

City Of Victor
Ordinance No. 05-0505
City of Victor, Idaho Tree Ordinance

AN ORDINANCE OF THE CITY OF VICTOR ADOPTING A TREE ORDINANCE FOR THE PROTECTION AND CARE OF PUBLICLY OWNED TREES IN THE CITY LIMITS OF VICTOR. THIS WILL DEFINE DEFINITIONS, LICENSING, PERMITS, INSURANCE, CARE OF TREES, PUBLIC NUISANCES, RIGHT TO INSPECT, LANDSCAPING, MAINTENANCE AND REMOVAL, ADJACENT LANDOWNERS RESPONSIBILITY, TREE PROTECTION, PRIVATE TREES, APPEALS, ENFORCEMENT, COMPENSATORY PAYMENTS, AND PENALTIES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VICTOR, COUNTY OF TETON, STATE OF IDAHO.

I. Purpose

It is the purpose of the ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Victor, Idaho.

II. Authority

There is hereby created and established a City Tree Board for the City of Victor, Idaho, which shall consist of three members, that do not have to be residents of Victor, who shall be appointed by the mayor with the approval of the city council. Members of the board shall serve without compensation.

III. Term of Office

The term of the three persons to be appointed by the mayor shall be three years, except that the term of one of the members appointed to the first board shall be for only one year and the term of one members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

IV. Applicability

This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the city; and to trees, plants, and shrubs located on private property that constitute a hazard or threat as described herein.

V. Definitions

The terms used in this chapter shall have the meanings described below:

Community Forest “Community Forest” is the sum of all trees and shrubs within city.

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| Diseased Tree | “Diseased Tree” means a tree or part thereof which has become blighted, defaced or has become significantly diseased. |
| Injurious Pest or Disease | -refers to organisms capable of seriously damaging the form or structural integrity of a tree. |
| Owner | “Owner” means the legal owner or owners of real property in the City of Victor. |
| Park Trees | “Park Trees” are trees, shrubs, bushes and all other woody vegetation in public parks and other areas owned by the City, or to which the public has free access, but excluding those trees in the public right of way. |
| Person | “Person” is any individual, firm, partnership, or corporation. |
| Public Right-of-Way | “Public right-of-way” is improved or unimproved public property owned by, dedicated to, or deeded to, the public or the public’s use for the purposes of providing vehicular, pedestrian, and other public use. Such public property provides circulation and travel to abutting properties, but is not limited to, streets, alleys, sidewalks, tree lawn, provisions for public utilities, cut and fill slopes and open public spaces. |
| Public Trees | “Public Trees” are trees growing on or within any street, park, or public place owned or managed by the City of Victor. |
| Roadway | “Roadway” is that portion of a street improved, designed or ordinarily used by the public for vehicular traffic. |
| Shrub | “Shrub” is 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 Trees | “Street Trees” are trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of a public street, avenue, or alley within the City. |
| Topping | “Topping” is the severe cutting back of limbs to stubs larger than three (3) inches 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 | “Tree” is a woody perennial plant, usually having one main stem or trunk and many branches and which, at maturity, is expected to exceed fifteen (15) feet in height and two (2) |

inches in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree.

Tree Lawn

“Tree Lawn” means that portion of the public right-of-way lying between the street and private property lines which is generally unimproved and planted with grass or other vegetation.

Tree Standards

“Tree Standards” means the set of specifications concerning the planting, care and maintenance of trees.

VI. Licensing

It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or vines, for a fee, within the City of Victor without first producing evidence of certification/license issued by the City. Provided that no permit shall first be required in situations where public inconvenience would result from the delay entailed in obtaining a permit or where such delay would place life, limb or property in jeopardy.

VII. Permits

Any person desiring a permit to plant, remove, cut, or in any way damage a publicly owned tree on or within the City properties shall file with the Tree and Landscape Board or City Administrator an application to be provided by the City Administrator, or his/her official designee, setting forth therein the detail the work that is contemplated and the location and address of the same. Upon filing of such application, the City Administrator shall investigate the contemplated work and if in his judgment it is desirable and should be done, shall issue a written permit therefore; provided that the work authorized in such permit shall be done under the supervision of the City Administrator or his/her official designee. City employees are not required to obtain permits.

VIII. Insurance

Before any license shall be issued each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$500,000.00 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

IV. Care of Trees Within the City of Victor

The City of Victor shall be responsible for the following:

- a. care and maintenance of publicly owned trees and shrubs:
- b. removal of dead, diseased, or hazardous City trees and shrubs:
- c. controlling insects and diseases of City trees and shrubs:
- d. care and maintenance of all public trees in the downtown area.

X. Public Nuisances

The following are hereby declared public nuisances under this ordinance:

- a. any tree or shrub which harbors pathogens or injurious insects which reasonably may be expected to harm other trees or shrubs.

- b. any tree or shrub which obstructs the free passage of pedestrians or vehicular traffic or which obstructs a street light or traffic control device.
- c. any tree or shrub or portion thereof which obstructs the view in the “visibility triangle” as defined by Idaho Code.
- d. any tree or shrub which, by reason of location or condition, constitutes an imminent danger to the health, safety, or welfare of the general public.

XI. Right to Inspect Suspected Nuisance Trees and Shrubs

The City of Victor reserves the right to inspect suspected nuisance trees and shrubs. Officers, agents, servants and employees of the City shall have the authority to enter onto private property whereon there is reasonable cause to believe that there is located a tree or shrub that is suspected to be a public nuisance as defined herein.

It is unlawful and shall be a misdemeanor to take action to prevent, delay or otherwise interfere with the Administrator’s or his/her official designee, performance of supervisory or inspection responsibilities. The City shall make notice to the property owner of the needed inspection.

XII. Landscaping

In new subdivisions or when the development of commercial property occurs, the City Planning and Zoning committee shall review landscaping plans, and if needed ask the Tree Board for comments. Landscaping plans may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

XIII Tree Planting, Maintenance, and Removal

- a. **Tree Species** – The Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes: Small (15-25 feet), Medium (25-45 feet), and Tall (45 feet and taller). They also maintain a list of trees and shrubs that will not be planted on right-of-ways.
- b. **Spacing** – The spacing of street trees will be in accordance with the three species size classes listed in this ordinance. Trees will not be planted closer than this: Small Trees, 30 feet; Medium Trees, 40 feet; Tall Trees, 50 feet; except in plantings designed or approved by a landscape architect and approved by the City Administrator.
- c. **Utilities** – No street trees other than those species listed herein as small trees may be planted under or within 20 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.
- d. **Distance from Curb and Sidewalk** – The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three size classes listed in Section XIII A of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; large trees, 4 feet.
- e. **Topping** – It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 exempted from this ordinance at the determination of the Tree Board.

XIV. Adjacent Landowner Responsibility

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the City Administrator. The person receiving the permit shall abide by the standards set forth in this ordinance.

XV. Tree Protection

The Tree Board will have as one of their duties the location, selection and identification of any trees which qualify as "Landmark Trees". A tree may qualify as a Landmark Tree if it meets one or more of the following criteria: species rarity, documented association with a historical event or person, abnormality, scenic enhancement, old age if the tree is healthy and in good condition.

Riparian zones in subdivisions or business areas may not be damaged without a permit from the Tree and Landscape Board or City Administrator.

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Tree Board shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice.

XVI. Private Trees

The City Administrator or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary. Public nuisance is defined as any tree with an infectious disease or insect problem; dead or dying trees; a tree or limb(s) that obstruct street lights, traffic signs, the free passage of pedestrians, or vehicles; a tree that poses a threat to safety.

The City Administrator shall cause a written notice to be personally served or sent by mail to the owner of the particular property.

In the event the nuisance is not abated by the date specified in the notice, the City Administrator is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement may be charged to the subject property owner. 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 for maintaining a public nuisance.

XVII. Appeals

Any person affected by an order, denial, or revocation of a license or permit by the City Administrator or Tree Board may appeal such order, denial or revocation to the Victor City Council. Such appeal shall be filed in writing and submitted to the City Clerk within 10 days of the date of the notification of the decision of the City Administrator, or his/her official designee. The appeal shall be heard by the City Council. Action by the City Administrator or Tree Board shall be delayed until the decision of the City Council is rendered. The City Council may in conformity with the provisions of this Chapter

reverse or affirm or modify wholly or partly, the order, denial, or revocation of any permit and the decision of the City Administrator or Tree Board. The decision of the City Council shall be final.

XVIII. Enforcement

The City Administrator, or his/her official designee, shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the City.

XIX. 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 Administrator. The value of a tree shall be determined by the City Tree Board 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 Victor equal to the difference in value between the tree removed and any replacement tree(s). Any public tree that is determined by the City Tree Board 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 community forestry programs.

X. Penalties

Any person who violates any provision of this Ordinance or who fails to comply with a lawful order of the City Administrator or City Tree Board shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Ordinance may be punished by a fine not to exceed \$300 or be imprisoned for a period not to exceed 6 months or by both such fine and imprisonment for each separate offense.

Enacted by the City Council as an ordinance of the City of Victor on the ____ day of ____, 2005.

Approved by the Victor City Council on the ____ day of ____, 2005.

Don Thompson - Mayor

ATTEST: _____
Craig Sherman – City Administrator