



ORDINANCE NO. 18-012

AN ORDINANCE AMENDING THE BRIAN HEAD TREE COMMISSION AS TITLE 1 CHAPTER 16 OF THE BRIAN HEAD TOWN CODE, AMENDING SECTIONS 1-16-2 – “COMMISSION ESTABLISHED”, SECTION 1-16-3 “TERM OF OFFICE” AND 1-16-4 “ORGANIZATION”

WHEREAS, Brian Head Town is a body politic who protects the health, safety and welfare of its citizens; and

WHEREAS, Brian Head Town reviews and amends its policies and procedures from time to time as needed; and

WHEREAS, the Brian Head Town Code identifies other town boards and commissions under Title 1 and in an effort to be consistent, the Brian Head Town Tree Commission will no longer be identified under Title 10 and will be moved to Title 1, Chapter 16 of the Brian Head Town Code; and

WHEREAS, at its meetings of May 11, 2018 and September 21, 2018 the Brian Head Tree Commission recommended some changes to the Tree Commission ordinance; and

WHEREAS, the Town Council has reviewed Title 1 Chapter 16 – Brian Head Town Tree Commission of the Brian Head Town Code and feels the recommended changes as proposed by the Tree Commission are appropriate.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF BRIAN HEAD, UTAH, COUNTY OF IRON, STATE OF UTAH, AS FOLLOWS:

Section 1. The Brian Head Town Tree Commission, Exhibit A, shall be titled under Title 1, Chapter 16 of the Brian Head Town Code and Sections 1-16-2 “Commission Established”, Section 1-16-3 “Terms of Office” and 1-16-4 “Organization be amended as follows (with the stricken-out words to be deleted and the italicized words to be added identified in red font):

Section 2. **Effective Date.** This Ordinance shall take effect upon its passage by a majority vote of the Brian Head Town Council. Upon this Ordinance being adopted by the Brian Head Town Council, all provisions of this Ordinance shall be incorporated into Title 1, Chapter 16 of the Brian Head Town Code.

Section 3. **Conflict.** To the extent of any conflict between other Town, County, State, or Federal laws, ordinances or regulations and this Ordinance, the more restrictive is deemed to be controlling.

Section 4. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

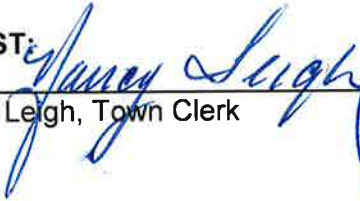
Section 5. Repealer. All provisions of the Brian Head Town Code that are inconsistent with the expressed terms of this Ordinance and all prior Town Codes previously adopted shall be repealed.

PASSED and ADOPTED by the Brian Head Town Council of Iron County, Utah this 8th day of October 2018.

BRIAN HEAD TOWN COUNCIL
BRIAN HEAD, UTAH

By: 
Clayton Calloway, Mayor

ATTEST:


Nancy Leigh, Town Clerk



(SEAL)

Town Council Vote:

Mayor Clayton Calloway	Aye
Council Member Larry Freeberg	Aye
Council Member Shad Hunter	Aye
Council Member Kelly Marshall	Aye
Council Member Lynn Mulder	Aye

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the 8th day of October 2018, and have posted a complete copy of the ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office and the Mall.

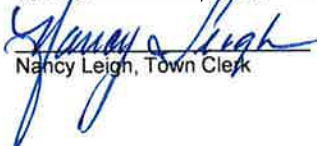

Nancy Leigh, Town Clerk

Exhibit A

TITLE 1 CHAPTER 16

BRIAN HEAD TOWN TREE COMMISSION

SECTION:

- 1-16-1 PURPOSE
- 1-16-2 COMMISSION ESTABLISHED
- 1-16-3 TERM OF OFFICE
- 1-16-4 ORGANIZATON
- 1-16-5 GIFTS AND BEQUESTS
- 1-16-6 AUTHORITY OF THE COMMISSION
- 1-16-7 TOWN MANAGER
- 1-16-8 PLANTING REGULATIONS
- 1-16-9 REMOVAL OF TREES BY COMMISSION
- 1-16-10 FIRE MITIGATION
- 1-16-11 REVIEW BY TOWN COUNCIL

1-16-1: PURPOSE: Brian Head Town prides itself on its natural landscape and recognizes the importance of trees within the community. Besides adding to the beauty of the community trees stabilize surface drainage, help with soil erosions, and mitigate siltation of streams. Trees can also reduce air and sound pollution, regulate solar radiation, and help with wind control.

1-16-2: COMMISSION ESTABLISHED: There is hereby created a Brian Head Town Tree Commission consisting of *up to eight five* members. One designated Public Works employee, one Public Safety Officer, *or a Representative from the Public Safety Department*, and one Town Council Member shall be members of the Brian Head Town Tree Commission. The remaining *two* members shall be appointed by the Town Manager with the advice and consent of the Town Council and consultation with the Brian Head Town Tree Commission.

1-16-3: TERM OF OFFICE: The *eight five* appointed members of the Brian Head Town Tree Commission shall serve for a term of four years and until their successors are appointed; provided that the members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter. The term of office of each appointed member shall commence on the first day of January in the year in which such member is appointed. The term of office of the other members of the Brian Head Town

Tree Commission shall correspond to their tenure as Public Works employee, Public Safety Officer, or Council Member respectively. The Town Manager, with the advice and consent of the Town Council, may remove any member of the Brian Head Town Tree Commission for cause and after a public hearing, if such hearing is requested. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

1-16-4: ORGANIZATION: In January of each year, the Brian Head Town Tree Commission shall designate one member of the Brian Head Town Tree Commission as Chairman for the ensuing year. A member of the Commission may, at the pleasure of the Commission, serve as Chairman in successive years. Following the appointment of the Chairman by the Commission, the Brian Head Town Tree Commission may select from their own members such other officers and adopt such rules and regulations for their own proceedings as they may deem expedient. Meetings of the Commission shall comply with the Utah open meeting laws and shall be held at the call of the Chairman – *also in April, June, and August each year*, and at such other times as the Commission may determine. The Commission shall keep minutes of its proceedings and its official actions which shall be immediately filed in the office of the Town Clerk and shall be a public record.

1-16-5: GIFTS AND BEQUESTS: The Brian Head Town Tree Commission shall, on behalf of the Town and with the consent of the Town Council, have authority to receive gifts or bequests from any person or organization for the building, improvement or maintenance of a civic arboretum, for tree planting, or tree planting maintenance on any street or public property. All such gifts shall be received by the Town Treasurer and paid over to a special fund for such purposes. Said funds shall not be used for any other purpose.

1-16-6: AUTHORITY OF COMMISSION: The Town, through its Brian Head Tree Commission, shall exercise full control over and regulate the planting, maintenance, and care of shade or ornamental trees and shrubbery now growing or which may hereafter be planted on any street (right-of-way) or on any public property within the Town. It shall be the duty of the Brian Head Town Tree Commission to make recommendations to the Town Council relating to the planting, pruning, spraying, removing, and irrigating of trees and shrubs on public streets and places; to make recommendations to the Town Council relating to the regulation and control of the grounds surrounding trees, shrubs, and plants on public streets and places insofar as the same may be necessary for the proper growth, care, and protection of the same; to recommend to the Town Council the removal of any trees or parts thereof growing on public or private land as outlined in this Ordinance which have become a nuisance or may be dangerous to the public safety; and to recommend to the Town Council the marking, maintenance and preservation of historic or notable trees.

1-16-7: TOWN MANAGER: The Town Manager will administer the provisions of this Tree Commission Ordinance and such policies, recommendations, rules and regulations of the Brian Head Tree Commission as approved by the Town Council.

(1) Until otherwise provided, the Town Manager shall have the following duties and authority (or may delegate said duties as deemed necessary):

a) He shall have supervision of all trees and plants planted or growing in public streets or places within the Town.

b) He shall supervise planting, trimming, spraying, preserving and removing trees and other plants in public streets which front on property owned by the Town and in Town parks to promote safety and preserve the beauty of such public places.

c) He shall care for all trees in the Town which have been designated by the Town Council or Brian Head Town Tree Commission as historic or notable trees.

(2) All owners and occupants of each parcel of real property within the Town shall be responsible for the care of trees located in public streets which front on that parcel of real property. All pruning of such trees must be done pursuant to proper maintenance and in no event will pruning be allowed which will be detrimental to the healthy growth of said trees.

1-16-8: PLANTING REGULATIONS: The Brian Head Town Tree Commission shall coordinate with overhead utility companies and prepare a list designating the species of trees and shrubs which may be planted under overhead Town utility lines and on public streets within the Town; and, upon approval of such list by the Town Council, no trees or shrubs, other than the kind designated, shall be planted under any overhead Town utility lines and on any public street or public place without the consent of the Brian Head Town Tree Commission. The Brian Head Town Tree Commission shall also prepare and submit to the Town Council rules and regulations establishing standards for the planting of trees and shrubs under overhead utility lines and upon the public streets and on public property, and, after approval of said rules and regulations by the Town Council, no trees or shrubs shall be planted other than in accordance with the standards so established, unless the written consent of the Brian Head Town Tree Commission is obtained. The utility companies will construct, own, operate and maintain existing overhead utility lines only along public streets, roads, and other rights-of-ways which the Town has the legal right to occupy, and cross other public and private property across which the utility company has a utility easement. In no event shall any tree be planted over the underground utility easements.

1-16-9: REMOVAL OF TREES BY COMMISSION: The Town, through its Brian Head Town Tree Commission, shall condemn and remove, or order the removal of any tree, tree stump, shrub, or plant upon any of the public streets or on public property within this Town where the same is dead, diseased or for any reason whatsoever is deemed

undesirable by the Brian Head Town Tree Commission. The Town, through its Brian Head Town Tree Commission, shall have authority to condemn and remove, or order to be removed any tree, tree limbs, tree stump, shrub, or plant upon private property which encroaches and inhibits over a public way or, when the Brian Head Town Tree Commission shall find such action necessary to the public safety or to prevent the spread of disease or insects to public trees and places. However, the affected private property owner shall have after reasonable notice and after thirty (30) days thereof an opportunity to remedy any condition deemed undesirable by the Brian Head Tree Commission. The Brian Head Town Tree Commission shall have authority, with reasonable notice to the abutting property owner, to remove or order the removal of any tree, shrub, or plant which has been planted upon any public street or on any public property in violation of this Ordinance, or any other Ordinance pertaining to the trees in Brian Head. Utility companies that have overhead utility lines within the Town's limits, have the authority to maintain and trim trees located in their utility lines.

1-16-10: FIRE MITIGATION: Since Brian Head Town is a mountain resort and most trees are naturally grown in the Town, the Town will conduct a fire mitigation process each year, as needed. Said fire mitigation duties will be conducted by the Town's volunteer fire department, under the direction of the Public Safety Director. The Public Safety Director shall work closely with all entities (i.e. Utah Department of Transportation, Bureau of Land Management, and Forest Service) involved with tree removals, etc. as it pertains to them. All funds for the fire mitigation projects will be budgeted under the General Fund – Fire Department. Grants may also be obtained to help with fire mitigation projects.

1-16-11: REVIEW BY TOWN COUNCIL: The Town Council shall have the right to review the acts and decisions of the Brian Head Town Tree Commission and the Town Manager. Any person may appeal any ruling or order from the Brian Head Town Tree Commission or the Town Manager to the Town Council and the Town Council shall hear the matter and make a final decision.

End.