

ORDINANCE 610

AN ORDINANCE AMENDING THE POLSON MUNICIPAL CODE TO INCLUDE PROVISIONS GOVERNING EXPECTED STANDARDS OF CONDUCT IN OFFICE AND EMPLOYMENT, CREATING CHAPTER 2.49 ENTITLED "CODE OF ETHICS"

WHEREAS, the City Council of the City of Polson has determined that it would be beneficial for the City to adopt an explicit code of expected standards of conduct of officers and employees of the Polson city government; and,

WHEREAS, the City Council desires to amend the Polson Municipal Code to include such provisions:

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

1. The Polson Municipal Code is amended to include the following provisions:

“Chapter 2.49 CODE OF ETHICS

Sections:

- 2.49.010 Purpose.
- 2.49.020 Organizational Responsibility
- 2.49.030 Definitions.
- 2.49.040 Just and equitable treatment.
- 2.49.050 Campaign activities.
- 2.49.060 Gifts and Things of Value.
- 2.49.070 Conflicts of Interest.
- 2.49.080 Prior employment.
- 2.49.090 Contemporaneous employment.
- 2.49.100 Subsequent employment.
- 2.49.110 New employee training.
- 2.49.120 Ethics Advisory Committee
- 2.49.130 Violation of ordinance.

2.49.010 Purpose.

It is the intent of the City of Polson to establish a code of ethics. This code protects and encourages impartial and independent judgment ensuring that the private conduct and financial interests of public officers, officials and employees do not present a real conflict of interest in their responsibilities to serve the public.

The Code establishes minimum standards of conduct and is designed to assist public officers, officials and employees in understanding their obligations. This Code of Ethics applies to all officers, officials and city employees, whether full-time, part-time, seasonal or temporary.

Public confidence in government is essential and the City can help sustain it by establishing and enforcing rules to assure the impartiality and honesty of officials and employees in all public transactions and decisions. Each affected agency of city government should inform its employees of the provisions of this chapter and strive to effectively enforce its requirements by seeking appropriate assistance from the City Attorney, Mayor’s office or Personnel office.

2.49.020 Organizational Responsibility

The administrative and legislative affairs of the city shall be conducted in a manner free from influences and/or activities that compromise the integrity of the process. Services and goods procured by and for the city shall be done so in a fair and unbiased manner.

2.49.030 Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this ordinance shall be as follows:

1. *Department* shall mean and include all divisions, agencies, offices, departments, boards and commissions, authorities or committees of the city.
2. *Employee* shall mean and include any person in the employ of the city or of any agency or department thereof, whether receiving compensation or not.
3. *Gift* shall mean any benefit, favor, service, privilege, or thing of value, which could be interpreted as influencing an employee's impartiality. Gifts include, but are not limited to: trips, money, merchandise, foodstuffs, and tickets to sports, civic or cultural events; services or work provided by City suppliers and offers of future employment from City suppliers. Gifts do not include items that would not ordinarily be interpreted as affecting an employee's impartiality; such as an occasional business lunch, potted plants or flowers, boxes of candy for office personnel, "gimme caps" or advertising office supplies, such as pencils, calendars, or pens, or other token gifts of small value.
4. *Immediate and direct official action* shall mean any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.
5. *Officer* shall mean and include any person in the service or employ of the city whose office is set forth in the City of Polson Employee Handbook Personnel Policy Manual. .
6. *Official* shall mean and include any person who individually, or collectively with others, employs the employees or controls the personnel of any group of employees defined by subsection (1) hereof to be a department, together with any person who individually or collectively with others constitutes a "department" as so defined regardless of whether the person is technically deemed an "officer" or "employee" of the city.
7. *Substantial conflict of interest* shall mean a situation, which is likely to affect the judgment or actions of an officer, official, or employee in the performance of duties as such officer, official, or employee.
8. *Financial Interest* shall mean any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than duly authorized salary or compensation for services to the City) to the employee or any other person retaining the services of the officer, official or employee.

249.040 Just and equitable treatment

A. **Use of Public Property.** No officer, official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property or the expenditure of city funds for personal convenience or profit unless authorized by other agreement. Use or expenditure is to be restricted to such services as are available to the public generally or for such employee in the conduct of official business. Administrative Rule # 11 specifically addresses employees' use of city-owned vehicles in the course of their work.

B. **Obligations to Citizens.** No officer, official or employee shall grant any special consideration, treatment or advantage beyond that which is available to every other citizen.

C. Except as authorized by law and in the course of his or her official duties, no officer, official or employee shall use the power or authority of his or her office or position with the city in a manner intended to induce or coerce any other person to provide such officer, official or employee or any other person with any compensation, gift, or other thing of value directly or indirectly.

D. No officer, official or employee may ask for or receive, directly or indirectly, any compensation, gift, or thing of value, or promise thereof, for performing or for omitting or deferring the performance of any official duty, or action by the city other than the compensation, costs or fees provided by law.

2.49.050 Campaign activities

City employees are encouraged to participate in the political process on their own time, with their own personal resources, and outside of the workplace by working on campaigns for the election of any person to any office or for the promotion of or opposition to any ballot proposition. Employees shall not use or authorize the use of the

facility of the City of Polson for such purposes except as authorized by law. See subsection 2 –2-121 (3) MCA which applies to public officers, officials and employees. City employees may provide neutral, objective, and factual data regarding campaign related issues or individuals.

2.49.060 Gifts and Things of Value

Officers, officials and employees may not accept gifts or other things of value when given by anyone who does business or seeks to do business with the employee's agency, if the gift is given for performance, or the failure to perform, one's duty; or when the gift could appear to be for the purpose of obtaining special consideration or to influence a city action. Pursuant to subsection 45-7-104 (5)(b) MCA, this section does not apply to trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality. A hosting government or agency may sometimes pay for other costs, such as travel expense and hotel accommodation, associated with government-related activities. Gifts of this nature are not a violation of this policy.

Gifts do not include items for which fair market value is paid or which are reimbursed by the city, or items received but donated to a charitable organization within 30 days of receipt of the gift. If the gift is a perishable item, such as flowers or candy, it may be placed on a public counter and shared with the public. Meals are not considered gifts or items of value.

2.49.070 Conflicts of Interest

In addition to conflicts of interest identified in the City of Polson's Personnel Policy Manual, the following rules apply to all officers, officials and employees of the City.

No officer, official or employee shall engage in any act that is in conflict with the performance of official duties. An officer, official or employee shall be deemed to have a conflict of interest if he or she directly or indirectly:

1. Receives or has any financial interest in any purchase, sale or lease to or by the city of any service or property when such financial interest was received or obtained with the prior knowledge that the city intended to purchase, sell or lease such property or service;
2. Is beneficially interested, directly or indirectly, in any contract, sale, lease, option or purchase that may be made by, through, or under the supervision of the employee, in whole or in part, or accepts, directly or indirectly, any compensation, gift or thing of value from any other person beneficially interested therein;
3. Accepts or seeks for others, directly or indirectly, any employment, travel expense, service, information, compensation, gift or thing of value on more favorable terms than those granted to other city employees or the public generally. These favorable terms may not be solicited from any person doing business, or seeking to do business with the city in an area for which the employee has responsibility or with regard to which he or she may participate. This subsection shall not apply to the receipt by elected officials, or by employees who are supervised directly by an elected official, of meals, refreshments or transportation within the boundaries of the city when given in connection with meetings with constituents or meetings which are informational or ceremonial in nature.

2.49.080 Prior employment

No officer, official, or employee shall be disqualified from employment by the city solely because of his or her prior employment; however such officer, official, or employee shall be disqualified from taking any immediate and direct official action with respect to his or her prior employer for a period of six (6) months from the date of termination of employment.

2.49.090 Contemporaneous employment

Under no circumstances shall any employee engage in an outside business that may cause a conflict of interest with his or her duties at the city. No use should be made of City-owned materials or facilities in performing such outside work nor should such work be done on City time.

2.49.100 Subsequent employment No officer, official, or employee shall:

2. During or for six (6) months following termination of office or employment, obtain employment in which he or she will take direct advantage, unavailable to other, of matters with which he or she took immediate and direct official action during his or her term of employment;
3. Engage in any action or litigation in which the city is involved, on behalf of any other person or entity, when the action or litigation involves an issue on which the employee took immediate and direct official action while an employee of the city, for one (1) year following termination of service with the city.

2.49.110 New employee training

Every employee, upon initiating employment with the city, shall receive a copy of the code of ethics as part of the employee's orientation.

2.49.120 Ethics Advisory Committee

An Ethics Advisory Committee shall be established to provide advice and counsel to officers, officials and employees who may have a question regarding an issue that relates directly to them. The Committee shall consist of the Mayor, Chief of Police, City Attorney, and two members of the public, resident electors of the City of Polson, to be appointed by the Mayor with the advice and consent of the City Council. The recommendations or comments of the committee are only advisory and hold no weight or affect on the direction the officers, officials and employees take with regard to the issue raised. Members of the committee are charged with keeping all information confidential. They shall monitor the Code of Ethics and recommend changes as the need arises.

2.49.130 Violation of ordinance

Violation of this ordinance shall be ground for discharge or other disciplinary action. Disciplinary action and grievance procedures will be conducted according to the City's Personnel Policies and Montana Code Annotated where appropriate."

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

FIRST READING: July 6, 2005

SECOND READING: July 18, 2005

EFFECTIVE DATE: August 18, 2005.

Randy Ingram, Mayor

ATTEST: _____

Aggi G. Loeser, City Clerk

(SEAL)