

## ORDINANCE 1431

**AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE SECTIONS 12.18.020, 12.18.070, AND 12.18.200 OF CHAPTER 12.18 IN TITLE 12, ADDING A SUB SECTION 12.18.210, DEAD, DEFACED, BROKEN, DISEASED, AND DANGEROUS TREES; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; PROVIDING A PENALTY.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO:

**Section 1.** Sections 12.18.020, 12.18.070, 12.18.200 and 12.18.210 of Title 12, Chapter 12.18, 12.18.020, 12.18.070, 12.18.200, and 12.18.210 of Title 12, Chapter 12.18 of the Payette Municipal Code is hereby amended/added to read as follows:

### **12.18.020: DEFINITIONS:**

ANSI A300: The "American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance Standard Practices". This is a document offering basic performance standards for tree pruning, published in 1995 by the American National Standards Institute (ANSI) or the same as amended from time to time.

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 or the same as amended time to time.

ADJACENT PROPERTY OWNER: Any person owning property adjacent to public right of way.

ALTERNATE HOST PLANT: One of two (2) kinds of plants on which a pest must develop to complete its life cycle.

ARBORICULTURE: The cultivation of trees, including planting, pruning, removal or any other action that affects the growth and maintenance of trees.

CITY: The city of Payette, Idaho.

CITY ADMINISTRATOR: Payette city clerk and/or a designee of the mayor and Payette city council.

CITY FORESTER: Also referred to as **street**/parks superintendent or the city forester's designee.

COMMISSION: Payette community forestry commission.

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

COUNCIL: The Payette city council.

CRITICAL ROOT ZONE: The area under a tree extending from the base of a tree in all directions to an imaginary line ten feet (10') outside of the drip line or as determined at a

preliminary site inspection by the city forester.

**HAZARD/HAZARDOUS:** Any tree, public or private, with visibly defined structural defects likely to cause failure to all or part of the tree, and be a danger to public safety.

**LICENSEE/APPLICANT:** Any person or business performing tree care or pruning for a fee and/or compensation within the city of Payette.

**NOTABLE PRIVATE TREE:** A private tree that may be classified as an addition to the Payette community forest at the private owner's request.

**PAYETTE COMMUNITY FORESTRY COMMISSION:** As stated in section [12.18.060](#) of this chapter.

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

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

**PRIVATE TREE:** Any tree (inclusive of roots within the critical root zone), within the community forest that is not a public tree.

**PRUNING:** The practice of cutting tree limbs according to standards contained in ANSI A300.

**PUBLIC NUISANCES:** Any tree or part thereof (public or private) which, by reason of location or conditions, constitutes a hazard to public safety as determined by the city forester. Any tree 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 which because of its condition constitutes a threat to any member of the public. Any tree 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.

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

**PUBLIC RIGHTS 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. Such public property provides circulation and travel to abutting properties and includes, but is not limited to, streets, sidewalks, landscaping, provisions for public utilities, cut and fill slopes, and open public space. For purposes of this chapter, alleys are excluded from this definition.

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

**PUBLIC TREE:** Any tree (inclusive of roots within the critical root zone) whose trunk is located, partly 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').

**SUPERINTENDENT:** The superintendent of public parks for the city of Payette, Idaho. Also referred to as the Payette city forester.

**TOPPING:** "Rounding" or "heading back" or any other term that can be described as severe cutting back of limbs within a tree crown to buds, stubs, or laterals not large enough to assume a terminal role or as defined in ANSI A300.

**TREE:** Any woody plant, which is fifteen feet (15') or more in height at maturity, with a single or multiple trunks, often unbranched for several feet above the ground and having a definite crown. (Ord. 1360, 2012: Ord. 1355, 2012)

### **12.18.070: ESTABLISHMENT AND DUTIES OF THE CITY FORESTER:**

#### **A. Administrative/Management Duties:**

1. Develop, administer and maintain a community forestry management plan.
2. Administer a program of public outreach and education relating to community forestry and the planting and care of trees.
3. Maintain a licensing program as set forth in section [12.18.110](#) of this chapter.
4. Establish and maintain an inventory of all public trees.
5. Maintain a community forestry budget to be contained within, but as a separate division of the budget of the Payette **street**/parks department. The city may expend funds to plant, maintain or remove trees in accordance with the provisions of this chapter.
6. To facilitate the proper selection, planting and maintenance of trees in residential, commercial and industrial developments within city limits and the area of impact. The city forester shall review and provide comment in development applications when such applications are submitted to the city planning and zoning commission.
7. Establish policies to carry out the provisions of this chapter.
- ~~8. Annually provide public notification of the requirements of this chapter~~

#### **B. Tree Maintenance Duties:**

1. Order the pruning and removal of public trees to ensure public health, safety and welfare while considering the health of the tree and other elements of the infrastructure.
2. Recommend trees as "public nuisances" as defined in section [12.18.020](#) of this chapter. Abatement of public nuisances shall be completed as identified in section [12.18.200](#) of this chapter.

C. Tree Protection Duties: To avoid creating public nuisances or damaging public trees, the city forester is authorized to require their protection (including the critical root zone) from construction or other harmful practices. (Ord. 1360, 2012: Ord. 1355, 2012)

#### **12.18.200: ABATEMENT OF PUBLIC NUISANCES:**

The following are the prescribed means of abating public nuisances under this chapter:

A. Any tree or alternate host plant or part thereof (public or private) declared to be a public nuisance as set forth in the definitions of this chapter shall be pruned, removed or otherwise treated in accordance with the requirements of this chapter. All costs for nuisance abatement shall be the responsibility of the adjacent property owner or of any person claiming ownership thereof;

B. The city may cause a written notice to be personally served or sent by mail to the owner of the particular property;

C. In the event the nuisance is not abated by the date specified in the notice, the city clerk, city forester, city **street/parks** supervisor, street supervisor or other authorized person is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be charged to the property owner upon which the tree is located or upon the immediately adjacent property. Monies which have not been recovered through the city bill collection procedures may result in a lien against the property or assessed on taxes as provided for in Idaho Code title 50. In addition, the owner of the property upon which the nuisance is located may be subject to prosecution under this chapter, or any other chapter of this code or the Idaho Code for maintaining a public nuisance. Nothing in this provision shall be construed to exempt any person from the requirement of obtaining licenses under section [12.18.110](#) of this chapter;

D. The city clerk, city forester, street supervisor, **street/parks** supervisor or other authorized person is empowered to cause the immediate abatement of any nuisance if it is determined by the city forester or other authorized person to be an emergency or immediate hazard to public safety;

E. 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 in such a manner to minimize the impact on other vegetation or members of the community. All costs associated with the disposal of material from private trees shall be the responsibility of the property owner. (Ord. 1360, 2012)

#### **12.18.210: DEAD, DEFACED, BROKEN, DISEASED, AND DANGEROUS TREES:**

Every dead, defaced, broken, dangerous, diseased, or untrimmed tree, within any public right of way which has or may become a traffic hazard or a hazard to adjoining property and is so determined by the city is hereby declared to be and to constitute a nuisance. It is the duty of every owner of any premises in the city to have removed dead, defaced, diseased, broken or dangerous trees and to trim trees located upon the public right of way between the property line and street travelway adjacent thereto.

**Section 2.** This Ordinance may be published in summary form allowed by Idaho Code.

**Section 3.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.


**Section 4.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 5.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

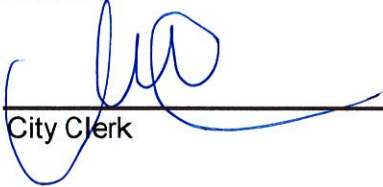
**Section 6.** Any violation of this ordinance shall be a misdemeanor.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 7<sup>th</sup> day of November, 2017.

CITY OF PAYETTE, IDAHO

BY   
Jeffrey T. Williams, Mayor

ATTEST:

  
City Clerk

SUMMARY OF ORDINANCE 1431

Ordinance 1431 is an ordinance of the City Of Payette, Idaho, adopted November 6, 2017. The ordinance may be descriptively known as the Payette City Tree Ordinance. Ordinance 1431 amends the Payette Municipal Code, sections 12.18.020, 12.18.070, and section 12.18.200 of chapter 12.18 in title 12, by adding a new sub section 12.18.210. The ordinance adopts the ANSI standard Z133.1 definition; the ordinance changes parks superintendent to street/parks superintendent; Ordinance 1431 declares dead, defaced, diseased, broken or dangerous trees to be a public nuisance and requires the homeowner to remove the nuisance. Ordinance 1431 provides a severability clause, provides for publication by summary, sets an effective date, establishes a penalty and establishes a repealer.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1431 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 7<sup>th</sup> day of November, 2017.



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Bert L. Osborn