



AGENDA PACKET

**COMMITTEE ON LEGISLATIVE AFFAIRS & ELECTIONS
MONDAY, SEPTEMBER 09, 2024 6:00 PM**

**EVERETT CITY HALL, 484 BROADWAY, CITY COUNCIL CHAMBERS, 3RD FLOOR
EVERETT, MA 02149**

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2024 SEP -3 A 10:58

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on 9/3/2024 at 10:58 A

Attest:


Assistant City Clerk



AGENDA

COMMITTEE ON LEGISLATIVE AFFAIRS & ELECTIONS MONDAY, SEPTEMBER 09, 2024 6:00 PM

EVERETT CITY HALL, 484 BROADWAY, CITY COUNCIL CHAMBERS, 3RD FLOOR
EVERETT, MA 02149

ROLL CALL

PLEDGE OF ALLEGIANCE

UNFINISHED BUSINESS

1. **C0137-24** Ordinance/s/ Councilor Katy L. Rogers

An ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf

2. **C0238-24** Order/s/ Councilor Robert J. Van Campen, as President

An order requesting the confirmation of the re-appointment of Erik Swanson to the position of Director of Engineering for a term ending January 5, 2026.

3. **C0258-24** Order/s/ Councilor Robert J. Van Campen, as President

An order requesting the confirmation of the re-appointment of Bernard J. Devereux to the position of City Assessor for a three-year term ending June 30, 2027

4. **C0259-24** Ordinance/s/ Councilor Katy L. Rogers

An ordinance pertaining to trees in the City of Everett

ADJOURNMENT

www.cityofeverett.com

(All agendas and reports can be obtained on City of Everett Website)

Respectfully submitted:

Michael J. Mangan

Legislative Aide
Everett City Council Office



C0137-24

To: Mayor and City Council

From: Councilor Katy L. Rogers

Date: April 8, 2024

Agenda Item:

An ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf

Background and Explanation:

We recently learned Everett Stadium is due for upgraded turf. The School Committee expressed concerns about artificial turf. It would be beneficial for the city to have a standard in place regarding the use of organic grass so this issue does not have to recur per venue. The City of Everett was recently offered assistance with a new artificial turf. In an effort to exemplify sustainability, it is my hope we can write a letter to the sponsor asking for their consideration in assisting with an organic grass field

Attachments:

This fact sheet introduces some of the considerations that are relevant to evaluating natural grass and artificial turf playing surfaces. For more of TURI's research on artificial turf and natural grass, see www.turi.org/artificialturf.

Principles of toxics use reduction

TURI's work is based on the principles of toxics use reduction (TUR). The TUR approach focuses on identifying opportunities to reduce or eliminate the use of toxic chemicals as a means to protect human health and the environment. Projects to reduce the use of toxic chemicals often have additional benefits, such as lower life-cycle costs.

Children's environmental health

People of all ages benefit from a safe and healthy environment for work and play. However, special concerns exist for children. Children are uniquely vulnerable to the effects of toxic chemicals because their organ systems are developing rapidly and their detoxification mechanisms are immature. Children also breathe more air per unit of body weight than adults, and are likely to have more hand-to-mouth exposure to environmental contaminants than adults.¹ For these reasons, it is particularly important to make careful choices about children's exposures.

Artificial turf and chemicals of concern

Artificial turf has several components, including drainage materials, a cushioning layer, synthetic grass carpet (support and backing materials and synthetic fibers to imitate grass blades), and infill that provides cushioning and keeps grass carpet blades standing upright. Here, we briefly review issues related to chemicals in synthetic grass carpet and infills.

Crumb rubber infill made from recycled tires. Crumb rubber made from recycled tires is widely used as infill. This material is also referred to as styrene butadiene rubber (SBR), or as tire crumb. Many peer-reviewed studies have examined the chemicals present in tire crumb. Tire crumb contains a large number of chemicals, many of which are known to be hazardous to human health and the environment. These include polyaromatic hydrocarbons (PAHs); volatile organic compounds (VOCs); metals, such as lead and zinc; and other chemicals.²⁻⁵ Some of the chemicals found in tire crumb are known to cause cancer.⁶⁻⁸ Because of the large number of chemicals present in the infill, as well as the health effects of individual chemicals, crumb rubber made from recycled tires is the option that likely presents the most concerns related to chemical exposures.



Other synthetic infills. Other synthetic materials used to make artificial turf infill include ethylene propylene diene terpolymer (EPDM) rubber, thermoplastic elastomers (TPE), waste athletic shoe materials, and acrylic-coated sand, among others. These materials also contain chemicals of concern, although the total number of chemicals and/or the concentration of chemicals of concern may be lower in many cases.⁵ For more information on chemicals in these materials, see TURI's report, *Athletic Playing Fields: Choosing Safer Options for Health and the Environment*.⁹

Mineral-based and plant-derived materials. Other materials used as infill can include sand, zeolite, cork, coconut hulls, walnut shells, olive pits, and wood particles, among other materials. These materials are likely to contain fewer hazardous chemicals than tire crumb, but many of the materials have not been well characterized or studied thoroughly.⁵ Some plant-based materials may raise concerns related to allergies or respirable fibers. In addition, zeolite and sand can pose respiratory hazards. Exposure to some types of zeolites may be associated with increased risk of developing mesothelioma, a type of cancer.^{10,11} Using zeolite can be considered a regrettable substitution. For sand, it is important to understand the source and type of the material; industrial sand that is freshly fractured or that has been highly processed to contain very small particles can be a respiratory hazard when inhaled.⁵

Synthetic grass carpet. Toxic chemicals such as lead are also found in the artificial grass blades in some cases.^{6,7} Recent research has identified per- and poly-fluoroalkyl substances (PFAS) in some artificial turf carpet materials. PFAS are a group of chemicals that are highly persistent in the environment. PFAS do not break down under normal environmental conditions, and some can last in the

environment for hundreds of years or longer. As a result, introducing these chemicals into the environment has lasting consequences. Health effects documented for some PFAS include effects on the endocrine system, including liver and thyroid, as well as metabolic effects, developmental effects, neurotoxicity, and immunotoxicity. For more information, see TURI's fact sheet, "Per- and Poly-fluoroalkyl Substances (PFAS) in Artificial Turf Carpet."¹²

Artificial turf and heat stress

In sunny, warm weather, artificial turf can become much hotter than natural grass, raising concerns related to heat stress for athletes playing on the fields. Elevated surface temperatures can damage equipment and burn skin, and can increase the risk of heat-related illness.¹³ Heat-related illness can be a life-threatening emergency. Experts note that athletic coaches and other staff need to be educated about heat-related illness and understand how to prevent it, including cancelling sport activities when necessary.^{14,15}

Research indicates that outdoor synthetic turf reaches higher temperatures than natural grass, regardless of the infill materials or carpet fiber type.¹³ The Penn State Center for Sports Surface Research measured surface temperature for infill alone, artificial grass fibers, and a full synthetic turf system. The study included several types and colors of infill and fibers. They found that all the materials reached high temperatures than grass when heated indoors (with a sun lamp), or outdoors.

Irrigation can lower field temperature for a short time. A Penn State study found that frequent, heavy irrigation reduced temperatures on synthetic turf, but temperatures rebounded quickly under sunny conditions.¹⁶ Other studies found similar results.¹⁷

Approaches to determining safe temperatures for recreational field spaces. Several methods are available for measuring heat in a play area. It is sometimes necessary to use more than one method in order to determine whether conditions are safe for exercise or play.

One heat metric, Wet Bulb Globe Temperature (WBGT), takes into account ambient air temperature, relative humidity, wind, and solar radiation from the sun. WBGT can help to guide precautions such as rest, hydration breaks, and cancellation of sports activities. However, WBGT may does not take account of field surface temperature.

Another approach is to measure the temperature of the playing field surface itself. One researcher has noted that artificial turf surface temperatures are not captured by either a heat advisory or by wet bulb temperature, and that "elevated risk of heat stress can stem from infrared heating from the ground, regardless of the air temperature." Thus, the researcher suggests, greater caution regarding heat is needed when athletes are playing on artificial turf, "even if the air temperature is not at an otherwise unsafe level."¹⁸

WBGT is used as the basis for a heat policy adopted by Massachusetts Interscholastic Athletic Association (MIAA) in 2019. This policy requires schools to select a method to monitor heat during all sports related activities, and modify activities as needed to protect student athletes.¹⁹ The MIAA policy does not provide guidelines based on the type of playing surface, and does not take account of surface temperature specifically.

The school board of Burlington, MA has taken additional steps to protect student athletes by ensuring that both WBGT and surface temperature are taken into account.²⁰ Burlington's policy, "Utilizing Artificial Turf in the Heat," requires use of an infrared heat gun to determine field surface temperature. The policy includes information about the conditions under which athletes may use artificial turf fields and the conditions under which their activities must be moved to grass fields. For example, the policy states that if the National Weather Service issues a Heat Advisory, artificial turf cannot be used for physical education if the air temperature is higher than 85 degrees with humidity 60 percent or more. Under these conditions, only a grass surface may be used. The policy also lays out criteria to be taken into account in determining activity levels. For example, when air temperature is below 82 degrees, activities are permitted on artificial turf up to a surface temperature of 120 degrees, with three water breaks per hour. Above this surface temperature, activities must be moved to a grass field.

Injuries

Studies show variable outcomes in the rates and types of injuries experienced by athletes playing on natural grass and on artificial turf.^{6,21,22} Among recent studies and reviews of studies, several suggest an increase in foot and/or ankle injuries on artificial turf as compared with natural grass²³⁻²⁵; several find no difference²⁶; and one suggests a possibly lowered risk on artificial turf.²⁷ All of these studies recommend further evaluation of this question.

One particular concern is increased rates of turf burns (skin abrasions) associated with playing on artificial turf. For example, a study by the California Office of Environmental Health Hazard Assessment found a two- to three-fold increase in skin abrasions per player hour on artificial turf compared with natural grass turf.⁶ The study authors noted that these abrasions are a risk factor for serious bacterial infections, although they did not assess rates of these infections among the players they studied.

Environmental concerns

Environmental concerns include loss of wildlife habitat, migration of synthetic particles into the environment, and contaminated stormwater runoff. A study by the Connecticut Department of Environmental Protection identified concerns related to a number of chemicals in stormwater runoff from artificial turf fields. They noted high zinc concentrations in

stormwater as a particular concern for aquatic organisms. They also noted the potential for leaching of high levels of copper, cadmium, barium, manganese and lead in some cases. The top concerns identified in the study were toxicity to aquatic life from zinc and from whole effluent toxicity (WET).²⁸ WET is a methodology for assessing the aquatic toxicity effects of an effluent stream as a whole.²⁹ In addition, scientists have raised concerns about the contribution of artificial turf materials to microplastic pollution.³⁰⁻³²

Safer alternative: organically managed natural grass

Natural grass fields can be the safest option for recreational space, by eliminating many of the concerns noted above. Natural grass can also reduce overall carbon footprint by capturing carbon dioxide. Grass fields may be maintained organically or with conventional or integrated pest management (IPM) practices. Organic turf management eliminates the use of toxic insecticides, herbicides and fungicides.

Organic management of a recreational field space requires a site-specific plan to optimize soil health. Over time, a well-maintained organic field is more robust to recreational use due to a stronger root system than that found in a conventionally managed grass field. Key elements of organic management include the following.³³

- **Field construction:** Construct field with appropriate drainage, layering, grass type, and other conditions to support healthy turf growth. Healthy, vigorously growing grass is better able to out-compete weed pressures, and healthy soil biomass helps to prevent many insect and disease issues.
- **Soil maintenance:** Add soil amendments as necessary to achieve the appropriate chemistry, texture and nutrients to support healthy turf growth. Elements include organic fertilizers, soil amendments, microbial inoculants, compost teas, microbial food sources, and topdressing as needed with high-quality finished compost.
- **Grass maintenance:** Turf health is maintained through specific cultural practices, including appropriate mowing, aeration, irrigation, and over-seeding. Trouble spots are addressed through composting and re-sodding where necessary. Aeration is critical because it makes holes in the soil that allow more air, water and nutrients to reach the roots of the grass and the soil system. Stronger roots make the grass better able to naturally fend off weeds and pests. Aeration also breaks up areas of compacted soil.

Massachusetts communities investing in organic grass fields. In Massachusetts, the city of [Springfield](#) and the town of [Marblehead](#) have both been successful in managing athletic fields organically. These communities' experiences are documented in case studies.^{34,35} In addition, the Field Fund in Martha's Vineyard has invested in organic maintenance of a number of athletic fields and has documented the process at www.fieldfundinc.org.

Installation and maintenance costs: comparing artificial turf with natural grass

In analyzing the costs of artificial vs. natural grass systems, it is important to consider full life-cycle costs, including installation, maintenance, and disposal/replacement. Artificial turf systems of all types require a significant financial investment at each stage of the product life cycle. In general, the full life cycle cost of an artificial turf field is higher than the cost of a natural grass field.

Cost information is available through university entities, turf managers' associations, and personal communications with professional grounds managers. Information is also available on the relative costs of conventional vs. organic management of natural grass.

Installation. According to the Sports Turf Managers Association (STMA), the cost of installing an artificial turf system may range from \$4.50 to \$10.25 per square foot. For a football field with a play area of 360x160 feet plus a 15-foot extension on each dimension (65,625 square feet), this yields an installation cost ranging from about \$295,000 to about \$673,000. These are costs for field installation only, and full project costs may be higher. Costs for a larger field would also be higher.

In one site-specific example, information provided by the town of Natick, Massachusetts shows that the full project budget for the installation in 2015 of a new artificial turf field (117,810 square feet), along with associated landscaping, access and site furnishings, totaled \$1.2 million.³⁶

For natural grass, installation of a new field may not be necessary. For communities that do choose to install a new field, costs can range from \$1.25 to \$5.00 per square foot, depending on the type of field selected. For the dimensions noted above, this would yield an installation cost ranging from about \$82,000 to about \$328,000.³⁷ However, in many cases communities are simply able to improve existing fields.

Maintenance. Maintenance of artificial turf systems can include fluffing, redistributing and shock testing infill; periodic disinfection of the materials; seam repairs and infill replacement; and watering to lower temperatures on hot days. Maintenance of natural grass can include watering, mowing, fertilizing, replacing sod, and other activities. Communities shifting from natural grass to artificial turf may need to purchase new equipment for this purpose. According to STMA, maintenance of an artificial turf field may cost about \$4,000/year in materials plus 300 hours of labor, while maintenance of a natural grass field may cost \$4,000 to \$14,000 per year for materials plus 250 to 750 hours of labor.³⁷

Springfield, MA manages 67 acres of sports fields, park areas, and other public properties organically. Field management costs in 2018, including products, irrigation maintenance, and all labor costs, were just under \$1,500 per acre across all of the properties.³⁴

Natural grass maintenance: Conventional vs. organic costs. Organic turf maintenance can be cost-competitive with conventional management of natural grass. One study found that once established, an organic turf management program can cost 25% less than a conventional turf management program.³⁸

Disposal/replacement. Artificial turf requires disposal at the end of its useful life. STMA estimates costs of \$6.50 to \$7.80 per square foot for disposal and resurfacing.³⁷ Those estimates yield \$426,563–\$511,875 for a 65,625 square foot field and \$552,500–\$663,000 for an 85,000 square foot field.

Disposal is an increasing source of concern. Used synthetic turf is projected to produce between 1 million and 4 million tons of waste over the next decade, but there is a lack of plans or guidance for its disposal.^{39,40} In most cases it cannot be completely recycled, and disposing of it in landfills is expensive and not an industry best practice, according to one article.³⁹ Used turf that is dumped illegally near a body of water can attract pests, and piles can pose a fire risk.³⁹

Life-cycle costs. In 2008, a Missouri University Extension study calculated annualized costs for a 16-year scenario. The calculation included the capital cost of installation; annual maintenance; sod replacement costing \$25,000 every four years for the natural fields; and surface replacement of the synthetic fields after eight years. Based on this calculation, a natural grass soil-based field is the most cost effective, followed by a natural grass sand-cap field, as shown in the table below.⁴¹ Another study, conducted by an Australian government agency, found that the 25-year and 50-year life cycle costs for synthetic turf are about 2.5 times as large as those for natural grass.⁴²

Field type	16-year annualized costs
Natural soil-based field	\$33,522
Sand-cap grass field	\$49,318
Basic synthetic field	\$65,849
Premium synthetic field	\$109,013

Source: Brad Fresenburg, "More Answers to Questions about Synthetic Fields – Safety and Cost Comparison." University of Missouri.

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#2-C0137-24

Government Operations, Public Safety & Public Service Committee
May 9, 2024

The Committee on Government Operations, Public Safety & Public Service met on Thursday, May 9, 2024 at 6pm in City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Stephanie Martins, presiding and Councilors Peter Pietrantonio and Holly Garcia. Members absent was Councilor Guerline Alcy Jabouin.

Communication received from Councilor Guerline Alcy Jabouin that she was unable to attend due to a prior commitment.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf. .

Councilor Katy Rogers, the Sponsor was invited but was not present informing the Committee that she was unaware that her item was on tonight's agenda.

The Committee was informed by the Clerk that if the intent was to make this an Ordinance then the matter should be referred to the Legislative Affairs Committee. Councilor Pietrantonio mentioned this days working for the City in caring for the grass in the City's public facilities and noted that it was a lot of work to care and maintain the grass remarking that is was not a fun job. He felt that turf was a good thing and didn't think it would make sense to rip up existing turf areas to replace with natural grass. Councilor Garcia agreed and mentioned the upkeep required to care for grass fields and suggested looking at other alternatives that would be better for the environment and health. Chairperson Martins suggested postponing until Councilor Rogers had an opportunity to discuss her intentions, but Councilor Pietrantonio noted that he was in opposition to the proposal and requested that the matter be referred back to Sponsor.

The Committee voted 2 to 1 with Chairperson Martins opposed: To report back to the City Council with a recommendation to refer back to Sponsor.

Respectfully Submitted,

John W. Burley
Clerk of Committees

#1- C0137-24

Legislative Affairs & Election Committee
June 13, 2024

The Committee on Legislative Affairs & Elections met on Thursday, June 13, 2024 at 6pm in the City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Michael Marchese, presiding, Councilors Stephanie Smith, Katy Rogers and Robert Van Campen, as ex-officio. Member absent was Councilor Stephanie Martins who was away and unable to attend.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance requiring playing fields in Everett to use environmentally sustainable organic grass.

David Flood, Legislative Research Specialist was also present.

Councilor Rogers informed the Committee that her intent was to create an Ordinance as she mentioned heat stress, injuries and environmental concerns as the major issues related to artificial surfaces on playing fields and the need to replace with organic grass. Councilor Rogers noted that she planned to meet with the Conservation Agent to assist in shaping an Ordinance. Chairman Marchese indicated that he would like to hear the pro's and con's on this proposal. Councilors Smith and Van Campen suggested that the Sponsor meet with the Conservation Agent, City Solicitor and City Council Legislative staff to draft a proposal that the Committee would be able to review at the next meeting.

The Committee voted: to grant further time.

Respectfully Submitted,

John W. Burley
Clerk of Committees



C0238-24

To: Mayor and City Council
From: Councilor Robert J. Van Campen
Date: July 22, 2024

Agenda Item:

An order requesting the confirmation of the re-appointment of Erik Swanson to the position of City Engineer to a term ending January 5, 2026.

Background and Explanation:

Attachments:



CARLO DeMARIA
MAYOR

CITY OF EVERETT - OFFICE OF THE MAYOR
484 Broadway Everett, Massachusetts 02149

☎ 617-394-2270

✉ mayorcarlo.demaria@ci.everett.ma.us

June 25, 2024

Honorable City Council
484 Broadway
Everett, MA 02149

Dear Honorable Members:

Please be advised that in accordance with Section 3-3 of the City Charter and, Section IV(VII)(a) of the City of Everett Administrative Code, I hereby re-appoint, subject to confirmation by the City Council, Erik Swanson to the position of Director of Engineering for a term ending January 5, 2026.

Under the terms of the Administrative Code, this appointment shall not exceed a term of three (3) years. I am submitting for your approval an appointment for a term with an expiration date to coincide with the last date of my current term in office.

Thank you for your favorable consideration.

Respectfully submitted,

Carlo DeMaria
Mayor



June 25, 2024
City of Everett, Massachusetts
CITY COUNCIL

Offered By: _____
Councilor Robert VanCampen, as President

Bill Number:
Bill Type: Order

Be it
Ordered: BY City Council OF THE CITY OF EVERETT, as
follows:

I hereby re-appoint, subject to confirmation by the City Council, and accordance with Section 3-3 of the City Charter and, Section IV(VII)(a) of the City of Everett Administrative Code, Erik Swanson to the position of Director of Engineering for a term ending January 5, 2026.



C0258-24

To: Mayor and City Council
From: Councilor Robert J. Van Campen
Date: July 22, 2024

Agenda Item:

An order requesting approval on the re-appointment of Bernard J. Devereux to the position of City Assessor for a three-year term ending June 30, 2027

Background and Explanation:

Attachments:



CARLO DeMARIA
MAYOR

CITY OF EVERETT - OFFICE OF THE MAYOR
484 Broadway Everett, Massachusetts 02149

☎ 617-394-2270

✉ mayorcarlo.demaria@ci.everett.ma.us

June 25, 2024

Honorable City Council
484 Broadway
Everett, MA 02149

Dear Honorable Members:

Please be advised that in accordance with Section 3-3 of the City Charter and, Section IV(H)(VII)(a) of the City of Everett Administrative Code, I hereby re-appoint, subject to confirmation by the City Council, Bernard J. Devereux to the position of City Assessor for a three-year term ending June 30, 2027.

I am recommending that Mr. Devereux be reappointed for the full length of the term allowed for this position due to his unique skillset and qualifications for the position which are in high demand in municipalities.

Thank you for your favorable consideration.

Respectfully submitted,

Carlo DeMaria
Mayor



June 25, 2024
City of Everett, Massachusetts
CITY COUNCIL

Offered By: _____
Councilor Robert VanCampen, as President

Bill Number:
Bill Type: Order

Be it
Ordered: BY City Council OF THE CITY OF EVERETT, as
follows:

I hereby re-appoint, subject to confirmation by the City Council, and accordance with Section 3-3 of the City Charter and, Section IV(H)(VII)(a) of the City of Everett Administrative Code, Bernard J. Devereux to the position of City Assessor for a three-year term ending June 30, 2027.



C0259-24

To: Mayor and City Council

From: Councilor Katy L. Rogers

Date: July 22, 2024

Agenda Item:

City of Everett tree ordinance

Background and Explanation:

The City of Everett is dedicated to enhancing its urban tree canopy, which will improve the environment, esthetics, and quality of life for its residents. The benefits include energy conservation, air quality improvement, storm runoff reduction, micro-climate control, wind speed reduction, noise pollution reduction, wildlife habitat provision, aesthetic enhancement, property value protection, and public space definition.

Attachments:

Katy Rogers <katyforeverett@gmail.com>

7/16/2024 6:48 PM

Everett Tree Ordinance

To Michael Mangan <michael.mangan@ci.everett.ma.us> • david_flood@comcast.net

City of Everett Tree Ordinance

BACKGROUND: The City of Everett is dedicated to enhancing its urban tree canopy, which will improve the environment, aesthetics, and quality of life for its residents. The benefits include energy conservation, air quality improvement, storm runoff reduction, microclimate control, wind speed reduction, noise pollution reduction, wildlife habitat provision, aesthetic enhancement, property value protection, and public space definition.

ORDINANCE:

1. Urban Canopy Preservation and Expansion

- Preserve existing trees and promote new tree planting.
- Ensure the city remains a Tree City USA by maintaining a tree department, having a city tree ordinance, spending at least \$2 per capita on urban forestry, and celebrating Arbor Day.
- Adhere to the "right tree, right place" philosophy for long-term success.

2. Tree Protection and Replacement

- Protect Public Shade Trees as defined by M.G.L. c. 87.
- Encourage private property owners to plant trees within their lot's setback area.
- Allow the Tree Warden or authorized organizations to plant trees in public rights-of-way or within the setback from such rights-of-way.

3. Tree Removal and Mitigation

- Require a Tree Permit for any project impacting Significant Trees, Public Trees, or Public Shade Trees.
- A Mitigation Plan is required for any tree removal, detailing replacement trees and, if necessary, mitigation payments to the Tree Replacement Fund.

4. Definitions

- Key terms include Aggregate Diameter, Caliper, Certified Arborist, DBH, Lot, Mitigation Payment, Mitigation Plan, Pruning Standards, Public Shade Tree, Public Tree, Replacement Caliper, Replacement Trees, Remove, Significant Tree, Tree Permit, Tree Protection Plan, Tree Protection Zone, Tree Replacement, Tree Replacement Fund, Tree Survey, Tree Warden.

5. Tree Warden Responsibilities

- Oversee all trees within public rights-of-way and on city property.
- Develop an annual work plan for tree maintenance, replacements, plantings, and removals.
- Grant or deny permits, coordinate with city departments, and enforce the ordinance.

6. Tree Survey and Permit Requirements

- A Tree Survey is required for projects needing a Building Permit, Special Permit, or Site Plan Review.

- Tree Permits are required for any project that may impact Significant Trees, Public Trees, or Public Shade Trees.

7. Enforcement and Penalties

- Violations of the ordinance will result in fines up to \$300 per day, mandatory tree replacement, or mitigation payments.
- Unauthorized tree removal will incur significant penalties based on the tree's DBH.

8. Tree Replacement Fund

- Established for the sole purpose of supporting tree planting and maintenance throughout the city.

Severability

- If any provision of this ordinance is found invalid, the remaining sections shall remain in effect.

Effective Date

- This ordinance takes effect immediately upon passage and publication as provided by law.

BACKGROUND: This ordinance was created in collaboration on with the City of Everett arborist and is being presented upon his suggestions ☐

City Of Everett Tree Ordinances

Intent and Purpose

1. The City of Everett is committed to investing in its urban tree canopy. To that end, these ordinances shall guide the City in the preservation of existing trees, the promotion of new tree planting and in community engagement with our urban canopy. Development of the City's urban canopy will serve to improve the environment, the aesthetics and the quality of life in the City of Everett and for its residents. The numerous functions of a well-developed urban tree canopy include;
 - a. Conserving energy, and combating heat island effect by providing shade and evaporative cooling through transpiration,
 - b. Improving local and global air quality by absorbing carbon dioxide, ozone, particulate matter, and producing oxygen,
 - c. Reducing storm runoff, flooding and soil erosion,
 - d. Providing microclimate control,
 - e. Reducing wind speed and directing air flow,
 - f. Reducing noise pollution,
 - g. Providing habitat for birds, small mammals, and other wildlife,
 - h. Enhancing visual and aesthetic qualities that attract visitors and businesses,
 - i. Providing natural privacy among neighbors,
 - j. Protecting and increasing real property values,
 - k. Contributing to the definition of public spaces and creating civic identity and responsibility.

2. The provisions of this ordinance reinforce, enhance, and expand existing legal vehicles to ensure that future development and public policy adequately preserve, protect, and provide for replacement of Public Trees and Public Shade Trees as well as increasing the total tree inventory.

3. The City resolves to plant more trees and in greater variety in order to compensate for past tree losses, the length of time required for a tree to achieve maturity and to provide resiliency through biodiversity. The City will adhere to "right tree, right place" philosophy to ensure that all new trees are planted and maintained to ensure long term success into maturity.

4. This ordinance:
 - a. Ensures that The City of Everett sustains its designation as Tree City USA by meeting or exceeding the four core standards of sound urban forestry management;
 - i. Maintaining a tree department,
 - ii. Having a City tree ordinance,
 - iii. Spending at least \$2.00 per capita on urban forestry,
 - iv. Celebrating Arbor Day.
 - b. Protects and preserves Public Shade Trees pursuant to M.G.L. c. 87.

- c. Encourages private property owners to plant or to accept a tree from the City to be planted within the setback area of their lot instead of in the tree lawn or tree pit, if the Tree Warden so recommends.
- d. Allows the Tree Warden, or a private organization acting with the written consent of the Tree Warden, to plant trees acquired with public or private funds in the public rights-of-way or within the setback from such public rights-of-way with acceptance by the property owner for the purpose of improving, protecting, shading, or ornamenting the land.

Definitions

1. "Aggregate Diameter": The combined DBH (diameter at breast height) of multiple tree trunks growing from the same root system shall be considered to be the DBH of the tree in the case of any tree where more than one stem originates below 54.5 feet from the ground.
2. "Caliper": A measurement of the tree trunk diameter used when any tree is less than 6" and is a measurement of the diameter of the tree trunk at 12 inches above the ground. Caliper measurement is typically used when purchasing new trees.
3. "Certified Arborist": An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
4. "DBH (diameter at breast height)": The diameter of a tree trunk measured in inches at a height of 4.5 feet above the ground. For multiple trunk trees, DBH is the aggregate diameter of the trunks.
5. "Lot": A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.
6. "Mitigation Payment." A payment to be paid to the Tree Replacement Fund associated with the removal of applicable Significant Trees, Public Trees or Public Shade Trees that have not been replaced with Replacement Trees in accordance with the mitigation requirements established in this Ordinance. The Mitigation Payment shall be in accordance with the City of Everett's most recent tree planting costs in consideration of two (2) times or more, the total DBH or Caliper of trees Removed.
7. "Mitigation Plan": A document to be provided where any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed from a Lot, stating;
 - a. Why any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed from a Lot,
 - b. A description of the Replacement Tree proposed to replace any applicable Significant Tree, Public Tree or Public Shade Tree to be Removed,
 - c. The Mitigation Payment, if required.
8. "Pruning Standards": Standards for pruning of trees as defined in the ANSI A300 Tree Care Standards and any future amendments or revisions to the same.
9. "Public Shade Tree": A tree located in the public way, as defined in M.G.L. c. 87, Sec. 5.
10. "Public Tree": Any tree located on land owned completely by the City of Everett. This does not include any tree that fits the definition of a Public Shade Tree under M.G.L. c. 87.

11. "Replacement Caliper": The caliper for applicable Significant Trees, Public Trees and Public Shade Trees planted in replacement for Removed trees shall be at least two (2) times the DBH or aggregate diameter whichever is greater, of the tree Removed.
12. "Replacement Trees." A tree or trees to be planted to replace applicable Significant Trees, Public Trees or Public Shade Trees to be Removed from the Lot. The approval of the Tree Warden will be required if Replacement Trees are to be placed on other Lots. Replacement Trees shall continue to be identified as such for a period of ten (10) years.
13. "Remove (including removing and removal)": Cutting down any applicable Significant Tree, Public Tree or Public Shade Tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of an applicable Significant Tree, Public Tree or Public Shade Tree, including, but not limited to, excessive or improper pruning.
14. "Significant Tree": Any tree six (6) inches DBH or larger which is on a Lot. This does not include any tree that fits the definition of a Public Tree under this ordinance or any tree that fits the definition of a Public Shade Tree under M.G.L. c. 87.
15. "Tree Permit": A document signed and certified by the Tree Warden required to be issued for any project requiring a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, where any applicable Significant Tree, Public Tree or Public Shade Tree may be damaged or disturbed as a result of a project on the lot. A Tree Permit shall also be required for any project that requires or may result Removal, damage or disturbance including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone or other means to any Public Trees or Public Shade Trees and their Tree Protection Zone.
16. "Tree Protection Plan": A document designed by a Certified Arborist and approved by the Tree Warden which shall include the following information;
 - a. Drawings of Tree Protection measures,
 - b. The location on the Lot of all applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone ,
 - c. An indication of which applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means,
 - d. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed, the Tree Protection Plan shall include the location of any applicable Significant Tree, Public Tree and Public Shade Tree, and their Genus, Species, Height and DBH or Caliper,
 - e. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed, the Tree Protection Plan shall include the location of Replacement Tree or trees and their Genus, Species, Height and DHB or Caliper.
 - f. A schedule for planting the proposed Replacement Tree or trees,
 - g. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed and an inadequate number of Replacement Trees are proposed to be planted, a Mitigation Plan shall be included in the Tree Protection Plan,

- h. Such other conditions as specified by the Tree Warden pursuant to applicable regulations.
- 17. "Tree Protection Zone": The area surrounding a tree which must remain as undisturbed as possible so as to prevent damage or removal of the tree. Including but not limited to the area where roots critical to the vigor and structure of the tree are located. The size and shape of a Tree Protection Zone shall be defined by a Certified Arborist, shall adhere to the ANSI A300 Tree Care Standards and be approved by the Tree Warden.
- 18. "Tree Replacement": The Tree Warden shall require the replacement of any Removed applicable Significant Tree, Public Tree or Public Shade Tree, which shall be planted by the applicant or their contractors under the supervision of a Certified Arborist and subject to approval by the Tree Warden.
- 19. "Tree Replacement Fund": Payments required by this ordinance for planting at the same site or at another location shall be deposited into this fund.
- 20. "Tree Survey": A document designed by a Certified Arborist and approved by the Tree Warden which shall include the location, Genus, Species, Height and DBH of all Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone on a Lot and those trees that have been Removed from a Lot within one year prior to the submission of a Tree Survey. If applicable; a Tree Survey shall include a Tree Protection Plan and a Mitigation Plan. A Tree Survey shall be required for any project requiring any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19. A Tree Survey shall also be required for any project that requires or may result in any Public Trees or Public Shade Trees being Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
- 21. "Tree Warden": The individual who holds this title shall be an arborist certified by the Massachusetts Arborists Association (MAA), The International Society of Arboriculture or any successor of either organization. The duties and responsibilities of the Tree Warden shall conform to M.G.L. c. 87 and shall include other responsibilities described in this ordinance.

Compliance with state law

- a. Nothing in this ordinance shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing municipal or state law.

Tree Replacement Fund

- b. There is hereby established a Tree Replacement Fund which shall be held by the City Treasurer in an account and administered in accordance with applicable provisions of the Massachusetts General Laws. Any payments into the Tree Replacement Fund shall be deposited in said Fund and shall be used solely for the purpose of supporting tree planting and maintenance throughout the entire City.

Applicability

- c. The terms and provisions of this ordinance shall be administered by the Tree Warden and shall apply to any applicable Significant Tree and to any Public Tree or Public Shade Tree and their Tree Protection Zone located within the City of Everett.

Tree Warden

1. The Tree Warden shall be a Certified Arborist by the Massachusetts Arborist's Association, The International Society of Arboriculture, or any successor of either organization.
2. The duties and responsibilities of the Tree Warden shall conform to M.G.L.A. c. 87 and shall include, but not be limited to, the following and as may be further specified in this ordinance;
 - a. Care and control of all trees within public rights-of-way and care and control of all trees on City property,
 - b. Development of an annual work plan, using the tree inventory as a resource, for systematic tree maintenance, replacements, plantings, and removals for each fiscal year. The plan shall include locations of work, designated work to be accomplished, and resources including funds required,
 - c. Posting notices and holding public hearings for the removal of Public Trees and Public Shade Trees as required by M.G.L. c. 87 and this ordinance,
 - d. Expending funds appropriated for planting trees on land within public rights-of-way, City owned property and in the setback of a Lot with the express approval of the Owners,
 - e. Granting or denying permits and attaching thereto reasonable conditions required under this ordinance,
 - f. Working in conjunction with other City departments to seek grants or other assistance concerning the preservation, maintenance and planting of trees in City,
 - g. Development of rules, regulations, tree inventories, manuals, and other data, in conjunction with other City departments, to carry out the purposes and intent of this ordinance,
 - h. Supervising the planting and care of City trees to ensure that such planting and care meets the criteria of these ordinances and the ANSI A300 Tree Care Standards,
 - i. Ensuring the regular maintenance of and updating of the City of Everett's Tree Inventory to track removal and replacement of trees in order to replace lost trees in an orderly fashion,
 - j. Appointment of designee to serve in the absence of the Tree Warden,
 - k. Coordinate with any private organization that creates a program for the planting or pruning of Public Trees and Public Shade Trees on City property, in the public rights-of-way or within the setbacks with the express approval of the Owners,
 - l. With authorization by the council, undertaking other responsibilities consistent with the purposes and intent of this ordinance,
 - m. Enforcement of this ordinance.

Tree Survey

1. A Tree Survey Shall be required in the case of any project that requires any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3, or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19. The application for any Building Permit, a Special Permit or a Site Plan Review shall include a tree survey which shall first have been submitted to the Tree Warden not less than twenty-one (21) days prior to the submission of the application for a, Building Permit, Special Permit or Site Plan Review.
2. A Tree Survey shall also be required for any project that requires or may result in any Public Trees or Public Shade Trees being Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
3. A Tree Survey shall include the location, Genus, Species, Height, DBH and Tree Protection Zone of all Significant trees, Public trees and Public Shade trees that will be Removed, damaged, or disturbed, including through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone by any project requiring any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19.

Tree Permits

1. A Tree Permit shall be required in the case of any project where any applicable Significant Tree or Public Tree or Public Shade Tree will be Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone,
2. No Tree Permit Application fee shall be charged,
3. If applicable, a Tree Permit application shall be submitted concurrently with a Tree Survey in accordance with this ordinance and if applicable, a Mitigation Plan and a Tree Protection Plan,
4. The Tree Warden shall review applications for Tree Permits in accordance with the provisions of this ordinance and with any rules or regulations promulgated hereunder,
5. The Tree Warden shall date stamp or otherwise record the date of filing of each application for a Tree Permit,
6. The Tree Warden shall complete the review of each Tree Permit application relating wholly to Significant Tree Removal no later than ten (10) business days after the submission of a completed application to the Tree Warden,
7. Upon the issuance of a Tree Permit, the Tree Warden may prescribe in writing such protective measures for existing trees, as they deem necessary. The Tree Warden shall make a determination that the prescribed protective measures have been adequately provided before any disturbance of the site related to the permitted activity may begin,
8. In the case of any project which requires any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, the Owner of the Lot shall be required to commit to comply with all provisions of the Tree Permit and if applicable, the provisions of the Mitigation Plan, the Tree Protection Plan and other provisions of this Chapter and regulations promulgated hereunder in the application for requires any Building Permit, a Special Permit per The City of

Everett Code of Ordinances, Division IV Sec. 3, or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19,

9. If applicable, the Tree Warden shall report whether the Tree Permit was granted or denied to the Planning Board or the Director of Inspectional Services within the same ten (10) business days. If the Planning Board or the Director of Inspectional Services receives no such report about a Tree Permit for the property within the above-stated time period, the Planning Board or Director of Inspectional Services shall accept a Building Permit, Special Permit or Site Plan Review application without that report,
10. In the case of a project where a Tree Permit allows for the Removal of an applicable Significant Tree, a Public Tree or a Public Shade Tree, Tree Warden shall keep a record of the type and size of tree Removed, the reason for the removal, photographs of the tree documenting the reason for removal, the date, the contractors, and the name and address of the property owner,
11. Any Tree Permit issued by the Tree Warden shall be valid for 90 days from issuance. The Tree Warden, following an email or written request by the applicant, may extend the length of the permit for any length of time, as they deem necessary and appropriate,
12. A Tree Permit may be suspended or revoked at any time by the Tree Warden upon written notice to the permit holder that the permit holder has failed to comply with either this ordinance or the conditions of the Tree Permit. The written notice shall be sent by certified mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the non-compliance and apply for a renewal of the Tree Permit upon compliance, where practicable.

Mitigation Plan

1. In the case of any project which requires a Tree Permit and where a Tree Survey identifies a Tree Removal, A Mitigation Plan will be required for all Trees Removed,
2. The Mitigation Plan shall be designed and certified by a Certified Arborist,
3. The Mitigation Plan shall be subject to approval by the Tree Warden,
4. If applicable a Mitigation Plan shall be submitted concurrently with an application for a Tree Permit. A Mitigation Plan shall include;
 - a. Why any Tree is proposed to be Removed from a Lot,
 - b. A description of the Replacement Tree proposed to replace any tree to be Removed, including Genus, Species, Height and Caliper,
 - c. A schedule for planting the proposed Replacement Tree,
 - d. If applicable, a Mitigation Payment,
 - e. If applicable, a Tree Protection Plan,
5. Replacement Trees will continue to be identified as Replacement Trees for a period of ten (10) years after they are planted,
6. No Replacement Tree shall be Removed without a Tree Permit issued by the Tree Warden. In all cases, the Tree Warden shall keep a record of the type and size of any Replacement Tree Removed, the reason for the removal, photographs of the Replacement Tree documenting the reason for removal, the date, the contractor, and the name and address of the property owner,
7. A Mitigation Payment will be required for all Replacement Trees Removed. The Mitigation Payment shall be assessed on a DBH basis in consideration of the Replacement Tree Removed, in accordance with the City of Everetts's most recent tree planting and maintenance costs

inclusive of purchasing, planting, watering, and maintaining Replacement Trees for a period of not less than five years. No reduction of the amount of Mitigation Payment otherwise available under this Ordinance will be allowed in connection with the Removal of Replacement Trees.

8. In the case of any project which requires a Tree Permit and where a Tree Survey identifies a tree Removal, the total DBH of Replacement Trees, or Mitigation Payment of equivalent value, as applicable, shall be 2 times or more, the total DBH of the trees to be Removed.

Tree Protection Plan

1. A Tree Protection Plan shall be required in the case where any applicable Significant Tree, Public Tree or Public Shade Tree or their Tree Protection Zone which will not be Removed, extends or overlaps into the work zone of any project, excavation or construction where any applicable Significant Tree, Public Tree or Public Shade Tree or their Tree Protection Zone may be damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone,
2. If applicable a Tree Protection Plan shall be submitted concurrently with an application for a Tree Permit.
3. The Tree Protection Plan shall be designed and certified by a Certified Arborist,
4. The Tree Protection Plan shall be subject to approval by the Tree Warden,
5. All applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone near the excavation or construction of any building, structure, or street, or in the vicinity of utility work shall be sufficiently guarded and protected by those responsible for such work so as to prevent injury to said applicable Significant Trees, Public Trees and Public Shade Trees.
6. A Tree Protection Plan shall include;
 - a. The location on the Lot of all applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone
 - b. An indication of which applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means.
 - c. Descriptions and drawings of tree protection measures that will be used to prevent damage or disturbance to trees and their root systems that will be retained.

Significant trees

1. A Tree Permit shall be required in the case of any project that requires a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, where the Tree Survey identifies any Significant tree that will be Removed, Damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
2. No Tree Permit shall be required for the removal or disturbance of a Significant Tree located wholly on a Lot not Owned or managed by the City of Everett except in the case of any project which requires a Site Plan Review per Division IV: Zoning, § 19 Site Plan Review
3. A Tree Permit to Remove an applicable Significant Tree shall be issued when an applicable Significant Tree will be;

- a. Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the Mitigation Plan,
- b. Replaced by a Mitigation Payment into the Tree Replacement fund,
- c. The Tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the Tree Warden.
- d. The removal of the Tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the Tree Warden.

Public Tree and Public Shade Trees

1. A Tree Permit shall be required in the case of any project where any Public Tree or Public Shade Tree will be Removed, damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
2. Except as provided by a Tree Permit, no person other than the Tree Warden or their designee shall Remove, prune, alter or disturb any Public Tree or Public Shade Tree or the Tree Protection Zone of any Public Tree or Public Shade Tree, including through the compaction of soil due to the passage or parking of vehicles or equipment.
3. When a Public Tree or Public Shade Tree is to be Removed, a public tree hearing shall be scheduled. The public tree hearing will be advertised twice in a local newspaper during the 14 days prior to the public tree hearing, posted on the City website, the City hall bulletin board, and a notice shall be affixed to the tree itself. The resident or owner requesting the removal of a Public Tree or Public Shade Tree shall pay for costs associated with this notice.
4. After the conclusion of a favorable public tree hearing a Tree Permit to Remove a Public Tree or Public Shade Tree shall be issued when a Public Tree or Public Shade Tree will be;
 - a. Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the Mitigation Plan,
 - b. Replaced by a Mitigation Payment into the Tree Replacement fund,
 - c. The Tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the Tree Warden.
 - d. The removal of the Tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the Tree Warden.

Duty of Care

1. Upon issuance of any City of Everett permit by the Planning Board, the director of Inspectional Services or the Tree Warden, the permit holder is required to take reasonable precautions to ensure that any applicable Significant Tree and all Public Trees and Public Shade Trees are adequately protected and maintained free from harm from work associated with the permit issued. Failure to adequately protect and maintain any applicable Significant Trees and all Public Trees and Public Shade Trees free from harm may result in a fine, and failure to adequately protect applicable Significant Trees and all, Public Trees and Public Shade Trees that results in

any applicable Significant Trees and all, Public Trees and Public Shade Trees being Removed within Five (5) years of the failure to protect being noted may result in a fine and a Mitigation Payment that reflects the value in accordance with two (2) times the DBH of the applicable Significant Trees, Public Trees or Public Shade Trees Removed.

Tree Donations

1. Voluntary contributions may be made to benefit tree planting and maintenance in Everett shall be deposited into the Tree Replacement Fund.

Enforcement

1. Any person who violates any of the provisions of this Chapter shall be notified by the Tree Warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.
2. Upon notice from the Tree Warden that work on any Lot on which an applicable Significant Trees, Public Tree, Public Shade Tree or their Tree Protection Zone is located is being performed contrary to any applicable Tree Protection Plan or Mitigation Plan or any provision of this Chapter, such work shall be immediately stopped. The stop work order shall be in writing, and shall be given to the owner of the Lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.
3. Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.
4. Injunctive Relief. Whenever there exists reasonable cause to believe that a person is violating any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, the City may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
5. Failure to apply for and receive a Tree Permit or failure to replace an applicable Significant Tree, Public Tree, Public Shade Tree or make a payment into the Tree Replacement Fund or to post and maintain a bond in accordance with this ordinance shall constitute a separate violation of this Chapter for which there shall be a fine of not more than \$300.00. Each day such violation continues shall constitute a separate offense.
6. Alternative Penalty; As an alternative to any fine stated in this ordinance, citations may be issued pursuant to M.G.L. c. 40, § 21D, assessing a fine of not more than \$300.00 for each day the violation is committed or permitted to continue.
7. Tree vandalism. Each instance of mayhem shall constitute a violation of this ordinance and shall be subject to a fine of up to \$300.00.
8. Removal without a Tree Permit. Each instance in which an applicable Significant Tree, Public Tree or Public Shade Tree is Removed without a Tree Permit shall constitute a violation of this ordinance and shall be subject to a fine in the amount applicable to the City of Everetts most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining Replacement Trees for a period of not less than five years,

- a. The fine for any applicable Significant Tree, Public Tree or Public Shade Tree Removed without a Tree Permit shall be assessed at two (2) times the total DBH of any applicable Significant Tree, Public Tree or Public Shade Tree Removed,
 - b. No reduction of the amount of the fine otherwise available under this Ordinance will be allowed in connection with the Removal of any applicable Significant Tree, Public Tree or Public Shade Tree Removed without a Tree Permit.
9. Each failure to replace an applicable Significant Tree, Public Tree or Public Shade Tree or to make a payment into the Tree Replacement Fund beyond the timeframe of the Tree Permit shall constitute a separate violation of this ordinance and shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.
10. Failure to comply with a condition contained in a Tree Permit. Each instance where there is a failure to comply with a condition contained in a Tree Permit shall be subject to a fine in the amount of \$300.00.
11. Failure to comply with a stop work order. Each instance where there is a failure to comply with a stop work order shall constitute a violation of this ordinance, which shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense;
12. Nothing herein shall be construed to require the City of Everett to make a payment into the Tree Replacement Fund for any tree that it Removes.

Severability

1. Severability. The provisions of this ordinance are severable. If any section, provision, or portion of this ordinance is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this ordinance shall continue to be valid.

Effective Date

In Effect. This Ordinance shall take effect immediately upon passage and publication as provided by law.