

ORDINANCE 71

STREET TREE ORDINANCE

WHEREAS, the Town Council of Boulder Town, Utah, recognizes and attributes substantial economic, environmental and aesthetic value to the trees and other plantings within the community; and

WHEREAS, the Town Council determines it is in the best interests of the citizens and public that a plan be developed to standardize the planting and maintenance of trees within easements, in rights-of-way and all other public places within the Town;

NOW, THEREFORE, the Town Council of Boulder Town, Utah, hereby adopts, passes and publishes the following;

AN ORDINANCE RELATING TO THE PLANNING, PLANTING, MAINTENANCE, RESTORATION, PROTECTION AND SURVIVAL OF DESIRABLE TREES LOCATED IN AND UPON PUBLIC AREAS AND RIGHTS-OF-WAY WITHIN BOULDER TOWN, GARFIELD COUNTY, UTAH

BE IT ORDAINED by the Town Council of Boulder Town, Utah, as follows:

STREET TREES

Chapter 1: Purpose and Intent

Chapter 2: Definitions

Chapter 3: Designation of a Street Tree Advisory Board

Chapter 4: Ordinance Administration

Chapter 5: Street Tree Maintenance and Care by the Town

Chapter 6: Street Tree Maintenance and Care by Citizens

Chapter 7: Appeals

CHAPTER 1: PURPOSE AND INTENT

- (1) **Purpose.** Boulder Town recognizes and attributes substantial economic, environmental and aesthetic value to the trees and other plantings within the community. It is in the best interests of the citizens and public that a plan be developed to standardize the planting and maintenance of trees within easements, in rights-of-way and all other public places within the Town.
- (2) **Intent.** It is the intent of the Boulder Town Council that the terms of this ordinance shall be construed as to promote:
 - (a) The planning, planting, maintenance, restoration, protection and survival of desirable trees within the Town; and,
 - (b) The protection of community residents from personal injury and property damage, and the protection of Boulder Town from property damage caused or threatened by the improper planting, maintenance, or removal of trees located in and upon public areas and rights-of-way within Boulder Town.

CHAPTER 2: DEFINITIONS

- (1) **Tree Board.** Tree Board shall mean the group of citizens charged by ordinance to develop and administer a tree management program for trees on public property.
- (2) **Street Tree.** Street Tree shall mean any tree planted within the Town right-of-way on either side of all streets, lanes, trails or ways within the Town.
- (3) **Park Tree.** Park Tree shall mean any trees or other woody vegetation in public parks and grounds.
- (4) **Top or Topping.** Top or Topping shall mean the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.
- (5) **Tree Trimming.** Tree Trimming shall mean the removal of plant parts to control growth and enhance performance or function in the landscape by developing and preserving tree structure and health. The removal of water sprouts, sucker growth, and hanging limbs is not considered tree trimming according to the provisions of this Chapter.

CHAPTER 3: DESIGNATION OF A STREET TREE ADVISORY BOARD

- (1) **Tree Board.** A Tree Board shall be designated by the Mayor. The Board shall consist of members of the community interested in promoting the benefit, growth and health of trees.
- (2) **Assist The Town.** It shall be the responsibility of the Tree Board to study, investigate, counsel and assist with the development of a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets and in other public areas. The Tree Board shall write and implement an Annual Work Plan and submit an Annual Budget to qualify and be deemed a Tree City USA.
- (3) **Service Without Pay.** All members of the Tree Board shall serve without pay.

CHAPTER 4: ORDINANCE ADMINISTRATION

- (1) **Authority.** The Council member responsible for administering and enforcing the Street Tree Ordinance will be appointed by the Mayor. He or she shall:
 - (a) Have supervision of all trees planted or growing in public rights-of-way or Town-owned places within the Town.
 - (b) Supervise the planting, trimming, spraying, preservation and removal of Street Trees and other plants in public streets, in Town cemeteries and in Town parks to promote safety, protect town utilities and preserve the beauty of such public places.
 - (c) Supervise the maintenance of Street Trees and Park Trees.
- (2) **Desirable Street Tree List.** The Tree Board shall prepare a "Suggested Street Tree List" containing the botanical and common names of all trees approved to be planted in streets, trails, parks or easements. The Tree Board shall also develop an undesirable Street Tree list containing the botanic and common names of all trees not approved to be planted in streets, trails, parks or easements. These lists may be revised from time to time by the Tree Board to include other suitable or undesirable trees.
- (3) **Public Awareness.** The Town Clerk shall make copies of the Street Tree Ordinance available to any interested persons through the Town Office and on the Town Website.

CHAPTER 5: STREET TREE MAINTENANCE AND CARE BY THE TOWN

- (1) **Standards.** The Town should make reasonable efforts to maintain **all** trees located within Town streets, parks, rights-of-way, landscape borders, or on Town-maintained property.

- (2) **Town Tree Planting and Maintenance.** The Town shall have the right to plant, prune, maintain and remove Street Trees located within the public rights-of-way.
- (3) **Tree Replacement.** The Town may replace Street Trees which have died or been removed for any reason, or plant additional Street Trees deemed appropriate and consistent with available resources.
- (4) **Tree Topping.** It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree, or other tree on public property excepting on easements controlled by local utility companies. Trees damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Ordinance at the determination of the Town Council.
- (5) **Town Authority.** The Town may condemn and remove, or order to be removed, any tree or tree stump upon any of the public owned property within this Town where the same is dead, diseased or for any reason whatsoever deemed undesirable or unsafe by the Tree Board.

CHAPTER 6: STREET TREE MAINTENANCE AND CARE BY CITIZENS

- (1) **Planting.** Any person, firm, partnership, corporation or organization of any kind must obtain written approval from the Tree Board prior to planting a tree in any public right-of-way. Said approval shall specify with a drawing/plan the location and variety of trees to be planted.
- (2) **Trimming.** Any person, firm, partnership, corporation or organization of any kind must obtain approval from the Tree Board and the Town Council prior to trimming any designated street tree/plant. Approval is not required for removing minor limbs causing obstructions.
- (3) **Adjacent Property Owners to Maintain Trees on Their Property.** Trees and other plantings on adjacent property shall not inappropriately overhang or encroach upon sidewalks, streets, public rights-of-way or other designated pedestrian ways, nor obstruct the view of traffic signs or any street intersection. Trees and other plantings that project over any street or access road that may be used for emergency purposes shall be trimmed to a safe height and shape. Adjacent property owners shall remove all dead, diseased, or dangerous trees; or broken or decayed limbs which constitute a menace to public safety, at their expense; or prune to eliminate encroachment on sidewalks and streets.
- (4) **Removing Stumps.** Any tree that shall be removed from any of the public streets or places within the Town shall be removed below the surface of the ground so that the top of the stump shall not project above the level of the ground, unless permission to leave a projecting stump is granted by the Tree Board.
- (5) **Approval Required.** Any person, firm, partnership, corporation or organization of any kind must obtain approval from the Tree Board prior to removing any tree found upon any public street or on any Town-owned property within the Town.
- (6) **Considerations on Removing or Replacing a Street Tree.** In determining whether a tree may be removed and replaced, the Tree Board shall consider, among other things, the following:
 - (a) Whether the tree(s) pose a potential for safety problems despite a sound maintenance program;
 - (b) Whether the roots from adjacent park or street trees are interfering with sewer lines servicing the abutting property to the extent that the property owner requires frequent repair of said sewer lines;
 - (c) Whether the tree is dead, dying or incurably diseased;
 - (d) Whether the tree is diseased and weakened by age, storm, fire or other injuries so as to pose a danger to persons, property, improvements or other trees;
 - (e) Whether the tree(s) is of an undesirable species;
 - (f) Whether the tree poses a hardship to the adjacent property owner such as, but not limited to, the cracking or raising of a garage floor or, in the case of a handicapped person, special circumstances exist which cause the location of the tree to become a hindrance for vehicle and handicapped access;
 - (g) Whether removal is necessary for construction of a street widening or other public improvement project, or necessary street or public improvement repair work.

CHAPTER 7: APPEALS.

The decision of the Tree Board may be appealed by any person. The appeal shall be in writing, signed by the applicant with a statement of reasons supporting the appeal. The appeal shall be filed with the Town Clerk no later than the fifteenth (15th) calendar day following the decision of the Tree Board. The Town Council shall hear the appeal and render an opinion within forty-five (45) days after the appeal is filed.

ADOPTED AND PASSED by the Town Council of Boulder Town, Utah, this 3rd day of October, 2013.

Boulder Town

ATTEST:

By: _____
Mayor

Town Clerk

CERTIFICATE OF DUE POSTING

I, Judith Davis Town Clerk of Boulder Town, Utah, hereby certify that I, on the ____ day of October, 2013, in Boulder Town, Garfield County, State of Utah, posted the foregoing Ordinance No. 71 in a likely manner, a copy of which is hereto attached, in each of three public places in said Boulder Town, to-wit:

1. Post Office bulletin board
2. Community Center
3. Boulder Exchange

WITNESS my hand this ____ day of _____, 2013.

Judith Davis, Town Clerk