

ORDINANCE NO. 831

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING VARIOUS PROVISIONS OF THE TOWN CODE AND OF THE UNIFIED DEVELOPMENT CODE RELATING TO TREES.

WHEREAS, one of the distinguishing features of the Town of Payson is its native trees ; and

WHEREAS, the Town Code and the Unified Development Code have numerous provisions protecting trees, regulating their removal, and requiring removal of certain dangerous trees; and

WHEREAS, the Town desires to consolidate, remove contradictory provisions, and ensure that the Town Code and the Unified Development Code, as they each relate to trees, are consistent with State Law,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

- Section 1. That Chapter 92 (TREES) of the Code of the Town of Payson is hereby repealed.
- Section 2. That the amendments to Chapter 153 (TREE PRESERVATION, as amended, TREES) set forth in Exhibit B to Resolution 2714 were declared to be a public record, and that the amendments are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance.
- Section 3. That Section 15-03-004 of the Unified Development Code of the Town of Payson is hereby repealed.
- Section 4. That Section 15-03-005 of the Unified Development Code of the Town of Payson is hereby repealed.
- Section 5. That Section 153.99 of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

§ 153.99 PENALTY.

- (A) Any person who violates ~~shall violate~~ any provision of this chapter shall be subject, ~~upon conviction in a court of competent jurisdiction,~~ to a fine up to not exceeding the sum of \$2,500. ~~In a prosecution under this chapter, e~~ Each instance of a tree which is removed, damaged or destroyed will constitute a separate offense.
- (B) Any person removing a native tree ~~in violation of the provisions of §153.33~~

~~shall be guilty of a violation of the town code for each such tree removed, and may, in addition to any other the penalties imposed under division (A) of this section, be required to replenish the affected parcel with a new native tree for each native tree removed, as the court deems necessary to protect the public health and welfare.~~

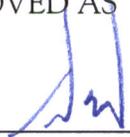
Section 6. If any section, subsection, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES \_\_\_\_ NOES \_\_\_\_ ABSTENTIONS \_\_\_\_ ABSENT \_\_\_\_

\_\_\_\_\_  
Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:  
  
\_\_\_\_\_

\_\_\_\_\_  
Silvia Smith, Town Clerk

\_\_\_\_\_  
Timothy M. Wright, Town Attorney

**RESOLUTION 2714 IS  
PROVIDED FOR INFORMATION  
ONLY AT THE MAY 16, 2013  
COUNCIL MEETING.**

**RESOLUTION 2714 WILL  
BE AGENDIZED AS AN ACTION ITEM  
AT THE JUNE 6, 2013 COUNCIL  
MEETING.**

RESOLUTION NO. 2707

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING VARIOUS PROVISIONS OF THE TOWN CODE AND THE UNIFIED DEVELOPMENT CODE RELATING TO TREES AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.**

**WHEREAS**, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 and was adopted as a public record by Ordinance Number 588; and

**WHEREAS**, it is the intention of the Town of Payson to amend various provisions of the Town Code and the Unified Development Code relating to trees in conformance with State law and to remove duplicitive provisions ; and

**WHEREAS**, such amendments may be enacted by reference, pursuant to A.R.S. § 9-802,

**NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:**

- Section 1. Chapter 92 (TREES) of the Code of the Town of Payson is hereby repealed. A strikeout version of Chapter 92 is attached as Exhibit A.
- Section 2. Chapter 153 (TREE PRESERVATION, as amended TREES) of the Code of the Town of Payson is hereby amended and as amended shall read as set forth in Exhibit B.
- Section 3. Section 15-03-004 of the Unified Development Code of the Town of Payson is hereby repealed. A strikeout version of Section 15-03-004 is attached as Exhibit C.
- Section 4. Section 15-03-005 of the Unified Development Code of the Town of Payson is hereby repealed. A strikeout version of Section 15-03-005 is attached as Exhibit D.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

\_\_\_\_\_  
Kenny J. Evans, Mayor

ATTEST:

---

Silvia Smith, Town Clerk

APPROVED AS TO FORM:



---

Timothy M. Wright, Town Attorney

## Exhibit A to Resolution 2714<sup>1</sup>

### CHAPTER 92: TREES

92.01 Protection of trees; prevention of danger or disease

92.02 Removal of dangerous trees

92.03 Diseased or infested trees

92.04 Emergencies

92.05 Appeals

92.99 Penalty

#### ~~§ 92.01 PROTECTION OF TREES; PREVENTION OF DANGER OR DISEASE:~~

- ~~— (A) —~~ Every property owner or occupant shall be responsible for the normal care, including watering, of trees, shrubs and plants located on his property.
- ~~— (B) —~~ Every property owner shall take steps as are reasonable and necessary to prevent his trees from endangering the property and/or lives of adjoining property owners or the public at all places open to the public.
- ~~— (C) —~~ No person shall willfully injure or disfigure any tree growing on land owned, leased or controlled by the town without the express written consent of the Town Manager. A violation of this provision is punishable as provided in § 92.99.

*[addressed by Town Code Section 153.30, after amendments 153.02]*

#### ~~§ 92.02 REMOVAL OF DANGEROUS TREES:~~

- ~~— (A) —~~ It shall be the responsibility of every property owner or occupant to maintain the trees on his or her property in a safe and healthy manner, and to keep trees properly trimmed and pruned so as to avoid hazards to persons, property and other vegetation.
- ~~— (B) —~~ The Forester shall, from time to time, seek entry to private property in order to inspect the trees and shrubs located upon the property. The Forester shall first seek the permission of the property owner to conduct such an inspection. Should the property owner object to the inspection, the Forester may seek, from a court or magistrate of competent jurisdiction, a warrant to inspect the premises in accordance with this section. Should a condition of extreme danger be known to exist, the warrant requirements of this section may be dispensed with, but only if there is reasonable cause to believe that the delay involved in compliance with the warrant requirement would pose a serious imminent danger to person or property.
- ~~— (C) —~~ Upon finding that any tree or part thereof constitutes a nuisance, and an immediate danger exists to persons, property or other vegetation, the Forester shall direct the property owner to remove the tree:
  - ~~— (1) —~~ The method of service shall be in one or more of the following ways:
    - ~~— (a) —~~ By personal delivery of the order to the person responsible.
    - ~~— (b) —~~ By leaving the order with a person of suitable age and discretion on

---

<sup>1</sup> Insertions are in double underline; deletions are in ~~strike out~~; and comments are in *italics*.

the affected premises:

- ~~(c) By mailing the order by registered mail to the last known address of the owner of the premises.~~
- ~~(d) By publishing the order one time in a local newspaper.~~
- ~~(2) The order shall set forth the time limit for compliance, which shall depend upon the degree of danger created by the tree, but shall in no case be longer than four days. In cases of extreme danger, the Town Forester shall have the authority to require immediate compliance.~~
- ~~(3) If, at the end of the time period set forth in the order, the tree has not been removed, it shall be declared a nuisance, and the forester shall have the tree removed. The costs of this service, including labor, equipment and materials, shall be assessed to the property owner.~~
- ~~(4) A tree shall be deemed a nuisance if it or any part of it:
  - ~~(a) Appears dead, dangerous or likely to fall;~~
  - ~~(b) Is not pruned to a height of 14 feet above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks;~~
  - ~~(c) Is not pruned to a height of ten feet above the sidewalk;~~
  - ~~(d) Obstructs a curb, gutter, street or sidewalk;~~
  - ~~(e) Interferes with sewers;~~
  - ~~(f) Is in dangerous proximity to interfere with public utilities; or~~
  - ~~(g) Interferes with a planned public improvement.~~~~
- ~~(D) If the costs of remedying the condition are not paid within 30 days after receipt of a statement from the Town Forester, the amount shall become a lien upon the property to be included in the tax bill rendered to the property owners, and shall be collected in the same manner as other taxes against the property.~~

*[addressed by Town Code Section 153.32 (after amendments 153.03) and UDC Section 15-03-005; note subsection D does not reflect current state law re assessments]*

#### ~~§ 92.03 DISEASED OR INFESTED TREES:~~

- ~~(A) It shall be the responsibility of any person having any tree, shrub, plant, grass or other vegetation on his property to treat or remove any tree so diseased or insect-infested as to constitute a hazard to persons, property or other vegetation.~~
- ~~(B) Upon determining that any tree upon private property is diseased or infested with insects, the forester shall notify the property owner in writing, describing the condition, stating the actions necessary for correction and setting forth a reasonable time in which the action must be taken.~~
- ~~(C) In the event the property owner fails to take the required corrective action, the forester is authorized, in the public interest, to enter the property to spray, trim, prune, treat or remove any or all of the diseased tree. The cost of this service, including labor, equipment and materials, shall be assessed to the property owner.~~
- ~~(D) If, after utilizing all techniques, methods and procedures which could reasonably be expected to save the tree, the tree is deemed by the forester to be dead, dying, in a dangerous condition, unsafe or likely to cause damage, the tree shall be declared a nuisance and abated as set forth in §92.02.~~

*[addressed by Town Code Section 153.32 (after amendments 153.03) and UDC Section 15-03-005]*

~~§ 92.04 EMERGENCIES:~~

~~In case of emergencies involving, but not limited to, hurricanes, windstorms, floods, freezes or other natural disasters, the requirements of this chapter may be waived by the Town Manager.~~

~~*[addressed by Town Code Section 153.04 (after amendments 153.01)]*~~

~~§ 92.05 APPEALS:~~

~~Any person adversely affected by a decision in the enforcement or interpretation of any terms or provisions of this chapter may appeal the decision to the Council.~~

~~*[addressed by Town Code Section 153.48 (after amendments 153.05)]*~~

~~§ 92.99 PENALTY:~~

~~Any person who shall violate any provision of this chapter shall be subject, upon conviction in a court of competent jurisdiction, to a fine as set forth in §10.99. In a prosecution under this chapter, each tree to be removed, or damaged or destroyed will constitute a separate offense.~~

~~*[unnecessary if Chapter repealed]*~~

## Exhibit B to Resolution 2714 (~~Strikeout~~/Underline)

### CHAPTER 153: TREES PRESERVATION

#### ~~General Provisions~~

~~153.01 Reserved~~

~~153.02 Reserved~~

~~153.03 Reserved~~

153.01-~~04~~ Emergencies

#### ~~Tree Protection~~

153.~~02~~30 ~~Free p~~Protection policy

~~153.31 Permit for removal of trees~~

153.03~~32~~ Removal of diseased, infested or dangerous trees

153.04~~33~~ Prohibited removal or cutting of native trees

#### ~~Administration and Enforcement~~

~~153.45 Responsibilities of Zoning Administrator~~

~~153.46 Responsibilities of Forester~~

~~153.47 Responsibilities of Building Inspector~~

153.05~~48~~ Appeals

153.99 Penalty

### GENERAL PROVISIONS

~~§153.01 RESERVED:~~

~~§153.02 RESERVED:~~

~~§153.03 RESERVED:~~

§153.01 ~~04~~ EMERGENCIES.

In case of emergencies involving natural disasters, including but not limited to, hurricanes, windstorms, floods, freezes or other natural disasters, the requirements of this chapter may be waived by the Town Manager, and the authority granted hereunder may be exercised by the Town Manager without prior notice.

### FREE PROTECTION

§ 153.02~~30~~ FREE-PROTECTION POLICY.

- (A) Every property owner shall take ~~such steps as are~~ reasonable and necessary steps to prevent his/her trees from endangering life, property, or other vegetation on his/her own property, property that of adjoining property owners, and/or all places open to the public.  
*[addressing trees that are not only dangerous to other vegetation, but also to life and property.]*

(B) No person shall willfully injure or disfigure any tree growing on land owned, leased or controlled by the town.

~~(B)~~ No person, entity or corporation shall remove, or cause to be removed, trees that are larger than eight inches in diameter, except as provided for herein.  
*[addressed in 153.32, now 153.04]*

§ 153.31 PERMIT FOR REMOVAL OF TREES:

~~(A)~~ Permit required.

~~(1)~~ No person, entity or corporation shall remove, or cause to be removed, any healthy trees eight inches in diameter or greater which are growing on private property in any zoning district, except as provided herein under §153.32.

~~(2)~~ Every tree which is eight inches in diameter or more, removed on underdeveloped land, shall be replaced with a four inches diameter trunk tree minimum species of the town forester's choice at the affected site or at the option of the Forester purchased for the town's "Tree Bank" program.

~~(B)~~ Application for permit:

~~(1)~~ Applications for permission to cut or remove a tree or trees, pursuant to division (A) above, shall be submitted to the Zoning Administrator on forms provided by him. There shall be no fee for the application or for a permit. The Zoning Administrator or his designated representative shall review the application and shall render a decision thereon in conformity with good forestry practice and the following standards:

~~(a)~~ The health or condition of the tree or trees:

~~(b)~~ Whether or not the removal of the tree or trees is justified by reason of its poor health or a dangerous condition of the tree or trees and/or construction or other proposed improvements on private property:

~~(c)~~ Whether planned improvements on the private property could be modified so as to permit the non-removal of the tree or trees without incurring any unreasonable expense to the person developing the property:

~~(2)~~ Each application shall include a plot plan showing the location of the tree or trees on the subject property and shall further include a statement of the reason for the request for removal:

~~(C)~~ Issuance of permit. If the Zoning Administrator finds, pursuant to the standards expressed in this chapter, that a permit for the removal of a tree or trees should be granted, he shall grant the same within a reasonable time, not to exceed five working days from the receipt of the application. He may grant a permit in whole or in part, or attach conditions thereto as will effectuate the purposes of this chapter. Any permit granted hereunder is nontransferable and shall expire six months from the date of issuance. In the event a permit for tree removal is granted, in order to enable the

applicant to carry out some project of development or improvement of his property, the permit shall be effective only in connection with the actual accomplishment of the project.

*[addressed in 153.32, now 153.03]*

§ 153.032 REMOVAL OF DISEASED, INFESTED OR DANGEROUS TREES.

- (A) The Zoning Administrator or his/her designee Forester shall have the authority to ~~administer~~ regulate the provisions of this section. The Zoning Administrator or his/her designee Forester may, upon consent of the owner, enter upon private lands, ~~as may be required~~, for inspection of trees ~~and shall seek the consent of the owner when reasonable to do so~~. In the absence of such consent ~~same~~, the Zoning Administrator or his/her designee Forester shall seek authority from the courts, except in such event that a condition of extreme danger ~~is~~ be known to exist, and there is reasonable cause to believe that delay would impose a serious imminent danger or hazard to person, property or other vegetation.
- (B) Upon finding that any tree or part thereof constitutes a nuisance or is found to be diseased or infested with insects, and an immediate danger exists, the Zoning Administrator or his/her designee Forester shall notify the property owner or occupant in writing, describing the condition, stating the actions necessary for correction and setting forth the time period in which the corrective action ~~which~~ must be taken, based on the urgency thereof in the sole discretion of the Zoning Administrator or his/her designee Forester.  
*[references to the 'Forester,' which the Town does not have, have been replaced with 'Zoning Administrator.']*
- (C) The method of service shall be in one or more of the following ways:
- (1) By personal delivery of the order to the person responsible; or
  - (2) By mailing the order by registered mail to the last known address of the owner of the premises.
- (D) In the event that the responsible party or parties fail to comply within the time limits as above set forth, the Zoning Administrator or his/her designee Forester, at the owner's expense, shall cause the removal of the tree(s) or parts thereof, and treatment thereof as may be necessary, including to prune or remove any or all of a diseased tree. All expenses incurred, including labor, equipment, materials and reasonable attorney fees shall become a recordable lien against the subject property.
- (E) A tree shall be deemed a nuisance if it or any part of it:
- (1) Appears dead, dangerous or likely to fall;
  - (2) Is not pruned to a height of 14 feet above a public easement or street to accommodate high profile vehicles;
  - (3) Is not pruned to a height of ten feet above the sidewalk;
  - (4) Obstructs a curb, gutter, street or sidewalk;
  - (5) Interferes with sewers or underground utilities;
  - (6) Is in dangerous proximity to interfere with public utilities;

- (7) Interferes with a public improvement project in process;
- (8) Any diseased or infested tree which, after treatment, in the Zoning Administrator or his/her designee's Forester's sole opinion is deemed to be dead, dying or in a dangerous condition, unsafe or likely to cause damage.

(F) Any lien created pursuant to this Section shall be enforceable pursuant to Section 91.44 (Assessments) and applicable state law.

*[directs how any liens created under this section are enforced]*

#### §153.0433 PROHIBITED REMOVAL OR CUTTING OF NATIVE TREES.

(A) No person, ~~entity or corporation~~ shall remove or cause to be removed or intentionally destroy or injure any native tree in excess of six inches in diameter, measured 4.5 feet above ground level, from an undeveloped or developed parcel of land without first obtaining a permit from the Community Development Building Department, which shall bear the approval of the Zoning Administrator or his representative, except when necessary for construction of streets, driveways, utility lines and structures approved in a ~~previously obtained~~ building permit.

(B) Prior to any permit being issued for the removal of a native tree, the applicant shall provide a detailed explanation of why the tree needs to be ~~cut or~~ removed. The Zoning Administrator may also require submission of accurate photos; ~~and~~ a diagram plotting the tree or trees to be removed and those to remain; and plus details of the applicant's methods to control soil erosion, maintain drainage and abate dust problems.

(C)~~(B)~~ The applicant shall have the burden of providing sufficient information and details to enable the Zoning Administrator to review the tree removal permit application. If the Zoning Administrator is satisfied that the applicant's proposal furthers the public welfare, or is not detrimental to the subject parcel or adjoining parcels, then the permit shall be issued within two working days for single-family residential parcels and five working days for commercial parcels.

~~(C)~~ Any decision of the Zoning Administrator may be appealed to the Planning and Zoning Commission and to the Council for final review and action. ~~On applications concerning commercial properties or multi-family, the Zoning Administrator may hold public hearings to provide public input prior to rendering his decision. In no event shall more than 45 days elapse between the date the completed application is submitted and the date the final decision of the Zoning Administrator is rendered.~~

*[this is addressed in the appeals section below.]*

#### ADMINISTRATION AND ENFORCEMENT

#### § 153.45 RESPONSIBILITIES OF ZONING ADMINISTRATOR:

The Zoning Administrator or his designated representative shall supervise all tree cutting or trimming for which a permit has been granted:

#### § 153.46 RESPONSIBILITIES OF FORESTER:

The responsibilities of the Forester are to provide expertise and enforce regulations for the protection of and removal of diseased, infested and/or dangerous trees, as herein provided:

§ 153.47 RESPONSIBILITIES OF BUILDING INSPECTOR:

It shall be the responsibility of a Building Inspector to inform every applicant for a building or grading permit of the applicable restrictions of this chapter. No building or grading permit shall be issued by the town for any property subject to the provisions of this chapter unless a permit for tree removal, if required hereunder, is obtained concurrently. If a building permit is issued in the absence of a tree removal permit, and a tree removal permit is necessary under this chapter, the building permit shall be deemed void until such time as a permit for tree removal is obtained by the owner of the property:

*[the responsibilities of various persons are described in each specific section]*

§ 153.0548 APPEALS.

Any person adversely affected by a decision under the in the enforcement or interpretation of any terms or provisions of this chapter may appeal the decision to the Board of Adjustment Planning and Zoning Commission with final appeal and authority vested in the town.

*[the Board of Adjustments handles other appeals. The Planning and Zoning Commission's primary responsibility is making recommendations to the Council.]*

§ 153.99 PENALTY.

- (A) Any person who violates ~~shall violate~~ any provisions of this chapter shall be subject, ~~upon conviction in a court of competent jurisdiction,~~ to a fine up to not exceeding the sum of \$2,500. In a prosecution under this chapter, ~~e~~ Each instance of a tree which is removed, damaged or destroyed will constitute a separate offense.
  
- (B) Any person removing a native tree in violation of the provisions of §153.33 shall be guilty of a violation of the town code for each such tree removed, and may, in addition to any other ~~the~~ penalties imposed under division (A) of this section, be required to replenish the affected parcel with a new native tree for each native tree removed, ~~as the court deems necessary to protect the public health and welfare.~~

## Exhibit B to Resolution 2714 (Clean Copy)

### CHAPTER 153: TREES

153.01 Emergencies

153.02 Protection policy

153.03 Removal of diseased, infested or dangerous trees

153.04 Prohibited removal or cutting of native trees

153.05 Appeals

153.99 Penalty

#### §153.01 EMERGENCIES.

In case of emergencies involving natural disasters, including but not limited to, hurricanes, windstorms, floods, freezes or other natural disasters, the requirements of this chapter may be waived by the Town Manager, and the authority granted hereunder may be exercised by the Town Manager without prior notice.

#### § 153.02 PROTECTION POLICY.

- (A) Every property owner shall take reasonable and necessary steps to prevent his/her trees from endangering life, property, or other vegetation on his/her own property, property of adjoining property owners, and/or all places open to the public.
- (B) No person shall willfully injure or disfigure any tree growing on land owned, leased or controlled by the town.

#### § 153.03 REMOVAL OF DISEASED, INFESTED OR DANGEROUS TREES.

- (A) The Zoning Administrator or his/her designee shall have the authority to administer the provisions of this section. The Zoning Administrator or his/her designee may, upon consent of the owner, enter upon private lands for inspection of trees. In the absence of such consent, the Zoning Administrator or his/her designee shall seek authority from the courts, except in such event that a condition of extreme danger is known to exist, and there is reasonable cause to believe that delay would impose a serious imminent danger or hazard to person, property or other vegetation.
- (B) Upon finding that any tree or part thereof constitutes a nuisance or is found to be diseased or infested with insects, and an immediate danger exists, the Zoning Administrator or his/her designee shall notify the property owner or occupant in writing, describing the condition, stating the actions necessary for correction and setting forth the time period in which the corrective action must be taken, based on the urgency thereof in the sole discretion of the Zoning Administrator or his/her designee.

- (C) The method of service shall be in one or more of the following ways:
- (1) By personal delivery of the order to the person responsible; or
  - (2) By mailing the order by registered mail to the last known address of the owner of the premises.
- (D) In the event that the responsible party or parties fail to comply within the time limits as above set forth, the Zoning Administrator or his/her designee, at the owner's expense, shall cause the removal of the tree(s) or parts thereof, and treatment thereof as may be necessary, including to prune or remove any or all of a diseased tree. All expenses incurred, including labor, equipment, materials and reasonable attorney fees shall become a recordable lien against the subject property.
- (E) A tree shall be deemed a nuisance if it or any part of it:
- (1) Appears dead, dangerous or likely to fall;
  - (2) Is not pruned to a height of 14 feet above a public easement or street to accommodate high profile vehicles;
  - (3) Is not pruned to a height of ten feet above the sidewalk;
  - (4) Obstructs a curb, gutter, street or sidewalk;
  - (5) Interferes with sewers or underground utilities;
  - (6) Is in dangerous proximity to interfere with public utilities;
  - (7) Interferes with a public improvement project in process;
  - (8) Any diseased or infested tree which, after treatment, in the Zoning Administrator or his/her designee's sole opinion is deemed to be dead, dying or in a dangerous condition, unsafe or likely to cause damage.
- (F) Any lien created pursuant to this Section shall be enforceable pursuant to Section 91.44 (Assessments) and applicable state law.

#### §153.04 PROHIBITED REMOVAL OR CUTTING OF NATIVE TREES.

- (A) No person shall remove or cause to be removed or intentionally destroy or injure any native tree in excess of six inches in diameter, measured 4.5 feet above ground level, from an undeveloped or developed parcel of land without first obtaining a permit from the Community Development Department, except when necessary for construction of streets, driveways, utility lines and structures approved in a building permit.
- (B) Prior to any permit being issued for the removal of a native tree, the applicant shall provide a detailed explanation of why the tree needs to be removed. The Zoning Administrator may also require submission of photos; a diagram plotting the tree or trees to be removed and those to remain; and details of the applicant's methods to control soil erosion, maintain drainage and abate dust problems.
- (C) The applicant shall have the burden of providing sufficient information and details to enable the Zoning Administrator to review the tree removal permit application. If the Zoning Administrator is satisfied that the applicant's proposal furthers the public welfare, or is not detrimental to the subject parcel or adjoining parcels, then

the permit shall be issued within two working days for single-family residential parcels and five working days for commercial parcels.

§ 153.05 APPEALS.

Any person adversely affected by a decision under the provisions of this chapter may appeal the decision to the Board of Adjustment.

§ 153.99 PENALTY.

- (A) Any person who violates any provisions of this chapter shall be subject to a fine up to \$2,500. Each instance of a tree which is removed, damaged or destroyed will constitute a separate offense.
  
- (B) Any person removing a native tree may, in addition to any other penalties, be required to replenish the affected parcel with a new native tree for each native tree removed.

## Exhibit C to Resolution 2714<sup>2</sup>

### ~~15-03-004 Removal or Cutting of Native Trees~~

- A. ~~The provisions of this section shall apply to all land uses in all zoning districts, except for the building footprint and an area of five feet from this footprint. The trees within the building and the five foot area can be removed after an approved building permit has been issued. A separate tree permit for removal is not required.~~
- B. ~~No person, entity or corporation in any zoning district shall remove, cause to be removed, destroy or injure any native tree with a diameter of six inches or greater, measured 4½ feet above ground level, from an undeveloped or developed parcel of land without first obtaining a tree permit from the Building Department and approved by the Zoning Administrator, or designee, except where necessary for construction of streets, driveways, utility poles, and structures approved in a Town of Payson building permit, for the removal of trees, shall be issued.~~
- ~~1. Prior to any permit being issued for the removal of a native tree or trees, the applicant shall provide a detailed written explanation of why the tree or trees need to be cut or removed.~~
  - ~~2. The Zoning Administrator may also require submission of accurate photos and a diagram, plotting the tree or trees to be removed and those to remain, plus details of the proposed methods of controlling soil erosion, maintaining drainage, and abating dust problems.~~
  - ~~3. The applicant shall provide sufficient information and details to enable the Zoning Administrator to review the tree removal permit application.~~
  - ~~4. If the Zoning Administrator is satisfied that the applicant's proposal furthers the public welfare, or is not detrimental to the subject parcel or adjoining parcels, and is in accordance with the provisions of this Code, the permit shall be issued.~~
- C. ~~Any decision of the Zoning Administrator may be appealed to the Planning & Zoning Commission and to the Council for final review and action. On applications concerning commercial properties or multi-family, the Zoning Administrator may hold public hearings to provide public input prior to rendering his decision. In no event shall more than 45 days elapse between the date the completed application is submitted and the date the final decisions of the Zoning Administrator are rendered.~~

---

<sup>2</sup> Insertions are in double underline; deletions are in ~~strike out~~; and comments are in *italics*.

## Exhibit D to Resolution 2714<sup>3</sup>

### ~~15-03-005 — Removal of Dangerous, Diseased or Infested Trees~~

~~The provisions of this item shall apply to all private properties within the Town of Payson. The intent of this item is to provide for the removal, pruning or spraying of trees that present a danger to persons, property and other vegetation and to preserve healthy, native trees by the removal, pruning or spraying of trees with diseases and infestations of insects and parasites.~~

~~A. — Upon determining that any tree or part thereof constitutes a nuisance, and an immediate danger exists to persons, property or other vegetation, the Zoning Administrator or his/her designee shall after notifying the property owner in writing and describing the condition, direct the property owner to remove, spray or prune the tree.~~

~~B. — A tree shall be deemed a nuisance if it or any part of it:~~

- ~~1. — Appears dead, dangerous or likely to fall;~~
- ~~2. — Is not pruned to a height of fourteen (14) feet above the street to accommodate vehicles such as garbage trucks, buses and street maintenance trucks;~~
- ~~3. — Is not pruned to a height of ten (10) feet above the sidewalk;~~
- ~~4. — Obstructs a curb, gutter, street or sidewalk;~~
- ~~5. — Interferes with sewers;~~
- ~~6. — Is in dangerous proximity to interfere with public utilities; or~~
- ~~7. — Interferes with a planned public improvement.~~
- ~~8. — Trees infected with infectious parasites or insects~~

~~C. — Upon determining that any tree upon private property is diseased or infested with insects or parasites, the Zoning Administrator or his designee shall notify the property owner in writing, describing the condition, stating the actions necessary for correction and setting forth a reasonable time in which the action must be taken. Actions necessary for correction may include but is not limited to the following:~~

- ~~1. — Spraying the diseased or infested (insect or parasite) tree.~~
- ~~2. — Removal and proper disposal of portions or the entire diseased or infested tree. "Proper disposal" shall mean; relocation of all portions of the diseased tree, to the landfill site or to areas outside of Town generally unaffected by the disease or infestation with the approval of the Community Development Department.~~
- ~~3. — The "reasonable time" for removal of insect infested trees, may be during the winter months, when the insects are dormant and much less likely to spread.~~

~~D. — In the event the property owner fails to remove the dangerous tree or take the required corrective action, the Zoning Administrator or his designee is authorized, in the public interest, to enter the property to spray, trim, prune, treat or remove any or all of the dangerous, diseased or infested tree. The cost of this service, including labor, equipment and materials, shall be assessed to the property owner.~~

---

<sup>3</sup> Insertions are in double underline; deletions are in ~~strike out~~; and comments are in *italics*.

~~E. If the costs of remedying the condition are not paid within thirty (30) days after receipt of a statement from the Town Zoning Administrator or his designee the amount shall become a lien upon the property to be included in the tax bill rendered to the property owners, and shall be collected in the same manner as other taxes against such property.~~