

CITY OF POLSON

ORDINANCE No. 2023-001

AN ORDINANCE OF THE CITY OF POLSON, MONTANA, CREATING A MUNICIPAL CODE ADDRESSING NON-ROUTINE SEWER MAINTENANCE.

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

WHEREAS, the City preforms routine maintenance on main sewer lines; **FURTHER**, most of the properties in the City of Polson pass waste and other materials through sewer service lines into the City's main sewer lines; **FURTHER**, property owners are responsible for the maintenance and upkeep of their sewer service line;

WHEREAS, some problematic sewer service lines containing lard, grease, rags, wet wipes, diapers (any age), roots, broken pipe debris, non-biodegradable materials and/or other objects will deposit said material into a main line and cause a sewage blockage; **FURTHER**, the sewage blockage may cause blockages, reduced flow, and/or back flows into other homes that share the main line, which in turn causes damage to those homes; **FURTHER**, homes that suffer damage from back flows caused by a sewage blockage tend to bring claims against the City;

WHEREAS, the City is not equipped to maintain private sewer service lines due the construction differences between main lines and service lines; **FURTHER**, as a result of problematic service lines, the City has to perform additional maintenance on main lines that receive waste discharge from said problematic service lines that cause sewage blockages;

WHEREAS, sewage blockages cost the city and community members money each year and take City Public Workers away from other maintenance and improvement projects; **FURTHER** that those persons or entities responsible for the sewage blockages should be responsible for their actions, including the costs incurred to remove the sewer blockages and damages caused to neighboring homes; and

WHEREAS, the Polson City Commission desires to create a municipal code to deter, reduce, recover, and correct properties that cause sewer blockages by failing to maintain their sewer service lines; **FURTHER** that this municipal code be placed in Chapter 3, Utilities, Article 3, Sewer, Division 6, Non-Routine Sewer Maintenance.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF POLSON that the following sections of the City of Polson Municipal Code be enacted as Non-Routine Sewer Maintenance:

CHAPTER 3 – UTILITIES

ARTICLE 3. – SEWER

DIVISION 6 – Non-Routine Sewer Maintenance

Sec. 3.03.605. – Definitions

Additional maintenance means sewer maintenance performed outside of routine maintenance. Additional maintenance includes hydraulic, mechanical, and chemical cleaning.

Routine maintenance means sewer maintenance performed on a scheduled basis by the City of Polson. Routine maintenance includes hydraulic, mechanical, and chemical cleaning.

Main line means sewer lines owned and maintained by the City of Polson. The City only performs additional and routine maintenance on main lines.

Service line means sewer lines that connect to a main line and are the responsibility of the property owner. A problematic service line is a service line that feeds into a main line with lard, grease, rags, wet wipes, diapers (any age), roots, broken pipe debris, non-biodegradable materials and/or other objects that may cause a sewage blockage.

Additional and routine maintenance by the City of Polson is not performed on service lines.

Sewage blockage means a main line blockage caused by accumulation of, but not limited to, lard, grease, rags, wet wipes, diapers (any age), roots, broken pipe debris, and/or any non-biodegradable material accumulated from a problematic service line.

Sec. 3.03.610. – Purpose

- A. The intent of this division is to provide a mechanism of notice and recover costs due to problematic service lines that place additional burden on City of Polson resources. The City is not responsible for service lines, however problematic service lines may cause blockages in the City’s main lines that result in blockages and back flows into other homes that share a main line. Problematic service lines may be filled with, but not limited to, lard, grease, rags, wet wipes, diapers (any age), roots, broken pipe debris, and/or any non-biodegradable material. Often, this is the result of materials disposed of by the property owner. The City is not equipped to maintain service lines, which are the sole responsibility of the property owner. Some main lines require additional maintenance due to problematic service lines, thus expending more resources, e.g., time, materials, and money, provided by the City of Polson through its residents.
- 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. 3.03.615. – Sewer line nuisance; maintenance required upon notice.

- A. It shall be the duty of persons to maintain their property so that it shall not be considered a sewer hazard, a problematic service line, 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 causes a sewer blockage, or permits or suffers to exist upon such premises a problematic service line, shall be deemed guilty of maintaining a nuisance and a violation of this article.
- B. If such owner or agent neglects or refuses to maintain their service line, or provide for maintenance, within ten days after being notified in writing by the city utility clerk to maintain the same, that person may be charged and convicted in accordance with section 3.03.640.

Sec. 3.03.620. – Sewer Maintenance—Collection of charges.

In the event the owner, representative of the owner, contract purchaser, or occupant of any property required by section 3.03.615 to maintain their service line fails to do so, the city may, at any time, conduct additional maintenance to the main line to prevent sewage blockages. The cost of such additional maintenance shall be based upon charges as set forth in section 3.03.630 and collected as a special tax against the property, in accordance with the provisions of MCA 7-13-4309, et seq. The city will not conduct maintenance on service lines.

Sec. 3.03.630. - Fees for removal by city.

A minimum fee of \$75.00 per hour shall be charged for maintenance on the main line performed by the city or by a contractor at the direction of the city for additional maintenance caused by a problematic service line that results in a sewage blockage. Fees are intended to pay for labor, fuel, equipment, materials, and administrative costs. If labor, fuel, equipment, material, and administrative costs exceed the minimum fee, then in instances where actual costs exceed the minimum fees, the actual cost will be used. Fees and/or costs will be placed on monthly utility bill.

Sec. 3.03.640. - Violation—Penalties.

- A. Any owner, representative of the owner, contract purchaser, or occupant of any property violating the provisions of section 3.03.615 shall be fined in accordance 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 ten days of receipt of notice, to be served either personally or by certified mail, return receipt requested. Each day that prohibited conditions are maintained shall constitute a separate offense.
- B. Penalties for violation of this division may be at least one of civil fines, criminal fines, municipal utility disconnection, mandatory preventative equipment, and other legal remedies available to the City of Polson. The application of the below penalties shall not be held to prevent the enforced removal of prohibited conditions. Penalties may include:
 - 1. Civil fine for violation of this division shall be \$50.00 each day;
 - 2. Criminal penalty shall be a misdemeanor, punishable by a fine not to exceed \$500.00 per violation;
 - 3. Municipal utility service may be disconnected until the violation is corrected;
 - 4. Mandatory preventative equipment installation may be a requirement to cure a violation; and,
 - 5. Any legal remedy available at law.

Sec. 3.03.650 – Civil fee or fine appeal procedure.

- A. An aggrieved person shall have the right to appeal the City'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 City's decision, request the city manager to reconsider the decision. The City Manager 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 city manager'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.

Dated: 6th day of March 2023. **Effective:** 20th day of April 2023.

First reading and preliminary adoption on the 6th day of March 2023:

 7 ayes:

 nays:

 absent:

Second reading on the 20th day of March 2023.

 7 ayes:

 nays:

 absent:

Attest:

Approved:

Cora E. Pritt, City Clerk

Eric Huffine, Mayor