

ORDINANCE NO. O2025 -

**AN ORDINANCE AMENDING THE WARRENVILLE CITY CODE REGARDING
THE PROTECTION OF CITY-OWNED TREES**

WHEREAS, the City of Warrenville (“**City**”) is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City has been approved for a grant through the Urban & Community Forestry Grant Program (“**Grant**”) that will cover 50 percent of the cost of new street trees up to \$19,000; and

WHEREAS, in order to receive the Grant, the Grant program requires the City to adopt a tree protection ordinance that meets certain defined standards as provided by the Chicago Region Trees Initiative (“**Grant Standards**”); and

WHEREAS, the City desires to amend the Warrenville City Code (“**City Code**”) to protect trees on City-owned property dedicated to public use in accordance with the Grant Standards; and

WHEREAS, pursuant to the City’s power under applicable law and the home rule powers of the City, the Mayor and the City Council have determined that it is in the best interest of the City and the public to amend the City Code to amend the City Code as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Amendments to Section 6-6-1. Section 6-6-1, titled “Public Nuisance Defined,” of Chapter 6, titled “Trees and Plants,” of Title 6, titled “Health and Sanitation,” of the City Code is amended as follows:

“6-6-1: PUBLIC NUISANCE DEFINED:

For the purposes of this chapter, the following are hereby declared public nuisances: (Ord. 829, 3-3-1986)

- A. Any tree or shrub growing in such a manner as to:
 - 1. obstruct the reflection of streetlights,
 - 2. obstruct the view by motor vehicle operators of any traffic control device within the public right-of-way,
 - 3. obstruct or interfere with the passage of persons or vehicles on the streets or sidewalks of the City, ~~or~~
 - 4. create a dangerous condition for persons or property on public streets, sidewalks or other public property including,

but not limited to, any tree or shrub or part thereof which is likely to fall on or across any public property, or

5. interfere with overhead utility lines.

Any person violating this section shall be required to prune or remove any such tree or shrub within the period of time authorized by the **Public Works** Director of Public Works or his authorized ~~their~~ designee so that it will not create such an obstruction.

For the purposes of this section, "traffic control device" shall include, but not be limited to, any sign, signal, or opticom equipment, placed or maintained by the City to regulate, warn or guide traffic. (Ord. 2062, 6-2-2003)

B. Any tree, shrub, other plant, or portion thereof, whether located on City owned property or on private property, which obstructs the view in the "vision clearance triangle" as defined by section 8-14-9 of this Code. (Ord. 829, 3-3-1986; amd. Ord. 2144, 6-17-2004)

C. Trees in a state of irreparable or untreatable decline due to heavy infestation or disease and infested or infected trees identified by federal or State departments of agriculture as quarantined or potentially able to infect or infest other trees, including, without limitation, Ash (Fraxinus) trees infested with emerald ash borer that are not being treated or whose treatment is ineffectual, and Elm trees (Ulmus) infected with Dutch elm disease.

1. The City will enforce State and federal regulations governing quarantine zone boundaries, and regulated articles.

2. It shall be illegal to move out of established quarantine zone(s) Regulated Articles, as defined in Section 7-7-1 of this Code, unless those articles have met all requirements of the local, federal and State regulatory agencies.

3. It shall be illegal for any person or entity to transfer any Regulated Articles from a quarantine zone into a non-quarantine zone.

4. All contractors working within and near any quarantine zone(s) are required to comply with the quarantine regulations set forth in this section and supply records that may be required for inspection to the City, County, State or federal agencies upon request.

D. Trees in decline or dead, any part of which could potentially fall on or otherwise create a potential risk of damage or injury to a person or property."

SECTION 3: Amendments to Section 6-6-2. Section 6-6-2, titled “Abatement of Public Nuisance,” of Chapter 6, titled “Trees and Plants,” of Title 6, titled “Health and Sanitation,” of the City Code is amended as follows:

“6-6-2: ABATEMENT OF PUBLIC NUISANCE:

The following are the prescribed means of abating public nuisances under this chapter:

- A. City Owned Property: Any public nuisance under this chapter which is located on City owned property shall be pruned, removed, or otherwise treated by the Public Works Department of the City in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
 - 1. Exception: Any person owning any lot or parcel of land, whether such lot is improved, unimproved, occupied, or vacant, abutting on any dedicated public right-of-way is hereby required to:
 - a. Maintain grass and weeds less than eight (8) inches;
 - b. Keep mailboxes and support structures in good repair;
 - c. Keep culverts open and free of debris; and
 - d. Maintain plantings.
- B. Private Property: Any public nuisance under this chapter which is located on private property shall be pruned, removed, or otherwise treated by the property owner in whatever fashion is required to cause the abatement of the nuisance.
- C. Notice: No property owner may be found guilty of a violation of this chapter unless and until the following requirements of notice have been satisfied:
 - 1. A City employee shall cause a written notice to be provided by first class mail or hand delivered to the owner of the property upon which the nuisance is found.
 - 2. Such notice shall describe with particularity the tree or other plant which has been declared to be a public nuisance and actions that the property owner may undertake to abate the nuisance, and shall require the elimination of the nuisance by the property owner within 10 days after receipt of the notice by the property owner if notice was provided by hand delivery or as provided in Subsection 6-6-2.C.3 below, or within 13 days after the notice was deposited in the mail if notice was mailed, provided that, upon a showing of good cause, said period may be extended by the code official.

3. If the property owner cannot be located following diligent inquiry by the City employee, such notice shall be served upon the occupant or person in charge of the property upon which the nuisance is located or posted in a conspicuous location at the property upon which the nuisance is located.

D. **If after 10 days the property owner has not abated the nuisance tree or plant then the City may issue a second notice in the same manner as set forth in Subsection C. of this Section, notifying the owner of the property that if the nuisance is not abated within 10 days of the date of the notice, the City may take action to have the nuisance tree removed and provide to the property owner a written invoice outlining all costs associated with the removal, including but not limited to staff time, materials and oversight of the removal. If the property owner does not reimburse the City for the costs within thirty days of issuance of a written invoice, the City may place a lien on the property until all expenses related to the removal and subsequent lien are paid.**

E. Immediate Abatement: The foregoing provisions of this section notwithstanding, the City is empowered to cause the immediate abatement of any public nuisance under this chapter or to seek from any court of competent jurisdiction an order directing the immediate abatement of any public nuisance under this chapter, provided that the nuisance is declared by the City to threaten imminent and serious danger of injury or death to any person and provided that the owner of the property on which the nuisance is located cannot be found. (Ord. 829, 3-3-1986)”

SECTION 4: Amendments to Section 6-6-3. Section 6-6-3, titled “Prohibited Acts,” of Chapter 6, titled “Trees and Plants,” of Title 6, titled “Health and Sanitation,” of the City Code is amended as follows:

“6-6-3: PROHIBITED ACTS:

It shall be unlawful and a violation of this chapter for any person to do any of the following:

- A. Deposit, store or maintain on city owned property any **construction equipment**, stone, brick, sand, concrete, lumber, tile, pipe, or other material **within the Critical Root Zone, as defined in Article 7, Chapter 7 of this Code**, which reasonably may be expected to impede the free passage of water, air or fertilizer to the roots of any tree, shrub or other plant.
- B. Cause any gaseous, liquid or solid substance which because of the nature or amount reasonably may be expected to be toxic or otherwise harmful to trees, shrubs or other plants to be located where such substance reasonably may be expected to affect trees, shrubs, or other plants located on the city owned property.

- C. Cause any fire to burn on city owned or private property if such fire, or the heat, smoke, or ash therefrom, reasonably may be expected to injure any portion of any tree, shrub, or other plant located on city owned property, provided, however, that this subsection shall not be construed as exempting any person from complying with state or city laws respecting burning, or a controlled burn designed to enhance the biological structure of an area. (Ord. 829, 3-3-1986)
- D. Unless otherwise authorized by a permit obtained from the public works department, no person shall plant, prune, remove, destroy, break, cut, deface, or in any way injure or interfere with any tree or shrub in any right of way of any street or alley, conservation or preservation area, or on any property owned or maintained by the city that is dedicated to public use; provided, however, to the extent that the language on the recorded plat or covenant establishing the conservation or preservation area is in conflict with this Section 6-6-3, the language on the plat or covenant will control. (Ord. 2062, 6-2-2003)”
- E. Plant any tree under utility wires that is anticipated to grow to a height that will interfere with the wires.”**

SECTION 5: Amendments to Section 6-6-4. Section 6-6-4, titled “Violation and Penalty,” of Chapter 6, titled “Trees and Plants,” of Title 6, titled “Health and Sanitation,” of the City Code is amended as follows:

“6-6-4: VIOLATION AND PENALTY:

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine as set forth in the Annual Fee Ordinance for each separate offense. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If, as the result of the violation of any provisions of this chapter, the injury, mutilation or death of a tree, shrub, or other plant located on city owned property is caused, the person in violation must either replace the plant or City Tree in accordance with Title 7, Chapter 7 of this Code or be responsible for the cost of repair or replacement of such tree, shrub, or other plant by the City. ~~shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide To Professional Evaluation Of Landscape Trees, Specimen Shrubs, And Evergreens", published by the International Society of Arboriculture. (Ord. 2062, 6-2-2003)”~~

SECTION 6: Amendments to Section 7-2-3-1. Section 7-2-3-1, titled “General,” of Chapter 2, titled “Streets and Public Ways,” of Title 7, titled “Public Ways and Property,” of the City Code is amended as follows:

“7-2-3-1: GENERAL:

No person shall build, rebuild, remove, repair, or disturb in any manner any public way, including, but not limited to, any sidewalk or public street, or cutting any existing curb within the City, or damage, alter, or remove any City Tree (as set forth in Title 7, Chapter 7), except upon permit issued by the City to perform such work. (Ord. 1663, 3-16-1998)”

SECTION 7: Amendments to Section 7-2-3-2. Section 7-2-3-2, titled “Permit and Cost,” of Chapter 2, titled “Streets and Public Ways,” of Title 7, titled “Public Ways and Property,” of the City Code is amended as follows:

“7-2-3-2: PERMIT AND COST:

A.—Any person desiring to build, rebuild, remove, repair, or disturb in any manner any public way, including any street or City Tree (as defined in Title 7, Chapter 7), within the public right-of-way or sidewalk or cutting any existing curb in the City shall first obtain a permit to perform such work from the City.

~~B.—The cost of any engineering services, such as setting lines and grades, shall be provided by the City on a time and material basis if requested by the person doing the construction. (Ord. 1663, 3-16-1998)”~~

SECTION 8: Amendments to Section 7-2-3-13. Section 7-2-3-13, titled “Damage to Vegetation,” of Chapter 2, titled “Streets and Public Ways,” of Title 7, titled “Public Ways and Property,” of the City Code is amended as follows:

“7-2-3-13: DAMAGE TO VEGETATION:

~~No unnecessary Excavations and other construction within the right-of-way must be done in a manner to minimize damage or injury shall be done to any trees or shrubs or the roots and include all City Tree protection requirements or City Tree replacement requirements set forth in Title 7, Chapter 7 of this Code thereof during the course of making of excavations. (Ord. 1663, 3-16-1998)”~~

SECTION 9: Amendments to Section 7-2-3-18. Section 7-2-3-18, titled “Restoration of Parkways,” of Chapter 2, titled “Streets and Public Ways,” of Title 7, titled “Public Ways and Property,” of the City Code is amended as follows:

“7-2-3-18: RESTORATION OF PARKWAYS:

Any party responsible for disturbing or destroying the unimproved "parkway" portion of City of Warrenton right-of-way shall be responsible for repairing and restoring the disturbed area as directed by the Public Works Director or his authorized designee in accordance with the provisions of Title 7, Chapter 7 of this Code. Required restoration shall be done to a first class standard and, at the direction of the Public Works Director or his designee, may include sodding, hydroseeding, erosion control matting, City Tree replacement, and regular application of irrigation water to newly seeded or sodded areas. (Ord. 2065, 6-16-2003)”

SECTION 10: Amendments to Add Chapter 7, Title 7. Title 7, titled “Public Ways and Property,” of the City Code is hereby amended to add a new Chapter 7, titled “Tree Preservation,” as set forth in **Exhibit A**.

SECTION 11: Amendments to Annual Fee Ordinance. The Code Enforcement Fee Schedule of the 2025 Annual Fee Ordinance is hereby amended as set forth in ***Exhibit B.***

SECTION 12: Effective Date. This Ordinance shall be in full force and effect ten days after its passage, approval, and publication in the manner provided by law.

PASSED THIS ____ day of _____, 2025.

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED THIS ____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A

**TITLE 7, CHAPTER 7
TREE PRESERVATION**

7-7-1: PURPOSE; APPLICABILITY:

The purpose of this Chapter is to preserve, protect and enhance critical infrastructure – the urban forest that is located within City right-of-way and other publicly accessible City-owned property. The complete urban forest is comprised of trees across all land uses and ownership. This Chapter specifically applies to trees located within City right-of-way or on other City-owned property dedicated to and available for public use.

This Chapter recognizes that trees located in City right-of-way are a collective asset to the entire community and identifies and effectuates the City’s goals to protect, preserve, care, and plant trees located in City right-of-way, including, without limitation:

- A. Protect, preserve and enhance the quality of life and general welfare of the City, its residents, and property owners; and conserve and enhance the City’s natural, physical, and aesthetic environment by preserving, protecting, and enhancing the urban forest that is located within City right-of-way to ensure that trees are properly planted and maintained.
- B. Recognize that City right-of-way trees are an integral part of the infrastructure of the City and, as such, should be preserved, protected and cared for as other critical City infrastructure.
- C. Recognize that larger trees provide larger benefits. When a large tree is removed and replaced with a smaller tree the benefits and services are reduced.
- D. Recognize that some trees may have a condition that constitutes a threat, danger or nuisance to the public or property within the City or may be dangerous to the health of other trees and vegetation in the City.

7-7-2: DEFINITIONS:

ARBORIST Any individual experienced in the profession of forestry or a related field and is licensed or certified in forestry by an accredited forestry industry body, e.g. International Society of Arboriculture.

BUCKTHORN An undesirable exotic invasive ornamental shrub introduced to North America. This species inhabits woodlands and savannas where it dominates the landscape prohibiting the development of native trees and plants. There are six species of buckthorn listed in the Illinois Exotic Weed Act, which prohibits the sale, distribution or planting of this species, *Rhamnus cathartica*, *davurica*, *frangula*, *argula*, *utilis*, and *japonica*.

BUILDING ACTIVITY AREA The area within which development activity is taking place.

CANOPY	The upper portion of a tree sometimes called the crown. This section of the tree usually contains branches and leaves.
CONSERVANCY OR PRESERVATION AREA (EASEMENT)	An area under legal restriction within which certain requirements are enforced regarding the preservation of certain vegetation, natural character, or special environmental state.
CRITICAL ROOT ZONE	An area on the ground extending out from the trunk of the tree in all directions a distance of at least one foot for every inch DBH
CUTTING	<ol style="list-style-type: none"> 1. Felling or removal of a tree, or any procedure that results in the death or substantial destruction of a tree. 2. Cutting does not include normal pruning or trimming of trees consistent with good forestry practices.
DAMAGE	Impact or loss of function to any City Tree including but not limited to: removal, root compaction, root removal, girdling, soil contamination, topping, pruning more than 20% of the trees, canopy removal, bark removal, poisoning and or/ actions resulting in the decline or death of a tree.
DEVELOPMENT	Any proposed change in the use or character of land, including, but not limited to the replacement of any structure or site improvements, e.g. irrigation installation, driveway replacement, installation of a retaining wall among others; or any construction activity, including, without limitation, grading, excavation, construction traffic access, or material storage
DIAMETER AT BREAST HEIGHT (DBH)	The diameter of the trunk of the tree measured in inches at a point 4.5 feet above ground line. This forestry standard measurement is used for established and mature trees and is referred to as "DBH". All reference to diameter size shall be to the DBH.
ENVIRONMENTAL PROFESSIONAL	A degreed environmental scientist, biologist, botanist, forester, other similarly degreed and/or licensed plant professional with at least five years' experience in planting and maintaining native plants and their associated natural ecosystems.
INVASIVE SPECIES LIST	A list established and maintained by, and available from, the Community and Economic Development Department of the City that lists introduced or exotic species that significantly modifies or disrupts the ecosystem in which it colonizes (e.g. buckthorn), as may be amended from time to time.

LANDSCAPE CONTRACTOR	A company or individual contracted to perform landscape services.
LANDSCAPE PLAN	A plan approved by the City as set forth in the Zoning Ordinance (See, Title 10, Section 11 of this Code).
LANDSCAPE AGREEMENT COVENANT	An agreement as set forth in the Zoning Ordinance (See, Title 10, Section 11 of this Code).
LEGACY TREE	A subset of City Trees listed and defined on the Legacy Tree List established and maintained by, and available from, the Public Works Department, as may be updated from time to time.
PARCEL	Shall mean any lot, as defined in the Zoning Ordinance (see, Title 10, Chapter 13 of this Code).
PREFERRED TREE LIST	A list of preferred tree species established and maintained by, and available from, the Public Works Department, as may be amended from time to time.
PROPERTY OWNER	An individual or organization who owns one or more parcels within the corporate limits of the City.
REGULATED ARTICLES	Any insects at any living stage of development, any quarantined materials such as wood products including, but not limited to chips, limbs, lumber, firewood, contaminated soils, or any other product or means of conveyance which may be determined by Federal or State departments of agriculture to pose a risk of spread of any infestation or infection.
SIGNIFICANT TREE REMOVAL	The removal of a Legacy Tree or two or more City Trees on the same frontage.
SIMPLE TREE REMOVAL	The removal of a single tree without other associated site impacts or other site improvements.
CITY TREE	Any tree located on or within the City right-of-way or on or within other City-owned property that has been dedicated to public use. Trees located on property owned by the City but not open to the public, including, without limitation, property being held for future development and property housing utilities or other infrastructure to which the public is prohibited or restricted from accessing, are not City Trees.
TRANSPLANTING	The removal of any tree for replanting elsewhere.

TREE Any self-supporting woody plant, together with its root system, trunk and canopy; growing upon the earth usually with one trunk, or a multi-stemmed trunk system, supporting a definitely formed crown.

CITY TREE BANK A account established to receive and hold deposits for City Trees that were damaged or removed. The deposited funds, if not returned to the depositor, in accordance with this Chapter, may be used by the City to purchase and care for City Trees throughout the City.

CITY TREE PRESERVATION PLAN A document required by a permit which identifies, by common name and/or scientific name, certain species of City Trees of a specified DBH within a particular area. The plan shall list all existing and proposed City Trees and shall specifically state how each City Tree is proposed to be destroyed, relocated, replaced, preserved at its present location, introduced into the site from an off-site source, and whether the City Tree is to receive remediated actions due to construction impacts, e.g. root pruning. The City may provide that the City Tree Preservation Plan excludes those portions of the development site which it determines will not be affected by the development activity. Any City Tree Preservation Plan required by this Section must be dated within thirty-six months of the start date of the proposed activity.

TREE REMOVAL The cutting down, destruction, removal or relocation of any tree, including damaging by poison or other direct or indirect action.

7-7-3: CITY TREE PRESERVATION, PLANTING AND MAINTENANCE:

- A. The Public Works Director or their designee shall be in charge of City Trees and the enforcement of this chapter, and shall have the authority to make decisions regarding City Tree care and maintenance. When making decisions regarding tree planting, tree removals, or tree maintenance, the Public Works Director or their designee may consult a certified arborist.
- B. City contractors must utilize a certified arborist for all work pertaining to City Trees, including but not limited to removal, pruning and planting activities, if the City does not utilize a staff or consulting certified arborist to oversee the work.
- C. All City Tree planting, selection and management should be completed in accordance with the current City tree inventory and management plan. All trees planted by the City on publicly owned land shall be sourced from certified nurseries in accordance with ANSI Z60.1 standards. All tree planting will follow best management practices in accordance with ANSI A300 standards.

7-7-4: [RESERVED FOR FUTURE USE]

7-7-5: CITY TREE CARE:

- A. Standard of care. Proper care and management of the urban forest is critical for increased longevity of urban trees. The City will maintain City Trees in accordance with ANSI A300 standards.
- B. Watering. The City will establish sufficient measures and protocols for providing adequate water to City Trees for five years after initial planting when natural rain fall is not adequate.

7-7-6: CITY TREE PROTECTION REQUIRED:

This Section applies to any development or other activities that might impact City Trees, as determined by the Public Works Director or designee.

- A. Permit or Written Authorization Required: Unless otherwise authorized by this Section, it shall be unlawful for any person to remove, injure or undertake any development or other work that might cause death, substantial damage, or create a hazard, to any City Tree , unless such development or other work is done pursuant to a permit issued by the City; provided, however, the Director of Public Works may authorize, in writing, the removal or maintenance of City Trees when such removal or maintenance is the sole scope of work to be completed. Any management practices that will be performed pursuant to such permit or written authorization, in accordance with ANSI A300 standards and the other provisions of this Chapter.
- B. City Tree Preservation Plan Required: A City Tree Preservation Plan is required when:
 - 1. A Legacy Tree is to be removed or impacted by development.
 - 2. Site improvements on any parcel might impact City Trees.
 - 3. The approved City Tree Preservation Plan must be available on the work site throughout the entire construction period until final approvals for all site work are received in writing.
 - 4. The City Tree Preservation Plan must require that all measures be taken to maintain the health of replacement trees transported to the replacement site meet or exceed the requirements of the most current American National Standards Institute.
 - 5. When heavy machinery or equipment will be used as part of the development, the City Tree Preservation Plan must require the following measures be taken:
 - a. Protective fencing is required for protection of any City Tree to be preserved in place. Fencing shall be installed at a minimum distance of 1 foot, for every inch DBH of the tree, from the trunk of the tree. In instances of tree pits, fencing shall be located at the edge of pavement. Fencing must be orange snow type fencing, a

minimum of 4 feet in height and held in place by metal posts driven into the ground no more than 10 feet apart. In the instance of a project that will take place for more than one year, chain link fencing is required. Chain link fencing must be 6 feet in height and held in place by metal posts driven into the ground no more than 10 feet apart. Fencing shall not be removed or relocated unless authorized in writing by the Director of Public Works.

- b. All protective fencing shall be in place before any construction or material delivery is to take place. All protective fencing shall remain in place until final approval of all site conditions is given in writing.
- c. No equipment or materials shall be parked, driven or stored within the protective fencing area or on the Critical Root Zone of any tree.
- d. No tree shall be impacted within the protective fencing area, including the Canopy.

7-7-7: CITY TREE REMOVAL AND REPLACEMENT:

- A. Underground utilities must be located before stumps are removed or City Trees are planted.
- B. Any City Tree that is not listed on the Invasive Species List that is damaged or removed must be replaced as follows:
 - 1. All replacement City Trees must be of a species listed on the Preferred Species List. The Public Works Director or their designee may require a more limited species list in order to promote species diversity in the area.
 - 2. All replacement City Trees must be planted in a location in the City right-of-way approved by the Public Works Director or their designee.
 - 3. City Tree replacement must occur within the landscape season and within 30 days of the City Tree removal. In the event of weather conditions or species-specific needs that prohibit proper replacement of a tree during this timeframe, the Public Works Director may issue a written extension of up to 180 days upon written request.
 - 4. The City must be notified when the City Tree replacement is complete.
 - 5. A cash bond in the amount listed on the Annual Fee Ordinance must be posted as a guarantee that the City Tree will be replaced. If, after the timeframe provided in Section 7-7-6.B.3, the City has not been notified that the City Tree was replaced, the bond shall be deemed forfeited and the money shall be placed in the Tree Bank.
 - 6. If there is no suitable location for a replacement City Tree in the vicinity of the removed or damaged City Tree, a fee-in-lieu of replacement must be paid to the City in the amount set forth in the Annual Fee Ordinance. All fee-in-lieu of replacement funds will be placed in the Tree Bank.

7-7-8: STOP WORK ORDER:

When the City determines that development or other actions are being taken in violation of this Chapter, the City may issue a stop work order prohibiting further development or other actions. No stop work order issued pursuant to this Section may be lifted or removed by the City unless the applicant has complied with this Chapter and paid the reinspection fee listed in the Annual Fee Ordinance.

7-7-9: PENALTY:

Any person found guilty of violating any provision of this Chapter is subject to a fine as set forth in the Annual Fee Ordinance. Each City Tree cut down, destroyed, damaged, removed or moved constitutes a separate offense. In addition to a fine, if a City Tree is removed or damaged in manner that requires, in the determination of the Public Works Director or their designee, the removal of the City Tree in violation of this Chapter, the City Tree must either be replaced in accordance with the requirements of this Chapter, or the replacement value of the City Tree, as set forth in the Annual Fee Ordinance.

7-7-10: EMERGENCY EXCEPTION:

If, because of emergency weather or other casualty conditions, City staff is not able to remove a City Tree that is endangering health, safety or property and requires immediate removal, verbal authorization may be given by the City for the tree removal by an applicant without obtaining a written permit. Such verbal authorization shall later be confirmed in writing by the City.

7-7-11: APPEALS FOR VARIANCE:

- A. Any person aggrieved by any decision of the City in the enforcement of any terms or provisions of this Chapter may, within 10 working days after the date of the decision, appeal to the City Council by filing a written notice of appeal with the City Clerk at least three weeks before the regularly scheduled City Council meeting at which the appellant would like the appeal to be heard. The notice of appeal shall set forth concisely the decision and the reasons or grounds for the appeal. The decision of the City Council shall be final and no petition for rehearing or reconsideration shall be available. Confirmation of hearing by the City Council shall be provided by the City Clerk to the appellant and notice of the hearing shall be provided to other interested parties, if known.
- B. No variances in the strict application of the provisions of this Chapter will be approved by the City Council unless it finds:
 - 1. That there are special circumstances or conditions, fully described in the written notice of appeal, such that the strict application of the Code would deprive the appellant of the reasonable use of the appellant's property (properties).
 - 2. That for reasons fully set forth in the written notice of appeal, the granting of the variance is necessary for the reasonable use of the appellant's property (properties) and that the variance, as recommended for approval by the Board, is the minimum variance that will accomplish this purpose.

3. That the result of granting of the variance will be in harmony with the general purpose and intent of standards set forth within this Code and in harmony with this Section and will not be injurious to adjacent property or otherwise detrimental to public welfare.

7-7-12: RESERVED CIVIL REMEDIES:

In addition to any other remedies provided by in this Chapter, the City has the following remedies available for violations of this Chapter or any permit condition promulgated under this Chapter.

- A. The City may institute a civil action through administrative adjudication or in a court of competent jurisdiction to establish liability and to recover damages for any injury caused by the removal or damage of City Trees in contravention of the terms of this Chapter.
- B. The City may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Chapter, enjoin any violation, and seek injunctive relief to prevent irreparable injury to the City Trees or properties encompassed by the terms of this Section.
- C. Any other available remedies in law or equity.

EXHIBIT B

CODE ENFORCEMENT FEE SCHEDULE		
Code Section	DESCRIPTION	FEE
1-4-1	GENERAL PENALTY	Any person convicted of a violation of any section or provision of this Code, where no other penalty is expressly set forth, shall be fined a sum of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00). (Ord. O2017-75, 12-4-2017)
6-3-3-B-9 (c)	Motor Vehicle Violation in Public Right Of Way	
6-6-4	Trees and Plants, Violation and Penalty	
7-2-2 M	Encroachments in Public Rights-of-Way, Violations	
7-2-4 B Sec 1 & 2	Depositing snow/materials on the street. Duty to reimburse the City	<p>B. Duty To Reimburse: It shall be unlawful for any party, individual, or corporation responsible for depositing materials on a permeable pavement street in violation of subsection A of this section to fail to reimburse the City, within sixty (60) days after the mailing of an invoice for the proper and professional cleanup of said illegal deposits. The City shall be reimbursed for all cleanup costs incurred by the City, including any costs associated with having a private contractor assist in the cleanup at the request of the City. An additional charge of twenty five percent (25%) shall be added to any private contractor invoices to cover City administrative and executive services. If City equipment is used to properly remove illegal deposits and clean the permeable pavement roadway, the reimbursement fee for said work will be calculated as follows:</p> <ol style="list-style-type: none"> 1. One hundred fifty dollars (\$150.00) per hour per piece of City equipment (i.e., Bobcat, street sweeper, etc.) used to respond to the incident (a 1 hour minimum shall apply); plus 2. Seventy-five dollars (\$75.00) per hour per City public works employee that responds to the incident. A one hour minimum per employee shall apply. (Ord. 2499, 4-6-2009)
7-3-1-3	Bond Required for Cerny Park Use	<p>Before a permit may be issued to a resident group of twenty-five (25) or more persons, a cash bond in the amount of fifty dollars (\$50.00) shall be deposited with the city clerk. Before a permit shall be issued to a nonresident group of twenty-five (25) or more persons, a cash bond of five hundred dollars (\$500.00) shall be deposited with the city clerk.</p> <p>Said bond shall be forfeited to the city if any rule or regulation governing the use of the park is violated by the group or any member thereof. The bond shall be returned only upon the delivery to the city clerk of a special release from the</p>

		community development department stating that the group complied with all applicable rules and regulations in its use of the parks. (Ord. 1969, 3-18-2002)
7-4D-11(B)	Discharge into Storm Sewers	<u>General Penalty – 1-4-1: Any person convicted of a violation of any section or provision of this Code, where no other penalty is expressly set forth, shall be fined a sum of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00). (Ord. O2017-75, 12-4-2017)</u>
7-4D-12 (E)	Discharge into Storm Sewers	
8-20-3	Penalties	
<u>6-6-4</u>	<u>Trees and Plants</u>	<u>General Penalty – 1-4-1: Any person convicted of a violation of any section or provision of this Code, where no other penalty is expressly set forth, shall be fined a sum of not less than \$100.00 nor more than \$750.00.</u>
<u>7-7-9</u>	<u>Tree Protection - Fine</u>	<u>General Penalty – 1-4-1: Any person convicted of a violation of any section or provision of this Code, where no other penalty is expressly set forth, shall be fined a sum of not less than \$100.00 nor more than \$750.00.</u>
<u>7-7-9</u>	<u>Tree Protection- Tree Replacement Value</u>	<u>\$100 per DBH (as defined in Section 7-7-2)</u>