

ORDINANCE NO. 435

AN ORDINANCE ESTABLISHING CURB AND SIDEWALK CODE WITHIN THE CORPORATE BOUNDARIES OF THE CITY OF POLSON.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:

TITLE IX - PUBLIC WAYS AND PROPERTY

CHAPTER 1 - SIDEWALKS

SECTION:

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9-1-1: **SIDEWALK RESPONSIBILITY:** It shall be the responsibility of the owners of property abutting a sidewalk to construct, repair and maintain said sidewalk in accordance with these regulations.

9-1-2: **EXISTING SIDEWALKS:** Sidewalks within the city limits in existence on the date of the adoption of these regulations shall remain in existence and be maintained, repaired and/or replaced in accordance with the City Engineer's specifications.

9-1-3: **INSPECTION:** All sidewalks within the corporate limits of the City of Polson shall be inspected each May by the City Engineer. Whenever the City Engineer finds any sidewalk in an unsafe condition for pedestrians, it shall be the duty of the City Engineer to place an obstruction on such sidewalk and notify the City Council of the unsafe condition. The City Council shall officially notify the owner of the property abutting the sidewalk of the unsafe condition and in giving notice shall allow the owner of such property thirty (30) days to make necessary repairs. If said repairs are not made within the 30 day period, it shall be the responsibility of the City Council or its designee to cause the sidewalk to be repaired or replaced.

9-1-4: **SIDEWALK CONSTRUCTION (NEW):** Whenever in the judgment of the City Council a sidewalk or curb shall be constructed in front of any lot or parcel of land within the City, it shall, by majority vote, order the construction of the same. The order shall be entered upon the

minutes of the Council, shall name the street or avenue along which said sidewalk or curb is to be constructed and shall specify the general character of material of which such sidewalks or curb shall be constructed.

9-1-5: DETERMINATION OF SAFE SIDEWALK CONDITION: For the purpose of defining a safe surface, any sidewalk with a surface discontinuity between sections or pieces of section of concrete exceeding 3/4" measured vertically, shall be defined as a hazard to pedestrian traffic and shall be removed and/or repaired. Horizontal discontinuities exceeding one inch shall be defined as a hazard to pedestrian traffic. It shall be the responsibility of the building official, and/or City Engineer, to determine if any sidewalk satisfies the above definition. Once a section of sidewalk has been determined to be unsafe the building official and/or City Engineer shall report same to the City Council. Deterioration of the surface of the sidewalk which causes a dangerous condition to exist shall also determine the sidewalk to be unsafe. This determination shall be made by the Polson City Council upon the recommendation of the Polson City Engineer.

9-1-6: NOTICE TO CONSTRUCT: The Clerk may cause to be published in one (1) issue of a paper published in the City a notice that the Council has ordered the construction of a sidewalk or curb, giving the description of the lot or parcel of land in front of which a sidewalk or curb is ordered constructed and the name of the street or avenue in which such sidewalk or curb is to be constructed, which notice shall state that if the owners or agents of the owners of lots or parcels of land in front of which such sidewalks or curbs have been ordered constructed shall fail for a period of thirty (30) days after the date of the publication of such a notice to cause such sidewalks or curbs to be constructed and will assess the cost thereof against the property in front of which the same is constructed. The Clerk shall mail a copy thereof to the owner or agent of the owner of each lot or parcel of land in front of which a sidewalk or curb has been ordered constructed as specified in said notice.

9-1-7: CITY MAY CONSTRUCT; BIDS: If the owner or agent of the owner of any lot or parcel of land in front of which any sidewalk or curb shall be ordered constructed shall fail or neglect, during such period of thirty (30) days, to construct such sidewalk or curb, the Council may cause the same to be constructed by the letting of a contract for the construction thereof.

9-1-8: ADVERTISING; BIDS; SPECIFICATIONS: If the construction of such sidewalks or curbs is done by contract after advertisement for bids, such advertisement for bids and contract may be for sidewalks or curbs in front of one or more lots or parcels of land as the Council shall determine. All sidewalks and curbs constructed in the City shall be constructed in accordance with specifications defined herein:

9-1-8.1: GENERAL SPECIFICATIONS: Sidewalks shall be constructed of regular Portland Cement concrete composed of Portland Cement, water, fine and coarse aggregate. All concrete shall be air entrained.

9-1-8.2: CEMENT: Regular Portland Cement shall conform to all the requirements for the "Specification for Portland Cement," ASTM C150 for Type IV. Air Entraining Portland Cement shall conform to all the requirements of the "Specification for Air-Entraining Portland Cement," ASTM C150 for Type IIA.

9-1-8.3: CONCRETE AGGREGATE: Concrete aggregate shall conform to the "Specification for Concrete Aggregate," ASTM C33. The maximum size of the aggregate shall be 3/4" for curb and gutter and one and one-half inch for other work.

9-1-8.4: WATER FOR CONCRETE: The water shall be free from oil, acids, alkali, organic matter or deleterious materials and shall not be used until the source of supply has been approved by the City Engineer.

9-1-8.5: AIR ENTRAINING ADMIXTURE: The contractor may elect to use a regular portland cement type II with the addition of an air entraining admixture. Air entraining admixtures, to be used with Type II cement shall be Darex AEA, Neutralized Vinsol Resin Portex or equal. The air entraining characteristics of the admixture shall be such that the resulting concrete will have a satisfactory workability and the total air content shall be 3 - 6%. The air content of the concrete

shall be determined by ASTM Specification C231 or an air meter.

9-1-8.6: CONCRETE MIXTURE REQUIREMENTS: The concrete used for curbs, gutters and sidewalks shall meet the following requirements:

Cement - sacks per cubic yard	5.5
Water - cement ratio (gal. per sack)	6.0 maximum
Entrained air	3.0 - 6.0
Aggregate	3/4" maximum (curb and gutter) 1 1/2" (sidewalks)
Minimum Compressive Strength	2000 psi (7 day) 3000 psi (28 day)
Slump	4" maximum

9-1-8.7: TESTING: All tests which are necessary to determine compliance of the concrete materials or finished mixture with these specifications will be performed by a qualified individual or laboratory and paid for by the contractor. The number and kind of tests required will be determined by the City Engineer.

9-1-8.8: SUBGRADE: The subgrade shall be excavated to a minimum depth of 24" below the base material, and thoroughly settled and compacted by wetting and compacting. Backfill shall be made in lifts not to exceed six inches and compacted to 90% of maximum dry density at optimum moisture as determined by AASHTO Designation T180. Backfill shall consist of pit run gravel which shall be subject to approval by the City Engineer prior to placement. Any variation in depth of base material must be approved by the City Engineer.

9-1-8.9: GRAVEL SUB-BASE: A two inch crushed gravel sub-base shall be deposited on the compacted subgrade and leveled and compacted.

9-1-8.10: FORMS: The contractor shall provide forms of such shape and dimensions to produce the curb and sidewalk section required by the City Standard Drawing Number _____.

9-1-8.11: EXPANSION JOINTS: Expansion joint material will be furnished by the contractor. Expansion joints shall be placed at no greater than 25' spacing and at junctions with sidewalks, curbs and structures. Transverse contraction joints shall be cut at lengths approximately equal to the width of the sidewalk with a minimum spacing of three feet. Joints shall be cut at least one inch deep.

9-1-8.12: REINFORCEMENT: All sidewalks shall be reinforced with #4 rebar placed 2' o.c. longitudinally maintained by chairs at a depth not to exceed one and one-half inch from the finished surface of the walk. Sidewalk and curb shall be dowled using #4 12" rebar 4' o.c.

9-1-8.13: FINISH: A broomed finish shall be required on all sidewalks. Alternate finishes including but not limited to paver blocks, colored and textured concrete, and exposed aggregate may be allowed with the specific permission of the City Council. For alternate finishes, detailed plans, manufacturer's literature and/or samples may be required prior to City Council review.

9-1-8.14: APPROACHES AND RAMPS: The placement of alley and private approaches shall be subject to review by the City Engineer. All corner sidewalks shall be constructed with wheelchair ramps equal to Montana Drawing Number 22-23 or equal, approved by the City Engineer.

9-1-8.15: CURBS: When curbs are constructed as part of sidewalk construction they shall conform to "Concrete Curb and Gutter Type A" (Drawing Number _____). The requirement to replace existing curb and gutter shall be at the discretion of the City Engineer.

9-1-8.16: CONCRETE PROTECTION: When the sidewalk or any section thereof is completed, it shall be covered, protected and/or kept moist to prevent rapid drying.

9-1-8.17: **SIDEWALK DIMENSIONS AND DETAILS:** Sidewalk widths for all sidewalks on Main Street between First Avenue and Fifth Avenue and on First Street East between First Avenue and Fifth Avenue and on Second Avenue between First Street West and Third Street East shall be ten (10) feet wide. All other sidewalks shall be five (5) feet unless designated otherwise by the City Council. Sidewalk slopes shall conform to Drawing Number _____ and shall be sloped at one-quarter inch per foot toward the roadway surface. The replacement of existing sidewalks, however, shall conform to the adjoining sidewalks, curbs and building faces.

9-1-8.18: **PUBLIC UTILITY POLES, FIRE HYDRANTS:** All public utility poles and fire hydrants shall be placed outside the nearest private property and not closer than six inches of the back of the curb. It shall be unlawful to place any obstruction outside of the back of the curb.

9-1-9: **PERMIT TO CONSTRUCT:** No person shall construct or replace any sidewalk on any street or avenue of the City without a permit from the City building official. Application for permits may be made by the parties employed to construct the work or by the owners of the property and must state the location, name of the owner, name of the contractor (if different from the owner), the number of the lot and block abutting upon the sidewalk to be built. Applications must be accompanied by an amount not less than \$.25 per lineal foot of sidewalk to be constructed or replaced to cover the expense of inspecting the work.

9-1-10: **CONTRACTOR TIME LIMIT:** Should the contract mentioned within a preceding section hereof be entered into, such contractor shall within thirty (30) days after being notified to do so by the City Engineer, proceed with the construction of any sidewalks or curbs previously ordered by the Council, which have not been constructed by the owner or agent of the owner, and shall within forty-five (45) days thereafter fully complete the construction thereof in accordance with his contract and the specifications for such work prepared by the City Engineer.

9-1-11: **COST ASSESSED AGAINST PROPERTY:** The cost and expense of the construction of any sidewalk or curb caused to be constructed by the Council under the provisions of this Chapter shall be assessed against the lot or parcel of land in front of which such sidewalk or curb is constructed.

9-1-12: **RESOLUTION LEVYING TAX:** The Council shall annually and before the first Monday of October of each year pass and adopt a resolution levying and assessing a tax against each lot or parcel of land in front of which sidewalks or curbs have been caused to be constructed under the provisions of this Chapter, which resolution shall be in every manner prepared and certified the same as resolutions levying assessments for the making of improvements in special improvement districts.

9-1-13: **SIDEWALK AND CURB FUND:** There is and continues to be a fund known as the Sidewalk and Curb Fund, in which fund shall be kept all assessments and taxes collected pursuant to the resolutions levying an assessment and tax referred to hereinabove, which fund shall be expended by the City Treasurer for the purpose of paying warrants issued thereon whenever such fund is sufficient to pay any of such warrants. A property owner wishing to borrow money from the Sidewalk and Loan Fund shall make written request to the City Council and the City Council shall determine whether a loan is in the best interests of the City. If a loan is determined to be in order, the City Council shall determine the repayment schedule and interest rate to be assessed to the property owner.

9-1-14: **FORM OF SPECIAL WARRANT:** Payments for the construction of sidewalks or curbs constructed under the provisions of this Chapter shall be made by special warrants drawn against the Sidewalk and Curb Fund.

9-1-15: TERM OF ASSESSMENTS: The payment of assessments to defray the cost of construction of sidewalks or curbs constructed under the provisions of this Chapter shall be spread over a term of three (3) years, unless the Council shall order the payments to be spread over a different term. Payments shall be made in equal annual installments and shall be included as a special property tax assessment.

9-1-16: REPAIRS TO SIDEWALKS: All repairs to sidewalks made by the City shall be paid out of either the All-Purpose General Fund or the Sidewalk and Curb Fund (to be determined by the City Council), and the Clerk shall keep a separate account of the cost of such repairs and charge the abutting property therewith, and shall certify to the Treasurer a list of all properties chargeable for repairs of sidewalks, with the amount of the cost of repairs for which each separate parcel is chargeable, to which cost shall be added interest at the rate of six percent (6%) per annum from the date of the incurring of such charge by the City, and ten percent (10%) additional to cover costs and charges of administration. Such items shall constitute a tax against the property affected thereby, and such tax shall be collected under the provisions of this Chapter and shall be placed in the appropriate fund from which the charge was originally paid.

9-1-17: REMOVAL OF SIDEWALKS: Where a sidewalk is removed by order of the City Council, as herein provided, unless the owner of the abutting property shall take away from the street or avenue the material of which such sidewalk is constructed, as the same is removed by the City, then the Street Superintendent shall dispose of such material to the best advantage, and the cost of the removal of the sidewalk and disposition of the material, less any amount realized out of the sale of the material (if sold), shall be a tax against the abutting property, and shall be certified and collected, as herein provided, for repairs made to sidewalks of the City, together with interest and charges of administration as hereinbefore provided.

9-1-18: CROSSING REMOVAL: The City Council may at any time cause to be removed any crossing that in its judgment is unsafe for pedestrians.

9-1-19: INTERFERENCE WITH OBSTRUCTION ON SIDEWALK: Any person who takes down or removes, or in any manner interferes with any obstruction placed on any sidewalk, as provided in this Chapter shall commit the offense of obstructing the administration of the City, and upon conviction thereof shall be punished as provided by this Code.

9-1-20: SUPERVISION: No work which shall create any obstruction to public travel shall be commenced until a permit has been granted by the building official, and the owner of abutting property shall be liable for all damage which may arise by reason of carelessness in the conduct of any work upon the adjacent sidewalk, or by reason of lack of protection of the public from danger by proper guards or signals, either by night or day. All repairs or renewals of sidewalks must be in conformity with these regulations and to the established grade, except where good and sufficient reason therefore is shown, if deemed expedient for the public interest, a different method of construction or a temporary grade may be authorized by special permit from the City Council, provided that such permit shall specify that when ordered by the Council, such sidewalks shall be placed at the established grade and in conformity with the original plan of construction. Grades and lines necessary for the proper execution of sidewalk repairs or renewal as herein provided shall be made upon the ground by the Engineer or his assistant, or by an engineer employed for that purpose, upon application therefor to the City Council.

9-1-21: CITY MAY REPAIR SIDEWALKS ON APPLICATION: Any owner, agent, lessee or tenant of property adjacent to any sidewalk which is unfit or unsafe for public travel may have the same repaired, renewed or cleaned up by the Street Department of the City upon application to the City Council and by making a cash deposit with the City Council. Upon completion of the work, an itemized statement shall be furnished showing the full cost of all labor and materials used in such work, and if the deposit be made in excess of such cost, then the excess shall be refunded. If the amount deposited is insufficient to pay such cost, then the deficit shall be paid forthwith by the said owner, lessee, or tenant of abutting property.

9-1-22: OBSTRUCTIONS PROHIBITED: None of the duties or privileges imposed or conferred by this Chapter shall in any way be deemed to authorize or allow the obstruction of any street, either during or after any work upon any sidewalk, except under permit therefor. No material removed from any sidewalk shall be placed upon any portion of any adjacent street, alley, place or square, except if permission therefor be granted. All refuse, lumber or debris remaining after the completion of any sidewalk repair or renewal shall be removed from the street forthwith, and any owner, lessee, or tenant of abutting property who shall fail to remove any such obstruction from any street, alley, place or square within forty-eight (48) hours after being notified by the Street Superintendent to do so, shall be deemed guilty of maintaining a public nuisance and shall be subject to the penalties prescribed therefor. In case of failure to remove obstructions after such notice, the Street Superintendent shall cause the same to be removed and shall charge the full cost of such removal to such owner, lessee, or tenant, and the charge shall become a lien upon such abutting property and shall be collected as hereinbefore provided for the collection of costs of construction or repair of sidewalks.

9-1-23: MAINTENANCE: Nothing in this Chapter shall be construed as limiting the existing powers of the City with reference to the maintenance or control of sidewalks.

9-1-24: PROHIBITING OF SIDEWALK DISPLAYS WITH EXCEPTIONS: It shall be unlawful for any person or business to place or keep any sidewalk displays whether for advertising or merchandising on any legal sidewalk excepting newspaper stands, phonebooths, Council-approved trash receptacles and planters, and displays on special City-wide sale days sanctioned by the City Council.

9-1-25: ALLOWING PLANTERS AND TRASH RECEPTACLES: Planters and trash receptacles shall be allowed to be placed on or above the sidewalks in an area from First Avenue to Fifth Avenue and First Street West to Second Street East subject to the following requirements:

- (1) The location shall have a minimum of a 10' sidewalk.
- (2) The planters and trash receptacles shall conform to standard designs--approved by the City Council. No other designs shall be allowed without specific prior permission of the City Council.
- (3) No planter or trash receptacle shall be placed on or above any sidewalk until the following agreement is signed, notarized and presented to the City Clerk for filing.

I/we the owners of lot(s) _____, block _____ do maintain, repair and otherwise assume all responsibility for the placement of a trash receptacle/ planter on or above the sidewalk in front of my/our lot. It is understood that this agreement includes but is not limited to the following: In the case of planters the agreement includes as a minimum the purchase, placement, fertilizing and watering of decorative plants and flowers. Such plants shall be pruned so that no branch, leaf or support stake extends more than 18" above the top of the planter nor 8" beyond the perimeter of the planters largest dimension. The planter shall be removed from the sidewalk during the months of October through April or at any time that the plants are not maintained in a living condition. In the case of trash receptacles this agreement includes as a minimum the cleaning and emptying of the receptacles. At no time will its contents be allowed to spill over onto the sidewalk.

The City shall be held harmless for any injury and/or damages resulting from the placement if any item on or above the city's sidewalk.

Signed _____

State of Montana)
County of Lake)

On this _____ day of _____ 1986, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the people whose names are subscribed to this instrument and acknowledged to me that they executed the same.

Notary Public for the State of Mt.
Residing at _____

My Commission Expires _____

9-1-26: SPECIAL APPROVAL FOR PLANT DISPLAYS, PLANTERS, TRASH RECEPTACLES OR OTHER ITEMS: In addition to the stipulations as outlined in 9-1-25 the City Council may elect to grant specific approval for plant displays, planters, trash receptacles or other items on or above the sidewalks following a specific request for same. Furthermore no part of this paragraph is intended to grant pupetual permission for any item on or above the City's sidewalks.

9-1-27: TERMINATION OF ANY APPROVAL: The City Council reserves the right to revoke or deny any request if it is deemed in the best interest of the city to do so. If the council votes by majority to revoke any filed agreement it shall give written notice by registered mail. The individual(s) so notified will be given 30 days from receipt of said registered letter to comply or city personnel shall remove the subject item and bill the individual property owner for all expenses associated with this removal.

REPEALING CLAUSE: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED this 7th day of April, 1986.

Patricia DeVries
Patricia DeVries, Mayor

ATTEST:

Kathy Cox
Kathy Cox, City Clerk