

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT,  
COLORADO, APPROVING AMENDMENTS TO PORTIONS OF CHAPTER 7  
HEALTH, SANITATION, AND ANIMALS; CHAPTER 11 STREETS SIDEWALKS  
AND PUBLIC PROPERTY; CHAPTER 16 ZONING; CHAPTER 17  
SUBDIVISION; AND CHAPTER 18 BUILDING; OF THE MUNICIPAL CODE OF  
THE TOWN OF BASALT, COLORADO (LANDSCAPING, TREE PROTECTION  
AND NOXIOUS WEEDS)**

**Ordinance No. 11  
Series of 2011**

RECITALS

1. The Town of Basalt ("Town") acting by and through its Town Council has the power to amend the Municipal Code of the Town of Basalt ("Town Code") pursuant to state statutes, Section 1.3, Home Rule Charter, and Section 1-58, Town Code, and all such amendments shall become a part of the Town Code.

2. At a public hearing held on May 17, 2011 the Planning and Zoning Commission considered the proposed code amendments to Chapters 16, 17, and 18. At the public hearing, the Planning and Zoning Commission heard evidence and testimony as offered by the Town Staff. The Planning and Zoning Commission recommended approval of the code amendments to Chapters 16, 17, and 18.

3. At a public hearing on May 24, 2011, the Town Council approved this Ordinance on first reading and scheduled a continued public hearing and second reading for this Ordinance for June 14, 2011, for a meeting beginning no earlier than 6:00 pm at the Basalt Town Hall, 101 Midland Avenue, Basalt, Colorado.

4. At a public hearing and second reading on June 14, 2011, the Town Council heard evidence and testimony as offered by the Town Staff, the Applicants, and members of the public.

5. The Town does not intend these code amendments to establish the right for the Town to enter onto private property to remove significant landscaping, except when there is an immediate threat to public safety and the removal is authorized by the Town Manager.

6. The Basalt Town Council finds, determines and concludes that it has a legitimate public purpose to protect the health, safety, welfare and quality of life for the citizens of the Town.

7. The Town Council finds and determines it is in the best interests of the Town to amend the Town Code as provided herein.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of Basalt, Colorado, as follows:

1. Section 7-1, of Chapter 7 of the Town Code is amended as shown in **Exhibit A.**

2. Sections 7-11 through 7-17, of Chapter 7 of the Town Code are deleted and changed to “reserved”.

3. Article III, of Chapter 7 of the Town Code is amended as shown in **Exhibit B.**

4. A new Section 11-36, of Chapter 11 of the Town Code is added as shown in **Exhibit C.**

5. Section 11-91, of Chapter 11 of the Town Code is amended as shown in **Exhibit D.**

6. Section 16-43(C)(11), of Chapter 16 of the Town Code is amended as shown in **Exhibit E.**

7. Section 16-73(d), of Chapter 16 of the Town Code is amended as shown in **Exhibit F.**

8. Section 17-63(c)(13), of Chapter 17 is added as shown in **Exhibit G.**

9. Section 17-64(c)(11), of Chapter 17 is added as shown in **Exhibit H.**

10. Section 18-1, of Chapter 18 of the Town Code is amended to add Arborist to the list of services required to have a license.

11. Section 18-1(c), of Chapter 18 of the Town Code is added as shown in **Exhibit I.**

12. Section 18-2(a), of Chapter 18 of the Town Code is amended as shown in **Exhibit J.**

13. Section 18-2(d), of Chapter 18 of the Town Code is added as shown in **Exhibit K**.

14. Section 18-3(i), of Chapter 18 of the Town Code is added as shown in **Exhibit L**.

15. Section 18-13, of Chapter 18 of the Town Code is titled Tree Management.

16. Section 18-13(c)(1)(d), of Chapter 18 of the Town Code is amended as shown in **Exhibit M**.

17. Section 18-13(c)(2), of Chapter 18 of the Town Code is amended as shown in **Exhibit N**.

18. 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 portions of this Ordinance and the Town Council hereby declares it would have passed this Ordinance and each part, section, subsection, sentence, clause or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

19. This Ordinance shall be effective 14 days after final publication of the Ordinance in accordance with the Town Home Rule Charter.

READ ON FIRST READING, ORDERED PUBLISHED AND SET FOR PUBLIC HEARING TO BE HELD ON June 14, 2011 by a vote of 5 to 1, on May 24, 2011.

READ ON SECOND READING AND ADOPTED, by a vote of 5 to 1, on June 14, 2011

TOWN OF BASALT, COLORADO

By: \_\_\_\_\_  
Leroy Duroux, Mayor

ATTEST:

\_\_\_\_\_  
Pamela K. Schilling, Town Clerk

## Exhibit A

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 17-1 is added as follows:

### **Sec. 7-1. Administration and Abatement of Nuisances: Definitions**

Remove Definition of “Brush”.

Remove Definition of “Weed”

Add Definition of “Noxious Weed” as follows:

*Noxious Weed* means a weed in the list of noxious weeds as described in Town Code Section 7-52, *Noxious Weeds*.

### **Sec. 7-11 through Sec. 7-17**

Remove Sections 7-11 through 7-17 and change them to “reserved”.

## Exhibit B

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Article III of Chapter 7 is amended to read as follows:

### **CHAPTER 7- ARTICLE III**

#### **~~Brush and~~ Noxious Weeds**

##### **Sec. 7-51. ~~Height regulated~~ Regulation of Noxious Weeds and Rubbish.**

It shall be the duty of each and every person, corporation or association owning any lots, tracts or parcels of land within the Town to ~~cut to the ground~~ remove all noxious weeds as identified in Section 7-52 below. ~~and brush when said weeds and brush grow to a height of twelve (12) inches or more, and to remove the same together with all rubbish of all any kinds from the area to the middle of the alleys abutting behind and from the sidewalk areas abutting in front of all said lots, tracts and parcels of land within the Town. (Prior code 45-17)~~ lots, tracts, or parcels within the Town.

##### **Sec. 7-52. Removal.**

All such noxious weeds, ~~brush~~ and rubbish shall, immediately upon being removed ~~cut~~ by the owners of said lots, be removed from the Town, ~~burned~~ or otherwise entirely destroyed. (Prior code 45-18)

##### **Sec. 7-53. Noxious Weed Management**

Management of noxious weeds as designated by the Town of Basalt, Eagle and Pitkin Counties and the State of Colorado declares that there is a need to ensure that all the lands in Basalt, whether in private or public ownership, are protected by and subject to the jurisdiction of Basalt to manage undesirable plants.

The Colorado Department of Agriculture has four noxious weed lists, designated as "A", "B", "C" and the watch list. Species are assigned to one of the four State weed lists through the rule making authority of the Department of Agriculture. In addition to the weeds designated on the State's A, B, and C and the watch list, the Town of Basalt has the authority to declare plants as noxious weeds, if the plant meets one or more statutorily defined criteria (C.R.S 35-5.5-103 (16). The Town should declare those weed species and the weeds on the State's weed lists to be subject to integrated management within the Town.

(a) Basalt's local list is subject to change as the state amends the A, B, C. and the watch list and as the Town of Basalt declares species not included on the state's lists as "noxious". The updated list, showing current state designations is available at Basalt Town Hall.

(b) The Town and property owners will be required to manage Town, County, and State listed noxious weeds in accordance with the Colorado Noxious Weed Act, Rules & Regulations Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act (8 CCR 1206-2), and Colorado Department of Agriculture's state weed management plans and integrated weed management recommendations for individual species.

Enforcement of this section by the Public Works Department shall follow these guidelines:

(a) *First Contact:* Notification by personal visit or phone to the property owner requesting removal of the identified noxious weeds and/or rubbish. Property owner will be given fourteen (14) days to remove identified noxious weeds or rubbish. In the event that the property owner cannot be reached by personal visit or phone, the Public Works Department after first making this first attempt, shall send a letter to the property owner requesting the removal of the identified noxious weeds or rubbish.

(b) *Additional Contact:* If compliance is not completed by the property owner within the above fourteen (14) days of first contact as described in Subsection (a) above, the Public Works Department shall recontact the property owner by personal visit, phone, or letter reminding them of the Town's regulations related to removal of noxious weeds and rubbish and asking them to remove the noxious weeds and rubbish within the next seven (7) days.

(c) *Notice of Violation:* If compliance is not completed by the property owner within the time period allotted in Subsection (b) above, the Public Works Department shall send a certified letter to the property owner reminding them of the Town's regulations related to removal of noxious weeds and rubbish within two (2) business days from receipt of the letter and identifying penalties for non-compliance as set forth in Section 1-82 of the Town Code. The Town Manager can extend the compliance time period if it is determined at the sole discretion of the Town Manager that there are special circumstances. By way of an example, special circumstances may include but are not limited to, a property owner not being able to be contacted.

All noxious weed removal shall be done in compliance with the State of Colorado Noxious Weed Act, Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act.

**Sec. 7-54 -7-70. Reserved.**

## Exhibit C

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 11-36 is added to read as follows:

### Sec. 11-36. Duty of property owner to prune or remove trees or shrubs; notice.

(a) The Town's rights of way landscape policy is necessary to ensure street trees planted on public property are consistent with the Town's landscaping standards, in the interest of public safety and to preserve public welfare.

(b) It shall be the duty of the property owner to cut, trim, prune or remove as necessary any trees or shrubs located upon the property of such owner in order to provide for the safe and convenient use of streets, sidewalks, alleys or other Town-owned property in accordance with the following requirements:

(1) Tree branch growth must be maintained at a height no lower than eight (8) feet over a public sidewalk and not less than fourteen (14) feet over the travel lanes of a street or alley.

(2) Branches, trees and shrubs must not obscure street name signs.

(3) Branches or trees that are broken, hanging, decayed or otherwise defective in any way that threatens public property or the safe use thereof must be removed. It shall be the duty of the Town to do any cutting, trimming, pruning or removing of trees shrubs necessary for the safe use of Town utilities or Town traffic-control devices and signs, with the exception of street name signs.

(c) Except where properties are subject to a site specific land use review, prior to any planting which will be within the Town's rights of way, the Public Works Director or his/her designee and the Town Planner shall review and approve landscape plans and/or proposals.

Plan submittal and approval shall be part of any development review process; or in direct response to a proposal to modify or add new landscaping to existing rights of way. Following submittal of plans, the Public Works Director or his/her designee may request additional information, plans, details, and specifications as necessary to review the proposal.

(d) Should a property owner fail to maintain trees and shrubs in the manner required by Subsection (a) of this Section, the Public Works Director or his/her designee shall follow these enforcement guidelines:

(1) *First Contact*: Notification by personal visit or phone to the property owner requesting compliance with the requirements in this section. Property owner will be given fourteen (14) days to come into compliance. In the event that the

property owner cannot be reached by personal visit or phone, the Public Works Department after first making this attempt, shall send a letter to the property owner requesting compliance.

(2) *Additional Contact:* If compliance is not completed within the above fourteen (14) days of first contact as described in Subsection (a) above, the Public Works Department shall recontact the property owner by personal visit, phone, or letter reminding them of the Town's regulations related to landscaping adjacent to the right-of-way and asking them to comply within the next seven (7) days.

(3) *Notice of Violation:* If compliance is not completed within the time period allotted in Subsection (b) above, the Public Works Department shall send a certified letter to the property owner reminding them of the Town's regulations related to landscaping adjacent to the right-of-way and requiring compliance within two (2) business days and identifying penalties for non-compliance as set forth in Section 1-82 of the Town Code. The Town Manager can extend the compliance time period if it is determined at the sole discretion of the Town Manager that there are special circumstances. By way of an example, special circumstances may include but are not limited to, a property owner not being able to be contacted.

## Exhibit D

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 11-91 is amended to read as follows:

### **Sec. 11-91. Unlawful obstructions and improvements**

Except as otherwise provided in this Code, it shall be unlawful for any person to obstruct a street or sidewalk with any debris, lumber, sand, gravel, dirt, abandoned or wrecked automobile or other material or substance; or upon other Town-owned property within the Town without having first obtained a written permit from the [Public Works Director or his/her designee](#). Such permit may be granted only where the obstruction is necessary for the construction, alteration or repair of the adjoining property, and such permitted obstructions shall be limited to as short a time as is reasonably possible. Each day that an unlawful obstruction is permitted to exist shall constitute a separate and distinct offense.

It shall be unlawful for any person to plant any tree or shrub within the public rights-of-way of any street or upon other town owned property within the Town without having first obtained written approval from the Public Works Director or his or her designee.

## Exhibit E

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 16-43(c)(11) is amended to read as follows:

### **Sec. 16-43 (C)(11). Site Plan and Supporting Documents.**

11. ~~The character and type of landscaping to be provided. The landscaping shall be indicated in tabular form, showing the type of plant material, minimum size and quantity. The approximate location of landscaping shall be indicated on the site plan.~~ A comprehensive landscaping and irrigation plan shall be submitted satisfying the requirements of Section 16-73 (d)(2), (3), (5), and (9).

**Exhibit F**

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 16-73(d) is amended to read as follows:

**Sec. 16-73. Design standards. (d) Landscaping.**

(1) A permanently maintained landscaped buffer zone shall be provided adjacent to arterial and collector streets and parking lots or between residential development and adjacent commercial, industrial or incongruent uses.

The minimum width of the buffer zone shall be twenty (20) feet, to include landscaping and berming at a maximum slope of three horizontal to one (1) vertical. The Planning and Zoning Commission may consider reducing the width of the buffer strip when dense landscaping or mature plant materials are provided.

(2) A comprehensive landscaping and irrigation plan shall be submitted designating all existing and proposed species, size and placement. The plan shall specify all irrigation features and a program for continued maintenance. The comprehensive landscaping and irrigation plan shall be reviewed and approved by the Public Works Director or his or her designee and the ~~Town Engineer~~ Town Planner. The Town of Basalt develops and maintains a list of desirable trees for planting along streets. The list is available at Basalt Town Hall.

(3) Shadow patterns of existing and proposed trees and other major vegetation which will affect the availability of incoming solar radiation in the immediate vicinity of each dwelling unit shall be shown on the comprehensive landscape plan. Selection and placement of new plant materials should complement solar uses.

(4) Plant material shall be in accordance with the following schedule:

<u>Type</u>	<u>Minimum Size</u>
Standard deciduous trees	<del>1 ½- 2 inches caliper</del> <u>2 inches caliper</u>
Small ornamental and flowering trees	<del>1 ½- 1 ¾ inches caliper</del> <u>2 inches caliper</u>
Evergreen trees	<del>4 to 5 feet in height</del> <u>8-10 feet in height</u>
Shrubs	<del>2 to 3 feet in height</del> <u>3-4 feet in height</u>

(5).....

(6).....

(7).....

(8) All plants shall comply with federal and state laws and regulations requiring inspection for plant disease, pests and weeds. All trees must be balled and burlaped. For Nursery Stock, the American National Standard Institute (ANSI), and the Colorado State Nursery Act. Plant names should meet the standards of [International Code of Botanical Nomenclature \(ICBN\)](#) and Plant Health Standards as set in the Basalt Public Works Manual.

## Exhibit G

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 17-63(c)(13) is added to read as follows:

### **Sec. 17-63(C)(13). Landscaping**

13. Unless waived by the Town Planner, a final comprehensive landscaping and irrigation plan shall be submitted designating all existing and proposed species, size and placement. The plan shall specify all irrigation features and a program for continued maintenance. The comprehensive landscaping and irrigation plan shall be reviewed and approved by the by the Public Works Director or his or her designee and Town Planner or his or her designee.

## Exhibit H

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 17-64(11) is added to read as follows:

### **Sec. 17-64(11) Final Plat**

9. The landscaping submittal requirements for Preliminary Plat as set forth in Town Code Section 17-63(C)(13).

## Exhibit I

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-1(c) is added to read as follows:

### **Sec. 18-1 (c) Arborist Contractor License**

- (1) It shall be unlawful for any business to engage in cutting, trimming, removing, pruning or other treating of trees on public property within the Town for commercial gain or profit without first procuring an arborist license from the Town in accordance with the provisions of this Section.
- (2) Any licensee under this Article must comply with the directives and specifications established by the Public Works Director or his/her designee and approved by the Town Manager. Any licensee not complying with this requirement will be subject penalties pursuant to Sec. 1-82 of the Basalt Municipal Code.
- (3) The provisions of this Section shall not apply to the production and maintenance of trees in a nursery setting.

## Exhibit J

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-2(a) is amended to read as follows:

### **Sec. 18-2. Contractor testing.**

(a) Contractors must have taken and passed a contractor examination as described in Subsection (b) To be approved for a Town contractor's license, firms must appoint a person ("examinee") who is a certified arborist with the International Society of Arboriculture (ISA). Upon issuance of a contractor's license to the firm, all construction and/or tree work performed by the firm shall be under the direction and control of the examinee. Examinees must present proof of certification from ISA every three (3) years.

## Exhibit K

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-2(d) is added to read as follows:

### **Sec. 18-2 (d)**

To qualify for an arborist contractor's license an individual must present proof of certification from the International Society of Arboriculture (ISA). Contractor licenses are obtained through the Town of Basalt Building Department pursuant to Section 18-3.

## Exhibit L

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-3(i) is added to read as follows:

### **Sec. 18-3 (i)**

No arborist license shall be issued or renewed until the applicant has presented to the Chief Building Official a certificate of insurance satisfactory to the Town showing that the applicant has acquired a commercial general liability insurance policy covering all risk claims for personal injury and property damage associated with the applicant's proposed tree service operations in the Town, with a minimum limit established by the Town Council pursuant to Section 2-381, et seq., and shall have workers' compensation insurance on all employees. For work being done in the public rights-of-way the Town of Basalt must be named as an additional insured on such policy.

## Exhibit M

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-13(c)(1)(d) is amended to read as follows:

### **Sec. 18-13 (c) (1)(d)**

d. It shall be unlawful for any person, without first obtaining a permit for tree removal as herein provided, to intentionally ~~top~~, damage, girdle or poison any tree. ~~For purposes of this Section, *topping* a tree is the removal of more than ten percent (10%) of the height from the top of any deciduous tree or the removal of the terminal bud from a coniferous tree. The terminal bud of a coniferous tree is the highest bud on the tree.~~

The intent of this section is to prohibit the practice of topping on public and private trees. It shall be unlawful for any person, firm, or Town department to top any street tree, park tree, or other tree on public and private property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be permitted, where appropriate as determined by the Town Public Works Director. Trees severely damaged by storms or other cause, or certain trees under utility wires or other obstructions where other pruning practices are impractical shall be exempted from this ordinance. In the instance where a tree needs to be significantly pruned for utility purposes, the Utility Company shall coordinate with the Town Horticulturist to ensure that the trimming is conducted in an appropriate manner and to the minimum extent necessary.

## Exhibit N

*Language underlined in being added to the Town Code. Strikethrough language is being deleted from the Town Code.*

Section 18-13(c)(2) is amended to read as follows:

### **Sec. 18-13 (c) (2)**

a. ~~Normal~~ Pruning to promote tree health or to prevent possible damage to a structure by limbs of a tree is exempt from the provisions of this Section. Pruning to prevent possible damage to a structure by limbs of a tree is exempt from the provisions of this Section. Pruning by, or at the direction of, organizations furnishing service through aerial transmission lines is not exempt from the provisions of this Section.

b. Pruning of trees on public property is subject to permitting under Section 11-91. If the Town becomes aware of landscaping and or tree (s) causing a potential nuisance, and the landscaping or tree (s) on private property pose threats and are considered a nuisance to public safety or other private property and/or facilitate the spread of communicable insects or disease, the Town has the authority to inspect private trees and require action by the owner to eliminate any problems, if necessary. For purposes of this Section, the Public Works Director or his/her designee is hereby authorized to go upon private property within the Town for the purpose of inspecting trees or shrubs as further authorized in Section 1-101 if the Town Municipal Code.

c. Enforcement of this section by the Public Works Department shall generally follow these guidelines unless the landscaping poses an immediate danger to public safety:

(1) *First Contact:* Notification by personal visit or phone to the property owner requesting that the nuisance landscaping be removed or properly mitigated. Property owner will be given fourteen (14) days to remove the nuisance landscaping. In the event that the property owner cannot be reached by personal visit or phone, the Public Works Department after first making this attempt, shall send a letter to the property owner requesting compliance.

(2) *Additional Contact:* If compliance is not completed within the above fourteen (14) days of first contact as described in Subsection (a) above, the Public Works Department shall recontact the property owner by personal visit, phone, or by letter reminding them of the Town's regulations related to nuisance landscaping and asking them to comply within the next seven (7) days.

(3) *Notice of Violation:* If the compliance is not completed within the time period allotted in Subsection (b) above, the Public Works Department shall send a certified letter to the property owner reminding them of the Town's regulations related to nuisance landscaping and requiring compliance within two (2) business days and identifying penalties for non-compliance as set forth in Section 1-82 of the Town Code. The Town Manager can extend the compliance time period if it is determined at the sole discretion of the Town Manager that there are special

circumstances. By way of an example, special circumstances may include but are not limited to, a property owner not being able to be contacted.

In the instance where a hazard tree on private property poses an immediate danger to public safety, the Town Manager may authorize the Public Works Director to remove the hazard tree.