

ORDINANCENO. 2018-01
AN ORDINANCE OF THE BEVERLY
SHORES TOWN COUNCIL
AMENDING PORTIONS OF THE TEXT
OF THE TOWN CODE AND ZONING
ORDINANCE RELATING TO FEES
FOR TREE REMOVAL

WHEREAS, the Beverly Shores Town Council on February 2, 1984 adopted an Ordinance Establishing Zoning and Subdivision Regulations for the Town of Beverly Shores ("Town"), which is Chapter 155: Zoning and Subdivisions of the Beverly Shores Town Code (hereinafter "Zoning Ordinance"); and

WHEREAS, the Beverly Shores Advisory Plan Commission has initiated an amendment to the text portion of the Zoning Ordinance; and

WHEREAS, a public hearing has been held before the Beverly Shores Advisory Plan Commission, which has certified its proposal to amend the text of the Zoning Ordinance to the Beverly Shores Town Council; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning this text amendment to the Zoning Ordinance; and

WHEREAS, the Beverly Shores Town Council concurs with its Advisory Plan Commission and accepts its proposal and recommendation to amend the text of the Zoning Ordinance.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED, by the Beverly Shores Town Council as follows:

SECTION 1: That subsection 10.99(B) Section No. 155.064 of the Town Code, shall be added and hereafter read as follows:

155.064 Tree Removal Permit Applications \$50

The fee shall not be charged for work done for the town.

The fee shall not be required for new construction permits.

If the permit is not obtained before removal, except for emergency removal due to imminent threat to humans, as required by § 155.064, as amended, the cost of the permit shall be twice of the amount of the fee. This additional fee is in addition to, and not in lieu of, any fine that may be imposed for violating the town code.

SECTION 2: That subsection 155.064(A)(2) of the Zoning Ordinance shall be deleted in its entirety, replaced, and hereafter read as follows:

(2) Removal pursuant to allowable removals in division (A)(1) above shall be subject to the following additional conditions:

(a) Prior written applications to the Town Clerk for a tree removal permit, including payment of any required fees. The written application shall include, but not be limited to, the number, approximate location, reason for removal, and diameter of trees to be removed. Each permit may allow for the removal of up to ten (10) trees.

(b) Review and approval of the application in (a) above by the Building Commissioner.

(c) The permit must be applied for and received before beginning removal work, except in case of imminent threat to humans or structures, under division (A)(1)(c) in which case the permit must be applied for within five (5) business days after the removal.

(d) The fee for each permit shall be in accordance with the Town Fee Schedule, § 10.99.

SECTION 3: That subsection 155.064(B) shall be deleted in its entirety and hereafter read as follows:

(B) Improved land. Removal of any tree 4 inches or greater in diameter on improved land shall be prohibited, except as follows:

(1) The property owner may remove any tree within 15 feet of the dwelling unit.

(2) The following are allowable exceptions to the above improved property restrictions on tree removal:

(a) A diseased tree or dead tree. The Building Commissioner, or his or her written designee, shall be consulted. If the Building Commissioner, or his or her designee, is unable to ascertain if a tree is diseased or dead, an arborist certified by the Indiana Arborist Association can be consulted to make that determination;

(b) A tree that presents an imminent danger to humans or potential damage to structures as determined by the Street Commissioner of the Town of Beverly Shores; and

(c) A nuisance tree (as defined in ' 155.003).

(3) Removal pursuant to division (B)(1) above and the allowable improved property exceptions in division (B)(2) above shall require that trees be cut down, never knocked over using heavy equipment.

(4) Excepting stumps located within the footprint of an approved building, if stumps are to be removed, they shall be removed using stump grinding equipment, axes and saws, never ripped out using heavy equipment.

SECTION 4: That subsection 155.064(E)(5) of the Zoning Ordinance shall be added and hereafter read as follows:

(5) If a removal pursuant to division (A)(1) above is done without receiving a permit as required by this section before beginning the removal work, the cost of the permit shall be twice of the amount of the fee. This additional fee is in addition to, and not in lieu of, any fine that may be imposed for violating the town code. This division (E)(5) shall not apply to emergency removal that is done due to imminent threat to humans or structures, but shall apply when a permit for emergency removal is not applied for within five (5) business days after the emergency removal work.

SECTION 5: That subsection 155.064(E)(6) of the Zoning Ordinance shall be added and hereafter read as follows:

(6) A tree removal fine shall be waived for offending property owners meeting the following criteria:

(a) It is the offender's first violation of this section; and

(b) The offender removed trees that satisfied the requirements of divisions (A)(1), (A)(3), (B)(1), (B)(2), or (B)(3), provided that the offender bears the burden of proof for each removed tree.

In the event the above criteria are satisfied and the tree removal fine(s) are waived, the offender shall still be required to pay the cost of the applicable permit fee as set forth in division (E)(5) above.

SECTION 6: That subsection 155.064(E)(7) of the Zoning Ordinance shall be added and hereafter read as follows:

(7) Division (E)(6) above shall only apply to property owners. If a first-time offense for a property owner is committed by a contractor, the applicable tree removal fines shall be assessed and charged to the contractor.

SECTION 7: That subsection 155.064(K) of the Zoning Ordinance shall be added and hereafter read as follows:

(K) No building contractor registration shall be issued for a contractor which has been assessed with tree removal fines until all unpaid tree removal fines have been paid.

SECTION 8: This Ordinance 2018-01 shall be in full force and effect from and after its passage, adoption, and publication as provided by law.

ALL OF WHICH IS ADOPTED by the Town Council of the Town of Beverly Shores, Indiana, this 15 day of May, 2018.

BEVERLY SHORES TOWN COUNCIL

By: Donna Norkus, President

Geof Benson

Greg Brown

Catherine Matrona Malik

Brian O'Neil

ATTEST:

Ellen Hundt, Clerk-Treasurer

6/7/18 - hspaxlp