

# TOWN OF LYONS BOARD OF TRUSTEES MEETING

SHIRLEY F. JOHNSON COUNCIL CHAMBERS

LYONS TOWN HALL, 432 5<sup>TH</sup> AVENUE, LYONS, COLORADO

## DRAFT AGENDA

### **MONDAY, FEBRUARY 3, 2020**

*5:30 pm – 6:15 pm BOT WORKSHOP*

#### *TREE ORDINANCE UPDATE*

*6:15 pm – 6:50 pm BOT WORKSHOP*

#### *FAIR CAMPAIGN PRACTICE ACT REFRESHER*

#### I. Workshop

##### I.1. TREE ORDINANCE UPDATE

Documents:

[ORDINANCE 1077- TREE ORDINANCE \(DITTMAN DRAFT 1-14-2020\).PDF](#)  
[EXHIBIT A -REDLINE OF CHANGES TO ARTICLE 4.PDF](#)  
[EXHIBIT B -CLEAN COPY OF CHANGES TO ARTICLE 4.PDF](#)

##### I.2. FAIR CAMPAIGN PRACTICE ACT REFRESHER

“The Town of Lyons will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Persons needing accommodations or special assistance should contact the Town at [hr@townoflyons.com](mailto:hr@townoflyons.com) as soon as possible, but no later than 72 hours before the scheduled event.”

**TOWN OF LYONS, COLORADO  
ORDINANCE 1077**

**AN ORDINANCE OF THE TOWN OF LYONS AMENDING CERTAIN SECTIONS OF  
CHAPTER 7, ARTICLE 4 OF THE LYONS MUNICIPAL CODE  
REGULATING TREES AND SHRUBS**

**WHEREAS**, pursuant to Sections 31-15-401 and 31-23-301, C.R.S., the Town of Lyons (“the Town”) has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its residents; and

**WHEREAS**, the Town previously adopted regulations regarding the maintenance of vegetation, including trees, shrubs, grass and weeds, on properties within the Town and codified such regulations in Chapter 7 of the Lyons Municipal Code (“LMC”); and

**WHEREAS**, Article 4 of Chapter 7 of the LMC specifically regulates the planting, maintenance and removal of trees, shrubs, bushes and other woody vegetation within the Town; and

**WHEREAS**, the Lyons Ecology Board as recommended changes to Article 4 in order to update the approved and non-desirable tree and shrub species for the Town, provide for the protection of trees during construction, and other minor updates as reflected is **Exhibit A**, attached hereto and incorporated by reference; and

**WHEREAS**, The Lyons Board of Trustees desire to amend Article 4, Chapter 7, of the LMC, as recommended by the Lyons Ecology Board and as set forth in this Ordinance, and determines that such amendments promote the health, safety and welfare of the citizens of and visitors to the Town of Lyons.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, BOULDER COUNTY, COLORADO:**

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Section 7-4-10 of the Lyons Municipal Code is hereby amended to read:

Sec. 7-4-10. - Definitions.

For the purposes of this Article, the following words, terms and phrases shall have the meaning ascribed to them, except where the context clearly indicates a different meaning is intended:

*Large tree* means a tree that, under normal circumstances and growth conditions, will exceed a height of forty (40) feet at maturity.

*Medium tree* means a tree that, under normal circumstances and growth conditions, will grow to a height at maturity of not less than twenty (20) feet and not more than forty (40) feet.

*Small tree* means a tree that, under normal circumstances and growth conditions, will not exceed a height of twenty (20) feet at maturity.

*Park trees* means all trees, shrubs, bushes or other woody vegetation located in a public park, and all other areas owned or controlled by the Town to which the public has access as a public park or recreation area.

*Public right-of way* means any highway, street, road, boulevard, thoroughfare, alley or other public way.

*Street trees* means all trees, shrubs, bushes or other woody vegetation located on land lying on public property or rights-of-way on either side of any public street, avenue, boulevard, alley and other public ways within the Town.

Section 3. Section 7-4-30 of the Lyons Municipal Code is hereby amended to read:

Sec. 7-4-30. - Ecology Board.

- (a) Creation: There is hereby created and established an Ecology Board for the Town. The Ecology Board shall be an advisory body to the Board of Trustees and shall exercise only such power and authority described in this Article. The Ecology Board shall consist of seven (7) members, and at least four (4) members shall be residents of the Town. The Mayor shall appoint the members of the Ecology Board. Members of the Ecology Board shall serve without compensation.
- (b) Term of Office: Unless otherwise provided by the Mayor or Board of Trustees upon appointment, members of the Ecology Board shall be appointed to serve a three-year term of office. There shall be no limitation on the number of terms any one (1) member may serve on the Ecology Board. The Board of Trustees may remove any appointed member of the Ecology Board at any time for any reason. Upon resignation of any member, the Mayor shall appoint a new member, subject to the approval of the Board of Trustees, to serve any remaining term of a resigning member.
- (c) Duties and Responsibilities: The Ecology Board shall have the following duties and responsibilities:
  - (1) The Ecology Board shall study, investigate, advise and develop and/or update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees, shrubs, bushes or other woody vegetation in parks, along streets and in other public areas. Such written plan shall be presented annually to the Board of Trustees and, upon the Board of Trustees' acceptance and approval, the plan shall constitute the official comprehensive tree plan for the Town.
  - (2) The Ecology Board may inform and advise the Board of Trustees concerning the presence of any diseased, dying or hazardous tree condition within the Town; provided that the Ecology Board shall not enter upon private property for the purpose of exercising any power or authority or for the purpose of inspection.
  - (3) Upon request by the Board of Trustees, the Ecology Board shall consider, investigate, make findings, report and make recommendations upon any special matter or concern.
  - (4) If required or requested, the Ecology Board shall review and comment upon landscaping plans or proposals submitted to the Town as part of any development plan or subdivision plat.
  - (5) The Ecology Board shall advise, assist and consult with the Parks and Recreation Director and the Public Works Director as requested.

- (6) With the assistance and direction of the Parks and Recreation Director or Public Works Director, the Ecology Board may conduct or assist in the conduct of fundraising activities, tree preservation programs or public or private workshops or classes pertaining to any aspect of tree, shrub and bush care.
- (7) The Ecology Board shall not have the authority to expend funds, enter into contracts or hire employees, contractors or agents without the prior written approval of the Board of Trustees.
- (d) Operation: The Ecology Board shall elect its own officers, may adopt its own rules of procedure to govern the conduct of meetings, and shall maintain written minutes of any meeting or proceeding. Written minutes of each meeting shall be transmitted to the Board of Trustees for informational purposes. A majority of the members shall constitute a quorum for any meeting of the Ecology Board.
- (e) Interference with the Town Ecology Board: It shall be unlawful for any person to prevent, delay or interfere with the Ecology Board, its officers or its agents while engaging in planting, cultivation, mulching, pruning, spraying or removal activities.
- (f) Review by Board of Trustees: Any person aggrieved by an administrative act or order of the Ecology Board may appeal to the Board of Trustees by the filing a written notice of appeal with the Town Clerk. A notice for appeal shall specify in detail the reasons for the appeal and shall identify the relief sought by the appealing party. A request for appeal shall be filed no later than ten (10) days from the date of the Ecology Board act or order. Any appeal before the Board of Trustees shall be conducted as an administrative matter, and notice shall be provided only to the Ecology Board and, if requested in the notice of appeal, to the appealing party. Following consideration of an appeal or upon the Board of Trustees' own initiative, the Board of Trustees may remand, reverse, amend or affirm any action or order of the Ecology Board.

Section 4. Section 7-4-40 of the Lyons Municipal Code is hereby amended to read:

Sec. 7-4-40. - Approved tree species.

It shall be unlawful to plant, or cause or permit the planting of, any species of tree on public property other than those included in the following subsections without written authorization from the Ecology Board as provided in this Article.

- (1) Small tree category.
  - a. \* American Plum ( *Prunus americana* ).
  - b. Tartarian Maple ( *Acer tarticum* ).
  - c. Japanese Maple ( *Acer palmatum* ).
  - d. Chokecherry.
  - e. Domestic Fruits: Apple, Cherry, Pear, Peach, Apricot, Plum.
  - f. \* Gambel Oak ( *Quercus gambeli* ).
  - g. Saskatoon Serviceberry ( *Amelanchier alnifolia* ).
  - h. Flowering Crab ( *Malus pumila* var ).
  - i. Flowering Dogwood. ( *Cornus spp.* ).
  - j. Asian White Birch ( *Betula platyphylla* ).

- k. Fastigiata Hornbeam (*Carpinus betulus*).
- l. \* Mountain Maple. (*Acer glabrum*).
- m. Mugo Pine ( *Pinus mugo* ).
- n. Cornelian Cherry Dogwood (*Cornus mas*).
- o. *Russian Hawthorn* (*Crataegus ambigua*).
- p. *English Hawthorn* (*Crataegus laevigata*).
- q. Eastern Redbud (*Cercis canadensis*).
- r. \* English Oak (*Quercus robur*).
- s. Staghorn Sumac.
- t. European Mountain-Ash (*Sorbus aucuparia*).
- u. \* Thinleaf Alder ( *Alnus tenuifolia* ).
- v. Japanese Tree Lilac (*Syringa reticulata*).

\* Designates native Colorado vegetation.

(2) Medium tree category.

- a. Common Alder (*Alnus glutinosa*).
- b. Bigtooth Maple ( *Acer grandidentatum* ).
- c. Texas Buckeye (*Aesculus arguta*).
- d. River Birch (*Betula nigra*).
- e. Bristlecone Pine ( *Pinus aristata* ).
- f. Paper Birch (*Betula papyrifera*).
- g. Chanticleer Pear (*Pyrus calleryana*).
- h. European White Birch (*Betula pendula*).
- i. \* Limber Pine ( *Pinus flexilis* ).
- j. Northern/Western Catalpa (*Catalpa speciosa*).
- k. Osage Orange (male, thornless).
- l. Chinkapin Oak (*Quercus muehlenbergii*).
- m. Peach Leaf Willow (*Salix amgdloides*).
- n. \* Quaking Aspen ( *Populus tremuloides* ).
- o. Rocky Mountain Juniper ( *Juniperus scopulorum* ).
- r Caddo Sugar Maple ( *Acer saccharum caddo* ).

\* Designates native Colorado vegetation

(3) Large tree category.

- a. American Elm ( *Ulmus americana* ).
- b. American Linden ( *Tilia americana* ).
- c. Autumn Blaze Maple (*Acer x freemanli*).
- d. Bur Oak ( *Quercus macrocarpa* ).

- e. Western Catalpa ( *Catalpa speciosa* ).
- f. Sugar Maple (*Acer saccharum*).
- g. \* Colorado Blue Spruce ( *Picea pungens glauca*).
- h. Douglas Fir ( *Pseudotsuga menziesii*).
- i. Eastern White Pine. (*Pinus strobes*).
- j. Yellow Buckeye (*Aesculus octandra flava*).
- k. . \* Engelman Spruce (*Picea engelmannii*).
- l. White Oak (*Quercus alba*)
- m. \* Hackberry ( *Celtis occidentalis* ).
- n. Thornless Honey Locust ( *Gleditsia triacanthos inermis* varieties).
- o. Horse Chestnut. (*Aesculus hippocastanum*).
- p. Kentucky Coffeetree. (*Gymnocladus dioicus*).
- q. European Larch. (*Larix decidua*).
- r. Littleleaf Linden ( *Tilia cordata* ).
- s. London Plane Tree (*Plananus x acerifolia*)
- t. Northern Red Oak ( *Quercus rubra* ).
- u. Norway Maple ( *Acer platanoides* varieties).
- v. Ohio Buckeye. (*Aesculus glabra*).
- w. "Acolade" Elm (*Ulmus japonica x U. wilsoniana*).
- x. Plains Cottonwood ( *Populus sargentii* , cottonless variety).
- y. \* Ponderosa Pine. (*Pinus Ponderosa*).
- z. Red Maple (*Acer rebrum*).
- aa. Gingko (*Gingko biloba*).
- bb. Swamp White Oak ( *Quercus bicolor* ).
- cc. White Oak (*Quercus alba*).
- dd. Weeping Willow. (*Salix alba 'tristis'*)
- cc. Southwestern White Pine. (*Pinus strobiformus*).
- dd. Shumard Oak (*Quercus shumardii*).
- ee. White Fir ( *Abies concolor* ).
- ff. Little Leaf Linden (*Tilia cordata*).

\* Designates native Colorado vegetation

(4) Non-desirable trees for streets.

- a. Boxelder.
- b. Clump form or multi-stem species.
- c. Cottonwood.
- d. Elm (Chinese, Siberian).

- e. Evergreens that create sight obstructions.
- f. Poplar.
- g. Russian Olive.
- h. Silver Maple.
- i. Tree of Heaven.
- j. Willow.
- k. Ash (due to EAB infestation)

Section 5. Section 7-4-50 of the Lyons Municipal Code is hereby amended to read:

Sec. 7-4-50. - Spacing requirements.

- (a) Minimum Spacing Requirements: Any street tree planted or installed within the Town shall conform to the following minimum spacing requirements.

<b><i>Between the Following Tree Types</i></b>	<b><i>Minimum Required Spacing</i></b>
Small tree—small tree	20 feet
Small tree—medium tree	25 feet
Medium tree—medium tree	30 feet
Medium tree—large tree	35 feet
Large tree—large tree	40 feet

- (b) Distance from Curb and Sidewalk: No tree shall be planted or otherwise installed closer to a curb or sidewalk than the following requirements: small trees shall be planted at least two (2) feet from any curb or sidewalk; medium trees shall be planted at least three (3) feet from any curb or sidewalk; and large trees shall be planted at least four (4) feet from any curb or sidewalk. Notwithstanding the foregoing, no evergreen tree shall be planted less than ten (10) feet from any sidewalk or curb.
- (c) Distance from Street Corners and Fire Hydrants: No tree shall be planted closer than thirty-five (35) feet of any point of intersection between the edges or boundaries of two (2) public rights-of-way. No tree shall be planted closer than ten (10) feet of any fire hydrant or valve available for emergency use or fire suppression.
- (d) Utilities: No trees, except those species listed as small trees in Section 7-4-40(a) above, shall be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (e) Exceptions: The Ecology Board may grant a waiver or variance from the requirements of this Section where the Ecology Board, following consideration of a request presented during a regular meeting of the Ecology Board, finds that the proposed waiver or variance will not create a hazardous condition or impede or limit the proper operation and maintenance of any public right-of-way. In approving any waiver or variance, the Ecology Board may impose reasonable conditions upon the future maintenance or removal of any tree or shrub to ensure that the tree or shrub does not adversely affect the health, safety or welfare of the public.

- (f) Construction: When construction has the potential to impact trees, a barrier must be created around each tree, or groups of trees that are to remain following construction. Boundaries will be placed at minimum 1-foot diameter for each inch of trunk diameter. Boundary size and shape will be adjusted based on root and crown shape. Tree protection zones are created to reduce canopy damage, soil compaction and root loss.

Section 6. Section 7-4-110 of the Lyons Municipal Code is hereby amended to read:

Sec. 7-4-110. - Penalty.

- (a) Any person violating any provision of this Article shall be, upon conviction or a plea of guilty or no contest, liable for any damages caused to any tree, shrub, bush or other woody vegetation and shall be subject to a penalty as provided by Section 1-4-20 of this Code.
- (b) Mitigation.
- (1) If desirable street trees are removed, damaged or destroyed by an owner, developer or contractor, the loss shall be mitigated as described below. If the removal, damage or destruction was not in accordance with an approved landscape plan, the owner, developer or contractor shall also, in addition to any other penalties as may be prescribed by law, provide mitigation as approved by the Ecology Board. The Ecology Board shall determine the degree of damage and whether the trees can be restored or must be replaced. All tree values will be calculated using the Council of Tree and Landscape Appraisers (CTLA) methodology.
- (2) The owner, developer or contractor may achieve mitigation by any one (1) of the following:
- Transplant a tree onto public right-of-way if available space exists without exceeding the planting standards.
  - Plant an approved tree of at least equal value.
  - Plant two (2) or more approved trees where the combined value equals that of the tree removed.

Note: Where an owner, developer or contractor is required to plant trees to meet street tree requirements, these trees cannot be counted toward any required mitigation.

- (3) Mitigation shall occur on the right-of-way adjacent to the site, or elsewhere as directed by the Ecology Board.
- (4) If all of the required mitigation cannot be accomplished as provided for herein, the owner, developer or contractor shall pay the Town for the unmitigated value lost. Trees shall be valued according to the most recent edition of the *Valuation of Landscape Trees, Shrubs, and Other Plants*, published by the International Society of Arboriculture.

Section 7. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 8. Repeal. All other ordinances or resolutions or parts of ordinances or

resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 9. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

Section 10. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Sections 2, 3, 4, 5, and 6 of this Ordinance within the Lyons Municipal Code.

**INTRODUCED AND PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

**INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

**TOWN OF LYONS, COLORADO**

\_\_\_\_\_  
Connie Sullivan, Mayor

ATTEST:

\_\_\_\_\_  
Dolores M. Vasquez, CMC - Town Clerk

Attachments:

- Exhibit A** – Redline of Changes to Article 4 - Trees and Shrubs
- Exhibit B** – Clean Copy of Changes to Article 4 – Trees and Shrubs

## EXHIBIT A

### ARTICLE 4 - Trees and Shrubs

#### Sec. 7-4-10. - Definitions.

For the purposes of this Article, the following words, terms and phrases shall have the meaning ascribed to them, except where the context clearly indicates a different meaning is intended:

*Large tree* means a tree that, under normal circumstances and growth conditions, will exceed a height of forty (40) feet at maturity.

*Medium tree* means a tree that, under normal circumstances and growth conditions, will grow to a height at maturity of not less than twenty (20) feet and not more than forty (40) feet.

~~*Small tree* means a tree that, under normal circumstances and growth conditions, will not exceed a height of twenty (20) feet at maturity.~~

*Park trees* means all trees, shrubs, bushes or other woody vegetation located in a public park, and all other areas owned or controlled by the Town to which the public has access as a public park or recreation area.

*Public right-of way* means any highway, street, road, boulevard, thoroughfare, alley or other public way.

~~*Small tree* means a tree that, under normal circumstances and growth conditions, will not exceed a height of twenty (20) feet at maturity.~~

*Street trees* means all trees, shrubs, bushes or other woody vegetation located on land lying on public property or rights-of-way on either side of any public street, avenue, boulevard, alley and other public ways within the Town.

#### Sec. 7-4-20. - Purpose.

It is the purpose of this Article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs, bushes and other woody vegetation within the Town.

#### Sec. 7-4-30. - Ecology Board.

- (a) **Creation:** There is hereby created and established an Ecology Board for the Town. The Ecology Board shall be an advisory body to the Board of Trustees and shall exercise only such power and authority described in this Article. The Ecology Board shall consist of seven (7) members, and at least four (4) members shall be residents of the Town. The Mayor shall appoint the members of the Ecology Board. Members of the Ecology Board shall serve without compensation.
- (b) **Term of Office:** Unless otherwise provided by the Mayor or Board of Trustees upon appointment, members of the Ecology Board shall be appointed to serve a three-year term of office. There shall be no limitation on the number of terms any one (1) member may serve on the Ecology Board. The Board of Trustees may remove any appointed member of the Ecology Board at any time for any reason. Upon resignation of any member, the Mayor shall appoint a new member, subject to the approval of the Board of Trustees, to serve any remaining term of a resigning member.
- (c) **Duties and Responsibilities:** The Ecology Board shall have the following duties and responsibilities:
  - (1) The Ecology Board shall study, investigate, advise and develop and/or update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees,

shrubs, bushes or other woody vegetation in parks, along streets and in other public areas. Such written plan shall be presented annually to the Board of Trustees and, upon the Board of Trustees' acceptance and approval, the plan shall constitute the official comprehensive tree plan for the Town.

- (2) The Ecology Board may inform and advise the Board of Trustees concerning the presence of any diseased, dying or hazardous tree condition within the Town; provided that the Ecology Board shall not enter upon private property for the purpose of exercising any power or authority or for the purpose of inspection.
  - (3) Upon request by the Board of Trustees, the Ecology Board shall consider, investigate, make findings, report and make recommendations upon any special matter or concern.
  - (4) If required or requested, the Ecology Board shall review and comment upon landscaping plans or proposals submitted to the Town as part of any development plan or subdivision plat.
  - (5) The Ecology Board shall advise, assist and consult with the Parks and Recreation Director and the Public Works Director as requested.
  - (6) With the assistance and direction of the Parks and Recreation Director or Public Works Director, the Ecology Board may conduct or assist in the conduct of fundraising activities, tree preservation programs or public or private workshops or classes pertaining to any aspect of tree, shrub and bush care.
  - (7) The Ecology Board shall not have the authority to expend funds, enter into contracts or hire employees, contractors or agents without the prior written approval of the Board of Trustees.
- (d) Operation: The Ecology Board shall elect its own officers, may adopt its own rules of procedure to govern the conduct of meetings, and shall maintain written minutes of any meeting or proceeding. Written minutes of each meeting shall be transmitted to the Board of Trustees for informational purposes. A majority of the members shall constitute a quorum for any meeting of the Ecology Board.
- (e) Interference with the Town Ecology Board: It shall be unlawful for any person to prevent, delay or interfere with the Ecology Board, its officers or its agents while engaging in planting, cultivation, mulching, pruning, spraying or removal activities.
- (f) Review by Board of Trustees: Any person aggrieved by an administrative act or order of the Ecology Board may appeal to the Board of Trustees by the filing a written notice of appeal with the Town Clerk. A notice for appeal shall specify in detail the reasons for the appeal and shall identify the relief sought by the appealing party. A request for appeal shall be filed no later than ten (10) days from the date of the Ecology Board act or order. Any appeal before the Board of Trustees shall be conducted as an administrative matter, and notice shall be provided only to the Ecology Board and, if requested in the notice of appeal, to the appealing party. Following consideration of an appeal or upon the Board of Trustees' own initiative, the Board of Trustees may remand, reverse, amend or affirm any action or order of the Ecology Board.

#### Sec. 7-4-40. - Approved tree species.

It shall be unlawful to plant, or cause or permit the planting of, any species of tree on public property other than those included in the following subsections without written authorization from the Ecology Board as provided in this Article.

- (1) Small tree category.
  - a. \* American Plum ( *Prunus americana* ).
  - b. ~~Amur Maple ( *Acer ginnala* ).~~ Tartarian Maple ( *Acer tarticum* ).
  - c. ~~Bluestem Willow.~~ Japanese Maple ( *Acer palmatum* ).

- d. Chokecherry.
- e. Domestic Fruits: Apple, Cherry, Pear, Peach, Apricot, Plum.
- f. \* Gambel Oak ( *Quercus gambeli* ).
- g. ~~Golden Rain Tree~~. Saskatoon Serviceberry (*Amelanchier alnifolia*).
- h. Flowering Crab ( *Malus pumila* var).
- i. Flowering Dogwood. (*Cornus spp.*).
- j. ~~Ironwood~~. Asian White Birch (*Betula platyphylla*).
- k. ~~Kashgar Tamarisk ( *Tamarix hispida* )~~. Fastigiata Hornbeam (*Carpinus betulus*).
- l. \* Mountain Maple. (*Acer glabrum*).
- m. Mugo Pine ( *Pinus mugo* ).
- n. ~~Nanking Cherry~~. Cornelian Cherry Dogwood (*Cornus mas*).
- o. ~~Oregon Hollygrape ( *Mahonia aquifoliurn* )~~. Russian Hawthorn (*Crataegus ambigua*).
- p. ~~Pussy Willow~~. English Hawthorn (*Crataegus laevigata*).
- q. Eastern Redbud (*Cercis canadensis*).-
- r. \* ~~Smooth Sumac~~. English Oak (*Quercus robur*).
- s. Staghorn Sumac.
- t. ~~Tamy Juniper ( *Juniperus horizontalis* )~~. European Mountain-Ash (*Sorbus aucuparia*).
- u. \* Thinleaf Alder ( *Alnus tenuifolia* ).
- v. ~~Wayfaring Tree ( *Viburnum lantana* )~~. Japanese Tree Lilac (*Syringa reticulate*).
- w. ~~Witch Hazel~~.

\* Designates native Colorado vegetation.

(2) Medium tree category.

- a. ~~Austrian Pine ( *Pinus nigra* )~~. Common Alder (*Alnus glutinosa*).
- b. Bigtooth Maple ( *Acer grandidentatum* ).
- c. ~~Black Locust~~. Texas Buckeye (*Aesculus arguta*).
- d. ~~Black Gum~~. River Birch (*Betula nigra*).
- e. Bristlecone Pine ( *Pinus aristata* ).
- f. ~~Eastern Red Cedar~~. Paper Birch (*Betula papyrifera*).
- g. ~~European Mountain Ash ( *Sorbus aucuparia* )~~. Chanticleer Pear (*Pyrus calleryana*).
- h. European ~~Weeping White Birch~~ (*Betula pendula*).-
- i. \* Limber Pine ( *Pinus flexilis* ).
- j. ~~Mulberry~~. Northern/Western Catalpa (*Catalpa speciosa*).
- k. Osage Orange (male, thornless).
- l. ~~Pecan~~. Chinkapin Oak (*Quercus muehlenbergii*).
- m. \* ~~Piñon Pine ( *Pinus combroides* )~~. Peach Leaf Willow (*Salix amgdloides*).
- n. \* Quaking Aspen ( *Populus tremuloides* ).

- o. ~~Red Maple ( *Acer rubrum* ).~~
- p. ~~River Birch.~~
- q. Rocky Mountain Juniper ( *Juniperus scopulorum* ).
- r. ~~Sassafras.~~
- s. ~~Scarlet Oak ( *Quercus coccinea* ).~~
- t. ~~Scotts Pine ( *Pinus sylvestris* ).~~
- u. Caddo Sugar Maple ( *Acer saccharum caddo* ).
- v. ~~Tree of Heaven ( *Ailanthus altissima* ).~~
- w. ~~Virginia Pine.~~

\* Designates native Colorado vegetation

(3) Large tree category.

- a. American Elm ( *Ulmus americana* ).
- b. American Linden ( *Tilia americana* ).
- c. ~~Black Walnut ( *Juglans nigra* ).~~ Autumn Blaze Maple ( *Acer x freemanii* ).
- d. Bur Oak ( *Quercus macrocarpa* ).
- e. Western Catalpa ( *Catalpa speciosa* ).
- f. ~~Chinese Elm.~~ Sugar Maple ( *Acer saccharum* ).
- g. \* Colorado Blue Spruce ( *Picea pungens glauca* ).
- h. Douglas Fir ( *Pseudotsuga taxifolia menziesi* ).
- i. Eastern White Pine. ( *Pinus strobes* ).
- j. English Elm. Yellow Buckeye ( *Aesculus octandra flava* ).
- k. . \* Engelman Spruce ( *Picea engelmannii* ).
- l. ~~Green Ash ( *Fraxinus Pennsylvania* and varieties).~~ White Oak ( *Quercus alba* )
- m. \* Hackberry ( *Celtis occidentalis* ).
- n. Thornless Honey Locust ( *Gleditsia triacanthos inermis* varieties).
- o. Horse Chestnut. ( *Aesculus hippocastanum* ).
- p. Kentucky Coffeetree. ( *Gymnocladus dioicus* ).
- q. European Larch. ( *Larix decidua* ).
- r. Littleleaf Linden ( *Tilia cordata* ).
- s. ~~Lodgepole Pine.~~ London Plane Tree ( *Platanus x acerifolia* )
- t. Northern Red Oak ( *Quercus rubra* ).
- u. Norway Maple ( *Acer platanoides* varieties).
- v. Ohio Buckeye. ( *Aesculus glabra* ).
- w. Peach Leaf Willow. "Acolade" Elm ( *Ulmus japonica x U. wilsoniana* ).
- x. Plains Cottonwood ( *Populus sargentii* , cottonless variety).
- y. \* Ponderosa Pine. ( *Pinus Ponderosa* ).

- z. ~~Silver Maple (Acer saccharinum)~~; Red Maple (Acer rebrum).
- aa. ~~\*Subalpine Fir~~; Ginkgo (Ginkgo biloba).
- bb. Swamp White Oak ( Quercus bicolor ).
- cc. ~~Sweetgum (Liquidambar styraciflua)~~; White Oak (Quercus alba).
- dd. ~~Sycamore~~.
- ee. ~~Tulip Poplar (Liriodendron tulipifera)~~.
- ff. Weeping Willow. (Salix alba 'tristis')
- gg. ~~Southw~~Western White Pine. (Pinus strobiformus).
- hh. ~~White Ash and varieties~~; Shumard Oak (Quercus shumardii).
- ii. White Fir ( Abies concolor ).
- jj. Little Leaf Linden (Tilia cordata).

\* Designates native Colorado vegetation

(4) Non-desirable trees for streets.

- a. Boxelder.
- b. Clump form or multi-stem species.
- c. Cottonwood.
- d. Elm (Chinese, Siberian).
- e. Evergreens that create sight obstructions.
- f. Poplar.
- g. Russian Olive.
- h. Silver Maple.
- i. Tree of Heaven.
- j. Willow.
- k. Ash (due to EAB infestation)

Sec. 7-4-50. - Spacing requirements.

(a) Minimum Spacing Requirements: Any street tree planted or installed within the Town shall conform to the following minimum spacing requirements.

<b><i>Between the Following Tree Types</i></b>	<b><i>Minimum Required Spacing</i></b>
Small tree—small tree	20 feet
Small tree—medium tree	25 feet
Medium tree—medium tree	30 feet

Medium tree—large tree	35 feet
Large tree—large tree	40 feet

- (b) Distance from Curb and Sidewalk: No tree shall be planted or otherwise installed closer to a curb or sidewalk than the following requirements: small trees shall be planted at least two (2) feet from any curb or sidewalk; medium trees shall be planted at least three (3) feet from any curb or sidewalk; and large trees shall be planted at least four (4) feet from any curb or sidewalk. Notwithstanding the foregoing, no evergreen tree shall be planted less than ten (10) feet from any sidewalk or curb.
- (c) Distance from Street Corners and Fire Hydrants: No tree shall be planted closer than thirty-five (35) feet of any point of intersection between the edges or boundaries of two (2) public rights-of-way. No tree shall be planted closer than ten (10) feet of any fire hydrant or valve available for emergency use or fire suppression.
- (d) Utilities: No trees, except those species listed as small trees in Section 7-4-40(a) above, shall be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
- (e) Exceptions: The Ecology Board may grant a waiver or variance from the requirements of this Section where the Ecology Board, following consideration of a request presented during a regular meeting of the Ecology Board, finds that the proposed waiver or variance will not create a hazardous condition or impede or limit the proper operation and maintenance of any public right-of-way. In approving any waiver or variance, the Ecology Board may impose reasonable conditions upon the future maintenance or removal of any tree or shrub to ensure that the tree or shrub does not adversely affect the health, safety or welfare of the public.
- (f) Construction: When construction has the potential to impact trees, a barrier must be created around each tree, or groups of trees that are to remain following construction. Boundaries will be placed at minimum 1-foot diameter for each inch of trunk diameter. Boundary size and shape will be adjusted based on root and crown shape. Tree protection zones are created to reduce canopy damage, soil compaction and root loss.

Sec. 7-4-60. - Maintenance and care of trees.

The Town shall have the right to plant, prune, maintain and remove trees, plants, shrubs, bushes and all other woody vegetation within all public rights-of-way, including all public streets, alleys, avenues, boulevards, lanes, squares and public grounds, as may be deemed necessary by the Town to ensure public health, safety and general welfare, or to preserve or enhance the symmetry and beauty of such public grounds. The Town shall have the right to prune, maintain and remove trees, plants, shrubs, bushes and all other woody vegetation lying within public utility easements where necessary or desirable to permit the efficient use of the easement. The Ecology Board may advise the Town or its employees concerning the removal of any tree or part thereof which creates an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

Sec. 7-4-70. - Acts harmful to trees.

- (a) It shall be unlawful for any person to top any street tree, park tree or other tree located on public property. For the purposes of this Subsection, *topping* shall be defined as the severe cutting back of

limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree to remove the normal canopy and disfigure the tree. Trees severely damaged by storms, disease or other natural causes, or trees under utility wires or other obstructions where other pruning practice would prove to be impractical, may be exempted from the provisions of this Article upon the written approval of the Ecology Board.

- (b) No person shall abuse, mutilate or otherwise damage any tree located on public property, including those located in the public right-of-way. However, nothing in this Section shall be construed to prevent reasonable and proper trimming of trees located on public or private property by authorized persons in accordance with accepted horticultural practices.
- (c) No person shall attach any sign, notice, placard, electrical wire or other injurious device to any tree located on public property or within the public right-of-way, nor shall any person cause any substance harmful to trees to come in contact with them, or prevent water and oxygen from reaching their roots.

Sec. 7-4-80. - Pruning, corner clearance and utilities.

Every owner of a tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the sidewalk or fourteen (14) feet above the surface of the street. Pruning shall be conducted in accordance with ANSI A300-1995 *Tree, Shrub and Other Woody Plant Maintenance-Standard Practice*, a manual published by the American National Standards Institute, Inc., copies of which are available for review at the Town Hall. Owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, that constitute a hazard to the safety of the public. The Town shall have the right to prune, or cause to be pruned, any tree, shrub or bush on private property when it interferes with street lighting, the visibility of any intersection, traffic control device or sign or the operation, maintenance or repair of water, sewer or electric utilities.

Sec. 7-4-90. - Dead or diseased tree removal.

The Town shall have the right to cause the removal of dead and diseased trees on private property when such dead or diseased trees constitute a hazard to the public health, safety and general welfare or constitute a potential threat to other trees within the Town because of insects or disease. The Ecology Board will notify in writing the owners of such trees. The owners of such trees shall remove the trees at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Sec. 7-4-100. - Arborist's license and insurance.

It shall be unlawful for any person to engage in the business or occupation of pruning, servicing, treating or removing any tree within the Town without first applying for and obtaining a business license as may be required by Chapter 6 of this Code. No business license shall be issued or become effective until the applicant files evidence of liability insurance in the minimum amounts of five hundred thousand dollars (\$500,000.00) for bodily injury and six hundred thousand dollars (\$600,000.00) for property damage. Such liability insurance shall indemnify the Town and any person or property injured for damage resulting from any work or activity conducted by such license.

Sec. 7-4-110. - Penalty.

- (a) Any person violating any provision of this Article shall be, upon conviction or a plea of guilty or no contest, liable for any damages caused to any tree, shrub, bush or other woody vegetation and shall be subject to a penalty as provided by Section 1-4-20 of this Code.
- (b) Mitigation.
  - (1) If desirable street trees are removed, damaged or destroyed by an owner, developer or contractor, the loss shall be mitigated as described below. If the removal, damage or destruction was not in accordance with an approved landscape plan, the owner, developer or contractor shall also, in addition to any other penalties as may be prescribed by law, provide mitigation as approved by the Ecology Board. The Ecology Board shall determine the degree of damage and whether the trees can be restored or must be replaced. All tree values will be calculated using the Council of Tree and Landscape Appraisers (CTLA) methodology.
  - (2) The owner, developer or contractor may achieve mitigation by any one (1) of the following:
    - a. Transplant a tree onto public right-of-way if available space exists without exceeding the planting standards.
    - b. Plant an approved tree of at least equal value.
    - c. Plant two (2) or more approved trees where the combined value equals that of the tree removed.

Note: Where an owner, developer or contractor is required to plant trees to meet street tree requirements, these trees cannot be counted toward any required mitigation.

- (3) Mitigation shall occur on the right-of-way adjacent to the site, or elsewhere as directed by the Ecology Board.
- (4) If all of the required mitigation cannot be accomplished as provided for herein, the owner, developer or contractor shall pay the Town for the unmitigated value lost. Trees shall be valued according to the most recent edition of the *Valuation of Landscape Trees, Shrubs, and Other Plants*, published by the International Society of Arboriculture.

## EXHIBIT B

### ARTICLE 4 - Trees and Shrubs

#### Sec. 7-4-10. - Definitions.

For the purposes of this Article, the following words, terms and phrases shall have the meaning ascribed to them, except where the context clearly indicates a different meaning is intended:

*Large tree* means a tree that, under normal circumstances and growth conditions, will exceed a height of forty (40) feet at maturity.

*Medium tree* means a tree that, under normal circumstances and growth conditions, will grow to a height at maturity of not less than twenty (20) feet and not more than forty (40) feet.

*Small tree* means a tree that, under normal circumstances and growth conditions, will not exceed a height of twenty (20) feet at maturity.

*Park trees* means all trees, shrubs, bushes or other woody vegetation located in a public park, and all other areas owned or controlled by the Town to which the public has access as a public park or recreation area.

*Public right-of way* means any highway, street, road, boulevard, thoroughfare, alley or other public way.

*Street trees* means all trees, shrubs, bushes or other woody vegetation located on land lying on public property or rights-of-way on either side of any public street, avenue, boulevard, alley and other public ways within the Town.

#### Sec. 7-4-20. - Purpose.

It is the purpose of this Article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs, bushes and other woody vegetation within the Town.

#### Sec. 7-4-30. - Ecology Board.

- (a) **Creation:** There is hereby created and established an Ecology Board for the Town. The Ecology Board shall be an advisory body to the Board of Trustees and shall exercise only such power and authority described in this Article. The Ecology Board shall consist of seven (7) members, and at least four (4) members shall be residents of the Town. The Mayor shall appoint the members of the Ecology Board. Members of the Ecology Board shall serve without compensation.
- (b) **Term of Office:** Unless otherwise provided by the Mayor or Board of Trustees upon appointment, members of the Ecology Board shall be appointed to serve a three-year term of office. There shall be no limitation on the number of terms any one (1) member may serve on the Ecology Board. The Board of Trustees may remove any appointed member of the Ecology Board at any time for any reason. Upon resignation of any member, the Mayor shall appoint a new member, subject to the approval of the Board of Trustees, to serve any remaining term of a resigning member.
- (c) **Duties and Responsibilities:** The Ecology Board shall have the following duties and responsibilities:
  - (1) The Ecology Board shall study, investigate, advise and develop and/or update annually a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees, shrubs, bushes or other woody vegetation in parks, along streets and in other public areas. Such written plan shall be presented annually to the Board of Trustees and, upon the Board of Trustees'

acceptance and approval, the plan shall constitute the official comprehensive tree plan for the Town.

- (2) The Ecology Board may inform and advise the Board of Trustees concerning the presence of any diseased, dying or hazardous tree condition within the Town; provided that the Ecology Board shall not enter upon private property for the purpose of exercising any power or authority or for the purpose of inspection.
  - (3) Upon request by the Board of Trustees, the Ecology Board shall consider, investigate, make findings, report and make recommendations upon any special matter or concern.
  - (4) If required or requested, the Ecology Board shall review and comment upon landscaping plans or proposals submitted to the Town as part of any development plan or subdivision plat.
  - (5) The Ecology Board shall advise, assist and consult with the Parks and Recreation Director and the Public Works Director as requested.
  - (6) With the assistance and direction of the Parks and Recreation Director or Public Works Director, the Ecology Board may conduct or assist in the conduct of fundraising activities, tree preservation programs or public or private workshops or classes pertaining to any aspect of tree, shrub and bush care.
  - (7) The Ecology Board shall not have the authority to expend funds, enter into contracts or hire employees, contractors or agents without the prior written approval of the Board of Trustees.
- (d) Operation: The Ecology Board shall elect its own officers, may adopt its own rules of procedure to govern the conduct of meetings, and shall maintain written minutes of any meeting or proceeding. Written minutes of each meeting shall be transmitted to the Board of Trustees for informational purposes. A majority of the members shall constitute a quorum for any meeting of the Ecology Board.
- (e) Interference with the Town Ecology Board: It shall be unlawful for any person to prevent, delay or interfere with the Ecology Board, its officers or its agents while engaging in planting, cultivation, mulching, pruning, spraying or removal activities.
- (f) Review by Board of Trustees: Any person aggrieved by an administrative act or order of the Ecology Board may appeal to the Board of Trustees by the filing a written notice of appeal with the Town Clerk. A notice for appeal shall specify in detail the reasons for the appeal and shall identify the relief sought by the appealing party. A request for appeal shall be filed no later than ten (10) days from the date of the Ecology Board act or order. Any appeal before the Board of Trustees shall be conducted as an administrative matter, and notice shall be provided only to the Ecology Board and, if requested in the notice of appeal, to the appealing party. Following consideration of an appeal or upon the Board of Trustees' own initiative, the Board of Trustees may remand, reverse, amend or affirm any action or order of the Ecology Board.

Sec. 7-4-40. - Approved tree species.

It shall be unlawful to plant, or cause or permit the planting of, any species of tree on public property other than those included in the following subsections without written authorization from the Ecology Board as provided in this Article.

- (1) Small tree category.
  - a. \* American Plum (*Prunus americana*).
  - b. Tartarian Maple (*Acer tarticum*).
  - c. Japanese Maple (*Acer palmatum*).
  - d. Chokecherry.
  - e. Domestic Fruits: Apple, Cherry, Pear, Peach, Apricot, Plum.

- f. \* Gambel Oak ( *Quercus gambeli* ).
- g. Saskatoon Serviceberry (*Amelanchier alnifolia*).
- h. Flowering Crab ( *Malus pumila* var).
- i. Flowering Dogwood. (*Cornus spp.*).
- j. Asian White Birch (*Betula platyphylla*).
- k. Fastigiata Hornbeam (*Carpinus betulus*).
- l. \* Mountain Maple. (*Acer glabrum*).
- m. Mugo Pine ( *Pinus mugo* ).
- n. Cornelian Cherry Dogwood (*Cornus mas*).
- o. *Russian Hawthorn* (*Crataegus ambigua*).
- p. *English Hawthorn* (*Crataegus laevigata*).
- q. Eastern Redbud (*Cercis canadensis*).
- r. \* English Oak (*Quercus robur*).
- s. Staghorn Sumac.
- t. European Mountain-Ash (*Sorbus aucuparia*).
- u. \* Thinleaf Alder ( *Alnus tenuifolia* ).
- v. Japanese Tree Lilac (*Syringa reticulata*).

\* Designates native Colorado vegetation.

(2) Medium tree category.

- a. Common Alder (*Alnus glutinosa*).
- b. Bigtooth Maple ( *Acer grandidentatum* ).
- c. Texas Buckeye (*Aesculus arguta*).
- d. River Birch (*Betula nigra*).
- e. Bristlecone Pine ( *Pinus aristata* ).
- f. Paper Birch (*Betula papyrifera*).
- g. Chanticleer Pear (*Pyrus calleryana*).
- h. European White Birch (*Betula pendula*).
- i. \* Limber Pine ( *Pinus flexilis* ).
- j. Northern/Western Catalpa (*Catalpa speciosa*).
- k. Osage Orange (male, thornless).
- l. Chinkapin Oak (*Quercus muehlenbergii*).
- m. Peach Leaf Willow (*Salix amgdloides*).
- n. \* Quaking Aspen ( *Populus tremuloides* ).
- o. *Rocky Mountain Juniper* ( *Juniperus scopulorum* ).
- r. Caddo Sugar Maple ( *Acer saccharum caddo* ).

\* Designates native Colorado vegetation

(3) Large tree category.

- a. American Elm ( *Ulmus americana* ).
- b. American Linden ( *Tilia americana* ).
- c. Autumn Blaze Maple ( *Acer x freemanli* ).
- d. Bur Oak ( *Quercus macrocarpa* ).
- e. Western Catalpa ( *Catalpa speciosa* ).
- f. Sugar Maple ( *Acer saccharum* ).
- g. \* Colorado Blue Spruce ( *Picea pungens glauca* ).
- h. Douglas Fir ( *Psuedotsuga menziesi* ).
- i. Eastern White Pine. ( *Pinus strobes* ).
- j. Yellow Buckeye ( *Aesculus octandra flava* ).
- k. \* Engelman Spruce ( *Picea engelmannii* ).
- l. White Oak ( *Quercus alba* ).
- m. \* Hackberry ( *Celtis occidentalis* ).
- n. Thornless Honey Locust ( *Gleditsia triacanthos inermis* varieties).
- o. Horse Chestnut. ( *Aesculus hippocastanum* ).
- p. Kentucky Coffeetree. ( *Gymnocladus dioicus* ).
- q. European Larch. ( *Larix decidua* ).
- r. Littleleaf Linden ( *Tilia cordata* ).
- s. London Plane Tree ( *Plananus x acerifolia* ).
- t. Northern Red Oak ( *Quercus rubra* ).
- u. Norway Maple ( *Acer platanoides* varieties).
- v. Ohio Buckeye. ( *Aesculus glabra* ).
- w. "Acolade" Elm ( *Ulmus japonica x U. wilsoniana* ).
- x. Plains Cottonwood ( *Populus sargentii* , cottonless variety).
- y. \* Ponderosa Pine. ( *Pinus Ponderosa* ).
- z. Red Maple ( *Acer rebrum* ).
- aa. Gingko ( *Gingko biloba* ).
- bb. Swamp White Oak ( *Quercus bicolor* ).
- cc. White Oak ( *Quercus alba* ).
- dd. Weeping Willow. ( *Salix alba 'tristis'* ).
- cc. Southwestern White Pine. ( *Pinus strobiformus* ).
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- ee. White Fir ( *Abies concolor* ).
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- (4) Non-desirable trees for streets.
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  - b. Clump form or multi-stem species.
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  - e. Evergreens that create sight obstructions.
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Note: Where an owner, developer or contractor is required to plant trees to meet street tree requirements, these trees cannot be counted toward any required mitigation.

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