

Chapter 5.08

REMOVAL, PRUNING OR
SPRAYING OF TREES

Sections:

- 5.08.010 License, bond, license fee, and certificate of liability required.
- 5.08.020 Deposit of residue prohibited—Town removal, charge to licensee, revocation of license.
- 5.08.030 Property damage.
- 5.08.040 Inspection of violation—Suspension of license—Application for bond forfeiture.
- 5.08.050 Suspension of license to end when.
- 5.08.060 Violation—Bond in default.
- 5.08.070 Violations of Section 5.08.030—Penalty.
- 5.08.010 License, bond, license fee, and certificate of liability required.

No person shall engage in, carry on or contract the business of removal, trimming, pruning or spraying of trees within the town of Ordway, without first having obtained a license from the town clerk; provided, that no license shall be granted until the applicant shall have given a properly executed performance bond in the sum of one thousand dollars (\$1,000.00), which bond shall run to the people of the town of Ordway and shall be signed by the applicant and a corporate surety,

and a certificate of liability insurance in the amount of ten thousand dollars (\$10,000.00). The annual license fee shall be ten dollars (\$10.00). (Ord. 396 (part), 1987; Ord. 254 Art. II, § 1, 1965)

- 5.08.020 Deposit of residue prohibited—Town removal, charge to licensee, revocation of license.

It is unlawful for any person engaged in the business defined in Section 5.08.010 of this chapter to deposit any rubbish, trimmings, branches, leaves or other residue from their contract obligation upon any town property, including streets and alleys, and the person so engaged shall be solely responsible for the removal and disposal thereof. In the event that the licensee shall fail to make such proper removal or disposal, the town of Ordway may, in its discretion, remove the same and dispose thereof and make a direct charge to the licensee at the rate of five dollars (\$5.00) per man-hour for labor and twenty dollars (\$20.00) per hour for equipment. In addition, such failure on the part of the licensee shall constitute a violation of this chapter and shall subject the licensee to the penalty provisions hereof, and in addition shall automatically revoke the annual license heretofore granted. (Ord. 396 (part), 1987; Ord. 254 Art. II, § 2, 1965)

- 5.08.030 Property damage.

All property damage caused by the spraying of trees, including such damage to surrounding buildings, automobiles and other personal property, shall be the responsibility of the licensee and failure to compensate for such damage shall constitute a violation of the provisions this chapter and shall subject the

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licensee to the penalty provisions hereof. (Ord. 254 Art. II, § 3, 1965)

**5.08.040 Inspection of violation—
Suspension of license—
Application for bond
forfeiture.**

In the event of a violation of Section 5.08.020 or Section 5.08.030 of this chapter or an allegation that a violation hereof has occurred, it shall be the duty of the town superintendent of the town of Ordway to make an inspection and file a report with the board of trustees setting forth therein the express violation. If the board of trustees shall determine that the licensee has violated the terms of this chapter, it shall be lawful for the board of trustees to instruct the town clerk of the town of Ordway to suspend the license of the licensee and make application for forfeiture of the bond commensurate with the damages assessed. (Ord. 254 Art. II, § 4, 1965)

**5.08.050 Suspension of license to end
when.**

Any suspension of license as provided in this chapter shall continue until such time as the licensee shall have either (A) obtained a signed release from the property owner or owners upon which such violation occurred; or (B) had the question of liability therefor determined in a competent court of law and filed a copy of said findings or judgment with the town clerk; or (C) filed an additional bond in the amount of the damage claimed, said amount being necessary to maintain the level of the surety bond in the amount of one thousand dollars (\$1,000.00) in excess of the claim so filed. (Ord. 254 Art. II, § 5, 1965)

5.08.060 Violation—Bond in default.

In addition to the above provisions, in the event that any person, firm or corporation shall be convicted of a violation of this chapter in accordance with the terms hereof, the town of Ordway may declare the required bond in default, or as much thereof as may be necessary for the payment of any fine or fines lived hereunder. (Ord. 254 Art. II, § 6, 1965)

**5.08.070 Violations of Section
5.08.030—Penalty.**

Any person violating any of the provisions of Section 5.08.030 of this chapter shall be punished by a fine of not exceeding one thousand dollars (\$1,000.00), or by imprisonment in the town jail for a period not to exceed one year, or by both such fine and imprisonment, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 443 § 4 (part), 1997; Ord. 254 Art. II, § 7, 1965)

12.28.010

Chapter 12.28

TREES

Sections:

- 12.28.010 Definitions.
- 12.28.020 Creation and establishment of a town of Ordway tree board.
- 12.28.030 Term of office.
- 12.28.040 Compensation.
- 12.28.050 Duties and responsibilities.
- 12.28.060 Operation.
- 12.28.070 Tree species to be planted.
- 12.28.080 Distance from curb and sidewalk.
- 12.28.090 Spacing.
- 12.28.100 Distance from street corners and fireplugs.
- 12.28.110 Utilities.
- 12.28.120 Public tree care.
- 12.28.130 Tree topping.
- 12.28.140 Pruning, corner clearance.
- 12.28.150 Dead or diseased tree removal on private property.
- 12.28.160 Removal of stumps.
- 12.28.170 Interference with town council.
- 12.28.180 Review by board of trustees.
- 12.28.190 Violation---Penalty.
- 12.28.200 Exclusive remedy.

12.28.010 Definitions.

As used in this chapter:
 "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned

by the town, or to which the public has free access as a park.

"Street trees" means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town. (Ord. 415 § 1, 1992)

12.28.020 Creation and establishment of a town of Ordway tree board.

There is created and established a town of Ordway tree board for the town of Ordway, Colorado, which shall consist of five members, who shall be citizens and residents of the town of Ordway who shall be appointed by the mayor with the consent and approval of the board of trustees of the town of Ordway. (Ord. 415 § 2, 1992)

12.28.030 Term of office.

The term of office of the members of the town of Ordway tree board shall be three years except that the term of office of two members of the first appointed tree board shall be for two years and the term of office of three members of the first tree board shall be for three years. In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed by the board of trustees for the unexpired portion of the term. (Ord. 415 § 3, 1992)

12.28.040 Compensation.

Members of the town of Ordway tree board shall serve without compensation. (Ord. 415 § 4, 1992)

12.28.050 Duties and responsibilities.

It shall be the duty and responsibility of the

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town of Ordway tree board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, alleys, and in other public areas within the town of Ordway. Such plan will be presented annually to the board of trustees and, upon their acceptance and approval, shall constitute the official comprehensive town tree plan for the town of Ordway.

The town of Ordway tree board, when requested by the board of trustees of the town of Ordway, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

The town of Ordway tree board, when requested by the board of trustees of the town of Ordway or the town supervisor, shall advise the board of trustees or town Supervisor as to the health and condition of any trees and/or shrubs located upon private property within the town of Ordway. (Ord. 415 § 5, 1992)

12.28.060 Operation.

The town of Ordway tree board shall choose its own officers, shall make its own rules and regulations which shall become effective upon adoption by the board of trustees, and shall keep a journal of its proceedings. A majority of the members shall be a quorum for transaction of any business. (Ord. 415 § 6, 1992)

12.28.070 Tree species to be planted.

The town of Ordway tree board shall develop and maintain a list of desirable tree species for planting along streets. These desirable species shall be grouped in three size classes:

small, medium and large. A list of tree species not suitable for planting will also be created and enforced by the tree board. (Ord. 415 § 7, 1992)

12.28.080 Distance from curb and sidewalk.

The distance trees may be planted from curbs or curbings and sidewalks will be in accordance with the three species size classes listed in Section 12.28.070, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. (Ord. 415 § 8, 1992)

12.28.090 Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in Section 12.28.070, and no trees may be planted closer together than the following: small trees, fifteen (15) feet; medium trees, twenty-five (25) feet; and large trees, forty (40) feet; except in special plantings designed or approved by a landscape architect. (Ord. 415 § 9, 1992)

12.28.100 Distance from street corners and fireplugs.

No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug. (Ord. 415 § 10, 1992)

12.28.110 Utilities.

No street trees other than those species listed as small trees in Section 12.28.070 may

be planted under or within ten feet of any overhead utility wire. (Ord. 415 § 11, 1992)

12.28.120 Public tree care.

The board of trustees of the town of Ordway shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The board of trustees of the town of Ordway may remove or cause to be removed, any tree or part thereof which is an unsafe condition or which by reason of its nature is injurious to sidewalks, sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with Sections 12.28.070 through 12.28.110. (Ord. 415 § 12, 1992)

12.28.130 Tree topping.

It is unlawful as a normal practice for any person, firm or town department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in the normal canopy and causing the tree to be disfigured. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the town council. (Ord. 415 § 13, 1992)

12.28.140 Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that such branches shall not (severely) obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of thirteen (13) feet above the street surface or eight feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign. (Ord. 415 § 14, 1992)

12.28.150 Dead or diseased tree removal on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insect or disease which constitute a potential threat to other trees within the town.

The board of trustees of the town of Ordway will notify in writing the owners of such tree. Removal shall be done by said owners at their expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal on the owners' property tax notice. (Ord. 415 § 15, 1992)

12.28.160 Removal of stumps.

All stumps of street and park trees shall be

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removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. 415 § 16, 1992)

or preempt any other ordinances of the town of Ordway. All other ordinances shall be construed along with this chapter and read together with this chapter. (Ord. 415 § 20, 1992)

12.28.170 Interference with town council.

It is unlawful for any person to prevent, delay or interfere with the board of trustees, or any of its agents or employees while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on public grounds, as authorized in this chapter. (Ord. 415 § 17, 1992)

12.28.180 Review by board of trustees.

The board of trustees of the town of Ordway shall have the right to review the conduct, acts and decisions of the town of Ordway tree board. Any person may appeal from any ruling, decision or order of the town superintendent or the town of Ordway tree board to the town council who may hear the matter and make a final decision. (Ord. 415 § 18, 1992)

12.28.190 Violation--Penalty.

Any person, firm, corporation or entity who is convicted of violating any portion of this chapter shall be fined, not to exceed one thousand dollars (\$1,000.00) per violation or imprisoned for a period not to exceed one year and/or both. (Ord. 443 § 4 (part), 1997; Ord. 415 § 19, 1992)

12.28.200 Exclusive remedy.

No remedy provided herein shall be exclusive but the same shall be cumulative. It is not the policy or purpose of this chapter to repeal

ORDINANCE NO. 415

AN ORDINANCE ESTABLISHING A TOWN OF ORDWAY TREE BOARD AND PROVIDING FOR THE PLANTING AND MAINTENANCE OF TREES WITHIN THE TOWN OF ORDWAY AND ESTABLISHING A PENALTY FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE.

WHEREAS, the trees and forestry located within the Town of Ordway constitutes a valuable asset to the Town of Ordway and its residents; and

WHEREAS, the Board of Trustees of the Town of Ordway has determined that it would be in the best interests of the residents of the Town of Ordway and in the best interests of the health, safety and welfare of the residents of the Town of Ordway to establish and maintain a Town of Ordway Tree Board and establish requirements for the planting and maintenance of trees within the Town of Ordway.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Ordway as follows:

Section 1. DEFINITIONS.

STREET TREES - "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Town.

PARK TREES - "Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park.

Section 2. CREATION AND ESTABLISHMENT OF A TOWN OF ORDWAY TREE BOARD. There is hereby created and established a Town of Ordway Tree Board for the Town of Ordway, Colorado, which shall consist of five members, who shall be citizens and residents of the Town of Ordway who shall be appointed by the Mayor with the consent and approval of the Board of Trustees of the Town of Ordway.

Section 3. TERM OF OFFICE. The term of office of the members of the Town of Ordway Tree Board shall be three years except that the term of office of two members of the first appointed Tree Board shall be for two years and the term of office of three members of the first Tree Board shall be for three years. In the event that a vacancy occurs during the term of any member, his successor shall be appointed by the Board of Trustees for the unexpired portion of the term.

Section 4. COMPENSATION. Members of the Town of Ordway Tree Board shall serve without compensation.

Section 5. DUTIES AND RESPONSIBILITIES. It shall be the duty and responsibility of the Town of Ordway Tree Board to study, investigate, counsel, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, alleys, and in other public areas within the Town of Ordway. Such plan will be presented annually to the Board of Trustees and, upon their acceptance and approval, shall constitute the official comprehensive town tree plan for the Town of Ordway, Colorado.

The Town of Ordway Tree Board, when requested by the Board of Trustees of the Town of Ordway, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its duties and responsibilities.

The Town of Ordway Tree Board, when requested by the Board of Trustees of the Town of Ordway or the Town Supervisor, shall advise the Board of Trustees or Town Supervisor as to the health and condition of any trees and/or shrubs located upon private property within the Town of Ordway.

Section 6. OPERATION. The Town of Ordway Tree Board shall choose its own officers, shall make its own rules and regulations which shall become effective upon adoption by the Board of Trustees, and shall keep a journal of its proceedings. A majority of the members shall be a quorum for transaction of any business.

Section 7. TREE SPECIES TO BE PLANTED. The Town of Ordway Tree Board shall develop and maintain a list of desirable tree species for planting along streets. These desirable species shall be grouped in three size classes: small, medium, and large. A list of tree species not suitable for planting will also be created and enforced by the Tree Board.

Section 8. DISTANCE FROM CURB AND SIDEWALK. The distance trees may be planted from curbs or curblings and sidewalks will be in accordance with the three species size classes listed in Section 7 of this Ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees 2 feet; medium trees, 3 feet; and large trees, 4 feet.

Section 9. SPACING. The spacing of street trees will be in accordance with the three species size classes listed in Section 7 of this Ordinance, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet, and large trees, 40 feet; except in special plantings designed or approved by a landscape architect.

Section 10. DISTANCE FROM STREET CORNERS AND FIREPLUGS. No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet of any fireplug.

Section 11. UTILITIES. No street trees other than those species listed as small trees in Section 7 of this Ordinance may be planted under or within 10 feet of any overhead utility wire.

Section 12. PUBLIC TREE CARE. The Board of Trustees of the Town of Ordway shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Board of Trustees of the Town of Ordway may remove or cause to be removed, any tree or part thereof which is an unsafe condition or which by reason of its nature is injurious to sidewalks, sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this Ordinance.

Section 13. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or town department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than 3 inches in the normal canopy and causing the tree to be disfigured. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Town Council.

Section 14. PRUNING, CORNER CLEARANCE. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not (severely) obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of thirteen feet above the street surface or eight feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

Section 15. DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The Town shall have the right to cause the removal of any dead or diseased trees on private property within the Town, when such trees constitute a hazard to life and property, or harbor insect or disease which constitute a potential threat to other trees within the Town. The Board of Trustees of the Town of Ordway will notify in writing the owners of such tree. Removal shall be done by said owners at their expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owners' property tax notice.

Section 16. REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 17. INTERFERENCE WITH TOWN COUNCIL. It shall be unlawful for any person to prevent, delay or interfere with the Board of Trustees, or any of its agents or employees while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on public grounds, as authorized in this ordinance.

Section 18. REVIEW BY BOARD OF TRUSTEES. The Board of Trustees of the Town of Ordway shall have the right to review the conduct, acts, and decisions of the Town of Ordway Tree Board. Any person may appeal from any ruling, decision, or order of the Town Superintendent or the Town of Ordway Tree Board to the Town Council who may hear the matter and make a final decision.

Section 19. VIOLATION. Any person, firm, corporation, or entity who is convicted of violating any portion of this ordinance shall be fined, not to exceed \$300.00 per violation or imprisoned for a period not to exceed 30 days and/or both.


Section 20. EXCLUSIVE REMEDY. No remedy provided herein shall be exclusive but the same shall be cumulative. It is not the policy or purpose of this ordinance to repeal or preempt any other ordinances of the Town of Ordway. All other ordinances shall be construed along with this Ordinance and read together with this Ordinance.

Section 21. SEVERABILITY. If any part, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining sections of this Ordinance.

Section 22. EMERGENCY CLAUSE. The Board of Trustees of the Town of Ordway hereby finds, determines, and declares that an

emergency exists, and that this Ordinance is necessary for the immediate preservation of the public peace, health and safety and the same shall be in full force and effect after publication and final passage as provided by law.

INTRODUCED, READ IN FULL, PASSED, ADOPTED, APPROVED AND ORDERED PUBLISHED THIS 2nd DAY OF NOVEMBER, 1992.



Mayor

ATTEST:



Town Clerk