

ORDINANCE NO. 396

AN ORDINANCE FOR THE PROTECTION OF TREES AND CONTROL OF DUTCH ELM DISEASE

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER COUNTY, COLORADO:

1. Creation of Town Arborist position

The Town Manager may designate or contract for the services of a person to be known as the "Town Arborist" whose powers are hereafter specified.

2. Powers and duties

The Town Arborist shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the public right-of-way of any street, alley, sidewalk or other public place in the town. Such rules, regulations and specifications shall be in writing and shall not be effective until approved by the Town Manager. Copies of such rules, regulations and specifications shall be available to the public through the office of the Town Clerk.

3. Inspection, removal or treatment of infected or infested trees

3-1 In order to accomplish the purposes of this ordinance, the Town Arborist is hereby authorized to inspect the trees, shrubs and other plants within the Town.

3-2 Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees or plants in the Town or which is capable of causing an epidemic spread of communicable disease or insect infestation such as Dutch elm disease, the Town Arborist shall at once cause written notice to be served upon the owner of the property upon which such diseased tree is situate or the property abutting the right-of-way of any street, alley, sidewalk or other public place upon which diseased tree is situate, which notice shall require such property owner to eradicate, remove or otherwise control such condition within a reasonable time to be specified in such notice. Service of notice shall be by personal delivery of a copy thereof to the owner at any place the owner is located.

3-3 It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to this ordinance within the time specified in such notice.

3-4 It shall be the duty of the owner of any property abutting the right-of-way of any street, alley, sidewalk or other public place to remove any dead or dying trees or dead or dying limbs dangerous to life, limb or property located upon the premises of such owner or upon the right-of-way of any street, alley, sidewalk or other public place abutting the property of such owner of property whenever required to do so by notice given by the Town Arborist served upon the owner of such property in accordance with such reasonable time as may be specified in such notice.

4. Power to trim trees and collect costs

If any work required under this ordinance is not accomplished within the time specified in the notice, the Town Arborist shall cause the work to be done and the cost of the same shall be collected from the property owner. Any notice given pursuant to this ordinance shall state that if the work required is not done within the time specified, the Town will cause the same to be done at the expense of the owner. If the Town Arborist causes the work to be done, he shall submit the cost thereof to the Town Superintendent, who shall send a statement in such amount to the property owner at his last known address. Any such statement shall be paid by the property owner within thirty (30) days after the statement is mailed to him. After such thirty (30) days, any unpaid

amount shall bear interest at the rate of six (6%) percent per annum. Upon a determination that any property owner is unable to pay the cost of such work within thirty (30) days, and the ability or inability to pay shall be in the sole discretion of the Town Board of Trustees, he may enter into an agreement for the payment of the same in monthly installments over a period not to exceed five (5) years; and the unpaid cost shall, by such agreement, be made a lien on the lands of such property owner. Any unpaid balance due under such agreement shall bear interest at the rate of six (6%) percent per annum. The agreement shall be filed in the office of the County Clerk & Recorder of Larimer County. If such an agreement is not entered into, as a result of the Town Board of Trustees making a determination that the property owner is able to pay the cost of such work or otherwise, the cost thereof shall be assessed against the property and the Town Clerk shall make demand upon the owners in the same manner as provided heretofore for the service of notice, and if the assessment is not paid within thirty days after the service of said demand, the clerk shall certify said assessment to the Treasurer of Larimer County, Colorado, for extension of said assessment upon his tax roll for the collection of said assessment in the same manner as other taxes assessed upon said property.

5. License required for tree surgeons

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or vines within the Town without first procuring a license therefor from the Town.

6. Application procedure

Any person desiring a license pursuant to this ordinance shall make application therefor at the office of the Town Clerk on forms to be provided by the Town. The Town Clerk shall refer such application to the Town Arborist, who shall examine the applicant either orally or in writing as he shall deem advisable in order to determine the applicant's qualifications and competency to engage in the business applied for. No license shall be issued or renewed without the approval of the Town Arborist.

7. Form of license; identification of vehicles

Every license issued hereunder shall show on its face the types, classifications or kinds of services for which the licensee is licensed and authorized to perform. All motor vehicles and other major equipment of any person licensed hereunder used in conducting the licensed business shall be clearly identified with the name of the licensee.

8. Adequate insurance coverage required; minimum amounts

No such license shall be issued until the applicant therefor has presented to the Town Clerk a satisfactory public liability insurance policy covering all proposed operations of the applicant in such business in the Town in the sum of at least One Hundred Thousand (\$100,000.00) Dollars for the injury or death of any one (1) person, Three Hundred Thousand (\$300,000.00) Dollars for the injury or death of any number of persons in any one (1) accident and Twenty-Five Thousand (\$25,000.00) Dollars for damage of property. Such policy may allow the first One Hundred (\$100.00) Dollars of liability to be deductible. Such insurance policy must be prepared for at least the term of the license and shall require at least thirty (30) days advance notice to the Town before cancellation. In the event of cancellation or termination of any such required insurance policy during the license term, the license shall be terminated and the holder thereof shall surrender the same to the Town Clerk unless the licensee presents to the Town Clerk a substitute insurance policy meeting the requirements of this section.

9. License fees, term and renewal

No license shall be issued hereunder until the applicant has paid a license fee of Five (\$5.00) Dollars for the original license and Five (\$5.00) Dollars for the renewal of a license. Every license issued hereunder shall expire one (1) year after the date of its issuance. Renewal applications may be submitted at the office of the Town Clerk any time within thirty (30) days of the date of a license will expire.

10. Suspension or revocation of license; hearing

Upon the verified complaint in writing by any person, the Town Superintendent may suspend or revoke any license issued hereunder for violation of this ordinance. The complaint shall be submitted in writing to the Town Superintendent and shall state the date, time and place of violation for which the suspension or revocation of said license is requested. Before suspending or revoking any license pursuant to this section, the Town Superintendent shall first mail by certified mail a copy of the complaint to the license holder and give notice to the license holder of a date (not less than five (5) days after the date of mailing of such notice) on which the Town Superintendent will hold a hearing to determine whether or not such license should be suspended or revoked.

This ordinance was introduced, read, passed on first reading and ordered published by the Board of Trustees of the Town of Berthoud at its regular meeting held this 24th day of September, 1974.

P.B. Ticek

Mayor

ATTEST:

Carol A. Mayo

Town Clerk

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