

ORDINANCE NO. 661

AN ORDINANCE REVISING CHAPTER 14.10, "REGULATION OF PUBLIC TREES"

Whereas, the Council desires to amend chapter 14.10 of the Polson Municipal Codes to update the language, and abolish the Tree Commission and have the duties absorbed by the Park Board;

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

1. Chapter 14.10 is amended in its entirety as follows:
See attached Exhibit A for the revised Chapter 14.10.

REPEALING CLAUSE: All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

FIRST READING: December 20, 2010.

SECOND READING: January 3, 2011.

NOW, THEREFORE, the foregoing Ordinance shall become effective on February 3, 2011.

PASSED AND ADOPTED THIS 3rd day of January, 2011.

CITY OF POLSON

Pat DeVries, Mayor

ATTEST:

Kala Parker, City Clerk

Revised Version Exhibit "A"

CHAPTER 14.10

REGULATION OF PUBLIC TREES

Sections:

- 14.10.010 Title and purpose
- 14.10.020 Definitions
- 14.10.030 Establishment of tree commission
- 14.10.040 Species, cultivars, or varieties of trees permitted
- 14.10.050 Work on public trees
- 14.10.060 Protection of trees
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14.10.010 Title and purpose.

(A) Short title: This chapter shall be known as and be referred to as the City of Polson Tree Ordinance.

(B) Purpose: The purpose of this chapter 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 superintendent of parks or streets the duty of assuring orderly development of public trees.

14.10.020 Definitions. For purposes of this chapter, 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 the future, words in the plural include the singular and words in the singular include the plural.

(A) "City" means the city of Polson, Lake County, Montana.

(B) "Parks" or "Streets" means the designated departments for the city of Polson under whose jurisdiction public trees fall.

(C) "Superintendent" means the designated official for the city of Polson assigned to carry out the enforcement of this chapter.

(D) "Person" means any person, firm, partnership, association, corporation, or company of any kind.

(E) "Street" means 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" shall include all other grounds owned by the city of Polson.

(G) "Property line" means the outer edge of a street or highway right-of-way.

(H) "Boulevard" means 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" means all shade and ornamental trees growing on any street or any public area.

(J) "Property owner" means the person owning such property as recorded at the Clerk and Recorder's office of Lake County, State of Montana.

14.10.030 Establishment of tree board.

(A) Tree Board: There shall be created a board to be known and designated as "Tree Board", composed of the membership of the Park Board organized and existing under these codes.

(B) Duties of tree board: The duties of the tree board shall be to study the problems and determine the needs of the city in connection with its tree planting and maintenance program, to assist the properly constituted officials of the city, 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. The duties of the tree board shall also be to hold such meetings under such rules as seem appropriate or necessary in the circumstances, all such meetings to be noticed public meetings, which must include an agenda item to hear the comments of the public as to any matter not on the agenda.

14.10.040 Species, cultivars, or varieties of trees permitted.

(A) The board shall prepare lists of trees acceptable for planting in the public sites of the city. 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.

(B) 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 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.

14.10.050 Work on public trees.

(A) Compliance: All work on public trees will comply with this chapter.

(B) Authority: The tree board 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.

(C) Duty: The tree board shall have the authority, and it shall be their duty to supervise or inspect all work performed under the terms of this chapter.

(D) Tree board's authority in granting permits: The tree board 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.

(E) 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 tree board or its designated representative. The person receiving the permit shall abide by the arboricultural specifications and standards of practice as outlined by this chapter or later determined by the tree board, and provide evidence of public liability insurance in an amount the tree board may from time to time determine.

(F) Removal of public trees, replacement and allocation of costs: 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 tree board. Public trees removed under Section 14.10.050(F)(1) must be replaced as deemed appropriate by the tree board. The person or property owner shall bear the cost of removal and replacement of all public trees removed.

(G) Appeal to city manager: Any person may make a written appeal from any ruling or order made by the tree board to the city manager, who is empowered to make the final decision.

14.10.060 Protection of trees.

(A) Damage to public trees prohibited: Unless specifically authorized by the tree board, 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.

(B) Protection of trees: 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. It is unlawful for any person to excavate any ditches, tunnels, trenches, or lay drive within a radius of 10 feet of any public tree without first obtaining permission from the tree board. Maintenance or repair work on existing underground utilities will be permitted. 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.

(C) 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.

14.10.070 Public protection.

(A) 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.

(B) Stumps: The stumps of all removed public trees shall be cut to at least three 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.

(C) 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.

14.10.080 Penalty.

(A) Removal of violating trees, procedure: Whenever any tree is planted or set out in violation of the provisions of this chapter, the tree board may remove or cause removal of the same. The tree board 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. If the property owner does not comply within the specified time, the tree board will cause the removal of the tree and the total costs thereof will be added to the taxes levied against the real property owner.

(B) 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, and upon conviction thereof shall be punished by a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days, or both.