the city of Polson for which licensing is required by this chapter without having submitted a temporary business license application to the finance department or a designee and receiving a temporary business license in accordance with the provisions of this chapter. Such license shall be valid for no more than four (4) days. Persons having a city of Polson general business license are exempt from obtaining a temporary business license when engaging in business at a special event.

## **EXEMPTIONS:**

A. The fee provisions of this chapter shall not apply to:

1. Persons qualifying as a charity within the meaning of section 501(c)(3) of the United States internal revenue code. Possession of a certificate, letter, or other proof of such status from the internal revenue service shall be required to qualify for this exemption.

2. Any Confederated Salish& Kootenai Tribes subsidiary/affiliated business units, agency of the United States government and any political subdivision of the state of Montana.

3. Persons who occupy space at a flea market or other similar type of temporary bazaar. However, the provisions of this chapter shall apply to the operator of the flea market or bazaar.

B. In addition, neither the fee nor the inspection provisions of this chapter shall apply to:

1. Persons who make occasional sales of their own household property, including garage sales or yard sales, not more than twice each calendar year and children's lemonade stands, or similar endeavors operated by children on an occasional and temporary basis.

2. Domestic servants, newspaper carriers or casual laborers not included as employees of a regularly conducted business;

3. Lawyers, mediators, and other legal professionals who maintain their principal place of business outside Polson city limits and are working in Polson only temporarily in order to participate in legal proceedings;

4. Vendors participating in Farmers' Market, Arts and Crafts Fair, the county fair, or any other sanctioned event. However, those in charge of the event shall be required to obtain the same required information from every vendor participating.

5. Home occupations that don't have vendors, employee's or public entering the property.

## **LICENSE APPLICATION:**

A. A general or temporary license application shall be provided by the finance department or a designee, and the application shall contain information including, but not limited to:

1. Name of the business and any other name under which business is to be conducted;
2. Business entity type;
3. Business mailing address and business phone number, along with the street address for those businesses located within Polson city limits;
4. The nature of the business to be conducted at such address or special event;
5. Date the business will open, or the event will occur;
6. Date of issuance;
7. Fee and payment thereof; and
8. Such other information deemed necessary by the city for the health and safety of emergency service personnel or utility service providers.
9. Copy of driver license.
10. Email address.

B. Every application shall be personally signed by the owner or his agent. The application shall be submitted not less than ten (10) business days prior to the date on which business will commence.

#### **LICENSE FEE:**

A license fee in an amount set by resolution of the City Commission must be paid at the time the application is submitted to the finance department or a designee and/or prior to the issuance of a general or temporary business license. This fee is not refundable, nor shall it be prorated in the event a business moves or ownership changes. The temporary business license fee shall be forty percent (40%) of the initial business license fee.

Failure to pay any fee within forty-five (45) days after the day upon which it is due and payable shall render the person subject to a late fee of fifty dollars (\$25.00) in addition to other penalties provided herein.

Any fee, including penalties thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount. No civil action or judgment shall bar or prevent a criminal prosecution for each and every violation of this chapter.

#### **DISPLAY OF LICENSE:**

Every business required under this chapter to obtain a general or temporary business license shall display such license in a prominent location upon the business premises, at the location where business is conducted, or at the event location in the case of a temporary business. No business shall loan, sell, give or assign to any other person or allow any other person to use or display, or to destroy, damage or remove, or to have in his possession any license which has been issued to said business. No business shall allow any license to remain posted, displayed or used after the period for which it was

issued has expired, or when it has been suspended, revoked or, for any other reason, becomes ineffective.

### **INSPECTIONS; RECOMMENDATIONS:**

A. The city may cause the business premises of any applicant for a new business license to be inspected for compliance with the Uniform Safety Codes adopted by the City of Polson.

B. The inspection will be conducted by a trained Fire Inspector. If it appears that all conditions requisite to the issuance of a license have been substantially met and that no safety hazards exist, a license shall be issued.

C. Where potentially hazardous or explosive materials are being stored, the city may require plans for the handling, location and identification of such materials.

No new license will be issued until the city has completed required inspections.

### **CHANGE IN OWNERSHIP, LOCATION OF BUSINESS, NATURE OF BUSINESS, OR MANAGEMENT:**

A. Whenever the ownership, nature of the business or location of any business located within the city is changed, a new license application reflecting the change shall be presented to the finance department or a designee within ten (10) days of said change. New business license fees will apply.

B. Whenever the management of the business changes, the city clerk shall be notified, in writing, of the name of the new manager and the new manager's contact information.

### **LICENSE RENEWAL:**

The city may issue renewal licenses to all licensees whose licenses have not been suspended at the time such licenses have expired upon timely payment of the annual license renewal fee, which amount shall be set by resolution of the City Commission.

### **VIOLATION; INFRACTION; PENALTY:**

A. Infraction: Unless otherwise provided, any person who shall commence or continue to carry on or transact any business or calling for which license is required by any provision of this title without first procuring the same or, once procured, fails to maintain the standards required to retain the permit or license shall be deemed guilty of an infraction and, upon conviction thereof, shall be fined fifty dollars (\$50.00). An infraction is a civil public offense, not constituting a crime, for which no period of incarceration is imposed. A separate offense may be deemed committed on each day during or on which a violation occurs or continues.

B. Violation: The operating or conducting of any business or occupation for which a license is required by this chapter without having a valid license as provided herein is hereby declared to be a public nuisance. In addition to any penalty provided by this chapter, the city may bring an action in any court of competent jurisdiction to obtain an

order enjoining any person from operating or conducting any business or occupation in violation of this chapter.

C. Revocation or Suspension: Any license issued pursuant to this chapter may be revoked or suspended by the City Commission for violation of any law of the city, the state of Montana, or of the United States of America applicable to the business for which the license was issued.

Such revocation must be preceded by notice in writing to the licensee from the Finance Department, informing the licensee that the council has ordered the holding of a hearing at a date and time certain, not less than ten (10) days from the date of such notice, at which hearing the licensee will be required to appear personally and show cause why the license should not be revoked. At such hearing the licensee may be represented by counsel, may testify personally, may call witnesses, and may cross examine any witnesses called by the city.

Should the council determine that such license should be revoked or suspended, it shall pass a motion to that effect, and such license shall thereupon be revoked, provided however, that no such motion shall be deemed passed without the affirmative vote of one-half ( $1/2$ ) plus one of the members of the full commission.



Business License Proposal - Fee Comparison

Benchmark Cities	Flat fee	0-499	500-1999	2K-5999	6K-9999	>10K	0-2K	2001-10K	10001-25K	25001-50K	>50K
Right 'To Do Business' only											
Columbia Falls	40										
Belgrade	50										
Bozeman	50										
Sandpoint ID	52.5										
Inspected License											
Livingston	80						80	100	120	160	180
Whitefish	80	80	110	140	170	200					
Cost = Several Factors											
Lewiston											
Butte											
Missoula											
Polson	40						60	80	120	160	250