

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3194

AN ORDINANCE REVISING BOULEVARD LANDSCAPING AND PUBLIC TREE REQUIREMENTS BY AMENDING CHAPTER 10 OF TITLE 7 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:

That Title 7 of the Helena City Code, Public Ways and Property, is hereby amended by repealing Chapter 10, Trees, in its entirety and adopting this new Chapter 10 in lieu thereof:

CHAPTER 10

BOULEVARD LANDSCAPING AND PUBLIC TREES

- 7-10-1: Purpose
- 7-10-2: Definitions
- 7-10-3: Cutting or Damaging Public Trees Prohibited
- 7-10-4: Tree Work Permit Required
- 7-10-5: Boulevard Landscaping and Trees
- 7-10-6: Protection of Trees During Construction
- 7-10-7: Penalties

7-10-1: PURPOSE: The purpose of this chapter is to recognize the value of city trees and boulevard landscaping as an important part of the community's infrastructure by managing and promoting responsible care of community trees using best management practices to sustain a vibrant, healthy, and safe community forest resource for the benefit of Helena's residents, visitors, and ecosystem.

7-10-2: DEFINITIONS: As used in this chapter, the following definitions apply:

ORDINANCE OF THE CITY OF HELENA, MONTANA

Ord. No. 3194

- BOULEVARD TREES:** Trees planted in the area between the back of the curb and the edge of the sidewalk.
- DEPARTMENT:** The City of Helena's Parks and Recreation Department.
- MAJOR PRUNING:** Cutting or removing any portion of a tree that endangers the life of the tree, the structural integrity of the tree, or considerably changes the tree's form or appearance.
- MINOR PRUNING:** Any cutting of a tree that is not major pruning.
- PRUNE:** Cutting away unwanted parts of a plant.
- PUBLIC TREES:** Trees planted on city owned property.

7-10-3: CUTTING OR DAMAGING PUBLIC TREES PROHIBITED: It is unlawful for any person to prune, cut, damage, or remove public trees, except as permitted by this chapter.

7-10-4: BOULEVARD TREE WORK PERMIT REQUIRED:

- A. Only persons with a city-issued tree work permit may perform major pruning or remove a boulevard tree.
- B. A boulevard tree work permit may be issued by the department to an applicant if the following qualifications are met:
 - 1. The applicant is, or has an employee who is, an arborist certified through the International Society of Arboriculture; and

ORDINANCE OF THE CITY OF HELENA, MONTANA

Ord. No. 3194

2. has not been found in violation of any requirements of this code; and

3. agrees to indemnify, defend, and hold the city and its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the city due to any injury to or death of any person or any damage to property caused by or resulting from the activities for which the tree work permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant shall furnish a policy or certificate for comprehensive general liability insurance with the city named as an additional insured. Such certificate of insurance shall be in the amount of one million dollars (\$1,000,000.00) per claim or occurrence. A copy of the most current policy or certificate must be filed with the city clerk.

C. The city may revoke a tree work permit if the permittee violates any of the provisions of this chapter or any part of the ~~specifications established in the~~ Helena Arboricultural ~~Specifications and Standards~~.

D. This section does not apply to the removal of a dead boulevard tree by the adjacent property owner within three (3) years of the initial planting and the tree is immediately replaced with a new, living tree.

7-10-5: BOULEVARD LANDSCAPING AND TREES:

A. All persons owning abutting property are responsible for planting trees and landscaping in the boulevard in accordance with the following standards:

1. Except as provided below, boulevards must be planted with living and healthy species of trees as specified in the Helena Arboricultural ~~Specifications and Standards~~, and contain no less than sixty percent (60%) live vegetative cover. If this live vegetative cover consists entirely of plants that do not require supplemental water or irrigation once established, or consists entirely of plants that are native to Lewis and Clark County, then those areas may

ORDINANCE OF THE CITY OF HELENA, MONTANA

Ord. No. 3194

contain as little as fifty percent (50%) live vegetative cover. The projected drip line of an average shrub, bush, or tree of that species at five (5) years of age may be used in calculating minimum vegetative coverage. The remainder of the area may be covered in inorganic materials that are permeable to water. The landscaping may not create any unsafe condition for the public using the right of way.

2. For those areas where there is curb only, or where a curb-type sidewalk has been installed, or where portions of the right-of-way are between the sidewalk and property line, the right of way must be landscaped and maintained as an integral part of the adjacent property owner's landscape.

3. Boulevard trees must be planted within eighteen (18) months from the date of the certificate of occupancy for the primary structure on the adjacent property. A tree permit is required from the department prior to planting boulevard trees.

4. Only trees that comply with the Helena Arboricultural ~~Specifications and Standards~~ may be planted in the boulevard.

5. Permeable pavers or a permeable surface designed to support street-legal vehicles may be installed for parking purposes, stormwater diversion, and irrigation in any boulevard that has been appropriately designated by the City as allowable parking space, subject to approval by the public works department. Areas designated for permeable pavers or surface as described above will not be included when calculating organic coverage requirements.

6. Water collection systems to utilize storm water for tree irrigation may be installed in any boulevard subject to approval by the public works department for installation and maintenance, with the cost of maintenance to be borne by the abutting property owner.

ORDINANCE OF THE CITY OF HELENA, MONTANA

Ord. No. 3194

- B. The abutting property owner is required to maintain boulevard landscaping and boulevard trees by watering, fertilizing, and performing minor pruning of boulevard trees according to the Helena Arboricultural ~~Specifications and Standards~~. Abutting property owners who elect to plant fruit trees are required to keep the adjacent sidewalk, curb, gutter, and street cleared of fruit at all times.

7-10-6: PROTECTION OF TREES DURING CONSTRUCTION: All public trees near any excavation or construction of any building, structure, or street work, must be evaluated by the department and protected if possible. The department shall make recommendations for removal or protection of trees, determine and establish tree protection areas, and monitor tree health and conditions during and after construction. All management of trees during construction must comply with the Helena Arboricultural ~~Specifications and Standards~~.

7-10-7: PENALTIES: Any violation of this chapter is a misdemeanor. Any person who fails to comply with the requirements of this chapter may, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) for each violation and other alternative relief from the court as provided by law.

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 19th DAY OF MAY, 2014.**

XXXXXXXXXX

MAYOR

ATTEST:

XXXXXXXXXX

CLERK OF THE COMMISSION

ORDINANCE OF THE CITY OF HELENA, MONTANA

Ord. No. 3194

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 18th DAY OF AUGUST, 2014.

/S/ James E. Smith

MAYOR

ATTEST:

/S/ Debbie Havens

CLERK OF THE COMMISSION