

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2009-09

SUBJECT: Public Tree Ordinance

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 05/12/2009
- (X) Passed by the City Council: 06/03/2009
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 06/12/2009
- (X) Effective: 06/17/2009
- () Recorded: N/A

DISTRIBUTED COPIES AS FOLLOWS: email all departments

- (X) NK Herald: Emailed by jb
- (1) Ordinance Book (copy)
- (X) Code Publishing - via email if in electronic format
- () City Attorney
- () Civil Service Commission and/or Sec/Chief Examiner
- (X) Clerk's Department:
- () City Council
- () Finance:
- (X) Posted to Library Drive



City Clerk

06/15/2009

Date

ORDINANCE NO. 2009-09

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADDING A NEW CHAPTER 16.24 TO THE POULSBO MUNICIPAL CODE TO BE KNOWN AS THE PUBLIC TREE ORDINANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Poulsbo Tree Board, with the support of the Parks and Recreation Director and the City Arborist, has recommended that the Poulsbo City Council adopt a public tree ordinance in order to set standards for the management of trees within public rights of way, facilities and open space, and

WHEREAS, the City Council agrees with the recommendation and has determined to adopt the regulations set forth in this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Public tree ordinance. A new Chapter 16.24 is hereby added to the Poulsbo Municipal Code to read as follows:

**CHAPTER 16.24
PUBLIC TREE ORDINANCE**

Sections:

- 16.24.010. Purpose.**
- 16.24.020. Definitions.**
- 16.24.030. Urban Forestry Program.**
- 16.24.040. Public tree maintenance, inspection and removal.**
- 16.24.050. Public tree planting plans and standards.**
- 16.24.060. Street tree and park tree planting list.**
- 16.24.070. Property owner requests.**
- 16.24.080. Permitting.**
- 16.24.090. Protection of public trees.**
- 16.24.100. Nonliability of City.**
- 16.24.110. Violations and penalties.**

16.24.120. Mitigation required.

16.24.130 Appeal.

16.24.010 Purpose.

The purpose of this chapter is to encourage responsible management of trees within city parks, rights-of-ways, facilities and open spaces. Proper planting, pruning, and maintenance are required to promote the community's tree resource and the benefits it provides.

The city council, city departments, and tree board recognize the need to establish a public tree management program as part of the urban forestry program. The focus of the urban forestry program will be on balancing the needs of the community and the urban forest.

16.24.020 Definitions

The following words and phrases when used in this chapter shall have the following meanings unless a different meaning is clearly required by the context:

Associated Vegetation shall mean native or non-native trees, shrubs and ground covers within city parks, rights-of-ways, facilities and open spaces.

City shall mean the City of Poulsbo.

City Arborist shall mean the contracted or city employee who is a current certified arborist by the International Society of Arboriculture and works under the direction of the parks and recreation director.

Director shall mean the parks and recreation director.

Hazard Tree or Hazardous Tree shall mean any public tree rated as such by the City according to the tree hazard evaluation standards established by the International Society of Arboriculture.

Maintain or maintenance shall mean the entire care of trees within city parks, rights-of-ways, and open spaces, as well as the preparation of ground, fertilizing, mulching, planting, disease and insect control, trimming, pruning, staking, root control, watering, leaf litter, weed removal, and removal of dead and dying trees, unless specifically so stated.

Master Public Tree Plan shall mean a document adopted by council that presents street and park tree inventories, maintenance recommendations, recommended street tree and park tree lists, master design plan for street tree plantings and urban forestry program goals.

Planting shall mean to install public trees permanently in the ground.

Planting strip shall mean the area available for planting including tree pits between the street curb, the edge of the traveled portion of roadway and the property line.

Property owner shall mean the person owning such property as shown by the records of the Assessor's Office of Kitsap County, Washington.

Pruning shall mean cutting or removing any part of the branching structure of a plant in the crown, trunk, and/or root areas as per current ANSI A300 Pruning Standards for Tree Care Operators.

Public trees shall mean all trees within city parks, rights-of-ways, and open spaces.

Removal shall mean removal of a tree within city parks, rights-of-way, and open spaces.

Responsible Official means that the director of parks and recreation will perform as the 'Responsible Official' in cooperation with the public works and planning and building directors. These directors have final authority on interpretation and enforcement of this ordinance. The city arborist is designated as the person who advises the director (s) on public tree related issues.

Street trees shall mean those trees that are mainly ornamental cultivars selected to be planted according to a design plan within designated planting areas.

Top or Topping shall mean cutting back a tree to buds, stubs or laterals not large enough to assume apical dominance.

Urban Forestry Standards and Specifications Manual shall mean the Poulsbo Master Public Tree Plan adopted by council, which presents required standards and specifications for public tree planting, maintenance, removal and protection to be required.

16.24.030 Urban Forestry Program.

A. Establishment.

The urban forestry program is established within the parks and recreation department, which has administrative responsibilities. The public works department has maintenance jurisdiction over trees, shrubs and associated vegetation within public rights-of-way and other public owned areas. The planning and building department is responsible for including the Master Public Tree Plan in their development review process.

B. Responsible Official.

The director of parks and recreation will perform as the 'Responsible Official' in cooperation with the public works and planning and building directors. These directors have final authority on interpretation and enforcement of this ordinance. The city arborist is designated as the person who advises the director (s) on public tree related issues.

C. Authority.

The city arborist reviews and provides advice to the planning and building and public works departments on permitting the planting, pruning, removal, replacement, protection and maintenance of all trees and associated vegetation within the public rights-of-way and other public areas.

The city arborist examines all trees and associated vegetation on public property within the city to determine if they are diseased, dead or hazardous, obstructing the rights-of-way, or posing a threat to public safety.

The city arborist with the advice and assistance of the Poulsbo Tree Board shall perform duties that include, but not limited to, the following:

- Advocating trees within the city;
- Promoting public education about trees;
- Providing the director with a yearly report;
- Promoting proper tree care and maintenance;
- Developing innovative and joint funding for urban forestry related projects from a variety of sources;
- Promoting the responsible planting of trees on public property;
- Providing for aesthetics within the city through implementation of the urban forestry program.

The director shall provide the mayor and city council an annual report.

The director, with the recommendation of the Poulsbo Tree Board, city arborist and approval from city council, shall have the authority to amend or add to the Poulsbo Master Public Tree Plan at any time that circumstances make it advisable.

16.24.040 Public tree maintenance, inspection and removal.

A. The city will endeavor to maintain public trees according to the Public Tree Care Standards and Specifications Manual for Planting, Maintenance, Pruning and Protection for all trees and associated vegetation within city parks, rights-of-ways, facilities and open spaces. Exemption: Please reference Sec. 16.24.100 Responsibility for Private Trees.

- B. The city arborist shall conduct a periodic monitoring program of public trees within the city. All trees found by the city arborist to be dead, dying or in a hazardous condition shall be removed, replaced or subject to mitigation in the same or more appropriate location.
- C. Notwithstanding any restriction otherwise imposed by this ordinance, public trees may be pruned or removed to the extent necessary to avoid danger to persons or property.
- D. Public tree maintenance shall follow the standards and specifications presented within the current Urban Forestry Standards and Specifications Manual.

16.24.050 Public tree planting plans and standards.

- A. The planting of public trees in the city shall be governed by general and specific tree planting plans approved by the planning and building director as recommended by the city arborist. The plans shall be based upon standards found in the current publications of the ANSI Z60.1 American Standards for Nursery Stock: Plant Materials, the ANSI A300 Standards for Transplanting, and the Best Management Practices Series (BMP) for Tree Planting and Tree Support Systems.
 - 1. The city arborist shall evaluate types and varieties of trees from the adopted master public tree plan and the nature of the particular area to be planted.
 - 2. The planning and building director, with recommendations from the city arborist, shall evaluate the plan. The planning and building director may call upon the resources of the departments of public works, and parks and recreation to furnish facts concerning the matter. The city arborist will respond within fifteen (15) working days of receiving the final plan to the planning and building department.
- B. The city arborist shall be guided by and apply within city parks, rights-of-way, facilities and open spaces the following standards when formulating and approving a street tree planting plan.
 - 1. Trees listed on the adopted master public tree plan and approved street tree list are to be used, although other trees may be planted on an experimental basis or where native species are appropriate.
 - 2. Trees shall be located at suitable intervals, with consideration given to minimizing interference with existing or planned utilities, driveway approaches, street intersections, existing vegetation, street signs, traffic signs, rooting space and building exposures.

3. Selection of a particular species of tree for a specific block, street, or section of the city shall be based upon the nature of the species and the width of the planting strip, topography and soil conditions, zoning regulations, street patterns, building setbacks, utilities, Master Public Tree Plan, other site constraints and availability of the particular species.

16.24.060 Street tree and park tree planting lists.

- A. The selection, planting and maintenance of all trees and associated vegetation within city parks, rights-of-ways, and open spaces shall be done with recommendation and advice of the city arborist.
- B. The director shall approve the official tree planting list and public tree planting plans following recommendations by the city arborist and according to the City's Master Public Tree Plan. The city arborist, in evaluating such plans prior to approval, shall call upon the resources of the departments of public works, planning, engineering and parks and recreation to provide facts and information concerning trees within city parks, rights-of-ways, and open spaces.
- C. All new plantings within planting strips, rights-of-way, facilities and open space of the city shall be confined to trees from the latest adopted official Master Public Tree Plan. Replacement planting may conform to existing trees or native species in the planting strip by approval of the director following the city arborist recommendations. Tree substitutions can be presented for consideration subject to availability, site constraints and quality by the city arborist. Substitutions will require written approval by the director.

16.24.070 Property owner requests.

- A. A majority of the abutting property owners in a given block, street, or area of the city where tree planting is required, may petition for the uniform planting of a tree variety of their choice. Such petition may be approved if the tree selection is made from the adopted Master Public Tree Plan and the selection does not conflict with the standards in this chapter and Urban Forestry Standards and Specifications for Planting, Maintenance, Pruning and Protection.
- B. A petition to the city bearing the signatures of not less than ninety (90) percent of the property owners of any block may be filed with the director requesting a change in the variety of trees in the planting strip adjacent to their properties. Such petition may be approved by the director, following recommendations by the city arborist, provided the tree selection is made from the Master Public Tree Plan and the selection does not conflict with the standards of the Urban Forestry Standards and Specifications Manual.

- C. All expenses of such street tree variety change will be borne by the property owners requesting the change. The work will be done under the supervision of the city arborist.

16.24.080 Permitting

- A. A public tree removal and/or pruning permit may only be issued to the City, a private utility company, or the abutting property owner. All work authorized by a tree removal permit and/or tree pruning permit shall be performed by a licensed, bonded and insured contractor. The city arborist may recommend the abutting property owner, or his/her designee, to perform tree pruning and/or removal work.
- B. Permit application process information is presented in Sections 5 and 6 of the current Urban Forestry Standards and Specifications Manual.

16.24.090 Protection of public trees.

- A. No person shall plant, install or maintain shrubs, low growing trees, vines, fences, signs or stakes, or any other object, except temporary protection for newly planted lawns, or cause or create conditions or uneven ground, holes or hazards in planting strips along the streets of the city. When determined by the city arborist that any such plantings or installations are a hazard to the public or detrimental to the approved tree planting plan, the city arborist shall have full authority to request such hazard or detriment to be removed or eliminated.
- B. No person shall, without written permission from the city arborist, plant, remove, trim, prune, top or cut any public tree. Upon permission being granted to any person, the work shall be done under the supervision of the city arborist. Private utilities shall submit an annual plan describing yearly tree or vegetation maintenance prior to work activity within the public right-of-way.
- C. No person without lawful authority shall interfere or cause or permit any person to interfere with employees of the city who are engaged in the planting, maintaining, treating, or removing of any tree or plant in the planting strips or in the removing of any stone, cement, or any substance in any such street, sidewalk, planting strip, alley, or other public place.
- D. No person shall willfully injure or destroy any vegetation on the street or in city properties or public planting areas of the city.

16.24.100 Responsibility for private trees.

Nothing in this chapter shall be deemed to impose any responsibility or liability upon the city, or upon any of its officers or employees concerning private property. The owner and occupant of any private property shall have the duty and responsibility to maintain

sidewalks, trees and shrubs upon private property, or property under their control, including sidewalks and planting strips in front, side or rear of such private property.

16.24.110 Violations and penalties.

- A. Any planting, destruction, pruning, or maintenance, or lack thereof that does not comply with this chapter or the Urban Forestry Standards and Specifications Manual is a violation of this chapter and civil infraction. Upon a determination by the Poulsbo Municipal Court that such infraction has been committed, a civil penalty in an amount not to exceed \$1,000 may be imposed. Each separate violation shall be deemed a separate offense. Each tree damaged or destroyed as a result of pruning or removal shall constitute a separate offense. Failure to comply with a condition of approval to plant or prune shall constitute a separate infraction for each day the failure to comply continues.
- B. Violation of any part of this chapter is hereby declared to be a public nuisance and may be abated by the appropriate proceedings under state law.
- C. Upon request of the mayor and city council, the city attorney may institute appropriate action in any court of competent jurisdiction, to seek injunctive or other relief to enforce the provisions of this chapter. This chapter is not intended to limit the City's remedies in any way and the City reserves the right to pursue any and all such remedies, including but not limited to, the right to seek treble damages and attorney's fees as provided in RCW Chapter 64.12.

16.24.120 Mitigation required

- A. In addition to any penalty imposed under PMC 16.24.110, any person who commits any of the following violations shall be responsible for mitigation of such violation as provided below.
 - 1. A public tree that has been planted in violation of the standards in the Urban Forestry Standards and Specifications Manual shall be replanted in compliance with the manual.
 - 2. A tree that has been planted in right-of-way and is not on the City's approved street tree list or Master Public Tree Plan shall be replaced with an approved species from the list or plan, except where native species or existing species are desirable from a tree health and/or public safety standpoint.
 - 3. An improperly pruned municipal tree shall be removed when corrective pruning cannot remedy the tree's health or form. A replacement tree shall be planted according to the approved street tree or park tree lists, as well as the master street tree design plan.

4. Mitigation for the removal or destruction of a public tree in violation of this chapter shall be determined by the director utilizing the following criteria:
 - a. The violator shall plant one replacement tree for each tree removed or destroyed, the species and location of which shall be recommended by the city arborist. The replacement tree shall be a minimum of a 2-inch caliper tree if of a deciduous species or a 6-foot tall tree if of a coniferous species; and
 - b. The violator shall pay into the City's Urban Forestry Account an amount of money equal to the value of the removed or destroyed tree. For trees up to 3" in caliper, the replacement value of the tree shall be required. For trees that are too large to replace by nursery or field stock, the violator shall pay the appraised value of the tree. The tree's appraised value shall be determined by the city arborist using the current criteria established by the International Society of Arboriculture, Guide for Plant Appraisal.
5. The timing of tree replacement required in this section shall be as recommended by the city arborist, giving due consideration to the chance of survival and the need to replace the functions and values provided by the tree at the earliest possible time. The director may require a bond, letter of credit, or other means of security in an amount and in a form approved by the city attorney, in order to ensure that the replacement takes place according to the approved timetable. The director is also authorized to require bond, letter of credit, or other means of security in order to ensure that the replacement tree survives for a period of two years after planting. The security shall be in an amount and a form approved by the city attorney.

16.24.130 Appeal.

Should a dispute arise in the administering of this chapter, an appeal can be requested by petitioning, in writing, to the director. The director will have seven (7) working days to reply in writing. Should this provide an unsatisfactory resolution, a second appeal can be requested by petitioning the city council. City council members will act upon the petition within thirty (30) days from the date of receiving the petition.

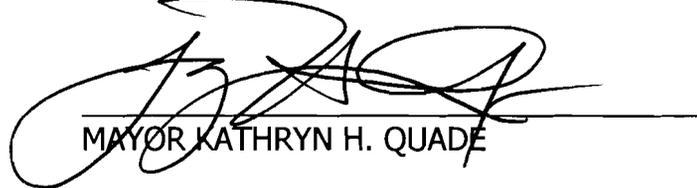
Section 2. Severability. If any section, sentence, clause or phrase of this ordinance or any code section adopted or amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section,

sentence, clause or phrase of this ordinance or any code section adopted or amended hereby.

Section 3. Effective date. This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

ADOPTED by the Poulsbo City Council and approved by the Mayor this 3rd day of June, 2009.

CITY OF POULSBO:



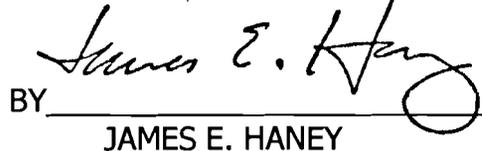
MAYOR KATHRYN H. QUADE

ATTEST/AUTHENTICATED:



JILL A. BOLTZ, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:



BY _____
JAMES E. HANEY

FILED WITH THE CITY CLERK: 05/12/2009
PASSED BY THE CITY COUNCIL: 06/03/2009
PUBLISHED: 06/12/2009
EFFECTIVE DATE: 06/17/2009
ORDINANCE NO. 2009-09

of the City of Poulsbo, Washington

On the 3rd day of June, 2009, the City Council of the City of Poulsbo, passed Ordinance No. 2009-09. A summary of the content of said ordinance, consisting of the title, provides as follows:

The full text of this Ordinance will be mailed upon request.

DATED this 5th day of June, 2009.


CITY CLERK JILL A. BOLTZ