

# AN ORDINANCE ESTABLISHING A TREE PRESERVATION AND REMOVAL PERMIT REQUIREMENT; CREATING REPLACEMENT REQUIREMENTS; AND PROVIDING FOR ENFORCEMENT AND REPORTING

## Section 1. Findings and Purpose

1. **Findings.** City Council finds that:
  - a. Trees provide public benefits including heat reduction, stormwater interception, air quality improvement, neighborhood aesthetics, and public health benefits.
  - b. Commerce City's tree canopy is limited and is particularly vulnerable due to semi-arid climate conditions and urban stressors.
  - c. Unpermitted tree removals reduce canopy and hinder the City's ability to plan, measure, and manage urban forest resources.
2. **Purpose.** The purpose of this Ordinance is to:
  - a. Stabilize and improve the City's urban tree canopy over time by requiring permits for removal of regulated trees;
  - b. Create a consistent replacement standard (1:1) and mitigation options;
  - c. Improve data collection and reporting to support long-term urban forest management planning.

## Section 2. Definitions

For purposes of this Ordinance:

1. **"DBH"** means diameter at breast height (4.5 feet above ground).
2. **"Regulated Tree"** means any tree meeting one or more of the following criteria:
  - a. A tree with **DBH  $\geq$  6 inches**; or
  - b. A tree designated by the City as a **Heritage Tree** or otherwise protected by City policy; or
  - c. A tree planted or retained to satisfy a development approval, landscape requirement, mitigation requirement, or permit condition.
3. **"Public Right-of-Way"** includes streets, sidewalks, parkways, and public easements maintained or controlled by the City.
4. **"Removal"** means cutting down, destroying, or causing the death of a tree, or activities that are reasonably likely to result in the death of a tree, including severe root cutting or topping.

5. **“Emergency”** means an immediate threat to life, safety, or property requiring prompt action.

### **Section 3. Applicability**

This Ordinance applies to Regulated Trees located on:

1. City-owned property (including parks and facilities);
2. Public rights-of-way and public easements;
3. Commercial, industrial, and institutional properties;
4. Multi-family residential properties (including common areas);
5. HOA common areas; and
6. **Single-family residential properties only as provided in Section 4(2) (“Residential Option A”).**

### **Section 4. Tree Removal Permit Required**

1. **Permit requirement (general).** No person shall remove a Regulated Tree without first obtaining a Tree Removal Permit from the City, except as expressly exempted in Section 7.
2. **Residential Option A (single-family limited scope).** For single-family residential properties, a Tree Removal Permit is required only when the tree is:
  - a. Located within the Public Right-of-Way or a public easement; or
  - b. A designated Heritage Tree or protected tree; or
  - c. A tree planted/retained as part of a development approval, landscape requirement, or mitigation/permit condition.
3. **Permit authority.** The City Manager or designee shall administer and enforce this Ordinance, including issuing permits and establishing application procedures.

### **Section 5. Permit Application Requirements**

An application for a Tree Removal Permit shall include:

1. Property address and parcel identification;

2. Location of the tree(s) (site sketch or map, and photos);
3. Approximate DBH and species (if known);
4. Reason for removal (safety risk, disease/decline, infrastructure conflict, development activity, or other);
5. A replacement plan demonstrating compliance with Section 6;
6. Written authorization of the property owner if the applicant is not the owner.

## **Section 6. Replacement and Mitigation Requirements (1:1 Standard)**

1. **Replacement requirement.** For each permitted removal of a Regulated Tree, the permittee shall replace the removed tree at a minimum **one-to-one (1:1)** ratio, unless the City approves mitigation in lieu of replacement under subsection (3).
2. **Replacement standards.** Replacement trees shall:
  - a. Meet City species and planting standards (emphasizing drought-tolerant and diverse species);
  - b. Be of a minimum caliper/size as established by administrative guidance;
  - c. Include a tree establishment and watering plan for a minimum of **two (2) growing seasons** (or longer if required by City standards).
3. **Mitigation in lieu of on-site replacement.** Where on-site replacement is infeasible due to space constraints, utility conflicts, or other documented reasons, the City may approve:
  - a. Off-site replacement at a City-approved location; and/or
  - b. Payment into an **Urban Forest Mitigation Fund** in an amount set by City fee schedule to support planting and establishment elsewhere in Commerce City.
4. **Credit for preservation.** The City may provide administrative credit toward replacement obligations when mature trees are preserved as part of development or site improvements, consistent with City standards.

## **Section 7. Exemptions and Special Cases**

1. **Emergency removal.** A Regulated Tree may be removed in an Emergency without a prior permit only when necessary to address an immediate hazard; however, the responsible party must submit an emergency removal notice to the City within **five (5) business days** including photos and a description of the hazard. Replacement

requirements may still apply unless waived by the City.

2. **Routine maintenance.** Pruning that does not constitute Removal is permitted and does not require a permit.
3. **City/utility work.** City projects and regulated utilities shall comply to the maximum extent feasible; removals shall be logged and reported and shall meet replacement requirements unless impracticable for safety or critical infrastructure reasons.

## **Section 8. Enforcement; Violations; Penalties**

1. **Violation.** Removing a Regulated Tree without a required permit is a violation.
2. **Enforcement actions.** The City may issue administrative citations, stop-work orders (where applicable), and require replacement/mitigation.
3. **Penalties.** Penalties shall be set by the City's fee schedule or municipal code and may include:
  - a. Administrative fines per tree removed; and/or
  - b. Mandatory replacement/mitigation; and/or
  - c. Restoration requirements.
4. **Appeals.** An applicant may appeal a permit decision within **ten (10) business days** to a hearing officer or other City designee.

## **Section 9. Urban Forest Accounting and Reporting**

1. The City shall maintain records of:
  - a. Tree Removal Permits issued;
  - b. Emergency removals reported;
  - c. Replacement trees planted and verified;
  - d. Mitigation fund collections and expenditures.
2. The City shall publish an **Annual Urban Forest Report** summarizing removals, replacements, plantings, and program performance.

## **Section 10. Administration; Standards; Fees**

The City Manager or designee may adopt administrative rules, application forms, planting standards, and fee schedules consistent with this Ordinance.

## **Section 11. Staffing and Governance (Policy Direction)**

To ensure effective program implementation, the City shall plan for an **Urban Forestry Program Manager (1.0 FTE)** as staffing and budget allow, responsible for permit administration, data reporting, standards, and interdepartmental coordination.

## **Section 12. Effective Date**

This Ordinance shall be effective upon adoption and as provided by law.