

ORDINANCE NO. 26-_____

AN ORDINANCE CREATING A NEW ARTICLE 9 (URBAN FOREST) OF CHAPTER 3 (PUBLIC PROPERTY AND PUBLIC WORKS) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO URBAN FOREST, AND PROVIDING PENALTIES FOR VIOLATION THEREOF

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. A new Article 9 (Urban Forest) of Chapter 3 (Public Property and Public Works) of the Code of the City of Colorado Springs 2001, as amended, shall be enacted and read as follows:

Article 9 URBAN FOREST

PART 1 GENERAL REQUIREMENTS

SECTION:

- 3.9.101: TITLE**
- 3.9.102: DEFINITIONS**
- 3.9.103: DUTIES OF THE CITY FORESTER**
- 3.9.104: CITY FORESTER'S PERMIT**

3.9.101 TITLE:

This article will be officially known as the "Urban Forest Code."

3.9.102: DEFINITIONS:

ABUTTING PROPERTY OWNER: A property owner of real property that shares a common boundary with the right-of-way.

ADJACENT RIGHT-OF-WAY: A right-of-way that shares a common boundary with real property.

APPROVED STREET TREE LIST: A list of tree species permitted to be planted on a right-of-way. The City Forester promulgates and manages the approved street tree list.

CITY FORESTER: A professional forester appointed by the Director to manage the urban forest and supervise the City's professional forestry and arboricultural staff, or the City Forester's designated representative or agent.

CITY FORESTER'S PERMIT: A permit issued by the City Forester as provided for in this article.

CITY TREE: A tree that has been approved by the City Forester and planted in the right-of-way or on a City property by the City Forester or pursuant to a permit issued by the City Forester. City tree also includes any tree maintained by the City Forester that is included in the City tree inventory.

CITY TREE INVENTORY: A database of City trees that is maintained by the City Forester.

DIRECTOR: The Director of Public Works.

IMPERVIOUS HARD SURFACING: Any hardscape landscaping that prevents water from soaking into the ground below, including, but not limited to, asphalt and concrete. Impervious hard surfacing does not include permeable pavers, flagstone, or rock mulch.

LANDSCAPE PLAN: A plan drawn to scale that shows the layout of all landscape components and their specifications. The landscape plan must be approved by the City pursuant to the provisions of chapter 7 of this Code.

OCCUPANT: The person, business, or other association of persons that occupies real property with permission or legal right granted by the property owner.

PROPERTY OWNER OR OWNER: The owner of real property, whether person, partnership, firm, corporation, or other association of persons, and any authorized agent or representative of the owner. The property owner is the owner listed in the records of the El Paso County Assessor.

RIGHT-OF-WAY: The area of land designated for streets, sidewalks, utilities, and public use.

SHRUB: A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than twelve feet (12') in height at maturity. A shrub may be classified as deciduous or evergreen.

SPROUT: An adventitious woody growth that is self-propagating from seed or vegetative root, which is not deliberately planted.

TREE: A large woody plant having one or several self-supporting stems or trunks and numerous branches. A tree may be classified as deciduous or evergreen.

URBAN FOREST: The collective forest consisting of all trees found within City limits, including trees in parks, open spaces, and on public and private property.

WEED TREE: A woody plant that is not specifically planted for the purpose of landscaping or food production and is a species that is not on the approved street tree list. Left unchecked it has the potential to grow into a tree exceeding twelve feet (12') in height that would create pedestrian, traffic, or other hazards due to poor structure and growth habits, brittle wood, or aggressive growth.

WOODY VEGETATION: Trees, sprouts, weed trees, and shrubs.

3.9.103: DUTIES OF THE CITY FORESTER:

- (A) The City Forester will enforce the provisions of this Urban Forest Code.
- (B) With the approval of the Director, the City Forester may promulgate rules and regulations regarding proper care for all trees in the City to protect the health, safety, and welfare of the citizens, urban forest, and public and private property.
- (C) The City Forester will promulgate and maintain the approved street tree list.
- (D) The City Forester is authorized to inspect plant materials on all private and public property for disease and insects detrimental to the health of the urban forest or the particular plant material, and take any remedial action required to protect the urban forest.
- (E) The City Forester is responsible for providing insect and disease control, pruning, and the removal of City trees. This excludes any tree described in City Code § 3.9.201 (A).

3.9.104: CITY FORESTER'S PERMIT

- (A) Permit Required: A permit is required for the following acts:
 - (1) To plant a tree on a right-of-way;
 - (2) To prune, control insects and diseases, remove, destroy, cut, deface, or in any way injure or modify a City tree; and
 - (3) To install impervious hard surfacing around a tree in a right-of-way.
- (B) Permit Process:
 - (1) Any person applying for a City Forester's permit must complete the forms provided by the City Forester and submit the forms to the City Forester for review.
 - (2) The City Forester will determine whether the permit will be granted or denied based upon the following criteria:
 - (a) Whether the applied for activity complies with this Code and all rules and regulations promulgated by the City Forester;

(b) Whether the tree to be planted is a species on the approved street tree list; is a species compatible with the site; and is a species compatible with the right-of-way width; and

(c) Whether the applied for activity will impede the necessary and safe use of the right-of-way; obstruct street signs or traffic control signals; or interfere with the visibility requirements, as outlined in City Code § 3.9.202(C).

(3) The City Forester will grant or deny a permit application within five (5) business days of submission.

(C) Appeal: Any person aggrieved by denial of a permit may appeal that decision to the Director in accord with City Code § 3.9.309. The Director may affirm or modify the City Forester's decision.

PART 2 RESPONSIBILITIES OF PROPERTY OWNERS

SECTION:

3.9.201: DUTIES OF PROPERTY OWNERS

3.9.202: MAINTENANCE STANDARDS

3.9.203: DAMAGE TO CITY TREES; DUTY TO REPLACE

3.9.204: UNLAWFUL ACTS

3.9.201: DUTIES OF PROPERTY OWNERS:

(A) A property owner must maintain or remove any woody vegetation in the adjacent right-of-way which:

(1) Was planted or allowed to grow or establish and was not on the approved street tree list;

(2) Was planted after January 1, 2020 without a City Forester's permit;

(3) As determined by the City Forester, obstructs, restricts, or conflicts with the necessary and safe use of the right-of-way or causes damage to City infrastructure, including but not limited to roads, curbs, gutters, drains, sidewalks, signs, or streetlights; or

(4) Is a weed tree or sprout which, as determined by the City Forester, may in the future obstruct, restrict, or conflict with the necessary and safe use of the right-of-way or cause damage to City infrastructure, including but not limited to roads, curbs, gutters, drains, sidewalks, signs, or streetlights.

(B) A property owner must take remedial action in the event of a diseased, infested, or dangerous tree or other woody vegetation located upon the owner's property.

(C) The City Forester may initiate informal contact with a property owner, advising them of the duty to maintain or remove any woody vegetation, which is not a City tree, in the adjacent right-of-way.

(D) A property owner must maintain, in accord with this article, any naturally occurring woody vegetation native to Colorado that was not deliberately planted in the adjacent right-of-way.

(E) Where a property line abuts an alleyway, abutting property owners must maintain or remove woody vegetation from the property line to the centerline of the alley.

(F) A property owner must cut, trim, prune, or remove any privately owned trees or woody vegetation located upon their property to provide for the safe and convenient use of adjacent rights-of-way in accord with the requirements of City Code § 3.9.202.

(G) A property owner must prune shrubs in the adjacent right-of-way in accord with the requirements of City Code § 3.9.202 and must water, fertilize, and mulch the City trees.

(H) Trees, as shown on an approved landscape plan, must be maintained by the abutting property owner, homeowners' association, or special district as dictated in the approved landscape plan, development plan, or plat.

(I) A property owner must obtain a City Forester's permit to install impervious hard surfacing around a tree in the adjacent right-of-way.

(J) A property owner must obtain a City Forester's permit to plant a tree in the adjacent right-of-way.

(K) A property owner must obtain a City Forester's permit to plant, prune, control insects and diseases, remove, destroy, cut, deface, or in any way injure or modify a City tree in the adjacent right-of-way.

(L) A property owner must report to the City Forester any City tree in the adjacent right-of-way that does not meet the maintenance standards established in City Code § 3.9.202.

3.9.202: MAINTENANCE STANDARDS:

(A) Tree branches must not block the visibility of street name signs and traffic control signals, including but not limited to speed limit signs, stop signs, yield signs, directional signs, and all other traffic signs.

(B) Trees must not project over any street, alley, or sidewalk at a height lower than eight feet (8') from the surface of the sidewalk and fourteen feet (14') over the surface of an alley or street. The City Forester may consider the variation of height due to normal rain, snow, sleet, and foliage conditions and require greater height requirements for the necessary and safe use of the right-of-way.

(C) Unimpeded visibility at street intersections must be maintained by keeping woody vegetation, including all limbs and foliage, pruned and cleared between thirty inches (30") above the street level to eight feet (8') above the street. There must be a clear line of sight from a stopped vehicle, as measured fifteen feet (15') from the curb line of an intersecting street to a distance of ten (10) times the posted speed limit of the oncoming cross traffic (e.g., 10 x 35 mph = 350 feet).

3.9.203: DAMAGE TO CITY TREES; DUTY TO REPLACE:

(A) If a City Tree is removed, destroyed, or otherwise damaged by or at the direction of an abutting property owner, then that property owner is liable to the City for the appraised value of the damages based upon the Council of Tree and Landscape Appraisers most recent edition of *The Guide for Plant Appraisal*, as may be amended. The City Forester may review such unauthorized activities and require the property owner to hire a licensed tree service to replace or to remediate the damaged tree.

(B) The City Forester may bill the abutting property owner for the appraised value of damages in accord with the provisions of City Code § 3.9.307(C). If a property owner refuses to pay the appraised value of damages, then the City Forester is authorized to commence lien assessment proceedings against the property in accord with the provisions of City Code § 3.9.308 or pursue other remedies at law.

(C) If a City Tree is removed, destroyed, or otherwise damaged by or at the direction of any person or entity, then that person or entity is liable to the City for the appraised value of the damages based upon the Council of Tree and Landscape Appraisers most recent edition of *The Guide for Plant Appraisal*, as may be amended. The City Forester may review such unauthorized activities and require the person or entity to hire a licensed tree service to replace or to remediate the damaged tree.

(D) The City Forester may bill the person or entity for the appraised value of damages. If the person or entity refuses to pay the appraised value of damages, the City Forester, with the concurrence of the Mayor, may request the City Attorney initiate a civil action to recover the appraised value of the damages.

(E) If, in the process of moving any object along City rights-of-way, it is necessary to prune or remove any City trees, the pruning must be done with the City Forester's permission and performed by a licensed tree service. The cost of labor, materials, equipment, and the appraised value of any tree must be paid by the person necessitating the pruning or removal.

(F) The costs to remediate or replace a damaged City tree are in addition to any penalty imposed for the unlawful act of damaging or removing a City tree.

3.9.204: UNLAWFUL ACTS:

(A) It is unlawful for any person to plant, prune, control insects and diseases, remove, destroy, cut, deface, or in any way injure or modify a City tree.

(B) It is unlawful for any person to violate the requirements of City Code §§ 3.9.201 or 3.9.202.

(C) It is an affirmative defense to a violation of this section that the person was granted a City Forester's permit to perform that action.

PART 3 PROPERTY ENFORCEMENT PROCEDURES

SECTION:

- 3.9.301: PURPOSE**
- 3.9.302: APPLICABILITY**
- 3.9.303: RIGHT TO ENTER AND ENFORCE**
- 3.9.304: NOTICE AND ORDER TO ABATE**
- 3.9.305: EMERGENCY ABATEMENT ORDER**
- 3.9.306: DIRECT ABATEMENT**
- 3.9.307: COSTS; FEES**
- 3.9.308: LIEN ASSESSMENT**
- 3.9.309: APPEALS**
- 3.9.310: UNLAWFUL ACTS**
- 3.9.311: ADDITIONAL PROVISIONS AND REMEDIES**

3.9.301: PURPOSE:

The purpose of the comprehensive enforcement program established by this part is to protect the public health, safety, and welfare by requiring compliance with the requirements of this article and to:

- (A) Reduce the number of violations of this Code;
- (B) Establish a fair process to abate violations;
- (C) Abate all violations in a timely and efficient manner;
- (D) Provide consistent and fair enforcement, recognizing the inherent differences in the many types of violations; and

(E) Develop a set of standard procedures for abating each type of violation based upon their risk of harm to the public health, safety, and welfare and the urban forest.

3.9.302: APPLICABILITY:

The provisions of this part apply to all actions to enforce the requirements of this article.

3.9.303: RIGHT TO ENTER AND ENFORCE:

(A) Right to Enter:

(1) The City Forester is authorized to enter upon any property in the City at a reasonable time for the purpose of inspecting, abating, removing, or preventing a violation of this article.

(2) If the owner or occupant of any property located within the City refuses to permit entry to the City Forester, or should permission to enter the property otherwise not be obtainable from the owner or occupant, the City Forester may make application to any judge of the Municipal Court for the issuance of a warrant to inspect the property or a warrant to search for and seize items located upon the property in accord with City Code § 11.3.115.

(a) The application for and issuance of a warrant must comply with City Code § 11.3.115, Colorado Municipal Court Rule 241, and all other applicable laws.

(b) The sworn application will:

(i) Identify the property upon which entry is sought;

(ii) State the purpose for which entry is desired; and

(iii) Set forth the facts establishing probable cause to believe that a condition that is in violation of this Code exists on the property, or that a violation in fact exists and must be abated. The application will include citation to the Code section of which the property is in violation.

(c) Any warrant issued must command the owner or occupant to permit entry to the City Forester for the purpose stated.

(B) Enforcement:

- (1) The City Forester is authorized to enforce all provisions of this part.
- (2) In addition to any other remedy provided by this Code, the City Forester may, in the exercise of discretion, undertake any of the following enforcement actions to abate a violation of this article:
 - (a) No Action: After careful consideration of all facts and circumstances, the City Forester may take no action on a complaint of a violation of this article.
 - (b) Informal Contact: The City Forester may effectuate the abatement of a violation through informal meetings or conversations with a property owner or occupant.
 - (c) Agreement to Abate: The City Forester may enter into an agreement with an owner or occupant where the violator agrees to abate the violation within a certain time based on specified conditions within the agreement. If the violator fails to comply with the terms and conditions of the agreement, the City Forester may proceed with other enforcement actions authorized by this section.
 - (d) Notice and Order: The City Forester may issue a notice and order requiring the cessation or abatement of the violation within a specified time period. If the violator fails to comply with the terms of the notice and order, the City Forester may proceed with direct abatement.
 - (e) Emergency Order: When necessary to protect the public health, safety, and welfare, the City Forester may issue, without prior notice or hearing, an emergency order requiring immediate abatement action.
 - (f) Summary Abatement: After consultation with the City Attorney, the City Forester may authorize the immediate removal from private property of any item that creates an imminent hazard to the public health, safety, and welfare.
 - (g) Direct Abatement: The City Forester may pursue direct abatement to remedy any violation of this article. If entry onto the property is denied or permission cannot be obtained, then direct abatement will be pursuant to a search and seizure warrant issued by the Municipal Court in accord with City Code § 11.3.115.
 - (h) Civil Action: The City Forester, with the concurrence of the Mayor, may request the City Attorney initiate a civil action in the District Court for relief to abate violations of this Code.

(i) Criminal Prosecution: The City Forester may pursue issuance of a summons and complaint in accord with the provisions of this article. Only the Police Department or an individual granted authority to issue summons by the Chief of Police may issue a summons and complaint.

(j) The City Forester may use any one or more enforcement action to remedy a violator property in addition to any other action provided by this Code or state law.

(C) Costs, Fees, and Surcharges: The City Forester is authorized to recover from the property owner the costs of an abatement action; any administrative costs; any fees, including inspection fees; and an administrative surcharge of twenty-five percent (25%) of the costs of the abatement action. If a bill is not paid within twenty (20) days, then the City Forester is authorized to assess a lien against the property in accord with the provisions of this part.

3.9.304: NOTICE AND ORDER TO ABATE:

(A) The City Forester may commence proceedings pursuant to this part by issuing a notice and order to abate a violation to the owner, agent of the owner, or occupant of any property upon which a violation of this article exists.

(B) The Notice and Order Will:

(1) Be in writing;

(2) Describe with reasonable particularity the condition existing on the property in violation of this Code, including citation to the applicable Code section, which gives rise to the issuance of the notice and order;

(3) Specify a reasonable period within which the condition must be abated or otherwise corrected; and

(4) State that an appeal is available to the Director provided a written appeal is filed within ten (10) days of service of the notice and order.

(C) Service of the Notice and Order:

(1) The notice and order must be served:

(a) Upon the owner of the property, as reflected in the records of the El Paso County Assessor:

(i) By personally serving the owner or the owner's agent; or

(ii) By mailing to the name and address of the owner reflected in the records of the El Paso County Assessor, via certified first-class U.S. mail, return receipt requested.

(b) Upon an occupant of the property:

(i) By personally serving one occupant;

(ii) By posting the notice and order at a conspicuous location on the property; or

(iii) By mailing to the street address of the property, via certified first-class U.S. mail, return receipt requested.

(iv) All occupants are deemed to be served by posting on the property, by mailing to the street address, or if any occupant is personally served.

(2) If the owner is an occupant of the property, service of the notice and order need only comply with subsection (C)(1)(a) of this section. If the owner is not an occupant on the property, the City Forester will serve the owner pursuant to subsection (C)(1)(a) of this section and an occupant pursuant to subsection (C)(1)(b) of this section. If there are no occupiable improvements upon the property, then service of the notice and order need only comply with subsection (C)(1)(a) of this section.

(3) The City Forester may, but need not, choose to serve the notice and order by more than one method listed in subsection (C)(1)(a) or (C)(1)(b) of this section.

(4) A return receipt indicating mail delivery is prima facie evidence of service on the date reported by the U.S. Postal Service. If certified mail is refused by a recipient, that recipient is deemed to be served.

(5) The date of service is the date of personal service; the date of posting; or, if mailed, the date of delivery reported by the U.S. Postal Service. If certified mail is refused, the date of service is the date of mailing. The time frame in which to

appeal a notice and order begins on the earliest date of service, regardless of whether upon owner or occupant.

(D) Appeal of Notice and Order:

(1) Any property owner or occupant aggrieved by the issuance of a notice and order may appeal the notice and order to the Director in accord with City Code § 3.9.309.

(2) The notice of appeal must be filed in writing within ten (10) days of service of the notice and order and must state the name and address of the property owner or occupant filing the appeal, the address of the property, and the grounds for appeal.

(3) The appeal of a notice and order must be filed and will be heard in accord with the procedures established in City Code § 3.9.309.

(4) The Director may vacate the notice and order only if the Director finds by a preponderance of the evidence that the notice and order violates City Code or is not supported by facts. If the Director finds by a preponderance of the evidence that the period set forth in the notice and order within which the property must be brought into compliance is not reasonable, then the Director may extend the period by no more than thirty (30) days but may not vacate the notice and order. The Director may make no other alterations to the notice and order.

(5) A property owner or occupant may not challenge the issuance, contents, or service of a notice and order in any later proceeding without first appealing the notice and order pursuant to this subsection (D).

(E) Failure to comply with a notice and order may result in issuance of a summons and complaint to the owner, occupant, or both owner and occupant of the property; assessment of inspection fees; direct abatement of the property; assessment of abatement costs; assessment of an administrative surcharge; and a lien against the property.

3.9.305: EMERGENCY ABATEMENT ORDER:

(A) Whenever the City Forester deems that an emergency exists that requires immediate action to protect the public health, safety, and welfare, the City Forester may, without prior notice or hearing, issue an order stating that an emergency exists and

requiring that immediate action be taken as deemed necessary to meet the emergency. The emergency order is effective immediately.

(B) In the event that the person to whom the emergency order was issued fails or refuses to comply immediately, the City Forester may, without prior notice to the owner, agent of the owner, or occupant, enter upon the property and cause the hazardous condition be removed, corrected, or otherwise abated to an extent that it is no longer an imminent hazard to the public health, safety, and welfare.

3.9.306: DIRECT ABATEMENT:

In the event that a property owner or occupant does not comply with a notice and order issued pursuant to this part by the time specified in the order, the City Forester may remove, correct, or otherwise abate the condition giving rise to the issuance of the notice and order. If entry onto the property is denied or permission cannot be obtained, then direct abatement may proceed pursuant to a search and seizure warrant issued by the Municipal Court in accord with City Code § 11.3.115. The abatement work may be performed by the City or by a private contractor.

3.9.307: COSTS; FEES:

(A) When emergency abatement or direct abatement are needed to correct a violation of this Code, the City Forester is authorized to recover from the owner of the property the costs of abatement along with all administrative costs incurred and an administrative surcharge of twenty-five percent (25%) of the cost of abatement proceedings.

(B) Inspection Fees:

(1) A property will be inspected until the owner successfully achieves compliance with a notice and order to abate. The City Forester will assess a fee to the owner of property who has been issued a notice and order for a violation of this article for each property inspection following the issuance of a notice and order as follows:

(a) First Inspection: No fee will be assessed for the first inspection of residential use property after the issuance of a notice and order. A two hundred fifty dollar (\$250.00) fee will be assessed for the first inspection of commercial use property after the issuance of a notice and order.

(b) Second Inspection: A one hundred dollar (\$100.00) fee will be assessed for the second inspection of residential use property after the issuance of a notice and order. A five hundred dollar (\$500.00) fee will be

assessed for the second inspection of commercial use property after the issuance of a notice and order.

(c) Third Inspection: A two hundred fifty dollar (\$250.00) fee will be assessed for a third inspection of residential use property after the issuance of a notice and order. A seven hundred fifty dollar (\$750.00) fee will be assessed for the third inspection of commercial use property after the issuance of a notice and order.

(d) Fourth and Subsequent Inspections: A five hundred dollar (\$500.00) fee will be assessed for the fourth or subsequent inspection of residential use property after the issuance of a notice and order. A one thousand dollar (\$1,000.00) fee will be assessed for the fourth or subsequent inspection of commercial use property after the issuance of a notice and order.

(2) An inspection includes any visit to the property for the purpose of determining compliance with this article, including any visit where the City Forester is denied entry to the property.

(3) If a property subject to a notice and order comes into compliance and subsequently becomes noncompliant with this article within twelve (12) months of the City Forester's last inspection, then any inspection of the property will result in fees being assessed pursuant to subsection (B)(1)(d) of this section, regardless of the issuance of a new notice and order.

(4) If a property subject to a notice and order comes into compliance and remains in compliance for twelve (12) months or more after the City Forester's last inspection, then an inspection of the property will result in inspection fee assessment only upon the issuance of a new notice and order.

(5) Failure to Comply with Agreement to Abate: Any owner who fails to comply with an agreement to abate will be assessed inspection fees pursuant to subsection (B)(1)(d) of this section for each inspection until compliance is achieved.

(6) In the event that one or more inspection fees are assessed and the property owner or owner's agent fails to pay the fees within twenty (20) days, the City Forester is authorized to file a lien against the property for any unpaid inspection fee in accord with the provisions of this part.

(C) Billing and Payment:

(1) The owner will be billed for any inspection fee, abatement cost, administrative cost, or administrative surcharge assessed by the City Forester. The

owner is required to pay the bill within twenty (20) days of the date of mailing of the bill.

(2) If the owner fails to make payment within twenty (20) days of the date of mailing, the City Forester may pursue a lien in accord with the provisions of this part.

3.9.308: LIEN ASSESSMENT:

(A) Authorization: When an owner fails or refuses to comply with an order to abate and the City Forester has inspected, removed, corrected, or otherwise abated the violation, the City Forester is authorized to commence lien assessment proceedings against the property in accord with the provisions of this section in order to recover the City's costs. The lien may include the administrative surcharge of twenty-five percent (25%) of the cost of abatement proceedings as well as all unpaid fees and costs. A lien created hereby is superior and prior to all other liens excepting liens for general and special taxes.

(B) Notice of Lien Assessment:

(1) Contents of Notice: Prior to imposition of a lien, the City Forester must provide the property owner a written notice of lien assessment that includes:

(a) The address of the property to be assessed, and the name and address of the property owner;

(b) The date of the notice and order or emergency order, the date of any inspection, and the date of abatement;

(c) The name of the contractor or City department that abated the condition giving rise to the issuance of the notice and order;

(d) The total amount of the lien assessment, including any inspection fee, the cost of abatement, administrative costs, and the administrative surcharge;

(e) A due date for payment of the lien assessment that is at least twenty (20) days after the date of the notice of lien assessment;

(f) A statement that failure to pay the lien assessment within the time period set forth in the notice of lien assessment will result in the imposition of a lien against the property; and

(g) A statement explaining the appeal procedure for the notice of lien assessment.

(2) Service of Notice:

(a) The notice of lien assessment will be mailed to the property owner via certified first-class U.S. mail, return receipt requested, at the address listed for the property owner in the records of the El Paso County Assessor. A return receipt indicating delivery to the owner's address is prima facie evidence of service on the date reported by the U.S. Postal Service.

(b) In the event the property owner cannot be served the notice of lien assessment via certified first-class U.S. mail, the City Forester may post the notice in a conspicuous location on the property to be assessed.

(c) The date of service is the date of mail delivery reported by the U.S. Postal Service or the date of posting, whichever is earlier. If certified mail is refused by a recipient, the recipient is deemed to be served on the date of mailing.

(C) Appeal of Lien Assessment:

(1) A property owner aggrieved by the issuance of a notice of lien assessment may appeal the notice to the Director in accord with City Code § 3.9.309.

(2) The notice of appeal must be filed within ten (10) days of service of the notice of lien assessment and must state the name and address of the property owner, the address of the property assessed, and the grounds for appeal.

(3) The appeal of a notice of lien assessment will be heard by the Director, in accord with the procedures established in City Code § 3.9.309.

(4) The Director may reject an inspection fee in a lien assessment if the Director finds by a preponderance of the evidence that the frequency of inspection was not supported by facts. The Director may modify the costs of abatement in a lien assessment if the Director finds by a preponderance of the evidence that the assessed costs are not supported by facts. The Director may not change the amount of an inspection fee or the percentage of the administrative surcharge.

(5) A property owner or occupant may not challenge the issuance, contents, amount, or service of a lien assessment in any later proceeding without first appealing the notice of lien assessment pursuant to this subsection (C).

(D) Levy Of Assessment:

(1) The assessment becomes a perpetual lien against the property, superior and prior to all other liens and encumbrances excepting liens for general and special taxes. The City Forester will notify the Chief Financial Officer who will certify any lien assessment to the El Paso County Treasurer who must collect the lien assessment in the same manner as ad valorem taxes are collected.

(2) If not appealed, the total assessment will be levied, assessed, and charged against the property upon which abatement action was taken not less than twenty (20) days after the date of service of the notice of lien assessment. If appealed, the Director's determination of the total assessment will then be levied, assessed, and charged against the property not less than ten (10) days after the date of the Director's determination.

3.9.309: APPEALS:

An appeal of a notice and order or notice of lien assessment issued under this part must be made in writing to the Director not later than ten (10) days after service of the notice and order or notice of lien assessment. A perfected appeal operates to stay any enforcement action unless the City Forester determines that the condition giving rise to the enforcement action constitutes an imminent hazard to the health, safety, and welfare of the occupants of the property or the public. Appeals to the Director will proceed in accord with the provisions of City Code § 11.5.106. The decision of the Director is final agency action that is subject to review pursuant to Colorado Rule of Civil Procedure 106(a)(4).

3.9.310: UNLAWFUL ACTS:

(A) It is unlawful for any person to fail or refuse to comply with a notice and order to abate.

(B) It is unlawful for any person to fail or refuse to comply with an emergency abatement order.

(C) Any penalty for an unlawful act under this section is in addition to any abatement actions taken and costs, fees, and surcharges assessed.

3.9.311: ADDITIONAL PROVISIONS AND REMEDIES:

(A) The City Forester is authorized to establish procedures and guidelines to accomplish the purposes of this part. Copies of any procedures and guidelines must be available for inspection upon request.

(B) The remedies provided in this part are cumulative and in addition to any other remedies which may be available to the City Forester or Chief of Police. Nothing contained in this part may be construed to preclude the City Forester or Chief of Police from seeking other remedies in addition to, or in lieu of, the remedies stated in this part.

Section 2. Any person convicted of violating Section 204 (Unlawful Acts) of Part 2 (Responsibilities of Property Owners) and Section 310 (Unlawful Acts) of Part 3 (Property Enforcement Procedures) of Article 9 (Urban Forest) of Chapter 3 (Public Property and Public Works) shall be subject to the penalties and remedies therein, as applicable, or punished as provided in Section 201 (General Penalty) of Part 2 (General Penalty) of Article 1 (Administration) of Chapter 1 (Administration, Personnel, and Finance) of the Code of City of Colorado Springs, 2001, as amended.

Section 3. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this Ordinance be published by title and summary prepared by the City Clerk and that this Ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2026.

Finally passed: _____

Lynette Crow-Iverson, Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Blessing A. Mobolade, Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Lynette Crow-Iverson, Council President

ATTEST:

Sarah B. Johnson, City Clerk