

TOWN OF ERIE COLORADO MUNICIPAL CODE

TITLE 7 – PUBLIC WAYS AND PROPERTY

CHAPTER 3 - TREES AND SHRUBS

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7-3-1: DEFINITIONS:

The following words and phrases, whenever used in this chapter, shall have the meanings as set forth herein:

OWNER: Any person owning, occupying, having the right of possession and/or control of any property located within the town boundaries.

PARK TREES: All trees and all other woody plants situated in all public parks, facilities, and open spaces or areas or tracts of land owned by the town, or open to the general public as a park or other public recreational area.

PUBLIC RIGHT OF WAY: The full width of all streets, roadways, and alleys and all other areas dedicated, designated or reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel. The public right of way includes all traveled portion thereof, all portions used for sidewalks, and all portions lying between the adjacent property line and any improved portions of the right of way.

SHALL: Denotes a mandatory requirement.

STREET TREE: All trees and all other woody plants located within any portion of the entire width of a public right of way.

TOPPING: Inappropriate pruning technique to control the height of a tree's canopy by cutting the tree back to buds, stubs, or laterals that are not large enough to assume apical dominance.

TOWN ARBORIST: A tree care professional who possesses the technical competence through certification, education, experience, and related training to provide for or supervise the management of trees and other woody plants in the residential, commercial, and public landscape for hire. The town administrator or his designee shall serve as the town arborist.

TREE: Any perennial woody plant, usually, but not necessarily, single stemmed and long lived, with a height greater than overall spread.

WOODY PLANT: A plant having hard lignified tissues or woody parts especially stems. (Ord. 21-2016, 7-12-2016)

7-3-2: AUTHORITY OF TOWN TO PLANT, MAINTAIN, TREAT, PRESERVE AND REMOVE TREES AND OTHER WOODY PLANTS:

The town shall have the right to care for, including the cutting, trimming, spraying, removing, planting, pruning, fertilization, relocation, protection, and other maintenance and treatment of:

- A. All park trees at such times, for such reasons and in such manner as the town may, in its sole and absolute discretion, decide from time to time.
- B. All street trees at such times, for such reasons and in such manner as the town may, in its sole and absolute discretion, decide from time to time. (Ord. 21-2016, 7-12-2016)

7-3-3: TREE BOARD:

- A. Board Created; Membership; Appointment; Qualifications: There is hereby created a tree board for the town. The tree board shall consist of seven (7) members. Each member of the tree board shall be appointed by the town board of trustees. All seven (7) members shall be bona fide residents of the town, and if any member shall cease to reside in the town, his or her membership shall immediately terminate.
- B. Terms Of Office: The initial board appointed pursuant to this chapter shall hold terms as follows: four (4) members shall be appointed for terms expiring at the first meeting of the board of trustees following the general election of the town held April 2018, and three (3) members shall be appointed for terms expiring at the first meeting of the board of trustees following the general election of the town held in April 2020. Thereafter, the members of the commission shall be appointed to serve four (4) year terms. Members shall be appointed by the town board of trustees at the first meeting of the board of trustees following a general election of the town.
- C. Removal From Office: The board of trustees may, by a majority vote of those present, remove any member of the tree board for the following reasons: 1) a conflict of interest violation; 2) any violation of law, regulation, or policy; 3) nonattendance to duty; 4) failure to attend three (3) consecutive regularly scheduled meetings without a leave of absence approved by a majority of the tree board; 5) being a plaintiff or being actively involved or participating in a lawsuit against the town; or 6) any other cause.
- D. Vacancies: Vacancies occurring other than through the expiration of the term of the member shall be filled for the remainder of that member's term by appointment by the board of trustees.
- E. Compensation: All members of the board shall serve as such without compensation.
- F. Meetings, Organization And Rules:
 - 1. Chairman: The tree board shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year, with eligibility for reelection.
 - 2. Meetings And Rules: The board shall hold at least one regular meeting in each month. The board shall determine the yearly schedule of meetings and provide such schedule to the town clerk for publication. Conduct of all meetings shall be pursuant to rules of conduct as adopted by the board of trustees. The board shall keep minutes and a record of its resolutions, transactions, findings and determinations, which minutes and records shall be a public record. Such minutes and records shall be turned over to the town clerk for keeping.
 - 3. Quorum: A quorum shall be one-half ($\frac{1}{2}$) of the total number of actual members of the tree board, rounded up to the nearest whole. No meeting shall be held without a quorum.

4. Action By Majority: All board actions shall be approved by a majority of those present at a meeting at which a quorum is present.

G. Duties And Functions:

1. The tree board shall furthermore serve as an advisory board to the board of trustees with the following duties and responsibilities:
 - a. The tree board shall investigate available grants, loans or contributions from other governmental agencies, public or private corporations, or individuals; and recommend the expenditure of any proceeds toward the accomplishment of the tree board's purpose.
 - b. The tree board is responsible for organizing and conducting the annual Arbor Day celebration.
 - c. The tree board is responsible for any community educational programs and/or literature concerning community forestry, and is authorized to arrange, advertise and conduct any educational programs which are a part of the annual work plan approved by the board of trustees.
 - d. The tree board shall submit an annual report of its activities and recommendations to the board of trustees and shall submit copies of its minutes and proceedings of its regular and special meetings.
 - e. The tree board shall also, as requested from time to time by the board of trustees, study, consider, and investigate, and make findings, reports and recommendations upon and concerning any and all matters, items and things coming within, or covering, concerning, or relating to, the aforesaid duties and responsibilities.
2. In addition, the tree board shall have the express duties, authority and jurisdiction hereinafter set out in this chapter.

H. Reappointment: Members of the tree board may be reappointed at the discretion of the board of trustees.

I. Committees: The board of trustees, alone, may appoint ad hoc committees from among the members of the tree board.

J. Public Input: The public attending a tree board meeting shall be allowed to address the tree board prior to the tree board's consideration of regular business items. Persons wishing to address the tree board shall state their name and address for the record.

K. Relationship To Board Of Trustees And Staff:

1. The tree board shall advise and recommend to the board of trustees exclusively on those matters pertinent to the tree board's duties and subject area, as set forth herein, as well as on the town's budget.
2. The tree board shall biannually prepare a written report which shall then be presented orally to the board of trustees at a board of trustees meeting, with the first report and presentation occurring after the first of the year and the second prior to the start of the town's budget consideration for the following year.
3. Staff will be available to attend tree board meetings quarterly at the request of the tree board chairperson.
4. A member of the board of trustees shall be appointed as the board of trustees' liaison to the tree board. The liaison will attend regular board meetings and be the conduit of bidirectional information to and from the board of trustees. The liaison is not a member of the tree board, nor is the liaison entitled to a vote. (Ord. 21-2016, 7-12-2016)

7-3-4: AUTHORITY, POWERS AND DUTIES OF TOWN ARBORIST:

- A. The town arborist shall have jurisdiction and supervision over all trees and other woody plants growing on public property within the town; and over all trees and other woody plants located on private property that constitute a safety hazard to persons or property, a health hazard to other trees and plants, or that prevent the safe use of any public property or place.
- B. The town arborist shall have the authority to cut, trim, spray, remove, plant, prune, fertilize, relocate, and protect all trees and other woody plants upon the public right of way of any street, alley, sidewalk, or other public place, or to require the owner of property abutting on the public right of way of any street, alley, sidewalk, or other public place to cut, trim, spray, remove, plant, prune, relocate, and protect all trees and other woody plants at the expense of such owner.
- C. The town arborist shall have the power to establish and enforce rules, regulations, standards and specifications of arboricultural practices affecting the cutting, trimming, spraying, removing, planting, pruning, fertilization, relocation, protection, and other maintenance and treatment of trees and other woody plants upon the public right of way of any street, alley, sidewalk or other town owned property in the town. Such rules, regulations, standards and specifications shall be in writing and shall be available to the public through the office of the town arborist.
- D. The town arborist shall have the authority to supervise and inspect all work done under a forestry permit or arborist license issued in accordance with the terms of this chapter.
- E.
 - 1. Whenever any person or contractor who engages in the business of tree care within the town has failed to obtain the proper license or permit, who violates any provision of this chapter or any provision of the American National Standards Institute documents, as adopted by reference by the town of Erie, the town arborist may issue an order to immediately stop work on any property.
 - 2. The stop work order issued by the town arborist shall be in writing and specify the provisions of this chapter or other provisions allegedly in violation. Such written order shall be posted on the subject property and a copy provided to the property owner or occupant, or the person or contractor who is allegedly in violation. After a stop work order has been posted and delivered to the property owner or occupant, or the person or contractor allegedly in violation, no work shall proceed on the subject property, except to correct any violation(s) noted in the stop work order.
 - 3. It is a violation of this section to fail to comply with the stop work order issued by the town arborist. Once the condition(s) that are the subject of the stop work order have been corrected, as determined by the town arborist or designee, the town arborist shall rescind the stop work order.
- F. The town arborist shall have the authority to enforce provisions of the American National Standards Institute documents, A300 (part 1-2008) pruning, A300 (part 2-2004) fertilization, A300 (part 3-2006) support systems, A300 (part 4-2008) lightning protection, and Z133.1-2006 safety requirements, published by the American National Standards Institute, 11 West 42nd Street, New York, NY 10036, as adopted by reference by the town of Erie. (Ord. 21-2016, 7-12-2016)

7-3-5: INTERFERENCE WITH TOWN ARBORIST:

No person shall hinder, prevent, delay, or interfere in any way with the town arborist or designee while engaged in carrying out the execution or enforcement of this chapter. (Ord. 21-2016, 7-12-2016)

7-3-6: STANDARDS AND SPECIFICATIONS FOR ARBORICULTURAL PRACTICES:

- A. Approved Tree List: The town arborist shall maintain a list of recommended trees for the town. All street trees shall be in accordance with the street tree requirements set forth in the most recent version of the town of Erie standards and specifications. Trees that are denoted as not acceptable street trees shall not be planted as street trees without the approval of the town arborist.

B. Arboricultural Practices: The American National Standards Institute documents, A300 (part 1-2008) pruning, A300 (part 2-2004) fertilization, A300 (part 3-2006) support systems, A300 (part 4-2008) lightning protection, and Z133.1-2006 safety requirements, published by the American National Standards Institute, 11 West 42nd Street, New York, NY 10036, was adopted by reference by the town of Erie. The purpose and subject matter of these standards include regulating tree care and safe working practices through comprehensive provisions and standards regulating pruning, removal, spraying, injecting, preservation, planting and maintenance of trees and providing greater safety to the public by standardizing arboriculture. The town arborist shall maintain a set of the current ANSI standards which shall be available for review at the offices of the town arborist. (Ord. 21-2016, 7-12-2016)

7-3-7: LOCATION AND SPACING OF TREES:

All locations and spacing of trees planted in the public right of way shall be in accordance with the specifications and requirements set forth in the most recent version of the town of Erie standards and specifications. (Ord. 21-2016, 7-12-2016)

7-3-8: MUTILATION AND TOPPING OF STREET OR PARK TREES:

A. Mutilation: It shall be unlawful for any person to abuse, destroy, or mutilate any street tree or park tree or to attach or place any rope, wire, nails, advertising posters, or other contrivance, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid, or solid substance which is harmful to such trees to come in contact with their roots, trunks, or leaves.

B. Tree Topping: It shall be unlawful for any person to top any street tree or park tree. It shall be an affirmative defense to any charge brought under this section that the tree(s) in question were damaged by storms or other causes, or were trees located under utility wires or other obstructions where other pruning practices are impractical. (Ord. 21-2016, 7-12-2016)

7-3-9: REMOVAL OF STUMPS:

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Utility locates shall be conducted prior to grinding. (Ord. 21-2016, 7-12-2016)

7-3-10: MAINTENANCE OF TREES AND WOODY PLANTS:

A. Town's Right To Prune: The town shall have the right to prune any tree or other woody plant located on private property, at the point where the vegetation projects beyond the private property line, when it interferes with the spread of light along the street from a street lamp or interferes with the visibility of any traffic control device or street sign. Such pruning shall be from the right of way, or public property, unless the owner/occupant of the property consents to entry onto the property for the purpose of pruning pursuant to this subsection.

B. Maintenance Responsibility For Public Right Of Way: The cost of maintenance of trees and woody plants located in the public right of way shall be the responsibility of the owner of the property abutting the public right of way adjacent to any public street, alley, or sidewalk. Such maintenance may include, but is not limited to, cutting, trimming, spraying, removing, planting, pruning, fertilization, relocation, protection, and other maintenance and treatment of trees and other woody plants located upon such public right of way, whether or not planted by the owner.

C. Duty Of Property Owner To Maintain Trees And Woody Plants; Notice:

1. Duty: It shall be the duty of the owner of any private property within the town to cut, trim, spray, treat, remove, plant, prune, relocate, and protect all trees and other woody plants as necessary located upon the property of such owner in order to provide for the safe and convenient use of streets, alleys, sidewalks, walkways, trails or other town owned property. Tree and other woody plant growth shall be maintained so as not to obstruct the visibility of any traffic control device or sign; the view for traffic at any street or alley intersection; the passage of pedestrians on sidewalks, walkways, or trails; the access of any town owned utility; or the light

from any street lamp in accordance with the specifications and requirements set forth in the most recent version of the town of Erie standards and specifications.

2. **Dead, Dying, Or Structurally Unsound Trees, Limbs, Or Other Woody Plants:** It shall be the duty of the owner of any private property to remove any dead, dying, or structurally unsound trees, limbs, or other woody plants from the premises when said trees, limbs, or other woody plants are dangerous to life, limb, or property. Whenever the town arborist, after investigation, determines that any trees, limbs, or other woody plants are in any of the conditions described herein, he may notify the property owner in writing, addressed to the last known address of the property owner, mailed via first class mail, postage prepaid. Such written notice shall advise the owner of the obligation to correct any noted condition of any specific tree(s) or other woody plant(s) on the property by a specified date. When dead, dying, or structurally unsound trees, limbs, or other woody plants have the potential to affect adjacent property, and are dangerous to life, limb, or property, the owner shall remove trees, limbs, or other woody plants so as to avoid injury or damage to or on the adjacent property as directed in the written notice to the owner. It shall be unlawful for any owner to fail to comply with the written notice issued by the town arborist.

3. **Maintenance By Town:**

- a. In the event the owner/occupant of property fails to cut, trim, prune, remove or otherwise take such action as directed in the written notice issued by the town arborist to eliminate the interference, obstruction, or dangerous condition of the tree or other woody plant by the deadline specified in the written notice, the town may take action to abate such nuisance pursuant to the provisions of section [7-3-14](#) of this chapter.
- b. Failure to comply with the written notice issued by the town arborist is deemed to be a public nuisance, subject to abatement pursuant to section [7-3-14](#) of this chapter.

4. **Infected Vegetation:**

- a. **Inspection:** The town arborist, or designee, is authorized to inspect any trees or other woody plants, logs or branches existing or growing upon private property within the town. Before entry to private property for the purpose of inspection, the town arborist shall seek consent to enter from the owner/occupant of said property. The town arborist, or designee, shall from time to time conduct surveys to determine if any destructive or communicable disease or other pestilence exists which may be detrimental to or endanger the good health and well being of trees or other plant life in the town.
- b. **Notice To Owner:** Upon discovery of any destructive or communicable disease, or other pestilence which endangers the growth, health, life or well being of other trees or other woody plants, or which is capable of causing an epidemic spread of communicable disease or insect infestation, the town arborist shall provide the owner of the property written notice, of the condition of the tree(s) and/or other woody plant(s), and shall direct such owner to eradicate, remove, or otherwise control such condition by the date specified in the written notice.
- c. **Abatement:** In the event the owner/occupant of the subject property fails to comply with the written notice of the town arborist to eradicate, remove or otherwise control a condition as direct in the written notice pursuant to subsection C4b of this section, the town may take action to abate such condition pursuant to the provisions of section [7-3-14](#) of this chapter. (Ord. 21-2016, 7-12-2016)

7-3-11: ENTRY TO PREMISES:

- A. In the event the town arborist or designee, determines that a condition relating to this chapter exists on private property which requires entry upon private property to examine any trees or other woody plants located on said property for the purposes of inspection, prior to such entry, the town arborist, or designee, shall notify the property owner in writing of the intent to enter and secure permission from the owner/occupant for entry.
- B. When the property owner/occupant has failed to timely comply with a written notice issued by the town arborist pursuant to this chapter, the town arborist, or designee, may enter the property of the owner/occupant to abate the nuisance that exists on the property, pursuant to the provisions of section [7-3-14](#) of this chapter.

C. When the town arborist determines that a condition relating to this chapter exists on private property, and such condition constitutes an emergency endangering the health, safety or welfare of persons or property, the town arborist, or designee, may enter the premises to examine any trees or other woody plants on said property that are reasonably believed to be the source of the emergency endangering the health, safety or welfare of persons or property. Entry onto such property shall be for purposes of inspection of the emergency condition(s) and emergency abatement pursuant to subsection [7-3-14D](#) of this chapter. (Ord. 21-2016, 7-12-2016)

7-3-12: PERMIT REQUIRED FOR PLANTING, REMOVING, OR TREATING TREES AND WOODY PLANTS:

It shall be unlawful for any person to plant, cut, trim, prune, treat, remove, destroy or cause to be planted, cut, trimmed, pruned, treated, removed or destroyed any tree or woody plant originating within the public right of way of any street, sidewalk, or alley, or upon other town owned property within the town without having first obtained a written permit from the town arborist. Permits are free of charge and are available to the public through the office of the town arborist. (Ord. 21-2016, 7-12-2016)

7-3-13: LICENSING:

It shall be unlawful for any contractor to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating or maintaining trees within the town without procuring an arborist license issued by the town arborist. The requirements of this section shall not apply to private landowners performing such work themselves on trees located wholly on their own private property or on public right of way.

A. Pesticide Applicator's License Required: Any contractor that engages in the business of applying pesticides within the town shall carry a current pesticide applicator's license issued by the state of Colorado pursuant to Colorado Revised Statutes title 35, article 10 known as the pesticide applicators' act. (Ord. 21-2016, 7-12-2016)

7-3-14: VIOLATIONS; ABATEMENT PROCEDURES:

A. Violation: It shall be unlawful, and a public nuisance, for any person to fail to comply with any provision of this chapter, or any written notice issued by the town administrator, town arborist, or designee. Any owner/occupant of property who fails to comply with any provision of this chapter, or any written notice issued by the town administrator, town arborist, or designee, may subject the property to abatement of nuisance, pursuant to the provisions of this chapter.

B. Abatement:

1. Issue Abatement Notice: Whenever the town arborist determines that there is a violation of this chapter, or that any tree or woody plant located on private property constitutes a safety hazard to persons or property, a health hazard to other trees or woody plants, or prevents the safe use of any public property or place, he may issue a written abatement notice to the owner and/or occupant of the subject property of such violation or condition.
2. Notice Contents: Written notice of a violation of this chapter, including notice to bring any tree or woody plant into compliance with the provisions of this chapter, shall:
 - a. Include the property address;
 - b. Describe the violation(s) and/or condition of any tree(s) and/or woody plant(s) that constitute a safety hazard to persons or property, a health hazard to other trees or woody plants, or prevents the safe use of any public property or place;
 - c. Include an order to bring any violation into compliance, and/or correct the specified condition of any tree(s) and/or woody plant(s) by a specific date;
 - d. Inform the owner/occupant of the right to appeal pursuant to this section;

- e. Include a statement of the town's right to abate any violation or condition of any tree or woody plant and file a lien in accordance with this section.
3. Manner Of Service: Service of the written notice shall be by first class mail, postage prepaid, to the owner/occupant as reflected on the town's records. Besides service by mail, the town arborist may provide a copy of the written notice by hand delivery, or by posting such notice on the subject property, or by other means reasonably calculated to provide notice.
4. Duty To Abate; Appeal: It shall be the duty of the owner/occupant of any property that is the subject of the written abatement notice issued by the town arborist, to abate the same within the time specified in the written notice. Timely filing of an appeal from the abatement notice shall extend the time for abatement until a final ruling on the appeal is issued. In addition to any other available sanction or relief, if such owner/occupant fails to comply with the requirements of the abatement order within the specified time, he or she commits a violation of this chapter.
5. Administrator Authority To Abate: The town administrator, or designee, shall be duly authorized to abate any nuisance specified in this chapter, which shall include authority to engage the necessary assistance and incur necessary expense therefor.
6. Expense Recovery: The expense incurred by the town in abating any nuisance as provided herein may be recovered by proper action from the owner/occupant of the property.
7. Administrator To Certify Costs: The town administrator, or designee, shall certify to the town clerk the costs incurred in the abatement of the nuisance, including administrative costs and attorney fees and five percent (5%) administrative fee for inspection and other incidental costs in connection therewith.
8. Appeal And Hearing: Any appeal of an abatement notice and order filed by the owner/occupant shall be filed with the office of the town clerk within five (5) days of the date of the notice. Failure to file an appeal by the deadline shall be a waiver of the right to appeal. The appeal shall be heard and determined by a hearing officer appointed by the town administrator. The hearing officer shall determine the procedure applicable to the administrative hearing. The hearing shall be informal, the rules of procedure related to formal court cases shall not apply, nor shall the rules of evidence. The hearing officer shall determine, in a written order, whether the basis of the abatement notice and order is supported by the evidence. The standard of review shall be by a preponderance of the evidence. If the hearing officer upholds the abatement notice and order, he shall set the date by which the owner/occupant shall bring the property into compliance.
9. Notice Of Assessment; Appeal Of Charges:
 - a. Upon receipt of the statement of charges, the town clerk shall mail to the owner/occupant of record of the subject property a notice, stating the amount and grounds for the charges; the deadline for payment of the assessment, and that in the event such payment is not made, the town will assess the charges against the property; that any objection to the proposed assessment must be made in writing filed with the town clerk's office within seven (7) days of the date of the assessment. Upon the expiration of the seven (7) day period, if the town clerk receives no objections, and if payment in full has not been received, the town clerk shall certify such charges to the clerk of the county treasurer who shall collect the assessment together with a ten percent (10%) penalty for cost of collection, in the same manner as other taxes are collected.
 - b. If the property owner files a timely appeal with the town clerk, the appeal procedures set forth at subsection B8 of this section shall apply. The appellant carries the burden of proof to establish that the charges are unreasonable, by a preponderance of the evidence. The hearing officer shall affirm, modify or vacate the charges to abate the nuisance. The written ruling of the hearing officer shall be provided to the appellant and the town clerk. If the hearing officer affirms the assessment, in whole or in part, the owner/occupant shall pay the amount in full by the deadline established in the written order of the hearing officer. In the event timely payment is not received, the town clerk may certify the charges to the clerk of the county treasurer as provided herein.
- C. Additional Remedies: In addition to the penal remedy and abatement procedures set forth in this chapter, any violation of this chapter is a public nuisance, for which there is no adequate remedy at law, and therefore any

court of competent jurisdiction shall, upon the town attorney's application, enjoin the nuisance, as defined in this chapter. Nothing in this chapter shall prevent the town attorney from seeking other appropriate legal or equitable relief from any court of competent jurisdiction. In addition, the owner/occupant of any property constituting a nuisance shall be liable to the town, jointly and severally with every person creating or maintaining the nuisance, for the town's reasonable expenses incurred in abating the nuisance and the town attorney may commence and prosecute to final judgment an action at law in any court of competent jurisdiction to collect such expenses. As used in this subsection, court of competent jurisdiction includes, without limitation, the Erie municipal court, which insofar as practicable, shall consider and determine applications for legal or equitable relief according to procedures otherwise applicable to proceedings in Colorado county courts.

D. Emergency Abatement:

1. Whenever the town administrator, town arborist or designee, finds that a nuisance exists under this chapter, and places the public health, safety or welfare in imminent danger, the town administrator, town arborist or designee, may issue an emergency abatement order, which shall comply with subsection B of this section, except the emergency abatement order shall:
 - a. Allow a shorter time period, as is reasonable considering the circumstances, to abate the nuisance;
 - b. State that if the nuisance remains unabated at the end of the time period given to correct the nuisance, the town administrator, town arborist or designee, will cause abatement of the nuisance according to this section;
 - c. State that due to the emergency need for abatement, a timely appeal, according to subsection B8 of this section may be heard after the abatement.
2. Timely filing of an appeal from the emergency abatement order shall not extend the time for abatement.
3. If the nuisance remains at the end of the reasonable time given, the town administrator shall cause abatement of the nuisance according to subsection B5 of this section.
4. If the hearing officer, upon a timely and proper appeal, finds that the emergency abatement order is unjustified, the town clerk shall not certify and the town shall not recover abatement costs as a charge or lien against property. (Ord. 21-2016, 7-12-2016)

7-3-15: APPEALS:

- A. If a forestry permit or arborist license is denied, suspended, or revoked, the town arborist shall issue written documentation stating the reasons for the denial, suspension, or revocation to be provided to the applicant or licensee.
- B. Within ten (10) calendar days of the date of the written notice, the applicant or licensee may file a written appeal of the decision made by the town arborist. The appeal notice shall include, at a minimum, the following information: name, address, telephone number of applicant or licensee, location of trees or other woody plants involved in the appeal, decision being appealed, reference to any applicable code or ordinance, and a concise statement of the reasons for appeal.
- C. The appeal shall be heard by the town administrator, or his designee. The burden of proof shall be on the appellant to demonstrate that the decision of the town is erroneous.
- D. Written notice of the decision of the town administrator, or his designee, shall be provided to the applicant or licensee within ten (10) days of the hearing. (Ord. 21-2016, 7-12-2016)

7-3-16: PENALTIES, COST RECOVERY:

- A. Violation: It shall be unlawful and a strict liability offense for any person or business, including, but not limited to, the property owner, any person performing the work and/or any other responsible person, to violate any provision of this chapter, any condition imposed upon any permit or license issued hereunder, or to permit or cause a violation of this chapter. The provisions of this chapter shall be designated as noncriminal violations. Upon conviction, penalties set forth at subsection [1-4-4A](#) of this code shall apply.
- B. Violation A Separate Offense: Each day a violation of this chapter exists or continues shall be deemed a separate and distinct violation.
- C. Conviction: Upon conviction of any provision of this chapter, to include a guilty plea, the person so convicted shall be subject to an order of restitution from the Erie municipal court, where applicable.
- D. Tree Preservation, Damages And Cost Recovery:
1. Any person who injures, damages (including by excessive pruning or topping), or destroys any tree located on town property or public right of way shall repair said damage to the satisfaction of the town arborist.
 2. If the town arborist, or designee, deems a tree or other woody plant to be damaged beyond repair, the responsible person shall compensate the town either the lost monetary value of the tree or other woody plant, as determined by "The Guide For Establishing Values Of Trees And Other Plants" by the council of tree and landscape appraisers (in effect at the time of violation), or the cost of replacing the tree, as determined by the town arborist, or designee.
 3. Any person causing removal of any tree or other woody plant on town property or public right of way, without a permit or after being denied a permit to do so, shall be responsible for three (3) times the appraised value of said tree or other woody plant. (Ord. 21-2016, 7-12-2016)