

Please return to:
City Clerk Cora Pritt
City of Polson
106 1st Street East
Polson MT 59860

CITY OF POLSON

ORDINANCE No. 2022-005

AN ORDINANCE OF THE CITY OF POLSON, MONTANA, CREATING A MUNICIPAL CODE ADDRESSING THE REDUCTION OF MISUSES, ABUSES, AND FALSE ALARMS OF THE EMERGENCY SYSTEMS.

WHEREAS, the City of Polson has an interest in maintaining the health, safety, and welfare of the citizens of the City and its visitors;

WHEREAS, providing an emergency/investigative response to repeated instances of the misuse and/or abuse of the 911 emergency system reduces the availability of the Polson Police Department and/or Polson Fire Department for response to valid 911 calls and for their purposes of reducing crime, promoting quality of life, reducing fires, and being prepared and responding to emergencies;

WHEREAS, approximately 99% of all emergency calls from automated alarm systems in the City during the calendar years, 2019, 2020, and 2021 were determined to be false alarms or alarms which were canceled in route;

WHEREAS, providing a response to false alarms reduces the availability of the Polson Police Department and/or Polson Fire Department for response to valid alarms and for their purposes of reducing crime, promoting quality of life, reducing fires, and being prepared and responding to emergencies;

WHEREAS, false alarms cost the city and community members money each year and take officers and firefighters away from actual emergencies and proactive crime prevention efforts; **FURTHER** that those persons or entities responsible for the misuses, abuses, and false alarms of the emergency systems shall be responsible for their actions, including the costs incurred; and

WHEREAS, the Polson City Commission desires to create a municipal code to deter, reduce, and correct the misuses, abuses, and false alarms of emergency systems; **FURTHER** that this municipal code be placed in Chapter 7 – Health and Safety, Article 7, Reduction of Misuses, Abuses, and False Alarms of the Emergency Systems.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS that the following sections of the City of Polson Municipal Code be enacted the reduction of misuses, abuses, and false alarms of the emergency systems:

Chapter 7. – HEALTH AND SAFETY

ARTICLE 7. – REDUCTION OF MISUSES, ABUSES, AND FALSE ALARMS OF THE EMERGENCY SYSTEMS.

DIVISION 1. – GENERAL PROVISIONS.

Sec. 7.07.100 – Purpose.

- A. The Reduction of Misuses, Abuses, and False Alarms of the Emergency Systems is designed to reduce the number of unnecessary investigations and time spent on misuses, abuses, and false alarms, thereby improving response time to true emergencies.
- B. The Reduction of Misuses, Abuses, and False Alarms of the Emergency Systems shifts costs of responding to misuses, abuses, and false alarms of the emergency systems from the entire community to the liable party.

Sec. 7.07.110 – Applicability to Both Police and Fire Departments.

- A. This chapter is applicable to both the Polson Police Department and the Polson Fire Department within the City of Polson. “Department” shall refer to either the Polson Police Department or the Polson Fire Department, or both.
- B. The Department response may be influenced by factors such as: the availability of law enforcement officers, priority of calls for service, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

Sec. 7.07.120 – Civil Penalty Reduction Program.

- A. An aggrieved person may complete an alarm awareness course within thirty (30) days from the date of the invoice once every twenty-four (24) months to receive a waiver of up to \$100.00 in civil penalties for misuses, abuses, and false alarms violations.

Sec. 7.07.130 – Civil Penalty Appeal Procedure.

- A. An aggrieved person shall have the right to appeal the department's decision on civil penalty assessment to the city commission. Prior to filing of an appeal with the city commission, the appellant shall, within fifteen (15) days of the department’s decision, request the department to reconsider the decision. The department shall have five (5) days to issue a decision on the request to reconsider.
- B. An aggrieved person may file a written appeal with the city commission through the city clerk with a copy to the city manager no later than fifteen (15) days after the department's decision on the request for reconsideration. The appeal shall state with specificity the grounds for the appeal.
- C. 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.
 - a. The appeal hearing shall be limited to the grounds stated in the appeal unless the city commission for good cause determines to hear other issues or concerns.
 - b. The appellant, applicant (if not the appellant), the city manager, city attorney, and other persons directly affected may speak or submit evidence at the hearing. Public comment will be accepted.
 - c. 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 city commission's decision in writing to the applicant either by personal delivery, or regular or electronic mail.

DIVISION 2. – 911 EMERGENCY SYSTEM.

Sec. 7.07.200 – Purpose.

- A. Calling or texting 911 to the Lake County Emergency Communications Center for any purpose other than to report an emergency or suspected emergency expends unnecessary emergency and investigative resources that may otherwise be used to address actual emergencies.
- B. Misuse and abuse of the 911 emergency system often lead emergency communications personnel to unnecessarily dispatch first responders to a location; thereby wasting valuable resources that could be used to respond to true emergencies. Misuses and abuses of the 911 emergency system also tie up the phone lines preventing people from being able to report actual emergencies.

Sec. 7.07.210 – Definitions.

- A. Unintentional 911 calls – when a person or cellular phone inadvertently dials 911. Unintentional 911 calls include:
 - a. Phantom calls – a wireless or cellular phone system experiencing problems calling 911. Phantom calling can occur for the following reasons:
 - i. Automatic dialing – The user inadvertently presses the 9 or 1 key or emergency call button preprogrammed to dial 911 without the user having to press “send”. *Please note that a child playing with an old cell phone (with no service) can still inadvertently activate 911.*
 - ii. Redialing or resending – After calling 911 the user accidentally presses “redial” or “send”.
 - b. Misdial calls – when a caller mistakenly dials 911 when trying to dial another number such as the information number e.g., 411.
 - c. Hang-up calls – when a caller realizes they mistakenly called 911 and hang up the call.
- B. Intentional 911 calls of misuse and abuse – callers deliberately, but inappropriately, dial 911. These include:
 - a. Prank 911 calls – caller falsely claiming an emergency or deliberately hanging up.
 - b. Diversionary calls – caller dials 911 to send law enforcement to a location where no emergency exists or has occurred to purposely and knowingly divert law enforcement away from criminal activity.
 - c. Exaggerating calls – exaggerating the seriousness of the situation to expedite emergency response; such as falsely reporting ‘shots fired’ when the actual issue is a barking dog complaint.
 - d. Harassing calls – repeatedly calling 911 to report non-emergencies or false emergencies after being told not to do so by law enforcement and/or emergency communications personnel.

Sec. 7.07.220 – When in Doubt and Accidental 911 Calls.

- A. The Lake County Emergency Communications Center is careful not to discourage the proper use of 911. Emergency communications personnel educate callers who use the 911 emergency service incorrectly and direct callers to use the non-emergency number when no real emergency exists. When deciding whether or not to call 911 or the non-emergency number, callers should consider immediacy and evaluate the potential danger in a delay of emergency response.
- B. Mistakes happen. Unintentional 911 callers are encouraged to stay on the line and explain the error to the call taker.

Sec. 7.07.230 – Intentional 911 Call Violations.

- A. It shall be unlawful for individuals, inside the City of Polson, to make 911 calls or text messages to the Lake County Emergency Communications Center that have been identified in this chapter as intentional 911 calls of misuse or abuse.

Sec. 7.07.240 – Penalties.

- A. Each intentional 911 call of misuse or abuse shall be considered a separate violation.
- B. Criminal Penalties. Any person who purposely, knowingly, or negligently violates any provision of this division shall, upon conviction, be guilty of violating this section, upon conviction thereof, shall be guilty of a misdemeanor, punishable by a fine not to exceed \$300, ninety (90) days in jail, or both, for each violation.
- C. Civil Penalties. Any person who violates any provision of this division shall be subject to a civil penalty in an amount of not less than \$50 or more than \$300 for each violation. Civil Penalties shall be determined by the applicable Department. Payment of civil penalties shall be paid within (30) days from the date of the invoice.

- D. It shall be an affirmative defense that the person charged has a good faith, reasonable factual basis for the emergency request.

DIVISION 3. – ALARM SYSTEMS.

Sec. 7.07.300 – Purpose.

- A. The purpose of this chapter is to encourage alarm users and alarm contractors to maintain the operational reliability and the proper use of alarm systems so as to limit unnecessary police or fire responses to false alarms and alarm malfunctions.
- B. To hold liable those alarm users for the costs of responding to excessive false alarms and alarm malfunctions.

Sec. 7.07.310 – Definitions.

- A. Alarm control officer – the person designated by the Department to administer, control and review false alarm reduction efforts and administers the provisions of this ordinance.
- B. Alarm contractor – any person, group, firm, partnership, proprietorship, corporation, business entity, governmental entity, utility, or educational entity that installs, maintains, alters, repairs, monitors, inspects, replaces or services alarm systems for compensation.
- C. Alarm permit number – a permit issued by the Department identifying the alarm location and alarm user.
- D. Alarm registration – the notification by an alarm contractor or an alarm user to the alarm control officer that an alarm system has been installed and is in use at an alarm site.
- E. Alarm signal – the audible sound or transmission of a signal or a message as the result of the activation of an alarm system or an audible alarm.
- F. Alarm site – a single fixed premises or location served by an alarm system. Each unit, if served by a separate alarm system in a multi-unit building shall be considered a separate alarm site.
- G. Alarm user – any person, business, governmental, educational, charitable, or any entity, owning, leasing, or operating an alarm system.
- H. Alarm system or security system - any mechanical, electrical, or radio-controlled device, or other such similar devices, which is designed to be used for the detection of smoke, fire, or any unauthorized entry into a building, structure or facility, or for alerting others of the commission of an unlawful act within a building, structure or facility, or both, which emits a sound or transmits an alarm signal when activated.
 - a. Excluded from this definition are: devices which are not designed or used to register alarms that are audible, visible, or perceptible outside of the protected building, structure or facility, e.g., automatic flood lights; auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service; or audible alarms that are affixed to motor vehicles.
- I. Automatic dial protection device or alarm system telephone dialing program – includes any system which, upon being activated, automatically initiates to the Polson Police Department, Polson Fire Department, or Lake County Dispatch a recorded message or code signal indicating a need for law enforcement response.
- J. Cancellation request – the process where officer response is terminated when an alarm contractor, an alarm user, or their agent (designated by the alarm user) notifies the Polson Police Department, Polson Fire Department, or Lake County Dispatch that there is not an existing situation at the alarm site requiring law enforcement response after an alarm dispatch request.
- K. False alarm – an alarm is false when, upon inspection by the applicable Department, evidence indicates that no emergency, fire, hazard, injury, burglary, robbery, or other such crime was committed or attempted in or on the premises which would have activated a properly functioning security system.
- L. Fire alarm – an alarm system specifically used for detection of fires within a building, structure, or facility, or both, which emits a sound or transmits an alarm signal when activated.

- M. Non-monitored alarm – an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure and is not monitored by a registered alarm contractor, whether installed by an alarm contractor or alarm user.
- N. Panic alarm – panic, distress, or robbery alarms that are designed to be manually triggered (usually via an alarm button or keypad) to notify an alarm monitoring company without emitting an audible signal.
- O. Runaway alarm – an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action.
- P. Verification request – an attempt by the alarm contractor, or its agent, to contact the alarm site/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch, in an attempt to avoid an unnecessary alarm dispatch request.

Sec. 7.07.320 – Unintentional False Alarms; Civil Penalties.

- A. Responsibility for unintentional false alarms under this section shall be borne by the alarm user. The alarm user shall reimburse for each response by the applicable Department pertaining to any false alarm.
- B. Three or more false alarms within a year of the first false alarm is considered excessive, constitutes a waste of emergency resources, and shall be unlawful. Civil penalties for unintentional false alarms within a calendar year shall be assessed against an alarm user for resources expended for responding to the false alarm.
- C. Alarm users will be issued a notice of violation after the first false alarm by the applicable Department.
- D. Runaway alarms shall be considered one false alarm per day.
- E. If a cancellation request occurs prior to the applicable Department arrives at the alarm location, this is not a false alarm for the purposes of civil penalty, and no penalty will be assessed.
- F. Unintentional False alarm fines, subject to change by resolution, will be assessed as follows:

UNINTENTIONAL FALSE ALARM FINE SCHEDULE	
Number of False Alarms within a Year	Fine Amount
1st False Alarm	No Charge
2nd False Alarm	No Charge
3rd False Alarm	\$75.00
4th False Alarm	\$100.00
5th False Alarm	\$150.00
6th False Alarm	\$200.00
Upon 6 or more False Alarms within a year, the alarm user may be prosecuted for intentional and Unlawful false alarms by the City Attorney.	

- G. Payment of civil penalties shall be paid within (30) days from the date of the invoice.

Sec. 7.07.330 – Intentional and Unlawful False Alarms; Penalties.

- A. It shall be unlawful to intentionally activate an alarm system for the purpose of summoning law enforcement when no emergency, fire, hazard, injury, burglary, robbery, or other crime against life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.
- B. It shall be unlawful to install, maintain, or use an audible alarm system which can sound continually for more than fifteen (15) minutes without an available alarm user with up-to-date contact information.
- C. Alarm users will be issued a citation and a notice of false alarm violation for officers or firefighters dispatched to this type of false alarm.

- D. Alarm activations for system maintenance and/or testing are excluded from this section.
- E. Criminal Penalties. Any person who purposely or knowingly violates any provision of this division shall, upon conviction, be guilty of violating this section, upon conviction thereof, shall be guilty of a misdemeanor, punishable by a fine not to exceed \$300, ninety (90) days in jail, or both, for each violation. Each guilty violation may include reimbursement of restitution.
- F. Other civil penalties and violations will be enforced through the unintentional false alarm civil penalties and municipal code established by the City of Polson.

Dated: _4th_ day of _January, 2023. **Effective:** 4th day of _February, 2023.

First reading and preliminary adoption on the 19th day of December, 2022:
 __6__ ayes: Commissioners Dever, Isbell, Moll, Pardini, Ruggless, Mayor Huffine
 ____ nays:
 __1__ absent: Holley

Second reading on the _4th day of January, 2023__.
 __7__ ayes: Commissioners Dever, Holley, Isbell, Moll, Pardini, Ruggless, Mayor Huffine
 ____ nays:
 ____ absent:

Attest:

 Cora E. Pritt, City Clerk

Approved:

 Eric Huffine, Mayor