

**ORDINANCE Ord #2014-005**

**AN ORDINANCE TO ADOPT CHAPTER 1 ARTICLE 1 AND CHAPTER 2 ARTICLES 1, 2, AND 3, OF THE CITY OF POLSON BOOK OF ORDINANCES**

**WHEREAS**, the City Commission of Polson has determined that it is in the best interests of the citizens of Polson to reestablish, rewrite and reauthorize the Ordiancnes of the City;

**WHEREAS**, the Commission recognizes the most expeditious way of adopting such Ordinances is by adoption in a sequential manner over a term of months to give the Commission and the public time to review the material;

**WHEREAS**, it appears in the best public interest that the following ordinances be adopted for the City of Polson;

**NOW, THEREFORE, BE IT ORDAINED** by the City of Polson that the following Articles of the Ordinances of the City of Polson be adopted as attachments in full hereto:

**CHAPTER 1 GENERAL ADMINISTRATION  
ARTICLE 1. GENERAL PROVISIONS**

**CHAPTER 2 ADMINISTRATION  
ARTICLE 1. GENERAL  
ARTICLE 2. CITY COMMISSION  
ARTICLE 3. OFFICERS AND EMPLOYEES**

The clerk is hereby instructed to codify this Ordinance and to place the same in the Book of Ordinances of the City of Polson.

Date: November 17, 2014  
First Reading: 5 ayes    \_\_\_ nays    \_\_\_ abstentions 2 absent

Date: December 15, 2014  
Second Reading: 7 ayes    \_\_\_ nays    \_\_\_ abstentions

Effective Date: January 15, 2015

\_\_\_\_\_  
Heather Knutson, Mayor

Attest:

\_\_\_\_\_  
Cora E. Pritt, City Clerk

## **CHAPTER 1 GENERAL ADMINISTRATION**

### **ARTICLE 1. GENERAL PROVISIONS**

- Sec. 1.01.010. Title: citation: reference.
- Sec. 1.01.020. Provisions codified.
- Sec. 1.01.030. Definitions.
- Sec. 1.01.040. Interpretation of language.
- Sec. 1.01.050. Grammatical interpretation.
- Sec. 1.01.060. Reference applies to all amendments.
- Sec. 1.01.070. Chapter, article, division, subdivision and section headings.
- Sec. 1.01.080. Reference to specific ordinances.
- Sec. 1.01.090. Title of office.
- Sec. 1.01.100. Acts by agents.
- Sec. 1.01.110. Prohibited acts include causing and permitting.
- Sec. 1.01.120. Computation of time.
- Sec. 1.01.130. Construction.
- Sec. 1.01.140. Repeal shall not renew any ordinances.
- Sec. 1.01.150. Effect of Code on past actions and obligations.
- Sec. 1.01.160. Certain provisions saved from repeal.
- Sec. 1.01.170. Special ordinances.
- Sec. 1.01.180. Codification powers.
- Sec. 1.01.190. Supplementation of Code.
- Sec. 1.01.200. Constitutionality.
- Sec. 1.01.210. General penalty for Code violations.
- Sec. 1.01.220. Wards
- Sec. 1.01.230. City Limits
- Sec. 1.01.240. Lakeshore Lands
- Sec. 1.01.250-1.01.299 Reserved

Sec. 1.01.010. Title; citation; reference.

This Code shall be known as the "Polson Municipal Code" and it may be referred to as the Polson Municipal Code in any prosecution for the violation of any provision thereof or any proceeding at law or equity. Prosecutions for violations of the city's ordinances and actions based thereon shall refer to the sections of this Code as well as the underlying ordinance upon which the prosecution or action is based. Amendments to any ordinance or portions thereof of Polson, Montana, shall also refer to the Polson Municipal Code sections under which such ordinances are codified.

Sec. 1.01.020. Provisions codified.

This Code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city.

Sec. 1.01.030. Definitions.

The following words and phrases, whenever used in the ordinances of the city and this Code, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. *Agencies.* Any reference to any local, state or federal agency, shall include any successor agency.
2. *City.* The term "city" means the City of Polson, Montana, or the area within the territorial limits of the City of Polson, Montana, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.
3. *City commission.* The term "city commission" means the city commission of the City of Polson. "All its members" or "all commissioners" means the total number of commissioners holding office.
4. *Code.* The term "Code" means the "Polson Municipal Code," as designated in 1.01.010
5. *County.* The term "county" means the county of Lake.
6. *Law.* The term "law" denotes applicable federal law, the constitution and statutes of the State of Montana, the ordinances of the City of Polson, and, when appropriate, any and all rules and regulations which may be promulgated thereunder, and including all amendatory or successor laws or rules.
7. *May.* The term "may" is permissive.
8. *MCA.* The abbreviation "MCA" shall mean the Montana Code Annotated, as hereafter amended, and any successor statute.
9. *Month.* The term "month" means a calendar month.
10. *Must, shall.* The terms "must" and "shall" are each mandatory.
11. *Oath.* The term "oath" means and includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
12. *Owner.* The term "owner," when applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.
13. *Person.* The term "person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of any of them.
14. *Personal property.* The term "personal property" means and includes money, goods, chattels, things in action and evidences of debt.
15. *Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.
16. *Property.* The term "property" means and includes real and personal property.
17. *Real property.* The term "real property" means and includes lands, tenements and hereditaments.
18. *Sidewalk.* The term "sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
19. *State.* The term "state" means the State of Montana.
20. *Street.* The term "street" means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.
21. *Tenant, occupant.* The terms "tenant" and "occupant," applied to a building or land, mean and include any person who occupies the whole or a part of such building or land, whether alone or with others.

22. *Written.* The term "written" means and includes printed, type-written, mimeographed, multi-graphed, or otherwise reproduced in permanent visible form.
23. *Year.* The term "year" means a calendar year unless otherwise provided.

Sec. 1.01.040. Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Sec. 1.01.050. Grammatical interpretation

The following grammatical rules shall apply in the ordinances of the city and this Code, unless it is apparent from the context that a different construction is intended:

1. *Gender.* Each gender includes the masculine, feminine and neuter genders.
2. *Singular and plural.* The singular number includes the plural and the plural includes the singular.
3. *Tenses.* Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

Sec. 1.01.060. Reference applies to all amendments.

Whenever a reference is made to this Code as the Polson Municipal Code or to any portion thereof, or to any ordinance of the city, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

Sec. 1.01.070. Chapter, article, division, subdivision and section headings.

Chapter, article, division, subdivision and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article, division, subdivision or section hereof.

Sec. 1.01.080. Reference to specific ordinances.

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

Sec. 1.01.090. Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city.

Sec. 1.01.100. Acts by agents.

When an act is required by this Code or an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

Sec. 1.01.110. Prohibited acts include causing and permitting.

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

Sec. 1.01.120. Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

Sec. 1.01.130. Construction.

The provisions of the ordinances of the city and all proceedings under them are to be construed with a view to affect their objects and to promote justice.

Sec. 1.01.140. Repeal shall not renew any ordinances

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or renew any ordinance which has been repealed thereby.

Sec. 1.01.150. Effect of Code on past actions and obligations.

Neither the adoption of this Code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date of this Code, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

Sec. 1.01.160. Certain provisions saved from repeal.

Nothing in this Code or the ordinance adopting this Code shall repeal any of the following when not inconsistent with this Code:

1. Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
2. Any administrative ordinances or resolutions of the commission;
3. The annual tax levy;
4. Any right or franchise conferred by ordinance or resolution on any person or corporation;
5. Any ordinance relating to the city boundaries or the corporate limits;
6. Any ordinance annexing territory to the city;
7. Any ordinance naming, opening, accepting or vacating streets or alleys in the city;
8. Any ordinance relating to street, sidewalk, alley, sewer and other public improvements and assessments;
9. Any ordinance relating to zoning map amendments;
10. Any ordinance relating to schedules containing descriptions of restricted or prohibited parking areas and one-way streets;

11. Any ordinance relating to the establishment or designation of through streets or stop intersections or the turning or moving of vehicles;
12. Any ordinance relating to automatic grade crossing signals;
13. Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code.

Sec. 1.01.170. Special ordinances.

All ordinances shall contain a specific codification instruction. The city attorney has discretion whether to codify special ordinances of restricted application, such as those providing for emergency or interim measures; bond issues; elections; the conveyance of real property; the granting, renewal, or extension of a franchise; annexations; street vacations and dedications; street and sidewalk improvements; and the repeal of other ordinances. Such ordinances, if not codified, shall be kept in a separate index by the city clerk.

Sec. 1.01.180. Codification powers.

The city attorney may change the wording of captions; rearrange sections and change reference numbers to agree with the renumbered chapters, sections or other parts; substitute the proper subsection, section, chapter or other division numbers; strike out figures or words that are merely repetitious; change capitalization and style for the purpose of uniformity; and correct manifest clerical or typographical errors.

Sec. 1.01.190. Supplementation of Code.

- A. By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city commission during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- B. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  1. Organize the ordinance material into appropriate subdivisions;

2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
5. Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1.01.200. Constitutionality.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The city commission declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance shall be in full force and effect.

Sec. 1.01.210. General penalty for Code violations.

Unless otherwise specifically provided in the Polson Municipal Code, any person, firm or corporation, their agents or servants, who violates any of the provisions of the Polson Municipal Code may be charged with a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not exceeding \$500.00 or by imprisonment for a period not exceeding six months, or both such fine and imprisonment, and in addition shall pay all costs and expenses of the case. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Sec. 1.01.220. Wards.

The city shall be divided into three wards, known as Ward No. 1, Ward No. 2 and Ward No. 3, as shall be established from time to time by the city commission, a description of which shall be on file in the office of the city clerk. Any real property annexed to the corporate limits of the city shall become a part of the ward to which such property lies adjacent, at the time of annexation thereto.

Sec. 1.01.230. City Limits.

The city limits are hereby defined to be as set forth on the official map of said city. Such map or plat depicting the said city limits as updated and maintained by the community development department. Said map is on file in the office of the clerk, and, by this specific reference, is made a part of this chapter.

Sec. 1.01.240. Lakeshore Lands

The lakeshore lands lying between low water mark and high water mark and abutting upon the streets, alleys, or parks of the city shall be within the city limits and subject to the authority of the city and, where appropriate, the authority of the Confederated Salish and Kootenai Tribes, who shall regulate the public and private use of the same in accordance with the provisions of this code, State and Federal law.

Secs. 1.01.250-1.01.299 Reserved

## **CHAPTER 2. ADMINISTRATION**

### **ARTICLE 1. - IN GENERAL**

### **ARTICLE 2. - CITY COMMISSION**

### **ARTICLE 3. - OFFICERS AND EMPLOYEES**

### **ARTICLE 4. - DEPARTMENTS**

### **ARTICLE 5. - BOARDS AND COMMISSIONS**

### **ARTICLE 6. - FINANCE**

### **ARTICLE 7. - EMINENT DOMAIN**

#### **ARTICLE 1. IN GENERAL**

Sec. 2.01.010. Corporate seal adopted.

Secs. 2.01.120-2.02.099. Reserved

Sec. 2.01.010. Corporate seal adopted.

A seal of circular form, with the words "City of Polson, Lake County, Montana," on the edge of the circle, is hereby adopted and declared to be the corporate seal of the city of Polson, to be used in all cases in which a seal is necessary to be used by the municipal corporation.

Secs. 2.01.120-2.02.099. Reserved

#### **ARTICLE 2. CITY COMMISSION**

Sec. 2.02.010. Oath of office.

Sec. 2.02.020. Mayor and deputy mayor: powers and duties.

Sec. 2.02.030. City clerk.

Sec. 2.02.040. Parliamentary authority.

Sec. 2.02.050. Meeting agendas.

Sec. 2.02.060. Call to order.

Sec. 2.02.070. Meetings.

Sec. 2.02.080. Order of presentation/public participation.

Sec. 2.02.090. Quorum and voting.

Sec. 2.02.100. Rules of debate; reconsideration; conflict of interest.

Sec. 2.02.110. Open meetings and email.

Sec. 2.02.120. Decorum.

Sec. 2.02.130. Recording of meetings and minutes: televising of meetings.

Sec. 2.02.140. Ordinances and resolutions; requirements.

Sec. 2.02.150. Salaries for mayor and commissioners.

Sec. 2.02.160. Standing boards. Commissions. agencies and committees.

Secs. 2.02.170-2.02.199. Reserved

Sec. 2.02.010. Oath of office.

Every person elected commissioner shall, within ten days thereafter, file with the city clerk an oath of office which the clerk shall then file with the county clerk and recorder.

Sec. 2.02.020. Mayor; powers and duties.

The presiding officer of the commission shall be the mayor. During the absence of the mayor, the acting chairperson shall discharge the duties and exercise the powers and authority of the mayor. The acting chairperson shall be elected by the commission at the first meeting of the commission in January of each year. The presiding officer shall preserve strict order and decorum at all meetings of the commission and confine members in debates to the question under consideration. The presiding officer may assign each commissioner to a seat at the commission table as the presiding officer deems advisable. Upon passing the gavel, the presiding officer may move or second any item of business then before the commission. The presiding officer shall state, or cause to be stated, every motion coming before the commission, announce the decision of the commission on all subjects, and decide all questions of order, subject, however, to an appeal to the commission, in which event a majority vote of the commission shall govern and conclusively determine such question of order. The presiding officer shall vote on all questions with the presiding officer's name being called last. The mayor shall sign all ordinances and resolutions adopted by the commission. In the event of the absence of the mayor, the acting chairman shall sign ordinances or resolutions as then adopted.

Sec. 2.02.030. City clerk.

The city clerk shall, pursuant to section 2.02.130, record all meetings of the commission and shall create minutes of the proceedings of the commission and shall maintain all files and records, including the record of all ordinances and resolutions, and perform such other duties as may be required by ordinance or resolution or order of the commission, and the city clerk shall be the custodian of the corporate seal of the city.

Sec. 2.02.040. Parliamentary authority.

Unless otherwise specifically provided herein or provided by statute, all meetings and hearings of the commission shall be conducted in accordance with this article. In all cases not covered by this article, the controlling parliamentary authority shall be the latest edition of Robert's Rules of Order, Newly Revised.

Sec. 2.02.050. Meeting agendas.

- A. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the commission shall be submitted to the city clerk no later than 12:01 p.m. on the Monday immediately preceding the next scheduled commission meeting; provided, however, the city manager may approve late submittals deemed to be in the city's best interest, but only if the items are provided to the commission and made available to the public at least 48 hours prior to the scheduled meeting time, excepting items of an emergency nature. The city manager shall arrange a list of such matters according to the order of business specified herein, and furnish each member of the commission, the city manager, city attorney and the public through the city's website with a copy of the agenda and all supporting information no later than 72 hours immediately preceding the commission meeting for which that item has been scheduled. The city manager will seek to provide such information 96 hours in advance where possible. Copies of the agenda shall be available from the city clerk and one copy shall be posted at the designated posting board in the city hall for public viewing and made available on the city's website. Pursuant to MCA 7-1-4135, the city

commission designates as its official posting place the posting board in the lobby of city hall located at 106 First Street East, Polson, Montana.

- B. The city manager shall prepare the commission regular meeting agenda and shall consult with the mayor in preparing the agenda. The mayor or any three commissioners may add to or remove an item from the agenda. The agenda shall be in substantially the following form:
1. Call to Order
  2. Pledge of Allegiance
  3. Changes to the order of agenda (if required)
  4. General Public Comment
  5. Consent items including approval of minutes (consent items are those which staff considers no discussion is necessary, including resolutions and final subdivision plats. However, at the beginning of each meeting, any commissioner may request items be removed from the consent agenda for the purpose of discussion.
  6. Manager's Report and staff reports (if required).
  7. Special presentations (if required)
  8. Action Items (Public hearings will allow for additional formal public comment as directed by the presiding officer)
  9. Adjournment

The order of the above may be adjusted by the presiding officer.

When holding a public meeting, the presiding officer shall call an agenda item to the floor in the following manner:

- A. request an affirmative motion and second be made in order for the item to be discussed;
- B. call for preliminary commission discussion;
- C. close such discussion;
- D. call for public comment;
- E. close the public comment;
- F. call for final commission discussion; and
- G. call for a vote upon the motion.

It shall be within the presiding officer's discretion to vary from the above. A commission member(s) may call upon the presiding officer to vary the process as needed.

Sec. 2.02.060. Call to order.

The mayor, or in the mayor's absence, the acting chairman, shall take the chair precisely at the hour appointed for the meeting and shall immediately call the commission to order. Upon the arrival of the mayor, the acting chairman shall relinquish the chair upon the conclusion of the

agenda item immediately pending before the commission. The city clerk shall enter the names of those commissioners present in the minutes.

Sec. 2.02.070. Meetings.

A. *General/regular meetings.*

1. The city commission shall hold a regular meeting on the first and third Mondays of every month. The commission shall meet in regular session from 7:00 p.m. to no later than 10:00 p.m. in the City Commission Chambers, City Hall, 106 First Street East, or in an alternative location as duly noticed to the public. However, when the day affixed for any regular meeting of the commission falls upon a day designated by law as a legal or national holiday, such meeting may be scheduled at the same hour on the next succeeding Wednesday not a holiday or the meeting may be canceled by the commission.
2. The meeting may be extended beyond the time specified in subsection A.1 of this section by the mayor or a majority vote of the members of the commission should additional matters remain on the commission agenda.
3. Any meeting of the commission may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular or specially scheduled meeting.
4. The mayor may cancel a regular meeting if no business is scheduled for that meeting.

B. *Public hearings.*

1. Public hearings are meetings of the commission required to be held as a public hearing pursuant to law. The provisions of subsection A of this section apply to public hearings.
2. Unless prohibited by law, a public hearing may be rescheduled or adjourned to a later date and *time*.

C. *Executive sessions.* Executive sessions are meetings of the commission with the purpose to discuss litigation strategy, a matter of individual privacy, or other matters wherein a meeting may be closed pursuant to law and will be scheduled as needed. Although each executive session will commence as an open public meeting, executive sessions may be closed to the public pursuant to authority and limitations in MCA 2-3-201 et seq. An executive session may be called at any time during any meeting if authorized by law and as defined further hereafter.

D. *Work or policy sessions.* Work or policy sessions are meetings of the commission to review forthcoming issues of import to the city and programs of the city, receive progress reports on current programs or projects, view sites or community projects of interest, or receive other similar information from the city manager and staff. All discussions and conclusions thereon shall be informal and no final action may be taken, but the commission may give direction to staff regarding items to be scheduled for a future action. Work or policy sessions provide an informal setting for discussion of topics for which no formal action is immediately required. Although it is not legally required, the commission may in

its discretion, allow public comment during the work or policy session and such sessions may or may not be tape recorded in the discretion of the presiding officer . The commission work or policy sessions may be scheduled as needed and may be held during a regular meeting. The commission is not bound by Robert's Rules of Order during work or policy sessions.

- E. *Optional post mortem reviews.* Post mortem review is a review by the commission of a previous decision but is not a reconsideration of a previous item. Following action on any matter, the commission may request a post mortem review to be scheduled at a subsequent meeting to determine if revisions to code provisions or other procedural changes are needed to address concerns raised during consideration of the particular agenda item. The commission is not bound by Robert's Rules of Order during optional post mortem reviews.
- F. *Special meetings.* The mayor, any two members of the commission, or the city manager may call special meetings of the commission, upon at least 48 hours' notice to each member of the commission and give notice to the public by, at a minimum, posting an agenda on the city's website and at the City's posting site.
- G. *Emergency meetings.* In the event of an emergency situation, to be included but not limited to storm, fire, explosion, community disaster, insurrection, act of God, or other potential destruction or impairment of city property or business that affects the health and safety of the residents, employees or the functions of the city, a meeting may be convened by a majority of the commission directing the city manager to schedule a meeting without adhering to 48-hour time limit. The city clerk shall use reasonable efforts to inform the public of the emergency meeting.
- H. *Commission Committee meetings.* All meetings of commission committees shall be held upon at least 48 hours' notice to each member of the committee and notice shall be given to the public by posting notice of the meeting and the committee's agenda as stated above for special meetings.

Sec. 2.02.080. Order of presentation/public participation.

- A. Subject to the protocol established by Sec. 2.02.050(B), the order of presentation of public meeting agenda items presented to the commission shall be as follows:
  - 1. The city manager shall present an agenda item to the commission.
  - 2. The city staff may present a background report on the matter for discussion. Upon conclusion of a staff report, commissioners may ask questions of staff for the purposes of understanding and clarification.
  - 3. If applicable, comments from the applicant, or his agent, shall be heard by the commission. The applicant's presentation/testimony is limited, subject to the discretion of the presiding officer, to ten minutes.
  - 4. After being recognized by the presiding officer, a commissioner may direct questions to the staff or applicant.
  - 5. After being recognized by the presiding officer, a commissioner may direct questions to any person so testifying for purposes of clarification.
  - 6. Staff shall be given the opportunity to further comment on the issue.

7. The city clerk shall enter into the record all correspondence that has been received but was not yet provided to the commission.
  8. The commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain.
- B. The order of presentation of public hearing agenda items presented to the commission shall be as follows:
1. The city manager shall present an agenda item to the commission.
  2. The presiding officer will open the public hearing by pronouncement.
  3. The city staff may present a background report on the matter for discussion. Upon conclusion of a staff report, commissioners may ask questions of staff for the purposes of understanding and clarification.
  4. If applicable, comments from the applicant, or his agent, shall be heard by the commission. The applicant's presentation/testimony is limited, subject to the discretion of the presiding officer, to ten minutes.
  5. After being recognized by the presiding officer, a commissioner may direct questions to the staff or applicant.
  6. Members of the audience or their agents shall be invited to present testimony or evidence. To be recognized, each person desiring to give testimony or evidence shall step to the podium and, after being recognized, give their name and address or ward number for the record. The audience presentation/testimony is limited to three minutes per speaker. The presiding officer may lengthen or shorten the time allotted for public testimony.
  7. After being recognized by the presiding officer, a commissioner may direct questions to any person so testifying for purposes of clarification.
  8. Following public testimony, staff shall be given the opportunity to comment on any testimony or other evidence.
  9. Following staff comment, the applicant will be given the opportunity to rebut or comment on any testimony or other evidence. The applicant's comments and rebuttal are limited, subject to the discretion of the presiding officer, to five minutes.
  10. Following applicant rebuttal and any further questions, the presiding officer will close the hearing and bring the agenda item to the dais for discussion, motion and vote.
  11. The city clerk shall enter into the record all correspondence that has been received but was not yet provided to the commission.
  12. The commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain.
- C. All testimony and evidence shall be directed to the presiding officer. No person, other than a commissioner and the person recognized as having the floor shall be permitted to enter into the discussion. No questions shall be asked of a commissioner except through the presiding officer.
- D. The commission may ask staff for its recommendation.

- E. If a public hearing, in the event the applicant does not appear at the scheduled time and place, unless the applicant has waived the applicant's appearance in writing, and which waiver has been accepted by the commission, or unless the matter is submitted as a consent item, the matter shall be continued to the next available regular meeting, public hearing date, or other date certain.
- F. Commissioners are urged to state the reasons for their decisions, particularly on land use issues. The record must reflect findings regarding legal criteria for all quasi-judicial decisions.
- G. Witnesses may be required to testify under oath.
- H. The commission shall not be bound by the strict rules of evidence and may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or evidence.
- I. The presiding officer shall rule on all questions relating to the admissibility of evidence with advice from the city attorney, which ruling may be overruled by a majority vote of the commission.
- J. A public hearing which has been formally closed for all public input may not be reopened and no additional evidence or testimony from the public shall be received or considered except as provided herein. If additional information is required from the public before a decision can be made, the commission, upon motion duly made, seconded and passed, may call for an additional public hearing which hearing shall be noticed as required by law, specifying date, time place and subject matter of hearing. This subsection does not preclude the commission, after the public hearing, from asking questions of staff, receiving additional evidence from staff or, after a hearing held on a preliminary plat, pursuant to MCA 76-3-101 et seq., from consulting the subdivider about conditions or other mitigation required of the subdivider. Upon decision by the presiding officer or upon a duly adopted motion of the commission to reopen the public hearing prior to close of the agenda item in which the hearing was held, the requirement to provide public notice does not apply; the public hearing may be reopened and the additional input provided prior to a final decision on the item.

#### Sec. 2.02.090. Quorum and voting

A quorum shall consist of four commissioners. If a quorum is not present, those in attendance shall be named and shall adjourn to a later time. The city clerk or city manager shall reduce motions to writing and, upon request; the city clerk shall read the motion prior to the vote. The majority vote of a quorum shall be necessary to adopt or reject any motion, resolution or ordinance, or pass or fail any measure unless a greater number may be required by law. Upon every vote, the ayes and nays shall be called and recorded. A commissioner has an obligation to vote unless there is a conflict of interest.

#### Sec. 2.02.100. Rules of debate; reconsideration; conflict of interest.

- A. Every commissioner desiring to speak shall address the presiding officer, and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoiding all personalities and indecorous language.
- B. A commissioner, once recognized, shall not be interrupted when speaking unless the commissioner is to be called to order, or as herein otherwise provided. If a commissioner, while speaking, is called to order, the commissioner shall cease speaking until the question of order is determined, and, if in order, the commissioner shall be permitted to proceed.
- C. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
- D. Reconsideration of previous commission action. A motion to reconsider any action taken by the commission must be made on the day such action was taken. It must be made either immediately during the same session, or at a recessed and reconvened session thereof. Such motion shall be made by a commissioner of the prevailing side, but may be seconded by any commissioner, and may be made at any time and have precedence over all other motions or while a commissioner has the floor. It shall be debatable. Nothing herein shall be construed to prevent any commissioner from making or remaking the same or any other motion at a subsequent meeting of the commission, but the matter must be duly scheduled as an agenda item.
- E. Conflict of interest. A commissioner may rely upon the advice of the city attorney as to whether the commissioner has a conflict of interest pursuant to law. If the commissioner is advised there is a conflict of interest, the commissioner shall recuse himself or herself, step off the dais, and refrain from discussion and vote except when the commissioner's participation is necessary to obtain a quorum or otherwise enable the commission to act. In such a case, the commissioner shall disclose the interest creating the appearance of impropriety and comply with the disclosure requirements of MCA 2-2-101 et seq., prior to performing the official act.
- F. After a motion, duly made and seconded, by the commission, no person shall address the commission without first securing the permission of the presiding officer.

Sec. 2.02.110. Open meetings and email.

- A. Except for properly called executive sessions as permitted by state law, all meetings of the city commission shall be open to the public and media, freely subject to recording by radio, video, television and photography at any time, provided that such arrangements do not interfere with safety and the orderly conduct of the meetings.
- B. A majority of the commission shall not conduct synchronized email discussions involving a matter over which the commission has supervision, control, jurisdiction, or advisory power. Synchronized email discussions are email exchanges among three or more commissioners within minutes of each other that create the quality of simultaneity similar to instant messaging or chat room

discussions. Such discussions are characterized as an active exchange of information rather than the passive receipt of information. An example of synchronized email discussion would be three commissioners sitting at their computers and instantly exchanging emails concerning city business, whereas a passive receipt of information is where a commissioner receives an email and responds in the normal course of time similar to responding by letter received in the mail. The commission shall not view emails or other electronic communication mechanisms concerning any matter on the agenda during a city commission meeting unless the submission is part of a specifically approved and adopted electronic public testimony program. Electronic communication mechanisms include text messaging or any other emerging technology that violates the spirit of open meeting laws. This does not preclude viewing emails or electronic communication mechanisms that were received prior to the commission meeting. Emails received by commissioners concerning an agenda item shall be forwarded to the city clerk and retained in accordance with the city's retention policy.

Sec. 2.02.120. Decorum.

- A. While the commission is in a session, the commissioners must preserve order and decorum, and a commissioner shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the commission nor disturb any member while speaking or refuse to obey the orders of the commission or its presiding officer.
- B. Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the commission may be barred from further audience with the commission by the presiding officer, unless permission to continue be granted by a majority vote of the commission.
- C. The commission shall not debate, in a heated or argumentative manner, with a member of the public or another member of the commission or staff while participating in the presentation at a meeting.
- D. Speakers shall only address the agenda item before the commission. Any person speaking on an agenda item not before the commission may be called out of order.

Sec. 2.02.130. Recording of meetings and minutes.

- A. Minutes of all meetings shall be recorded. All meetings of the commission shall be electronically recorded and the recording shall constitute the official record of the commission meeting. The city clerk shall prepare a summary of all meetings from the recording to be known as the "action minutes" which shall be maintained by the clerk and approved by the commission. Prior to adjournment, the presiding officer, or upon motion and approval by the commission instruct the clerk to prepare complete minutes of any agenda item(s). It shall not be necessary to formally read the minutes prior to approval. Such minutes may be revised by the city clerk to correct spelling, numbering and other technical defects. The audio or video recording may not be amended.

- B. Executive session minutes. The city manager shall prepare minutes for all executive meetings. The commission shall approve the minutes of an executive session in open session thereafter; provided, however, that any discussion concerning the contents of the minutes, prior to approval, shall be conducted in executive session. The city clerk will distribute the draft executive session minutes to the commission in a manner that ensures and retains confidentiality. All copies of the minutes shall be collected by the city manager to ensure confidentiality.

Sec. 2.02.140. Ordinances and resolutions; requirements.

- A. Each proposed ordinance or resolution shall be introduced in writing and shall not contain more than one comprehensive subject, which shall be clearly stated in its title, except ordinances for the codification and revision of ordinances and general appropriation ordinances which may contain the various subjects and accounts for which monies are to be appropriated. An ordinance must be adopted at two meetings of the commission not less than 12 days apart. Every ordinance or resolution passed by the commission shall be filed immediately with the city clerk. The enacting clause of all ordinances passed by the city commission shall be: "**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY POLSON.**"
- B. All ordinances shall be in effect from, and after, 30 days from the date of their passage by the commission, except as otherwise provided by law. All resolutions are immediately effective unless a delayed effective date is specified in the resolution.
- C. The commission may, by an affirmative vote of five-sevenths of its members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health, or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto.
- D. Every ordinance or resolution passed by the commission shall be signed by the mayor and filed by the city clerk.
- E. After a resolution is adopted, an ordinance is provisionally adopted, or an ordinance is finally adopted, the city clerk shall make a copy available to the public through the city's website.

Sec. 2.02.150. Salaries for mayor and commissioners.

The salary of each commissioner shall be established by ordinance.

Sec. 2.02.160. Standing boards, commissions, agencies and committees.

- A. In addition to boards, agencies, committees, and commissions established by law, the commission may create other standing or ad hoc boards, commissions, agencies, or committees as determined necessary for the conduct of the city's business.

- B. All boards, commissions and agencies of the city will be established by the commission and members thereof, appointed following a public solicitation. Between public solicitations for members, appointments may be made to fill unexpected vacancies or vacancies not filled through the last round of advertisements from those applications on file as of the date of appointment. Subcommittees of existing boards, commissions or committees may be appointed by the city commission without the necessity of public solicitation. Members shall be appointed by a majority of the commission for all appointments made by the city commission. In the case of statutorily authorized mayoral appointments, the mayor shall seek the concurrence of at least two other commissioners.
- C. The authority to vote despite a conflict included in section 2.02.100.E shall not apply to any appointed board, commission, agency, or committee.
- D. All quasi-judicial boards shall have governing rules of procedure to be approved by the commission, and said rules shall be in substantial conformance with law and this article.

Secs. 2.02.170-2.02.199. Reserved

## **ARTICLE 3. OFFICERS AND EMPLOYEES**

### **DIVISION 1. GENERALLY**

#### **DIVISION 2. CITY MANAGER**

#### **DIVISION 3. CITY CLERK**

#### **DIVISION 4. CITY ATTORNEY**

### **DIVISION 1. GENERALLY**

Secs. 2.03.100-2.03.199. Reserved.

Secs. 2.03.100-2.03.199. Reserved.

### **DIVISION 2. CITY MANAGER**

Sec. 2.03.200. Appointment: powers and duties.

Sec. 2.03.210. Compensation: oath of office.

Sec. 2.03.220. Assistant city manager.

Secs. 2.03.230-2.03.299. Reserved.

Sec. 2.03.200. Appointment; powers and duties.

The city adheres to the commissioner-manager form of government, combining the political leadership of the mayor and commission with the professional management capabilities of the city manager. The city manager, oversees the city's day-to-day operations as chief executive officer of its departments and its employees.

The commission shall appoint a city manager by written contract, who shall be the administrative head of the city government and be responsible for the efficient administration of all its departments. The city manager shall hold office at the will of the commission for a period

of no greater than two years unless specifically extended or renewed by a majority vote of the city commission.

Generally, the manager prepares and executes the annual budget; implements the council's policy decisions; guides the delivery of services to the community; provides vision and leadership to the organization; oversees enforcement of all city ordinances, resolutions, contracts, rules, and regulations and hires, recruits, and supervises municipal employees. In addition the manager shall perform the following:

A. Duties. The manager shall:

1. Enforce laws, the city charter, and resolutions;
2. Perform the duties required by the city charter, ordinance, or resolution;
3. Administer the affairs of the city government;
4. Direct, supervise, and administer all departments, agencies, and offices of the city except as otherwise provided by law, the city charter or ordinance;
5. Carry out policies established by the commission;
6. Prepare the commission agenda;
7. Recommend measures to the commission;
8. Report to the commission on the affairs and financial condition of the city government;
9. Execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
10. Report to the commission as the commission may require;
11. Attend commission meetings and may take part in the discussion, but may not vote;
12. Prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
13. Appoint, suspend, and remove all employees of the city except as otherwise provided by law or ordinance; and
14. Appoint members of temporary advisory committees established by the manager.

B. Direct Supervision. The City Manager is responsible, through his office, to directly supervise the management personnel of the city and manage finance, human resources, and facilities.

C. Administrative Duties. Employees appointed by the city manager and their subordinates shall be administratively responsible to the city manager. Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any subordinates are empowered to appoint. Except for the purpose of inquiry or investigation under the city charter, the commission or its members shall deal with the city employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to any such employees, either publicly or privately. The city manager is authorized to promulgate administrative orders within the areas of powers and duties conferred by the Charter and this Code.

Sec. 2.03.210. Compensation; oath of office.

The city manager shall receive such salary as may be fixed by the commission. Before entering upon the duties of office, the city manager shall take and subscribe to the oath of office, and such oath shall be filed with the clerk thereof.

Sec. 2.03.220. Assistant city manager.

In the absence of the city manager, the city manager shall appoint an assistant city manager who shall serve as acting city manager. The assistant city manager shall perform such other duties by direction of the city manager or as required by law.

Secs. 2.03.230-2.03.299. Reserved.

### **DIVISION 3. CITY CLERK**

Sec. 2.03.300. Appointment: powers and duties.

Sec. 2.03.310. Oath.

Secs. 2.03.330-2.03.399. Reserved.

Sec. 2.03.300. Appointment; powers and duties.

- A. The city clerk shall be appointed by the city manager and shall serve until removed by the city manager, or until a successor is appointed and qualified.
- B. Powers and duties of the city clerk shall include:
  - 1. Attend all meetings of the commission and record and sign the proceedings thereof.
  - 2. Keep records of the commission. Maintain and preserve the minutes and records of the proceedings of the commission in accordance with state statutes, ordinances and resolutions.
  - 3. Enter into a book all ordinances and resolutions passed and adopted by the commission and be the legal custodian of the same.
  - 4. Maintain all contracts passed, adopted or entered into by the city.
  - 5. Countersign and cause to be posted or published, as provided by state statute, all ordinances or resolutions adopted by the commission.
  - 6. Publish all legal notices as required by state statute or ordinance.
  - 7. Take and administer oaths.
  - 8. Make and certify copies of all records, books and papers in the possession of the office.
  - 9. Make and keep a complete index of the minutes, ordinances and resolutions on file in the office.
  - 10. Post meeting notices. Cause notices of special meetings of the city commission to be posted in accordance with state statutes, ordinances or resolutions.
  - 11. Maintain the city seal. Have custody of the seal of the city and affix it to such documents as may be required and authorized pursuant to law.
  - 12. Records manager. Serve as the city's records manager, ensuring that all records of the city are retained and maintained in accordance with state statutes and adopted records retention schedules.
  - 13. Perform such other duties as may be required by ordinance or resolution or by order of the city manager.

C. The city clerk shall receive such salary as may be fixed by the city manager.

Sec. 2.03.310. Oath.

Before entering upon the duties of the office, the city clerk shall take and subscribe to the oath of office.

Secs. 2.03.330-2.03.450. Reserved.

#### **DIVISION 4. CITY ATTORNEY**

Sec. 2.03.400. Appointment: powers and duties.

Secs. 2.03.410-2.03.499. Reserved.

Sec. 2.03.400. Appointment: powers and duties.

There shall be a chief legal officer of the city, who shall be called the city attorney. The city attorney shall be appointed by the city manager with the consent of the commission. The city attorney shall serve as legal advisor to the city commission, the city manager, and all city departments, offices and agencies. The city attorney shall be appointed by written contract that specifies the duties and responsibilities, conditions of employment and compensation. Such contract shall not exceed two years in duration unless extended or renewed by the commission. The city attorney shall be supervised by the city manager and shall have the status of a department head, except that he or she may not be removed or suspended by the city manager without the consent of the commission.

Secs. 2.03.410-2.03.499. Reserved.