

ORDINANCE NO. 621

AN ORDINANCE TO AMEND THE POLSON MUNICIPAL CODE IN SEVERAL CHAPTERS TO PROVIDE FOR A SCHEME FOR ENFORCEMENT OF CIVIL INFRACTIONS :

Whereas, the Montana legislature, in its 2005 session, amended Section 7-1-4150(3)(a) of the Montana Code to provide that municipalities may pass an ordinance to provide for civil infractions in the case of criminal offenses under state law that are punishable only by a fine; and,

Whereas, the City of Polson finds that it is necessary and proper to amend certain portions of the Polson Municipal Code to provide for such civil infraction, and to provide for the proper administration thereof; and,

Whereas, the City of Polson takes due note of Sections 46-18-236, 3-1-318, 3-1-317, 61-8-303, 61-8-725, 61-8-104, and 61-8-711, of the Montana Code providing for surcharges in certain cases, and intends by the terms of this ordinance to comply with the mandatory terms thereof

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:

1. Chapter 10.02.030 is amended as follows: “except in the case of violation of posted speed limits which shall be a civil infraction,” is inserted prior to, “and upon conviction, shall be punished as hereinafter provided in this title.”
2. Chapter 10.02.040 is amended as follows: “In the case of civil infractions, fines and surcharges shall be imposed as further provided in this Chapter.”
3. Chapter 10.04.010 is amended as follows: “(F) “Civil infraction” means a misdemeanor traffic offense which under state law would be punishable only by a fine.”
4. Chapter 10.04.020 (A) is amended in to include:
“(J) An officer authorized under subpart (A) hereof to enforce a municipal code or regulation may issue a civil citation to a person who commits a civil infraction. The citation may be served personally, by certified mail addressed to the defendant at the defendant’s last known mailing address, return receipt requested, or by publication as provided in Rule 4D(5), M.R.Civ.P. A copy of the citation must be retained by the issuing officer and one copy must be sent to the clerk of the city court. The citation must serve as notification that a municipal infraction has been committed and must state the following information,
 - a. the name and address of the defendant;
 - b. the name or description of the infraction, attested to by the officer issuing the citation;
 - c. the location and time of the infraction;
 - d. the amount of civil penalty to be assessed or the alternate relief sought, or both;
 - e. the manner, location, and time in which the penalty may be paid;
 - f. the time and place of court appearance; and,
 - g. the penalty for failure to appear in court. In such case, the penalty for failure to appear shall constitute an additional civil infraction for which a assessment of an additional \$50.00 shall be imposed.”
5. Chapter 10.04.160 is inserted, as follows:
“10.04.160 Penalties and Surcharges for Civil Infractions – Speeding (A) A person violating the provisions of Chapter 10.04.040 hereof, Speed Regulations, shall receive a citation for a civil infraction. The penalty shall be assessed as follows:

Amount of Fine	MPH in excess of Speed Limit (Day or Night)
\$ 50	1 – 20
\$ 100	21 – 30
\$ 150	31 +

(B) For a second conviction within one year the fines herein shall be doubled.

© No surcharges provided at 3-1-317, 318, or at 46-18-236 of the Montana Codes are due or to be paid by any offender charged hereunder.

(D) A violation of the speed regulation provisions of the Polson Municipal Code is a not a criminal offense within the meaning of 3-1-317, 45-2-101, 46-18-236, 61-8-104, or 61-8-711, and may not be recorded or charged against a driver's record, unless the person charged holds a commercial drivers license regardless of whether or not the violation occurred while the person was operating a commercial vehicle."

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: May 15, 2006

SECOND READING: June 5, 2006

NOW, THEREFORE, the foregoing Ordinance shall become effective on July 5, 2006.

PASSED AND ADOPTED THIS fifth day of June, 2006.

CITY OF POLSON

Randy Ingram, Mayor

ATTEST:

Aggi Loeser, City Clerk