

**ORDINANCE NO. 5  
SERIES OF 2002**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF  
CARBONDALE, COLORADO, AMENDING IN ITS ENTIRETY  
CHAPTER 7.10 OF THE CARBONDALE MUNICIPAL CODE**

WHEREAS, the Board of Trustees of the Town of Carbondale, Colorado, has determined that it is appropriate to amend Carbondale Municipal Code Chapter 7.10 setting forth the policy of the Town of Carbondale regarding trees;

BE IT THEREFORE ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, that Chapter 7.10 of the Carbondale Municipal Code, Tree Policy, is hereby amended in its entirety as follows:

“7.10.010 Findings of Fact.

- A. Trees have a positive economic effect on the Town by enhancing property values and making the Town a more attractive place to live, visit and do business.
- B. Trees have a positive environmental effect on the Town by reducing air pollution, abating heat, noise and glare, mitigating drainage and erosion problems, providing shade, providing wildlife habitat, and moderating the local climate.
- C. Trees generally enhance the quality of life for residents of the Town.

7.10.020 Purpose.

- A. To provide generally for the protection of trees within the Town. to ensure proper planting and maintenance of trees in the public right-of-way and in Town parks, and to provide for the abatement of nuisance trees on public and private property;
- B. To develop a healthy urban forest and park system of diverse tree species to protect against potential pest and disease problems;
- C. To create a community with tree lined streets by requiring tree planting standards in new developments while upgrading and maintaining street trees in existing parks, neighborhoods and commercial or industrial areas;

7.10.030 Applicability. The Board of Trustees shall have exclusive power and authority over all trees, plants and shrubs located within street right-of-ways,

parcs and public places of the Town, and over trees, plants and shrubs located on private property that constitute a nuisance as described herein.

7.10.040 Administration. The Public Works Director is hereby appointed to administer and implement this ordinance.

7.10.050 Tree Board. The Board of Trustees has established a Tree Board, consisting of seven members and one alternate. The Tree Board shall serve in an advisory capacity to the Board of Trustees in all matters relating to trees within the town. Members of the board shall serve without compensation. The term of each board member shall be for two years, except that the term of two of the members appointed to the first board shall be for one year. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

7.10.60 Trees on Public Property

- A. The Building Department shall require all building permit applicants to:
1. Submit a site plan including location of existing and proposed street trees, utilities and any tree to be removed in the public right-of-way.
  2. Submit a protection plan or sign a copy of the Tree Protection Standards, indicating it has been read and will be followed.
  3. Submit a plan showing location, size and type of all trees to be planted in the public right-of-way. Size of an existing tree is to be established by measuring the diameter of the tree trunk at 4'-6" above ground and 12" above the ground for proposed new trees.
  4. Sign a copy of the Tree Maintenance Standards indicating that the standards have been read and will be followed.
  5. Any changes to the landscape plan require approval from the Tree Board or by an administrative review by the Public Works Director.
  6. All trees planted in public rights of way shall be trees listed in Recommended Street Tree list approved by Town Tree Board, as may be amended from time to time.
- B. All trees planted on public property shall be planted according to a set of standards developed by the Tree Board. These standards are available from the Public Works Director or from any Tree Board Member. Trees not planted in accordance with the standards will be subject to removal. Landscaping for any new development within the Town associated with a land use application, which requires a landscape plan shall be reviewed by the Tree Board, and a recommendation made to Planning and Zoning Commission.

One full size hard copy and one electronic copy of plans must be submitted to the Public Works Department ten working days prior to any regularly scheduled Tree Board meeting.

C. Except as provided herein, it shall be unlawful for any person to top a tree in or upon the public right-of-way or other public property within the Town. For purposes of this section, topping is defined as 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. Trees severely damaged by storms or other causes, or trees which pose an imminent threat to property or to public safety such that other pruning practices are impractical may be exempted from this section at the discretion of the Public Works Director. No tree on public property shall be removed without written permission from the Public Works Director.

D. Whenever any work is being done contrary to the provisions of this section, the Public Works Director may order the work stopped by serving written notice on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Public Works Director to proceed with the work.

E. During the construction of any structure or improvement, it shall be unlawful for any person to place material, machinery or soil deposits within a minimum of six feet of any tree on Town property. All trees on public property shall be protected during construction according to the Protection Standards developed by the Tree Board.

F. The Building Department shall maintain copies of the Tree list, Protection Standards, Maintenance Standards, and Irrigation Standards for public inspection.

#### 7.10.070 Trees on Private Property.

A. For purposes of this section, nuisance trees are defined as trees which pose a threat to public safety or adjacent public property, including but not limited to, public right-of-ways, or trees which harbor any destructive or communicable disease or other pestilence which endangers the well-being of other trees in the Town, or which are capable of causing an epidemic spread of a communicable disease or insect infestation.

B. The Public Works Director or his duly appointed representative has the authority to enter onto private property whereon there is located a tree, shrub or plant that is suspected to be a public nuisance.

C. Upon the discovery of a nuisance tree, the Public Works Director shall cause written notice to be served upon the owner of the property upon which the tree is located, requiring the owner to eradicate, remove or otherwise control the condition within a reasonable time specified in such notice. It shall be unlawful for any person to fail to comply with the requirements of any notice given pursuant to this section within the time specified in such notice. If the notice to abate is not complied with within the required time, the Town may cause such nuisance to be abated, and shall assess the costs of such abatement against the property and shall notify the owner of the amount thereof. Such assessment shall be a lien upon the property until it is paid. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

7.10.080 Standards for Tree Planting, Maintenance and Removal.

A. The Tree board shall develop and maintain a list of desirable trees for planting along streets and in parks in three size classes: small, medium and large. A list of trees not suitable for planting shall also be maintained.

B. The spacing of trees on Town property shall be in accordance with the size classes listed in this ordinance, and no trees shall be planted closer together than the following: small trees, 12-20 feet; medium trees, 25-35 feet; large trees, 35-45 feet; except in special plantings approved by the Public Works Director or his duly authorized representative. In any case, trees shall be spaced so those canopies at maturity shall not overlap.

C. No trees other than those species listed as small trees shall be planted on Town property under or within ten lateral feet of any overhead utility wire.

7.10.090 Penalties. Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to any provision of this ordinance, upon being found guilty of violation shall be subject to the penalties set forth in Section 1-4-20 for each offense. If, as the result of the violation of any provision of this ordinance, the injury, mutilation or death of a tree, shrub or other plant located on Town property is caused, the party in violation shall make restitution to the Town for the value of such tree, shrub or other plant, whichever is necessary in the opinion of the Public Works Director, such restitution shall be in addition to any other penalty. The minimum restitution, in addition to penalties, shall be the cost of planting a 2.5-inch caliper tree."

INTRODUCED, READ AND PASSED this day of

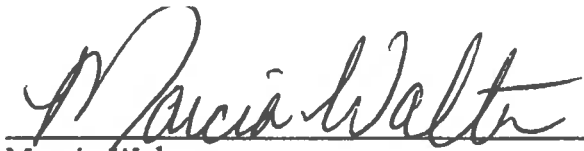
2002.

THE TOWN OF CARBONDALE

By: **11-11-02, J**

Michael Hassig, Mayor

ATTEST:



Marcia Walter