

AN ORDINANCE ESTABLISHING A STORM WATER UTILITY SYSTEM FOR THE CITY OF POLSON, WHICH SHALL BE CODIFIED AS TITLE 6 TO THE POLSON MUNICIPAL CODE.

WHEREAS, storm drainage within the City of Polson causes flooding and damage to public and private property, pavement failure and excessive street maintenance expenses, erosion, and pollution of sources of water supply, transmits toxins to the Flathead drainage system, and collects in the streets and other places providing a breeding ground for mosquitoes and other disease carrying insect; and

WHEREAS, the City of Polson has determined that improvement of the City's storm water system will help to alleviate the referenced problems, and

WHEREAS, the Polson City Commission is authorized to establish a storm water system and charge for the services, facilities, and benefits directly or indirectly afforded by the system as provided under Title 7, Chapter 13, Part 43, and Title 69, Chapter 7, Part 1 of the Montana Code Annotated, and

WHEREAS, the City of Polson finds that all developed property in the City contributes to runoff and will use or benefit directly or indirectly from the storm water system, and

WHEREAS, the City of Polson has determined that it is reasonable and just to enact a storm water utility charge based on factors that influence runoff including zoning, runoff coefficients and the area of property, and to allocate the costs of the storm sewer utility system to all developed property in the City, and,

WHEREAS, the planning and management related to storm water runoff is not properly a function of the existing Polson City Sewer utility; and,

WHEREAS, the City Commission has invited input through public meetings, informational materials and Council meetings;

NOW, THEREFORE, be it ordained by the City Commission of the City of Polson, Montana, that the City of Polson Municipal Code is amended by adding thereto Title 6 to the Polson Municipal Code, entitled Storm Water Utility, as follows:

STORM WATER UTILITY

6.01.010 Purpose

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6.01.010 Purpose.

The City Commission finds that the establishment of a Storm Water Utility System is necessary in order

to decrease drainage related damage to public and private property; to promote the safety of public roads and rights-of-way, to further storm water management within the City; to address drainage issues related to new developments within the City; to minimize water quality degradation and soil erosion and sedimentation; to minimize adverse impacts on property owners adjacent to developing and developed land to minimize damage to existing street pavement; to reduce street maintenance and repair costs; to encourage the construction of permanent-type pavements; to preserve the quality of natural waters in the Flathead Basin; and to dispose of storm water which might otherwise collect and provide a breeding ground for mosquitoes and other disease carrying insects.

6.01.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings indicated:

-*Code* means the City of Polson Municipal Code.

-*Developed Property* means property which has been altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious area.

-*Fee or Storm Water Utility System Fee* means the charge established under this Chapter, as the same may be amended from time to time, and levied on owners of parcels or pieces of property to fund the costs of operating, maintaining, and improving the storm sewer system in the City.

-*Property Owner* means the property owner of record as listed in the State assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

-*Storm Water System Utility Fund or Fund* means the Fund created by this Chapter to operate, maintain, and improve the City's storm water system.

-*Storm Water Management* means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to the storm water system.

-*Storm Water System* means the system or network of storm and surface water management facilities including but not limited to curbs, gutters, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, infiltration facilities and other components as well as all natural waterways.

6.01.030 Service Areas

The storm water utility system service area shall be:

A, Inclusive of all property annexed to the City and bounded by the incorporated City limits, as such limits may be adjusted by the City Commission; and

B. The City reserves the right to plan for drainage improvements outside the service area. The City may also construct storm water improvements out of the service area, when needed as an integral part of the storm drain facilities located within the service area.

6.01.040 Operation Cost Determination.

The City Manager shall determine the total annual cost of operation and maintenance of the storm water system, including all maintenance, and shall develop an operating plan for the system. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a reasonable contingency fund.

6.01.050 Monthly Storm Water Service Charge.

For the purpose of paying the cost of operation, maintenance, administration and routine functions of the existing City's storm water facilities and the operation, maintenance and administration of such future storm water facilities as may be established within, or without, the service area and to pay for the review of sewer plans, and the design, right-of-way acquisition and construction or reconstruction of storm sewer facilities, a monthly storm sewer service charge is imposed and made applicable to all developed property within the City limits. The

cost shall be assessed to each parcel in the Service Area at the rate of \$8.00 (eight dollars) per month per water and/or sewer service utility tap

6.01.060 Monthly Billing

The monthly charge for City storm sewer service shall be included on the monthly bill for City water and/or sewer, as the case may be, delivered in the usual manner provided therefor, and shall be delivered to the real property owner unless the real property owner has signed a written billing agreement authorizing the City to deliver the monthly bill to the real property owner's tenant or agent. The real property owner shall be primarily responsible for the payment in full of the monthly bill for City storm sewer service imposed upon the real property so billed for said service. Failure of the real property owner to pay the bill as and when due will subject the property to the termination of water service as authorized pursuant to Montana law.

6.01.070 Establishment of Fund

All storm sewer charges shall be collected as provided in this Chapter and credited to a fund to be known as the "Stormwater System Fund", which Fund shall be at all times segregated and maintained by the City Clerk on the books of the City as a separate and special fund. All revenues collected from the Storm Sewer Utility Fee, grants, permit fees and other charges collected shall be deposited to the Fund. The Council may make additional appropriations to the Fund. All disbursements from the Fund shall be for the following purposes: The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain storm sewer facilities; all costs of administration and implementation of the stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements; engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement of existing facilities; operation and maintenance of the storm sewer system; monitoring, surveillance, and inspection of storm water system facilities; water quality monitoring and water quality programs; retrofitting developed areas for pollution control; inspection and enforcement activities; billing and administrative costs; and all other activities which are reasonably required.

and all other activities

6.01.080 Flood Insurance.

Floods from storm drainage may occasionally occur which exceed the capacity of storm drainage sewer facilities constructed and maintained using funds made available under this Code. This Code does not imply that property liable for the rates and charges established in this Code will always be free from storm drainage flooding or flood damage. This Code does not purport to reduce the need or the necessity for the owner obtaining flood insurance and protecting the owner's property from storm drainage

6.01.090 Cooperation with County.

The City shall, in all ways and within the limits of its powers, solicit Lake County, itself or by and through its several subordinate governing bodies, to cooperate in providing drainage facilities in storm drainage basins, or parts thereof, extending outside the City and in general to carry out the drainage plan developed therein. Maps showing all storm drainage basins and proposed facilities shall be furnished to the Lake County Commission for use in this matter.

6.01.100 Coordination with Montana Department of Transportation.

The City shall solicit the Department of Transportation's financial participation in all storm drainage improvements constructed on or impacted by federal aid routes within the City limits. This solicitation shall be in accordance with any then-existing City-State Storm Drain Agreement.

6.01.110 Submission of Plans by Developers.

A. All developers applying for any of the following permits and/or approvals shall submit for approval a drainage plan prepared by a professional engineer with their application and/or request:

1. Major subdivision plat approval;
2. Minor subdivision plat approval

B. Commencement of construction work under any of the above permits or applications shall not begin until such time as final approval of the drainage plan is obtained in accordance with the ordinance codified in this Chapter.

C. The same plan submitted during one permit/approval process may be subsequently submitted with further required applications. The Plan shall be supplemented with such additional information as may be requested by the City of Polson planning staff or its City Manager.

D. The plan requirement established in this section will apply except when the developer demonstrates to the satisfaction of the City staff and/or City-County Planning Board that the proposed activity or development:

1. Will neither seriously nor adversely impact the water quality conditions of any affected receiving bodies of water, and;
2. Will not alter the surface discharge location, alter the drainage pattern on adjoining properties, alter drainage patterns, increase the discharge, nor cause any other adverse effects in the drainage; and
3. Will not alter the subsurface drainage patterns, flow rates, and discharge points, nor result in any significant adverse affects to property or residents.

E. Drainage plans shall be prepared in accordance with the rules, regulations, and standards as the same then exists, and shall be consistent with the criteria set forth in this Chapter.

F. At the time of approval of the drainage plan for the subject property, a schedule for inspection of construction and facilities will be established by the City planning staff.

6.01.120 Responsibility for Accepted Stormwater Facilities.

All stormwater facilities constructed, installed or provided hereunder within public right-of-way shall, upon acceptance by the City, become the property of the City, and the City thereafter shall be responsible for the operation and maintenance of the facilities. The City shall maintain all accepted public storm sewer facilities located within City-owned land, City rights-of-way and City easements. The City has the option to maintain other accepted public stormwater facilities located within or adjacent to the City. Such public facilities include, but are not limited to, open drainage ways and piped drainage ways constructed, expressly for use by the general public and as a part of the City stormwater facilities, bridges, roadside drainage ditches and gutters, flood control facilities, including detention and retention basins, dikes, overflow channels, and pump stations, that have been designed and constructed expressly for use by the public. Such public storm sewer facilities exclude facilities not accepted by the City for maintenance.

6.01.130 Applicability to Governmental Entities.

A. All governmental entities shall be required to submit a drainage plan and comply with the terms of the ordinance codified in this Chapter when developing and/or improving land including but not limited to, road construction and reconstruction, and other improvements that can affect stormwater within the City.

B. It is recognized that county, state and federal permit conditions may apply to the proposed action and that compliance with the provisions of the ordinance codified in this Chapter does not constitute compliance with such requirements.

6.01.140 Violations.

Violations of the ordinance codified in this Chapter is a misdemeanor and shall be punishable in accordance with the general penalties in the Polson Municipal Code. In addition to the foregoing penalty, and as set forth above, the City Manager may, pursuant to such policies as that officer may develop, direct the supply of water or provision of sanitary sewer service to the premises to be discontinued from the premises where such violation is found in accordance with Section 7-13-4306 of the Montana Code Annotated. As an alternative method of enforcement, the City may initiate an action to enjoin any development undertaken in violation of the ordinance codified in this Chapter by making application for an injunction in any court of competent jurisdiction. Violation of this ordinance shall constitute a municipal infraction punishable in accordance with the provisions of Sections 7-1-4150 through 7-1-4152 of the Montana Code Annotated.

All ordinances or parts or ordinances in conflict herewith shall be repealed upon the effective date of this Ordinance.

This Ordinance shall become effective thirty (30) days after its passage and approval.

First Reading: June 1, 2009. Second Reading: June 15, 2009
Effective date: August 16, 2009.

PASSED AND APPROVED by the City Council of the City of Polson this 15th day of June, 2009.

Lou Marchello, Mayor

ATTEST: _____

Aggi Loeser, City Clerk