

AN ORDINANCE OF THE CITY OF MALAD CITY, IDAHO, PROVIDING THAT IT SHALL BE THE POLICY OF THE CITY OF MALAD CITY TO PROTECT TREES GROWING ON PUBLIC PROPERTY; ESTABLISHING THE OFFICE OF CITY TREE ADMINISTRATOR AND STATING THE AUTHORITY AND DUTY OF THAT OFFICE; CREATING A SHADE TREE COMMISSION; ESTABLISHING TERMS OF OFFICE FOR THE MEMBERS OF THE SHADE TREE COMMISSION; PROVIDING FOR THE ORGANIZATION AND MEETINGS OF THE SHADE TREE COMMISSION; PROVIDING THAT THE MAYOR AND CITY COUNCIL HAVE COMPLETE AUTHORITY AND CONTROL OVER ALL TREES ON PUBLIC PROPERTY; REQUIRING A PERMIT TO PLANT, REMOVE, TRIM, CUT, OR IN ANYWAY DAMAGE A TREE ON PUBLIC PROPERTY; PROVIDING FOR APPLICATIONS FOR PERMITS; DEFINING TERMS FOR PURPOSES OF SAID APPLICATIONS FOR PERMITS; DEFINING TERMS FOR PURPOSES OF SAID CODE; PROVIDING FOR TRIMMING AND PRUNING OF TREES OF THE CITY; PROVIDING THAT TREES WHICH CREATE A HAZARD TO PERSONS OR TRAFFIC ARE A PUBLIC NUISANCE; PROVIDING THAT THE OWNER OF PROPERTY ABUTTING A STREET SHALL KEEP PRUNED AND TRIMMED ALL TREES ON THE PARKWAYS AND STREETS WHICH ABUT HIS PROPERTY; PROVIDING THAT ANY TREE WHICH SHALL ENDANGER OR DAMAGE THE USEFULNESS OF ANY STREET, ROADWAY, SIDEWALK, PARKWAY OR PUBLIC SEWER OR WATER LINE IS A PUBLIC NUISANCE; PROHIBITING THE ABUSE OF TREES; REQUIRING THAT OWNER OF PROPERTY SHALL TRIM ALL HEDGES AND SHRUBBERY ADJACENT TO SIDEWALKS SO THAT NO PART EXTENDS OVER THE SIDEWALK; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1.

1. **Policy Statement.** The City of Malad City hereby declares that it shall be the policy of the city to protect trees planted and growing within the public rights-of-way, city parks, the city cemetery and within, on or affecting all other property owned or otherwise under the control of the city.

2. **City Tree Administrator.** The office of the City Tree Administrator is hereby established. The City Tree Administrator may be a member of the City Council or an appointed official or an employee of the city, appointed to the office of City Tree Administrator by the Mayor and confirmed by the City Council. The City Tree Administrator shall administer the provisions of this chapter and shall have all administrative powers in connection therewith which are not specifically assigned to some other person or body. The City Tree Administrator shall have the following authority and duties:

a. Supervise in planting, pruning, spraying, preserving and removal of trees on all city

properties and rights-of-way.

b. Supervise all work done in accordance with this chapter.

c. Prepare and distribute rules and regulations containing guidelines for the pruning of trees located on all city properties and within city rights-of-way.

d. Prepare a tree list consisting of acceptable varieties of trees, acceptable size of trees, proper planting and spacing instructions for trees located within the rights-of-way.

3. **Shade Tree Commission.** There is hereby created an official Shade Tree Commission to consist of five (5) members to be appointed by the Mayor and confirmed by the City Council. The members of the commission shall be eligible and registered voters of the city, and provided that one (1) of the members may be a resident of the Area of City Impact. The term of office for the first members shall be one (1), two (2) and three (3) years, to be determined by lot and thereafter the term for each member shall be three (3) years. Vacancies occurring otherwise than through expiration of terms shall be filled by the Mayor and confirmed by the City Council. Members may be removed after a hearing before the City Council by a majority vote of the City Council. Members shall be selected without respect to political affiliation and shall serve without compensation.

4. **Organization and Meetings.** The City Tree Administrator shall serve as the Chairman of the Shade Tree Commission and shall be a voting member of the commission. Meetings of the commission shall be held when duly called by the Chairman by written or oral notice. A majority of the members of the commission shall be necessary to constitute a quorum at any meeting. All meetings shall be open to the public. Written rules consistent with this chapter and the laws of the State of Idaho for the transaction of business of the commission shall be adopted and a written record of meetings, resolutions, findings and determinations shall be kept, which record shall be public.

5. **Duties of Commission.** The duties of the Shade Tree Commission shall include, but is not limited to the following:

a. Assist the City Tree Administrator in developing a comprehensive city forest plan.

b. Assist the City Tree Administrator in taking an inventory of all existing trees on all city properties.

c. Assist the City Tree Administrator in providing information to the public through educational campaigns, published materials and other opportunities.

- d. Assist the City Tree Administrator in implementing Arbor Day celebrations and activities.
 - e. Encourage and solicit donations and other funding for the city tree program.
 - f. Identify and implement landscaping projects which improve the city forest.
 - g. Assist the City Tree Administrator to plan and review the city forest program budget and to make recommendation to the City Council.
6. **Authority and Control over Trees.** The Mayor and the City Council have complete authority and control over all trees on or within the City properties.

7. **Permit Required; Application.**

- a. It shall be unlawful for any person to plant, remove, trim, cut or in any way damage any tree on or within the city properties without first procuring a permit so to do from the City Tree Administrator; 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.
- b. Any person desiring a permit to plant, remove, cut or in any way damage a tree on or within the city properties shall file with the City Tree Administrator setting forth therein in detail the work that is contemplated and the location and address of the same. Upon the filing of such application, the City Tree 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 Tree Administrator.

8. **Definitions.** For the purpose of this Chapter whenever the following words are used, the intent and meaning shall be interpreted as follows:

- a. **Owner** The legal owner or owners of the real property adjacent to a street in the City of Malad City, Idaho.
- b. **Parkway** That portion of a street between a roadway and a sidewalk.
- c. **Person** Any individual, firm, co-partnership, association, corporation, or group of combination acting as a unit; and the plural as the singular number unless the intent to give a more limited meaning is disclosed by the content; and the masculine shall include the feminine and the feminine the masculine.
- d. **Roadway** That portion of a street improved, designed or ordinarily used by the public for vehicular travel.
- e. **Sidewalk** That portion of a street improved, designed or ordinarily used by the public for pedestrian travel.
- f. **Street** The entire width between the boundary lines of a public right-of-way dedicated or deeded to the city for use of the public for purposes of vehicular travel, whether or not maintained by the city and whether or not open for vehicular traffic.
- g. **Trees** Trees as used in this chapter shall be defined to include but not be limited to any plant which at maturity would exceed a height of more

than eight (8) feet.

- h. **City Properties** Real property dedicated, deeded or leased to the city or otherwise under the physical control of the city, including, but not limited to, public rights-of-way, city parks, and the city cemetery.

9. **Trimming Trees.**

- a. Trees on or within the city properties shall at all times be so trimmed and pruned that there shall be at least seven and one-half (7 1/2) feet clear space between the surface of the sidewalk or parkway, as the case may be, and the overhanging branches and leaves, and so that there is at least 12 feet of clear space between the surface of the roadway and the overhanging branches and leaves.
- b. The branches or leaves of any tree, which overhang any sidewalk, parkway or roadway present in such manner as to create a hazard to, or impediment to the progress or vision of, any person travelling on any street, sidewalk or roadway, or which covers, endangers or impairs the view of any traffic control device by a person operating a motor vehicle on a roadway, including any branch or leaves within the restricted areas mentioned in subsection (a) of this section, are hereby declared to be a public nuisance, whether or not within the restricted areas mentioned in subsection (a) of this section.
- c. Each owner of property abutting on a street shall at all times keep pruned and trimmed all trees on his/her property and on parkways on the street which abut his/her property so as at all times to prevent such branches and leaves from protruding within the restricted area mentioned in subsection (a) of this section and from constituting a public nuisance under subsection (b) of this section; each owner of property shall also treat or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to trees or plants in public places.
- d. Any tree which shall endanger or damage the usefulness of any street, roadway, sidewalk, parkway or public sewer or water line, whether growing on private property or on a parkway, is hereby declared to be a public nuisance, and each owner of property abutting on a street shall at all times keep trimmed and pruned all trees, including the pruning and trimming of branches, leaves and roots, growing on his property on or parkways on the streets which abut his/her property so as to prevent such trees from damaging or endangering the usefulness of any street, sidewalk, roadway, parkway, or public sewer or water line.

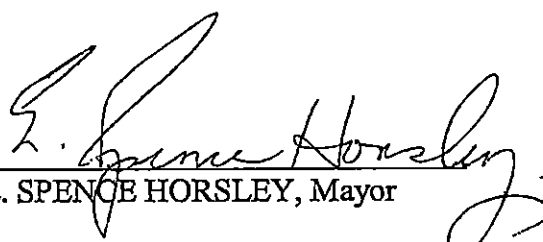
10. **Unlawful to Abuse Trees.** It shall be unlawful for any person to abuse, damage or mutilate any tree, in any parkway, or in any public place, or to attach or place any rope or wire, other than one used to support a young or broken tree, or any sign, poster, handbill, advertisement or other thing to or on any tree, growing on any parkway or public place or to cause or permit any wire charged with electricity to come in contact with any such tree, or to cause or permit any gaseous, liquid or solid substance which may be harmful to any such tree, to come in contact with the tree.

11. **Hedges and Shrubbery.** Any owner, agent, tenant or occupant of any real property shall trim all hedges and shrubbery adjacent to public sidewalks so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk in the city.

SECTION 2. Effective Date. This Ordinance shall take effect and be in full force from and

Passed by the Council and approved by the Mayor of the City of Malad City, Oneida County,

State of Idaho this 20 day of February, 2002.


E. SPENCE HORSLEY, Mayor

ATTEST:


SUSAN J. WITTMAN, City Clerk