

**ORDINANCE NO. 565**

**AN EMERGENCY ORDINANCE TO ADOPT REGULATIONS AND PROCEDURES GOVERNING SIDEWALK DISPLAYS IN THE CITY OF POLSON**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA**

**WHEREAS**, this Ordinance is denominated an emergency ordinance which will be adopted upon passage; and,

**WHEREAS**, the City desires a temporary scheme of regulation, administration, and permitting governing sidewalk displays by merchants and others within the City limits of the City of Polson, all as set forth in Exhibits A and C hereto; and,

**WHEREAS**, this Ordinance shall supersede the terms now set forth at Section 12.02.250 and 12.02.260 of the Municipal Code.

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

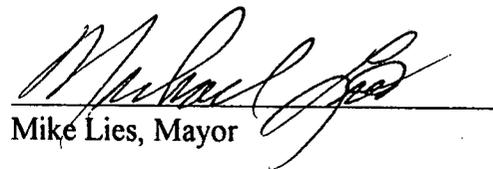
- Section 1. The foregoing are not recitals but are a part of this ordinance.
- Section 2. Exhibit A hereto is adopted wholly in the place and stead of the existing Municipal Code Section 12.02.250 and 12.02.260, deleting the existing terms of Section 12.02.260 in their entirety.
- Section 3. Exhibit C is adopted as the form of permit to be used by official of the City of Polson in administering the terms of Section 12.02.250.
- Section 4. All other code Sections or parts of Sections in conflict herewith are, to the extent of conflict, repealed.

**REPEALING CLAUSE:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**NOW THEREFORE**, it is resolved that the subject emergency Ordinance shall become effective on the 19<sup>th</sup> day of July, 1999.

**PASSED AND ADOPTED THIS** 19<sup>th</sup> day of July, 1999.

CITY OF POLSON

  
Mike Lies, Mayor

ATTEST:

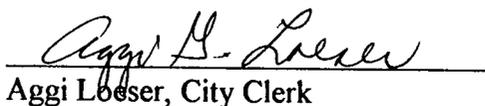
  
Aggi Loeser, City Clerk

EXHIBIT "A"

Section 12.02.250 REWODED THIS SECTION WITH NEW CONDITIONS

Permits and conditions of sidewalk displays.

Sidewalk displays shall be allowed to be placed on or above the sidewalks in the area from First Avenue to Fifth Avenue and First Street West to Second Street East subject to the following requirements:

1. The applicant must receive City Council approval
2. The location shall have a sidewalk with a minimum width of ten (10) feet.
3. The permit shall be valid for one year (April 1<sup>st</sup> to March 31<sup>st</sup>), and must be renewed annually.
4. A sketch must be provided that depicts the size and location of the requested item(s) within the City right-of-way.
5. This revocable permit is non-transferable and good for the listed item(s), business and address on the permit application.
6. The City of Polson reserves the right not to renew permits.
7. The owner must secure and furnish a certificate of liability insurance, with coverage of \$1,000,000 per occurrence naming the City of Polson as additionally insured.
8. A minimum five (5) foot sidewalk aisle shall be maintained for pedestrian travel at all times.
9. The item(s) shall be placed so as not to impede pedestrian traffic and/or safety.
10. This permit is specific to the right-of-way in front of the business applying for the permit.
11. The owner shall obey all state and local statutes and ordinances that are applicable to the encroachment.
12. The permittee shall indemnify the city against any and all liability, loss or damage that the city may suffer as a result of claims, demands, costs or judgements resulting from the item(s) in the public right-of-way. (Exhibit "C")

Section 12.02.260 DELETED THIS ENTIRE SECTION

Section 12.02.270 Termination of any approval THIS SECTION WILL STAY WITH NO CORRECTIONS

INCLUDE COPY OF RIGHT-OF-WAY ENCROACHMENT REVOCABLE PERMIT

EXHIBIT "C" (1 of 2)

It is expressly understood and agreed that the undersigned agrees to maintain and leave all facilities in a clean, safe, and sanitary manner, at no cost to the City of Polson, and shall comply with all ordinances, conditions, statutes and regulations applicable thereto. Failure to do so will result in the undersigned paying all costs incurred by the City of Polson to return the premises to it's original condition.

**THE CITY OF POLSON RESERVES THE RIGHT TO REVOKE OR TERMINATE THIS PERMIT AT ANY TIME BY GIVING 30 DAYS WRITTEN NOTICE OF SUCH REVOCATION OR TERMINATION, EXCEPT THAT THE CITY MAY, AT ITS ELECTION, REVOKE OR TERMINATE THE PERMIT AT ANY TIME WITHOUT GIVING ANY NOTICE IF THE OWNER FAILS TO COMPLY WITH OR ABIDE BY EACH AND ALL OF THE PROVISIONS OF THIS PERMIT.**

Further, the undersigned acknowledges that this special permit is active for the specified dates and times noted under the general conditions, and that the permit is nontransferable.

BY \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF MONTANA )  
 ) ss.  
County of Lake )

On this \_\_\_\_\_ day of \_\_\_\_\_, 199 \_\_, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_,

Known to me to be the person(s) whose name(s) are subscribed to the above instrument and acknowledged to me that they executed the same.

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

\_\_\_\_\_  
Notary Public for the State of Montana

Residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

PERMIT APPROVED ON THIS \_\_\_\_\_ OF \_\_\_\_\_, 199 \_\_.

PERMIT EXPIRES ON THE 31<sup>st</sup> DAY OF MARCH, 199 \_\_.

**THE CITY OF POLSON**

BY \_\_\_\_\_  
MAYOR OF POSLON

**CITY OF POLSON  
PUBLIC RIGHT-OF-WAY ENCROACHMENT  
REVOCABLE PERMIT**

New ( ) Renew ( )

Name of Applicant(s): \_\_\_\_\_

Name of Owner: \_\_\_\_\_

Name of Business: \_\_\_\_\_

Location Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**GENERAL CONDITIONS:**

1. The applicant must receive City Council approval
2. The location shall have a sidewalk with a minimum width of ten (10) feet.
3. This permit shall be valid for one year (April 1<sup>st</sup> to March 31<sup>st</sup>), and must be renewed annually.
4. A sketch must be provided that depicts the size and location of the requested item(s) within the right-of-way
5. This revocable permit is non-transferable and good for the listed item(s), business and address on the permit application
6. The City of Polson reserves the right not to renew permits
7. The owner must secure and furnish a certificate of liability insurance, with coverage of \$1,000,000 per occurrence naming the City of Polson as additionally insured
8. A minimum five-foot sidewalk aisle shall be maintained for pedestrian travel at all times
9. The item(s) shall be placed so as not to impede pedestrian traffic and/or safety
10. This permit is specific to the right-of-way in front of the business applying for the permit
11. The owner shall obey all state and local statutes and ordinances that are applicable to the encroachment.
12. The permittee shall indemnify the city against any and all liability, loss or damage that the city may suffer as a result of claims, demands, costs or judgements resulting from the item(s) in the public right-of-way.

**CHECK APPROPRIATE BOX(S) FOR PERMITTED USE(S) THAT ARE BEING REQUESTED:**

<input type="checkbox"/>	SIDEWALK SIGNAGE
<input type="checkbox"/>	SIDEWALK BENCH(S)
<input type="checkbox"/>	SIDEWALK BICYCLE RACK(S)
<input type="checkbox"/>	SIDEWALK DISPLAY(S)
<input type="checkbox"/>	SIDEWALK PLANTER(S) AND/OR TRASH RECEPTICLES
<input type="checkbox"/>	OTHER - ATTACH EXPLANATION AND SKETCH TO PERMIT