

CITY OF POLSON

ORDINANCE No. 2022-003

AN ORDINANCE OF THE CITY OF POLSON, MONTANA, ALLOWING FOR TEXT AMENDMENT TO THE CITY OF POLSON MUNICIPAL CODES REGARD PARKS AND RECREATION.

WHEREAS, from time to time the City of Polson Municipal Code needs to be updated to clarify the responsibilities of each respective department;

WHEREAS, the City of Polson desires to amend the Municipal Code to reflect the responsibilities of the directors; and

WHEREAS, some amendments further increase the Park and Recreation Director ability to allow and/or prohibit conduct within recreational facilities.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS that the following pertinent portions of the below sections of the City of Polson Municipal Code be amended:

Chapter 15. Parks and Recreation. Article 2. – Park Regulations.

Sec. 15.02.020. - Definitions

Recreational facility means a building, structure, place, sports field, golf course, skatepark, or other location within a park or under the management of the city.

Sec. 15.02.030. - Park prohibitions.

A. It is unlawful for any person in a park or in or adjacent to a recreational facility to:

10. Cause or permit any domestic animal to run loose, or fail to keep such animal under restraint, in any park or other open space area designated by the ~~commission~~ director as an area requiring restraint. Further, every owner or person having custody of said dog or other animal shall remove and properly dispose of the animal's solid waste (fecal material). Except for the removal of waste, this subsection shall not apply to service animals authorized under the Americans with Disabilities Act;
13. Hunt, molest, harm, frighten, kill, trap, pursue, chase, tease, shoot or throw missiles at any animal, nor remove from the park or have in his possession any animal, or the eggs or nest, or young of any animal. An exception to the foregoing is made in that snakes known to be poisonous may be killed on sight. An exception is further made to fishing where allowed by the state department of fish, wildlife and parks. This regulation does not apply to officers of state, tribal, or local government duly acting within the course and scope of their duties;
18. Bring or discharge any firearm, air gun, bow and arrow, slingshot, atlatl, spear, boomerang or any other form of potentially dangerous weapon into a park or recreational facility per Section 7.05.010;
26. Allow an animal, other than service animals, or “working animals” under contract with the City of Polson, in a recreational facility, except that at Polson Bay Golf Course patrons may have a dog, upon obtaining a permit from the director, while in the act of playing golf in accordance with section 13.02.060;

Sec. 15.02.040. - Park use/general standards for reserved use of a park or recreational facility.

The following standards apply to the use, including the reserved use, of all parks and recreational facilities:

4. Public address or sound systems.

- a. Public address and/or sound systems may be used within parks with the approval of the director. ~~The sound system cannot be used for more than three consecutive hours in any park except as provided in subsection A.4.b of this section.~~ The use of amplified sound shall be limited to the hours between 12:00 noon and 9:00 p.m. unless otherwise approved by the director.
- b. Music may be played inside a structure with the exception of a park shelter located in a park or in a recreational facility as long as it cannot be heard outside the structure. All music shall end by 10:00 p.m. unless otherwise approved by the director.

Sec. 15.02.140. - Skateboard facility regulations.

~~D. Protective equipment: helmets, pads and guards are strongly recommended.~~

F. Use of smoking tobacco, marijuana, and vaping products are prohibited within the fenced area of the skateboard facility.

Sec. 15.02.180. - Appeal procedure.

B. An aggrieved person may, only after complying with subsection A of this section, file a written appeal with the commission through the city clerk with a copy to the city manager not later than five days after the city manager's decision. The appeal to the commission shall state with specificity the grounds for the appeal. The commission shall hear the appeal at the next regularly scheduled meeting following the accepted notice of appeal, provided that the receipt of the notice is received prior to the deadline for submission of new agenda items.

- 2. The appellant, ~~applicant (if not the appellant),~~ the city manager, and other persons directly affected may speak or submit evidence at the hearing. Public comment will be accepted.

Sec. 15.02.200. - Hours of operation of parks.

B. General closure. Any section or part of any park may be closed to the public by the ~~superintendent~~ director of parks and recreation. Notice of closing shall be posted in a conspicuous manner.

C. Night closure. No person, without written permission of the ~~superintendent~~ director of parks and recreation, shall be physically present within the boundaries of any park between the hours of 11:00 p.m. and 5:00 a.m. except in designated camping areas.

Summer Months: ~~May 1—September 30~~

Winter Months: ~~October 1—April 30~~

~~D. Maintenance hours. Maintenance hours in the parks shall be May 1st to September 15th, from 7:00 AM until dusk. The facilities will be signed appropriately informing the public of impending seasonal closures.~~

Sec. 15.02.220. - Dock control.

Where allowed, dockage of boats at city dock facilities shall be limited to a period not to exceed five consecutive days followed by a period of at least seven days in which the boat will not be docked at the city facilities. Boats operating as a concessionaire shall be operated in accordance with the contract/permit issued by the city. ~~The only facility allowing overnight dock moorage is the east Salish Point dock.~~ Overnight moorage shall be prohibited at all ~~other~~ city-owned dock facilities without written permission from the director. There is no boat moorage allowed without written permission from the director at the docks at Boettcher Park. Owners of the boats found in violation of these provisions shall be subject to the general penalty provided in this Code.

Sec. 15.02.230. - Regulation of public trees.

A. Title and purpose. Short title: This section shall be known as and be cited and referred to as the city of Polson Tree Ordinance. The purpose of this section is to regulate public trees for their planting protection, maintenance and removal, establishing a tree board and delegating to the director of parks and recreation and/or the ~~streets superintendent~~ public works director, the duty of assuring orderly development of public trees.

B. Establishment of tree board. In the discretion of the city commission, the commission may appoint the parks and recreation board to serve as the Polson tree advisory board. In the event that the city commission shall choose to appoint such advisory board, the commission shall create the five member Polson tree advisory board under the terms and conditions herein stated.

1. All said members shall be appointed by the ~~mayer~~ city manager with approval of the city commission.
2. All members of the board shall serve without pay.
3. The members appointed by the ~~mayer~~ city manager shall be appointed for ~~two-year~~ two-year terms.
4. ~~Serve until their successors are duly appointed and approved by the city commission.~~
5. Subsequent to the initial appointment all new appointees shall be:
 - a. Appointed for ~~two-year~~ three-year terms:
 - i. ~~Provided, however, that the event of vacancy caused by resignation, death or otherwise.~~
 - ii. The member's successor shall be appointed to fill the unexpired term of the member replaced.
6. ~~The Tree board shall appoint annually, whose terms shall be for one year, with the option to renew their position at the end of a year's time.~~
7. In addition, there may be created, as needed an advisory board to the tree board, the membership of which shall consist of the Polson parks and recreation director (~~hereafter referred to as director~~) and/or ~~streets department superintendent~~ public works director (~~hereafter referred to as superintendent~~), and two additional individuals with appropriate backgrounds in landscaping or experience with plants, trees and shrubs, whose terms shall be for ~~two~~ three-years each.
8. Duties of tree board:
 - e. Provide regular and special ~~meeting~~ meetings at which the subject of trees insofar as it relates to the city may be discussed by the members of the board, officers and personnel of the city and its divisions, and all others interested in the tree program.

D. Work on public trees.

1. Compliance. All work on public trees will comply with this chapter.
2. Authority. The ~~director/superintendent~~ director of parks and recreation and/or public works director or their designated representative shall have the authority and jurisdiction of regulating the planting, maintenance and removal of public trees on streets and other publicly owned property to ensure safety and/or preserve the aesthetics of such public sites.
3. Duty. The ~~director/superintendent~~ director of parks and recreation and/or public works director or their designated representative shall have the authority, and it shall be their duty to supervise or inspect all work performed under the terms of this section.

4. ~~Director/Superintendent~~ Director of parks and recreation and/or public works director authority in granting permits. The ~~director/superintendent~~ director of parks and recreation and/or public works director or their designated representative shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
5. Permit required for work on public trees.
 - a. No person shall plant, spray, perform major pruning, remove or otherwise disturb any public tree without a permit issued by the ~~director/superintendent~~ director of parks and recreation and/or public works director or their designated representative.
 - b. The person receiving the permit shall abide by the arboricultural specifications and standards of practice as outlined by this chapter, and provide evidence of public liability insurance in an amount determined to be appropriate by the parks and ~~streets~~ public works departments.
6. Removal of public trees, replacement and allocation of costs.
 - a. No person or property owner is to remove a public tree from the boulevard for the purpose of construction or for any other reason without first obtaining a permit from the ~~director/superintendent~~ director of parks and recreation and/or public works director.
 - b. Public trees removed under this section must be replaced as deemed appropriate by the ~~director/superintendent~~ director of parks and recreation and/or public works director. The person or property owner shall bear the cost of removal and replacement of all public trees removed.
7. ~~Appeal procedure. to city commission. Any person may make a written appeal from any ruling or order made by the director/superintendent to the city commission, which shall make a final decision.~~
 - a. An aggrieved person shall have the right to appeal the director's decision of a permit to the city manager. Prior to filing of an appeal with the city manager, the appellant shall, within five business days of the director's decision, request the director reconsider the decision. The director shall have five days to issue a decision on the request to reconsider.
 - b. An aggrieved person may, only after complying with subsection A of this section, file a written appeal with the commission through the city clerk with a copy to the city manager not later than five days after the city manager's decision. The appeal to the commission shall state with specificity the grounds for the appeal. The commission shall hear the appeal at the next regularly scheduled meeting following the accepted notice of appeal, provided that the receipt of the notice is received prior to the deadline for submission of new agenda items.
 - i. The appeal hearing shall be limited to the grounds stated in the appeal unless the commission for good cause determines to hear other issues or concerns.
 - ii. The appellant, the city manager, and other persons directly affected may speak or submit evidence at the hearing. Public comment will be accepted.
 - iii. The commission shall make a determination on the appeal at the meeting, unless the applicant agrees to a continuance. The city clerk shall issue the commission's decision in writing to the applicant either by personal delivery, or regular or electronic mail.

E. Protection of trees.

1. Damage to public trees is prohibited unless specifically authorized by the ~~director/superintendent~~ director of parks and recreation and/or public works director.
- a. It is unlawful to:
 - i. Intentionally damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nails or other contrivance to any public tree.
 - ii. Allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them.
 - iii. Set fire or permit any fire to burn when such fire or the heat thereof could injure any portion of any public tree.
 - iv. Excavate any ditches, tunnels, trenches or lay drive within a radius of 10 feet of any public tree without first obtaining permission from ~~director/superintendent~~ the director of parks and recreation and/or public works director.
 - v. Excavation for new utilities and structures within a radius of ten feet of any public tree will not be permitted unless approved by the ~~board~~ director of parks and recreation and/or public works director.

G. Penalty.

1. Removal of violating trees, procedure.
 - a. Whenever any tree is planted or set out in violation of the provisions of this section, the ~~director/superintendent~~ director of parks and recreation and/or public works director may remove or have the tree removed.
 - b. The ~~director/superintendent~~ director of parks and recreation and/or public works director will first notify the property owner, in writing, of the city's intention to remove the tree and give the property owner a reasonable period of time (not to exceed 45 days) within which to remove the tree.
 - c. If the property owner does not comply within the specified time, the ~~director/superintendent~~ director of parks and recreation and/or public works director will implement the removal of the tree.

Dated: 3rd day of October, 2022. **Effective:** 3rd day of November, 2022.

First reading and preliminary adoption on the 7th day of September, 2022

Vote:

7 ayes:

_____ nays:

_____ absent: Commissioners [names]:

Second reading on the 3rd day of October, 2022.

7 ayes:

_____ nays:

_____ absent: Commissioners [names]:

Attest:

Cora E. Pritt, City Clerk

Approved:

Eric Huffine, Mayor