



CITY OF Caldwell, Idaho

Planning & Zoning

HEARING REVIEW APPLICATION

Type of Review Requested (check all that apply)

- Annexation/Deannexation
- Appeal/Amendment
- Comprehensive Plan Map Change
- Design Review
- Ordinance Amendment
- Rezone
- Special Use Permit
- Subdivision- Preliminary Plat
- Subdivision- Final Plat
- Subdivision- Short Plat
- Time Extension
- Variance
- Other _____

STAFF USE ONLY:

File number(s): _____

OA-19-08

Project name: Tree ordinance

Date filed: 11/5/19 Date complete: _____

Related files: _____

Subject Property Information

Address: 621 CLEVELAND BLVD Parcel Number(s): _____

Subdivision: _____ Block: _____ Lot: _____ Acreage: _____ Zoning: _____

Prior Use of the Property: _____

Proposed Use of the Property: _____

Applicant Information:

Applicant Name: City of CALDWELL Phone: 208-455-4666

Address: 621 CLEVELAND BLVD City: CALDWELL State: ID Zip: _____

Email: _____ Cell: _____

Owner Name: _____ Phone: _____

Address: _____ City: _____ State: _____ Zip: _____

Email: _____ Cell: _____

Agent Name: (e.g., architect, engineer, developer, representative) _____

Address: _____ City: _____ State: _____ Zip: _____

Email: _____ Cell: _____

Authorization

Print applicant name: M. FROUKE MAPP

Applicant Signature: [Signature] Date: _____



CITY OF
Caldwell, Idaho

Planning & Zoning

ORDINANCE AMENDMENT

Project Name: <i>CHAPTER 10 Update</i>	File #: <i>OA-19-08</i>
Applicant/Agent:	

Applicant (v)	Please provide the following REQUIRED documentation:	Staff (v)
	Completed and signed Hearing Review Application	<input checked="" type="checkbox"/>
	Narrative fully describing the request, including the following: <ul style="list-style-type: none"> ➤ Specific item/code section requested to be changed ➤ Reasons for the amendment/code change ➤ Any other pertinent information to the request 	
	All of the above items shall be submitted in 8 ½ x 11 paper format AND in electronic format (preferably PDF or Word) on either a jump drive or CD. Please be aware the jump drive or CD will become part of the file and will not be returned	
	Fee	<i>N/A</i>

STAFF USE ONLY:

Date Application Received: *11/5/19*
 Received by: *UC*
 Proposed Hearing Date: *12-10-19*
 Hearing Body: *PZ*

BILL NO. ____

ORDINANCE NO. _____

AN ORDINANCE ENACTED BY THE CALDWELL CITY COUNCIL REPEALING AND REPLACING CHAPTER 10, ARTICLE 8, SECTIONS 10-08-01 THROUGH 10-08-05; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

BE IT ORDAINED by the Mayor and Council of the City of Caldwell, County of Canyon, State of Idaho:

Section 1. That Chapter 10, Article 8, Sections 10-08-01 through 10-08-05, is hereby repealed and replaced with the following:

10-08-01: STATEMENT OF VALUE:

10-08-02: PURPOSE:

10-08-03: DEFINITIONS:

10-08-04: APPLICABILITY:

10-08-05: STANDARDS:

10-08-06: JURISDICTION:

10-08-07: DUTIES & POWERS OF THE CITY FORESTER:

10-08-08: CONTROLLER RESPONSIBILITIES:

10-08-09: NUISANCES DESIGNATED:

10-08-10: NUISANCES ABATEMENT:

10-08-11: DAMAGING, DESTROYING OR TOPPING OF PUBLIC TREES & SHRUBS:

10-08-12: PRIVATE TREE SERVICE FEE LICENSING & CERTIFICATION:

10-08-13: LICENSEE RESPONSIBILITY:

10-08-14: PERMIT PROCEDURES FOR INDIVIDUALS:

10-08-15: VIOLATIONS AND PENALTIES:

10-08-16: TREE PRESERVATION AND MITIGATION:

10-08-17: PLANTING SPECIFICATIONS:

10-08-18: RECOMMENDED STREET TREE LIST:

10-08-19: SHRUBS:

10-08-20: NOT TO BE PLANTED IN RIGHT OF WAY:

10-08-21: DUTCH ELM DISEASE:

10-08-01: STATEMENT OF VALUE:

The City of Caldwell has historically understood the value of community trees. Trees mitigate air pollution, improve water quality, conserve energy, reduce soil erosion, produce oxygen, calm our senses, enhance property values and beautify our surroundings. Healthy, strategically placed trees are valuable assets to the community of Caldwell.

10-08-02: PURPOSE:

The City of Caldwell finds trees and shrubs are very important elements of the environment, providing many benefits. This Article is intended to encourage the preservation, expansion, protection and proper maintenance of the city's trees and shrubs.

This Article establishes code regulations and standards necessary to ensure that the city continues to realize the benefits provided by the community forest. It is not intended to resolve or regulate disputes over trees on private property that do not affect general public safety. This ordinance is enacted to:

1. Promote the general welfare of the city by establishing and maintaining the maximum amount of tree canopy coverage provided by trees.
2. Preserve and enhance the city's environmental, economic, social character and beauty through the appropriate selection of trees and shrubs.
3. Protect public safety, health and welfare.
4. Encourage site and utility planning, building and development practices to prevent indiscriminate removal or destruction of trees and avoid unnecessary disturbance to trees within the city and its Area of Impact by applying tree care standards contained in ANSI A300 standards. Reduce adverse impacts of land disturbing activities such as runoff from impervious surfaces, soil erosion and sedimentation pollution.
5. Maintain trees in a healthy, non-hazardous condition through application of tree care standards contained in ANSI A300.
6. Establish and maintain appropriate species diversity and age classes in order to provide a stable and sustainable community forest.
7. Establish a process by which trees are to be planted, pruned and removed.
8. Regulate those who engage in tree and shrub services.
9. Implement the goals and objectives of the City's Comprehensive Plan.
10. Educate the public about the protection and preservation of trees and shrubs.

10-08-03: DEFINITIONS:

As used in this tree ordinance, masculine, feminine, or neutral gender and the singular or plural shall be deemed to include the others wherever and whenever the context so dictates; the words "shall," "will," or "must" are always mandatory; the word "may" is permissive; and the word "should" indicates that which is recommended, but not required.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI): A private nonprofit organization that administers and coordinates the U.S. voluntary standardization and conformity assessment system. The City of Caldwell relies upon this organization's standards for evaluating various landscaping applications.

APPLICANT: A person who is applying for a license, certification, or permit. Applicant, as applied to the development process, is understood to be the property owner or a person representing the property owner's interest with responsibility for abiding by the city's development standards.

ARBORICULTURE: The cultivation, study, planting, pruning, watering, removal and management of trees affecting their growth or maintenance; including the art of planting, dressing and managing trees and shrubs.

ARBORIST: Services provided for trees, including, but not limited to: planting, removal, pruning, tree inventories, appraisals, tree management and maintenance or the engaging in technical arboricultural practices.

ARBORIST SERVICE: Services provided for trees, including, but not limited to: planting, removal, topping, pruning, insect abatement or engaging in technical arboricultural practices. The providing of arborist services in Caldwell is subject to a licensing and certification process.

CALIPER: A measurement of the diameter of the trunk of a tree. The caliper of the trunk shall be measured at chest height for all trees. A diameter is determined by measuring in a straight line through the center of the tree from one side to the other at chest height.

CITY: The City of Caldwell.

CITY FORESTER: The city forester or the city forester's designee

CLASS I TREES: Small trees which normally do not reach over 25-30' in height and width. Spacing is 20-30' feet between trees. Good for under power lines or smaller planting areas.

CLASS II TREES: Usually considered medium sized trees mostly planted for their shade and excellent use in the landscape and parkway plantings. Reaching 30-40'+ in height and width. Spacing 30-40' feet between trees.

CLASS III TREES: Many are long lived and attain large height and trunk diameter. When selecting a tree from this class, be sure to have ample room to accommodate it at maturity. May reach 70-100' in height and width at maturity. Spacing 40-60' feet between trees.

COMMUNITY FOREST: The sum of all trees and shrubs within the city.

CONIFERS: Provide year round greenery and screening because they retain their leaves year round. They serve as excellent wildlife shelters. Normally, they are not pruned and will need large growing areas away from buildings, sidewalks and driveways. Spacing varies with species. Conifers/evergreens are not planted in the parkways and planting strips.

CONTROLLERS: Every person (owner, agent, tenant, occupant, contractor, developer or lessee) who exercises care, custody and control of real property, to include that abutting a right of way upon which a public tree or shrub is located.

CRITICAL ROOT ZONE: The area under a tree extending from the base of a tree in all directions to an imaginary line 10' outside of the dripline or as determined at a preliminary site inspection by the city forester.

DECIDUOUS: Trees that shed their leaves annually as opposed to those that retain their leaves year round.

DISEASED TREE: A tree or part thereof that has become blighted, defaced or has become significantly diseased.

DRIP LINE: Extending from the trunk out to the widest tip of the tree canopy.

EVERGREEN: Trees that retain their leaves year round. They do shed older leaves but the tree does not lose all its leaves at one time.

FOR FEE CONTRACTOR: An individual engaging in the landscape business that does work on public or private rights of way; these individuals will have to be licensed and certified.

GIRDLING: Damaging or removing the bark and cambium layer around the tree trunk in a manner that usually kills the tree.

HERBICIDE: A chemical preparation or other agent for destroying or inhibiting growth of weeds or other harmful vegetation.

INJURIOUS PEST OR DISEASE: Organisms capable of seriously damaging the form or structural integrity of the tree.

INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA): A scientific and educational organization that has served the tree care industry for the past seventy (70) years. Among the services this organization provides is an arborist certification program. The City of Caldwell is reliant upon this society's certification process for establishing and certifying arborists' credentials necessary to providing for fee arboriculture services in Caldwell.

LICENSEE: A person with a valid contractor's license and arborist certification acquired through the International Society of Arboriculture testing program or other certification process acceptable to the city forester.

NUISANCE: Any tree/shrub or part thereof (on public or private property) which, by reason of location or condition, constitutes a hazard to public safety as determined by the city forester. Any tree/shrub or part thereof (on public or private property), which obstructs the free passage of pedestrian or vehicular traffic or which obstructs public street lighting or signage. Any tree/shrub or alternate host plant or part thereof (on public or private property), which harbors pests which reasonably may be expected to injure or harm public trees. See 10-08-21 regarding Dutch Elm Disease. Any condition or use of the premises

which is detrimental to the premises of others or which causes, or tends to cause, material diminution in the value of other premises in the neighborhood or which creates a condition tending to promote blight and deterioration, invites plundering, creates fire or traffic hazards, constitutes an unattractive nuisance, creates a harborage for rodents or insects or otherwise is injurious to the health, safety and general welfare of the inhabitants of the city.

PARKWAY OR PARKINGS (Also known as the PARKING STRIP AREA): That portion of public right of way situated between the curb line of any street and the property line abutting and adjoining any street. In the absence of a curb, the curb line of a street shall be deemed to be the edge of that portion of public right of way maintained and open to the use of the public for purposes of vehicular travel. The purpose of the parkway is to increase pedestrian safety and to improve the visual aesthetics and environmental quality of roadways.

PERMIT: Written approval issued by the city and required for any activity above or below ground on public trees or within the critical root zone of public trees.

PERSON: Any person, firm, partnership, corporation, association, company or organization of any kind.

PEST: Any insect, disease, animal or other organism harmful to trees.

PESTICIDE: An agent used to destroy pests.

PLANT: Any tree, shrub, lawn or other vegetative ground cover that is not poisonous, toxic or otherwise a nuisance to a person of average plant allergy sensitivity.

PRIVATE PROPERTY: The city forester shall have jurisdiction over trees located on private property which are found to be public nuisances as defined in 10-08-02 and may cut and remove those trees from private property abutting public right of way so cleared, as provided for in Idaho Code 50-317. The assessment shall be collected as provided for in Idaho Code 50-1008.

PRIVATE TREE/SHRUB: Those trees and shrubs planted on private property outside of any public right of way.

PRUNING: The removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage other parts of the plant or the tree as a whole.

PUBLIC PROPERTY: Any property owned by, dedicated to, or deeded to the public or for the public's use. City parks, public right of way, cemeteries, libraries, and other public owned, controlled, leased or managed properties are included in this definition. This definition excludes any federal, state or county owned properties except where otherwise provided by contract or law.

PUBLIC RIGHT OF WAY: Improved or unimproved public property owned by, dedicated to, or deeded to, the public or for the public's use, for the purpose of providing vehicular, pedestrian and other public use. It includes but is not limited to, sidewalks, trees, parkways, lawn, landscaping, public utilities, cut and fill slopes, and open public space.

PUBLIC SAFETY: The condition of being safe from bodily harm and/or property damage resulting from tree conditions or failures while using public property.

PUBLIC TREE/SHRUB: Any tree or shrub (inclusive of roots within the critical root zone); whose trunk is located, partially or in whole, on public property.

SHRUB: A multiple stemmed, woody plant whose height at maturity is between three feet (3') and fifteen feet (15').

STREET: Highways, roads, alleys and bridges, dedicated, purchased or otherwise acquired for the public, including the unimproved or unused portion thereof, maintained and open to use by the public, including sidewalks, parkways and special tree planting easements adjacent to a street granted by property owners.

STREET TREE LIST: The list of acceptable trees located within the public right of way. Refer to the Treasure Valley Tree Selection Guide. .

TOPPING: Rounding, stubbing or any other term that can be described as severe cutting back of the central leader or limbs within a tree crown to: buds, stubs, or laterals not large enough to assume a terminal role as defined in ANSI A300. This removes the natural canopy and disfigures the tree. Increases disease and insect infestation.

TREASURE VALLEY TREE SELECTION GUIDE (the "Tree Selection Guide" or the "Guide"): A document created by public, private and non-profit stakeholders engaged in growing, planting, planning for and managing the region's community forest resources. The Guide answers the most commonly asked questions about appropriate tree selection in a number of different landscape locations and applications throughout the Treasure Valley. The Guide is available at the Caldwell Planning and Zoning offices, or online at tvcanopy.net/tree-selection-guide.

TREE: A woody perennial plant usually having one main stem or trunk and many branches; it usually exceeds fifteen feet (15') in height at maturity.

TREE COMMITTEE: There is hereby created and established a Shade Tree Committee for the City of Caldwell, which shall consist of six members who reside within the city. The committee shall be comprised of five at large members and one member who shall be a member of the Parks & Recreation Commission. Members of the Tree Committee shall be nominated by the Mayor and confirmed by a majority of City Council members.

UTILITY EASEMENT: An easement established for the placement of sewer, water and other utility conveyances such as gas, cable and telephone.

VISION TRIANGLE: A protected vision area established to ensure that drivers have an unobstructed view as they come upon a driveway access, alleyway or intersection and as further defined in sections 10-07-01 and 10-07-07.

10-08-04: APPLICABILITY:

This Article shall apply to any public tree and all trees and shrubs located in the public right of way as well as to those trees and shrubs located in public parks, parkways and other city property and on public and private property that have been declared to be a public nuisance.

This Article shall also apply to all aspects of the construction development and redevelopment process involving the planting, retaining or removing of trees and the associated care and custody of trees during that process. Further, this Article shall apply to all for-fee arborist services performed on any tree within the city, whether public or private.

10-08-05: STANDARDS:

The City Council will adopt by resolution mandatory standards governing planting, pruning, removal, care and maintenance of public trees and shrubs, including those of the ANSI A300 standards.

10-08-06: JURISDICTION:

The city forester shall manage and regulate the planting, maintenance, protection, removal and replacement of all public trees within the City limits.

10-08-07: DUTIES & POWERS OF THE CITY FORESTER:

The city forester is authorized to:

1. Develop, support and maintain a Community Forestry Management Plan.
2. Maintain a Community Forestry budget to be contained within, but as a separate division of the Caldwell Parks & Recreation Department. The city may expend funds to plant, maintain or remove trees in accordance with the provisions of this Article, the Community Forestry Management Plan and existing policies.
3. Oversee the city's arborist licensing and certification program and the supervision of commercial tree and shrub care management.
4. Develop a permitting program for fee and non-fee tree work, to include procedures for the approval and control of topping practices, and the planting and removal of public shrubs and trees.
5. Establish and maintain an inventory of all public trees.
6. Approve, deny, suspend or revoke tree or shrub work licenses or permits issued by the city.
7. Inspect and approve any public tree/shrub work performed in the city.
8. Observe symptoms of plant diseases, make diagnoses and prescribe treatment.
9. Administer a program of public outreach and education relating to Community Forestry and the planting and the care of trees.

10-08-08: CONTROLLER RESPONSIBILITIES:

Every Controller, as defined in section 10-08-03 of this Article, shall be responsible for the following:

1. Requirements and Permits: Meeting all of the requirements and obtaining all the permits necessary for work done on or adjacent to the public right of way as described in this Article.
2. Care And Maintenance: Care and maintenance of public trees and shrubs located in the public right of way adjacent to the Controller's private real property, including the following activities or actions:
 - A. Removal and replacement of public trees or removal of those portions of public trees, including tree stumps, declared to be a public nuisance or requested to be removed by the city or affected utilities located within the public right of way. Such action shall be coordinated with the city forester.
 - B. As part of the city's tree permitting process, whenever a public tree or shrub is removed, the controller shall replace it, if deemed necessary by the city forester, within two (2) weeks of the removal date, with a tree from the approved list as shown in subsection (18) of this section and further approval from the city forester. Selection of species shall be from the Tree Selection Guide. The replacement tree shall be a minimum one and one-half inches to three inches (1 ½ - 3") minimum #1 quality tree as verified by the city forester. A fine of four hundred dollars (\$400.00) per tree to be replaced may be assessed if said trees are not planted within the required two (2) week time period, unless the replacement period has been extended for good cause shown (example of good cause shown: the ground is frozen solid).
 - C. When a public tree is removed after approval by the city forester, a fee in lieu of planting shall be required if the tree is not replaced. The city forester shall determine if the tree must be replaced or if a fee in lieu of planting may be paid. The fee shall be set by resolution of the city council and monies collected shall be placed in a tree replacement fund to be used for maintenance or acquisition of public trees.
 - D. Pruning of public trees and shrubs and portions of private trees and shrubs that encroach upon right of way or right of way area. The branches of public and private trees and shrubs that overhang sidewalks and/or unimproved right of way must be pruned to provide ten feet (10') of vertical clearance. Tree branches of either public or private trees that overhang the street must be pruned to provide fourteen feet (14') of vertical clearance. All pruning shall be done in accordance with ANSI A300 standards.

Should either a public or private tree or shrub be out of compliance with either the ten foot (10') sidewalk vertical clearance or the fourteen foot (14') street vertical clearance such that a safety hazard is presented or any type of utility or street maintenance is impeded, city personnel have the authority to prune said noncompliant tree or shrub, without permission from the property owner, provided all pruning takes place on or within public right of way or right of way area and provided that the portions being trimmed are hanging over or within public right of way or right of way area. Utility providers shall trim or cut trees in public rights of way according to ANSI A300 part 1, pruning standards.

Shrubs in the right of way must be pruned below three feet (3') due to vision obstruction occurring when the public, (wheel chair included), animals, children are using the sidewalk adjacent to the right of way. The sight vision triangle setback for trees or shrubs at intersections must be adhered to for the same reason.

- E. Control of pests injurious to public right of way trees and shrubs adjacent to controller's real property.
 - F. Control of pest infestations on private trees and shrubs located on the controller's private real property.
3. Maintenance Methods: Maintenance of trees and shrubs by:
- A. Clearing: The controller is responsible for removing all tree, shrub and vegetative work derived debris relating to private trees, shrubs and vegetation from the street, sidewalk and parkway by sunset on the day on which the work is done unless street closure is authorized. This requirement includes immediate removal of any private fallen trees or tree limbs from private trees that fall into any public right of way area. Failure to immediately remove private fallen trees or tree limbs from private trees that have fallen into any public right of way area shall constitute a nuisance and may be abated as such by the city in any manner provided by law.
 - B. Standards: Care and maintenance of public trees and shrubs shall be governed in part by the city's arboricultural specifications and ANSI A300 standards.
 - C. Leaf and Debris Removal: Tree debris and leaves from public trees that fall in the public streets shall be the city's responsibility to remove. Tree debris and leaves from either private or public trees that fall onto property located between a property line and the street edge or curb, as well as leaves raked into the street shall be the adjoining controller's responsibility to remove.
 - D. Removal of Public Trees and Shrubs: It is the policy of the city that public trees and shrubs shall not be removed without written authorization of the city forester and the planning and zoning department.
 - E. Basis for Tree and Shrub Removal: Permits will be granted for tree and shrub removal based on any of the following criteria:
 - i. The tree or shrub is diseased or is an alternate host of a significant disease.
 - ii. The tree or shrub is harboring injurious insects or pathogens and may present a danger to the city's community forest.
 - iii. The tree or shrub is dying or near dead and/or poses a public safety hazard.
 - iv. The tree or shrub interferes with overhead utility lines and creates a public safety hazard. In this instance the utility provider's standards will be relied upon for assessment purpose.
 - v. The tree or shrub causes sight obstruction in the vision triangle that cannot be resolved (see section 10-07-07).
 - vi. Any other removal criteria deemed appropriate by the city forester. Note: There is no charge for tree and shrub removal permits.
 - F. Removal of Trees or Shrubs on Private Property Impacting Public Property: A person engaging in the removal of any tree, shrub or portion thereof that may fall or falls on or in public right of way must first obtain a permit from the city forester, and must call Digline at (208) 342-1585 before removal. If it is apparent that the removal of a tree or shrub from private land may fall and cause injury to person or public property, the property owner or their agent must give the city police and fire department twenty-four (24) hours' notice prior to removal unless there is an imminent danger imposed by its continued presence.
 - G. Tree Removal And Trimming Permit Required: Prior to engaging in the removal or replacement of trees or shrubs, to include trimming, cutting and pruning in the

public rights of way, the controller must first obtain a tree removal permit from the city forester, and must call Digline at (208) 342-1585 before removal or planting. The city forester or other staff representative will inspect the work for compliance; all removal costs shall be at the applicant's expense. A fine of four hundred dollars (\$400.00) shall be assessed to the controller/applicant and a fine of four hundred dollars (\$400.00) shall be assessed to the company that performed the removal and/or trimming if a permit was not first obtained from the city forester prior to removal and/or trimming and if the company was not on the city's approved list of companies allowed to trim and/or remove trees and/or shrubs.

- H. Any person authorized to remove live or dead trees, shrubs or other vegetation from the city parks or along the streets and alleys of the city or within public right of way shall do so in such a way that no tree stump or main root system remains above ground but to a depth of eight inches (8") below the ground surface. After excavation or grinding, the ground shall be restored to a smooth and level surface. Any required grinding of a stump shall be completed within two (2) weeks of tree removal.
 - I. Replacing Trees and Shrubs; Selection Criteria: Selection and location of required replacement trees and shrubs shall be based on the city's arboricultural standards and specifications guide. It shall also be based upon other applicable city standards regarding the placement of said trees and shrubs. Refer to the Tree Selection Guide for tree selection.
 - J. Provide water sufficient to keep trees and shrubs located on public right of way in a healthy, growing condition.
4. Damage To Sidewalk And Surrounding Area By The Roots Of Private Or Public Trees Or Shrubs: All trees or shrubs growing close to the sidewalk have the potential to raise or cause a disconnection in the sidewalk. Should the sidewalk or curb raise or disconnection occur, consideration will be given to modifying the sidewalk's placement to accommodate tree or shrubbery growth on a case by case basis. The determination to modify the sidewalk shall be made in consultation with the city engineer and city forester. The failure of the controller to respond to a request to remove said trees and shrubs and repair said sidewalk shall result in abatement as outlined in this Article and/or assessment of an additional four hundred dollar (\$400.00) fine over and above any fines assessed through the abatement process.

10-08-09: NUISANCES DESIGNATED:

The following are hereby declared public nuisances:

- 1. Any tree, shrub or other plant, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public; harbors pathogens or injurious insects which reasonably may be expected to injure or harm other trees or shrubs; obstructs the free passage of pedestrian or vehicular traffic or obstructs a streetlight or traffic control device; and/or obstructs the view in the vision triangle, including alley trees that fall in the public nuisance section. Also, the roots of any tree or shrub that interferes with or causes the surface of the street, curb or sidewalk in public right of way to be upheaved or disturbed.
- 2. Any tree suspected of having Dutch elm disease or fungus organisms known by the scientific names of Graphium ulmi, Ceratostomella ulmi and/or Ceratocystis ulmi, elm bark beetles, Scolytus multistriatus or Hylurgopinus rufipes; any standing elm tree infected with

Dutch elm disease or which harbors elm bark beetles; and any dead elm tree or part thereof, including logs, stumps, or other elm material from which the bark has been removed.

3. The city's agents have the authority to enter onto private property where there is reasonable cause to believe that there is a tree, shrub or other plant located there that is a public nuisance; furthermore, said agents have the authority to reasonably mark said tree, shrub or other plant for ease of identification.
4. Any public or private tree infected by an insect, pest or disease which is determined by the city forester to pose a health threat to any other public or private tree. An example is sudden oak death disease.

10-08-10: NUISANCE ABATEMENT:

1. Any public nuisance as designated within this section located on either city owned or private property or public right of way shall be abated in a technique as approved by the city forester and in accordance with the abatement process outlined in section 10 of this code and Chapter 7, Article 11, of the Caldwell City Code.
2. Public Nuisance Considered An Immediate Threat: The city forester or the planning and zoning director or his/her authorized designee is empowered to cause the immediate abatement of any public nuisance as designated within this section determined to be a threat to any person or property.
3. If the city forester determines that disposal of the wood, branches and soil from removal or pruning of a nuisance tree is required to complete abatement, such disposal shall be done. All costs associated with the disposal of material from the public right of way shall be the responsibility of the property owner.

10-08-11: DAMAGING, DESTROYING OR TOPPING OF PUBLIC TREES & SHRUBS:

It is unlawful for any person to:

1. Damage, mutilate or destroy any public tree or shrub.
2. Store or place, or cause to be stored or placed, oil, gasoline, chemicals (such as herbicides), and other materials which are harmful to trees and shrubs around or near public trees, shrubs and other vegetation.
3. Attach a potentially harmful device or structure (such as a tree house or sign) to a public tree unless otherwise authorized by the city forester.
4. Spill or dump substances, whether liquid or solid, which are toxic to persons, animals, trees, shrubs and vegetative matter.
5. Make excavations in the soil within the tree's root-zone, from the trunk to the edge of the dripline
6. Damage a public tree by the practice of "topping", except trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this provision based on the city forester's determination.
7. Compensatory Payments: In the event any person removes, destroys or damages any public tree except as otherwise required by law, that person shall be required to replace such tree with a tree(s) of equivalent dollar value on public property, unless otherwise determined by the city forester. The value of a tree shall be determined by the city forester in accordance with accepted plant appraisal methods as set forth in the 9th edition of The

Guide for Plant Appraisal, published by the International Society of Arboriculture or the same as amended from time to time.

If no suitable location exists in the vicinity of the tree removed or if the replacement tree(s) is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City of Caldwell equal to the difference in value between the tree removed and any replacement tree(s).

Any public tree that is determined by the city forester to be damaged, but not sufficiently to justify its removal, shall be considered to be devalued. The amount of devaluation shall be paid to the city by the person causing the damage. Compensatory payments shall be paid into a fund established for that purpose and restricted to use for the community forestry programs. Nothing in this Ordinance shall prohibit the City of Caldwell from negotiating agreements with other governmental entities regarding penalties and compensatory payment for removal, damage or destruction of public trees.

10-08-12: PRIVATE TREE SERVICE FEE LICENSING & CERTIFICATION:

1. License Required: It is unlawful for any person to engage in the business of planting, pruning, or removal of a public tree or shrub for a fee without being licensed and certified as required by this section.
2. Arborist Contractor's License: Any person engaged in the arborist business for fee shall obtain a license from the city forester. The license stipulates that the contractor, or one or more employees, be certified, and the certified individual(s) be on the site when arboricultural practices are being done. It is required that the contractor's insurance extend to all employees while they are conducting arborist work within city limits.
3. Arborist Certification: An arborist certification is required of any individual who personally performs arboricultural services or procedures allowed under this section for a fee, unless that person is working under the direct supervision of a certified arborist. The city forester shall approve or deny the applicant's permit based upon the possession of a valid arborist certification. The arborist certification is acquired through the International Society of Arboriculture testing program or other certification process acceptable to the city forester. The applicant shall submit to an examination of his or her practical skills at the discretion of the city forester in accordance with ANSI A300 standards.
 - a. License Application Procedures:
 - i. Application for License: Application for an arborist contractor's license shall be sought from the city forester on a city form and accompanied by proof of an appropriate liability and workman's compensation insurance when applicable. The city forester shall approve or deny the application within seven (7) days, based upon the following criteria:
 1. The applicant has not been convicted of a violation of this section within the preceding two (2) years.
 2. The applicant shows proof that he or she has obtained a valid arborist certification, or that the applicant is currently employing a holder of a valid arborist certification.
 - ii. Denial of License: The city forester may deny or revoke a license application if the applicant's arboricultural practices are inconsistent with ANSI A300 or ISA standards.
 - iii. License or Certification Issuance: The city forester shall forward the approved arborist license and certification to the city clerk, who shall issue

the license to the applicant upon payment of a fee as set by resolution of the Caldwell city council.

- b. License Terms and Renewal: The arborist contractor's license and certification shall be valid for the calendar year in which it was issued and will expire on December 31.
 - i. Filing A Renewed Application With The City Forester: The applicant may renew the arborist contractor's license upon showing proof of and workman's compensation insurance when applicable, a current arborist certification and payment of the appropriate fees.
 - ii. Valid Certification Mandatory: The arborist certification period of validation must coincide with the contractor license period of validation.
- c. License Fees: License fees shall be established by resolution of the Caldwell city council.
- d. License Insurance Coverage: Applications for an arborist contractor's license shall be accompanied by proof of insurance acceptable to the city forester showing the applicant has a policy of liability and property damage listing the City of Caldwell as an additional insured. Workman's compensation insurance with policy limits equal to or greater than the minimum designated by council resolution, which complies with requirements set forth in Idaho Code Title 6, Chapter 9. The policy is to remain in full force and effect during the term of the license. Compliance with OSHA regulations.

10-08-13: LICENSEE RESPONSIBILITY:

All licensees shall be responsible for ensuring that the work performed is in compliance with the provisions of this section. All licensees shall:

1. Utilize safety measures and equipment to protect workers and the public as prescribed by law and ANSI A300 standards.
2. Obtain required permits for tree and shrub removal.
3. Comply with all applicable city, county, state and federal laws.
4. Comply with the city's specifications and ANSI A300 standards for tree planting, pruning, removal, root pruning and cultural maintenance practices; including dead limbs that are considered a public nuisance.
5. The branches of public and private trees and shrubs that overhang sidewalks and/or unimproved right of way must be pruned to provide ten feet (10') of vertical clearance. Tree branches of either public or private trees that overhang the street must be pruned to provide fourteen feet (14') of vertical clearance. Should either a public or private tree or shrub be out of compliance with either the ten foot (10') sidewalk vertical clearance or the fourteen foot (14') street vertical clearance such that a safety hazard is presented or any type of utility or street maintenance is impeded; the limbs must be pruned to meet these clearances.
6. License Transfer or Refund: Licenses granted pursuant to this section shall not be transferable, nor shall any license be refundable.
7. License Suspension/Revocation: The city forester may suspend or revoke any license when the licensee commits one or more of the following acts:
 - a. Violation of any provision of this section.
 - b. Knowingly conspiring with another person to permit one's license or certification to be used by such other person unless employed by the licensee;

- c. Acting as an agent, partner, and associate or in any other capacity with another person in an attempt to evade the provisions of this Article.
8. Appeal Procedures: When a license is suspended, revoked, or denied, the applicant may appeal that action according to the provisions outlined in this section.
 - a. Such appeal shall be filed in writing with a fee set by the City Council and submitted to the Director of Planning and Zoning within 10 days from the date of notification by the city forester's ruling.
 - b. The appeal shall be heard by the city council and the appellant shall be delayed until the decision is rendered. The decision of the city council shall be final.

10-08-14: PERMIT PROCEDURES FOR INDIVIDUALS:

1. General Procedures: Individuals and for fee licensees shall abide by the following permit procedures:
 - a. There shall be no charge for a tree or shrub planting or removal permit.
 - b. Each application for a planting permit shall designate the species and variety of public tree proposed prior to issuance of a permit. The city forester shall designate the location of the planting.
 - c. In addition to a tree work permit, a right of way permit as obtained from the city engineering department may be required for any work that will impact the free and full use of any street or alley. Should a tree be planted in conflict with the provisions of this code, it shall be lawful for the city forester to remove or cause the removal of same. The cost to remove may be charged to the person responsible for the planting. In addition to obtaining a permit, individuals must call Digline at (208) 342-1585 before planting or removal.
 - d. Upon inspection the city forester may issue a permit, if required, and impose such terms and conditions as may be appropriate and necessary under the specific circumstances of the work.
2. Permit Application Procedures:
 - a. Planting, Pruning, Trimming, disease/pest abatement, or Removal: Application for a permit to do public tree work consisting of planting, pruning, trimming, root pruning, disease/pest abatement or removal shall be submitted on a form supplied by the city forester. Refer to section 18 of this code for the recommended tree list and section 20 for the not to be planted in right of way.
 - b. Tree Topping: A special permit is required from the city forester for tree topping.

10-08-15: VIOLATIONS AND PENALTIES:

Damage or destruction of a public tree or shrub by any person, except as lawfully stated herein shall cause said tree or shrub to be replaced according to the tree mitigation standards noted in section (16).

1. Intentional interference with the city forester in the performance of his or her duties is unlawful and is a misdemeanor, punishable pursuant to this code and Idaho Code.
2. Failure to perform tree services in compliance with accepted and established arboricultural standards and specifications guide of the city shall be a misdemeanor. Any person(s) convicted of a violation of this subsection shall be fined pursuant to this code and Idaho Code.

3. Failure to comply with the permitting and licensing provisions of this article shall be a misdemeanor. Any person(s) convicted of a violation of this subsection shall be fined not to exceed \$300 or be imprisoned in the Canyon County Jail for a period not to exceed 6 months or by both such fine and imprisonment, pursuant to this code and Idaho Code.
4. In addition to any criminal penalties that may be imposed, the city may pursue civil penalties and restitution for actual damages as set for in this code.

10-08-16: TREE PRESERVATION AND MITIGATION:

1. Tree Retainage Credit: Trees retained as part of a development may count toward the required landscape, provided the tree(s) intended for retainage are not prohibited within the subject area. No credit shall be provided for trees retained in rights of way nor may any tree located there be removed as part of a development pursuit without prior city approval. Trees prohibited by this article may remain as part of a development/redevelopment process without credit. Primary consideration for what species of trees to remain would be; are they listed as suitable for growing indicated in the Tree Selection Guide.
2. Tree Preservation Credit: The planning and zoning department, in cooperation with the city forester, may allow the development's required number of parking spaces to be reduced by up to fifteen percent (15%) to accommodate the preservation of existing trees with a caliper of four inches (4") or greater. Parking space reduction credit must correlate to the number of trees salvaged by that process. Parking space requirements are quantified according to the type of land use listed in the Caldwell zoning ordinance. A request for parking space reduction must be made in writing to the planning and zoning department at the time of parking/landscaping plan submittal.
3. Tree Replacement Process (Mitigation): Any tree four inches (4") or greater in caliper that is removed during development shall be replaced with a one and one-half inch (1 ½ ") to three inch (3") caliper tree, rated as a #1 quality tree and as verified by the city forester. Selection of what species to replace will come from the Tree Selection Guide. If there is not enough room on the subject site to replace the caliper inch of trees that were removed, the developer will contribute a dollar amount equal to the corresponding caliper inch of trees to a Tree Bank for future tree planting. The city may choose which park, cemetery, or site most in need of trees.
4. Exceptions:
 - a. If the tree is removed because it poses a health or safety hazard, the tree will not need to be replaced, provided the city forester determines a replacement tree installed at the same location poses a similar risk.
 - b. Trees required to be removed by another governmental agency of jurisdiction need no mitigation. The applicant will need to provide information to substantiate another agency's tree removal requirement.
 - c. The removal of a tree regardless of circumstances need only be replaced with equivalent to a no less than one and one-half inch (1½ ") to three inch (3") caliper tree, rated as a #1 quality tree and as verified by the city forester.

10-08-17: PLANTING SPECIFICATIONS:

The city forester is hereby empowered to make rules and regulations to govern planting of trees within the city to include replacement trees. These regulations shall govern specifications and placement for planting trees and restrictions on species of trees to be planted in the city.

1. **Permit Required:** No person or owner shall plant any tree within the public right of way until the city forester has issued a permit. Applications for tree planting shall be filed with the city forester. Such trees must be of the type and variety permitted by the street tree list. The city forester shall approve each tree for suitability, as well as resistance to disease and pests. Any application denied by the city forester shall be returned to the applicant with the reason for refusal. The applicant is free to file a new application or an amended application when the issue(s) identified have been resolved or they may appeal the denial.
2. **Permit Content:** The tree planting permit shall include the type, size, and variety of tree permitted. The permit will identify the specific site location of the tree.
3. **Planting Criteria:** The city forester shall provide the applicant with the type of species that are permitted in various areas for planting, spacing information and minimum tree well sizes for trees planted in paved areas upon request.
4. **Variance from Street Tree List:** Variance from the Tree Selection Guide may be granted by the city forester if that action does not conflict with the city's interest.

10-08-18: RECOMMENDED STREET TREE LIST:

Recommended Street Tree List Representing Class 2 and Class 3 Trees: Please refer to the Tree Selection Guide to determine the best tree for your planting site.

1. **Class I Trees:** Small trees generally not reaching more than 25-30' in height. These trees shall be planted under power lines or small planting areas. For an understanding of tree placement requirements beneath overhead utilities or associated with underground utilities in proximity to trees. Parkway width recommended four (4') minimum. Refer to section 20 for a list of trees not to be planted in the parkway or right of way.
2. **Class II Trees:** Medium sized trees planted for street tree (right- of-way) and general landscape uses. Growing to heights from thirty (30') to forty feet (40') with similar canopy spread. Parkway width recommended six (6') minimum. Refer to section 20 for a list of trees not to be planted in the parkway or right of way.
3. **Class III Trees:** Long lived trees that attain large height and trunk diameter that may be utilized for street tree use, provided the area is large enough to accommodate them. Attaining heights varying from forty (40') to one hundred feet (100') with a canopy spread extending thirty-five (35') to eighty feet (80') in width. Parkway width recommended ten (10') minimum.-Refer to section 20 for a list of trees not to be planted in the parkway or right of way.
4. **Evergreen Trees:** Evergreen trees can pose a sight vision problem for vehicles, pedestrians, bicyclists and are not recommended for use as a parkway or right of way tree. Fruit and nut bearing trees are not suitable as a street or right of way tree due to the fruit dropping, staining sidewalks and pedestrian safety from slipping on the fruit or nuts.
5. **Placement Under Power Lines:** Class I trees generally grow to a maximum height of 25-30' with a 15-30' width and are the best tree to use under power lines. Check with the proper city department to determine where underground utilities are located. Refer to section 20 for a list of trees not to be planted in the parkway or right of way.
This is by no means a complete list of trees that could be planted in the public right of way. The city forester will review requests for the placement of any other species upon request.

10-08-19: SHRUBS:

Proposed shrubbery species will be evaluated for growth potential. Most shrubs available from landscape nurseries will be acceptable for planting purposes, if they grow to a maximum height of three (3'). Shrubs in the right of way must be pruned to a maximum height of three feet (3') due to vision obstruction occurring when the public (wheel chair included), animals, children, etc. use the sidewalk. The sight vision triangle must be adhered to at intersections for the same reasons.

10-08-20: NOT TO BE PLANTED IN RIGHT OF WAY:

Please see the Tree Selection Guide at tvcanopy.net/tree-selection-guide for the list of trees not suitable for planting in any public right of way in the City of Caldwell. Certain trees exhibit characteristics including but not limited to: extreme insect or disease susceptibility, soft or brittle wood and/or limited cold and heat hardiness. Such problems often lead to excessive maintenance costs, hazard to other trees and potential public safety hazards. Class I and Class III trees are not allowed in the City of Caldwell right-of-way unless planter width is 10' or wider. Conifers and shrub plantings over 3' are not allowed in the City of Caldwell right-of-way.

10-08-21: DUTCH ELM DISEASE:

1. When Dutch Elm Disease is found to exist in or on trees on public property or in public right of way, the trees shall be removed as provided in subsection (2) of this section.
2. When Dutch Elm Disease is found to exist in or on trees on privately owned property, after notice has been served upon the owner of the premises, it shall thereupon become the duty of the owner, or his agent, or occupant or person having custody and control of the property to cause such tree to be removed and destroyed under the direction and supervision of the city forester. In lieu thereof, it shall be abated through the abatement process as outlined in section 10 of this code.
3. Whenever an elm tree is found to be infected with Dutch Elm Disease, the city forester may order, at his/her sole discretion, all elms within a radius of one thousand feet (1,000') to be treated after first giving public notice by publication once in a newspaper of general circulation in the city setting forth the area to be treated and the time said treating is to be done, at least twenty-four (24) hours before treating restricting parking in the affected area. Additionally, written notice shall be mailed to all property owners within the affected one thousand foot (1,000') radius at least five (5) days prior to treatment. When such notice has been given and parking restrictions placed in effect, the city shall not allow any claim for damage caused by the treatment to any vehicle.
4. It shall be unlawful for any person to give, sell, or offer for sale as firewood any part of a diseased tree of any species of elm, zelkova or planera.

Section 2. This ordinance shall be in full force and effect from and after its passage, approval, and publication, according to law.

Section 3. This ordinance is hereby declared to be severable. If any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purposes of the ordinance before the declaration of partial invalidity.

Section 4. All ordinances, resolutions, orders and parts thereof in conflict herewith are repealed.

PASSED BY THE COUNCIL OF THE CITY OF CALDWELL, IDAHO, this ____ day of _____, 2019.

APPROVED BY THE MAYOR OF THE CITY OF CALDWELL, IDAHO, this ____ day of _____, 2019.

ATTEST:

Mayor Garret Nancolas

City Clerk (or Deputy)