

ORDINANCE NO. 2021-11

AN ORDINANCE AMENDING CHAPTER 7, ARTICLE I OF THE KEENESBURG MUNICIPAL CODE REGARDING NUISANCES REGARDING DEAD, DANGEROUS AND INFESTED TREES AND AMENDING CHAPTER 11 OF THE CODE TO ADD A NEW ARTICLE IV CONCERNING PUBLIC TREES

WHEREAS, the Board of Trustees for the Town of Keenesburg finds that trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community, and that protection of this valuable resource as set forth herein is essential to the health, safety and welfare of the Town and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO:

Section 1. Section 7-1-110 of the Keenesburg Municipal Code is hereby amended to read as follows (words to be deleted are shown in ~~strikeout~~; words to be added are underlined):

7-1-110 Nuisances regarding dead, dangerous and infested trees.

(a) It shall be the duty of the owner or occupant of any property within the Town to remove any dead trees or dead overhanging boughs or limbs that are dangerous to life or property located on the property of such owner or occupant. Any tree, or limb thereof, on private property that obstructs the view of traffic signs or the free passage of pedestrians or vehicles, or that threatens the public health, safety, and welfare is declared a nuisance and the Town may require its treatment or removal.

(b) Any tree, or limb thereof, that is determined by the Town to have contracted a lethal, communicable disease or insect, or to be dead or dying, or that otherwise threatens the public health, safety and welfare is declared a nuisance. Upon discovery of any destructive or communicable disease or other pestilence that endangers the growth, health, life or well-being of other trees or plants within the Town, or which is capable of causing an epidemic spread of communicable disease or insect infestation, the owner or occupant of the property upon which such infested or infected trees are located shall eradicate, remove or otherwise control such condition.

(c) 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 as set forth in Section 7-1-110 of this Code if the owner does not comply with treatment and/or removal.

(d) It shall be unlawful and deemed a nuisance to sell or import into the town or plant or cause to be planted any female cottonwood trees (Populus spices), boxelder (Acer Negundo) or siberian elm (Ulmus pumila) or other undesirable plants as designated by ordinance upon any property within the town, and the planting or setting out of these certain plants is declared to be a

menace to public health, safety and welfare and a public nuisance.

Section 2. Chapter 11 of the Keenesburg Municipal Code is hereby amended by the addition of a new Article IV to read as follows:

**ARTICLE IV
Public Trees**

11-4-10 Purpose.

The purpose of this Article is 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 Board of Trustees herein delegates the authority and responsibility for managing public trees, 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.

11-4-20 Definitions.

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

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.

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.

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.

Public property – all grounds and rights-of-way (ROWS) owned or maintained by the Town.

Public tree – any tree or woody vegetation on Town-owned or Town-maintained property or rights-of-way and other public property.

Top or Topping – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

11-4-30 Authority and power.

(a) *Delegation of authority and responsibility.* The Director of the Public Works Department or their 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-ways, Town 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.

(b) *Coordination among Town departments.* All Town departments shall coordinate as necessary with the Director and will provide services as required to ensure compliance with this Article as it relates to streets, alleys, rights-of-way, drainage, easements and other public property not under direct jurisdiction of the Director.

(c) *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.

11-4-40 Tree planning and care standards.

(a) *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.

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

(c) *Tree species list.* The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.

(d) *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.

(e) *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 line.

(f) *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.

11-4-50 Prohibition against harming public trees.

(a) 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.

(b) 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.

(c) 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.

(d) It shall be unlawful and deemed a nuisance for any person, firm or corporation to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plants upon access-controlled arterials or other public parks and greenbelts within the town, unless authorized or directed by the town arborist.

11-4-60 Adjacent owner responsibility.

(a) The owner of land adjacent to any Town 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 parkway area.

(b) 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 may undertake the necessary work and charge the cost to the property owner.

Section 3. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Board hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. The repeal or modification of any provision of the Municipal Code of the Town of Keenesburg by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. Any person, firm, corporation or other entity violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each such person, firm, corporation or entity upon conviction of any violation of this ordinance shall be punished in accordance with Chapter 1, Article IV of the Keenesburg Municipal Code, by a fine of not more than two thousand six hundred fifty dollars (\$2,650) or by imprisonment not exceeding three hundred sixty-four (364) days, or by both such fine and imprisonment. Each day a violation continues shall be considered a separate offense.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 23rd day of August, 2021.

TOWN OF KEENESBURG, COLORADO

Kenneth Gfeller, Mayor

ATTEST:

Christina Fernandez, Town Clerk