

ORDINANCE 103

AN ORDINANCE TO ESTABLISH REGULATIONS REGARDING THE MAINTENANCE, INJURY, AND PROTECTION OF TREES AND SHRUBS IN THE LIMITS OF THE TOWN OF ENNIS; TO ESTABLISH A TREE BOARD WHICH WILL DEVELOP AND UPDATE AS NECESSARY A COMPREHENSIVE PLAN FOR THE PLANTING, CARE, TRIMMING, REPLANTING, REMOVAL OR DISPOSITION OF TREES AND SHRUBS ON PUBLIC PROPERTY IN PUBLIC WAYS.

TREE ORDINANCE

14.04.010 Trees to be Trimmed: Any owner or agent of owner of any real property shall trim on property owned or possessed by him, overhanging the sidewalks, streets or alleys, so that the same will not interfere with pedestrian or public travel, as hereinafter defined.

14.04.020 Hedges and Shrubbery: Any owner or agent of owner of any real property, shall trim all hedges and shrubbery adjacent to the sidewalks, improved streets or alleys, so that the same will not interfere with pedestrian or public travel as hereinafter defined.

14.04.030 Growth of Hedges and Shrubbery: Hedges or shrubbery shall not extend over any part of a public sidewalk, improved street or alley in the Town. All such hedges and shrubbery shall be trimmed back to the property line regardless of whether the property line abuts a sidewalk, improved street or alley. It is the intent here in that no hedge or shrubbery shall be allowed to grow upon or extend over any of the improved alleys, improved streets or sidewalks in the City limits.

14.04.040 Trees on Private Property: Trees that grow upon private property in such a way that the branches thereon extend over any sidewalk, improved street or alley, shall be trimmed so that they do not interfere with pedestrian or motor vehicular traffic. Trees growing over sidewalks shall be trimmed so that no part thereof shall extend over the sidewalk to a height of eight (8) feet. Trees shall extend over improved streets or alleys to a height of fourteen (14). No street trees other than small trees (trees with an adult height of 10 feet or less) shall be planted under or within ten (10) lateral feet of any overhead utility wire, or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

Corner lots shall not be permitted to have any trees, hedges or shrubbery which constitutes a hazard to the traveling public within the area designated as the "clear view triangle". This area can be determined by measuring eighty feet (80') from the center of two intersecting streets along the centerlines of each street, then connecting the two points with a straight line forming the hypotenuse of the clear view triangle. Trees within the clear view triangle shall have their branches removed at the trunk from ground level to a minimum of seven feet (7') above ground level. Shrubs within the clear view triangle shall be maintained no higher than three feet (3') above grade elevation of the centerline of the adjacent street.

14.04.050 Legal Boundary: For the purpose herein the property line shall be deemed the actual legal boundary of the lot or lots concerned and extending upward at a ninety degree angle thereto into space.

14.04.060 Injury to Trees or Shrubbery: It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority to do so, to willfully injure, deface, disfigure or destroy any fruit, shade, or ornamental tree or shrub, or to injure, destroy, cut or pick any flower or plant growing, standing, or being either on private ground or any street, parking, public park, or place within the Town.

14.04.070 Trees Outside Property Line: The Town of Ennis Tree Board, as constituted in Chapter _____ of this code, are hereby given full and complete control of all trees growing within the confines of the Town limits which are outside of the property lines at the respective lots, plots and tracts adjacent to improved streets and alleys.

14.04.080 Tree Protection: Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, hedges or shrubbery, or threatens to spread disease or insect infestations, the Town Tree Board shall at once cause written notice to be served upon the owner of the property or his/her agent upon which such diseased or infested trees, hedge, or shrub is situated and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice.

14.04.090 Assessment for Care of Trees Extending Over Property Lines: Whenever the safety or convenience of the public requires the removal, pruning or trimming of trees, hedges, or shrubbery extending beyond the property lines and over improved streets and alleys of the respective lots, plots and tracts within the Town limits, any property owner or his/her agent of said premises shall, upon notification by the Town, through its duly constituted agent, in such a way to comply with Sections 30, 40 and 80 herein, remove, trim or prune such trees, hedges, or shrubbery. In the event the owner or his/her agent of said premises, after due notice by the Town, fails or neglects to remove or trim such trees, hedges or shrubbery, the Town is hereby authorized to remove, prune or trim such trees, hedges or shrubbery and the Council may levy a special maintenance assessment upon the property where said trees, hedges or shrubbery are grown, according to State Law, to defray the expenses or repay the Agent for moneys expended by the Town in doing such work, and such assessment shall be collected as provided by Law,

and shall be a lien upon the property so assessed until paid. The property owner has the right to appeal any recommendation of the Tree Board to the Town Council.

14.06.010 CREATION AND ESTABLISHMENT OF TREE BOARD: There is hereby created and established a Town Tree Board for the Town of Ennis, Montana, which shall consist of five members. Members of this Board will be comprised of Four citizens and residents of the Town of Ennis to be appointed by the Mayor and approved by the Council. The Town Council person serving as the Town's Park Commissioner shall serve as the fifth member of the Board.

14.06.020 TERM OF OFFICE: The term of the four non-Council members shall be three years, except that one of the members appointed to the first Board shall be for only one year and the term of one member shall be for a period of two years.

14.06.030 COMPENSATION OF BOARD MEMBERS: Members of the Board shall serve without compensation.

14.06.040 DUTIES AND RESPONSIBILITIES: It shall be the responsibility of the Board to meet at least quarterly to develop and/or update as necessary a comprehensive written plan for the planting, care, trimming, replanting, removal or disposition of trees and shrubs on public property, in public ways. Such plan will be presented annually to the Council and upon their acceptance and approval, shall constitute the official Tree Plan for the Town of Ennis, Montana.

The Board, when requested by the Town Council, shall consider, investigate, make finding, report and recommend any matter of question coming within the scope of its work.

14.06.050 OPERATION: The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of members shall be a quorum for the transaction of business.

PASSED AND APPROVED BY THE COUNCIL THIS 18th DAY OF March,
1993.

R. W. Barr
MAYOR

ATTEST: Samuel M. Allison
TOWN CLERK

FIRST READING 2-17-93
SECOND READING 3-4-93

AFFIDAVIT OF PUBLICATI

STATE OF MONTANA } SS.
County of Madison

Douglas T. Johnson

being duly sworn says that he is publisher and printer of The Madisonian, a weekly newspaper published in the City of Virginia City, County of Madison, State of Montana; that the annexed notice is a true copy which was published in said newspaper for a period of 2 successive weeks, commencing on the 25th day of February, 1993, and ending on the 4th day of

March, 1993
Douglas T. Johnson
Publisher and Printer.

Subscribed and sworn to before me this 4th day of CHRISTMAS, 1993

Jana Christensen
Notary Public in and for the State of Montana, residing at Virginia City, Montana. My commission expires JANA 31, 1996.

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