

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 952
(SERIES 2021)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
ESTABLISHING A TREE POLICY AND TREE ADVISORY BOARD**

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of The Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended ("the Charter"); and

WHEREAS, pursuant to Section 1.4 (A) of the Charter, the Town has all power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, the Town will be applying for and wishes to be recognized as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways; and

WHEREAS, the Town Council hereby finds and determines that adopting a Tree Policy and Tree Advisory Board is appropriate and necessary to the function and operation of the Town, and necessary and proper for the public health and safety of the residents and visitors of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

- I. Adoption of Chapter 14, Article 4 - Tree Policy and Advisory Board, of the Municipal Code:

CHAPTER 14 – PARKS AND RECREATION

ARTICLE 4 – TREE POLICY AND ADVISORY BOARD

Sec. 14.4.1 – Purpose

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the Town Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

Sec. 14.4.2 – Definitions

As used in this Article, the following words and phrases shall have the meanings indicated:

- (1) *Damage* – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.
- (2) *Nuisance* – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.
- (3) *Parkway* – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.
- (4) *Public property* – all grounds, easements, leased property and rights-of-way (ROWs) owned or maintained by the Town.
- (5) *Public tree* – any tree or woody vegetation on public property or rights-of-way.
- (6) *Top or Topping* – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Sec. 14.4.3 – Delegation of Authority

- (1) Delegation of authority and responsibility. The Director of Parks and Recreation and/or his/her designee, hereinafter referred to as the "Director," shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-way, parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease or that may become a nuisance or otherwise that may affect public property or threatens the health, safety, and welfare of the public.
- (2) Coordination among Town departments. All Town departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.
- (3) Interference. No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

Sec. 14.4.4 – Tree Advisory Board

The Town Council hereby creates a “Tree Advisory Board,” hereinafter referred to as the “Board.”

(1) **Membership.** The Combined Parks and Recreation Advisory Board shall serve as the Members of the Tree Advisory Board under the same terms and conditions as provided by Sec. 14.3.2. – Parks and Recreation Commission.

(2) **Meetings.** The Board shall meet a minimum of four (4) times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

(3) **Duties.** The Board shall act in an advisory capacity to the Director and shall:

- (a) Coordinate and promote Arbor Day activities;
- (b) Review and update a five-year plan to plant and maintain trees on Town property;
- (c) Support public awareness and education programs relating to trees;
- (d) Review Town department concerns relating to tree care;
- (e) Submit an annual report of its activities to the Town Council;
- (f) Assist with the annual application to renew the Tree City USA designation;
- (g) Develop of a list of recommended trees for planting on Town property, and a list of prohibited species; and
- (h) Other duties that may be assigned by Town Council.

Sec. 14.4.5 – Tree Care Standards

(1) **Standards.** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(2) **Requirements of franchise utility companies.** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.

(3) **Preferred species list.** The Director shall maintain an official list of desirable tree species for planting on public property.

(4) **Planting distances.** The Director shall develop and maintain an official set of

spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.

(5) Planting trees under electric utility lines. Only trees listed as Ornamental trees on the official Town tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

(6) Protection of public trees during construction. Any person, firm, corporation, or Town department performing construction near any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage.

Sec. 14.4.6 – Prohibition Against Harming Public Trees

(1) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

(2) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.

(3) It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

Sec. 14.4.7 – Adjacent Owner Responsibility

(1) The owner of land adjacent to any Town public property or any street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent areas.

(2) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town has the right to abatement pursuant to Chapter 11, Article 2 of the Municipal Code, and may undertake the necessary work and charge the cost to the property owner.

Sec. 14.4.8 – Certain Trees Declared a Nuisance

(1) Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that

threatens public health, safety, and welfare is declared a nuisance pursuant to Chapter 11 of the Municipal Code and the Town may require its treatment or removal.

(2) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Town may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period, or the Town may take any and all actions prescribed by Chapter 11- Nuisances, including but not limited to right of entry, abatement, summons, fines and assessments, and other remedies.

Sec. 14.4.9 – Violations and Penalty

(1) Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed one-thousand dollars (\$1000) for each offense.

(2) No remedy provided herein shall be exclusive, but the same shall be cumulative and the taking of any action, including charge or conviction in Municipal Court, shall not preclude or prevent the taking of other actions to abate or enjoin any nuisance. The abatement provision provided herein shall constitute a concurrent remedy over and above any charge or conviction of a municipal offense.

- II. Recitals. The foregoing recitals are incorporated herein as if set forth in full.
- III. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.
- IV. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.
- V. Effective Date. Pursuant to Section 3.9 of the Town Charter, this Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 20th DAY OF May, 2021.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____

Don Volger, Mayor

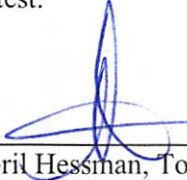
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Kristy Archuleta
Archuleta County

Attest:



April Hessman, Town Clerk



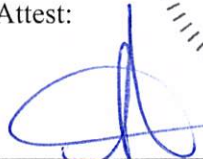
FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED BY TITLE ONLY PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOMERULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 1st DAY OF June, 2021.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____


Don Volger, Mayor

Attest:



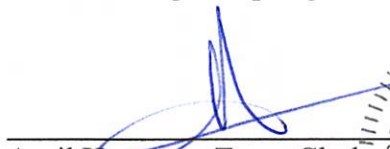
April Hessman, Town Clerk




CERTIFICATE OF PUBLICATION

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 952 (Series 2021) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 20 day of May, 2021, and was published by title only, along with a statement indicating that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on May 21, 2021, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 2 day of June, 2021.

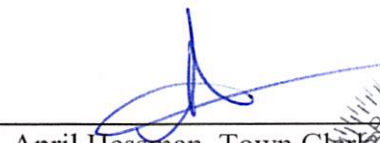


April Hessman, Town Clerk
(SEAL)



I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 952 (Series 2021) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the this 1 day of June, 2021, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on June 2, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 2 day of June, 2021.



April Hessman, Town Clerk
(SEAL)

