

**ORDINANCE NO. 554**

**AN ORDINANCE TO REGULATE, CONTROL AND PROHIBIT CONDITIONS THAT CONTRIBUTE TO COMMUNITY DECAY ON OR ADJACENT TO ALL PUBLIC STREETS WITHIN THE CITY OF POLSON.**

WHEREAS, The City of Polson has authority to adopt ordinances as provided for in 7-1-4123 M.C.A. to promote the general public health and welfare; and

WHEREAS, in this ordinance, the following terms have the meanings indicated below:

“Community decay” means a public nuisance created by allowing rubble, debris, junk or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life of property; provided, however, that “community decay” may not be construed or defined to apply to normal farming, ranching or other agricultural facility, and any appurtenances thereof, during the course of its normal operation.

“In public view” means any area visible from a point up to six feet above the surface of the center of any public roadway, publicly accessible roadway or private road in platted subdivisions and mobile home parks.

“Person” means an individual, firm, partnership, company, association, corporation, city, town, country, or any other entity whether organized for profit or not.

“Public nuisance” means a nuisance which affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

“Shielding” refers to fencing or other manmade barriers to conceal a facility from public view. It also refers to natural barriers.

WHEREAS, no person shall maintain a public nuisance by allowing rubble, debris, junk or refuse to accumulate on property owned by him, or under his control, resulting in conditions that are injurious to health, indecent, offensive to the senses or obstructive of the free use of property so as to interfere with the comfortable enjoyment of life.

WHEREAS, a person convicted of the offense of maintaining a public nuisance under this Ordinance is guilty of a misdemeanor punishable by a fine not to exceed \$500 or imprisonment not to exceed six months, or by both fine and imprisonment.

WHEREAS, the abatement of conditions which constitute a public nuisance prohibited by this Ordinance shall be accomplished under the provisions of this section.

- A. The City of Polson Police Chief or his designee(s) shall be responsible for initiating abatement proceedings.
- B. When the Police Chief receives a complaint that a condition of community decay exists, he, or his agent, shall inspect the property alleged to be in violation of this Ordinance to determine whether there is a violation of this Ordinance.
- C. If he determines that there is a violation of this Ordinance, the Police Chief shall notify the owner of the property in writing of the violation by certified mail and order its abatement within thirty (30) days. The notice of violation shall:
  - 1. Include a statement specifically describing the violation;
  - 2. Specify that the owner has thirty (30) days from receipt of such notice to bring the property into compliance with this Ordinance by means or removal or shielding of the conditions; and
  - 3. Advise the owner that if the violation is not abated, the City may undertake abatement and assess the costs of that abatement to the owner.

- D. The owner may, after receipt of the notice of violation, submit a plan of abatement to the Police Chief which shall include:
1. The type of abatement or shielding to be undertaken;
  2. The date for commencement of action; and
  3. The date for completion of the abatement.

The Police Chief may accept such plan and defer further proceedings under this Ordinance pending the date of completion of the abatement.

- E. In the alternative, the owner may, within fourteen (14) days of the date of issuance of the order, appeal the abatement order to the City Council of the City of Polson. Upon receipt of a timely notice of appeal, the Council shall schedule a hearing within twenty (20) days, but may postpone that hearing at the request of either party. Following the hearing, the Council may either:
1. Determine that a violation exists and order abatement within thirty (30) days; or
  2. Determine that no violation exists and dismiss the proceedings.
- F. In the event that the owner fails to comply with an abatement order, or an abatement plan approved by the Police Chief under Section C hereof, the Police Chief and/or his agents(s) may enter upon the owner's property with the specific purpose of abating or shielding the violation, which ever the Police Chief deems appropriate;
1. The City may assess the property owner/user for the actual costs of the abatement by the Police Chief.
  2. If the assessment is not paid, it shall become a lien upon the property and enforced as is nonpayment of property taxes.

WHEREAS, the maintenance of materials that would be considered a public nuisance under this Ordinance shall be lawful if such materials are shielded from public view in accordance with the following standards:

- A. Any shielding must conform to all local zoning, planning, building and protective covenant provisions and shall be of sufficient height that none of the violation on the premises is visible to public view.
- B. When fences are used for shielding, the boards may be spaced and/or slanted to reduce wind load, the space between boards when viewed from a broadside view shall not be more than one and one-half (1 ½) inches and the interval between spaces shall not be less than seven and one-half (7 ½) inches. Rough dimensional lumber or better is acceptable. Chain link fencing with standard fiber-glass or other inserts are acceptable, provided the gap between adjacent slats does not exceed one and one-half (1 ½) inches. The fencing is to be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.
- C. Shielding with shrubs and trees shall provide a degree of shielding similar to that produced by fencing at all times of the year. Direct berms are acceptable for shielding proposed, provided the berm slopes are graded smooth and seeded with an adequate grass seed formula.
- D. Other types of fencing of equivalent permanence, attractiveness and shielding qualities, including corrugated metal, are also acceptable.
- E. Not more than one of the approved shielding materials shall be used on any one side of a shielding fence.

WHEREAS, this Ordinance applies to all of the city limits of the City of Polson.

**NOW, THEREFORE, BE IT ORDAINED:**

- Section 1. That the City of Polson is committed to the abatement of public nuisances and community decay as is hereinabove defined.
- Section 2. That public nuisances and community decay shall be addressed in the form and manner set forth in the recitals hereto.
- Section 3. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

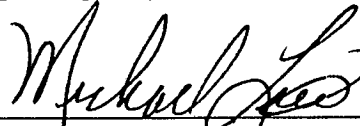
**FIRST READING:** October 5, 1998

**SECOND READING:** October 19, 1998

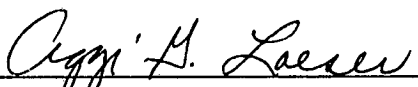
**NOW THEREFORE,** it is resolved that the subject Ordinance shall become effective on November 19, \_\_\_\_\_, 1998.

**PASSED AND ADOPTED THIS** October 19, 1998 \_\_\_\_\_.

CITY OF POLSON

  
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 Michael Lies, Mayor

ATTEST:

  
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 Aggi Loeser, City Clerk