

ORDINANCE # 640

AN ORDINANCE IMPLEMENTING USER FEE SCHEDULE FOR BUILDING AND PLANNING DEPARTMENT AND OTHER CITY DEPARTMENTS.

WHEREAS, pursuant to the laws of the State of Montana, the several departments of the City of Polson provides to individual members of the public information upon a request therefore; and,

WHEREAS, the City Council recognizes that providing such service on an individual basis has a cost to the general public, represented by the time and attention of one or more staff members, as well as wear and tear on equipment and facilities and the cost of media; and,

WHEREAS, certain activities in the Polson Building and Planning Department have costs associated with the requests for service of several functions administered thereat, which Department undertakes numerous tasks of benefit or utility to the users thereof, alone; and,

WHEREAS, the City Council bears firmly in mind the rights of participation and the rights to know set forth in the Montana Constitution of 1972, at Article II, Section 8 and 9 thereof, together with the Legislature's guidance provided at Title 2, Chapter 6 of the Montana Codes; and,

WHEREAS, the City Council defines herewith that a user fee is a fee that is designed to provide direct benefits for those who pay the fee or assessment in an amount commensurate with the benefits provided; and,

WHEREAS, the City Council finds that the fee schedule set forth in Exhibit A hereto reflects the true cost to the City for each fee or assessment therein recited, which unless assessed against the individual making the request for information or service would otherwise be borne by the public as a whole, and that the schedule of fees and assessments provide a direct benefit to the users thereof commensurate with the benefits provided; and,

WHEREAS, public hearing upon notice as required by the Charter of the City of Polson was held, and the City Council has taken into account the comments of the public and exercised due consideration.

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

1. The foregoing Recitals are not mere recitals but are part and parcel of this Ordinance.
2. The public records in the care and custody of the City of Polson are open to the inspection of the public, and copying if requested, upon paying the legal fee therefore.
3. The schedule of fees to be imposed for the several user services and public records requests shall be as set forth in Exhibit A hereto.
4. Records and materials that are constitutionally protected from disclosure for reasons of privacy are not subject to the provisions of this Ordinance. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, and matters related to individual or public safety, and includes Confidential Criminal Justice Information as defined in law.
5. Criminal Justice Information that is not confidential and may be accessed by the public includes certain accident reports, police case reports, at \$5.00 per copy and \$0.25 per page, or archived information, at \$30.00 per copy and \$0.25 per page.
6. The several Departments shall collect the initial fee upon application for the service or public record, subject to any additional fees that may accrue pursuant to this ordinance upon completion thereof.
7. It is the intent of the Council that public records requests can be met within three working days.
8. No fee will be assessed against enrolled students engaged in bona fide academic research.

9. Users of public records request by telephone, facsimile, or email will be provided a public records request form and apprized of the fee payable therefore prior to the provision of such public records, information, or copies.
10. The fees collected pursuant to this ordinance shall be deposited to the account of the Department charging and collecting the fees and not in the general fund.

All Resolutions or Ordinances or parts thereof in conflict herewith are hereby repealed to the extent of any such conflict.

PASSED AND APPROVED this 15th day of December, 2008.

Lou Marchello, Mayor

ATTEST:

Aggi Loeser, City Clerk

STATE OF MONTANA)
 :SS.
County of Lake)

On this ____ day of December, 2008, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Lou Marchello** and **Aggi Loeser**, personally known to me to be the Mayor and the City Clerk of the City of Polson, Montana, the Municipal Corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

Notary Public for the State of Montana
Residing at _____ Montana
My Commission expires: