AN ORDINANCE TO AMEND SECTIONS OF THE RAPID CITY MUNICIPAL CODE
RELATING TO INFESTED TREES AND STORAGE OF WOOD

WHEREAS, the Common Council has adopted ordinances related to the inspection and removal of dead or diseased trees, trees with obvious visible defects, and trees infested with mountain pine beetle; and

WHEREAS, the City now wishes to reorganize and further clarify the Rapid City Municipal Code sections relating to such inspection and removal; and

WHEREAS, the City has adopted an ordinance related to the storage of wood declared to harbor or contain a pest infestation and now wishes to amend that ordinance; and

WHEREAS, the Common Council of the City of Rapid City deems it in the best interests of the City and in the best interest of the health, safety and welfare of the community to amend sections 12.32.100 and 12.32.120 and repeal section 12.32.110.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 12.32.100 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.32.100 Trees on private property.

A. The city shall have the right to inspect and cause the removal of any tree, or any part thereof, on private property within the city if the tree or any part thereof:
   1. is dead, diseased, insect infested or has obvious visible defects; and
   2. Either:
      a. constitutes a hazard to life or property, or
      b. harbors pests which constitute a threat to other trees within the city.
   3. A tree, or any part thereof, that meets the criteria of subsection A.1. and A.2. is declared a public nuisance. The remedies against a public nuisance, in addition to those prescribed herein, shall be those prescribed by state law.

B. The city shall notify the owners of such trees on the real property on which the tree is located, in writing by first-class mail or hand delivery, to remove the trees within such reasonable time as shall be determined by the Urban Forester. Removal shall be made by the owners at their own expense. In the event of failure of owners to comply with the removal provisions, the city shall have the authority to remove the trees and charge the cost of removal to the owners or to assess the costs thereof against the property to defray the cost of abating the public nuisance.
including administrative costs, by taxing the cost thereof by special assessment against the real property on which the tree was located. In addition to the abatement remedy prescribed in this code and those remedies prescribed by state law, any person violating this section may also be subject to the general penalty provision as set forth in § 1.12.010 of the RCMC.

C. Any person claiming an interest in any tree ordered to be removed under subsection B. of this section may appeal the order to the Urban Forestry Board within 7 days of the date of the order.

D. Obvious visible defects include, but are not limited to, dead limbs greater than 6 inches in diameter, an unseasonable lack of leaves, visible decay, lightning damage, and perilously leaning trunks.

E. Upon written request, the Director of the Parks and Recreation Department or his or her designee may provide an extension, not to exceed an additional 30 days, from the date of removal required by the Urban Forester.

F. This provision shall not be construed to relieve from liability any party owning land on which a hazardous tree or any part thereof is located for damages to persons or property caused by the hazardous tree. This provision shall not be construed as imposing upon the city any liability or responsibility resulting from damage caused by any tree located on private property, nor shall the city or its employees be held as assuming any liability or responsibility by reason of an authorized inspection under this section.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 12.32.110 of the Rapid City Municipal Code is repealed.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 12.32.120 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

12.32.120 Storage of wood.

No person shall store or permit the accumulation of any elm wood in the city. No person shall store any tree or part thereof declared to harbor or contain any pest infestation as defined in § 12.32.020, unless the wood is debarked prior to storage.

CITY OF RAPID CITY

Mayor