

ORDINANCE Ord #2016-002

**AN ORDINANCE TO ADOPT
PUBLIC SAFETY REGULATIONS: CHAPTER 7, ARTICLE 1. GARBAGE, ARTICLE 2.
WEEDS, ARTICLE 3. COMMUNITY DECAY – NUISANCE, ARTICLE 4. ABANDONED OR
JUNKED VEHICLES, ARTICLE 5. FIREARMS AND BOWS ON PUBLIC PROPERTY
TO THE CITY OF POLSON BOOK OF ORDINANCES**

WHEREAS, the City Commission of Polson has determined that it is in the best interests of the citizens of Polson to reestablish, rewrite and reauthorize the Ordinances of the City;

WHEREAS, the Commission wishes to continue its commitment to orderly and comprehensive management of Public Safety Regulations within the City limits;

WHEREAS, it appears in the best public interest that the following ordinance be adopted and codified for the City of Polson;

NOW, THEREFORE, BE IT ORDAINED by the City of Polson that the following Section of the Ordinances of the City of Polson be adopted in full as attachments hereto:

Chapter 7:

Article 1 Garbage

Article 2 Weeds

Article 3 Community Decay-Nuisance

Article 4 Abandoned or Junked Vehicles

Article 5 Firearms and Bows on Public Property

The clerk is hereby instructed to codify this Ordinance and to place the same in the Book of Ordinances of the City of Polson.

Date: February 17, 2016

First Reading: 7 ayes ___ nays ___ abstentions

Date: March 7, 2016

Second Reading: 7 ayes ___ nays ___ abstentions

Effective Date: April 7, 2016

Mayor Heather Knutson

Attest:

City Clerk Cora E. Pritt

CHAPTER 7. HEALTH AND SAFETY

ARTICLE 1. GARBAGE

ARTICLE 2. WEEDS

ARTICLE 3. COMMUNITY DECAY – NUISANCE

ARTICLE 4. ABANDONED OR JUNKED VEHICLES

ARTICLE 5. FIREARMS AND BOWS ON PUBLIC PROPERTY

ARTICLE 1. GARBAGE

Sec. 7.01.010 Definitions.

Sec. 7.01.020 Jurisdiction.

Sec. 7.01.030 Littering.

Sec. 7.01.040 Supply and use of containers.

Sec. 7.01.050 Removal of litter at construction and other sites.

Sec. 7.01.060 Keeping property clean.

Sec. 7.01.070 Burning garbage prohibited.

Sec. 7.01.080 Transporting garbage upon the streets.

Sec. 7.01.090 Enforcement.

Secs. 7.03.150-7.03.199. Reserved.

7.01.010 Definitions.

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

A. "Approved container" shall mean a container for the storage of rubbish, litter and garbage which shall be water, insect and rodent proof and which shall be fitted with a close, tight-fitting lid at all times other than when emptying or filling.

B. "Garbage" shall mean putrefying or decaying animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

C. "Litter" shall mean any quantity of non-containerized paper, metal, plastic, garbage, glass, or miscellaneous solid waste which may be classed as trash, debris, rubbish, refuse, garbage, or junk.

D. "Notice" The city shall give "notice" under this chapter by one of the following methods:

1. Delivering written notice to the owner or occupant of the property, if the property is non-owner occupied.

2. Mailing a written notice by registered or certified mail to the owner, agent, occupant, or lessee at the address held out by him as the place for receipt of communications or in the absence of such designation to his last known address.

E. "Person" shall mean an individual, group of individuals, partnership, firm, corporation, association, company, county, city, or improvement district.

F. "Private property" shall include but is not limited to the following exterior locations owned by persons: yards, grounds, driveways, entrance ways, passage ways, parking areas, working areas, storage areas, vacant lots and recreation facilities.

G. "Public property" shall include but is not limited to the following exterior locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal vacant lots, parks, playgrounds, other public-owned recreation facilities and municipal waterways and bodies of water.

H. "Rubbish" shall mean non-putrescible solid waste consisting of both combustible and noncombustible wastes such as paper, cardboard, abandoned vehicles, tin cans, wood, glass, crockery, aluminum, lawn clippings and similar materials.

I. "Unkempt foliage" shall mean weeds, uncut grass, brush, untrimmed hedges and trees.

7.01.020 Jurisdiction.

The provisions of this chapter shall apply to all areas within the city limits.

7.01.030 Littering.

It shall be unlawful for any person to throw, discard, place, or deposit litter in any manner on any public or private property except in containers provided for such. It shall be the duty of every person distributing or causing to be distributed commercial handbills, leaflets, fliers, or any other advertising or informational material to take all measures necessary to keep such materials from littering public or private property.

7.01.040 Supply and use of containers.

Every person owning or in possession of property from which refuse is generated shall maintain at all times one or more approved containers adequate to hold all refuse generated and shall empty said containers at least once every two weeks. It shall be the duty of the owner or person in possession of property to dispose of non-containerized items such as, but not limited to, appliances, mattresses and furniture within 72 hours after their deposit which is visible to the public.

7.01.050 Removal of litter at construction and other sites.

Any person or institution at which litter or rubbish attendant to the packing, unpacking, loading, or unloading of materials is generated outside of a building shall provide approved containers for the disposal and storage of such litter and rubbish. It shall be unlawful for the person in charge of any construction or demolition site to cause, maintain, permit, or allow to be caused, maintained, or permitted the accumulation of any litter or rubbish on the site before, during, or after completion of the construction or demolition project. Building rubbish resulting from new construction or extensive alterations to buildings or yards or the removal of large trees, or any trade waste condemned in large quantities is not garbage under this

chapter and must be disposed of at the expense of the person responsible for its production.

7.01.060 Keeping property clean.

It shall be the duty of the owner, agent, occupant, or lessee of property to keep premises free of litter, rubbish, garbage and unkempt foliage, including but not limited to weeds and uncut grass. This requirement applies not only to loose litter, but also to materials that already are or become trapped at such locations as fence and wall bases, grassy or planted areas, borders, embankments and other lodging points. Persons whose properties face on municipal sidewalks and boulevards are responsible for keeping that portion of the sidewalks and boulevards adjacent to their property free of garbage, litter and rubbish. The same responsibility extends to properties that face alleys. It shall be unlawful to sweep or push litter from sidewalks and boulevards into streets. It shall be the duty of every owner of a vacant property to keep that property free of litter, rubbish, garbage and unkempt foliage, including but not limited to weeds and uncut grass.

7.01.070 Burning garbage prohibited.

The burning of garbage, as defined herein, within the corporate limits of the city in or out of incinerators is hereby forbidden and prohibited and any such burning or disposing shall be deemed a violation of these ordinances. If the building or facility is specifically designed to be a garbage powered energy facility then the burning of garbage can be permitted. Said facility shall have all the proper environmental pollution preventing equipment.

7.01.080 Transporting garbage upon the streets.

It shall be unlawful for any person to convey or cause to be conveyed through the streets, alleys and public places of the city any earth, manure, mortar shavings, rubbish, garbage, or loose material of any description except in tight receptacles, boxes, or truck bodies equipped with secure covers which prevent the escape of any material contained therein.

7.01.090 Enforcement.

The city police department shall have primary enforcement authority and responsibility. If, in the determination of the city, a litter situation exists that constitutes an "emergency" to the city or neighboring property owners, the city may remove the litter and bill the owner or lessee of the property for the cost thereof after making a good faith effort to notify such person, by telephone or in person, of the problems and giving the same a 24-hour period to remedy the situation. The city police chief shall in his sole discretion determine the nature of the emergency. If the situation is a non-emergency the city police chief shall give the responsible party a ten day notice to correct the deficiency and if the litter has not been removed the person may be cited by the police under the public nuisance laws of the State and this city.

The following is a sample of the notice to be given to the owner of lessee of property:

ORDER AND NOTICE

The Police Chief of the City of Polson or designee has determined that an emergency/non-emergency litter or garbage dumping has occurred on the following described property _____ located at _____ . You are hereby notified that such condition is in

violation of Polson Ordinance 7.01.010, et seq. and if declared an emergency situation must be cleared within 24 hours. If it is declared to be a non-emergency you will have 10 days to remove the garbage or litter. Contact City Hall at 883-8200 for further information or questions. You are subject to the penalties prescribed by law for a violation of this order and notice which may include a fine or imprisonment.

Secs. 7.01.100-7.03.199. Reserved.

ARTICLE 2. WEEDS

- 7.02.010 Nuisance weeds defined.
- 7.02.020 Weed removal—Property owner duty.
- 7.02.030 Weed removal--Collection of charges.
- 7.02.040 Weed removal--Fee for removal by city.
- 7.02.050 Violation--Penalty.
- Secs. 7.02.160-7.02.199. Reserved.

7.02.010 Cutting weeds and vegetation required; notice

It shall be the duty of persons to maintain their property so that it shall not be considered a fire hazard or a public or private nuisance. Any person who is the owner of or agent for any lot or parcel of land within the city limits, who permits or suffers to exist upon, in front of, or along such premises so owned by said person or for which said person is the agent, any growth of weeds or vegetation, or any tree or shrub of which the limbs or branches extend over any public sidewalk at a height of less than seven feet above such sidewalk, shall be deemed guilty of maintaining a nuisance and a violation of this ordinance.

If such owner or agent neglects or refuses to cut and destroy any such growth of weeds or vegetation, or to cut away such branches, within ten days after being notified in writing by the city clerk to cut the same, that person may be charged and convicted in accordance with 7.02.040.

7.02.020 Weed removal--Collection of charges.

In the event the owner, representative of the owner, contract purchaser, or occupant of any property required by Section 7.02.010 to cut and remove vegetation fails to do so, the city may, at any time, cause such vegetation to be removed. The cost of such removal shall be based upon charges as set forth in Section 7.02.040 and collected as a special tax against the property, in accordance with the provisions of MCA Section 7-22-4101, et seq.

7.02.030 Fees for removal by city.

A minimum fee of \$50 per hour or \$75 dollars per lot shall be charged for extermination work performed by the city or by a contractor at the direction of the city. Fees are intended to pay for labor, fuel, equipment and administrative costs and may exceed the minimum fee in instances where actual costs exceed the minimum fees.

7.02.040 Violation--Penalty.

Any owner, representative of the owner, contract purchaser, or occupant of any property violating the provisions of Section 7.02.010 shall be fined and/or imprisoned in according with the general penalties proscribed by the ordinances of the city of Polson. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violation within 10 days of receipt of notice, to be served either personally or by certified mail, return receipt requested. Each 10 days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Secs. 7.02.160-7.02.199. Reserved.

ARTICLE 3. COMMUNITY DECAY - NUISANCE

- Sec. 7.03.010. Purpose.
- Sec. 7.03.020. Application.
- Sec. 7.03.030. Responsibility for maintenance.
- Sec. 7.03.040. Definitions.
- Sec. 7.03.050. Public nuisances.
- Sec. 7.03.060. Enforcement.
- Sec. 7.03.070. Summary abatement.
- Sec. 7.03.080. Abatement in other cases; notice.
- Sec. 7.03.090. Abatement by owner.
- Sec. 7.03.100. Appeal procedures; hearing.
- Sec. 7.03.110. Abatement by city.
- Sec. 7.03.120. Notice of assessment—Appeal of charges.
- Sec. 7.03.130. Personal liability of owner.
- Sec. 7.03.140. Overhead charge; civil penalties.
- Secs. 7.03.150-7.03.199. Reserved.

Sec. 7.03.010. Purpose.

A. The intent of this article is to provide a comprehensive mechanism for the identification and abatement of public nuisances within the city.

B. The remedies provided for in this article are supplemental and complementary to all of the provisions of this Code, and state and federal law, and nothing herein shall be read, interpreted or construed in any manner to limit any existing right or power of the city to abate any and all public nuisances.

Sec. 7.03.020. Application.

The provisions of this article shall apply to all property throughout the city wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation of this article but which is duly authorized under any other city, state or federal law, shall not constitute a violation.

Sec. 7.03.030. Responsibility for maintenance.

Every owner, occupant, lessee or holder of any possessory interest of real property within the city is required to maintain such property so as not to violate the provisions of this article. The owner of the property shall remain liable for violations hereof regardless of any contract or agreement with any third party regarding such property or the occupation of the property by any third party.

Sec. 7.03.040. Definitions.

A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Abatement" means the removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.
2. "Owner" means the owner of record or any person with legal, financial or equitable interest in the property on which the alleged public nuisance exists at the time of the violation.
3. "Property" means any real property, premises, structure or location on which a public nuisance is alleged to exist.
4. "Public nuisance" means any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk subspace, dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the city, in any one or more of the following particulars:
 - a. By reason of being a menace, threat and/or hazard to the general health and safety of the community.
 - b. By reason of being a fire hazard.
 - c. By reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property.
 - d. By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

The term "public nuisance" shall mean any nuisance designated in section 7.03.050.

5. "Summary abatement" means abatement of the nuisance by the city, or a contractor employed by the city, by removal, repair, or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this article.

Sec. 7.03.050. Public nuisances.

A. The following are declared to be public nuisances:

1. Any building or structure which meets the definition of an unsafe building or structure as provided in Section 17 of the International Building Code, or any successor provision.
2. Any violation of the city's subdivision and zoning laws and regulations, except where lawfully grandfathered.

3. Any imminent life safety hazard which creates a present and immediate danger to life, property, health or public safety.

B. The following may be declared to be public nuisances:

1. Any condition which constitutes an attractive nuisance whether within a structure or on the premises.

2. Any building or place which has been operated or maintained in a manner that has resulted in repeated disruptive activities including, but not limited to, disturbances of the peace, public drunkenness, drinking in public, harassment of passersby, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, illegal parking, loud noises (particularly in late night or early morning hours), traffic violations, or police detentions and arrests.

3. Any condition which renders air, food or drink unwholesome, unsanitary or detrimental to health.

4. Any condition which poses a fire hazard.

5. Any condition in violation of chapter 13 (Animals).

6. The ownership, maintenance or operation of a dog or animal kennel without proper provisions for the protection of the surrounding properties from odor and sound generated by the kennel.

7. The keeping, storage, depositing or accumulation on the premises for an unreasonable period of time of any personal property or wastes, including, but not limited to, abandoned, wrecked, dismantled or inoperative vehicles, abandoned, wrecked, or dismantled boats or vessels, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, rubbish, debris, dirt, sand, gravel, concrete or other similar materials which is within the view of persons on adjacent or nearby real property or the public right-of-way and which is detrimental to the public health, safety and general welfare. However, building materials being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary to expeditiously complete the project.

8. Any public nuisance as defined in MCA 45-8-111 or otherwise recognized in law as constituting a public nuisance.

Sec. 7.03.060. Enforcement.

The building official in consultation with the city manager shall have primary responsibility for the abatement of a public nuisance under this article.

Sec. 7.03.070. Summary abatement.

A. Whenever a complaint is made to the building official of the existence of a public nuisance, as defined in section 7.03.040 or 7.03.050, the building official shall promptly cause to be inspected the property on which it is alleged that such public nuisance exists.

Should the building official find that a public nuisance exists, and that the public health, safety or welfare may be in immediate danger, then summary abatement procedures shall be implemented and the building official may cause the nuisance to be removed or abated.

B. When summary abatement is authorized, notice to the owner, agent or occupant of the property is not required. Following summary abatement, the building official shall cause to be posted on the property liable for the abatement a notice describing the action taken to abate the nuisance.

Sec. 7.03.080. Abatement in other cases; notice.

A. If, after inspecting the property on which the nuisance is reported, the building official declares the existence of a public nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then, regular abatement procedures shall be followed. Photographs and reports of the findings and inspections shall be made and filed with the building official.

B. The building official shall determine the individual, firm or corporation who, from the records in the clerk and recorder's office, appears to be the titled owner of the aforesaid property and immediately cause a written notice to be served on such individual, firm or corporation by personal service or by leaving a copy of the notice at the usual place of residence or business of such owner, or address of such owner shown in the clerk and recorder's records, or by copy mailed to such owner at such place or address by United States certified mail return receipt. If service of such written notice is unable to be perfected by any of the methods described in this subsection, the building official shall cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the city, once a week for two consecutive weeks and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, the building official shall cause a copy of the notice to be posted at such structure, location or premises. The building official shall also determine from the clerk and recorder's office who the lienholder of the property, if any, as documented therein, is and cause a written notice to be served on such lienholder by United States mail return receipt.

C. The aforesaid notice to the owner, and lienholder, if any, of the property shall state clearly and concisely the findings of the building official with respect to the existence of a public nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the public nuisance, pursuant to the orders contained in the building official's notice, the public nuisance shall be abated by the city at the expense of the owner.

D. Any person who is the record owner of the premises, location or structure at the time an order pursuant to this article is issued and served upon said person, shall be responsible for complying with that order, and liable for any costs incurred by the city therewith, notwithstanding the fact that such person conveys such person's interests in the property to another after such order was issued and served.

E. It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed.

Sec. 7.03.090. Abatement by owner.

A. Within 30 days after the posting and mailing of a notice to abate a nuisance, the owner, agent of the owner, or individual in possession of the affected property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing shall be made by filing a written statement that no nuisance exists. The statement shall be filed with the building official.

B. The building official, upon written application by the owner within the 30-day period after the notice has been served, may grant additional time for the owner to effect the abatement of the public nuisance, provided that such extension is limited to a specific time period.

Sec. 7.03.100. Appeal procedures; hearing.

A. The owner or occupant of the property who has been served with a notice pursuant to this article that a public nuisance exists and that it must be abated within 30 days, may, within seven calendar days after receipt of such notice, make a written demand to the building official for a hearing on the question of whether a public nuisance in fact exists. The hearing shall be held at the next scheduled regular meeting of the city commission following receipt by the building official of the written demand, and at least two days' notice of the hearing shall be given to the individual who made the written demand for the hearing.

B. The hearing shall be conducted by the city commission. The commission may amend or modify the notice and/or order, or extend the time for compliance with the building official's order by the owner by such date as the majority of the commission may determine.

C. The owner, agent of the owner, occupant and lienholder, if any, of the subject property shall be given the opportunity to present evidence to the commission in the course of the hearing.

D. In those instances where the nuisance has been abated by the city, the commission shall have discretion to waive the cost of abating a nuisance, in whole or in part, if in the course of the hearing reviewing the decision, the commission finds that any of the following did not conform to the provisions of this article:

1. The notice to remove the nuisance;
2. The work performed in abating the nuisance; or
3. The computation of charges.

Sec. 7.03.110. Abatement by city.

A. Should any public nuisance not be abated at the expiration of time stated in the notice/order or within such additional time as the building official or commission may grant, the building official shall have the authority to enter upon the property and abate the public nuisance found thereon. In abating such nuisance, the building official may go to whatever extent may be necessary to complete the abatement of the public nuisance and should it be practicable to salvage any material derived in the aforesaid abatement, the building official

may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.

B. The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of a public nuisance by the building official shall be deposited to the general fund of the city and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property in question by the city commission and collected as any other assessment by the city; however, any other alternative collection method may be utilized by the city to recoup the deficit. Should the proceeds of the sale of such salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the public nuisance was abated when a proper claim to the excess is established.

C. In abating a public nuisance, the building official may call upon any of the city departments or divisions for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public nuisance.

D. The building official shall, after completing the removal and abatement, file a statement of costs with the city clerk.

Sec. 7.03.120. Notice of assessment—Appeal of charges.

A. Upon receipt of the statement of costs from the building official, the city clerk shall mail to the owner of the property upon which the public nuisance has been abated notice of the amounts set forth in the statement plus an additional amount sufficient to defray the costs of the notice and stating that the city proposes to assess against the property the amount set forth in the notice and that objections to the proposed assessment must be made in writing and received by the city clerk within 20 days from the date of mailing such notice. Upon the expiration of the 20-day period, if no objections have been received by the city clerk, the city clerk shall enter that amount in the city liens docket which shall therefore constitute a lien against the property.

B. If objections of either the property owner or their representative are received by the city clerk prior to the expiration of the 20-day period, the city clerk shall refer the matter to the city manager for administrative review.

C. Upon conclusion of administrative review, the city manager shall make a written determination that the amount of the charges shall be canceled, reduced, or remain the same. A copy of this determination shall be furnished to the person making the objections together with a notice of such person's right to appeal to the city commission.

D. If no appeal of a determination by the city manager is filed within the time period allowed, a copy of the determination will be furnished to the city clerk who shall then enter a lien in the amount determined by the city manager in the city liens docket as provided in subsection A of this section.

E. If a timely appeal is received by the city commission, a hearing shall be scheduled and held on the matter. If, after the hearing, the city commission determines that the proposed assessment does not comply with subsection G of this section, the city commission shall so certify to the city clerk, and the proposed assessment shall be canceled. If, after the hearing, it is determined that the proposed assessment or any part of it is proper and

authorized, the city commission shall so certify to the city clerk who shall enter a lien in such amount as determined appropriate by the city commission, in the lien docket as provided in subsection A of this section.

F. The determination of the city commission is a final administrative decision.

G. The city manager, in administrative review, or the city commission, on appeal, may reduce or cancel a proposed assessment if it is determined that:

1. Any of the following did not conform to the provisions of this article:
 - a. The notice to remove the nuisance; or
 - b. The work performed in abating the nuisance; or
 - c. The computation of charges; or
2. The owner of the property was eligible for a waiver of costs under section 7.03.140.

H. The city manager, in administrative review, or the city commission, on appeal, may reduce a proposed assessment by eliminating the civil penalty portion of the invoice if it is determined that:

1. The current owner was not in possession of the property at the time the notice required in section 7.03.080 was posted; or
2. The owner did not receive the notice to remove the nuisance, did not have knowledge of the nuisance and could not, with the exercise of reasonable diligence, have had such knowledge.

I. If, after a lien has been entered in the docket of city liens, there is a written request of an owner who alleges that the owner did not receive notice of the proposed assessment, the city clerk shall refer the matter for review pursuant to subsection B of this section.

J. The lien may be canceled or reduced by the city manager, in administrative review, or the city commission, on appeal, if it is determined that the owner did not receive notice of the proposed assessment, did not previously have knowledge of the lien or of the nuisance abatement work constituting the basis of the lien, could not, in the exercise of reasonable care or diligence, have had such knowledge, and in addition, that the circumstances are such that a reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the city commission, pursuant to subsection E of this section, the city clerk shall cancel or reduce the lien if required by the determination of the building official and/or city commission.

Sec. 7.03.130. Personal liability of owner.

The person who is the owner of the property at the time at which the notice required under section 7.03.080 is posted shall be personally liable for the amount of the assessment including all interest, civil penalties, and other charges.

Sec. 7.03.140. Overhead charge; civil penalties.

A. Whenever a nuisance is abated by the city, the building official shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent for administration and a civil penalty of \$200.00 for each nuisance abated.

B. When the city has abated a nuisance maintained by any owner of real property, for each subsequent nuisance that is abated by the city within two consecutive calendar years concerning real property owned by the same person, an additional civil penalty of 50 percent, minimum of \$50.00, of the cost of abatement shall be added to the costs, charges and civil penalties provided for in subsection A of this section. The civil penalty shall be imposed without regard to whether the nuisances abated by the city involve the same real property or are of the same character.

Secs. 7.03.150-7.03.199. Reserved.

ARTICLE 4. ABANDONED OR JUNKED VEHICLES

Sec. 7.04.010. Leaving abandoned, wrecked or junked vehicles on private property prohibited when; removal.

Sec. 7.04.020. Removal notice—To owner of vehicle or land.

Sec. 7.04.030. Same—Public posting required when; form.

Sec. 7.04.040. Removal of vehicle by city or contractor authorized when; costs.

Sec. 7.04.050. Contract for removal; authority of city manager.

Secs. 7.04.160-7.04.199. Reserved.

Sec. 7.04.010. Leaving abandoned, wrecked or junked vehicles on private property prohibited when; removal.

A. It is unlawful to park, store or leave, or permit parking or storing of any licensed or unlicensed motor vehicle or any kind, or part thereof, for a period of time in excess of 72 hours, which is in wrecked, junked, partially dismantled or inoperative or abandoned condition, whether attended or not, upon any private property within the city limits, unless it is completely enclosed within a building, blocked from view with appropriate privacy fencing, or unless it is in connection with a business enterprise lawfully situated and licensed for same.

B. The accumulation and storage of two or more of such vehicles or part thereof as hereinbefore defined on private property shall constitute a nuisance, detrimental to the health, safety and welfare of inhabitants of the city, and it shall be the duty of the registered owner of such vehicle or part thereof, and it shall also be the duty of the owner of the private property, or lessee or other person in possession of private property upon which such vehicle or part thereof is located, to remove same from the city limits, or to have the same housed in a building where it will not be visible from the street.

Sec. 7.04.020. Removal notice—To owner of vehicle or land.

A. It shall be the duty of the chief of police or designee to give written notice to the registered owner of any motor vehicle or part thereof which is in violation of section 7.04.010, or to give such notice to the owner or lessee of private land upon which the motor vehicle or part thereof is situated, giving notice that the vehicle or part thereof violates section 7.04.010 and demanding that the motor vehicle or part thereof be removed from the city limits within 72 hours from the time of service of notice, or that within 72 hours same may be housed in a building where it will not be visible from the street. The notice may be given by personal service, or by certified mail, with a return receipt requested.

B. Written notice required by this section shall be deemed to have been given (i.e., constructive notice) when the registered owner of the motor vehicle or part thereof, or the owner, lessee or other person in possession of private property concerned herein either:

1. Refuses to accept the prepaid United States mail certified letter from the city and the letter is returned from the post office marked "refused"; or
2. The person to be notified is present in the city but the notification letter is returned marked "unclaimed" by the post office, in which event notice by the city

may be made by affixing the letter in a conspicuous place at the main entrance, fence or to the front door of the residence of such person.

Sec. 7.04.030. Same—Public posting required when; form.

A. After diligent search and inquiry by the chief of police or designee, no written notice as in section 7.04.020 shall be required where the registered owner of such vehicle or part thereof or the owner of the private property or lessee or other person in possession of private property upon which such vehicle or part thereof is located cannot be found or determined, but instead a public notice shall be posted by the city clerk in three public places in the city for five consecutive days.

B. Such public notice shall substantially conform to the following:

"Public Notice: To Whom It May Concern,"

The City of Polson has declared the following described vehicle or parts thereof to be an abandoned or junked vehicle which has been declared a public nuisance and will be removed on _____ from its present location to a junk vehicle wrecking yard or impoundment facility located at _____.

Location of vehicle: _____

Address of vehicle location: _____

Vehicle description: _____

Last known owner of vehicle: _____

Sec. 7.04.040. Removal of vehicle by city or contractor authorized when; costs.

In the event that any of the aforesaid persons, whether an individual, firm or corporation, fails, neglects or refuses to remove the abandoned, wrecked or junked vehicle or part thereof, or house same in the building as provided in section 7.04.010, and abate the nuisance after the required notice, the city, its agent or contractor may remove the vehicle or part thereof at the cost not to exceed \$250.00 and a minimum cost of \$100.00 as determined by the city; which cost shall, if in the best interests of the city as determined by the city manager, be collected from the registered owner of such vehicle or part thereof or the owner of the private property or lessee or other person in possession of private property upon which such vehicle or part thereof is located. Ownership of any vehicle or part thereof removed by the city, its agent or contractor shall, upon such removal, be vested in the city, its agent or contractor, as applicable.

Sec. 7.04.050. Contract for removal; authority of city manager.

The city manager is authorized to enter into a written agreement with a qualified junk vehicle dealer or wrecking yard for the removal of abandoned, wrecked or junked vehicles or part thereof under this article wherein the consideration for the services of the junk vehicle dealer shall be the vehicle or part thereof at no expense to the city. The junk vehicle dealer, before entering into contract with the city or being appointed its agent or contractor in reference to sections 7.04.040 and 7.04.050, shall furnish evidence of public liability insurance, to adequately protect such agent or contractor and the city, deemed reasonable in the opinion of the city manager. In the event a qualified and suitable junk vehicle dealer is not available to contract with or act as the city's agent or contractor as provided herein, the city manager is

authorized to contract with the lowest responsible bidder to provide for the removal from private property of abandoned, wrecked or junked vehicles or part thereof under section 7.04.040.

Secs. 7.04.160-7.04.199. Reserved.

ARTICLE 5. FIREARMS AND BOWS ON PUBLIC PROPERTY

Sec. 7.05.010. Concealed weapons defined; carrying prohibited without permit.

Sec. 7.05.020. Weapons in public buildings and property.

Sec. 7.05.030. Discharge of firearms prohibited; exceptions.

Sec. 7.05.040. Bows and crossbows and other devices.

Secs. 7.05.050-7.05.099. Reserved.

Sec. 7.05.010. - Concealed weapons defined; carrying prohibited without permit.

No person shall carry or bear concealed a dirk, dagger, pistol, revolver, sling-shot, sword, cane, billy club, knuckles made of any metal or hard substance, knife having a blade four inches long or longer, razor (not including a safety razor), or other dangerous or deadly weapon, without written permission from the proper authority with legal power to grant such permit. The term "concealed weapons," within the meaning of this section, shall be any weapon mentioned herein which shall be wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing such weapon.

Sec. 7.05.020. - Weapons in public buildings and property.

A. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Destructive device" means:
 - a. A projectile containing an explosive or incendiary material or any other similar chemical substance including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns;
 - b. A bomb, grenade, explosive missile or similar device or a launching device therefor;
 - c. A weapon of a caliber greater than .60 caliber which fires fixed ammunition or any ammunition therefor, other than a shotgun or shotgun ammunition;
 - d. A rocket, rocket-propelled projectile or similar device of a diameter greater than .60 inch or a launching device therefor and a rocket, rocket-propelled projectile or similar device containing an explosive or incendiary material or any other similar chemical substance other than the propellant for the device, except devices designed primarily for emergency or distress signaling purposes;
 - e. A breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and which has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

2. "Firearms" means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of any explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device.
 3. "Park" means a park, playground, recreation complex or any other area in the city, developed or undeveloped, owned or used by the city, and devoted to active or passive recreation.
 4. "Weapon" means dirk; dagger; pistol; revolver; rifle; shotgun; firearms; slingshot; sword cane; billy club; knuckles made of any metal or hard surface; razor, not including a safety razor; or other deadly weapon or destructive device.
- B. *Prohibition of weapons in city-owned buildings and property.* The carrying or possession of a weapon by any person in or on the city-owned buildings and property described in subsection D of this section or in any park is prohibited.
- C. *Exceptions.* The provisions of subsection B of this section do not apply to:
1. Any peace officer of the state;
 2. Any officer of the United States government authorized to carry a concealed weapon;
 3. Any member of the armed services or reserve forces of the United States or National Guard, while in the performance of their official duties;
 4. A person summoned to the aid of any of the persons named in subsections C.1 through 3 of this section;
 5. A probation and parole officer authorized to carry a firearm under MCA 46-23-1002;
 6. An agent of the state department of justice or a criminal investigator in a county attorney's office;
 7. Sponsored events, gun shows or displays authorized by the city;
 8. A person who is participating in a public event or program, including but not limited to a gun show or gun safety program which is authorized by the city to occur on city property; or
 9. A person authorized by the chief of police to carry or possess an unconcealed weapon on city property.
- D. *Areas subject to prohibition.* The city-owned property to which the prohibition in subsection B of this section applies includes, but is not limited to:
1. City Hall
 2. City Parks

3. City Shop and City Water and Sewer Shop, including all lawns, parking areas and sidewalks leading to the site, as well as all areas inside the perimeter fence;
 4. Water pumps and treatment facilities
 5. Wastewater Treatment Plant
 6. City Fire Station
 7. Golf course and pro shop
- E. *Signing.* Suitable signs shall be posted at each entrance to the facilities listed in subsection D.1 through 7, stating the possession of weapons on the premises is prohibited except for law enforcement personnel.

Sec. 7.05.030. - Discharge of firearms prohibited; exceptions.

No person shall, except in necessary defense of himself/herself or others, or unless duly authorized by law, discharge any firearm.

Sec. 7.05.040. - Bows and crossbows and other devices.

No person shall throw, shoot, fire, or otherwise discharge any arrow, bolt or other projectile through the use of a bow, crossbow or other device within the city limits. No person shall throw, shoot, fire or otherwise discharge any arrow, bolt, or other projectile through the use of a bow, crossbow or other device in parks or other public property.

Exception:

A person may discharge such projectiles in a lawful fashion if done at an archery shooting target area on an organized and established public or private archery shooting range or gallery. The discharge of such projectiles shall be performed in a manner so as not to endanger person, property, animal or fowl, and also performed in such a manner so as to prevent any arrow, bolt or other projectile from traversing any grounds or air space outside the established boundaries or limits of the organized and established public or private archery shooting range or gallery.

Defense to Prosecution:

It is a legal defense to this section if the discharge of the projectile is made in defense of persons or property.

Secs. 7.05.050-7.05.099. Reserved.