

ORDINANCE Ord #2015-006

**AN ORDINANCE TO ADOPT
CHAPTER 3, ARTICLES 4. STORMWATER,
ARTICLE 5. UTILITY POLES, ARTICLE 6. PUBLIC WORKS
STANDARDS AND ARTICLE 7. INFRASTRUCTURE REBATE
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 recognizes the most expeditious way of adopting such Ordinances is by adoption in a near sequential manner over a term of months to give the Commission and the public time to review the material;

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

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

CHAPTER 3

ARTICLE 4. STORMWATER

ARTICLE 5. UTILITY POLES

ARTICLE 6. PUBLIC WORKS STANDARDS

ARTICLE 7. INFRASTRUCTURE REBATE

All previous versions adopted by the City of Polson of these parts of the municipal code are hereby expressly repealed and replaced with these Ordinances. Any inconsistencies created in adopting such provisions are to be liberally construed in favor of the citizenry of the City.

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

BE IT FURTHER ORDAINED, that the clerk is hereby instructed to publish this Ordinance and to make the same available for public inspection and copying during normal business hours of the City.

Date: May 4, 2015

First Reading: 6 ayes ___ nays ___ abstentions 1 absent

Date: June 1, 2015

Second Reading: 6 ayes ___ nays ___ abstentions

Effective Date: July 1, 2015

Mayor Heather Knutson

Attest:

City Clerk Cora E. Pritt

ARTICLE 4. STORM WATER

- 3.04.010 Purpose
- 3.04.020 Definitions
- 3.04.030 Service Area
- 3.04.040 Operation Cost Determination
- 3.04.050 Monthly Storm Water Service Charge
- 3.04.060 Monthly Billing
- 3.04.070 Establishment of Fund
- 3.04.080 Flood Insurance
- 3.04.090 Cooperation with County
- 3.04.100 Coordination with Montana Department of Transportation
- 3.04.110 Submission of Plans by Developers
- 3.04.120 Responsibility for Accepted Storm Water Facilities
- 3.04.130 Applicability to Government Entities
- 3.04.140 Violations

3.04.010 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.

3.04.020 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.

3.04.030 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.

3.04.040 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.

3.04.050 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 established by resolution of the commission.

3.04.060 Monthly Billing

The monthly charge for city storm sewer service shall be included on the monthly bill for city water and/or sewer. The real property owner shall be responsible for the payment in full of the monthly bill for city storm sewer. Failure of the real property owner to pay the assessment will subject the property to the termination of water service as authorized pursuant to these ordinances and Montana law.

3.04.070 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 lines 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 commission 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.

3.04.080 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 ordinance. This ordinance does not imply that property liable for the rates and charges established in this ordinance will always be free from storm drainage flooding or flood damage. This ordinance 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.

3.04.090 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.

3.04.100 Coordination with Montana Department of Transportation.

The city shall solicit the Montana 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 existing city/State Storm Drain Agreement.

3.04.110 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 effects 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.

3.04.120 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.

3.04.130 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.

3.04.140 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.

(Ord. _____, Adopted June 19, 2009)

ARTICLE 5. UTILITY POLES

Sec. 03.05.100. Location of poles and lines.

Sec. 03.05.110. Change of pole locations; city rights reserved.

Secs. 03.05.120-03.05.199. Reserved.

Sec. 03.05.100. Location of poles and lines.

- A. Wherever possible, lines shall be erected in alleys. Lines shall be laid out, wherever possible, so as to follow one side of the street or alley so that the number of street crossings and corners shall be reduced to the minimum.
- B. No poles except ornamental light poles shall be erected or maintained on Main Street, except where necessary to maintain municipal lamps and service wires:
- C. New pole locations shall be made under the direction of the director of public works and with the approval of the city commission.
- D. Where double-pole lines are necessary for light and power and for signal wires on one side of a street or alley, the construction shall be governed by the rules and specifications governing joint pole line construction.

Sec. 03.05.110. Change of pole locations; city rights reserved.

The city expressly reserves the right to order and enforce the change of location of any and all poles or appliances erected or maintained whenever the director of public works orders any such change of location, and such change of location shall be made at the expense of the person, company or corporation owning or using any such pole or appliance.

Secs. 03.05.120-03.05.199. Reserved.

ARTICLE 6. PUBLIC WORKS STANDARDS

Sec. 03.06.100. Adoption of the Montana Public Works Standard Specifications.

Sec. 03.06.110. Adoption of City of Polson Modifications to the Montana Public Works Standard Specifications.

Sec. 03.06.120. Adoption of the city design standards and specifications policy.

Secs. 03.06.140-03.06.199. Reserved.

Sec. 03.06.100. Adoption of the Montana Public Works Standard Specifications.

- A. The current edition of the Montana Public Works Standard Specifications (MPWSS), including all accompanying appendices, amendments and modifications adopted by the Association of General Contractors, Montana Chapter of the American Public Works Association and the Civil Engineers Council of Montana, and as amended from time to time, are adopted by reference and incorporated in this article as if fully set forth herein, except as may be noted in this article, by future administrative order, or by any regulations not applicable to local government jurisdictions.
- B. One copy of the MPWSS shall be kept on file in the office of the city clerk and one copy shall be kept on file in the office of the director of public works.
- C. Any amendments or addendums adopted by the Association of General Contractors, Montana Chapter of the American Public Works Association and the Civil Engineers Council of Montana which apply to local government jurisdictions, including the adoption of the latest edition of MPWSS, shall become effective upon execution of an administrative order of the city manager unless a different effective date is specified in the administrative order.
- D. A copy of the amendment notification and the corresponding new edition will be kept in the offices of the city clerk and the director of public works.
- E. The Montana Public Works Standard Specifications as adopted in subsection A of this section are applicable within the city and to all projects falling under the supervision and jurisdiction of the director of public work.

Sec. 03.06.110. Adoption of City of Polson Modifications to the Montana Public Works Standard Specifications.

- A. The City of Polson Modifications to the MPWWS (modifications) as drafted by the director of public works are hereby adopted by reference and incorporated in this article as if fully set forth herein, except as may be noted in this article, by future administrative order, or by other amendment.
- B. One copy of the modifications shall be kept on file in the office of the city clerk and one copy shall be kept on file in the office of the director of public works of the city.
- C. The modifications, as adopted, are applicable within the city and to all projects falling under the supervision and jurisdiction of the director of public works.

Sec. 03.06.120. Adoption of additional city design standards and specifications.

- A. The city design and specifications standards are hereby adopted by reference and incorporated in this article as if fully set forth herein, except as may be noted in this article, by future administrative order, or by other amendment.
- B. One copy of the standards shall be kept on file in the office of the city clerk and one copy shall be kept on file in the office of the director of public works.
- C. The standards, as adopted, is applicable within the city and to all projects falling under the supervision and jurisdiction of the director of public works.

Sec. 03.06.130. Amendment of Standards.

In the event that the State of Montana proposes amendments to the MPWWS standards or the city staff proposes modifications to the adopted city standards, the city manager may approve the changes and adopt them by issuance of an administrative order. The effective date of the changes shall be upon execution of the administrative order unless the order specifies otherwise. The city manager may also decline to adopt the changes. In the event the city manager declines to adopt the changes by administrative order, the city engineer may submit the proposals through the ordinance amendment procedure.

Secs. 03.06.140-03.06.199. Reserved.

ARTICLE 7. INFRASTRUCTURE REBATE

Sec. 03.07.100. Rebate for privately financed water and/or sewer mainline extensions.

Secs. 03.07.110-03.07.199. Reserved.

Sec. 03.07.100. Rebate for privately financed water and/or sewer mainline extensions.

- A. Private property owners may contract to install public water and/or sewer mains within public rights-of-way or public easements at their own expense after obtaining approval from both the city and state of Montana authorities, and obtaining applicable permits. Said utility mains must be installed in conformance with the rules and regulations of both the city and the state of Montana, and under the direction of the director of public works or water and sewer superintendent. The property owners shall grant to the city any and all easements required by the city for the operation and maintenance of any such utility lines which are connected to the city municipal utility systems.
- B. Conditioned upon acceptance and approval of the installed public utility mains provided under this section, the property owner who financed the installation, may request the city to establish a rebate for the cost of installation of such utility main lines, and shall file with the city such data as the city shall require to establish the rebate, itemizing all expenses in connection with the installation including construction and engineering costs.
- C. Upon acceptance and approval by the city of both the utility lines as installed, the itemization of expenses, and for a term of 20 years thereafter, a fund shall be established by the city for the purpose of collecting reimbursement funds from all

property owners adjacent to the privately installed main, desiring to tap into such main. The amount of the rebate shall be a proportionate amount of installation cost determined by dividing the installation cost by the number of lots fronting on the main extension at the time the reimbursement fund is established. Any property owner desiring to tap into such utility main to connect a building or structure, shall not be issued a connection permit until the proportionate share of the rebate applicable to such property, as determined by the city, has been paid to the fund established therefore. This rebate is in addition to all other connection charges required by the city. In establishing the fund, the city takes no responsibility to monitor future connections to the main for which the fund was established.

- D. The city shall establish a separate rebate fund for each approved utility main rebate as provided under this chapter and shall disburse the rebate funds when received, to the party who financed the installation, or to his heirs, successors, and assigns upon presentation of appropriate proof, and if no qualified payee can be located, the rebate funds so collected shall revert to the general funds of the city.

(Ord. 523, amended March 15, 2010, Ord. 655)

Secs. 03.07.110-03.07.199. Reserved.