

CITY OF POLSON

ORDINANCE No. 2023-004

AN ORDINANCE OF THE CITY OF POLSON, MONTANA, AMENDING A MUNICIPAL CODE ADDRESSING MEETING AGENDAS, ORDER OF PRESENTATION/PUBLIC PARTICIPATION, AND MEETINGS TO REFLECT PROCEDURAL CHANGES.

WHEREAS, the City of Polson has an interest in maintaining the proper protocol for producing commission agendas and holding commission meetings;

WHEREAS, improving the efficiency of the commission agendas, regular public meetings, and public hearings with respect to public comments increases the number of public participants within the time frame of the different city commission meetings; **FURTHER** that public comments should relate to items listed in the agenda; **FURTHER** that increasing the publishing date of agendas and public comments, allows more time for the public as well as the commissioners to review material before the appropriate city commission meeting;

WHEREAS, the commissioners should be given an opportunity to make announcement about upcoming meetings, events, future agenda requests, and/or special projects; and

WHEREAS, the Polson City Commission desires to amend the municipal code to maintain proper protocol for city commission agendas, regular public meetings, and public hearings that will result in improved city commission meeting efficiency.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF POLSON that the following sections of the City of Polson Municipal Code be amended:

CHAPTER 2 – ADMINISTRATION

ARTICLE 2. – CITY COMMISSION

Sec. 2.02.050. Meeting agendas.

- A. All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the commission shall be submitted to the city clerk no later than 12:01 p.m. on the Monday immediately preceding the next scheduled commission meeting; provided, however, the city manager may approve late submittals deemed to be in the city's best interest, but only if the items are provided to the commission and made available to the public at least 48 hours prior to the scheduled meeting time, excepting items of an emergency nature. The city manager shall arrange a list of such matters according to the order of business specified herein, and furnish each member of the commission, the city manager, city attorney and the public through the city's website with a copy of the agenda and all supporting information ([agenda packet](#)) no later than 72 hours immediately preceding the commission meeting for which that item has been scheduled. The city manager will seek to provide such information 96 hours in advance where possible. Copies of the agenda shall be available from the city clerk and one copy shall be posted at the designated posting board in the city hall for public viewing and made available on the city's website. Pursuant to MCA 7-1-4135, the city commission designates as its official posting place the posting board in the lobby of city hall located at 106 First Street East, Polson, Montana.
- B. The city manager shall prepare the commission regular meeting agenda and shall consult with the mayor in preparing the agenda. The mayor or any three commissioners may add to or remove an item from the agenda. The agenda shall be in substantially the following form:
 1. Call to order.
 2. Pledge of Allegiance.
 3. Changes to the order of agenda (if required).
 4. ~~General public comment.~~ [Public Comment on Significant Matters to the Public Not on the Agenda.](#)

5. Consent items including approval of minutes (consent items are those which staff considers no discussion is necessary, including resolutions and final subdivision plats. However, at the beginning of each meeting, any commissioner may request items be removed from the consent agenda for the purpose of discussion).
6. City Manager's report and staff reports (if required).
7. Special presentations (if required).
8. Action items (Public hearings will allow for additional formal public comment as directed by the presiding officer).
9. Commissioner Updates (Commissioners may mention upcoming meetings or events, request items to future agendas, or briefly discuss items of special interest they are working on – no actions will be taken).
10. Adjournment.

The order of the above may be adjusted by the presiding officer.

~~C. When holding a public meeting, the presiding officer shall call an agenda item to the floor in the following manner:~~

- ~~1. Request an affirmative motion and second be made in order for the item to be discussed;~~
- ~~2. Call for preliminary commission discussion;~~
- ~~3. Close such discussion;~~
- ~~4. Call for public comment. Members of the audience or their agents shall be invited to present testimony or evidence. To be recognized, each person desiring to give testimony or evidence shall step to the podium and, after being recognized, give their name and address or ward for the record. The audience presentation/testimony is limited to three minutes per speaker, the presiding officer may lengthen or shorten the time allotted for public testimony.~~
- ~~5. Close the public comment;~~
- ~~6. Call for final commission discussion; and~~
- ~~7. Call for a vote upon the motion.~~

C. The city manager shall prepare the public hearing agenda and shall consult with the mayor in preparing the public hearing agenda. The public hearing agenda shall be in substantially the following form:

1. Call to order.
2. Pledge of Allegiance.
3. Changes to the order of agenda (if required).
4. Public Comment on Significant Matters to the Public Not on the Agenda.
5. Action items for public hearings as directed by the presiding officer.
6. Adjournment.

D. It shall be within the presiding officer's discretion to vary the form of agenda items from the above sections. A commission member(s) may call upon the presiding officer to vary the process as needed.

Sec. 2.02.070. – Types of City Commission Meetings.

A. General/regular meetings.

1. The city commission shall hold a regular meeting on the first and third Mondays of every month. The commission shall meet in regular session from ~~6:30~~ 7:00 p.m. to no later than 10:00 p.m. in the City Commission Chambers, City Hall, 106 First Street East, or in an alternative location as duly noticed to the public. However, when the day affixed for any regular meeting of the

commission falls upon a day designated by law as a legal or national holiday, such meeting may be scheduled at the same hour on the next succeeding Wednesday not a holiday or the meeting may be canceled by the commission. The City Clerk shall collect and maintain a sign-in sheet for any meetings held under this section, to include Name, Street Address Or Ward Number. Citizen registration on the sign-in sheet is not a requirement for participation in the meeting.

2. The meeting may be extended beyond the time specified in subsection A.1 of this section by the mayor or a majority vote of the members of the commission should additional matters remain on the commission agenda.
 3. Any meeting of the commission may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next regular or specially scheduled meeting.
 4. The mayor may cancel a regular meeting if no business is scheduled for that meeting.
- B. Public hearings.
1. Public hearings are meetings of the commission required to be held as a public hearing pursuant to law. The provisions of subsection A of this section apply to public hearings.
 2. Unless prohibited by law, a public hearing may be rescheduled or adjourned to a later date and time.
- C. Executive sessions. Executive sessions are meetings of the commission with the purpose to discuss litigation strategy, a matter of individual privacy, or other matters wherein a meeting may be closed pursuant to law and will be scheduled as needed. Although each executive session will commence as an open public meeting, executive sessions may be closed to the public pursuant to authority and limitations in MCA 2-3-201 et seq. An executive session may be called at any time during any meeting if authorized by law and as defined further hereafter.
- D. Work or policy sessions. Work or policy sessions are meetings of the commission to review forthcoming issues of import to the city and programs of the city, receive progress reports on current programs or projects, view sites or community projects of interest, or receive other similar information from the city manager and staff. All discussions and conclusions thereon shall be informal and no final action may be taken, but the commission may give direction to staff regarding items to be scheduled for a future action. Work or policy sessions provide an informal setting for discussion of topics for which no formal action is immediately required. Although it is not legally required, the commission may in its discretion, allow public comment during the work or policy session and such sessions may or may not be tape recorded in the discretion of the presiding officer. The commission work or policy sessions may be scheduled as needed and may be held during a regular meeting. The commission is not bound by Robert's Rules of Order during work or policy sessions.
- E. Optional post mortem reviews. Post mortem review is a review by the commission of a previous decision but is not a reconsideration of a previous item. Following action on any matter, the commission may request a post mortem review to be scheduled at a subsequent meeting to determine if revisions to code provisions or other procedural changes are needed to address concerns raised during consideration of the particular agenda item. The commission is not bound by Robert's Rules of Order during optional post mortem reviews.
- F. Special meetings. The mayor, any two members of the commission, or the city manager may call special meetings of the commission, upon at least 48 hours' notice to each member of the commission and give notice to the public by, at a minimum, posting an agenda on the city's website and at the City's posting site.
- G. Emergency meetings. In the event of an emergency situation, to be included but not limited to storm, fire, explosion, community disaster, insurrection, act of God, or other potential destruction or impairment of city property or business that affects the

health and safety of the residents, employees or the functions of the city, a meeting may be convened by a majority of the commission directing the city manager to schedule a meeting without adhering to 48-hour time limit. The city clerk shall use reasonable efforts to inform the public of the emergency meeting.

- H. Commission Committee meetings. All meetings of commission committees shall be held upon at least 48 hours' notice to each member of the committee and notice shall be given to the public by posting notice of the meeting and the committee's agenda as stated above for special meetings.

Sec. 2.02.080. - Order of presentation/public participation in Regular Public Meetings.

- A. Subject to the protocol established by section 2.02.050(B), the order of presentation of regular public meeting agenda items presented to the commission shall be as follows:

1. The city manager or designated employee shall present an agenda item to the commission.
2. The city staff may present a background report on the matter for discussion. Upon conclusion of a staff report, commissioners may ask questions of staff for the purposes of understanding and clarification. ~~If applicable, comments from the applicant, or his agent, shall be heard by the commission. The applicant's presentation/testimony is limited, subject to the discretion of the presiding officer, to ten minutes.~~ After being recognized by the presiding officer, a commissioner may direct questions to the staff or applicant.
3. The Presiding Officer will request an affirmative motion and second be made in order for the item to be discussed.
4. The Presiding Officer will call for preliminary commission discussion. After being recognized by the presiding officer, a commissioner may direct questions to any person so testifying for purposes of clarification. Staff shall be given the opportunity to further comment on the issue.
5. The Presiding Officer will close such discussion.
6. The Presiding Officer will invite members of the audience to present public comment. To be recognized, each person desiring to participate shall step to the podium and, after being recognized by the Presiding Officer, give their name and address or ward for the record. The audience presentation/testimony is limited to three minutes per speaker. The presiding officer may lengthen or shorten the time allotted for public testimony.

Written public comment provided to the City Commission no later than 12:01 p.m. on the Monday immediately preceding the next scheduled commission meeting will be included in the agenda packet. Written public comment received later than 12:01 p.m. on the Monday preceding the next scheduled commission meeting will be distributed to the City Commission and included in the 'Supplemental' section of the agenda packet of the next regular City Commission meeting.

7. The Presiding Officer will close the issue for public comment.
8. The Presiding Officer will call for final commission discussion.
9. The Presiding Officer will call for a vote upon the motion.

103. Staff shall be given the opportunity to further comment on the issue. The city clerk shall enter into the record all correspondence that has been received but was not yet provided to the commission. The commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain.

- ~~B. The order of presentation of public hearing agenda items presented to the commission shall be as follows:~~

- ~~1. The city manager shall present an agenda item to the commission.~~

- ~~2.—The presiding officer will open the public hearing by pronouncement.~~
 - ~~3.—The city staff may present a background report on the matter for discussion. Upon conclusion of a staff report, commissioners may ask questions of staff for the purposes of understanding and clarification.~~
 - ~~4.—If applicable, comments from the applicant, or his agent, shall be heard by the commission. The applicant's presentation/testimony is limited, subject to the discretion of the presiding officer, to ten minutes.~~
 - ~~5.—After being recognized by the presiding officer, a commissioner may direct questions to the staff or applicant.~~
 - ~~6.—Members of the audience or their agents shall be invited to present testimony or evidence. To be recognized, each person desiring to give testimony or evidence shall step to the podium and, after being recognized, give their name and address or ward number for the record. The audience presentation/testimony is limited to three minutes per speaker. The presiding officer may lengthen or shorten the time allotted for public testimony.~~
 - ~~7.—After being recognized by the presiding officer, a commissioner may direct questions to any person so testifying for purposes of clarification.~~
 - ~~8.—Following public testimony, staff shall be given the opportunity to comment on any testimony or other evidence.~~
 - ~~9.—Following staff comment, the applicant will be given the opportunity to rebut or comment on any testimony or other evidence. The applicant's comments and rebuttal are limited, subject to the discretion of the presiding officer, to five minutes.~~
 - ~~10.—Following applicant rebuttal and any further questions from the commission, the presiding officer will close the hearing and bring the agenda item to the dais for discussion, motion and vote.~~
 - ~~11.—The city clerk shall enter into the record all correspondence that has been received but was not yet provided to the commission.~~
 - ~~12.—The commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain.~~
- ~~C.—All testimony and evidence shall be directed to the presiding officer. No person, other than a commissioner and the person recognized as having the floor shall be permitted to enter into the discussion. No questions shall be asked of a commissioner except through the presiding officer.~~
- ~~D.—The commission may ask staff for its recommendation.~~
- ~~E.—If a public hearing, in the event the applicant does not appear at the scheduled time and place, unless the applicant has waived the applicant's appearance in writing, and which waiver has been accepted by the commission, or unless the matter is submitted as a consent item, the matter shall be continued to the next available regular meeting, public hearing date, or other date certain.~~
- ~~F.—Commissioners are urged to state the reasons for their decisions, particularly on land use issues. The record must reflect findings regarding legal criteria for all quasi-judicial decisions.~~
- ~~G.—Witnesses may be required to testify under oath.~~
- ~~H.—The commission shall not be bound by the strict rules of evidence and may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or evidence.~~
- ~~I.—The presiding officer shall rule on all questions relating to the admissibility of evidence with advice from the city attorney, which ruling may be overruled by a majority vote of the commission.~~
- ~~J.—A public hearing which has been formally closed for all public input may not be reopened and no additional evidence or testimony from the public shall be received or considered except as provided herein. If additional information is required from the public before a decision can be made, the commission, upon motion duly made, seconded and passed, may call for an additional public hearing which~~

~~hearing shall be noticed as required by law, specifying date, time place and subject matter of hearing. This subsection does not preclude the commission, after the public hearing, from asking questions of staff, receiving additional evidence from staff or, after a hearing held on a preliminary plat, pursuant to MCA 76-3-101 et seq., from consulting the subdivider about conditions or other mitigation required of the subdivider. Upon decision by the presiding officer or upon a duly adopted motion of the commission to reopen the public hearing prior to close of the agenda item in which the hearing was held, the requirement to provide public notice does not apply; the public hearing may be reopened and the additional input provided prior to a final decision on the item.~~

Sec. 2.02.085. - Order of presentation/public participation in Public Hearings.

A. The order of presentation of public hearing agenda items not dictated by the development code section 6.03.500 that are presented to the commission shall be as follows:

1. The city manager shall present a public hearing agenda item to the commission.
2. The presiding officer will open the public hearing by pronouncement.
3. The city staff may present a background report on the matter for discussion. Upon conclusion of a staff report, commissioners may ask questions of staff for the purposes of understanding and clarification.
4. If applicable, comments from the applicant, or his agent, shall be heard by the commission. The applicant's presentation/testimony is limited, subject to the discretion of the presiding officer, to ten minutes.
5. After being recognized by the presiding officer, a commissioner may direct questions to the staff or applicant.
6. Members of the audience or their agents shall be invited to present testimony. To be recognized, each person desiring to give testimony shall step to the lectern and, after being recognized, give their name and address or ward number for the record. The audience presentation/testimony is limited to three minutes per speaker with one opportunity to speak on each agenda item. The presiding officer may lengthen or shorten the time allotted for public testimony.

Written public comment provided to the City Commission no later than 12:01 p.m. on the Monday immediately preceding the next scheduled commission meeting will be included in the agenda packet. Written public comment received later than 12:01 p.m. on the Monday preceding the next scheduled commission meeting will be distributed to the City Commission and included in the 'Supplemental' section of the agenda packet of the next regular City Commission meeting.

7. After being recognized by the presiding officer, a commissioner may direct questions to any person so testifying for purposes of clarification.
8. Following public testimony, staff shall be given the opportunity to comment on any testimony or other evidence.
9. Following staff comment, the applicant will be given the opportunity to rebut or comment on any testimony or other evidence. The applicant's comments and rebuttal are limited, subject to the discretion of the presiding officer, to five minutes.
10. Following applicant rebuttal and any further questions from the commission, the presiding officer will close the hearing.
11. The city clerk shall enter into the record all correspondence that has been received but was not yet provided to the commission.
12. The commission may continue the discussion to a date certain, close discussion and vote on the matter, or close the discussion and continue the vote to a date certain.

- B. All testimony and evidence shall be directed to the presiding officer. No person, other than a commissioner and the person recognized as having the floor shall be permitted to enter into the discussion. No questions shall be asked of a commissioner except through the presiding officer.
- C. The commission may ask staff for its recommendation.
- D. During a public hearing, in the event the applicant does not appear at the scheduled time and place, unless the applicant has waived the applicant's appearance in writing, and which waiver has been accepted by the commission, or unless the matter is submitted as a consent item, the matter shall be continued to the next available regular meeting, public hearing date, or other date certain.
- E. The commission shall not be bound by the strict rules of evidence and may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or evidence.
- F. The presiding officer shall rule on all questions relating to the admissibility of evidence with advice from the city attorney, which ruling may be overruled by a majority vote of the commission.
- G. A public hearing which has been formally closed for all public input may not be reopened and no additional evidence or testimony from the public shall be received or considered except as provided herein. If additional information is required from the public before a decision can be made, the commission, upon motion duly made, seconded and passed, may call for an additional public hearing which hearing shall be noticed as required by law, specifying date, time place and subject matter of hearing. This subsection does not preclude the commission, after the public hearing, from asking questions of staff, receiving additional evidence from staff or, after a hearing held on a preliminary plat, pursuant to MCA 76-3-101 et seq., from consulting the subdivider about conditions or other mitigation required of the subdivider. Upon decision by the presiding officer or upon a duly adopted motion of the commission to reopen the public hearing prior to close of the agenda item in which the hearing was held, the requirement to provide public notice does not apply; the public hearing may be reopened and the additional input provided prior to a final decision on the item.

CHAPTER 6 – DEVELOPMENT CODE

ARTICLE 3. – ZONING ADMINISTRATION

DIVISION 5. – HEARING PROCEDURES

Sec. 6.03.500. - Hearing procedure.

This procedure shall be followed in all development, land use, zoning, zoning variance, or other hearings required by Section 6 of the Development Code before the Planning Board, BOA Board of Adjustments, and City Commission.

1. The presiding officer shall announce the purpose and subject of the hearing.
2. The presiding officer shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be re-scheduled.
3. The presiding officer shall ask if any member wishes to declare a conflict of interest in the matter to be heard, and excuse anyone who declares such a conflict from participation in the hearing.
4. The presiding officer shall ask the administrator to present a report on the proposal being considered.
5. The presiding officer shall direct questions from members to the administrator. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.

6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with these regulations and shall be addressed to the board, BOA or city commission as a whole.
7. The presiding officer shall request a statement from the developer or a representative, or in appeals or hearings, the appellant or a representative. Members may ask questions following this statement, with all questions and replies directed through the presiding officer.
8. Following the statement of the developer or appellant, the presiding officer shall ask for statements from the public. Anyone giving a statement shall begin by stating his or her name and physical address. Members may ask questions following this statement, with all questions and replies being through the presiding officer.
9. When all statements have been given, the presiding officer shall ask if anyone who gave a statement wishes to speak in rebuttal to other statements or clarify his or her statement. Questions from members may follow each rebuttal or clarification.
10. All parties shall be courteous and respectful. The presiding officer has the authority to keep order, which may include closing a public hearing at any time if public comment becomes unproductive and excusing discourteous persons from the meeting.
11. The presiding officer shall close the public hearing and call for discussion, resulting in action, as provided by these regulations. **Upon closure of the Public Hearing, action on the matter may be decided upon during a noticed meeting of the City Commission on the same date as the public hearing.** A motion shall be made to approve, approve with conditions or modifications, or deny an application. (In cases where the board makes a recommendation instead of a final decision, a motion shall be made to recommend approval, approval with conditions or modifications, or denial of an application.) Subject to limits established in these regulations or state law, items for consideration may be tabled. Review period extensions, granted at the option of the developer, may be necessary as per state statute or these regulations.
 - a. Planning board action. Recommendations may be made by simple majority of those board members in attendance.
 - b. Board of adjustment action. Administrative appeals, variances and other statutorily authorized items regarding matters within the city limits shall be heard by the Polson BOA. The concurring vote of four members is required for the Polson BOA to approve a motion
 - c. City commission action. A quorum is required for the city commissions to take action, except for zoning amendments within the city limits when a valid protest petition has been submitted in accordance with MCA 76-2-305, where two-thirds majority of present and voting members is required to pass an amendment.
12. Written statements, plans, photographs, and other materials offered in support of statements at a hearing are part of the hearing record and shall be retained by the city.

Dated: 21st day of August 2023. **Effective:** 6th day of October 2023.

First reading and preliminary adoption on the 21st day of August 2023:
 ___6___ ayes:

_____ nays:

__1__ absent:

Second reading on the 6th day of September 2023.

_____ ayes:

_____ nays:

_____ absent:

Attest:

Approved:

Cora E. Pritt, City Clerk

Eric Huffine, Mayor