

**ORDINANCE Ord #2016-001**

**AN ORDINANCE TO ADOPT  
SEC. 15.02.230. - REGULATION OF PUBLIC TREES  
TO THE CITY OF POLSON BOOK OF ORDINANCES**

**WHEREAS**, the City Commission of Polson has determined that it is in the best interests of the citizens of Polson to reestablish, rewrite and reauthorize the Ordinances of the City;

**WHEREAS**, the Commission wishes to continue its commitment to orderly and comprehensive management of trees within the City limits;

**WHEREAS**, it appears in the best public interest that the following ordinance be adopted and codified for the City of Polson;

**NOW, THEREFORE, BE IT ORDAINED** by the City of Polson that the following Section of the Ordinances of the City of Polson be adopted in full as attachments hereto:

**Sec. 15.02.230. Regulation of Public Trees**

The clerk is hereby instructed to codify this Ordinance and to place the same in the Book of Ordinances of the City of Polson.

Date: January 20, 2016

First Reading:      7   ayes    \_\_\_\_ nays    \_\_\_\_ abstentions

Date: February 17, 2016

Second Reading:      7   ayes    \_\_\_\_ nays    \_\_\_\_ abstentions

Effective Date:    March 18, 2016

\_\_\_\_\_  
Mayor Heather Knutson

Attest:

\_\_\_\_\_  
City Clerk Cora E. Pritt

## **Sec. 15.02.230. Regulation of Public Trees**

A. *Title and Purpose.* Short title: This section shall be known as and be cited and referred to as the city of Polson Tree Ordinance. The purpose of this section is to regulate public trees within the city, to provide for their planting, protection, maintenance and removal, establishing a tree board, and delegating to the director of parks and recreation and/or the streets superintendent, the duty of assuring orderly development of public trees.

B. *Establishment of tree board.* In the discretion of the city commission, the commission may appoint the parks and recreation board to serve as the Polson tree advisory board. In the event that the city commission shall choose to appoint such advisory board, the commission shall create the five member Polson tree advisory board under the terms and conditions herein stated.

1. All said members shall be appointed by the mayor with approval of the city commission.
2. All members of the board shall serve without pay.
3. The members appointed by the mayor shall be appointed for two year terms.
4. Serve until their successors are duly appointed and approved by the city commission.
5. Subsequent to the initial appointment all new appointees shall be:
  - a. Appointed for two year terms:
    - i. Provided, however, that the event of vacancy caused by resignation, death or otherwise.
    - ii. The member's successor shall be appointed to fill the unexpired term of the member replaced.
6. The Tree board shall appoint annually, a Chairperson whose term shall be for one year, with the option to renew their position at the end of a year's time.
7. In addition, there may be created, as needed, an advisory committee to the tree board, the membership of which shall consist of the Polson parks and recreation director (hereafter referred to as director) and/or streets department superintendent (hereafter referred to as superintendent), and two additional individuals with appropriate backgrounds in landscaping or experience with plants, trees and shrubs, whose terms shall be for two years each.
8. Duties of tree board:

- a. Study the problems and determine the needs of the city in connection with its tree planting and maintenance program.
- b. Assist the properly established officials of the city, as well as the city commission and citizens of the city
- c. Dissemination of news and information regarding the selection, planting and maintenance of trees within the city limits, whether the same be on private or public property.
- d. Make recommendations from time to time to the city commission, as to desirable legislation concerning the tree program and activities for the city.
- e. Provide regular and special meeting sat which the subject of trees insofar as it relates to the city may be discussed by the members of the board, Officers and personnel of the city and its divisions, and all others interested in the tree program.

9. Organization:

That within a reasonable time after the appointment of said board and the approval of the members there of, upon call of the chairman the board shall meet and organize other officers and committees as may be deemed appropriate. The board shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said board shall deem advisable and necessary in order to perform the duties set forth.

C. *Species, Cultivars or Varieties of Trees Permitted.*

- 1. The board shall:
  - a. Prepare lists of trees acceptable for planting in the public sites of the city.
  - b. Undesirable trees shall not be recommended for general planting and their use, if any, shall be restricted to special locations where, because of certain characteristics of adaptability or landscape effect, they can be used advantageously.
- 2. Only desirable, long-lived trees of good appearance, beauty, adaptability and generally free from injurious insects or disease shall be planted in public sites.
- 3. The board shall review at least once every two years the species, cultivars and varieties included on the approved list to determine if any should be removed for any reason or if certain new species, cultivars or varieties of proven dependability and value should be added.

D. *Work on public trees.*

1. Compliance: All work on public trees will comply with this chapter.
2. Authority: The director/superintendent or their designated representative shall have the authority and jurisdiction of regulating the planting, maintenance and removal of public trees on streets and other publicly owned property to ensure safety and/or preserve the aesthetics of such public sites.
3. Duty: The director/superintendent or their designated representative shall have the authority, and it shall be their duty to supervise or inspect all work performed under the terms of this section.
4. Director/Superintendent authority in granting permits: The director/superintendent or their designated representative shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
5. Permit required for work on public trees:
  - a. No person shall plant, spray, perform major pruning, remove or otherwise disturb any public tree without a permit issued by the director/superintendent or their designated representative.
  - b. The person receiving the permit shall abide by the arboricultural specifications and standards of practice as outlined by this chapter, and provide evidence of public liability insurance in an amount determined to be appropriate by the parks and streets departments.
6. Removal of public trees, replacement and allocation of costs:
  - a. No person or property owner is to remove a public tree from the boulevard for the purpose of construction or for any other reason without first obtaining a permit from the director/superintendent.
  - b. Public trees removed under this section must be replaced as deemed appropriate by the director/superintendent. The person or property owner shall bear the cost of removal and replacement of all public trees removed.
7. Appeal to city commission: Any person may make a written appeal from any ruling or order made by the director/superintendent to the city commission, which shall make a final decision.

E. *Protection of Trees.*

1. Damage to public trees is prohibited unless specifically authorized by the director/superintendent.

- a. It is unlawful to:
  - i. Intentionally damage, cut, carve, transplant or remove any public tree; attach any rope, wire, nails or other contrivance to any public tree.
  - ii. Allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them.
  - iii. Set fire or permit any fire to burn when such fire or the heat thereof could injure any portion of any public tree.
  - iv. Excavate any ditches, tunnels, trenches or lay drive within a radius of 10 feet of any public tree without first obtaining permission from director/superintendent.
  - v. Excavation for new utilities and structures within a radius of 10 feet of any public tree will not be permitted unless approved by the board.

2. Protection of Trees:

- a. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work shall be guarded with a good substantial fence, frame, or box. All building material, dirt or other debris shall be kept outside the barrier.
- b. Maintenance and/or repair work on existing underground utilities will be permitted.

3. Removal of public trees: No trees shall be removed from public places unless they are dead, diseased, constitute a hazard to life or property, are a public nuisance or because a revision of planting plans necessitates it.

F. *Public protection.*

1. Public Protection:

- a. To protect the public from danger, suitable street and sidewalk barriers and sidewalk barriers, highway cones or signs must be used when pruning, removing or spraying trees.
- b. Flashing signals or flares must be placed on all barriers or obstructions remaining in the street after dark
- c. All safety devices must conform to the standards as set forth in the Manual of Uniform Traffic Control Devices, distributed by the Federal Highway Administration, U.S. Department of Transportation.

2. Stumps: The stumps of all removed public trees shall be cut to at least three inches below the ground, soil shall be replaced and the area leveled. If the

area where the tree is removed is to be paved, the stump shall be removed to meet general construction standards.

3. Spraying: Suitable precautions shall be taken to protect and warn the public of the spraying of public trees. Spraying will be completed only for the control of specific diseases or insects, with the proper materials in the necessary strength. Shall be applied at the proper time to obtain the desired control. All spraying practices shall conform to federal, state and local regulations and must be completed by licensed applicator.

G. *Penalty.*

1. Removal of violating trees, procedure:
  - a. Whenever any tree is planted or set out in violation of the provisions of this section, the director/superintendent may remove or have the tree removed.
  - b. The director/superintendent will first notify the property owner, in writing, of the city`s intention to remove the tree and give the property owner a reasonable period of time (not to exceed 45 days) within which to remove the tree.
  - c. If the property owner does not comply within the specified time, the director/superintendent will implement the removal of the tree.
  - d. The total costs thereof will be added to the taxes levied against the real property owner.
2. Criminal penalty: Any person, firm or corporation who violates any provisions of this chapter or fails to comply with any provisions of this chapter, shall be guilty of a misdemeanor. Upon conviction thereof such person shall be punished in the manner provided by these city ordinances.