

ORDINANCE 1355

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING CHAPTER 12.18 IN TITLE 12 OF THE PAYETTE CITY CODE; CHANGING THE TITLE OF CHAPTER 12.18; CREATING FINDINGS; ADDING NEW DEFINITIONS; RENUMBERING CODE SECTIONS 12.18.040 THROUGH 12.18.190; CREATING A NEW SECTION 12.18.070 ESTABLISHES AND DEFINES THE DUTIES OF THE CITY FORESTER; PROHIBITING THE INTERFERENCE WITH THE CITY FORESTER; CREATING COMPENSATORY PAYMENTS; 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. Chapter 12.18 in Title 12 of the Payette Municipal Code is hereby amended as follows:

Chapter 12.18
PAYETTE CITY ~~COMMUNITY FOREST TREE~~
ORDINANCE

12.18.010: SHORT TITLE:

12.18.020: DEFINITIONS:

12.18.030: FINDINGS:

12.18.040: STATEMENT OF PURPOSE:

12.18.050: APPLICABILITY:

12.18.060: CREATION AND ESTABLISHMENT OF A PAYETTE COMMUNITY FORESTRY COMMISSION:

12.18.060: POWERS OF SUPERINTENDENT/CITY ADMINISTRATOR:

12.18.070: ESTABLISHMENT AND DUTIES OF THE CITY FORESTER:

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12.18.130: CERTIFIED ARBORIST REQUIRED:

12.18.140: REQUIRED CARE OF PRIVATE TREES:

12.18.150: RECOMMENDED CARE OF PRIVATE TREES:

12.18.160: REMOVAL OF PUBLIC TREES:

12.18.170: VIOLATION AND PENALTIES:

12.18.180: LICENSE SUSPENSION, REVOCATION AND/OR DENIAL:

12.18.190: APPEAL PROCEDURE:

12.18.200: SEVERABILITY:

12.18.010: SHORT TITLE:

This chapter shall be known and cited as the *CITY OF PAYETTE COMMUNITY FOREST CHAPTER: PAYETTE CITY TREE ORDINANCE* (Ord. 1177, 2000)

12.18.020: DEFINITIONS:

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

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.

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 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 superintendent 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.

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 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, and 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 and recreation of and for the City of Payette, Idaho. **May Also be 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. 1177, 2000)

12.18.030: FINDINGS:

Whereas the City finds trees are important elements of the environment which promote and protect public health, safety, and general welfare of the community by providing:

- A. A vital contribution to the aesthetic character of the community and the region's natural beauty.**
- B. Cost-effective protection against severe weather conditions with cooling effect in the summer months and insulating effect in winter.**
- C. Economic support of local property values.**
- D. Improved air and water quality with the absorption of pollutants, assimilation of carbon dioxide and generation of oxygen, and the reduction of excessive noise and adverse impacts caused by noise pollution.**
- E. A reduction of the adverse impacts of land disturbing activities such as runoff from impervious surfaces, soil erosion, land instability, and sedimentation pollution.**
- F. Habitat, cover, food supply and corridors for a diversity of wildlife.**

12.18.040: STATEMENT OF PURPOSE:

The purpose of this chapter shall be to encourage the preservation, expansion, protection and proper maintenance of the Payette community forest. It is intended that the "Payette Tree Standards Manual" developed by the Payette community forestry commission be used as a guide for best management practices in tree planting, care and maintenance. (Ord. 1177, 2000)

This Chapter established 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:

- A. Promote the general welfare of the City by establishing and maintaining the maximum amount of canopy coverage provided by trees for their functions as identified in 12.18.030.
- B. Preserve and enhance the City's environmental, economic and social character with mature trees.
- C. Protect public safety, health and welfare.
- D. 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.
- E. Maintain trees in a healthy, non-hazardous condition through application of tree care standards contained in ANSI A300.
- F. Establish and maintain appropriate species diversity and age classes in order to provide a stable and sustainable community forest.
- G. Establish a process by which trees are to be planted, pruned and removed
- H. Implement the goals and objectives of the City's Comprehensive Plan.

12.18.050: APPLICABILITY:

This chapter shall apply to any public tree within the city and to those trees on private property that violate the provisions of this chapter. The Payette Community Forestry Commission can add private trees that are notable and/or special to the inventory of the community forest at the request of the private property owner. Payette City will not incur any liability and/or expense in the maintenance of these notable and/or special trees. Private trees must be maintained according to this chapter to remain on the inventory of the Payette community forest. (Ord. 1177, 2000)

12.18.060: CREATION AND ESTABLISHMENT OF A PAYETTE COMMUNITY FORESTRY COMMISSION:

A. Commission Composition: A commission of five (5) members who will receive no salary shall be appointed by the mayor with the approval of the city council to serve three (3) year appointments with staggered terms. A city council member may be appointed to serve as a nonvoting council liaison. The city administrator or designee shall serve as an advisor to the commission.

B. Commission Operation: At their first meeting, and at the first meeting of each fiscal year, the commission shall elect a chair, vice chair, and secretary from within its membership, shall hold regular public meetings as required by the chair, and shall cause the secretary to maintain a written record of its deliberations and proceedings.

C. Commission Responsibility: The Payette Community Forestry Commission shall:

1. Be advisory in nature with the purpose of providing advice to the mayor, and city council and City Forester as to the preservation, protection and management of the Payette community forest, in accordance with the intents and purposes of this chapter.
2. Organize, conduct and periodically maintain an inventory of trees and plantable areas on the city rights of way, city parks, other public and School District No. 371-J properties. Notable private trees may be added to this inventory at the request of the private property owner.
3. Prepare a management plan designed to maintain and improve the existing community forest and develop long term goals for the community forest. The Payette Community Forestry Commission shall present and recommend a proposed community forest program to the mayor and city council for approval. All provisions of the management plan pertaining to other public properties and School District No. 371-J shall only be advisory.
4. Draft ordinances and policies for the protection of the community forest to be recommended to the mayor and city council. These policies may also be recommended to other public entities, i.e., Payette County and School District 371-J.
5. The commission will hear appeals from the licensee and/or certification applicants who are aggrieved of some action or omission taking place pursuant to the license/certification procedures of this chapter.
6. The commission will hear appeals from applicants and/or licensees who are aggrieved by the granting or denial of a permit required by this chapter.
7. The commission will develop the "Payette Tree Standards Manual"; implement-educational materials and programs addressing community forestry issues.

D. Coordination and Communication: The commission will coordinate its activities regarding public trees by communicating with the ~~superintendent of parks and recreation~~ City Forester by liaison through the Payette city council.

E. Funding: The commission shall recommend an annual budget to the mayor and city council. The commission is authorized to seek outside funding for commission projects as may be approved by the city council in accordance with budgetary procedures. (Ord. 1177, 2000)

12.18.070: ESTABLISHMENT AND DUTIES OF THE CITY FORESTER:

Administrative/Management Duties:

- A. Develop, administer and maintain a Community Forestry Management Plan.
- B. Administer a program of public outreach and education relating to Community Forestry and the planting and care of trees.
- C. Maintain a licensing program as set forth in 12.18.110.
- D. Establish and maintain an inventory of all public trees.

- E. Maintain a Community Forestry budget to be contained within, but as a separate division of the budget of the Payette Parks Department. The City may expend funds to plant, maintain or remove trees in accordance with the provisions of this Chapter.
- F. 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.
- G. Establish polices to carry out the provisions of this Chapter.
- H. Annually provide public notification of the requirements of this Chapter.
- I. Tree Planting 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 12.18.170. Abatement of public nuisances shall be completed as identified in 12.18.070.
- J. Tree Removal Duties: To avoid creating public nuisances or damaging public tress, the City Forester is authorized to require their protection (including the critical root zone) from construction or other harmful practices.

12.18.080: POWERS OF SUPERINTENDENT CITY FORESTER/CITY ADMINISTRATOR:

The superintendent of parks and recreation City Forester and/or city administrator shall provide support staff for the activities of the Payette Community Forestry Commission as schedules allow. The superintendent City Forester and/or city administrator are authorized to carry out the tree related responsibilities set forth in this chapter, including enforcement responsibility. In doing so, the superintendent City Forester and/or city administrator are authorized to appoint or designate others to carry out his/her responsibilities. (Ord. 1177, 2000)

12.18.090: INTERFERENCE WITH THE CITY FORESTER UNLAWFUL:

It shall be unlawful and shall be a misdemeanor to interfere with the City Forester, any Payette City Police Officer, or Payette City Code Enforcement Officer in the performance of their duties connected with the enforcement of this Chapter.

12.18.100: UNLAWFUL PRACTICES PROHIBITED FOR PUBLIC TREES:

Public trees constitute an asset that belongs to every community resident. Public trees include all trees, which grow on city owned, or city managed lands within the corporate limits of the city of Payette. Pursuant to this chapter, it is hereby deeded unlawful and shall constitute a violation of this chapter, punishable by misdemeanor criminal penalty or by appropriate civil remedy to do any of the following to a public tree:

- A. "Top" or "head back" a tree by the improper pruning or severe cutting back of limbs within a tree's crown or the removal of the top portion of the trunk of a coniferous tree.

- B. To cut down, destroy or materially damage any public tree without the express authorization by the superintendent of parks and recreation **City Forester**.
- C. Attach devices or structures (i.e., tree houses or signs) to, on, or within trees on public property.
- D. Dispose of or apply substances which are toxic to trees, within the proximity of the critical root zone of trees on public property, whether such disposal or application is on public or private property.
- E. Damage public trees through construction operations involving compaction of, excavation of, filling of, or tilling of soils within the critical root zone of trees on public property, whether such activities are on public or private property.
- F. Damage a tree on public property by significantly pruning or disturbing the critical root zone whether such disturbance takes place on public or private property.
- G. Vandalize or otherwise harm a public tree by defacing or injuring the bark, limbs, roots or trunk by cutting, burning, chopping, applying substances or other means of inducing harm to the shape or vitality of the tree.
- H. Remove or break cultural devices such as bracing, cabling, guying, implant capsules, irrigation, stakes or protective devices for trees on public property.
- I. Fail to immediately clean debris from public or private tree maintenance and/or removal so that travel will not be impeded on sidewalks or streets. Cleanup of all debris from tree maintenance and/or removal shall be completed within seventy two (72) hours of completed trimming and/or removal work. The superintendent **City Forester** and/or the department of public safety may require a timelier **timelier** cleanup.
- J. Plant a tree species with unacceptable tree height or rooting system (based on the "Manual Of Woody Landscape Plants" [Dirr, 1990] published by Stipes Publishing or Street "Tree Fact Sheets" [1993] published by Pennsylvania State University College of Agricultural Sciences), under a utility line, within a utility easement, or in sidewalk planting strips or other parts of the public right of way. The following trees are expressly prohibited for use as street trees within public street rights of way or where they are within the zone of influence of adjacent public sidewalks (unless in accordance with a landscape design approved by the superintendent of parks and recreation **City Forester** and by the **Community Forestry Commission**):
 1. Acer saccharum - silver maple.
 2. Betula paperifera - paperbark birch.
 3. Betula pendula - European white birch.
 4. Fraxinus excelsior - European ash.
 5. Ginkgo biloba - ginkgo (female tree).
 6. Gledistia tricanthos - thorned honey locust.
 7. Juglans nigra - black walnut.

8. Populus species - poplars, aspen, cottonwood, etc.

9. Robinia pseudoacacia - black locust.

10. Salix species - willow species.

11. Ulmus species - elm species.

12. ~~Coniferous species - firs, pines, or cedar.~~

K. Plant trees under the following conditions or in the following circumstances (unless in accordance with a landscape design approved by the superintendent of parks and recreation **City Forester**):

1. Within four feet (4') of any building or structure.

2. Within ten feet (10') of any fire hydrants or utility poles.

3. Within two feet (2') of an existing curb or sidewalk.

4. Within ten feet (10') of a public sanitary sewer or waterline.

5. Within four feet (4') of a meter vault box.

6. Within twenty feet (20') of a stop or yield sign.

7. Within four feet (4') of a residential driveway.

8. Within six feet (6') of a commercial driveway.

9. Within ten feet (10') of an alleyway access.

10. Within twenty feet (20') of a streetlight standard.

L. Plant a tree within the "sight vision triangle" of controlled or uncontrolled intersections. The "vision triangle" is defined as the triangular area formed by intersecting streets and roads protected from vision obstruction by provisions of Idaho Code and this code.

M. Not to replace a public tree, which was removed unless otherwise authorized by the superintendent of parks and recreation **City Forester**.

N. Plant a public tree that is smaller than one and one-half inch ($1\frac{1}{2}$ ") caliper for class I trees and two and one-half inch ($2\frac{1}{2}$ ") caliper for class II and class III trees. Class I trees are fifteen (15) to thirty feet (30') in ultimate height and spread. Class II trees are thirty (30) to sixty feet (60') in ultimate height and width. Class III trees are greater than sixty feet (60') in ultimate height. Ultimate height is to be determined by reference to the "Manual Of Woody Landscape Plants" (Dirr, 1990) a copy of which is maintained in the Payette **City Hall**.

O. Plant trees within sidewalks without providing tree wells with a minimum four foot by four foot (4' x 4') (16 square foot) opening or plant trees in the right of way without providing protection of the tree base, such as edging, mulch or arbor guards.

P. Plant trees on public property which do not meet the minimum acceptable standards as established by the American Association of Nurserymen for stock true to name and type, which are bare rooted, damaged, diseased or disfigured, which are not hardy for the Payette area or without removing all non-biodegradable wrapping around the root ball including twine, wire, baskets, rope, treated or synthetic burlap. (Ord. 1177, 2000)

Q. Planting, Removal & Defacing:

1. Attach any object to public tree(s).
2. Dig, trench, excavate or pile soil or any other materials within the critical root zone of any public tree(s).
3. Approval from the City Forester must be made prior to pruning or removal of any public tree on private property, application for an encroachment permit (if necessary) must be made by the property owner or private tree firm currently licensed in 12.18.110 of this Section.

12.18.110: PAYETTE CITY BUSINESS LICENSE REQUIRED:

A. A Payette city business license is required for any person or business performing tree care or pruning for a fee and/or compensation within the Payette city limits. The Payette business license is to be renewed annually.

B. The licensee/applicant at the time of issuance and/or renewal of such business license shall furnish to the city:

1. Evidence of public liability insurance with limits no less than five hundred thousand dollars (\$500,000.00) combined single limits for business and vehicular operation.
2. Evidence of workman's compensation insurance.
3. Evidence to satisfy section [12.18.140](#) of this chapter. (Ord. 1177, 2000)

12.18.120: 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 tree shall be determined by the City Forester in accordance with accepted plant appraisal methods as set forth in the most recent 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 Payette 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 community forestry program. Nothing in this ordinance shall prohibit the City of Payette from negotiating agreements with other governmental entities regarding penalties and compensatory payment for removal, damage or destruction of public trees.

12.18.130: CERTIFIED ARBORIST REQUIRED:

- A. When the pruning of trees on public property is undertaken by utilities and/or professional tree care operators (including any person or business performing tree care or pruning for a fee and/or compensation), such work shall be done under the supervision of a person qualified as either a certified arborist by the International Society of Arboriculture; certification, by NAA (National Arborist's Association); or, an equivalent certification approved by the Payette Community Forestry Commission. Compliance with these standards shall require that the certified arborist visit the site of the work to prescribe the pruning to be done and to actively monitor the pruning operation.
- B. This requirement shall not prohibit an adjoining home or business owner from carrying out minor pruning on public trees immediately adjoining his/her property as long as such minor pruning does not alter the essential shape of the tree or does not violate any of the specific prohibitions established by this chapter. (Ord. 1177, 2000)

12.18.140: REQUIRED CARE OF PRIVATE TREES:

Each landowner with private trees on his/her land is hereby legally responsible to carry out the following duties concerning said trees:

- A. Maintain trees and shrubs on private lands so they will not endanger the public or become hazardous to public right of way, public utilities or other public property.
- B. Control injurious pests by removing debris or trees harboring insects or disease from their private real property or by using other legally approved methods to eradicate tree borne insects or disease.
- C. The Community Forestry Committee is authorized to take such steps as (s)he may deem necessary to protect the community forest from actions or inaction regarding trees on private lands. Retention or neglect of a tree on private lands which harbors insects or diseases which endangers the health or vitality of the Payette community forest shall be deemed a violation of this chapter which shall be subject to the remedies and penalties otherwise set forth herein. (Ord. 1177, 2000)

12.18.150: RECOMMENDED CARE OF PRIVATE TREES:

- A. Persons or businesses licensed by the city and recognized as Certified Arborists should do maintenance on private trees.
- B. Private property owners may adopt section [12.18.100](#) of this chapter for the maintenance of private trees.
- C. Private property owners should report any violations or omissions by licensed professionals concerning the maintenance of private trees to the community forestry commission.
- D. Nothing contained within this chapter shall prohibit a property owner from trimming, topping, cutting, maintaining or pruning any tree located upon that person's property.

E. Nothing contained within this chapter shall be construed as requiring the city to maintain trees which are on private property, or which are located on privately owned property but which are within a street, alley, highway or public utility right of way or which have not been the responsibility of the city prior to the passage of this chapter. (Ord. 1177, 2000)

12.18.160: REMOVAL OF PUBLIC TREES:

A. Trees on public lands shall not be removed by private individuals without the prior written authorization of the **Payette Community Forestry Commission**. The following criteria will be considered:

1. Whether the tree is sufficiently diseased or is an alternate host of an injurious disease.
2. Whether the tree is harboring injurious insects or pathogens and may cause significant potential danger to the Payette community forest.
3. The tree is dead or nearly dead and/or constitutes a public safety hazard.
4. The tree interferes with overhead utility lines and creates an irresolvable public safety hazard.
5. Any other criteria deemed to be in the public interest, such as, but not limited to, the destruction of sidewalks.
6. **The Payette Forestry Commission issues a declaration of public nuisance.**

B. Replacement of a public tree shall be required when removal of a public tree occurs without authorization from the **Payette Community Forestry Commission** unless replacement would be contrary to the public interest. Said obligation of replacement shall be additional to other sanctions required by this chapter. Replacement may be required at a location different from the place of removal. (Ord. 1177, 2000)

12.18.170: VIOLATION AND PENALTIES:

A. Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and may be punished by a fine of ~~not more than three hundred dollars (\$300.00) or imprisonment of not more than six (6) months in jail or by both a fine and imprisonment.~~ **and/or imprisonment up to but not exceeding the maximum penalties set forth in Idaho Code section 50-302, as amended.**

Each violation, including the removal of each public tree, may be considered a separate violation. Should any person be found guilty in a court of competent jurisdiction or otherwise plead guilty to an alleged violation hereof, the court may order restitution if the Payette community forest is diminished or harmed as a consequence of such violation. Restitution recommendations shall not exceed the replacement or appraisal value formulas for said damaged or eliminated tree(s) established by the "Guide For Plant Appraisal", written by the council of tree and landscape appraisers, published by the International Society of Arboriculture. The community forestry commission shall recommend such restitution amount to the prosecutor, utilizing said value formulas.

B. The city may undertake civil legal action in a court of competent jurisdiction to seek to enjoin conduct which violates the provisions of this chapter, or to recover the reasonable costs of actions deemed necessary to bring about compliance herewith. Said actions may also seek restitution for damages and costs incurred to remedy the consequences of violation. (Ord. 1177, 2000)

12.18.180: LICENSE SUSPENSION, REVOCATION AND/OR DENIAL:

- A. Upon recommendation of the Payette Community Forestry Commission the city administrator may suspend or revoke any license when the licensee commits one or more certain acts or omissions. These acts or omissions shall include, but are not limited to:
1. Violation of any provision of the Payette community forest City Tree Ordinance.
 2. Knowingly combining or conspiring with another person by permitting one's license or certification to be used by such other person, unless employed by the licensee.
 3. Acting as an agent, partner, and associate or in any other capacity with another person in an attempt to evade the provisions of this chapter.
 4. Denial of a license or certification by noncompliance of sections [12.18.100](#) and [12.18.110](#) of this chapter.
 5. A complaint filed by a private tree owner and verified by the Community Forestry Commission.
- B. The licensee/applicant shall be notified in writing that the license has been suspended, revoked or denied. This notice shall be by registered mail or personal service within seven (7) days after the city administrator's action. The written notice shall specify the reasons for the action and inform the licensee/applicant of his or her right to appeal the decision of the city administrator to the city council. (Ord. 1177, 2000)

12.18.190: APPEAL PROCEDURE:

When a license is suspended, revoked or denied, the appeal procedure shall be as follows:

- A. Upon receipt of such notice, the licensee/applicant may request an appeal hearing. The request shall be in writing and submitted to the administrator within fourteen (14) days from the date of mailing or personal service of the administrator's decision.
- B. Upon receipt of a request for hearing by the licensee/applicant, the administrator shall arrange a time, date and place for the hearing within thirty (30) days before the city council and shall notify the licensee/applicant no less than fourteen (14) days prior to the date of the hearing. The notice shall state that counsel may represent the licensee/ applicant and that the hearing will be a public meeting.
- C. The chair or designee of the Payette Community Forestry Commission shall present the reasons for recommending the action taken. The licensee/applicant may be in attendance and/or may be represented by counsel. The evidence presented by either party may consist of relevant physical evidence and testimony. The city council shall take the matter under advisement and shall notify the licensee/applicant within fourteen (14) days from the date of the hearing, of its findings. (Ord. 1177, 2000)

12.18.200: SEVERABILITY:

The provision of this Chapter shall be deemed severable and findings by a court of law that a provision of this Chapter is unlawful shall have no effect on the remaining provisions.

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.

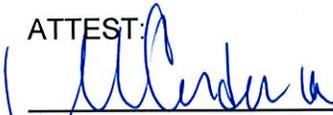
Section 5. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

Section 6. Any violation of this ordinance shall be a general misdemeanor punishable in accordance with the general misdemeanor statutes of the state of Idaho.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 24th day of January, 2012.

CITY OF PAYETTE, IDAHO

by 
Jeffrey T. Williams, Mayor

ATTEST:

Mary Cordova, City Clerk

Q. Planting, Removal & Defacing:

1. Attach any object to public tree(s).
2. Dig, trench, excavate or pile soil or any other materials within the critical root zone of any public tree(s).
3. Approval from the City Forester must be made prior to pruning or removal of any public tree on private property, application for an encroachment permit (if necessary) must be made by the property owner or private tree firm currently licensed in B 12.18.110 of this Section.

From: Rob Rollins [mailto:rob@sterlingcodifiers.com]
Sent: Wednesday, March 21, 2012 8:57 AM
To: Bobbie Black
Subject: ordinance comment

We are finishing up ord 1355 dealing with your tree regulations. We have noticed just a couple more things that you might want to review ---

Page 9 top of page new subsection Q --- we are not sure why Q1 & Q2 were added – although not exactly, these are basically covered on page 7 under subsections C, D & E. As for Q3, that is somewhat covered under subsection B on page 7. The interesting thing about Q3 is it talks about a “permit” – nowhere in this ord does it talk about getting a permit (and it reference subsection B – which again does not talk about a permit) – maybe the intent of Q3 is actually to refer to 12.18.110 where a private firm needs a license.

All that being said, if I understand this Q correctly – this is what I would do to make a minimal change to the ord so you don’t have to go back and take it to council. Leave Q1 & Q2 (although not necessary in my opinion) – change Q3 “permit” to “license” and then change the reference from subsection B to 12.18.110. Let me know your thoughts.

Thanks

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cs

SUMMARY OF ORDINANCE 1355

Ordinance 1355 is an ordinance of the City Of Payette, Idaho, adopted January 3, 2012. The ordinance may be descriptively known as the Payette City Tree Ordinance. Ordinance 1355 amends chapter 12.18 in title 12 of the Payette City Code by changing the title of chapter 12.18. The ordinance creates findings, adds new definitions, renumbers code sections 12.18.040 through 12.18.190 and creates a new section 12.18.070. Ordinance 1355 establishes and defines the duties of the city forester, prohibits the interference with the city forester and creates compensatory payments. Ordinance 1355 provides a severability clause, provides for publication by summary, sets an effective date, provides 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 1355 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 5th day of December, 2012.



Bert L. Osborn