

O R D I N A N C E

NO. 575

AN ORDINANCE CREATED USEFUL PUBLIC SERVICE
PROGRAM FOR THE CITY OF LAS ANIMAS, COLORADO.

WHEREAS, that the City Council of the City of Las Animas has determined that sentencing alternatives are appropriate for those persons violating the Municipal Code of the City of Las Animas; and

WHEREAS, from time to time, Useful Public Service should be considered as a sentencing alternative to fine and/or imprisonment; and

WHEREAS, as a result thereof, it is the desire of the City Council of the City of Las Animas to authorize the Municipal Court to impose judgments requiring participation in the Useful Public Service program;

BE IT THEREFORE ORDAINED AS FOLLOWS:

SECTION 1. 1.09.010 Public Service as a Sentence Alternative.

- A. A defendant convicted of an offense in the Municipal Court may be sentenced to perform useful community public service, in an amount not to exceed ninety-six (96) hours per conviction. Such service may be as a condition of or in addition to any other sentence provided by this Code.
- B. For the purposes of this Section, "useful community public service" means any work which is beneficial to the public, which work involves a minimum of direct supervision or other public cost and which work would not, with the exercise of reasonable care, endanger the health or safety of the person required to work.

SECTION 2. 1.09.020 Role of the Court. The City recognizes that the decision of each case rests with the Municipal Court. The guidelines set out in this Chapter are for the benefit of the Municipal Court in applying the policies of the City in individual cases.

SECTION 3. 1.09.030 City Policy. It is the policy of the City that where a jail term may be assessed by a Municipal Court as a punishment for an ordinance violation or as part of the punishment for an ordinance violation, alternatives to serving time in jail shall be considered by the Municipal Court in accordance with principles set out herein.

SECTION 4. 1.09.040 Where Applicable. The provisions of this Chapter shall apply to all prosecutions for violations or alleged violations of any City ordinance for which imprisonment is

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possible as a punishment; or shall apply to those convictions in which a fine has been imposed, and the Court has determined that the Defendant lacks the ability to pay the fine; or in the case of juveniles where imprisonment is inappropriate although a possible sentence thereon may have been imposed if the offense had been committed by an adult.

SECTION 5. 1.09.050 Alternative Method. The alternative method authorized by this Chapter shall consist of unpaid community service to the City or to a department or agency of the City. The work to be performed may be any work with a public purpose. No such work shall generate a profit for any person.

SECTION 6. 1-09-060 Service Not to be Coerced. No person shall be required to do community service pursuant to the terms of this ordinance against such person's will. Any person refusing to accept such community service or failing to complete such community service may be subject to serving sentence involving time in jail, unless the Court suspends the sentence for any valid reason. No sentence shall be increased for failure to accept community service, and no such jail sentence shall be fixed at a harsh level for the purpose of inducing any person to accept community service.

SECTION 7. 1.09.080 Factors in Assigning Work. Work shall be assigned to persons under this Ordinance in accordance with the following criteria:

- A. The individual's health and physical condition.
- B. The individual's emotional condition and needs.
- C. The individual's ability to do the kind of work contemplated because of the individual's capacities and training.

SECTION 8. 1.09.090 Defendant's Eligibility. Any defendant charged with violating a City ordinance or convicted of violating a City ordinance shall be eligible for the alternative method set out in this Code, unless there is a reason to believe the defendant is not likely to perform the service or unless the defendant is dangerous and placing the defendant in jail is necessary for the safety of the community. In determining whether a defendant is not likely to perform the service, the following factors shall be considered:

- A. Has the defendant failed, without an adequate excuse, to complete any community service required under this alternative method for any previous conviction?
- B. Does the defendant have a place of residence in the area?
- C. Does the defendant have any previous convictions?
- D. The Court may consider any other relevant factors.

SECTION 9. 1.09.100 Judicial Discretion. Nothing in this Chapter shall be interpreted as limiting the decisions that can be made by the Municipal Court. The provisions of this Chapter are intended to provide a means to provide a framework for alternatives to jail sentences. The Municipal Court may use suspended jail sentences to effectuate the purposes of this Chapter.

SECTION 10. 1.09.110 Approval of Jobs. No participant shall be assigned to any job unless the job has been approved in writing by the City Community Service Coordinator. One (1) approval may include either one specific job or a category of jobs. A written job description shall be provided before the City Community Service Coordinator approves any job. A job shall be approved by the coordinator if it meets the following criteria:

- A. It will not cause the participant to handle substantial sums of money.
- B. It is needed service in the community and not mere "busy work".
- C. It will not be unusually likely to subject the participant to ridicule.
- D. It will not subject the participant to unusual danger.
- E. It will not subject the participant to health hazards.
- F. The work to be done is not religious worship or religious education, or specific expression of religious belief.
- G. The work to be done is not political action, action supporting or opposing any candidate, action supporting or opposing any issue or proposition in a referendum, action for or against any proposed legislation of the local, state or federal level or any other political action.

SECTION 11. 1.09.120 Procedure for Assignment. Assignments to jobs shall be made by the City Community Service Coordinator, choosing an approved job within this municipal corporation.

SECTION 12. 1.09.130 Community Service Coordinator. The City Community Service Coordinator shall be designated from time to time by resolution of the City Council.

SECTION 13. 1.09.140 Severability. The provisions of this Chapter are severable, and if any sentence, section or other part of this Chapter should be found to be invalid, such invalidity shall not affect the remaining provisions.

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Adopted this 12th day of December, 1995.

Passed this 9th day of January, 1996.

CITY OF LAS ANIMAS



Bill Howland, Mayor





Leslie J. Ungel, City Clerk