

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: UNLAWFUL ACTS**
- 3.9.104: DUTIES OF THE CITY FORESTER**

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 which shares a common boundary with the right-of-way.

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

CITY FORESTER: A professional forester appointed by the manager 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.

MANAGER: As defined in City Code § 3.1.101, as may be amended.

NATIVE VEGETATION: Naturally occurring trees and shrubs that were not deliberately planted, including but not limited to, ponderosa pines, junipers, pinon pines, and Gambel oak.

PROPERTY OWNER: The owner or occupant of real property. The occupant of the premises will be considered an agent of the property owner for the purpose of serving notice.

RIGHT-OF-WAY: As defined in chapter 7 of this code.

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 its maturity. It may be 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. It 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.

3.9.103: UNLAWFUL ACTS

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 without a City forester's permit.

3.9.104: DUTIES OF THE CITY FORESTER:

(A) The City forester must enforce the provisions of this Urban Forest Code.

(B) With the approval of the manager, the City forester may promulgate rules and regulations regarding proper care for City owned and privately owned trees to protect the health, safety, and welfare of the citizens, urban forest, and public and private property.

(C) The City forester must 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 trees that fall under City Code § 3.9.201.

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

3.9.201: DUTIES OF PROPERTY OWNERS:

(A) It is the duty of a property owner to maintain or remove any 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; 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 curb, gutter, sidewalk, signs, or streetlights.

(B) The property owner must take remedial action in the event of a diseased, infested, or dangerous tree or other vegetation.

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

(D) It is the duty of the property owner to maintain, in accord with this article, any native vegetation in the right-of-way.

(E) Where a property line abuts an alleyway, abutting property owners are responsible for maintaining or removing vegetation, to include weed trees and sprouts, 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 vegetation located upon their property to provide for the safe and convenient use of rights-of-way in accord with the requirements set forth in City Code § 3.9.202.

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

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

(I) A separate permit is required from the City forester for impervious hard surfacing around trees in the right-of-way. No permit is required for pervious materials, such as pavers, flagstone, or rock mulch.

3.9.202: MAINTENANCE STANDARDS:

(A) Tree branches must not block the visibility of street signs, including but not limited to speed limit signs, stop signs, and street name 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.

(C) Unimpeded visibility at street intersections must be maintained by keeping limbs and foliage cleared between thirty inches (30") above the street to eight feet (8') above the street within the visibility triangle. The visibility triangle is described as a right triangle measured forty feet (40') from the intersection corner in two directions along the curbline.

3.9.203: DAMAGE TO CITY TREES; DUTY TO REPLACE:

(A) In the event that a City tree is removed, destroyed, or otherwise damaged by or at the direction of a property owner, 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 mitigate the damaged trees.

(B) If the damage or unauthorized removal of a City tree is caused by a person or entity with a tree service license, that person or entity is liable to the City for the appraised value of the damages in accord with City Code § 2.3.301, *et seq.*

(C) The City forester may charge the property owner for damage in accord with City Code § 3.9.305.

(D) In the event that a property owner refuses to pay the appraised value of damages, the City forester is authorized to commence lien assessment proceedings against the property in accord with the provisions of this article or pursue other remedies at law.

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

PART 3 GENERAL ENFORCEMENT

SECTION:

3.9.301: ENFORCEMENT

3.9.302: REMEDIES

3.9.303: NOTICE AND ORDER

3.9.304: APPEALS

3.9.305: PENALTIES

3.9.301: ENFORCEMENT:

(A) RIGHT OF ENTRY:

(1) Subject to the provisions of subsection (2) of this section, the City forester may enter any property at a reasonable hour for the limited purpose of enforcing this Urban Forest Code, including for the abatement of violations.

(2) In the event that the property owner or occupant of any property located within the City refuses entry to the City forester when entry is sought pursuant to this section, or should permission to enter the property otherwise not be obtainable from the property owner or occupant, the City forester may apply for an entry and inspection warrant to any Judge of the Municipal Court. The warrant application must specifically identify the property to be inspected, the purpose for which entry is desired, and must state facts giving rise to the belief that a threatening or hazardous condition, including but not limited to insect or disease ridden trees or shrubs, exists on the property which endangers other trees and vegetation within the City, or the public health, safety, and welfare. Any warrant issued must command the property owner or occupant to permit entry by the City forester for the purpose of inspection or enforcement, including abatement of any violations.

(B) EMERGENCY ABATEMENT ORDER:

(1) Whenever the City forester determines, after consultation with the City Attorney, that an emergency exists which requires immediate action to protect the public health, safety, or welfare, the City forester may, without prior notice or hearing, issue an emergency abatement order stating that the emergency exists and requiring necessary action be taken to meet the emergency. Notwithstanding any portion of this article to the contrary, a City forester emergency abatement order is effective immediately.

(2) The emergency abatement order must be in writing, state the location of the property upon which the condition exists, and state with reasonable specificity the nature of the existing condition which constitutes an emergency.

(3) Any property owner or occupant to whom an emergency abatement order is issued must comply with the order immediately. It is unlawful to fail or refuse to comply with said order.

(4) If any emergency abatement order is not complied with immediately as directed by the City forester, the City may, without prior notice, enter onto the affected property and take any and all measures required to abate the violation. Any expense related to abatement, restoration, or remediation undertaken by the City must be fully reimbursed by the property owner, homeowners' association, or responsible maintenance district, as appropriate. Any relief obtained under this section will not prevent the City from seeking any other relief authorized under this article, this code, or federal or state law.

3.9.302: REMEDIES:

The City forester will have, but not by way of limitation, the following remedies available with respect to abatement of urban forest violations:

(A) No Action: After careful consideration of the facts and circumstances, the City forester may authorize no action be taken on a complaint of an alleged violation of this Urban Forest Code.

(B) Informal Contact: The City forester has the authority to effectuate the abatement of violations of the Urban Forest Code through informal contact and agreement with property owners and occupants.

(C) Agreement to Abate: The City forester may enter into an agreement with a property owner whereby the property owner agrees to abate the violation within a certain period of time based upon certain conditions within the agreement. Should the property owner not abide by the terms and conditions of the agreement to abate, the City forester may proceed with abatement as authorized in this article.

(D) Notice and Order: The City forester may issue a notice and order, ordering the cessation of an illegal condition within a specified period of time based upon the nature of the violation. Should the property owner not comply with the notice and order within

the specified period of time, or fail to appeal the notice and order within the applicable time period, the City forester may proceed with abatement as authorized in this article.

(E) Direct Abatement: The City forester may pursue direct abatement for removal of any violation of this Urban Forest Code in conjunction with a search and seizure warrant issued by Municipal Court in accord with City Code § 3.9.301.

(F) Charging Costs: The City forester may charge the costs and fees associated with an abatement, including administrative fees, either following direct abatement or failure to comply with an emergency abatement order.

(G) Reinspection Fees: The City forester may charge a reinspection fee for every reinspection necessitated by violations of this article.

(H) Criminal Prosecution: The City forester may pursue the issuance of a summons and complaint in accord with City Code § 3.9.305(D).

(I) Emergency Abatement: After consultation with the City Attorney, the City forester has the power to authorize the removal of trees or vegetation from private property that may create an imminent hazard to the public health, safety, and welfare.

(J) Additional Remedies: The remedies provided in this section are cumulative and in addition to any other remedies available to the City forester. Nothing in this article is intended to preclude the City forester from seeking other remedies in addition to, or in lieu of, the remedies granted above.

3.9.303: NOTICE AND ORDER:

(A) Whenever abatement proceedings are commenced by the filing of a notice and order, the notice and order must:

(1) Be in writing;

(2) Be personally served whenever feasible on the property owner, agent of the owner, other persons with an interest in the property, or the occupant of the property, as applicable. When personal service is not feasible, the notice and order must be posted conspicuously on the property and mailed to the last known address of the property owner, agent of the owner, other persons with an interest in the property, or the occupant of the property, as applicable by certified mail, return receipt requested;

(3) Describe with particularity the asserted violation existing on the property which gives rise to the issuance of the notice and order;

(4) Specify the period within which the violation must be abated or otherwise corrected; and

(5) State that an appeal will be heard by the City forester, provided that a written notice of appeal is made within ten (10) days of the date of service, posting, or receipt of the notice and order.

(B) It is unlawful for any person to fail or refuse to comply with any notice and order issued pursuant to this article.

3.9.304: APPEALS:

(A) The property owner receiving a notice and order may appeal the City forester's decision or action to the manager, provided a written appeal is filed within ten (10) days of the date of service, posting, or receipt of the notice and order. The manager must conduct a hearing on an appeal within thirty (30) days of the filing of the appeal.

(B) At the hearing, the property owner and the City may each be represented by an attorney, may present evidence, and may cross-examine witnesses. The hearing must be recorded electronically or otherwise. The manager must determine whether there is competent evidence to support the City forester's decision. The manager may affirm, reverse, or modify the City forester's decision.

(C) The manager's decision will constitute final agency action and may only be reviewed by the District Court pursuant to C.R.C.P. 106(a)(4). There will be no stay of the manager's decision while review by the District Court is pending, except by court order.

3.9.305: PENALTIES:

(A) Direct Abatement: If any order issued in accord with this article is not complied with within the specified time, the City forester may correct the violation or abate the nuisance or hazard, including through a private contract, and may recover the costs of such correction or abatement from the property owner in accord with this section.

(B) Charging Costs:

(1) Within thirty (30) days after a direct abatement or when an emergency abatement order is not complied with, pursuant to City Code § 3.9.301 (B), the City forester must notify the property owner in writing of the associated costs, including any administrative costs.

(2) The property owner may file a written protest objecting to the amount of the assessment with the City forester within fifteen (15) days of the notice date. The City forester must set the matter for public hearing by the City Council and must notify the appellant of the date of the hearing. The decision of the City Council must be set forth by resolution and is final.

(C) Reinspection Fee:

(1) Imposition of Fee: The property owner who has been issued a notice and order for a violation of this Urban Forest Code, or who fails to comply with an order to abate, may be assessed a reinspection fee for every reinspection necessitated

by the property owner's continued noncompliance with the notice and order. Reinspection fees are assessed for all site visits until the violation is abated. The violation will be regularly reinspected until the property owner successfully complies with the notice and order.

(2) Fee Schedule:

(a) First-Time Offender: A property owner who has never previously been issued a notice and order for a violation of this Urban Forest Code, and who fails to comply with an order to abate, may be assessed a first offense reinspection fee of one hundred dollars (\$100.00) for every reinspection necessitated by the property owner's continued noncompliance with the notice and order to abate.

(b) Repeat Offender: A property owner previously cited for a failure to comply with a notice and order to abate during any immediately preceding six (6) month period for a violation that has occurred at the applicable property may be assessed a reinspection fee of two hundred fifty dollars (\$250.00) for each reinspection conducted until compliance is achieved. The City forester may remove the repeat offender designation if, after abatement, the property owner has no further violations for a period of six (6) months after compliance has been achieved. If a repeat offender designation is removed and the property owner has a subsequent violation on the same property, that property owner may be reclassified as a repeat offender.

(c) Chronic Repeat Offender: A property owner previously cited for a failure to comply with a notice and order to abate for a violation that occurred at the applicable property in the immediately preceding twelve (12) month period may be assessed a reinspection fee of five hundred dollars (\$500.00) for each reinspection completed until compliance is achieved. The City forester may remove the chronic repeat offender designation if the property owner has no further violations on the property for a period of twelve (12) months after compliance has been achieved. If a chronic repeat offender designation is removed and the property owner has a subsequent violation, that property owner may be immediately reclassified as a chronic repeat offender.

(d) Failure to Comply with Agreement to Abate: Any property owner who fails to comply with an agreement to abate pursuant to this part is classified as a chronic repeat offender and may be assessed a reinspection fee of five hundred dollars (\$500.00) for each reinspection conducted until compliance with the agreement to abate is achieved.

(3) Billing and Payment:

(a) The property owner will be billed via certified mail. Payment is required to be made within twenty (20) days of the date of mailing.

(b) If the property owner fails to make payment within twenty (20) days of the date of mailing, the City forester is authorized to file a lien against the

property for fees in accordance with subsection (E) of this section. The lien must include any costs incurred in the perfecting of the lien, and may include all costs incurred by the City associated with the removal, correction, or other abatement necessitated by the property owner's continued violation and failure to abate following issuance of a notice and order to abate.

(D) Summons and Complaint: The City forester is authorized to request the issuance of a summons and complaint for any violation of this Urban Forest Code in accord with City Code § 1.1.201, as may be amended.

(E) Lien Assessment:

(1) Authority: When a property owner fails or refuses to comply with an order to abate and the City forester has reinspected and removed, corrected, or abated the violation, a property owner fails to pay charging costs, or a property owner fails to pay reinspection fees, the City forester is hereby authorized to commence lien assessment proceedings against the property in accord with this article. In addition, the City forester is further authorized to assess an administrative fee of twenty-five percent (25%) of the cost of abatement proceedings. The lien created hereby is superior and prior to all other liens excepting liens for general and special taxes.

(2) Notice:

(a) Prior to the imposition of any lien, the City forester must send the property owner a notice of lien assessment which must contain the following information:

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

(II) The dates of the notice and order, any reinspections, and the issuance of the order to abate;

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

(IV) An itemization of the total amounts of the assessment, any reinspection fees, the costs of abatement, and the amount of the administrative fee;

(V) A due date for payment of the assessment which is not less than twenty (20) days after the date of the notice of lien assessment;

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

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

(b) Service of the Notice:

(I) Mailing and Posting: The notice of assessment must be mailed to the property owner via certified first-class U.S. mail, return receipt requested. A return receipt signed by the property owner or an agent of the property owner will be prima facie evidence of service on the date indicated by the owner, agent, or U.S. Postal Service. If mailed notice is ineffective due to non-receipt, the City forester is authorized to post the notice in a conspicuous place on the property to be assessed.

(II) Personal Service: Personal service is permitted by the City forester, whenever feasible, on the property owner, agent of the owner, or occupant of the premises, as applicable.

(3) Appeal and Hearing:

(a) Time: A property owner may only appeal a notice of lien assessment in writing within ten (10) days of its service.

(b) Contents: The notice of appeal must state the name and address of the property owner, the address of the property assessed, and the grounds for appeal.

(c) Hearing: The appeal of a notice of lien assessment is heard by the manager, in accord with the procedures outlined in this article.

(d) Decision: The manager may, after hearing the property owner's objections, find the lien assessment is invalid, modify the assessment, or confirm the assessment.

(4) Lien Assessment: Unless appealed, a lien for the unpaid assessment amount will be filed against the property upon which abatement action was taken not less than forty-five (45) days from the notice of lien assessment. If appealed and confirmed or modified, the manager's determination of the total assessment of a lien for the unpaid assessment amount will be filed against the property upon which abatement action was taken not less than forty-five (45) days after the date of the manager's decision. In either event, the assessment will become 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 must notify the Chief Financial Officer, who must certify any lien assessment to the El Paso County Treasurer, who will collect the lien assessment in the same manner as ad valorem taxes are collected.

Section 2. Any person convicted of violating Section 305 (Penalties) 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 Sections 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