

CITY OF POLSON

ORDINANCE No. 2024-001

AN ORDINANCE OF THE CITY OF POLSON, MONTANA, CREATING A MUNICIPAL CODE ADDRESSING THE REDUCTION OF SUMMER OUTSIDE WATERING DAYS.

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, the City of Polson recognizes the importances of implementing measures to conserve municipal water; **FURTHER**, it is well known that watering lawns substantially increases municipal water consumption;

WHEREAS, there is a need to establish an annual reduction of water use for lawns and landscapes so as to reduce water usage during the summer months of the City of Polson; **FURTHER**, an established ordinance regarding reduction of summer watering days would reduce water waste that occurs because of the procedural time needed to implement watering restrictions; and

WHEREAS, the Polson City Commission desires to create a municipal code to reduce summer outside watering days; **FURTHER** that this municipal code be placed in Chapter 3, Utilities, Article 2, Water, Division 5, Reduction of Summer Outside Watering Days.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS that the following sections of the City of Polson Municipal Code be enacted the Reduction of Summer Outside Watering Days:

Chapter 3. – UTILITIES

ARTICLE 2. – WATER

DIVISION 5. – REDUCTION OF SUMMER OUTSIDE WATERING DAYS.

Sec. 3.02.500 – Purpose.

- A. The Reduction of Summer Outside Watering Days is designed to reduce municipal water usage during the summer months with the least amount of rainfall.
- B. It is known that frequent daytime outside lawn and landscape watering during the summer season is an ineffective use of a limited municipal resource.
- C. The Reduction of Summer Outside Watering Days shifts costs of water waste from the entire community to the liable party.

Sec. 3.02.505 – Municipal Water Permitted Odd/Even Watering Days and Times for Lawns and Landscaping.

- A. Residential and commercial addresses ending in odd numbers are only permitted to water on odd calendar days.
- B. Residential and commercial addresses ending in even numbers are only permitted to water on even calendar days.
- C. Residential and commercial addresses may only water for a maximum of three (3) hours on their respective permitted days between the timeframe of 6:00 a.m. to 9:00 a.m. and/or 7:00 p.m. to 10:00 p.m.
- D. Residential and commercial addresses with automatic sprinklers may only operate for a maximum of three (3) hours on their respective permitted days between the hours of 12:00 a.m. to 6:00 a.m.
- E. Permitted watering days and times does not apply to irrigation or existing well water use.

Sec. 3.02.510 – Seasonal Timeframe.

- A. The Reduction of Summer Outside Watering Days is effective starting June 10th of each year and ending September 30th.

Sec. 3.02.515 – New Lawn and Landscape Exemption.

- A. The Reduction of Summer Outside Watering Days does not apply to residential and commercial addresses that have received a new lawn and landscape exemption from the City of Polson.
- B. New lawns and landscapes will be considered exempt from the provisions of this section for the purpose of one summer. After which, all provisions of this section will apply.
- C. When the City suspects abuse or fraud of this exemption, a property owner or utility owner may be asked to provide information that verifies a lawn or landscape has been placed/constructed during the summer for which an exemption is expected.

Sec. 3.02.517 – Nursery Exemption.

- A. The Reduction of Summer Outside Watering Days does not apply to commercial addresses that are in business as a nursery.

Sec. 3.02.520 – Intentional Violations.

- A. It shall be unlawful for individuals, inside the City of Polson, to purposefully or knowingly use municipal water for residential or commercial lawns and landscaping on non-permitted days and times.
- B. Intentional outside municipal water use for lawn and landscaping when prohibited is considered excessive, constitutes a waste of municipal resources, and shall be unlawful. Criminal and/or civil penalties, as determined by the City Attorney, for intentional violations shall be assessed against the utility account owner.
- C. Property owners are jointly responsible for their dependents, tenants, and/or lessees.

Sec. 3.02.525 – Penalties for Intentional Violations.

- A. Each intentional violation shall be considered a separate violation.
- B. 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 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 Utility 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 an emergency use.

Sec. 3.02.530 – Negligent and/or Unintentional Violations.

- A. Individuals, inside the City of Polson, who negligently and/or unintentionally use municipal water on non-permitted days and times are in violation of this section and subject to civil penalties listed in section 3.02.535.
- B. Three or more negligent and/or unintentional outside violations within a calendar year are considered excessive, constitutes a waste of municipal resources, and shall be unlawful. Civil penalties for negligent and/or unintentional outside

violations within a calendar year shall be assessed against the utility account owner.

- C. Property owners are jointly responsible for their dependents, tenants, and/or lessees.

Sec. 3.02.535 – Civil Penalties for Negligent and/or Unintentional Violations.

- A. Each day of negligent and/or unintentional violation be considered a separate violation.
- B. Civil penalties for negligent and/or unintentional violations under this section shall be sent to the utility account owner.
- C. The utility account owner will be issued a notice of violation after the first negligent and/or unintentional violation by the Utility Department.
- D. If a leak notice occurs prior to the notice of negligent and/or unintentional violation, no penalty will be assessed.
- E. Negligent and/or unintentional violations result in civil fines, subject to change by resolution, and will be assessed as follows:

NUMBER OF NEGLIGENT AND/OR UNINTENTIONAL VIOLATIONS FINE SCHEDULE	
Number of Negligent and/or Unintentional Violations within a Calendar Year	Fine Amount
1st Use	No Charge
2nd Use	No Charge
3rd Use	\$75.00
4th Use	\$100.00
5th Use	\$150.00
6th Use	\$200.00
Upon 6 or more negligent and/or unintentional violations within a year, the utility account owner may be prosecuted for Intentional Violations under sec. 3.02.520 by the City Attorney.	

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

Sec. 3.02.540 – Civil Penalty Reduction Program.

- A. An aggrieved individual may complete a water 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 issued under sections 3.02.525 and 3.02.535.
- B. The water awareness course will be provided by the City of Polson.

Sec. 3.02.545 – Civil Penalty Appeal Procedure.

- A. An aggrieved individual shall have the right to appeal the department's decision on civil penalty assessment to the city commission. Prior to filing an appeal with the city commission, the appellant shall, within fifteen (15) days of the department's civil penalty invoice, request the department to reconsider the penalty. 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.

Dated: 21st day of February, 2024. **Effective:** 4th day of April, 2024.

First reading and preliminary adoption on the 21st day of February, 2024:

 6 ayes:

 nays:

 1 absent:

Second reading on the 4th day of March, 2024.

 7 ayes:

 nays:

 absent:

Attest:

Approved:

Cora E. Pritt, City Clerk

Eric Huffine, Mayor