

ORDINANCE NO. 799-10

AN ORDINANCE AMENDING ARTICLE 6 OF CHAPTER 7
OF THE BRUSH MUNICIPAL CODE, 2006,
RELATED TO TREES.

WHEREAS, the City Council and the City Tree Board have reviewed the existing Article 6 and have concluded that it requires review and amendment to properly meet the intentions and desires related to the planting and care of trees within the City; and

WHEREAS, with the review and approval of the City Tree Board, the City Council finds and determines that the amendments set out in this ordinance would be in the public interest.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRUSH, COLORADO:

Section 1. Sec. 7-6-20 is repealed and re-enacted to read in its entirety as follows:

Sec. 7-6-20. Street tree species to be planted.

- (a) The Tree Board, in cooperation with the Colorado State Forest Service, shall maintain a list of recommended small, medium, and large trees for the city.
- (b) No species other than those included in this list may be planted as street trees by any person without prior written permission of the Tree Board. The Tree Board may amend this list from time to time. (Prior code §12-29)

Section 2. Sec. 7-6-70 is amended to read in its entirety as follows:

Sec. 7-6-70. Tree and shrub trimming.

(a) It shall be the duty of the owner of private property abutting the right-of-way of any street, alley, sidewalk or other public place to trim, remove or protect any tree or shrub on such owner's property which may project beyond the property line onto or over the right-of-way abutting the same. Should the owner fail to perform such maintenance as may be necessary on any tree or shrub projecting over abutting right-of-way of any street, alley, sidewalk or other public place, a notice requiring such work to be performed shall be served upon the property owner in accordance with Section 7-6-90 below, and such work shall be completed within ten (10) days of the date on the notice. Nothing in this Section shall be construed to require the owner of property to trim any trees or shrubs when such trimming is necessary because of utility lines or traffic control signs or devices, and in such

case it shall be the duty of the City or owner of said utilities to do any trimming required for such utilities or traffic control signs or devices.

(b) The employees and agents of the City shall have the right of access to all property in the City, under the provisions for entry as provided in Section 1-5-10 of this Code, for the purpose of inspecting any trees and shrubs to determine the necessity of their removal and for the purpose of performing the necessary work should the owner fail to do so. (Prior code §12-33; Ord. 774-06)

Section 3. Sec. 7-6-90 is repealed and re-enacted to read in its entirety as follows:

Sec. 7-6-90. Contents of notice and manner of service.

(a) The notice required by Sections 7-6-70 and 7-6-200 shall contain the following:

(1) Plain and concise statement of the work required to be done and the section of the City Code requiring the same;

(2) A statement of the time within which said work must be done;

(3) A statement that if the work is not performed within the required time, the City will perform the work at the expense of the owner and that the costs thereof, in addition to being an individual liability, shall become a lien upon the land and, if not paid when due, will be certified to the County Treasurer for collection in the manner of other taxes; and

(4) A statement that failure to perform the required work constitutes a violation of this Code and will subject the owner to a fine up to three hundred dollars (\$300.00), in addition to any sums charged for City work.

(b) The notice shall be mailed to the premises or delivered to the owner or conspicuously posted on the primary building (as *building* is defined in Subsection 16-14-20 of this Code). In the case of a vacant lot not improved by a building (as defined in Subsection 16-14-20), the notice required by this Section need only be served on the owner there of by certified mail to the last known address of the owner as shown by the property tax records of the County Treasurer.

(c) If any such owner shall fail to complete the work required within the time specified as set out in the notice, the City Administrator, based on guidance of the City Council, may direct that said work be completed and charge the actual cost thereof to such owner, together with a five percent (5%) surcharge for inspection and other incidental costs, and such administrative fee as may be set by the City Council by resolution from time to time. All charges for completing the work shall be a lien against the subject land as provided in Subsection 13-3-30-(b) of this Code and shall be certifiable to the County Treasurer.

Section 4. Sec. 7-6-200 is repealed and re-enacted to read in its entirety as follows:

Sec. 7-6-200. Dead or diseased tree control.

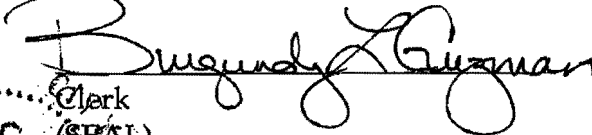
(a) It shall be the duty of the owner of any property to remove any dying or dead trees or dying or dead overhanging boughs in trees located on the premises of such owner. Should the owner fail to perform such work to remove any dying or dead trees or dying or dead overhanging boughs as may be necessary, a notice requiring such work to be performed shall be served upon the property owner in accordance with Section 7-6-90, and such work shall be completed within sixty (60) days of the date on the notice.

(b) Upon the discovery in any tree within the City of any destructive or communicable disease, insect infestation or disease which constitutes a potential threat to other trees within the City, the City shall have the right to cause the property owner to eradicate the condition or remove the tree within a reasonable time, not more than sixty (60) days of the date of the notice, pursuant to Section 7-6-90 of this Article. The city shall be responsible for the removal of dead or infected trees or boughs on public property.

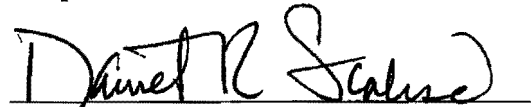
(c) The employees and agents of the City shall have the right of access to all property in the City, under the provisions for entry as provided in Section 1-5-10 of this Code, for the purpose of inspecting any trees to determine the necessity of their removal and for the purpose of performing the necessary work should the owner fail to do so.

INTRODUCED by Chuck Schonberger, a member of Council, read, approved on first reading and ordered published at a regular meeting of the City Council of the City of Brush, Colorado, on April 12, 2010.

ATTEST:

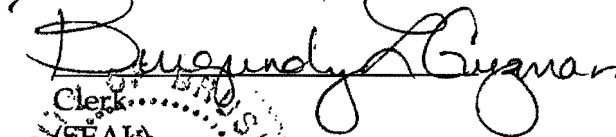

Beryl Guzman

Clerk
(SEAL)


Daniel R. Galise
Mayor

PASSED, ADOPTED and APPROVED at a regular meeting of the City Council of the City of Brush on April 26, 2010.

ATTEST:


Beryl Guzman

Clerk
(SEAL)

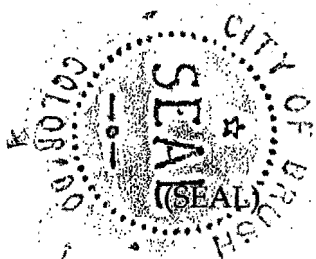

Daniel R. Galise
Mayor



STATE OF COLORADO)
)
COUNTY OF MORGAN) ss.
)
CITY OF BRUSH)

I, Burgundy L. Guzman, duly appointed and acting Clerk of the City of Brush, Colorado, do hereby certify that the foregoing Ordinance of the City of Brush, was introduced, read, approved on first reading, and ordered published in accordance with law, at a regular meeting of the City Council of the City of Brush on April 12, 2010; that that ordinance was published in the Brush News Tribune, the official newspaper of the City of Brush, on April 14, 2010, that the ordinance was passed and adopted and approved at a regular meeting of the City Council of the City of Brush on April 26, 2010.

WITNESS my hand and the Seal of the City this 26th day of April, 2010.



Burgundy L Guzman
Clerk

Published: April 28, 2010