

ORDINANCE NO. 501

AN ORDINANCE REGULATING THE PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES WITHIN THE CITY OF POLSON, ESTABLISHING A TREE COMMISSION, AUTHORIZING THE SUPERINTENDENT OF PARKS & STREETS TO REGULATE PUBLIC TREES, PROVIDING FOR MEASURES TO ASSURE PUBLIC SAFETY, PROVIDING PENALTIES FOR VIOLATION AND DECLARING AN EFFECTIVE DATE.

CHAPTER I - Title & Purpose

Section 1.01. SHORT TITLE.

The Ordinance adopted pursuant hereto shall be known as, and be cited and referred to as the "City of Polson Tree Ordinance."

Section 1.02. PURPOSE.

The purpose of this Ordinance is to regulate public trees within the City of Polson, to provide for their planting, protection, maintenance and removal, establishing a tree commission, and delegating to the Superintendent of Parks & Streets the duty of assuring orderly development of public trees.

CHAPTER II - Definitions

Section 2.01. DEFINITIONS.

For purposes of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the content, words used in the present tense include future, words in plural include the singular and words in the singular include plural. The word shall is mandatory and not merely directory.

- A) CITY - The City of Polson, Lake County, Montana
- B) PARKS & STREETS - The designated Department for the City of Polson under whose jurisdiction public trees fall.
- C) SUPERINTENDENT OF PARKS & TREES - The designated official for the City of Polson assigned to carry out the enforcement of this ordinance.
- D) PERSON - Any person, firm, partnership, association, corporation, company of any kind.
- E) STREET - The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- F) PUBLIC PLACES - This shall include all other grounds owned by the City of Polson.
- G) PROPERTY LINE - The outer edge of a street or highway right-of-way.
- H) BOULEVARD - That part of the public right-of-way not covered by sidewalk or other paving, lying between the property line and the curb line of any street. (In the absence of a curb, the curb line of a street shall be deemed to be the edge of that portion of the public right-of-way maintained and open to the use of the public for purposes of vehicular travel.)
- I) PUBLIC TREES - All shade and ornamental trees growing on any street or any public area.

J. PROPERTY OWNER - The person owning such property as recorded at the Clerk and Recorder's Office of Lake County, State of Montana.

CHAPTER III - Establishment of a Tree Commission

Section 3.01. There shall be created a commission to be known and designated as "Tree Commission" composed of seven (7) members, with a minimum of four (4) of the seven (7) members to be residents of Polson. Five (5) of said members shall be appointed by the Mayor with approval of the City Council. The sixth (6th) member shall be the Superintendent of the Water and Sewer Department and the seventh (7th) member shall be the Superintendent of the Parks & Streets Department.

All members of the commission shall serve without pay. The five (5) members appointed by the Mayor shall be appointed as follows:

Three (3) for three (3) years and two (2) for two (2) years and serve until their successors are duly appointed and approved by the City Council.

Successors to those members appointed by the Mayor shall thereafter be appointed for three (3) and two (2) years, dependent upon who they are succeeding. That is, if succeeding a member who was appointed for three (3) years, the successor shall serve for three (3) years, and if succeeding a member who was appointed for two (2) years, the successor shall serve for two (2) years. Vacancies caused by death, resignations, or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.

The Mayor of the City of Polson shall appoint the Chairman of the "Tree Commission" with the approval of the City Council. The Superintendent of Parks and Streets Department shall at all times serve as Secretary.

Section 3.02 DUTIES OF SAID "TREE COMMISSION".

To study the problems and determine the needs of the City of Polson in connection with its tree planting and maintenance program.

To assist the properly constituted officials of the City of Polson, as well as the Council and Citizens of the City in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property, and to make such recommendations from time to time to the City Council, as to desirable legislation concerning the tree program and activities for the City. To provide regular and special meetings at which the subject of trees insofar as it relates to the City may be discussed by the members of the Commission, officers and personnel of the City and its several divisions, and all others interested in the tree program.

Section 3.03. That within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the Chairman, said Commission shall meet and organize such other officers and committees as may be appropriate.

The said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

CHAPTER IV - Species, Cultivars, or Varieties

Section 4.01. SPECIES, CULTIVAR, VARIETIES PERMITTED.

1. The Chairman of the Commission shall prepare lists of trees acceptable for planting in the public sites of the City of Polson. 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 to advantage.

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. The Tree Commission, in conjunction with the Superintendent of Parks & Streets, shall review at least once every two (2) 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.

Section 5.01 WORK ON PUBLIC TREES.

All work on public trees will comply with the "Tree Ordinance for the City of Polson".

Section 5.02 AUTHORITY.

The Superintendent of Parks & Streets or his 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 or preserve the aesthetics of such public sites.

Section 5.03 DUTY.

The Superintendent of Parks & Streets or his designated representative shall have the authority, and it will be his/her duty, to supervise or inspect all work performed under the terms of this Ordinance.

Section 5.04 SUPERINTENDENT OF PARKS & STREETS' AUTHORITY IN GRANTING PERMITS.

The Superintendent of Parks & Streets or his designated representative shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.

Section 5.05 PERMIT REQUIRED FOR WORK ON PUBLIC TREES.

No person shall plant, spray, perform major pruning, remove or otherwise disturb any public tree without a permit issued by the Superintendent of Parks & Streets or his designated representative. The person receiving the permit shall abide by the arboricultural specifications and standards of practice as outline by this Ordinance, and provide evidence of public liability insurance in an amount determined to be appropriate by the Parks & Streets Department.

Section 5.06 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 Superintendent of Parks & Streets.

B. Public trees removed under Section 5.06(A) must be replaced as deemed appropriate by the Superintendent of Parks &

Streets. The person or property owner shall bear the cost of removal and replacement of all public trees removed.

Section 5.07 APPEAL TO CITY COUNCIL.

Any person may make a written appeal from any ruling or order made by the Superintendent of Parks & Streets to the City Council, which shall make a final decision.

CHAPTER VI - Protection of Trees

Section 6.01. DAMAGE TO PUBLIC TREES PROHIBITED.

Unless specifically authorized by the Superintendent of Parks & Streets, it is unlawful for any person to intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, or other contrivance to any public tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof could injure any portion of any public tree.

Section 6.02 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. It is unlawful for any person to excavate any ditches, tunnels, trenches, or lay drive within a radius of ten (10) feet of any public tree without first obtaining permission from the Superintendent of Parks & Streets and the Superintendent of Water & Sewer. Maintenance or repair work on existing underground utilities will be permitted. Excavation for new utilities and structure within a radius of ten (1) feet of any public tree will not be permitted unless approved by the Commission.

Section 6.03. 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.

CHAPTER VII - Public Protection

Section 7.01. PUBLIC PROTECTION.

To protect the public from danger, suitable street and sidewalk barriers, highway cones, or signs must be used when pruning, removing or spraying trees. Flashing signals or flares must be placed on all barriers or obstructions remaining in the street after dark. 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.

Section 7.02 STUMPS.

The stumps of all removed public trees shall be cut to at least three (3) inches below the ground, and 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.

Section 7.03. SPRAYING.

Suitable precautions shall be taken to protect and warn the public that spraying is being done to public trees. Spraying

will be done only for the control of specific diseases or insects, with the proper materials in the necessary strength, and applied at the proper time to obtain the desired control. All spraying practices shall conform to federal, state and local regulations and must be performed by a pesticide applicator properly licensed by the State of Montana, Department of Agriculture.

CHAPTER VIII - Penalty

Section 8.01. REMOVAL OF VIOLATING TREES, PROCEDURE.

Whenever any tree is planted or set out in violation of the provisions of this section, the Superintendent of Parks & Streets may remove or cause removal of the same. The Superintendent of Parks & Streets will first notify the property owner(s), in writing, of the City's intention to remove the tree(s) and give the property owner(s) a reasonable period of time (not to exceed 45 days) within which to remove the tree(s). If the property owner(s) does/do not comply within the specified time, the Superintendent of Parks & Streets will cause the removal of the tree(s) and the total costs thereof will be added to the taxes levied against the real property of the owner(s).

Section 8.02 CRIMINAL PENALTY.

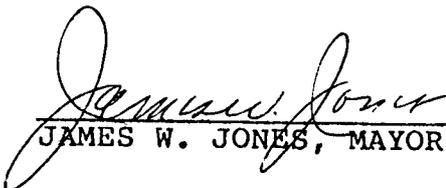
Any person, firm or corporation who violates any provisions of this Ordinance, or fails to comply with any provisions of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00), or imprisonment for a period not exceeding ninety (90) days, or both.

CHAPTER IX

Section 9.01 EFFECTIVE DATE.

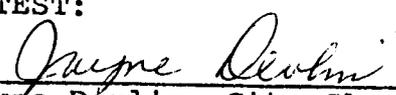
This Ordinance shall be effective thirty days from and after its final passage and approval by the Mayor.

FINALLY PASSED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA, AND APPROVED BY THE MAYOR THIS 17th DAY OF September, 1990.



 JAMES W. JONES, MAYOR

ATTEST:



 Jayne Devlin, City Clerk

First Reading: September 4, 1990
 Second Reading: September 17, 1990