

ORDINANCE NO. 629

AN ORDINANCE AMENDING TITLES 1 AND 2 OF THE POLSON MUNICIPAL CODES.

Whereas, the voters of the City of Polson approved a change in the form of government to a chartered, Commission-Manager form of government; and,

Whereas, the Charter approved by the voters requires the City Council to review, update, and amend the terms of the Municipal Code by June 30, 2008; and,

Whereas, the City Council has undertaken a review of Titles 1 and 2 of the Municipal Code with a view to the obligations of the Charter and the division of executive and legislative authorities thereunder, as well as the several changes to the several terms thereof occurring since the last revision of the said Municipal Code; and,

Whereas, Titles 1 and 2 are amended, attached hereto as Exhibit A and by this reference made a part hereof as if fully set forth in this place.

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

- 1. Titles 1 and 2 of the Municipal Code of the City of Polson are amended in their entirety to conform with Exhibit A hereto, and such persons and entities as are affected thereby are herewith and by these presents apprized of the terms thereof.

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

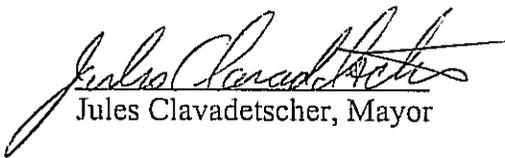
FIRST READING: June 18, 2007

SECOND READING: July 2, 2007

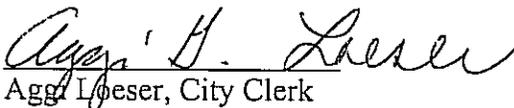
NOW, THEREFORE, the foregoing Ordinance shall become effective on August 2, 2007.

PASSED AND ADOPTED THIS second day of July, 2007.

CITY OF POLSON


 Jules Clavadetscher, Mayor

ATTEST:


 Agg. Loeser, City Clerk

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TITLE 1

GENERAL PROVISIONS

Chapters:

- 1.02 Adoption of Official Code
- 1.04 Saving Clause
- 1.06 General Penalty
- 1.08 City Limits
- 1.10 Corporate Seal
- 1.12 Depository
- 1.14 Wards
- 1.16 Contracts
- 1.18 Municipal Elections

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CHAPTER 1.02

ADOPTION OF OFFICIAL CODE

Sections:

- 1.02.010 Title
- 1.02.020 Acceptance
- 1.02.030 Amendments
- 1.02.040 Construction of words
- 1.02.050 Definitions
- 1.02.060 Interpretations
- 1.02.070 Penalties
- 1.02.080 Liability of officers

1.02.010 Title. This compilation and codification of the general ordinances of the city is hereby declared to be and shall hereafter constitute the Official Municipal Code of the City of Polson. Any reference to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate title heading, its chapter heading, and its section heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal document.

1.02.020 Acceptance. This Municipal Code of the City of Polson, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this state as the ordinances of a general and permanent effect of the city.

1.02.030 Amendments. Any ordinance amending this code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute a sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately prepared by the city clerk with the assistance of the city attorney for insertion in its proper place in each copy of the municipal code. Each such replacement page shall be properly identified and shall be inserted in each copy of the municipal code within 30 days from the date of its final passage.

1.02.040 Construction of words. Whenever any word in any section of this municipal code importing the plural number is used in describing or referring to any matters, parties, or persons, any single matter, party, or person shall be deemed to be included, although distributive words may not have been used.

Whenever any subject matter, party, or person is referred to in this municipal code by words importing the singular number only, or the masculine gender, several matters, parties, or persons and females as well as males and bodies corporate shall be deemed to be included. Provided, that these rules of construction shall not be applied to any section of this municipal code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto.

1.02.050 Definitions. The word "person" shall be deemed to include any person, firm, association, or corporation, or any organization of any kind.

The words "written" and "in writing" may include printing.

The word "shall" is mandatory; the word "may" is discretionary.

The term "personal property" includes every description of money, goods, chattels, effects, evidence of rights of action and all written instruments by which any pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished and every right or interest therein.

The word "streets" includes alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant, or lessee of the whole or of a part of such building or land.

The word "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Words prohibiting any thing being done, except in accordance with a license or permit or authority from a board or officer, shall be construed as giving such board or officer power to license or permit or authorize such thing to be done.

The word "officer" shall include officers and boards in charge of departments and members of such boards. The words "city" or "municipality" shall mean the City of Polson. The words "clerk", "treasurer", or other such titles shall mean the city clerk, city treasurer, or other city officers as the use may be applicable.

The term "willfully" when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage.

The terms "neglect", "negligence", "negligent" and "negligently" import a want of such attention to the nature or probable consequences of the act or omission as a prudent person ordinarily bestows in acting in his own concern.

The term "knowingly" imparts a knowledge that the fact exists which brings the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such act or omission.

1.02.060 Interpretations. In the determination of the provisions of each section of this municipal code, the following rules shall be observed:

A. Intent to defraud: Whenever an intent to defraud is required in order to constitute an offense, it shall be sufficient if an intent appears to defraud any person.

B. Liability of employers and agents: When the provisions of any section of this municipal code prohibit the commission of any act, not only the person actually doing the prohibited act or omitting the directed act, but also the employer and all other persons

concerned with or in aiding or abetting the said person shall be guilty of the offense described and liable to the penalty set forth.

C. Title of sections and subsections: The title of any section or subsection of this municipal code shall be deemed to in nowise restrict, qualify, or limit the effect of the provisions set forth and contained in such section or subsection.

D. Effect of constitutionality: Should any portion of this municipal code be declared by any court of competent jurisdiction to be unconstitutional or void, such adjudication shall in no way affect the remaining portions of this municipal code.

1.02.070 Penalties. In all cases where the same offense is made punishable or is created by different clauses or sections of this official municipal code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

Whenever the doing of any act or the omission of any act constitutes a breach of any section or provision of this municipal code and there shall be no fine or penalty specifically declared for such breach, the provisions of the general penalty clause shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues.

1.02.080 Liability of officers. No provision of this official municipal code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the commission to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

CHAPTER 1.04

SAVING CLAUSE

Sections:

- 1.04.010 Repeal of general ordinances
- 1.04.020 Public utility ordinances
- 1.04.030 Pending suits

1.04.010 Repeal of general ordinances. All general ordinances of the city passed prior to the adoption of this code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following section), from which are excluded the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming, or vacating streets, alleys, or other public places; improvement ordinances; bond ordinances; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

1.04.020 Public utility ordinances. No ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, services, or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as this code may contain provision for such matters, in which case this code shall be considered as amending such ordinances in respect to such provisions only.

1.04.030 Pending suits. No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture, or punishment be mitigated by any provision of a new ordinance, such provision maybe, by the consent of the part affected, applied to any judgment announced after the new ordinance takes effect.

This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed; or

as discontinuing, abating, modifying, or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of adoption of this code.

CHAPTER 1.06

GENERAL PENALTY

Sections:

- 1.06.010 General penalty
- 1.06.020 Default
- 1.06.030 Labor
- 1.06.040 License
- 1.06.050 Application

1.06.010 General penalty. Any person convicted of a violation of any section of this code shall be fined in a sum not to exceed \$500 for any one offense and such person may be confined in the city jail for a period of not more than 6 months. Either or both such fine and imprisonment may be imposed.

1.06.020 Default. Any person in default of payment of any fine imposed shall be summoned before the city court and upon being found in default shall be imprisoned in the municipal jail for a period of one day for each \$25 of such fine.

1.06.030 Labor. Any person imprisoned under the provisions of this chapter may be put to work for the benefit of the municipality for the term of his imprisonment. No female prisoner shall be required to work in public, nor shall any prisoner be required to work on Sunday. The Court may, as an alternative to any fines which may be imposed upon conviction for any offense, remand the convicted person to the Polson Police Department or other concerned City agency for participation in a program of community service in lieu of fines or jail. Such program of community service shall be consistent with Montana law, and under such terms, policies, and circumstances as the Polson City Court and the Polson Police Department may provide, such policies to be subject to the prior review and approval of the Polson City Council.

1.06.040 License. When a person is convicted of a violation of any section of this code relative to his qualifications on performance of his duties as a licensee, any license previously issued to him may be revoked by the court or by the city commission.

1.06.050 Application. The penalty provided in this chapter shall be applicable to every section of this code, the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature is forbidden or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

CHAPTER 1.08

CITY LIMITS

Sections:

- 1.08.010 City limits
- 1.08.020 Lakeshore land

1.08.010 City limits. The Polson city limits are hereby defined to be as set forth on the official map of said city as prepared by a registered engineer, or in the alternative such map or plat depicting the said city limits as updated and maintained by the building and planning department. Said map is on file in the office of the clerk, and, by this specific reference, is made a part of this chapter.

1.08.020 Lakeshore land. The lakeshore lands lying between low water mark and high water mark and abutting upon the streets, alleys, or parks of the city shall be under the supervision of the chief of police, who shall regulate the public and private use of the same in accordance with the provisions of this code.

All such lands are hereby declared to be free and open to public use for access to and from the waters of Flathead Lake, save and except, that the city shall retain the right to charge necessary fees or exactions for the use thereof by persons not resident electors of the city, or except where the use of any portion of said land may be granted to any individual or corporation under the provisions of this code. (§203 & 204, Ord. 191)

CHAPTER 1.10

CORPORATE SEAL

Sections:

1.10.010 Corporate seal

1.10.010 Corporate seal. The corporate seal of the city, an impression of which is herewith affixed, is hereby declared to be the official corporate seal of the city.

CHAPTER 1.12

DEPOSITORY

Sections:

1.12.010 Depository designated

1.12.010 Depository designated. The commission shall, from time to time, and upon consideration of bids therefore, declare by motion and vote a banking institution located in and doing business in the city of Polson limits, which shall serve as the official depository of all funds of the city.

CHAPTER 1.14

WARDS

Sections:

1.14.010 Division into wards

1.14.10 Division into wards. The city shall be divided into three wards, known as Ward No. 1, Ward No. 2 and Ward No. 3, as shall be established from time to time by the city commission, a description of which shall be on file in the office of the city clerk.

1.14.11 Annexation. Any real property annexed to the corporate limits of the city of Polson shall become a part of the Ward to which such property lies adjacent, at the time of annexation thereto.

CHAPTER 1.16

CONTRACTS

Sections:

- 1.16.010 Officers not to be interested in contracts
- 1.16.020 Contracts
- 1.16.030 Awarding contracts; advertisement and limitations
- 1.16.040 Sale of supplies
- 1.16.050 Purchase from government agencies
- 1.16.060 Exemptions
- 1.16.070 Alteration and modification of contract
- 1.16.080 Purchase power

1.16.010 Officers not to be interested in contracts. The city manager, or any member of the commission, or any city officer, or any relative or employee thereof, must not be directly or indirectly interested in the profits of any contract entered into by the commission while he is or was in office.

1.16.20 Contracts. The city commission alone has power to make any and all contracts necessary to carry into effect the powers granted by this code or by the Charter of the City of Polson, and to provide for the manner of executing the same. Unless the commission specifies otherwise, it shall be the duty of the city manager to execute all necessary contracts.

1.16.30 Awarding contracts; advertisement and limitations. Any contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on behalf of and for the benefit of the city when the amount involved is \$75,000 or more must first be advertised for bid in accordance with Montana law, in at least one issue each week for 3 consecutive weeks in a newspaper of paid general circulation in Lake County calling for sealed bids to perform the work and stating the time and place bids will be considered. Any such contract must be let to the lowest responsible, responsive bidder after such advertisement for bids.

All contracts for supplies or materials for which must be paid a sum exceeding \$25,000.00 must be advertised for bid in like manner as a contract for construction.

No contract shall be let extending over a period of 5 years or more without first submitting the question to a vote of the taxpaying electors of said city. Such advertisement shall be made in the official newspaper of the city, if there be such official newspaper, and if not it shall be made in a daily newspaper of general circulation published in the city, if there be such, otherwise by posting in 3 of the most public places in the city. Such advertisement, if by publication in a newspaper, shall be made once each week for 2 consecutive weeks and the second publication shall be made not less than 5 days or more than 12 days before the consideration of bids. If such advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of such advertisement and the

day set for considering bids. The commission may postpone action as to any such contract until the next regular meeting after bids are received in response to such advertisement or may reject any and all bids and readvertise as herein provided.

The provisions of this section as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot, or insurrection, or any other similar emergency, but in such case the commission may proceed in any manner which, in the judgment of three-fourths of the members of the commission present at the meeting, duly recorded in the minutes of the proceedings of the commission present at the vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the commission at the time the vote thereon is taken and recorded.

When the amount to be paid under any such emergency contract shall exceed \$25,000, the commission may provide for the payment of such amount in installments extending over a period of not more than 5 years; provided, that at the time of entering into such contract there shall be an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then-current fiscal year and the budget for each following year in which any portion of such purchase price is to be paid shall contain an appropriation for the purpose of paying the same.

When such amount is extended over a term of 2 years, at least 40% thereof shall be paid the first year and the remainder the second year. When such amount is extended over a term of 3 years, at least one-third thereof shall be paid each year. If such amount is extended over a term of 4 years, at least one-fourth is to be paid each year. If such amount is extended over a term of 5 years, at least one-fifth is to be paid each year.

1.16.040 Sale of supplies. Old supplies or equipment may be sold by the city to the highest responsible bidder after calling for bid purchasers as herein set forth for bid sellers, and the city may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

1.16.050 Purchase from government agencies. The city may, without bid, when there are sufficient funds in the budget for supplies or equipment, purchase such supplies or equipment from government agencies available to cities when the same can be purchased by the city at a substantial saving to the city.

1.16.060 Exemptions. All necessary contracts for professional, technical, engineering and legal services are excluded from the provisions of this chapter.

1.16.070 Alteration and modification of contract. When it becomes necessary in the prosecution of any work to make alterations or modifications of the specifications or plans of a contract, such alteration or modification must only be made by the commission or its designated agent or committee, and such alteration or modification is of no effect until the price to be paid for the same is agreed to in writing and signed by the contractor and the city manager. This subpart shall be included in and form a part of any contract entered into by the city.

1.16.080 Purchase power. No city employee shall purchase anything of value exceeding \$100 without the consent of the department head. No city employee may purchase anything of value exceeding \$1000 without a city purchase order and without the approval of the department head and city manager. No purchase in excess of budgeted amounts shall be made without the consent of the commission. Failure to comply with this section shall constitute cause for dismissal at the discretion of the commission.

CHAPTER 1.18

MUNICIPAL ELECTIONS

Sections:

- 1.18.010 Municipal elections
- 1.18.020 Special elections
- 1.18.030 Registration of electors
- 1.18.040 Qualifications of electors

1.18.010 Municipal elections. There shall be a general election every odd-numbered year on the first Tuesday following the first Monday in November to elect municipal officials.

All primary and general elections shall be held in accordance with the statutes of the state of Montana.

1.18.020 Special elections. The commission may order a special election on a measure proposed by initiative, or when a referendum is demanded, or upon any ordinance passed by the commission, as provided by the laws of the state of Montana.

1.18.030 Registration of electors. The registration of electors in the city shall be governed by the laws of the state of Montana.

1.18.040 Qualifications of electors. All qualified electors of the state who have resided in the city for at least 60 days and in the ward for 30 days next preceding the election, and whose names appear on the registry books of the county, shall be entitled to vote at any city election.

TITLE 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.02 City Employees
- 2.04 Mayor
- 2.06 City Commission
- 2.08 Appointive Officers
- 2.10 City Clerk
- 2.12 City Treasurer
- 2.14 City Attorney
- 2.16 Acting Engineer
- 2.18 Water Superintendent
- 2.20 Acting Electrician
- 2.22 City Judge
- 2.24 Chief of Police
- 2.26 Chief of the Fire Department
- 2.28 Building Inspector
- 2.30 Sewerage System Superintendent
- 2.32 Zoning Commission
- 2.34 Board of Adjustment
- 2.36 Library Board of Trustees
- 2.38 Golf Course Board
- 2.42 City Park Board
- 2.44 Joint Airport Board
- 2.46 Police Department
- 2.48 Fire Department
- 2-559 Create Urban Renewal Plan
- 2-564 Amend Ordinance #559 to Amend the Schedule
- 2-591 Approve Urban Renewal Plan

Revisions

CHAPTER 2.02

CITY EMPLOYEES

Sections:

- 2.02.010 Elective officers
- 2.02.020 Appointive officers
- 2.02.030 Employees
- 2.02.040 Salaries
- 2.02.050 Hours
- 2.02.060 City personnel policies

2.02.05 Organization generally. The city government shall consist of legislative, executive, and judicial branches, composed of such persons, elected, appointed, contracted, or hired, as appears further in this code.

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2.02.06 Legislative branch. The legislative branch of city government shall be the city commission, composed of six commissioners, two elected from each of three wards on a nonpartisan basis, and a mayor, elected at large on a nonpartisan basis, which shall be the governing body of the city. The city commission may be referred to as the city council. Such members shall have the qualifications, terms, and duties set forth in this code.

2.02.07 Executive branch. The executive branch of the city government shall consist an administrative department, water department, sewer department, legal department, fire department, police department, and building and planning department. There shall be a city manager, appointed in accordance with, and subject to the duties of, the provisions of this code, vested with the executive and supervisory authority as set forth in this code.

2.02.08 Judicial branch. The judicial branch of the city government shall consist of a city court, organized as prescribed by law and by this code.

2.02.010 Elective officers. The elective officers of the city shall be Pursuant to part 2.08 of this code the city manager and city commission.

2.02.020 Appointive officers. The appointive officers of the city shall be the city manager, city attorney, city judge, city clerk, city treasurer, city attorney, chief of police and fire chief.

2.02.030 Employees. All other persons drawing salaries from the city, and not classified as elective or appointive officers, shall be classified as "employees," except that the city manager may appoint a city judge under contractual rather than employment terms. All employees shall be given at the time of their hiring, the current City of Polson Personnel Policy Manual. All such employees shall follow the rules and regulations contained in the manual. Where differences are noted between the city of Polson's ordinances and the material presented in the manual, the former will take precedence.

2.02.040 Salaries. The compensation paid to any officer, contractor, or employee of the shall be set annually by resolution or ordinance of the city commission.

2.02.050 Hours. Eight hours shall constitute one day's work for city employees.

2.02.060 City personnel policies. The city shall from time to time by resolution of the commission, adopt, modify, and/or amend the personnel policies of the city, which shall upon adoption be printed as adopted and provided to all employees of the city.

CHAPTER 2.04

MAYOR

Sections:

- 2.04.010 Duties, qualifications and term of office
- 2.04.020 Other powers

2.04.010 Duties, qualifications and term of office. Every resident of the City of Polson who is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution and who has resided within the city limits of the City of Polson for more than one year is eligible to hold the office of mayor.

Pursuant to part 2.08 of this code the mayor shall be elected for a four year term, or until qualification of his successor, in a nonpartisan election at large, and must reside within the city limits of the city of Polson at the time of election and during the entire term of office.

Pursuant to part 2.08 of this code the mayor shall be a member of the commission, and shall act as chairman and presiding officer of the commission, signing the true journals thereof, and shall vote in like manner as other members of the commission. Pursuant to part 2.08 of this code the mayor shall have no veto authority.

Pursuant to part 2.08 of this code the mayor shall be recognized as the principal officer of city government for ceremonial purposes and shall have no other executive or administrative duties.

2.04.020 Other powers. Pursuant to part 2.08 of this code the mayor shall have all other powers prescribed by resolution of the commission.

CHAPTER 2.06

CITY COMMISSION

Sections:

- 2.06.010 Composition of the city commission, term of office
- 2.06.020 Qualifications
- 2.06.030 Duties and powers
- 2.06.040 Vacancy; how filled
- 2.06.050 Time and place of meetings
- 2.06.060 Order of business
- 2.06.070 Alternative presiding officer
- 2.06.080 Priority of business
- 2.06.090 Standing committees
- 2.06.100 Public participation

2.06.010 Composition of the city commission. The city commission shall consist of six commissioners, who may be called councilmen, consisting of two commissioners elected to represent each ward of the city, and the mayor elected at large. Each commissioner shall serve for a term of four years and until the qualification of his successor. The commission shall have such powers and duties as prescribed herein.

2.06.020 Qualifications. No person shall be eligible to the office of commissioner or mayor unless he is 18 years of age or older, a citizen of Montana and a qualified elector pursuant to Article IV, Section 2 of the Montana Constitution and who has resided within the city limits of the city of Polson for more than one year preceding the election.

2.06.030 Duties and powers. The commission shall be the legislative and policy making body of the city. All governing powers of the city shall be vested in the city commission as a whole except as otherwise provided by law or this code. The commission, and its constituent members, shall devote so much of their time to the duties of their office as an efficient and faithful discharge thereof may require. The commission members shall attend all meetings of the commission unless lawfully excused there from by the mayor or by a majority of the remaining members, and perform all the duties which by the nature of their office they should reasonably perform, such as the passing of ordinances, resolutions and the investigation and study of work done for the city according to the committees upon which they may severally be appointed.

2.06.040 Vacancy; how filled. A commissioner or mayor may be removed from office by a finding, adopted by the affirmative vote of four commissioners, that the office has become vacant as prescribed by law, or by the recall of the commissioner or the mayor by the electors of Polson, as prescribed by law. When any vacancy occurs in any elected office, the position shall be considered open and subject to nomination and election at the next general municipal election in the same manner as the election of any other person holding the same office, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification the commission shall, by the affirmative vote of a majority of the commission members, a person possessing the qualifications for office required by law and the city charter to hold such office until the successor is elected and qualified.

The commission, upon written charges, to be entered upon their journal, after notice to the party and after trial by the commission, may remove any non-elected officer by vote of two-thirds of all the members-elect.

2.06.050 Time and place of meetings. The commission shall hold its stated meetings for the transaction of city business on the first and third Mondays of each month at the hour of 7:00 p.m., or at such other hour as may be called by resolution. Special meetings may be called by the mayor or two commissioners at any other time; the clerk, on their requisition, giving reasonable notice thereof in writing to all the members of the commission present in the city. All meetings otherwise ordered for good cause shall be held in the commission chamber of the city hall.

2.06.060 Order of business. At the hour appointed for the meeting, the commission shall be called to order by the mayor, or in his absence by the president pro tempore, or in the absence of both, by the clerk. Upon the appearance of a quorum of not less than four commission members, the commission shall proceed to business.

"Robert's Rules of Order", as the same may be from time to time updated and amended, shall govern the conduct of the commission's public business unless such procedure is covered elsewhere in this code.

The order of business as regular council meetings shall be as follows:

- (1) Approval of proposed agenda, without debate.
- (2) Approval of the minutes of the previous meeting.
- (3) Reports of Boards and Standing Committees, if any.
- (4) Reports of Special Committees, if any.
- (5) Special Orders, if any.
- (6) Unfinished Business and General Orders, if any.
- (7) New Business, if any.
- (8) General public comments on any item not on the agenda of significant interest to the public, if any.

The order of business at special council meetings may limit the scope of agenda items as the commission may itself determine.

2.06.070 Alternative presiding officer. In the absence of the mayor, the commission shall select a person from among their own number present to serve as acting chairman and presiding officer, who shall then fulfill the duties of mayor in chairing the meeting. In such event the acting presiding officer shall exercise his usual and regular legislative vote on matters before the commission requiring a vote.

2.06.080 Priority and conduct of business. All questions relating to the priority of business shall be decided without debate. No final decisions may be rendered by the commission on any question or issue not appearing on the regularly prepared agenda. Any and all remarks or comments arising from any person must be directed solely to the presiding officer and no other. The presiding officer shall direct any queries made by the public to the appropriate city office during regular business hours.

2.06.090 Standing committees. The commission shall designate and appoint such standing committees as may be from time to time provided by the rules and orders of the commission.

2.06.100 Public participation. The presiding officer is vested with the duty to ensure and encourage free and open public participation in the deliberations of the commission in accordance with the laws of the state of Montana and of this code. The presiding officer is vested with a like obligation to make and enforce penalties for breaches of such laws occurring in any open meeting, in accordance with this code.

2.06.103 Determination of significant interest to the public. At the agenda item requiring general public comment on any item not on the agenda of significant interest to the public, the presiding officer shall determine whether such comment relates to a subject of significant interest to the public and if not, may interrupt the speaker, noting that finding for the record, and requiring the speaker to comment on any item that may meet that standard or, if unable or unwilling, to yield the floor.

2.06.105 Time limits for comments, oral or written. In order to encourage public participation, the presiding officer shall call for public participation and comment prior to a final decision on any item before the Council that is of significant interest to the public. The public may not rise to any point of order or in any other wise interfere with the parliamentary process set forth in this code or practiced by the presiding officer, nor is the public privileged to recommend or comment upon any agenda item for which no council decision is required, though such interested parties may do so in the item denominated for general public comment. In matters for which the presiding officer may entertain a motion or call for a vote, proponents, opponents, or commentators alike of any anticipated council action may individually make any remarks cogent to such action for a time not to exceed three minutes per person. Public comment on any item not on the agenda shall likewise be limited to three minutes per person. However the Council may, by motion that such is reasonable and proper, or at the discretion of the presiding officer, opt to extend such periods in particular circumstances, but in such event, shall give equal time to all citizens wishing to comment. Any person wishing the council to consider documentary evidence prior to any decision of significant interest to the public may submit the same for consideration but must, without exception, submit the same to the City Clerk on or before noon the Thursday next preceding the meeting at which such item will be considered.

2.06.106 Exceptions to time limits. Such persons appearing before the council as proponents for decisions by that public body which has before it a vested and existing property interest in the outcome of the decision shall have a maximum of ten minutes, nor shall the three minute limit apply to city staff members whose duty it is to make presentations to the commission in respect of the obligations peculiar to their office.

2.06.107 Submission of agenda items. Any person desiring to appear before the commission for its information or the determination of a question of public policy reserved to the council shall submit a request therefore, together with all necessary supporting documentation, to the city manager, who shall prepare the proposed agenda for consideration by the council. No proposed item shall be submitted to the council unless the city manager is satisfied that all facts relevant to such proponent's

submission are properly submitted, in the city manager's sole discretion.

2.06.108 Enforcement. The presiding officer is vested with all necessary authority to enforce order and propriety in the proceedings of the commission in any manner allowed by law.

2.06.109 Quorum - legislative action. A quorum of not less than four commission members, one of whom may be the mayor, must be physically present when official actions are taken by the commission. The affirmative vote of a majority of the commission members physically present at a lawful meeting of the commission, one of whom may be the mayor, of this code the city manager, shall be required for all official actions of the commission.

CHAPTER 2.08

APPOINTIVE OFFICERS

Sections:

- 2.08.010 Appointments
- 2.08.020 Terms of office
- 2.08.030 Removal from office
- 2.08.040 Bonds of officers

2.08.010 Appointments. The city manager shall be appointed to office by the city commission on the basis of merit only and may be removed only by the affirmative vote of four members of the city commission. The city manager shall nominate and with the advice and consent of the commission, appoint a city clerk, city treasurer, city attorney, city judge, chief of police, and fire chief and other such appointive officers as may be established from time to time by the commission and such other appointive officers within the powers conferred to a self-governing municipality by the State of Montana.

2.08.020 Terms of office. All appointments shall be made for a specified term including probationary terms. Where such appointment is, by this code, under written contract then the contract or this code shall specify the terms and conditions. If no specified term is included in an appointment, it shall be deemed to be until the next general election of the city and until the qualification of his successor. If no person is appointed to any office provided for in this code, the city manager, with the advice and consent of the commission, may appoint from time to time acting officers for specified purposes. The compensation of such acting officer may be fixed by the city manager.

2.08.030 Removal from office. The city manager shall have the power, with the affirmative vote of four members of the commission, to suspend or remove any appointed officer, for the reasons of neglect, violation, or disregard of the duties required by law or the ordinances of the city only, and only upon the trial of the allegations before the full commission.

2.08.040 Bonds of officers. Each city officer required to give a bond shall be included in a blanket bond for the faithful performance of their duties; said bond to be executed by a duly authorized surety company, the premiums thereon to be paid by the city.

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CHAPTER 2.10

CITY CLERK

Sections:

- 2.10.010 Appointment
- 2.10.020 Duties

2.10.010 Appointment. Pursuant to part 2.08 of this code the city manager shall appoint a city clerk whose term of office shall be for a period of two years, unless otherwise provided and specified in the order of appointment, and until a successor in office is appointed and qualified.

2.10.020 Duties. It shall be the duty of the city clerk, personally or by deputy:

(A) To attend all meetings of the commission, to record and sign the proceedings thereof and all ordinances, bylaws, resolutions, and contracts passed, adopted, or entered into, and to sign, number and keep a record of all licenses, commissions, or permits granted or authorized by the commission.

(B) To enter in a book all ordinances, resolutions and bylaws passed and adopted by the commission. Such a book is called "The Ordinance Book".

(C) To enter in a book kept for that purpose, the date, amount and person in whose favor and for what purpose warrants are drawn upon the city treasury. Such book is called "The Finance Book".

(D) To countersign and cause to be published or posted as provided by law all ordinances, bylaws, or resolutions passed and adopted by the commission.

(E) To file and keep all records, books, papers, or property belonging to the city, and to deliver the same to his successor when qualified.

(F) To make and certify copies of all records, books and papers in his possession, on the payment of like fees as are allowed county clerks, which fees must be paid into the treasury.

(G) Within 120 days after the close of each fiscal year, to make out, in duplicate, a complete statement of the financial condition of the city for that fiscal year showing such information required by state law and shall file such statement in accordance with state law.

(H) To make and keep a complete index of the journal, ordinance book, finance book and all other books and papers on file in his office.

(I) To perform such duties in and about the assessment, levy and collection of taxes and assessments as may be prescribed by law or ordinance.

(J) To take and administer oaths, but must not charge or receive any fees therefore.

(K) To perform such other and further duties as the commission may prescribe, or that may be imposed upon him by the laws of the state of Montana.

CITY TREASURER

Sections:

- 2.12.010 Appointment; term of office
- 2.12.020 Duties
- 2.12.030 Collection of taxes
- 2.12.040 Collection of license fees

2.12.010 Appointment; term of office. Pursuant to part 2.08 of this code the city manager shall appoint a city treasurer who shall hold office for a term of two years and until the qualification of his successor.

2.12.020 Duties. It shall be the duty of the city treasurer:

(A) To receive all money that comes to the city, either from taxation or otherwise, and to pay the same out on the warrant of the city manager, countersigned by the clerk, drawn in accordance with law.

(B) To perform such duties in the collection of taxes, license fees, or assessments as are or may be prescribed by law or ordinance.

(C) To present to the commission, on a date set by the commission, a full and detailed statement of the amounts of money belonging to the city, received by him and by him disbursed during the preceding month, and the state of each particular fund, which statement must be verified by his oath.

(D) To keep the books and accounts of the city in such manner as to correctly present the condition of the finances thereof, which must always be open to the inspection of the city manager or commission or any member thereof.

(E) To keep a separate account of each fund or appropriation and the debits and credits thereof.

(F) To give every person paying to him money as treasurer, a receipt therefore, specifying the date of payment, the amount and for what paid.

(G) To render at any time an account to the commission, showing the money on hand and the condition of the treasury.

(H) To keep a register of all warrants paid, called "The Registry Book", which must show the date, amount and number and the person to whom and the fund from which the same was paid.

(I) To deliver and file with the city clerk all vouchers, warrants, or orders paid by him.

(J) To annually make out and submit to the city commission at its last meeting prior to May 1, a detailed account of all receipts and expenditures during the past fiscal year and file the same with the clerk. An abstract thereof must be published in some newspaper in the city, or if none is published, such abstract must be posted in the room or building occupied by the commission.

(K) To pay out, in the order they are registered, all warrants presented for payment when there are funds in the treasury to pay the same.

(L) To deposit all public moneys in his possession and under his control, excepting such as may be required for immediate use by the city, in any solvent banks, building and loan associations, savings and loan associations, or credit unions located in the city, subject to national supervision or state examination as the commission may designate, and no other.

(M) To perform such other and further duties as the commission may prescribe or which may be imposed upon him by the laws of the state of

Montana.

2.12.030 Collection of taxes. All city taxes, including special improvement taxes, shall be collected by the county treasurer, as provided by the laws of the state of Montana relating to taxation in municipal corporations.

2.12.040 Collection of license fees. The treasurer shall collect all license fees which may become due.

CHAPTER 2.14

CITY ATTORNEY

Sections:

- 2.14.010 Appointment; term of office
- 2.14.020 Qualifications
- 2.14.030 Removal or suspension
- 2.14.040 Duties

2.14.010 Appointment; term of office. Pursuant to part 2.08 of this code the city manager with the advice and consent of the commission shall appoint by written contract specifying the duties and responsibilities, conditions of employment and compensation, a city attorney who shall hold office for two years unless suspended or removed as provided by law or this code.

2.14.020 Qualifications. The city attorney shall be a person who has been licensed to practice as an attorney in the state of Montana.

2.14.030 Removal or suspension. The city attorney may be suspended or removed from office by the commission for the neglect, violation, or disregard of the duties required by law or the ordinances of the city.

2.14.040 Duties. The city attorney may also be known as the chief legal officer of the city and shall have the status of a department head. It shall be the duty of the city attorney to attend before the city court and other courts of the city and the district court on appeals and prosecute on behalf of the city. He shall, when required, draw, for the use of the commission, contracts and ordinances for the government of the city and, when required, give to the city manager or city commission written opinions on questions pertaining to the duties and the rights, liabilities and powers of the corporation. The contract must specify the terms and conditions, nature and extent of the city attorney's status as legal advisor to the commission, the city manager, and all city departments, offices, and agencies. He shall perform such other duties as pertain to the functions of the city commission or as the city commission may prescribe by resolution.

For such services, the city attorney shall receive such salary and fees as may be fixed by the commission by ordinance or resolution. Nothing herein shall be taken or construed as preventing the commission from employing other and additional counsel in special cases on a contract basis. Nothing herein shall be construed as preventing the appointed city attorney from pursuing the private practice of law.

CHAPTER 2.18

WATER SUPERINTENDENT

Sections:

- 2.18.010 Appointment
- 2.18.020 Duties
- 2.18.030 Employees of the water department

2.18.010 Appointment. There shall be a Water Superintendent, head of the Water Department of the city, whose duties shall be as herein prescribed. Such office may be combined with that of city sewerage system superintendent.

2.18.020 Duties. The water superintendent shall be the general executive officer of the city waterworks and shall have charge of all employees and property pertaining to the waterworks or system, subject to the executive authority of the city manager. He shall give written orders for all supplies and materials and preserve a copy of such orders in his office. He shall have charge of all contracts and shall see that they are faithfully executed. He shall have charge of the erection, alteration, or repair of all buildings, engines, pumps, fixtures, walls, reservoirs and grounds and other property of the city water department and shall generally do and perform any and all duties as required of him in the successful and efficient operation of the city water department.

2.18.030 Employees of the water department. The city water superintendent shall have the power to recommend the appointment of all employees of the water department which shall be appointed upon the confirmation of the city manager.

CHAPTER 2.22

CITY JUDGE

Sections:

- 2.22.010 Appointment
- 2.22.020 Qualifications
- 2.22.030 Duties
- 2.22.040 Jurisdiction
- 2.22.050 City court; when open
- 2.22.060 City attorney to prosecute

2.22.010 Appointment. The mayor with the advice and consent of the city commission shall appoint a city judge who shall serve under a written contract for a term of four years and until the qualification of his successor.

2.22.020 Qualifications. The city judge shall be a resident and voter of the city at the time of his appointment, and shall be of such character and probity as is fit to dispense justice.

2.22.030 Duties. The city judge shall exercise original, exclusive, and concurrent civil and criminal jurisdiction as provided by law. The city judge is empowered to fashion such remedies in cases appearing before him that are in the interests of justice and not repugnant to law. In all cases where fines are levied the city judge is empowered and obliged to take all steps available in law to recover such fines from such persons.

2.22.050 City court; when open. The city judge shall establish regular sessions of the city court. On judicial days, the court shall be open for all business, civil and criminal. On non-judicial days, the court may transact criminal business only.

2.22.060 City attorney to prosecute. The city attorney must prosecute all cases for the violation of any ordinance and prosecute, conduct and control all proceedings in cases of exclusive jurisdiction of the court, as set forth in state law, and on appeal there from to the district court.

CHAPTER 2.24

CHIEF OF POLICE

Sections:

- 2.24.010 Appointment
- 2.24.020 Rank
- 2.24.030 Duties
- 2.24.040 Stolen property

2.24.010 Appointment. Pursuant to part 2.08 of this code the city manager with the advice and consent of the commission shall appoint a chief of police. He shall hold office for the duration of his appointment unless sooner removed or suspended. During the time of his appointment, he shall reside within such radius of the city limits as to be able to reach the same within twenty minutes driving at posted speed limits.

2.24.020 Rank. The chief of police shall be the head of the police department and have supervision over all the officers and members thereof, subject to the administrative oversight of the city manager. The chief of police may, with the approval of the city manager, appoint such special police as may be required from time to time; however, such appointment may not be for a period of longer than 10 days and special police shall not be reappointed following the specified 10 days without the consent of the commission.

2.24.030 Duties. The chief of police shall keep such records and make such reports concerning the activities of his department as may be required by statute or by the city manager. He shall be responsible for the performance of the police department and of its functions and all persons who are members of the police department shall serve subject to his orders. He shall report to the city manager all delinquencies or neglect of duty or official misconduct of police officers and shall be responsible to impose appropriate discipline.

It shall be the duty of the chief of police to execute and return all process issued by the city judge or directed to him by any legal authority and to attend upon the city court regularly; to arrest all persons guilty of a breach of the peace or for the violation of this code or any city ordinance and bring them before the city judge for trial;

The chief of police has the same powers as a constable in the discharge of his duties, but he must not serve a process in any civil action or proceeding except when the city is a party.

2.24.040 Stolen property. The chief of police shall have the custody of all lost, abandoned, or stolen property recovered within the city. Such lost, abandoned, or stolen property shall be disposed of as provided for in the laws of the state of Montana.

CHAPTER 2.26

CHIEF OF THE FIRE DEPARTMENT

Sections:

- 2.26.010 Appointment
- 2.26.020 Rank
- 2.26.030 Duties

2.26.010 Appointment. The chief of the fire department shall be appointed by the city manager pursuant to part 2.08 of this code subject to the approval of the commission. He shall hold office for the duration of his appointment unless sooner removed or suspended and until qualification of his successor. During his term of appointment, the chief shall reside no further from the city limits than can be driven within twenty minutes at the posted speed limits.

2.26.020 Rank. The chief of the fire department, commonly referred to as the fire chief, shall be the head of the department and have supervision over all officers and members thereof. The fire chief may, with the approval of the city manager, appoint such other fire department officers as may be deemed necessary, including an assistant chief.

2.26.030 Duties. The chief of the fire department shall have sole command and control over all persons connected with the fire department of the city and shall possess full power and authority over its organization, government and discipline and to that end may from time to time establish such disciplinary rules as he may deem advisable, subject to the approval of the city commission. He shall keep such records and make such reports concerning the activities of his department as may be required by statute or by the city manager. He shall have charge of and be responsible for the engines and other apparatus and the property of the city furnished the fire department and see that they are at all times ready for use in the extinguishing of fires.

The fire chief shall have the authority of a police officer while actively engaged in fighting a fire, or going to or from a fire.

CHAPTER 2.30

SEWERAGE SYSTEM SUPERINTENDENT

Sections:

- 2.30.010 Appointment
- 2.30.020 Duties

2.30.010 Appointment. There shall be a Sewer Superintendent, which may be combined with the water superintendent as elsewhere herein provided, whose duties shall be as herein prescribed.

2.30.020 Duties. The sewerage system superintendent shall be the general executive officer of the city sewer system, public and private, and shall have charge of all employees and property pertaining to such system, subject to the executive authority of the city manager. He shall keep a correct record of all mains, valves, lines, manholes and installations pertaining to, or a part of such system. He shall keep an accurate and correct record of all receipts from such system. He shall submit all bids, payrolls and accounts to the commission for approval. He shall issue all permits for tapping mains and the like.

CHAPTER 2.32

ZONING COMMISSION

Sections:

- 2.32.010 Appointment
- 2.32.020 Members
- 2.32.030 Duties

2.32.010 Appointment. The city commission shall provide for the appointment of a separate board or commission to be known as the zoning commission.

2.32.020 Members. The zoning commission shall consist of such members as the commission shall appoint; they may be members of the commission and their term of office shall be determined by the commission.

2.32.030 Duties. The duties of the zoning commission shall be to make recommendations to the commission as to the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The commission shall not hold its public hearings or take action until it has received the final report of such commission.

CHAPTER 2.34

BOARD OF ADJUSTMENT

Sections:

- 2.34.010 Creation
- 2.34.020 Members; terms; vacancies
- 2.34.040 Rules and regulations
- 2.34.050 Appeal stays all proceedings
- 2.34.060 Powers of board
- 2.34.070 Determining of appeal
- 2.34.080 Concurring vote
- 2.34.090 Aggrieved person may present petition to court of record
- 2.34.100 Presentation of petition
- 2.34.110 Copies of all papers
- 2.34.120 Determination of court
- 2.34.130 Costs
- 2.34.140 Enforcement and remedies
- 2.34.150 Conflict with other laws

2.34.010 Creation. The commission may provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of state law may provide that the board of adjustment may, in appropriate cases and subject to the appropriate conditions and safeguards, make special exceptions to the terms of any zoning ordinance in harmony with its general purposes and intent and in accordance with the general or specific rules therein contained.

2.34.020 Members; terms; vacancies. The board of adjustment shall consist of seven members, each to be appointed for a term of three years and removable for cause by the city commission upon written charges and after public hearing. At its first regular meeting, the board of adjustment shall select one of its members as chairman. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. (Ord. 541; 12-4-95)

2.34.030 Rules and regulations. The board shall adopt rules in accordance with the provisions of any chapter adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

2.34.040 Appeals. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

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2.34.050 Appeal stays all proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to the life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney.

2.34.060 Powers of board. The board of adjustment shall have the following powers:

(A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or any ordinance adopted pursuant thereto.

(B) To hear and decide special exceptions to the terms of the chapter or ordinance upon which such board is required to pass.

(C) To authorize upon appeal in specific cases such variance from the terms of the chapter or ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the chapter or ordinance will result in unnecessary hardship, and so that the spirit of the chapter or ordinance shall be observed and substantial justice done.

(D) To recommend to the commission the zoning of any new area added to the city.

(E) To hear all complaints concerning the establishment of zoning districts within the city and concerning any regulations and restrictions within any such district and to recommend to the commission any needed changes in the boundaries of such districts or rules and regulations applying to said districts.

2.34.070 Determining of appeal. In exercising the abovementioned powers, such board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

2.34.080 Concurring vote. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such chapter or ordinance, or to effect any variation in such chapter or ordinance.

2.34.090 Aggrieved person may present petition to court of record. Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, officer, department, board, or bureau of the city may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board.

2.34.100 Presentation of petition. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and due cause shown, grant a restraining order.

2.34.110 Copies of all papers. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

2.34.120 Determination of court. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

2.34.130 Costs. Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

2.34.140 Enforcement and remedies. A violation of this chapter is hereby declared to be a misdemeanor and punishable as provided in this code. Civil penalties may be imposed for such violation. The power to enforce any provisions of this chapter is expressly granted herein to the commission as well as the power to abate such violation, illegal act, conduct, business, or use in or about such premises within the city.

2.34.150 Conflict with other laws. Any requirements of the board of adjustment which stipulate higher standards than provided elsewhere in this code shall prevail. The provisions of this code or state statutes requiring higher standards than provided for in this code shall prevail.

CHAPTER 2.36

LIBRARY BOARD OF TRUSTEES

Sections:

- 2.36.010 Creation of library
- 2.36.020 Board of trustees
- 2.36.030 Duties
- 2.36.040 Bylaws to be published
- 2.36.050 Expenditures
- 2.36.060 Treasurer
- 2.36.070 Compensation
- 2.36.080 Designation as free library
- 2.36.090 Annual report
- 2.36.100 Donations
- 2.36.110 Contracts

2.36.010 Creation of library. The present city library, deeded to the City of Polson on January 5, 1938 by the Polson Civic League, shall be known and designated as the Polson City Library and shall be under the control and management of a board of trustees, subject to the provisions of this chapter and the oversight of the city commission.

2.36.020 Board of trustees. There is hereby created a board of trustees for the management of the city library which shall consist of five trustees.

Not more than one member of the Polson city commission shall be at any one time a member of the board of trustees.

All of such members shall be appointed by the city manager with the advice and consent of the commission.

Trustees shall hold their offices for five years from the date of appointment and until their successors are appointed. Initially, appointments shall be made for one-, two-, three-, four-, and five-year terms. Annually thereafter, there shall be appointed before July 1 of each year in the same manner as the original appointments for a five-year term, a trustee to take the place of the retiring trustee. Trustees shall serve no more than two full terms in succession.

Following such appointments in July of each year, the trustees shall meet and elect a chairman and such other officers as they deem necessary for one-year terms. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner as the original appointments. (Ord. 436)

2.36.030 Duties. It shall be the duty of the board of trustees to take charge of, manage and supervise the city library, and to do this said board shall:

- (1) Take charge, control, manage, and supervise all books and other property belonging to the library.
- (2) Provide, establish, and maintain reading rooms, galleries of art and museums for the use and benefit of the inhabitants of the city.
- (3) Rent, erect, and maintain, with the approval of the commission, buildings or rooms suitable for the purposes contemplated by this chapter.
- (4) Provide that no building shall be erected upon land to which the city does not have fee simple title.
- (5) Recommend to the commission the appointment of a city librarian and other employees and their compensation; however, control over the actual appointment and salaries shall be retained by the commission.

2.36.040 Bylaws to be published. The board of trustees may from time to time make and publish bylaws for its own guidance; employees and servants, and for the government of its agents and use of the library or libraries and other collections and property under its control.

2.36.050 Expenditures. The board of trustees shall have control, with the approval of the commission, of expenditures of all moneys collected by taxation, or otherwise, placed to the credit of the library fund; provided, that the trustees shall not, under any circumstances, incur any indebtedness on behalf of the city in excess of the appropriations available at the time of the incurring of such indebtedness. The trustees may take by gift, grant, donation, devise, bequest, or otherwise, any real or personal property and use and control the same and may take such action as is necessary to carry out the intent of this chapter.

2.36.060 Treasurer. The city treasurer shall keep the regular books of account of the trustees and shall safely keep all moneys belonging to said library and pay the same only upon orders of the city clerk. All claims against the library shall be verified as other claims and paid upon approval of the commission as other claims against the city.

2.36.070 Compensation. The members of the board of trustees shall receive no compensation, unless otherwise provided by the commission.

2.36.080 Designation as free library. The city library shall forever be free to use of the inhabitants of the city and to others upon such rules and regulations as the trustees shall prescribe.

2.36.090 Annual report. The board of trustees shall make an annual report to the commission of its affairs and proceedings to be filed on the first Monday in May of each year.

2.36.100 Donations. The board of trustees is hereby granted power to accept any and all gifts of whatever nature on behalf of the city library which shall be beneficial to said library.

2.36.110 Contracts. The commission shall execute contracts concerning the city library. The commission shall also have the power to enter into a joint contract with Lake County for a city-county library.

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CHAPTER 2.38

GOLF COURSE BOARD

Sections:

- 2.38.010 Creation, membership
- 2.38.020 Duties
- 2.38.30 Compensation
- 2.38.40 Golf Superintendent, Golf Professional, and Liquor Manager

2.38.010 Creation. membership. There is hereby created an advisory board to be known as the City of Polson Golf Course Board which shall consist of seven members. The majority of the board members must be city residents.

One member from each Ward of the City by the commissioners representing that Ward, with the advice and consent of the entirety of the commission. The initial terms of service shall be one, two, and three years, to provide for staggering of terms. In the event a member must resign before the expiration of his or her term of service a new member shall be appointed in the manner described herein to complete the term of the member that is replaced.

Two members shall be appointed at large, without limitation as to residency, by the City Manager and upon the consent of the entire commission.

One member shall be selected by the city commission from among their number and shall be the council representative on the golf board. He/she shall be the liaison between the Golf Board and the City Council.

The remaining member shall be the president of the Polson Golf Association, Inc., whose term shall run concurrent with his/her term as president.

The chairperson shall be nominated by the board members and approved by the mayor.

If an appointed golf board member is absent from three consecutive meetings without an acceptable reason, said board member may be replaced on application by the golf board and at the discretion of the commission.

2.38.020 Duties.

The Polson Golf Course Board shall serve as an advisory board to the commission.

The Golf Superintendent, Golf Professional and the Liquor Manager shall annually consider and submit to the council for approval a fiscal year budget and golf course fee structure as those matters are encompassed within their respective duties, taking into consideration recommendations by the golf board. The golf board shall review the budgets as presented prior to adoption by the City Council.

The board shall consider issues pertaining to the Polson Golf Course brought to them by the season pass holders, the golfing public and Polson City residents. The board shall address those issues and make recommendations to the City Council if action is necessary.

2.38.30 Compensation. The members of the board shall receive no compensation, unless otherwise provided by the commission. Golf board members shall be invited, along with their spouses, to the annual City Christmas Party.

2.38.40 Golf Superintendent, Golf Professional, and Liquor Manager. The Golf Superintendent, Golf Professional and Liquor Manager shall give reports on golfing activities to the Golf Course Board during their regularly scheduled board meetings.

CHAPTER 2.42

CITY PARK BOARD

Sections:

- 2.42.010 Creation; membership
- 2.42.020 Vacancies
- 2.42.030 Supervision
- 2.42.040 Cooperation with city commission
- 2.42.050 Annual budget
- 2.42.060 Compensation
- 2.42.070 Powers
- 2.42.080 Claims

2.42.010 Creation; membership. There is hereby created a City Park Board which shall consist of eight competent, qualified members to be appointed in the following manner:

(1) Two members from each ward within the city to be appointed by the commission member representing that ward with the consent of the entire commission. Term of appointment shall be two years.

(2) Two members to be appointed from the general public at large by the city manager with the approval of the commission. Term of appointment shall be three years.

2.42.020 Vacancies. Vacancies in such park board shall be filled in the manner established in Section 2.42.010.

2.42.030 Supervision. The park board shall provide, conduct and supervise public playgrounds, athletic fields, recreation centers, docks and other recreational facilities and activities on any of the properties owned or controlled by the city, or on other properties with the consent of the owners and authorities thereof. It shall have the power to conduct any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner.

2.42.040 Cooperation with city commission. The park board shall cooperate with the city commission.

2.42.050 Annual budget. Annually, the park board shall submit a budget to the commission for its approval and shall make full and complete monthly and annual reports to the commission of its activities.

2.42.060 Compensation. Members of the park board shall receive no compensation, unless otherwise hereafter provided by the commission.

2.42.070 Powers. The park board shall possess the powers conferred by the state statutes referring to municipal recreation activities.

2.42.080 Claims. All persons having claims against the city for and on behalf of the recreational programs inaugurated by such park board shall verify such claims as required by law and shall present the same to the park board, whereupon such board shall audit such claim or claims and certify the same, less all proper deductions, to the city clerk on or before the first Monday of each month.

CHAPTER 2.44

JOINT AIRPORT BOARD

Sections:

- 2.44.010 Creation of joint board
- 2.44.020 Board personnel
- 2.44.030 Duties of board
- 2.44.040 Duration of agreement
- 2.44.050 Polson airport contract

2.44.010 Creation of joint board. By a joint resolution of the board of county commissioners of Lake County, the Polson city commission, the Ronan city commission, and the St. Ignatius town commission, originally adopted November 3, 1947, there is hereby established a joint airport or landing field in Lake County, all pursuant to the authority granted by state law.

2.44.020 Board personnel. The joint airport board shall consist of five members appointed by the governing bodies of each participant. Two shall be appointed by Lake County, one from the City of Ronan, one from the Town of St. Ignatius, and one from the City of Polson. Each member shall be appointed for a three-year term. Members shall receive such compensation as may be established from time to time by the board.

2.44.030 Duties of board. The board shall have jurisdiction over the planning, acquisition, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection, and policing of all airports in Lake County. The board shall also send each governing body a copy of its meeting minutes and budget.

2.44.040 Duration of agreement. This agreement for a joint airport board shall be effective for 20 years, with an option for renewal for any additional period.

2.44.050 Polson airport contract. The joint board shall contract for operation of the Polson airport with such individual or individuals as it feels will be responsible for the proper administration of the airport. Said individual or individuals shall receive such compensation as may be established in the contract.

CHAPTER 2.46

POLICE DEPARTMENT

Sections:

2.46.010 Membership

2.46.030 Powers and duties of police

2.46.040 Duty of city clerk

2.46.050 Residency

2.46.010 Membership. The city police department shall consist of one chief of police, one assistant chief, and such number of sworn or unsworn peace officers as the city manager and commission shall from time to time determine to be necessary.

2.46.020 Animal control special duties. The animal control officer, if any, shall be additionally empowered to enforce parking ordinances of this code and perform traffic direction anywhere within the limits of the city of Polson.

2.46.030 Powers and duties of police. The police officers shall be under the direct supervision and control of the chief of police and shall, under the direction of said chief of police, perform all duties required by law enforcement officers as set forth in this code or state statute.

2.46.040 Duty of city clerk. It shall be the duty of the city clerk to purchase and maintain a supply of traffic tickets printed in quadruplicate and issue the same to the police and to keep records of the same.

2.46.050 Residency. No person otherwise qualified to be a police officer shall be employed as such by the city unless he shall reside within a twenty-minute radius of the Polson city limits. Residency within said designated area shall be a continuing condition of employment as a police officer within the city. (Ord. 474)

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CHAPTER 2.48

FIRE DEPARTMENT

Sections:

- 2.48.010 Creation of fire department
- 2.48.020 Crossing fire lines prohibited; exception
- 2.48.030 Fire alarm system
- 2.48.040 False fire alarms or obstructing fire personnel prohibited
- 2.48.050 Adoption of general law

2.48.010 Creation of fire department. There is hereby created and established a fire department in and for the city which shall consist of such paid and volunteer firefighters as the city commission finds necessary to provide adequate fire protection, but in no case not less than 15 volunteer firefighters who at the time of their appointment shall be able-bodied individuals between the ages of 21 years and 55 years inclusive and possession such qualifications as the fire chief and his officers deem sufficient. A record of a physical examination certifying appropriate physical condition concurrent with the duties required must be filed with the city clerk at the time of acceptance as a member of the department.

The members shall establish their own organization, prescribe their own rules and regulations, elect their own officers with the exception of the chief of the fire department, who shall be appointed as provided in this code, impose and collect their own dues and fines, if there be any, and keep and control their own funds. All members of the fire department shall have police powers while on duty.

2.48.020 Crossing fire lines prohibited; exception. It shall be unlawful for any person, except a member of the fire department, or without permission of the officer in command, to enter within the liens formed at a fire, except the city manager, police officers and members of the commission, and such other persons as may be designated by the city manager.

2.48.030 Fire alarm system. It shall be the duty of the commission, delegable to the fire chief, to provide and adopt a system of signals for use in the fire department and to cause the same to be printed and posted in a conspicuous place at the hose house, central fire station and other stations, if any, and to furnish each member of the fire department with a copy of the same.

2.48.040 False fire alarms or obstructing fire personnel prohibited. It shall be unlawful for any person to knowingly cause a false alarm of fire or other emergency involving danger to life or property.

It shall be unlawful for any person to refuse admittance to the chief of the fire department, while performing his duties, into any building or upon any premises.

It shall be unlawful for any person to obstruct, impede, delay, or in any manner interfere with the fire department or any of its members when in the performance of their duties, or in any manner interfere with or damage any of the fire apparatus belonging to the city.

2.48.050 Adoption of general law. The provisions of the state statutes relating to municipal fire departments and firemen's disability funds, the management thereof and the power given to the city commission relating

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thereto shall govern the organization, management, and control of the fire department and the members thereof.