

CHAPTER 9 COMMUNITY FORESTRY

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8-9-1: **PURPOSE:** The purpose of this Chapter is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting and maintenance, and removal of trees, shrubs and other plants within the City of Idaho Falls. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14)

8-9-2: **DEFINITIONS:** Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

ANSI A300: That certain standard tree, shrub and other woody plant maintenance standard practice as set forth in ANSI A300 (Part I)—2001, as published by the American National Standards Institute, Inc., May 22, 2001 Edition.

ANSI Z133.1: That certain safety standard regarding the planting and maintenance of trees in proximity to utility lines as published by the American National Standards Institute, Inc. May 22, 2001 Edition.

CITY FOREST: The sum of all trees and shrubs within the City.

CITY FORESTER: The person appointed by the Director to carry out the duties and functions set out in the Chapter.

CRITICAL ROOT ZONE: The area under a tree extending from the base of a tree in all directions to a line ten (10) feet outside of the drip-line.

DIRECTOR: The duly appointed Director of City Parks and Recreation Department.

MEMORIAL TREE: A tree that has been specifically approved by the Urban Forester to be planted as a special commemorating memorial.

PARK TREE: Any public tree, shrub, bush and woody vegetation located in or upon any public park owned by the City, but excluding trees in the public right-of-way.

PRIVATE TREE: Any tree that is not a public tree.

PRIVATE TREE SERVICE COMPANY: Any company or person engaged in the business of tree pruning, trimming, removal within or without the City, whose gross receipts are more than five hundred dollars (\$500) in any calendar year.

PUBLIC RIGHT-OF-WAY: Improved or unimproved public property owned by, dedicated to, or deeded to, the public or the public's use for the purpose of providing vehicular, pedestrian and other public use. Such public property includes, but is not limited to, streets, alleys, sidewalks, public utility.

PUBLIC TREE: Any tree located upon public property owned or managed by the City, including a street tree.

SHRUB: A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15') feet in height.

STREET TREE: Any tree, shrub, bush, and all other woody vegetation whose critical root zone is located on or encroaches into any public right-of-way or whose branches overhang any public right-of-way owned or managed by the City, or an adjacent property owner.

TOPPING: The severe cutting back of limbs to stubs larger than three inches (3'') in diameter within the tree's crown or the removal of the top part (trunk and limbs) of a coniferous tree, thereby removing the normal canopy and disfiguring the tree.

TREE: A woody and perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen feet (15') in height and two inches (2'') in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3003, 4-23-15; Ord. 3007, 5-25-15; Ord. 3194, 6-28-18; Ord. 3332, 09-10-20)

8-9-3: CITY FORESTER: The Director may appoint a person to serve as City Forester. The City Forester shall have such duties and perform such functions as shall be prescribed herein and as required by the Director of Parks and Recreation. The City Forester is hereby authorized to:

(A) Direct, manage, supervise and control the City street tree and park tree program for the planting, removal, maintenance and protection of all public trees and shrubs on all public areas and to supervise and assist the Parks and Recreation Department personnel in the planting, removal, maintenance and protection of said trees and shrubs;

(B) To guard all public and private trees and shrubs within the City so as to prevent the spread of disease or pest and to eliminate the public nuisances described in this Chapter which may affect the life, health or safety of person or property. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3003, 4-23-15; Ord. 3549, 9-14-23)

8-9-4 SPECIES OF TREES PERMITTED: It shall be unlawful to plant any tree within any public right-of-way or planting median or immediately adjacent to a public tree, except the following species of trees:

Small Trees

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| Cherry, Canada Red | <i>Prunus virginiana</i> 'Shubertii' |
| Cherry, Sargent | <i>Prunus sargentii</i> |
| Crabapple, (persistent or fruitless varieties) | <i>Malus</i> spp.'Spring Snow/Thunderchild |
| Elm, Camperdown | <i>Ulmus glabra</i> 'Camperdownii' |
| Hawthorne, Black | <i>Crateagus douglasii</i> ' |
| Hawthorne, Snowbird | <i>Crateagus mordenesis</i> |
| Hawthorne, Washington | <i>Crateagus phaenopyrum</i> |
| Hornbeam, American | <i>Carpinus, caroliniana</i> |
| Lilac, Japanese Tree | <i>Syringa reticulata</i> |
| Maple, Amur | <i>Acer ginnala</i> |
| Maple, Bigtooth | <i>Acer grandidentatum</i> |
| Maple, Hedge | <i>Acer campestre</i> |
| Mayday | <i>Prunus padus</i> |
| Pear, Callery (varieties) | <i>Pyrus calleryana</i> 'Cleveland/Princess' |
| Plum, Newport | <i>Prunus cerasifera</i> 'Newport' |
| Serviceberry, Saskatoon | <i>Amelanchier alnifolia</i> |

Medium Trees

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| Amur Cork Tree | <i>Phellodendron amurense</i> |
| Beech, European | <i>Fagus sylvatica</i> |
| Birch, Heritage | <i>Betula nigra</i> 'Heritage' |
| Catalpa, Northern | <i>Catalpa speciosa</i> |
| Elm, Smoothleaf (varieties) | <i>Ulmus carpinifolia</i> 'Homestead/Frontier' |

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| Hackberry | <i>Celtis occidentalis</i> |
| Honeylocust, (thornless varieties) | <i>Gleditsia triacanthos</i> var. <i>inermis</i> |
| Linden, American (varieties) | <i>Tilia americana</i> |
| Linden, Littleleaf | <i>Tilia cordata</i> |
| Linden, Corinthian | <i>Tilia cordata</i> ‘Corinthian |
| Linden, Littleleaf | <i>Tilia cordata</i> |
| Maple, Norway (varieties) | <i>Acer platanoides</i> |
| Maple, Red (varieties) | <i>Acer rubrum</i> |
| Oak, Columnar English | <i>Quercus robur</i> Fastigiata |
| Walnut, English | <i>Juglans regia</i> |
| Zelkova | <i>Zelkova serrata</i> |

Large Trees

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| Coffeetree, Kentucky | <i>Gymnocladus dioicus</i> |
| Honeylocust, Thornless (native species) | <i>Gleditsia triacanthos</i> var. <i>inermis</i> |
| Horsechestnut | <i>Aesculus hippocastanum</i> |
| Linden, American (native species) | <i>Tilia americana</i> |
| Maple, Norway (native species) | <i>Acer platanoides</i> |
| Oak, Bur | <i>Quercus macrocarpa</i> |
| Oak, Bur/Gambel Hybrid | <i>Quercus macrocarpa</i> x <i>gambelii</i> |
| Oak, Bur/English Hybrid | <i>Quercus macrocarpa</i> x <i>robur</i> |

Other species may be planted only with written permission from the Parks and Recreation Department.

8-9-5 MEMORIAL TREE REGULATIONS:

- (A) Species of Memorial Tree will be determined by the Urban Forester.
- (B) The Parks Superintendent shall determine the location of a Memorial Tree.
- (C) Any plaque associated with a Memorial Tree shall be metal or bronze, four inches wide by nine inches (4” x 9”) long. The plaque shall be set in concrete five inches wide by ten inches long and with two inches thickness (5” x 10” x 2”) at ground level and confined within the mulch area of the Memorial Tree ring. No other size of plaque shall be allowed.
- (D) A Memorial Tree may be decorated with artificial decorations or flowers not more than two (2) days before birth and death dates a person memorialized and on any federally recognized holiday. Such decorations shall be removed within seven (7) days following such decoration dates. If decorations are not removed within seven (7) days following a decoration date, the City may remove and dispose of the decorations at the City’s sole discretion.

8-9-6 UTILITIES:

- (A) It shall be unlawful for any person to plant any public or private tree under or within twenty (20) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, electric transmission or distribution line or other utility except the following species of trees:

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| Cherry, Canada Red | <i>Prunus virginiana</i> ‘Shubert’ |
| Crabapple, (persistent or fruitless varieties) | <i>Malus</i> spp. |
| Elm, Camperdown | <i>Ulmus blabra</i> ‘Camperdownii’ |
| Honeylocust, Imperia | <i>Gleditsia triacanthos</i> var. <i>inermis</i> ‘Imperial’ |
| Lilac, Japanese Tree | <i>Syringa reticulata</i> |
| Maple, Amur | <i>Acer ginnala</i> |
| Mayday | <i>Prunus padus</i> |
| Mountain Ash, European | <i>Sorbus aucuparia</i> |
| Plum, Newport | <i>Prunus cerasifera</i> ‘Newport’ |
| Serviceberry, Saskatoon | <i>Amelanchier alnifolia</i> |
| Sumac, Staghorn | <i>Rhus typhina</i> |

Other species may be planted only with written permission from the Parks and Recreation Department.

- (B) It shall be unlawful to plant any public or private tree in any location in any manner which does not comply with the safety standards for planting and maintenance of trees in proximity to public utilities, as set forth in ANSI Z133.1 and this Chapter.
- (C) The City shall not be responsible for damage to any tree or shrub located within a utility easement as a result of the operation or maintenance of City utility lines. Damage to any public utility system caused by trees improperly located within the public right-of-way or easement will be repaired at the owner's expense.

8-9-7 RESPONSIBILITIES FOR PRIVATE TREES:

- (A) It shall be unlawful for any person owning a private tree or in control of a private tree to refuse or fail to take the following actions within a reasonable time after being directed to do so by the City Forester:
- (1) Remove, prune, or re prune any tree located on such person's private property in a manner that removes, abates or otherwise lessens the likelihood of or resolves any pest infestation, dangerous condition or circumstance located within such tree, the existence of which constitutes a public nuisance, as defined in this Chapter.

(2) Remove, prune, or re prune any private tree located on such person's real property in a manner that provides for trees and shrubs to be trimmed and have vertical clearance of the branches of such tree to a height of not less than:

(a) Eight feet (8') above any public sidewalk; and

(b) Thirteen feet (13') from the back of the curb to Thirteen feet (13') toward the center line above any public street, alley, or right-of way and thereafter angled up toward the center line to a height of not less than fifteen (15') feet at the center of the public street, alley, or right-of-way.

(3) Remove, control or abate any pest investing or otherwise located in or upon any private tree located upon the owner's private real property.

(4) Remove and properly dispose of all branches, twigs, leaves or other debris deposited upon public property by or at the direction of any person pruning, trimming or removing such private tree.

(Ord. 3539, 9-14-23)

8-9-8 LICENSING OF PRIVATE TREE SERVICE COMPANIES:

(A) It shall be unlawful for any private tree service company to prune, trim or otherwise remove any public or private tree located within the City without having a valid, current license to engage in such business.

(1) Licenses shall be issued by the Clerk upon payment by the applicant of a licensing fee in an amount set from time to time by Resolution of Council, and satisfaction by the applicant of the licensing requirements set forth in this Chapter. Each license shall be issued for a period of one (1) year and shall not be transferrable.

(2) Prior to the issuance of any license, the applicant shall satisfy the following requirements:

(a) Provide a copy of a certificate of insurance evidencing the applicant's current coverage of a commercial general liability policy, having limits of not less than a combined single limit of five hundred thousand dollars (\$500,000).

(b) Provide a copy of a certificate of insurance evidencing current Idaho workers' compensation insurance, having limits not less than the Idaho statutory limits.

(c) Delivery of an affidavit signed by the applicant certifying that the applicant has within its employ or has contracted with an arborist certified

by the International Society of Arboriculture ("ISA") for the term of the license.

(3) Such license may be revoked by the Clerk upon satisfactory proof of any of the following reasons:

(a) The removal, pruning or trimming of any public or private tree within the City by the licensee at any time while the licensee does not have an ISA certified arborist on staff or has not contracted with a certified arborist.

(b) A removal, trimming or pruning of any tree by the licensee or any employee of the licensee who is not acting under the direction or control of an ISA certified arborist, and pursuant to a written work plan approved by an ISA certified arborist.

(c) The removal, trimming or pruning of any public or private tree by the licensee or any person employed or acting under the licensee's direction or control, in any manner which violates the provisions of this Chapter.

(d) Failure of the licensee to maintain the liability insurance or worker's compensation insurance required by this Chapter.

(e) Failure to keep current any condition of licensure.

(f) A violation of this Chapter.

(g) Providing false or inaccurate information relative to licensure.

(B) Exemptions from licensure.

(1) Unless a person or company is a Private Tree Service Company, as defined in this Chapter, no license shall be required of a person or company:

(a) for occasional and incidental pruning of broken branches, trimming of ornamental shrubs, removal of tree branches or shrub branches that obstruct or interfere with paths, walkways, or gardens, and similar non-invasive care of trees and shrubs incidental to such person's or company's primary business; or

(b) where emergency tree or shrub trimming, pruning, or removal is reasonably necessary to prevent or lessen irreparable or serious damage to human life or property within five (5) days immediately following a storm event, accident, tree failure, or the like which causes the emergency.

(c) tree pruning below a fifteen foot (15') height, as measured from the base of the tree pruned.

8-9-9 PERMIT REQUIRED FOR PRUNING OF PUBLIC TREES:

- (A) Unless exempt as provided by this Chapter, it shall be unlawful for any person to perform or caused to be performed any of the following acts without having first obtained a permit from the Director or the Community Forester:
- (1) Prune, cut or remove any portion of a public tree.
 - (2) Attach any object to a public tree in any manner which is reasonably likely to harm or materially injure the bark of such public tree.
 - (3) Cut, damage, or destroy the bark of any public tree.
 - (4) Dig, trench, excavate or place any hazardous, chemical or substance within the critical root zone of any public tree.
- (B) The Director or City Forester may, as a condition for the issuance of such permit, require the applicant to post a cash bond or other security acceptable to the Director or City Forester, the condition for which is the permittee's removal of the stump of said tree within thirty (30) days of the date of the issuance of such permit.

8-9-10 REGULATIONS FOR PLANTING STREET TREES: Street trees shall be classified in accordance with the three (3) species size classes listed in this Chapter. Street trees shall not be planted closer together than the following: small trees, twenty feet (20'); medium trees, thirty feet (30'); large trees, forty feet (40'). No trees may be planted closer to the backside of any curb or the nearest edge of any sidewalk than the following: small trees, two feet (2'); medium trees, three feet (3'); and large trees, four feet (4'). All trees planted shall follow the Clear View Triangle regulations of this Code. All distances shall be measured from the center of the tree trunk at ground level.

8-9-11 TREES AND SHRUBS OVERHANGING PUBLIC PROPERTY: All owners, or persons in control of private real property upon which a street tree or shrub is growing, shall remove or trim, at their expense, all limbs or foliage which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the requirements of the Clear View Triangle and related regulations of this Code. Additionally, all trees and shrubs planted shall follow the Clear View Triangle regulations of this Code..

- (A) Trees and shrubs shall be trimmed from the ground level to at least fifteen feet (15') above any public street, public easement or alley, or to at least eight feet (8') above the curb and sidewalk.

- (B) Clearance of the branches of a tree to a height of not less than:
 - (1) Eight feet (8') above any public sidewalk; and
 - (2) Thirteen feet (13') from the back of the curb to Thirteen feet (13') toward the center line above any public street, alley, or right-of-way and thereafter angled up toward the center line to a height of not less than fifteen feet (15') at the center of the public street, alley, or right-of-way.

8-9-12 ABUSE OF PUBLIC TREES AND SHRUBS:

- (A) Unless authorized by an appropriate public official, it shall be unlawful for any person to:
 - (1) injure, deface, disfigure or destroy any public tree;
 - (2) permit any animal under their care or control to injure any public tree or shrub;
 - (3) cause any fire to injure any portion of any public tree or shrub;
 - (4) cause any toxic chemical to be applied to, seep, drain or be emptied on or about any public tree or shrub;
 - (5) attach any device or structure to or on public trees, in a manner which harms or which is reasonably likely to cause harm a public tree;
 - (6) injure, destroy, to cut or pick any flower or ornamental plant growing, standing or being on public property;
 - (7) make or cause excavations in the soil near roots of public trees unless appropriate measures are taken to prevent exposed soil from drying out;
 - (8) damage the roots of a public tree by compacting or filling on or around the base of the tree; or
 - (9) to top, prune or trim any public tree, except in accordance with the provisions of ANSI A300 and this Chapter.
- (B) Nothing herein shall prevent or prohibit the pruning, removal, treatment, care or maintenance of any public tree or shrub, provided such work complies with the provisions of ANSI A300 and this Chapter.

8-9-13 STREET TREE CARE: The Department of Parks and Recreation shall have the right to remove, trim, destroy and control all street trees which are planted, grown or maintained in violation of the provisions of this Chapter. The Department of Parks and Recreation shall have

the right to plant, prune, maintain and remove street trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

8-9-14 TREE TOPPING: It shall be unlawful for any person to prune or top any public tree except in accordance with ANSI A300 and this Chapter.

8-9-15 PUBLIC NUISANCE DECLARED:

(A) The City hereby declares the following actions, practices or objects to be a public nuisance:

(1) Any living or standing private or public elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman) or which harbors any of the elm bark beetles *Scolytus multistriatus* (Marsham) or *Hylurgopinus rufipes* (Eichhoff).

(2) Any public or private dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not buried, burned, sprayed with an effective elm bark beetle-destroying insecticide, or from which the bark has not been removed.

(3) The cultivation, maintenance or allowing to grow of any private or public tree which harbors any insect, disease or infestation by any living creature which poses a threat to the health or safety of any other public or private tree within the City or which poses a health or safety threat to any person or property.

(4) Any public or private tree infested by any insect, pest or disease which is determined by the City Forester to pose a threat to the health of any other public or private tree.

(5) Any public or private tree, the roots of which are growing beneath a public sidewalk and which cause a public hazard to the safe and efficient pedestrian travel upon such sidewalk.

(6) Any public tree planted, growing or maintained in violation of the provisions of this Chapter.

8-9-16 NOTICE TO ABATE NUISANCE:

(A) Any person who fails to abate any nuisance defined by this Chapter within twenty (20) business days after the delivery of notice, shall be guilty of an infraction for every forty-eight (48) hour time period thereafter that the nuisance continues.

- (B) Said notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished by personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.
- (C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance within twenty (20) business days; that the owner, occupant, or person in control of the property given the notice may, within forty-eight (48) hours of receipt of the notice, deliver in writing to the City Clerk their objections to abatement of the nuisance and request an appeal hearing before the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.
- (D) Where the Director of the Parks and Recreation Department determines that abatement of the nuisance requires removal and/or replanting of a tree or shrub, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed forty-eight (48) hours after receipt of such notice. The Director's deferral of abatement shall be in writing and shall identify a day by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter.

8-9-17 APPEAL: Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within forty-eight (48) hours following the decision by the Board of Adjustment panel.

8-9-18 CITY ABATEMENT:

- (A) City is authorized to use public funds to abate nuisance.
- (B) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate the nuisance within forty-eight (48) hours following a final decision regarding the nuisance, the City may enter the property and commence abatement pursuant to Idaho Code.

- (C) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code.

8-9-19 ADOPTION OF ANSI A300 and ANSI Z133.1:

- (A) There is hereby adopted as an official code for the maintenance of trees, shrubs and other woody plants that certain standard maintenance practice as published in ANSI Standard A300 (Part I)-2001, as published by the American National Standards Institute, Inc. and approved on May 22, 2001.
- (B) There is hereby adopted as an official code, that certain safety standard for planting and maintenance of trees in proximity to utility lines, known as ANSI Z133.1, as published by the American National Standards Institute, Inc., and approved on May 22, 2001.

One (1) copy of ANSI A300 and of ANSI Z133.1 shall be filed with and maintained in the office of the Clerk, for use and examination by the public.

8-9-20 MAINTENANCE IN ACCORDANCE WITH ANSI A300. It shall be unlawful for any person or licensed tree company to perform maintenance of trees not in accordance with ANSI A300 and this Chapter.

8-9-21 PENALTY FOR VIOLATIONS: Any person, entity or licensed tree company who violates any portion of this Chapter shall be guilty of an infraction, with each violation subject to an infraction fine in an amount set from time to time by Resolution of Council. Each tree that is maintained not in accordance with ANSI A300 shall constitute a separate violation of this Chapter, punishable by an infraction.