

City of Caldwell

Submit Application to:
Caldwell City Hall
411 Blaine Street
PO Box 1179
Caldwell, ID 83606
Phone: (208)455-4773
Fax: (208) 455-3003



APPLICATION TREE CONTRACTOR'S LICENSE

Business Name	Date
Street Address	Fax
City State	Phone
Applicant's Name	E-mail
If the enterprise is a corporation, please list the names of officers, their addresses, and the State in which the corporation is filed.	
If the enterprise is a partnership, please list the names of officers and their addresses:	

Please provide information about the years of experience in the green industry, according to the following categories:

Planting:	Trimming:
Tree Removal:	

Please list the relevant equipment that your company relies upon for accomplishing tree work:

Equipment #1	Equipment #2
Equipment #3	Equipment #4
Equipment #5	Equipment #6

Is the applicant familiar with the following City Code sections?

10-07-01 – 10-07-18: Caldwell Landscape Ordinance?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
10-08-21: Dutch Elm Disease Ordinance?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
10-08-01 – 10-08-20: Tree Ordinance?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO
10-08-12 – 10-08-15: Tree Trimmers Ordinance?	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO

List of individuals with your company who have the International Society of Arboriculture (ISA) Certified Arborist status and will be performing or overseeing the work. (Please attach a copy of their current certificate or card)

Name:	ID Number:	Expiration Date:
Name:	ID Number:	Expiration Date:
Name:	ID Number:	Expiration Date:
Name:	ID Number:	Expiration Date:
Name:	ID Number:	Expiration Date:

Please identify other credentials, which the business possesses that aid to qualify experience.

#1	
#2	
#3	

Acknowledgements

Applicant's Initials	
	<p>PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE:</p> <p><i>Applicant shall obtain general public liability coverage (not less than \$500,000 for each individual, \$1,000,000 for each occurrence and \$500,000 property damage.) The policy shall name and protect the applicant and the City of Caldwell against all claims, losses, actions, or judgments for damages or injuries to persons or property. .</i></p> <p><i>Applicant shall provide a certificate of insurance at time of application submittal indicating the City of Caldwell as the certificate holder and the additional insured with respect to their license.</i></p> <p>Applicant understands the Public Liability and Property Damage Insurance requirement and has provided the required insurance documents as stated above as an attachment to this application.</p>
	<p>TREE ORDINANCE:</p> <p>Applicant has been provided with a copy of the Tree Ordinance, Dutch Elm Disease Ordinance, Tree Trimmers Ordinance, and the Caldwell Landscape Ordinance and acknowledges reviewing these documents.</p>
	<p>COMPLIANCE WITH ORDINANCES:</p> <p><i>Applicant understands his/her responsibility to comply with the provisions of the Tree Ordinance, Dutch Elm Disease Ordinance, Tree Trimmers Ordinance, and the Caldwell Landscape Ordinance.</i></p>
	<p>APPLICATION FEE:</p> <p>Applicant has attached the appropriate application fee with this application.</p>

REQUIRED ATTACHMENTS FROM THE APPLICANT [✓]	
	Certificate or card from International Society of Arboriculture
	Proof of insurance for business
	Proof of worker's compensation insurance
	Application Fee \$30
Applicant's Signature:	Date:
Superintendent of Parks Signature:	Date:
Approved:	Denied:
Basis for Denial:	
NOTE: In the event that the application is denied, the applicant is afforded an opportunity to appeal.	

ARTICLE 7

CALDWELL LANDSCAPING ORDINANCE

SECTION:

10-07-01: Definitions

10-07-02: Applicability

10-07-03: Landscape Plan Preparation, Requirements And Submittal

10-07-04: Landscape Criteria And Installation Practices

10-07-05: Common Open Space Requirements And Standards

10-07-06: Landscape Maintenance

10-07-07: Vision Triangle

10-07-08: Street Landscape Buffers

10-07-09: Parking Lot Landscaping

10-07-10: Buffers Between Different Land Uses

10-07-11: Pathway Landscaping Standards

10-07-12: Irrigation

10-07-13: Landscaping In Stormwater Areas

10-07-14: Alternative Methods Of Compliance

10-07-15: Certificate Of Occupancy Or Compliance

10-07-16: Landscape Plan Design Review

10-07-17: Violation, Penalty, Enforcement And Compliance

10-07-18: Appeals

10-07-01: DEFINITIONS:

For the purpose of this article, certain terms are defined as set forth herein. As used in this article, masculine, feminine or neutral gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. The word "shall", "will" or "must" is always mandatory; the word "may" is permissive; and the word "should" indicates that which is recommended but not required.

APPLICANT: See definition of Controller.

BARK/WOOD CHIPS: A medium sized solid material made by cutting, or chipping, larger pieces of wood and/or bark. Must be a minimum size of two inches (2").

BERM: An earthen mound designed to screen undesirable views and/or to decrease noise.

BOISE RIVER CORRIDOR: Land in proximity to the Boise River as it flows through Caldwell. The corridor extends outward a distance of one hundred fifty feet (150') from the banks' high water mark. Landscaping plans for projects within this corridor are subject to landscape plan design review.

BOULDER AND ROCK SLAB: A rock possessing an overall surface area greater than one square foot. These large rocks are not considered hardscape materials and may be used for landscape purposes.

BUFFER: A combination of physical space and vertical elements, including, but not limited to, trees, shrubs, berms, fences, and/or walls that separate and screen incompatible land uses from one another.

CALIPER: See section 10-08-01, "Definitions", of this chapter.

CERTIFICATE OF COMPLIANCE: Official certificate issued by the planning and zoning department for mobile food units and/or for a project that does not require a building permit, but does have planning and zoning requirements as per the zoning ordinance, and such issuance signifies that said project conforms to all provisions of city ordinances, codes and policies related to planning and zoning requirements. Not applicable to internal or city projects.

CERTIFICATE OF OCCUPANCY: See section 12-01-17 of this code.

CITY CENTER ZONING DISTRICT: Downtown Caldwell (see article 12 of this chapter). The city center zoning district shall have its own landscaping requirements.

CLASS 1, 2, AND 3 TREES: Classes of trees listed in section 10-08-02 of this chapter. Class 1 trees are usually small and ornamental; class 2 trees are appropriate for street planning and are medium to large in size and shape; class 3 trees are large and

require considerable amounts of open space.

COMMON LOT: A platted lot separate from individual building lots, owned in common, generally provided for the shared use of property owners or tenants and is maintained by the controller or a homeowners' or business owners' association.

CONTROLLER: Every person or association (owner, agent, tenant, occupant, contractor, developer and/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. As applied to the subdivision or development process, the controller is understood to be the property owner, association or person representing the property owner's interest with responsibility for abiding by the city's standards, rules, regulations, policies, codes and ordinances. A person or entity who is applying to the city for a license, certification or permit.

DEVELOPMENT: Any project or use of land, regardless of zone, that will require a certificate of compliance, certificate of occupancy, special use permit, subdivision plat or a planned unit development.

DOWNTOWN: The city center zoning district (see article 12 of this chapter). The city center zoning district shall have its own landscaping requirements.

DRIP LINE: A boundary of the soil surface delineated by the branch spread of a single plant or a group of plants.

DRY LANDSCAPING: The use of a combination of various types of hardscape, boulders, rock slabs and/or vegetation not requiring irrigation, or requiring very minimal irrigation, to cover a required landscaping area and only allowed in instances where city water is being utilized for irrigation or the property does not have a surface irrigation water right or viable delivery point or a private irrigation system is being utilized.

FOR FEE CONTRACTOR: A person who engages in the care and maintenance of landscape and trees. This individual shall be licensed and certified according to the provisions identified in section 10-08-02 of this chapter.

FRONTAGE: The width of the property at the front of the lot as measured along the street frontage. The width of the property fronting a public street. Regarding corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Frontage shall also mean any property line which abuts an existing or proposed public street.

GATEWAY STREET/MAJOR ENTRANCE AREAS: (1) Both sides of Blaine Street from the easterly side of the city center district (12th Avenue) to the intersection where Blaine Street and Cleveland Boulevard merge;

(2) Both sides of Cleveland Boulevard from the easterly side of the city center district (12th Avenue) to Homedale Road;

(3) Both sides of 21st Avenue between Franklin Road and Cleveland Boulevard;

(4) Both sides of 10th Avenue south of I-84 to the northerly side of the city center district (railroad tracks).

HARDSCAPE MATERIAL: Stone, rock, gravel, lava rock or other similar materials. For purposes of this article, boulder and rock slab are not considered hardscape materials; rather, they are considered accent and safety landscape features (see definition of Boulder And Rock Slab).

INDIAN CREEK CORRIDOR: Land in proximity to Indian Creek as it flows through Caldwell. The corridor extends outward a distance of one hundred fifty feet (150') from the banks' high water mark. Any portion of a piece of property that exists within the one hundred fifty feet (150') from the banks' high water mark classifies the entire piece of property as existing completely within the Indian Creek corridor and thus having to comply with all rules relating to development within the Indian Creek corridor. Landscaping plans submitted within this corridor are subject to landscape plan design review.

LANDSCAPE, LANDSCAPING AND LANDSCAPING AREA: The installation and permanent maintenance of an area with trees, shrubs, lawn and vegetative and/or nonvegetative ground cover, hardscape, boulders, rock slabs, Xeriscape and/or dry landscaping.

LANDSCAPE PLANTER ISLANDS: Interior parking lot landscape islands encased in curbing material installed to provide visual relief from the expanse of asphalt, while protecting the landscape from vehicular injury.

MAINTENANCE: Watering, weeding, pruning, mowing, litter removal, pest control, and the removal or repair of items needed to maintain a neat, well kept, orderly, living, healthy landscape appearance.

MAJOR PATHWAY: A pathway required in all subdivisions or developments that contain any type of residential dwellings that provides external, public pedestrian connectivity to and from and through the subdivision and/or development and is for the use of the general public as well as the residents of the subdivision or development and their guests.

MICRO PATHWAY: Any pathway within a subdivision or development meant to provide internal pedestrian connectivity and meant only for the residents of the subdivision or development and their guests (not meant for general public use).

MULCH: A protective covering placed around plants to prevent the evaporation of moisture, the freezing of roots and the growth of weeds.

NATURAL AREA: An area that possesses unimproved natural features that include existing wetlands, rock outcroppings, ponds and creeks, or groves of trees left undeveloped in their natural state.

NUISANCE: 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 harbor for rodents or insects or otherwise is injurious to the health, safety and general welfare of the inhabitants of the city.

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

PHASED DEVELOPMENT: The developing or subdividing of a lot, tract or parcel of land in phases or the controller's development,

redevelopment, subdivision or resubdivision of contiguous parcels.

PLANT: Any tree, shrub, lawn or other vegetative ground cover that is not poisonous, toxic or otherwise a nuisance.

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 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. Right of way is utilized for placement of streets, alleys, sidewalks, trees, parkways, lawn, public utilities, cut and fill slopes, and open space. Right of way is acquired in keeping with the roadway's functionality as listed on the Canyon County functionally classified roadway map or any functional class/street highway master plans adopted by the city of Caldwell.

PUBLICLY DEDICATED: All Caldwell citizens have access to publicly dedicated areas. Areas that are cordoned as to limit public access, such as a gated community, do not meet this public dedication definition.

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

SOFTSCAPE MATERIALS: Bark, wood chips, mulch, and similar materials.

STREET TREE LIST: The list of acceptable trees located within the public right of way (see section 10-08-02 of this chapter).

STREETS: 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.

SUBDIVISION: See definition of "subdivision" in chapter 11 of this code.

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.

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

VEHICLES: Vehicles include the following:

Motor Vehicles: Self-propelled devices used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

Off Road Vehicles: Those designed for use on a variety of nonimproved surfaces and including dune buggies and all-terrain vehicles, snowmobiles, trail bikes, mopeds, and motor bikes.

Passenger Vehicles: Those with no more than two (2) axles and/or four (4) wheels, not more than four thousand five hundred (4,500) pounds in gross weight, and designed primarily for the transport of persons.

Recreational Vehicles: Those with a vehicular type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as temporarily living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Trailers: Structures standing on wheels, towed or hauled by another vehicle, and used for short term human occupancy, carrying of materials, goods, or objects, or as temporary offices.

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. Measuring from the projected intersection of the roadway edge a distance of forty feet (40') along each roadway edge and connecting the two (2) points with a straight line defines the boundaries of a vision triangle at the intersection of two (2) roads.

WEEDS: Undesirable plant growth that is unkempt, unsightly, deleterious and/or injurious to the public. Weeds include noxious weeds, grasses, unkempt bushes and any plant meeting this description. The Canyon County weed control department keeps a list of weeds that are considered noxious.

XERISCAPE: Nontraditional water conservation landscaping or dry landscaping permitted as a landscape substitute. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008; Ord. 2805, 11-2-2009; Ord. 2865, 6-20-2011; Ord. 3010, 11-16-2015)

10-07-02: APPLICABILITY:

(1) Purpose: To promote landscaping and tree installation and maintenance and to preserve and protect riparian, wetland and wildlife areas in the city of Caldwell that will improve community livability, protect property values, preserve the quality of life and improve the city's general appearance, economic viability and environmental health. (Ord. 2661, 1-7-2008)

(2) Application: This article shall apply in the following situations:

- A. Residential subdivisions and/or developments. (Ord. 2755, 9-22-2008)
- B. Commercial subdivision(s) and/or development(s).
- C. Industrial subdivision(s) and/or development(s).
- D. Special use permits. (Ord. 2661, 1-7-2008)
- E. Subdivisions and/or developments with riparian, wetlands, and/or wildlife areas. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

- F. All mixed use subdivision(s) and/or development(s). (Ord. 2755, 9-22-2008)
- G. Planned unit developments.
- H. Manufactured home parks. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)
- I. Rezones, annexations, or simple lot splits. (Ord. 3156, 7-16-2018)
- J. New construction, exterior remodeling, exterior renovation, complete rebuilds, and additions.
- K. Change of use. (Ord. 2967, 7-21-2014)

L. Uses, buildings, or properties that have been vacant or without a tenant for a period exceeding twelve (12) consecutive months. (Ord. 3102, 9-5-2017)

10-07-03: LANDSCAPE PLAN PREPARATION, REQUIREMENTS AND SUBMITTAL:

(1) Plan Preparation:

- A. Landscaping plans shall be prepared by a landscape architect, a landscape designer or a qualified nursery person.
- B. Landscape plans shall be stamped by a licensed landscape architect.

(2) Plan Requirements:

- A. Detailed plan at a scale no smaller than one inch equals fifty feet (1" = 50'). (Ord. 2661, 1-7-2008)
- B. If off street parking and/or bicycle parking is applicable, the following must be shown:
 - 1. All required individual parking and bicycle parking and loading spaces with typical dimensions.
 - 2. A note listing the required number of parking spaces and bicycle parking spaces.
 - 3. A note listing the provided number of parking spaces and bicycle parking spaces. The provided number of parking spaces and bicycle parking spaces shall equal or exceed the required number of parking spaces and bicycle parking spaces. (Ord. 2805, 11-2-2009)
 - 4. Circulation area required to serve the parking spaces with typical dimensions.
- C. Note indicating the presence, or lack thereof, of existing trees, shrubs, etc.
- D. Approximate size and type of any existing trees, shrubs, etc., that will remain, if any.
- E. Note indicating the presence, or lack thereof, of existing structures and whether or not said structures will remain.
- F. Location of major pathways with width and type of paving identified.
- G. Location of micro pathways with width and type of paving identified.
- H. Five foot (5') wide landscape strips on each side of the major and micro pathways clearly identified with types, number and placement of trees, shrubs, vegetative and nonvegetative ground cover.
 - I. All open space clearly delineated (using hatching, shading, coloring, etc.) so it is readily identifiable.
 - J. Percentage of open space in relationship to the gross area of the project through note form.
 - K. Location and types of equipment proposed for recreational use.
 - L. Location and types of new structures for recreational use (i.e., gazebos, water features, playhouses, picnic areas, etc.).
 - M. Location of school bus stop areas within a common lot or common easement.
 - N. Location and width of all street landscape buffers, parking landscaping areas, landscaped buffers between different uses.
 - O. Location and description of other landscape improvements including, but not limited to, earth berms, walls, trash enclosures, specialty lighting, required fences (include type and color of new fencing material, height of new fence and location of any new fencing to be placed on the project). If there is existing fencing on the project, indicate whether or not the existing fencing will remain. If the existing fencing is to remain, indicate the type and color of the existing fencing material, height of the existing fence and location of the existing fence.
 - P. Locations, descriptions, types and numbers of landscaping products to be installed in all landscaping areas.
 - Q. Note indicating the type of irrigation system and its water source.
 - R. Plant legend, to include the botanical and common name of all proposed plants and their location, quantity, spacing and size and installation detail of all landscape material.
 - S. Note indicating that certification must be provided to the city that all of the trees or plants installed are free from disease and are not toxic, poisonous or otherwise a nuisance.
 - T. Note or detail regarding the landscaping and/or weed maintenance of all irrigation, drainage and utility easements and/or rights of way.
 - U. Location of riparian, wildlife and/or jurisdictional wetlands with a summary of the method(s) of preserving said areas.

- V. Riparian habitat management plan with an approval letter of said plan from all stakeholder agencies.
- W. Wildlife preservation and mitigation plan with an approval letter of said plan from all stakeholder agencies.

(3) Plan Submittal:

- A. One eight and one-half by eleven (8¹/₂ x 11) copy and one eleven by seventeen (11 x 17) copy.
- B. Completed and signed landscaping plan application. (Ord. 2661, 1-7-2008)

(4) Plan Modifications: Once the landscaping plan has been approved by planning and zoning department staff, no modifications can be made to the plan nor can field changes be made without first resubmitting the landscaping plan with a detailed explanation of the requested modification(s). Approved changes to the landscape plan must be documented prior to issuance of a certificate of occupancy or certificate of compliance, whichever is applicable. (Ord. 2805, 11-2-2009)

10-07-04: LANDSCAPE CRITERIA AND INSTALLATION PRACTICES:

(1) Tree Planting: All tree planting shall be based on the city's "arboricultural standards and specifications guide" available from the city forester.

(2) Selection From List: All trees and shrubs shall be selected from the list provided in subsections 10-08-02(13), (14) and (15) of this chapter. Any deviations from this list must be approved by the Planning and Zoning staff. The appropriate class of trees and shrubs shall be chosen dependent upon the location of the plants (i.e., along streets or sidewalks, in parking lots, below overhead power lines, along utility easements).

(3) Prohibited Plant Material: Prohibited plant material shall include any that is considered poisonous, toxic or otherwise poses a nuisance.

(4) Substitution: Use of artificial plants or carpeting cannot substitute for landscape plant material. (Ord. 2661, 1-7-2008)

(5) Primary And Dominant Landscape Material: Primary and dominant landscape material shall be grass. A combination of materials such as bark, wood chips, stone, rock, gravel and lava rock is limited to twenty-five percent (25%) maximum coverage. Boulders and rock slabs cannot be placed in public rights-of-way. (Ord. 3156, 7-16-2018)

(6) Minimum Plant Sizes:

Evergreen trees	6 to 7 foot height minimum
Ornamental trees	2 inch caliper minimum
Shade trees	2 inch caliper minimum
Woody shrubs	2 gallon pot minimum

The minimum plant standards may be modified, with Planning and Zoning staff approval, based upon market conditions, size availability and/or other circumstances.

(7) Standards Met: All plant material installed pursuant to this article shall meet or exceed the minimum Federal standards as regulated by ANSI Z60.1, American standard for nursery stock.

(8) Placement Prohibited: The placement of plastic weed barrier under mulch is prohibited.

(9) Organic Mulch: Organic mulch, such as bark or soil aids, shall be applied to all planting areas for moisture retention, weed control and soil temperature moderation. (Ord. 2661, 1-7-2008)

(10) Protective Devices: Vertical curbing shall be provided around all planting areas that border driveways, parking lots and other vehicle use areas, including, but not limited to, street landscape buffers and interior landscape planter islands. The curbing shall be minimum six inch (6") vertical concrete curb and include a concrete gutter pan. (Ord. 3010, 11-16-2015)

(11) Wash Off: Facilities constructed for water and drainage purposes shall be designed so that no soil, bark, mulch or other similar materials shall be allowed to wash off the landscape area.

(12) Construction Within The Tree's Drip Line:

A. Impervious surfaces like sidewalks should be set back from the tree trunk equal to its diameter at maturity plus five feet (5'), with the exception of parking lot planting islands.

B. Grade changes greater than six inches (6") are prohibited within the drip line.

C. A simple fence or barrier that encloses the entire area beneath the tree canopy should be installed prior to commencing construction activity to reduce damage to a tree's root system. (Ord. 2661, 1-7-2008)

(13) Utilities:

A. Only Class 1 trees as identified in subsection 10-08-02(14) of this chapter may be planted below or within ten (10) lateral feet of any overhead utility wire.

B. All trees shall be planted outside of any underground utility easement unless written approval has been obtained from the easement holder.

C. Underground utilities installed by means of trenching shall be placed outside of any existing tree's drip line. Underground utilities installed by means of tunneling may be installed within the tree's drip line, provided the tunneling occurs a minimum of three

feet (3') below existing grade.

D. Excavation in the soil within one foot (1') of the tree's roots is prohibited unless appropriate measures are taken to prevent the exposed soil from drying out.

E. Roots of a tree shall not be damaged by compacting or filling on or around the base of the tree.

F. If existing trees that are scheduled to be retained as part of the landscaping plan are severely damaged during the construction phase, they shall be replaced in accordance with section 10-08-02 of this chapter.

(14) Landscaping Around Signs:

A. The square footage of the landscaped area shall be equal to or in excess of the square footage of the sign.

B. Two (2) shrubs shall be installed on each side of the sign at a minimum.

C. The remaining area shall be completely covered with a mixture of vegetative or nonvegetative ground cover to include grass, flowers, mulch, vines, etc.

(15) Landscaping In And Around Riparian, Wetland, And Wildlife Areas:

A. Riparian, wetland, and wildlife areas in all developments and/or subdivisions shall be surveyed and determined. In written form, the appropriate agencies (i.e., Idaho Fish and Game and U.S. Army Corps of Engineers) shall confirm the results of the survey.

B. Stream crossings in riparian, wetland, and wildlife areas shall be constructed with design features that permit passage underneath of both aquatic and terrestrial species of fish and wildlife during all anticipated flow levels. There shall be no net loss of wildlife habitat.

C. All identified jurisdictional wetland areas shall be restored to a functioning condition, including planting with species appropriate to the site, and shall be maintained in a functioning condition. There shall be no net loss of wetland function.

D. A mitigation plan for any unavoidable impacts to fish and wildlife resulting from developments and/or subdivisions shall be developed and shall be incorporated into homeowners' or business owners' covenants. The following elements, at a minimum, shall be included in the mitigation plan:

1. Introduction/description of the property and surrounding area. This shall include a description of the existing natural resource values present, wildlife commonly found in and near the project and habitat types. Included shall be estimates of the quantity and quality of the various habitats found on the property as well as mapping of existing vegetation (habitat). Aquatic species and habitat should be included if streams are present. It should also include the scope of the mitigation plan (i.e., if it covers the entire project or just a particular phase). In the case of projects in high value wildlife habitat, and to provide objective and measurable preproject wildlife values, a habitat evaluation procedure should be conducted for key species. Include goals and objectives of the mitigation.

2. Assessment of potential impacts. This shall include anticipated impacts, both direct and indirect, resulting from the development.

3. Proposed actions to avoid, reduce, compensate for, and mitigate impacts. Include on site and off site mitigation necessary to achieve no net loss of wildlife values.

4. Description of net impacts after mitigation is implemented. Include a description of unavoidable impacts and those impacts that have been minimized.

5. Time line for implementing all mitigation actions.

6. Monitoring to ensure effectiveness of mitigation actions and long term operations and maintenance to ensure mitigation lasts in perpetuity. There shall be actions described in the plan that ensure that mitigation actions are permanent (e.g., easements) and continue in perpetuity (e.g., habitat improvement). Recourse for failed mitigation efforts should be identified.

E. Approval letters, regarding mitigation plans for riparian, wetland and wildlife areas, from all stakeholder agencies shall be obtained and submitted to the Planning and Zoning Department prior to approval of any construction drawings. (Ord. 3156, 7-16-2018)

10-07-05: COMMON OPEN SPACE REQUIREMENTS AND STANDARDS:

(1) Requirements For Residential Subdivisions And/Or Developments, Regardless Of Zone, And For Any Mixed Use Subdivisions Or Developments That Contain Residential Dwellings:

A. The percentage of gross land area to be designated as common open space shall be based upon the overall average residential lot size as follows:

Overall Average Lot Size (Square Feet)	Percentage Of Gross Land To Be Reserved As Open Space
Below 6,000	10.0
6,000 - 7,499	8.0
7,500 - 8,999	6.0
9,000 - 11,999	5.0
12,000 and over	4.0

B. Common open space areas are established for use by the subdivision's or development's occupants and guests, but not for the general public living outside the subdivision or development, unless the common open space has public easements running through it that make it publicly dedicated or the land has been dedicated for public purpose. (Ord. 2661, 1-7-2008)

C. Common open space will not be required for subdivisions or developments containing fewer than eleven (11) residential dwelling units unless they are part of a phased development or located in the Indian Creek corridor or the Boise River corridor. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

(2) Requirements For Multi-Family Subdivision And Planned Unit Developments:

A. At least ten percent (10%) of a multi-family subdivision's or planned unit development's gross land area shall be designated as common open space.

B. These common open space areas are established for use by the subdivision's or development's occupants and guests, but not for the general public living outside the subdivision or development, unless the common open space has public easements running through it that make it publicly dedicated or the land has been dedicated for public purpose. (Ord. 2661, 1-7-2008)

(3) Requirements For C-1, C-2, C-3, C-4, I-P, M-1, M-2, H-D, C-D, And A-D Zones:

A. No common open space required unless the subdivision or development is either wholly or partially residential in use, in a residential zone or is a multi-family subdivision or planned unit development in which case requirements as listed under subsections (1) and (2) of this section would apply. (Ord. 2755, 9-22-2008)

B. Additionally, all other landscaping requirements as referenced in this article shall apply unless stated otherwise. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

(4) Criteria For Common Open Space:

A. Nonqualifying Open Space:

1. Street right of way areas.
2. Areas dedicated for future right of way purposes.
3. Stormwater retention/detention areas.
4. Islands/medians at project entrances.
5. Islands/medians/roundabouts throughout the project.
6. Riparian, wetland and wildlife areas (as determined by the appropriate jurisdictional agency).
7. Street landscape buffers. (Ord. 2661, 1-7-2008)
8. (Rep. by Ord. 2805, 11-2-2009)
9. Floodway areas.
10. Drainage easements and/or rights of way.
11. Irrigation easements and/or rights of way.
12. Utility easements. (Ord. 2661, 1-7-2008)

B. Qualifying Open Space: Anything other than what is listed as nonqualifying open space as approved by the city's landscape plan reviewer including, but not limited to, the following items: (Ord. 2805, 11-2-2009)

1. Open park areas of at least one thousand five hundred (1,500) square feet in size.
2. Community gardens.
3. Ponds or water features.
4. Plazas.
5. Additions to a public park or other public open space area.
6. Clubhouse, fitness facilities, enclosed bike storage, picnic areas, swimming pool, play areas, other general recreational facilities.
7. Buffers between differing land uses.
8. Additional street landscape buffer width over and above the required street landscape buffering.
9. Micro pathways (paved or porous surfaced portions and landscaped portion). (Ord. 2661, 1-7-2008)
10. Major pathways (paved or porous surfaced portions and landscaped portions). (Ord. 2805, 11-2-2009)

C. Location Of Open Space:

1. Common open spaces shall be located and designated as common lots platted for common open space purposes when within a platted subdivision. If the project is not a platted subdivision, the common open space must be located within a recorded permanent landscape easement.

D. Minimum Required Landscaping For Open Space:

1. Lawn, either seed or sod.
2. Combination of trees, shrubs and vegetative and nonvegetative ground cover.
3. Areas for active playground purposes shall be designed to minimize injury to children.
4. Common open space should be suitably improved for its intended use, except that natural features such as wetlands, rock outcroppings, ponds, creeks, groves of trees and other naturally occurring features may be left unimproved and undeveloped in their natural state.

E. Connectivity Of Common Open Space:

1. Common open space shall be required to be connected within a subdivision or development by means of five foot (5') wide paved or porous micro pathways with a five foot (5') wide strip of landscaping on each side of the paved or porous surface for a total of fifteen feet (15'), to be located within a common lot if part of a platted subdivision or within a recorded permanent landscape easement if not part of a platted subdivision.
2. The micro pathways and accompanying landscaping strips count towards the required common open space.

F. Americans With Disabilities Act:

1. Landscape areas shall not interfere with pedestrian sidewalk access or pose impediments to those who are disabled or infirm.
2. Landscape buffering and screening devices shall not be constructed to impede or eliminate the pedestrian's ability to access any abutting development.
3. If landscaping creates a continuous perimeter barrier, sufficient pathways shall be provided through the landscaping every six hundred sixty feet (660') unless there are physical barriers like a canal or a cliff that prevent the construction of such access.
4. Any landscape application that may limit access shall be called out so that an appropriate remedy may be found. (Ord. 2661, 1-7-2008)

10-07-06: LANDSCAPE MAINTENANCE:

(1) Responsibility: The controller, a homeowners' or business owners' association is responsible for maintaining all landscaping and screening devices within a subdivision and/or development and/or the subject property. (Ord. 2805, 11-2-2009)

(2) Maintenance: All landscaping and screening devices shall be maintained in an attractive, safe and healthy manner. Trees and/or shrubs located on controller's private property, within right of way or right of way area adjacent to controller's private property and/or having any portion of the trees and/or shrubs on controller's private property growing onto, within, over or under any right of way or right of way area adjacent to the controller's private property shall be maintained as follows: trees and/or shrubs shall not interfere with or impede any irrigation, drainage, or stormwater system, whether private or public, and shall be removed immediately to prevent any such interference or impediment; trees and/or shrubs presenting a safety hazard to the public shall be removed immediately; trees and/or shrubs shall be trimmed back and up such that no portion of trees and/or shrubs shall be within a ten foot (10') vertical height of any sidewalk and/or unimproved right of way, and a fourteen foot (14') vertical height of any street or alley; all vegetation and foliage shall be trimmed such that no portion of any vegetation or foliage grows over or onto any public sidewalk. Property with landscape areas littered with weeds or trash, where plant material (including, but not limited to, grass, trees, and/or shrubs) is dying or dead, where ponds or water features are growing moss or algae, and/or where trees and/or shrubs are not being maintained as noted above shall be considered in violation of this article and subject to city planning and zoning code enforcement and any other applicable penalties under this code. (Ord. 3010, 11-16-2015)

(3) Condition Kept: All properties, and the right of way or right of way area adjacent to properties, shall be kept in a hazard free, neat, orderly, and clean condition. Required and voluntary landscaping and landscaping areas shall be maintained in a healthy manner. Dead or dying landscape (including, but not limited to, grass, trees, and/or shrubs), weeds, trash, rubbish, and litter shall be removed immediately from all required and voluntary landscaping and landscaping areas, as well as all right of way and right of way areas adjacent to properties. Any item on property, as well as right of way and right of way areas adjacent to property, that presents a safety hazard, vision obstruction to vehicular or pedestrian traffic, and/or impediment to any private or public irrigation, drainage or stormwater system shall be removed immediately. (Ord. 2911, 9-4-2012)

(4) Tree Grates: Tree grates located within a public right of way must be widened as necessary to accommodate the growing tree trunk and prevent tree girdling.

(5) Damaged Plant Materials: Dead plant materials or plant materials exhibiting evidence of insect pests, disease or damage shall immediately be treated or replaced.

(6) Removal Of Weeds: Weeds shall be mowed, removed or otherwise safely mitigated on a minimum monthly basis. At a minimum, the monthly mitigation shall take place each month from April through October. The mitigation shall take place more frequently if necessary to prevent a nuisance condition.

(7) City Inspections: Periodic city inspections of all landscape plans approved after the adoption of this article may take place to assure compliance. (Ord. 2661, 1-7-2008)

(8) Enforcement: Any violation of this article may result in a code enforcement action as outlined in section 10-03-13 of this chapter. Further the city of Caldwell has the right to declare a property a nuisance and assume or contract maintenance work required to achieve compliance with this article. In such instances the nuisance abatement process shall be followed as outlined in chapter 7, article 11 of this code and associated expenses shall be levied and assessed in accordance with said nuisance abatement process. (Ord. 2805, 11-2-2009)

(9) Fire Safety Landscape Issues:

- A. Dead and dying landscape shall be removed. The removal process shall adhere to all requirements of this code.
- B. Permission for any burning of dry vegetation or other refuse must be obtained from Caldwell fire department.
- C. Mature trees on unpaved lots shall be limbed upward to a height of approximately six feet (6') above ground level to protect the tree in the event of a grass fire.
- D. Areas that have slopes nine percent (9%) or greater shall have a fire defensive zone between the structures and vegetative areas. The fire defensive zone area shall be determined by the Caldwell fire department.
- E. Addresses on buildings and street name signs shall not be blocked or occluded by landscape material.
- F. Landscape material shall neither visually obscure nor physically impede access to fire appliances including hydrants, fire sprinkler connections, post indicator valves (for sprinkler shutoffs), etc. (Ord. 2661, 1-7-2008)
- G. Tree branches or limbs shall be trimmed to a height of seventeen feet (17') above the roadways to lessen damage to fire apparatus and to be consistent with article 8 of this chapter; this height limit shall also apply to fire lanes located on private property. (Ord. 2865, 6-20-2011)
- H. Large bushes and/or trees shall not be planted directly outside of windows thereby impeding a person's ability to use them for fire escape purpose or reduce the Caldwell fire department's ability to rely upon them for fire or rescue purpose.
- I. Low profile landscaping shall be applied within a three foot (3') radius of all fire hydrants in accordance with uniform fire code. Acceptable landscape includes mowed grass and mulch products. Landscape shall be placed in proximity to fire hydrants to create an adequate fire viewshed. (Ord. 2661, 1-7-2008)

10-07-07: VISION TRIANGLE:

(1) Purpose Of The Vision Triangle: To prevent sight obstructions that include any hedge, tree, shrubbery, fence, signage or wall that interfere with driver vision.

(2) Observation Of Vision Triangle Standards:

- A. All vision triangles located at controlled (signalized) or uncontrolled roadway intersections.
- B. Idaho transportation department's (ITD) vision triangle standards shall apply to all state highways located within the city's jurisdiction.

(3) Parameters Of Vision Triangle:

- A. Vision triangles shall be measured from the projected intersection of the lip of gutter a distance of forty feet (40') along each roadway edge, and connecting the two (2) points with a straight line. This measuring approach defines the boundaries of a vision triangle at the intersection of two (2) roads.
- B. As a roadway is enlarged or constructed, the vision triangle will accommodate the new boundaries.
- C. The creation and maintenance of a vision triangle is governed by state statute 1 .

(4) Intersection Of Roadways With Driveways And Alleyways:

A. The boundaries of a vision triangle at the intersection of a road with a driveway or alleyway are defined by measuring from the intersection of the roadway and the edge of the driveway or alleyway twenty feet (20') along the roadway and ten feet (10') along the driveway or alleyway connecting the two (2) points with a straight line.

(5) Intersection Of Road And Railroad:

A. The vision triangle at the intersection of railroads and street crossings shall be forty feet (40') along the railroad property line and forty feet (40') along the roadway edge and connecting the two (2) points with a straight line.

(6) Items Prohibited Or Limited Within The Vision Triangle:

- A. The planting of trees in the vision triangle is prohibited. (Ord. 2661, 1-7-2008)
- B. All trees existing in the right of way shall be pruned to a minimum height of ten feet (10') above the ground or sidewalk surface and fourteen feet (14') above the adjacent roadway surface or be removed. (Ord. 3065, 9-19-2016)
- C. Maximum height of any berm or vegetative ground cover shall be three feet (3') at maturity.
- D. No fences may be installed on a berm.
- E. No fences higher than three feet (3') are permitted.
- F. No structures or objects higher than three feet (3') are permitted, except publicly placed traffic devices.
- G. No signs taller than three feet (3') are permitted, except publicly placed traffic directing devices. (Ord. 2661, 1-7-2008)

Notes

10-07-08: STREET LANDSCAPE BUFFERS:

(1) Location:

A. Street landscape buffers shall be located on private property outside of and beyond the street right of way. (Ord. 2661, 1-7-2008)

B. Street landscape buffers shall be located within a platted common lot when the project is a platted subdivision and when located within an RS-1, RS-2, R-1, R-2, or R-3 zone. Street landscape buffers shall be located within a recorded permanent landscape easement when the project is not a subdivision or when the project is located in any zone other than those zones listed in the previous sentence. (Ord. 2755, 9-22-2008)

C. The measuring point for the street landscape buffer width associated with attached sidewalks shall be from the property line and not the sidewalk or curb.

D. The buffer width associated with detached sidewalks may be measured from the front of curb when it can be demonstrated there is no opportunity for expansion of the street section within the right of way. (Ord. 2661, 1-7-2008)

E. The required street landscape buffer width for principal arterial roadways only may include the sidewalk width, if the following requirements are satisfied: (Ord. 3010, 11-16-2015)

1. The sidewalks shall be detached.

2. The sidewalks shall be on a flat surface that is ADA accessible and is not sloped, meandering, bermed or hilly such that ADA accessibility is hindered.

3. An easement shall be provided allowing for general public use of the sidewalks and access for the city for any maintenance the city may opt to perform.

4. Existing transit stops shall not be separated from the normal walkway. (Ord. 2982, 2-2-2015)

F. The area dedicated for right of way purpose is not credited toward the street landscape buffer width. Road dedication for right of way purpose is in addition to street buffer dedication requirements. All rights of way areas not occupied by streets, curb, gutter, sidewalk or pedestrian amenities shall be completely covered with grass and shall be maintained by the property owner adjacent to said rights of way areas. All rights of way areas shall be maintained in a weed free and dust free manner. (Ord. 3065, 9-19-2016)

G. Entrances into residential subdivisions or developments: (Ord. 2755, 9-22-2008)

1. Entrance buffers on each side of all entrances shall be required.

2. Entrance buffers shall be placed adjacent to the developable lots.

3. Entrance buffers shall be placed in a common platted lot if a subdivision or placed in a recorded perpetual landscape easement if not a subdivision.

4. Entrance buffers shall be the length of the first developable lot's side property line closest to the street entrance.

5. Entrance buffers shall be a minimum width of fifteen feet (15').

6. Entrance buffers shall meet all the vision triangle requirements and shall be landscaped so as to not impede public safety.

7. Entrance buffers shall be landscaped with vegetative or nonvegetative ground cover, flowers or shrubs.

H. Street landscape buffers located along frontages of residential subdivisions and/or developments shall not exceed a maximum height of eight feet (8'). Within the eight foot (8') maximum, fencing shall not exceed six feet (6') in height and berms shall not exceed five feet (5') in height. Exception: Berms located in street landscape buffers along state highways shall meet all berm requirements of Idaho transportation department. (Ord. 2661, 1-7-2008)

I. There is no minimum or maximum berm height for subdivisions or developments located within a C-1, C-2, C-3, C-4, M-1, M-2, I-P, C-D, H-D, or A-D zone, unless the subdivision or development is wholly residential in use in which case subsection (1)H of this section applies, although this does not preclude all applicable safety rules and regulations and the rules applicable to the vision triangle. (Ord. 2755, 9-22-2008)

(2) Applicability:

A. Street landscape buffers shall be required along all subdivision and/or development boundaries that have frontage on a classified public roadway. (Ord. 2661, 1-7-2008)

B. Street landscape buffers shall when platted as a common lot, be owned and maintained by either a homeowners' or business owners' association. (Ord. 2755, 9-22-2008)

C. Street landscape buffers not platted as a common lot shall be placed in a recorded permanent landscape easement and shall be maintained in dedication format by a specified controller, homeowners' or business owners' association. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

D. Street landscape buffers are not intended to impede or conflict with driveway or entrance access requirements and shall follow any vision triangle restrictions and/or requirements.

E. Placement of street landscape buffers into either platted common lots or recorded permanent landscape easements shall not

negate, substitute for, or replace a property's zoning frontage requirement as per section 10-02-03 of this chapter. The zoning frontage requirements as per section 10-02-03 of this chapter shall be met regardless of, and separate from, the placement of common lots or easements. (Ord. 2661, 1-7-2008)

F. The placement of a landscape buffer into a platted common lot that is located between a street and a corner lot may change the status of the corner lot to an interior lot, provided the landscape buffer is a minimum of ten feet (10') wide and runs the entire length of the interior lot. (Ord. 3156, 7-16-2018)

(3) Buffer Sizes:

Type Of Roadway	Buffer Width Along Each Side Of A Roadway
Local, residential or nonclassified streets (does not include access easements, alleys, driveways, and/or private streets which do not have a buffer requirement)	10 feet
Minor, major or urban collectors	15 feet
Minor arterials	20 feet
Major or principal arterials	25 feet
State Highway 20/26, State Highway 55, I-84	30 feet

(Ord. 3010, 11-16-2015)

A. Local, residential or nonclassified streets internal to any subdivision or development in an RS-1, RS-2, R-1, R-2, R-3 Zone or internal to any subdivision or development that is wholly residential in use, are not required to have the ten foot (10') wide street landscape buffer.

(4) Buffer Width Reduction: Buffer width reductions may be granted at the discretion of the City's landscape plan reviewer based upon existing conditions, lot size, right-of-way requirements, topography and geography of the site. Buffer width reductions shall not be granted based upon financial or economic reasons. Appeals to the landscape plan reviewer's decision may be made to the Council following the public hearing. (Ord. 2805, 11-2-2009)

(5) Required Landscaping And Improvements Within The Street Buffers:

A. Mixture of trees, shrubs, lawn, vegetative and nonvegetative ground cover so that the entire buffer area is covered. A minimum of seventy percent (70%) of the buffer area shall be covered with a turf-type grass. For new plantings, grass sod installation is required. Seeding, hydro-seeding, or similar methods shall not be allowed. (Ord. 3156, 7-16-2018)

B. Minimum tree density equivalent to one tree per thirty-five (35) linear feet of buffer area.

C. Minimum shrub density equivalent to one shrub per seven (7) linear feet of buffer area. (Ord. 2661, 1-7-2008)

D. Dry landscaping may be utilized if the property does not have an irrigation water right and meets the following conditions: the site is zoned either M-2 (Heavy Industrial) or I-P (Industrial Park), the site is not located within the Indian Creek corridor, the site is not located within the Boise River corridor, and the site is not located along an arterial and/or collector roadway. When dry landscaping is utilized there shall be no shrub or vegetation requirement. Rather the entire buffer width area shall be covered with a combination of trees, hardscape, boulders and rock slabs with a minimum of one boulder per thirty-five (35) linear feet of buffer area, a minimum of two (2) different types of rock ground cover and a minimum of one tree for every fifty (50) linear feet of buffer area. Required boulders, rocks and trees may be grouped according to the landscape plan designer. Trees must be selected from the Class 2 tree list in article 8 of this chapter or approved by the City Forester if not on the tree list. Trees shall further be selected based upon limited requirements for watering. (Ord. 3156, 7-16-2018)

E. The construction of public sidewalks are required as part of the street landscape buffer. Sidewalks shall meet the requirements per the currently adopted Idaho Standards for Public Works Construction (ISPWC) as modified by the City of Caldwell supplemental specifications to the ISPWC. The requirement to construct sidewalk(s) may be waived by the City Engineer and Planning and Zoning Director for the following reasons: limited possibility of sidewalk continuation in the area, scope of the project, existing conditions, topography and geography of the site. Appeals to the City Engineer and Planning and Zoning Director's decision shall be heard following the public hearing requirements set forth in subsection 10-03-03(2) of this chapter. (Ord. 3065, 9-19-2016)

(6) Tree And Shrub Spacing:

A. Trees and shrubs may be grouped together or spaced evenly as desired.

B. Vision triangles, signage, driveways and above grade clearance shall all be accounted for when actually placing trees and shrubs.

C. Trees shall not be spaced closer than eighty percent (80%) of the average mature width of the trees.

D. The planning and zoning staff, in consultation with the city forester, is authorized to review and approve species and spacing variables in buffering areas to assure these factors are accommodated. (Ord. 2661, 1-7-2008)

(7) Parking And Vehicle/Merchandise Display Allowed: Vehicles are prohibited from parking within the street landscape buffer area, but vehicles and other merchandise may be displayed as part of the business owner's advertising scheme with permission from the planning and zoning department. (Ord. 2805, 11-2-2009)

(8) Impervious Surfaces Allowed In The Street Buffer Area:

- A. Curb cuts, driveways, signs, fire hydrants, mailboxes, telephone poles, light poles, flagpoles and walkways.
 - B. Other types of impervious surfaces not listed are discouraged and are subject to approval on a case by case basis.
 - C. Development features, including, but not limited to, patios, may be extended into the street buffer area provided compensation of a like amount of dedicated landscape area is provided elsewhere. (Ord. 2661, 1-7-2008)
- (9) Fences: Fences shall not be allowed within the street landscape buffer. (Ord. 2967, 7-21-2014)
- (10) Additional Amenities: Additional street landscape amenities may be required, as determined by and at the discretion of the planning and zoning director, in gateway street/major entrance areas. (Ord. 2661, 1-7-2008; Ord. 2967, 7-21-2014)
- (11) Buffers Along Highway 20/26 And Highway 55:
- A. All parcels, in any zone, that have frontage along Highway 20/26 or Highway 55 shall install a thirty foot (30') wide street landscape buffer, that shall contain a detached sidewalk and accompanying sidewalk landscaping, upon development.
 - B. All landscaping plans for the street landscape buffer area along Highway 20/26 or Highway 55 shall be subject to review and approval by the landscape plan design review committee.
 - C. The sidewalk shall meet the following requirements: (Ord. 2755, 9-22-2008; Ord. 2967, 7-21-2014)
 - 1. Shall be detached. (Ord. 3010, 11-16-2015)
 - 2. Shall be on a flat surface that is ADA accessible and is not sloped, bermed or hilly such that ADA accessibility is hindered.
 - 3. Shall be eight feet (8') wide and paved the full width meeting surfacing and cross section standards for sidewalks as per the city engineering department.
 - 4. Shall be dedicated as a public access easement, allowing for general public use of the sidewalk and access to the city for any maintenance the city may opt to perform, and shall be owned, operated and maintained by a homeowners' or business owners' association.
 - D. The sidewalk landscaping shall meet the following requirements:
 - 1. Both sides of the sidewalk shall be landscaped. (Ord. 2755, 9-22-2008; Ord. 2967, 7-21-2014)
 - 2. Berms shall be periodically incorporated into the landscaping with slopes determined by the landscape plan designer and subsequently approved by the city's landscape plan reviewer. (Ord. 2805, 11-2-2009; Ord. 2967, 7-21-2014)
 - 3. Landscaping width shall be a minimum of eleven feet (11') on each side of the sidewalk for a total of twenty-two feet (22') of landscaping width area. (Ord. 3010, 11-16-2015)
 - 4. (Rep. by Ord. 2805, 11-2-2009)
 - 5. Vegetative and nonvegetative ground cover shall be used and shall be a combination of the following: native grass mix, emergent mix, turf, shrubs, rocks, permabark, bark or similar, and/or flowers. (Ord. 2805, 11-2-2009; Ord. 2967, 7-21-2014)
 - 6. One boulder for every seventy-five (75) linear feet of frontage.
 - 7. Minimum of one class 1 or class 2 tree for every fifty (50) linear feet of frontage.
 - 8. Minimum of ten (10) shrubs for every fifty (50) linear feet of frontage.
 - 9. Groupings of vegetative ground cover, trees and boulders may be determined by the landscape designer so long as the entire sidewalk landscaped area is covered with the items as listed above.
 - 10. There shall be one streetlight provided for every two hundred (200) linear feet of frontage. Said streetlights shall meet all streetlight requirements as listed in subsection 10-12-05(14)B of this chapter.
 - 11. The sidewalk landscaped area shall be dedicated as a public access easement, allowing for general public use of the landscaped area and access for the City for any maintenance the City may opt to perform, and shall be owned, operated and maintained by a homeowners' or business owners' association. (Ord. 2755, 9-22-2008; Ord. 2967, 7-21-2014)

10-07-09: PARKING LOT LANDSCAPING:

- (1) Required: Interior landscape planter islands shall be required in all surface parking lots. For those lots containing fewer than six (6) spaces the size shall be determined at the discretion of the Planning and Zoning Director. (Ord. 3102, 9-5-2017)
- (2) Interior Landscape Planter Islands Requirements:
 - A. Linear grouping of parking spaces shall not exceed twelve (12) in a row, without the installation of an interior landscape planter island.
 - B. Interior landscape planter islands shall be spaced as evenly as feasible at the ends of parking rows throughout the lot to guide vehicle turning movements.
 - C. Landscape planter islands shall contain a minimum of sixty (60) square feet of area when serving a single row of parking. Landscape planter islands shall contain a minimum of one hundred twenty (120) square feet of area when accommodating a double row of parking spaces. (Ord. 2661, 1-7-2008)
 - D. Piped irrigation shall be provided to landscape planter islands, unless dry landscaping is utilized. (Ord. 2805, 11-2-2009)

E. Islands shall contain a minimum of one Class 1 or 2 tree and shall be covered with a combination of low shrubs, lawn or other vegetative or nonvegetative ground cover if wet landscaping is utilized. If dry landscaping is utilized, the island shall be covered with rock ground cover and a minimum of one boulder and there shall be no requirement for vegetation. Class 3 trees are prohibited in the interior planter islands. (Ord. 2661, 1-7-2008; Ord. 2805, 11-2-2009)

F. The required amount of interior planter islands landscaping may be reallocated to the entranceways or perimeter of the general parking lot area if the placement of the islands seriously encumbers the parking lot and traffic circulation functions or in cases involving small or oddly configured land parcels. (Ord. 2661, 1-7-2008)

10-07-10: BUFFERS BETWEEN DIFFERENT LAND USES:

(1) Purpose: Buffer applications are intended to minimize differences in land use activity that may arise due to noise, dirt, litter, glare of lights, aesthetics, creativity and/or other reasons.

(2) Required Buffer Materials:

A. Mixture of evergreen and deciduous trees (class 1 and 2 trees only).

B. Mixture of shrubs, lawn, vegetative and nonvegetative ground cover so that the entire buffer width area is covered. (Ord. 2661, 1-7-2008)

C. Trees shall be spaced at thirty-five foot (35') intervals. Shrubs shall be spaced at two (2) to eight foot (8') intervals depending upon individual plant spacing requirements. (Ord. 2755, 9-22-2008)

D. The installation of landscape and screen material shall not prohibit or impair a pedestrian's access to abutting development.

(3) Land Use Intensity Table For Determining Buffer Widths Between Land Uses:

A. The following table is intended to provide a general classification of land use intensities for commonly proposed development activity as a means to determine buffer widths between land uses. The minimum buffer widths will be calculated based upon the classification of the proposed land use and the adjoining land use. If a land use is not listed below, the planning and zoning director shall determine its level of land use intensity based upon common characteristics with one of the classes below:

Class I:

Bed and breakfast

Cemeteries

Duplexes

Espresso/pastry shop

Golf courses

Manufactured homes

Parks

R-S-1, R-S-2, R-1 and R-2 zones

Single-family homes

Vacant land zoned R-S-1, R-S-2, R-1 or R-2

Class II:

Childcare centers

Church

Elementary schools

Libraries

Multi-family dwellings

Nurseries, greenhouses

R-3, C-D, C-C and H-D zones

Residential office

Senior centers

Vacant land zoned R-3, C-D, C-C or H-D

Class III:

C-1 zone

High schools

Medical and professional offices

Middle schools
 Personal services
 Quasi-public uses
 Vacant land zoned C-1
 Class IV:
 Building supply outlet
 C-2, C-3 and C-4 zones
 Grocery stores
 Hotel/motel
 Indoor manufacturing
 Parking garages
 Restaurants
 Retail stores and services
 Storage facilities
 Vacant land zoned C-2, C-3 or C-4
 Warehouses
 Class V:
 Agricultural usage
 Airport
 Contractor's storage yard
 Dairy product processing
 Fairgrounds
 Grain storage
 Heavy manufacturing
 M-1, M-2, I-P and A-D zones
 Other industrial uses
 Processing plants
 Recycling
 Truck and tractor repair
 Vacant land zoned M-1, M-2, I-P or A-D
 Warehousing
 Wholesaling
 Wrecking yard

(4) Minimum Buffer Widths:

Intensity Class Of Proposed Use	Intensity Class Of Adjacent Use				
	I	II	III	IV	V
I	0	10	10	15	20
II	10	0	10	15	20
III	10	10	0	15	20
IV	15	15	15	0	15
V	20	20	20	15	0

(5) Notes Regarding Buffer Widths:

- A. Buffer widths are shown in feet.
- B. Buffer widths apply to contiguous land uses.

C. Example: If the intensity class of the proposed use is II, and the proposed use property is adjacent to an intensity class of V, then the required buffer will be twenty feet (20').

D. If a street separates varying intensity land uses, the applicant may count the width of the required street landscape buffer towards the width of the buffer between differing uses. The largest required width of the two is applicable. If an alley separates varying intensity land uses, the entire width of the required buffer between land uses is applicable.

E. If the adjacent landowner has provided a portion of the required width and landscaping requirements, the controller only needs to provide the remaining width and requirements (if any) to satisfy this buffer requirement.

F. If an irrigation/drainage easement or irrigation/drainage right of way exists between the differing uses, the controller only needs to provide the remaining width and landscaping requirements (if any) to satisfy this buffer requirement. All improvements would need to take place outside of any irrigation/drainage easement or right of way. (Ord. 2661, 1-7-2008)

G. The buffer area shall be placed in a common lot if the project is within a platted subdivision and within any residential zone, or located within a recorded, permanent landscaping easement if not platted or if located within any other zone besides a residential zone. The buffer area shall be operated and maintained by the controller, a homeowners' or business owners' association. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

H. Buffer width reductions may be granted at the discretion of the city's landscape plan reviewer based upon existing conditions, lot size, right of way requirements, topography and geography of the site. Buffer width reductions shall not be granted based upon financial or economic reasons. (Ord. 2805, 11-2-2009)

(6) Commercial And Industrial Containers: Commercial and industrial containers (i.e., trash dumpsters) shall be screened from rights of way by the installation of substantial sight obscuring landscape, fence or stone wall material that completely obscures the container year round. (Ord. 2661, 1-7-2008)

10-07-11: PATHWAY LANDSCAPING STANDARDS:

(1) Application: Pathway requirements and pathway landscaping standards shall apply to all pathways, major or micro, as well as to the pathways connecting subdivisions or developments together or to the connection of a subdivision or development and other destination points.

(2) Major Pathway Requirements:

A. Eight feet (8') wide.

B. Required width paved with either asphalt or concrete or porous.

C. ADA accessible. (Ord. 2661, 1-7-2008)

D. Shall meander through the subdivision or development to provide pedestrian connectivity through the subdivision and development and to and from adjoining developments and/or subdivisions. (Ord. 2755, 9-22-2008)

E. A major pathway is required in all residential subdivisions/developments, regardless of the zoning district, and in any subdivision/development that contains any residential dwellings, and shall connect with existing, proposed, planned or possible future major pathways in adjoining residential subdivisions/developments, regardless of the zoning district. The major pathway requirement may be waived if there is no possibility of adjacent connectivity in the form of an existing, proposed, planned or possible future pathway or a sidewalk. The major pathway is not required in commercial or industrial subdivisions and/or developments. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

F. A minimum five foot (5') wide landscape buffer shall be provided along both sides of any major pathway located within a subdivision or development. The major pathway, then, shall be a total width of eighteen feet (18') consisting of eight feet (8') of paved surface and five feet (5') of landscaping on either side of the paved surface.

G. Requirements for the major pathway landscape buffer:

1. A combination of trees, shrubs, lawn or other vegetative or nonvegetative ground cover so that the entire pathway landscape buffer area on both sides of the paved surface is completely covered.

2. Minimum of fifteen (15) shrubs equivalent to every one hundred (100) linear feet.

Shrubs must be maintained to be no more than three feet (3') in height.

3. Minimum of one class 1 or class 2 tree equivalent to every forty (40) linear feet.

4. No evergreen or class 3 trees (large trees) shall be planted within the pathway landscape buffer. (Ord. 2661, 1-7-2008)

H. All major pathways shall be dedicated as public access easements, allowing for general public use of the pathways, to be owned, operated and maintained by a homeowners' or business owners' association or similar. All major pathway landscape buffers shall be owned, operated and maintained by a homeowners' or business owners' association or similar, but do not need to be dedicated as public access easements. (Ord. 2755, 9-22-2008)

(3) Micro Pathway Requirements:

A. Five feet (5') wide.

B. Required width paved with either asphalt or concrete or porous.

C. ADA accessible.

D. Shall be placed in the subdivision or development to provide pedestrian connectivity between common open space areas

within the subdivision or development.

E. All other pathways in a subdivision or development, besides the major pathway, shall be classified as micro pathways.

F. A minimum five foot (5') wide landscape buffer shall be provided along both sides of any micro pathway located within a subdivision or development. The micro pathway, then, shall be a total width of fifteen feet (15') consisting of five feet (5') of paved surface and five feet (5') of landscaping on either side of the paved surface.

G. Shall only be required in residential subdivisions or developments.

H. Required plants for the micro pathway landscape buffer:

1. A combination of trees, shrubs, lawn or other vegetative or nonvegetative ground cover so that the entire pathway landscape buffer area on both sides of the paved surface is completely covered.
2. Minimum of fifteen (15) shrubs equivalent to every one hundred (100) linear feet.
3. Shrubs must be maintained to be no more than three feet (3') in height.
4. No evergreen or class 3 trees (large trees) shall be planted within the pathway landscape buffer. (Ord. 2661, 1-7-2008)

I. All micro pathways and micro pathway landscape buffers shall be owned, operated and maintained by a homeowners' or business owners' association or similar. (Ord. 2755, 9-22-2008)

(4) Pathway Fencing Requirements:

A. Fences are not required along any major or micro pathways. (Ord. 2661, 1-7-2008)

(5) Indian Creek Pathway And Pathway Landscaping Requirements:

A. All parcels, in any zoning district, that are in the "Indian Creek corridor", as defined in section 10-07-01 of this article shall install a pathway and accompanying pathway landscaping upon development.

B. The pathway shall meet the following requirements:

1. Shall be meandering.
2. Shall be ten feet (10') wide.
3. Shall be concrete paved in twenty foot (20') long sections.
4. Shall have a row of red brick placed at the end of each concrete section; said row of red brick shall be sixteen inches (16") wide from edge of brick to edge of brick.
5. Shall be located within one hundred fifty feet (150') of the top of bank.

C. The pathway landscaping shall meet the following requirements:

1. Both sides of the pathway shall be landscaped.
2. Landscaping width shall be a minimum fifteen feet (15') on each side of the pathway for a total of thirty feet (30') of landscaped area. However, because the pathway is meandering the landscape designer may choose to meander the fifteen feet (15') of landscaping on each side down to a minimum of five feet (5') on one side provided that the overall minimum width of thirty feet (30') total of landscaping is provided at all points along the pathway.
3. Nonvegetative ground cover is prohibited.
4. Vegetative ground cover shall be used and shall be a combination of all of the following: native grass mix, emergent mix, and/or turf; shrubs; and flowers. (Ord. 2755, 9-22-2008)
5. Trees shall be chosen from the list of class 1 or class 2 trees in article 8 of this chapter, or as approved by the landscape design review committee, and shall be a minimum combination of two (2) class 1 trees and one class 2 tree. (Ord. 2805, 11-2-2009)
6. One boulder for every forty (40) linear feet of pathway area may be incorporated into the landscaping.
7. There shall be a minimum of one tree for every forty (40) linear feet of pathway area.
8. There shall be one trash receptacle provided for every two hundred (200) linear feet and one streetlight and park bench for every one hundred (100) linear feet of pathway area. Said trash receptacles and park benches shall be selected from those allowed under subsection 10-12-05(8)A2 of this chapter. Said streetlights shall meet all the requirements listed under subsection 10-12-05(14)B of this chapter.
9. Groupings may be determined by the landscape designer so long as the entire pathway landscaped area is covered with the required items as listed above.

10. The pathway and pathway landscaping shall be dedicated as a public access easement, allowing for general public use, and shall be owned by a homeowners' or business owners' association or similar and shall be maintained by the city. (Ord. 2755, 9-22-2008)

(6) Public Pathway And Landscaping Requirements:

A. General Purpose:

1. Provide safe transportation routes for pedestrians and cyclists.
2. Increase recreational opportunities within the community and connect these opportunities to the pathway and bike route system.
3. Increase public access to the Boise River, Lake Lowell and Indian Creek corridors, public facilities, and neighboring cities.
4. Help create a pleasant urban environment.
5. Provide consistent standards for pathway development.

B. Dedication And Construction Of Public Pathways As A Condition Of Development Approval: The following standards and criteria shall apply in all zoning districts when a public pathway is required on property per the pathways and bike routes master plan:

1. Dedication:

(A) On any land use application involving the subdivision of land, right of way for public pathways shall be designated on the final plat. The right of way shall be listed as a "public pathway" on the final plat.

(B) All other land use applications not involving the subdivision of land, but where dedication of a public pathway is required, shall designate an easement to the city prohibiting development from taking place within the easement and providing for public pathway construction, maintenance, and use.

2. Construction:

(A) The construction of a public pathway is required in any instance where a land use application for a subdivision plat, planned unit development, short plat, special use permit, or building permit is taking place. In instances where construction of a public pathway is required, the construction may be delayed until after final plat or certificate of occupancy approval subject to the applicant filing security of performance in accordance with section 11-04-07 of this code.

(B) The public pathway may be allowed the flexibility to veer off the route proposed in the pathways and bike routes master plan.

C. Public Pathway Standards:

1. ADA: The construction of public pathways shall comply with the standards of the Americans with disabilities act of 1990 and any adopted amendments thereto.

2. Pathway Width: Public pathways shall be built at the width prescribed in table 5 of the pathways and bike routes master plan.

3. Surface: Public pathways shall be constructed using materials recommended in table 5 of the pathways and bike routes master plan.

(A) Asphalt surfaces: Shall have a minimum depth of two inches (2") of bituminous concrete surface course on top of six inches (6") of aggregate base course set on top of geotextile fabric.

(B) Concrete surfaces: Shall have a minimum depth of four inches (4") of concrete on top of four inches (4") of aggregate base course.

(C) Natural surfaces: Shall only be approved by the Pathways and Bike Routes Committee.

4. Connectivity: All newly established developments, including, but not limited to, subdivisions, new construction, and changes in use, shall provide at least one connection to the public pathway for every six hundred (600) linear feet of pathway frontage. The exact location shall be approved by the Planning and Zoning Director or assigned staff, with consultation from other City departments. Public pathways shall connect to major and minor pathways.

5. Signage: Wayfinding and directional signage shall be installed when a public pathway is built. The applicant shall follow the adopted signage policy. (Ord. 2848, 2-7-2011)

6. Fencing: All public pathways are required to have fencing installed along both sides of the pathway and shall be located as near as possible to the far edge of the required landscape buffers. Fencing shall be open vision up to six feet (6') in height. Solid fencing may be used if it does not exceed four feet (4') in height, which includes the height of any trellises or other open vision fencing placed on the top of a solid fence. (Ord. 3156, 7-16-2018)

D. Public Pathway Acceptance: The City of Caldwell will assume maintenance and control of the public pathway only upon dedication and the City's acceptance for maintenance, similar to its responsibilities for other publicly maintained highways. The acceptance of a dedication and the acceptance of a public pathway for maintenance should be established by City Council order and is recommended when:

1. The applicant requests the City assume responsibility.
2. The public pathway lies within the easement or right-of-way granted to the City for the construction of the pathway.
3. The public pathway has been constructed to the City's standards.

E. Public Pathway Landscaping:

1. Both sides of the pathway shall be landscaped and irrigated.
2. Landscaping width shall be a minimum ten feet (10') on each side of the pathway for a total of twenty feet (20') of landscaped area. However, because the pathway may meander, the landscape designer may choose to meander the ten feet (10') of

landscaping on each side down to a minimum of five feet (5') on one side provided that the overall minimum width of twenty feet (20') total of landscaping is provided at all points along the pathway.

3. Nonvegetative ground cover is prohibited.
4. Vegetative ground cover shall be used and shall be a combination of all of the following: native grass mix, emergent mix, and/or turf; shrubs; and flowers. (Ord. 2848, 2-7-2011)
5. Trees shall be chosen from the list of Class 2 or Class 3 trees in article 8 of this chapter or as approved by the Landscape Design Review Committee, and shall be a minimum combination of three (3) Class 2 trees and one Class 3 tree. (Ord. 3102, 9-5-2017)
6. There shall be a minimum of one tree for every fifty (50) linear feet of pathway area.
7. There shall be one trash receptacle and park bench provided for every six hundred (600) linear feet of pathway area, and one streetlight for every one hundred fifty (150) linear feet of pathway area. Said trash receptacles and park benches shall be selected from those allowed under subsection 10-12-05(8)A2 of this chapter. Said streetlights shall meet all the requirements listed under subsection 10-12-05(14)B of this chapter.
8. Groupings may be determined by the landscape designer so long as the entire pathway landscaped area is covered with the required items as listed above.
9. In the event irrigation water is not available to the site, alternative landscaping methods may be approved by the Planning and Zoning Department. (Ord. 2848, 2-7-2011)
10. All landscaping maintenance shall be the responsibility of the property owner abutting the pathway and shall be kept in an attractive, safe and healthy manner. Trees and/or shrubs located on controller's private property, within right-of-way, or right-of-way area adjacent to controller's private property and/or having any portion of the trees and/or shrubs on controller's private property growing onto, within, over or under any right-of-way or right-of-way area adjacent to the controller's private property shall be maintained as follows: trees and/or shrubs shall not interfere with or impede any irrigation, drainage, or stormwater system, whether private or public, and shall be removed immediately to prevent any such interference or impediment; trees and/or shrubs presenting a safety hazard to the public shall be removed immediately; trees and/or shrubs shall be trimmed back and up such that no portion of trees and/or shrubs shall be within a ten foot (10') vertical height of any sidewalk and/or unimproved right-of-way, and a fourteen foot (14') vertical height of any street or alley; all vegetation and foliage shall be trimmed such that no portion of any vegetation or foliage grows over or onto any public pathway. Property with landscape areas littered with weeds or trash, where plant material (including, but not limited to, grass, trees, and/or shrubs) is dying or dead, where ponds or water features are growing moss or algae, and/or where trees and/or shrubs and/or grasses are not being maintained as noted above shall be considered in violation of this article and subject to City Planning and Zoning Code enforcement and any other applicable penalties under this Code. (Ord. 3102, 9-5-2017)

F. General Provisions:

1. Waiver: Applicants subject to the provisions of this subsection shall be exempt from building a major pathway as listed in subsection (2) of this section.
2. Open Space: Dedication and construction of a public pathway, including the landscaping area around the pathway, shall count towards the qualifying open space requirements per subsection 10-07-05(4)B of this article.
3. Restrictions: All public pathways and public pathways landscape buffers shall be outside of any type of easements for irrigation districts, Boise Project Board Of Control or bureau of reclamation unless written permission from said entity has been specifically granted for said pathway or pathway landscaping. (Ord. 2848, 2-7-2011)

10-07-12: IRRIGATION:

(1) Automatic Pressurized Irrigation System: All wet landscaped areas shall be equipped with a pressurized irrigation pump station and an automatic pressurized irrigation system built to Caldwell municipal irrigation district (CMID) standards utilizing the existing surface or well irrigation water right (if one exists) except as follows: (Ord. 2805, 11-2-2009)

A. Private ownership, operation, and maintenance of an irrigation system is allowed in the following instances and only with strict adherence to the following conditions:

Instances:

1. Residential development or subdivisions, regardless of the zoning district, less than three (3) gross or two (2) irrigable acres in size; or (Ord. 2755, 9-22-2008)
2. All development or subdivisions, regardless of zoning district and other than any type of residential, having less than twenty-six thousand (26,000) square feet of irrigable landscaped area (which includes all landscaping as required by this article and any additional voluntary landscaping for the entire property involved in the development or subdivision); or (Ord. 2805, 11-2-2009)
3. Any development and/or subdivision, regardless of zoning district, unable to obtain a continuous irrigation water supply consistent with CMID standards. In this instance, private ownership, maintenance and operation shall be mandatory until such time that said continuous supply is obtainable; (Ord. 2755, 9-22-2008)
4. The district of any public school can submit a request to the city engineer to construct, operate, and maintain a private pressurized irrigation system for the site regardless of size of area to be irrigated. The city engineer has the authority to approve or deny this request. (Ord. 3049, 5-2-2016)

Conditions:

1. City plan review and inspection fees, as set by city council, shall be required for private systems for all portions required to

be built in accordance with CMID specifications;

2. Mains are sized and service connections installed in accordance with CMID specifications;

3. The property is obligated by its owner to a deferral agreement stipulating to participation in a local improvement district for construction of and connection to a regional pressurized irrigation system at the time a main becomes available and/or feasible and the subsequent dedication of said main(s) at the time of connection to said regional pressurized irrigation system. (Ord. 2755, 9-22-2008)

(2) Construction Of Irrigation System: The automatic pressurized irrigation system shall be owned, operated and maintained by the applicable government irrigation entity except as provided in subsection (1)A of this section. The irrigation entity shall review and approve the construction drawings for the irrigation system prior to construction. Actual construction of the irrigation system shall be reviewed and approved by the irrigation entity prior to final plat approval or issuance of a certificate of occupancy. (Ord. 2661, 1-7-2008; Ord. 2755, 9-22-2008)

(3) Watering Purposes: All new developments or subdivisions shall rely upon a nonpotable water source for all irrigation and watering purposes and shall construct and dedicate to the city pressure irrigation facilities in compliance with city and Caldwell municipal irrigation district (CMID) standards and requirements except as provided for in subsection (1)A of this section. (Ord. 2755, 9-22-2008)

(4) Use Of City Water For Irrigation: In the event a property does not possess a surface or well irrigation water right and/or does not have access to surface or well water and has provided satisfactory evidence to the public works director/city engineer of such lack of water right, or access, dry landscaping (as reviewed and approved by the planning and zoning department) may be utilized for all required and voluntary landscaped areas. Additionally, in the event a property does not possess a surface or well irrigation water right or in the instance of a hardship, the development, subdivision, project or parcel may use city water for irrigation purposes, under the conditions noted below in subsections (4)A and (4)B of this section. An application for approval to use city water for irrigation purposes shall have to be submitted to and processed by the water department superintendent. The application is approved or denied on a case by case basis by the public works director/city engineer. All properties within the boundaries of Caldwell lateral irrigation district and Caldwell municipal irrigation district must connect to pressure irrigation if it is deemed available by the applicable irrigation district.

A. Use Of Potable Municipal Water For Irrigation: Potable municipal water may be used for irrigation purposes only if one or more of the following conditions are met:

1. Irrigation water or the point of delivery is not available or located within two hundred fifty feet (250') of commercial or industrial developments, with less than ten thousand (10,000) irrigable square feet, or for single-family residential lots, where irrigation water or the point of delivery is not available or located within one hundred feet (100') of the property in question.

2. The irrigation water system cannot be physically extended as determined by the appropriate irrigation district.

3. The property in question does not have, and has not had for any of the past three (3) years, an irrigation water right and cannot obtain one from the irrigation district by which the property is bounded. Said irrigation district must certify to the city that such a right is not available and cannot be provided.

4. When due to physical health or ability, the operation of the gravity irrigation system has become too difficult to manage, a written letter explaining the hardship case shall be attached to the application for consideration. Hardship cases are mutually approved on a case by case basis by the public works director/city engineer and water department superintendent.

5. Connection to the existing gravity/surface irrigation water exceeds two thousand five hundred dollars (\$2,500.00) for commercial lots and one thousand dollars (\$1,000.00) for residential lots. Public works director/city engineer and water department superintendent shall grant mutual approval.

6. Recurring flooding of dwellings causing damage and unfavorable conditions is evident and demonstrated to the city public works director/city engineer and water department superintendent.

B. Conditions Of Approval: When connection to potable municipal water for irrigation purposes is granted, the following conditions must be met and the property owner agrees that:

1. If a property is reliant upon city water for irrigation purposes and the property owner has the opportunity to connect to a pressurized irrigation system, that connection shall take place. If this occurs, lock out devices approved by the city water department shall be installed and inspected by the water department to ensure that city water is no longer used during the irrigation season.

2. Any connection to the potable water system for irrigation shall be made in compliance with city and Caldwell municipal irrigation district standards, including the use of an approved backflow prevention assembly, and must be approved by the city engineer.

3. Inspection of the installation of the Caldwell municipal irrigation district approved backflow assembly shall be completed by the water department.

4. The property shall be obligated by its owner to enter into a deferral agreement stipulating participation in a local improvement district for construction of and connection to a regional pressurized irrigation system.

5. When connection to the regional pressure irrigation system becomes available, the property shall be connected to said regional system by and at the cost of the property owner.

6. The property owner shall agree to retain any and all irrigation water rights for the subject property.

7. Backflow assemblies shall be tested upon installation by a state certified backflow assembly tester with test results submitted to the water department within seven (7) calendar days of testing.

8. Backflow assemblies must be inspected every twelve (12) months and results submitted to the water department within seven (7) calendar days of testing. (Ord. 2928, 6-3-2013)

(5) Use Of Shallow Irrigation Wells: In the event a property does not possess a surface or well irrigation water right and is denied permission to utilize city water for irrigation purposes, shallow irrigation wells may be used. Said shallow irrigation wells may also be used as necessary to supplement surface water rights in order to meet supply needs compliant with city and Caldwell municipal irrigation district standards.

A. If rights for shallow irrigation wells cannot be obtained after proven diligent effort and submitted written documentation of said effort, and following case by case approval by the city engineer and the planning and zoning department director, a dry landscaping plan will have to be prepared and submitted to the planning and zoning department for approval.

B. A permit shall be obtained from Idaho department of water resources for all shallow irrigation wells.

C. Installation of shallow irrigation wells shall not create any contamination to the soils, stormwater, drainage water or groundwater.

(6) Design Of Systems: Design of irrigation systems shall follow the requirements of the applicable government irrigation entity that shall own, operate and maintain said system.

(7) Facilities Location:

A. Pump Stations: Pump stations shall be located in a platted common lot (if in a platted subdivision) and a recorded perpetual easement to the city of Caldwell, said easement encompassing convenient maintenance access to said pump station. The lot shall be owned and maintained by a homeowners' or business owners' association. The pump station itself shall be maintained and operated by the government irrigation entity.

B. Main Lines: All irrigation main lines shall be located on private property with the exception of those placed at street crossings. Multi-lot irrigation main lines shall be located in easements according to city and irrigation district requirements to enable Caldwell municipal irrigation district to operate and maintain said lines. Such an agreement would be subject to city engineer and city council approval. All work within public right of way must meet city standards as determined by the city engineer.

C. Irrigation Wells: Irrigation wells shall be located within a platted common lot or a recorded permanent perpetual easement. The placement of well locations may be subject to IDWR and IDEQ approval.

D. Conveyance Facilities: Conveyance facilities within or adjacent to the subject property, including irrigation supply lines, boxes, and diversion structures, shall be located outside of public right of way. (Ord. 2661, 1-7-2008)

10-07-13: LANDSCAPING IN STORMWATER AREAS:

(1) All stormwater areas shall be landscaped with landscaping materials suitable to the type of stormwater facility. Said landscaping shall not interfere with the operation or maintenance of any stormwater devices. (Ord. 2755, 9-22-2008)

10-07-14: ALTERNATIVE METHODS OF COMPLIANCE:

(1) Purpose: It is recognized by the city of Caldwell that the landscaping requirements cannot anticipate all landscape situations. It is also recognized that there may be landscape applications or solutions which are in keeping with the spirit and intent of the landscape regulations but were not anticipated in a specific regulation. Therefore, the planning and zoning department may allow for alternative compliance to encourage creative landscaping pursuits or to resolve other issues that cannot comply with this article.

(2) Conditions Of Alternative Compliance Consideration:

A. Site conditions are such that full compliance is impossible or impractical due to the nature of the topography, soil, existing structures or other constraints including lack of water.

B. The site space is limited or the lot is unusual in shape.

C. The street landscape buffer requirement or buffer between differing uses requirement cannot be met due to conditions that impede the practicality of the requirement.

D. The alternative compliance proposal enhances the environment or safety beyond what might be achieved through compliance with standard requirements.

E. Another regulatory agency, possessing jurisdictional authority over landscape matters, requires design standards that meet or exceed the city's requirements or sets them aside. To apply this alternative, the controller will have to provide information to substantiate another agency's policy and authority.

(3) Requirements For Submitting For Alternative Compliance Consideration:

A. Statement of the requirement needing modification.

B. Statement of the condition(s) in this section that provides a basis for relief from the standard requirement.

C. Statement of how the proposed alternative may meet or exceed the standard requirement or serve in lieu of the requirement.

D. Conceptual landscape plan illustrating the proposed method of alternative compliance.

(4) Allowing Alternative Methods Of Compliance: The planning and zoning director has the authority to allow alternative methods of compliance when the circumstances warrant such consideration.

(5) Case By Case Basis: The alternative compliance process is not intended to establish a precedent that others may rely upon for approval basis, rather each request will be considered on a case by case basis.

(6) Variance: In the event the controller cannot meet the standards of this article, nor offers an alternative compliance proposal, which in the judgment of the planning and zoning director is equal to or better than the standard compliance or as it may be modified by another agency's requirement, the controller shall abide by this article's standards. The controller may seek a variance in accordance with the procedure found in section 10-03-05 of this chapter. (Ord. 2661, 1-7-2008)

10-07-15: CERTIFICATE OF OCCUPANCY OR COMPLIANCE:

(1) Issuance Of Certificate Of Occupancy Or Compliance: All required landscaping and site features, as per the landscaping ordinance, development agreement and/or conditions placed upon the application, must be installed prior to issuance of a permanent certificate of occupancy or compliance.

A. Except that property that is developed with any portion of it being a residential subdivision, regardless of the zoning district, shall have all required landscaping and site amenities associated with the subdivision approval and the applicable phase, as per the landscaping ordinance, development agreement and/or conditions placed upon the application, installed and completed prior to the city engineer's signature on the final plat for said phase. In the event said installation is not possible due to weather related or other accepted circumstances as approved by the planning and zoning department, a financial guarantee may be established through the city's financial guarantee process for subdivisions as outlined in section 11-04-07 of this code.

(2) Extension Of Time For Compliance:

A. The building official, in cooperation with the planning and zoning director or his/her authorized designee, may issue a temporary certificate of occupancy or the planning and zoning department may issue a temporary certificate of compliance (whichever is applicable) for a specified time period, not to exceed two hundred ten (210) days when, due to weather related or other accepted circumstances as approved by the planning and zoning department, the landscaping or other required site amenities cannot be completed. (Ord. 2805, 11-2-2009)

10-07-16: LANDSCAPE PLAN DESIGN REVIEW:

(1) Authority: Idaho Code title 67 authorizes the establishment of development standards (see section 67-6518).

(2) Purpose: Landscape plan design review is intended to improve the character of the Indian Creek corridor and the Boise River corridor, protect property rights and values, protect the city's important environmental features and ensure that the general appearance of site improvements are consistent with city goals.

(3) Application: Landscape plan design review shall apply to all land use and building permit applications in the Indian Creek corridor and the Boise River corridor. (Ord. 2661, 1-7-2008)

(4) Membership: The landscape plan design review committee shall be comprised of the planning and zoning director, the senior planner, the parks department supervisor, and the assistant city engineer or the city engineer. (Ord. 2911, 9-4-2012)

(5) Criteria: The landscape plan design review committee will review the landscaping plan according to this article, article 8 of this chapter and other city provisions. The landscaping plan will be reviewed with the intent of enhancing and protecting the appearance of the Indian Creek corridor and Boise River corridor. The following items shall be evaluated:

- A. Completeness of the landscaping plan.
- B. Strategy to preserve healthy, existing trees and shrubs, if any.
- C. Types of trees and shrubs to be planted.
- D. Condition of the sidewalk, curb and gutter.
- E. Types of vegetative and nonvegetative ground cover.
- F. Presentation of any lawn areas, common open space areas, play areas and/or pathways.
- G. Buffering and screening devices.
- H. Relationship of the landscaping to proposed or existing structures.
- I. Condition and placement of driveway accesses.
- J. Landscape care and maintenance strategy.
- K. Type and source of irrigation.
- L. Vision triangle.
- M. Trash receptacle screening.
- N. Parking lot design and lighting, if new.
- O. Condition of parking lot and lighting, if existing.
- P. Placement of structures such that no structures are placed along the banks in such a fashion as to cover the water bodies.
- Q. No permanent structures, support systems or impediments are placed on the banks of Indian Creek and the Boise River below their high water marks as has been determined by controlling agencies.
- R. Preservation of riparian, wetland and wildlife areas and appropriate mitigation plans as approved by jurisdictional agencies. (Ord. 2661, 1-7-2008)

10-07-17: VIOLATION, PENALTY, ENFORCEMENT AND COMPLIANCE:

(1) Violation, penalties, enforcement and compliance procedures are found throughout this article. (Ord. 2661, 1-7-2008)

10-07-18: APPEALS:

(1) All portions of this article are appealable to the city council provided the controller exercises that right by filing an appeal application and applicable fee for a public hearing to be conducted through the city's public hearing process or according to any provisions noted in the various sections of this article. (Ord. 2805, 11-2-2009)



ARTICLE 8
CALDWELL TREE ORDINANCE

SECTION:

- 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 And Powers Of The City Forester**
- 10-08-08: Controller Responsibilities**
- 10-08-09: Nuisances Designated**
- 10-08-10: Nuisance Abatement**
- 10-08-11: Damaging, Destroying Or Topping Of Public Trees And Shrubs**
- 10-08-12: Private Tree Service Fee Licensing And 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: Shrub**
- 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.

(Ord. 3252, 3-16-2020)

10-08-02: PURPOSE:

(1) 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.

(2) 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 article is enacted to:

- A. Promote the general welfare of the city by establishing and maintaining the maximum amount of tree canopy coverage provided by trees.
- B. Preserve and enhance the city's environmental, economic, social character and beauty through the appropriate selection of trees and shrubs.
- 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 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.

- 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. Regulate those who engage in tree and shrub services.
- I. Implement the goals and objectives of the city's Comprehensive Plan.
- J. Educate the public about the protection and preservation of trees and shrubs.

(Ord. 3252, 3-16-2020)

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 ten feet (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 section 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 section 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 and 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. (Ord. 3252, 3-16-2020)

10-08-04: APPLICABILITY:

(1) 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.

(2) 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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

10-08-07: DUTIES AND 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 and 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.

(Ord. 3252, 3-16-2020)

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 section 10-08-18 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:

1. The tree or shrub is diseased or is an alternate host of a significant disease.
2. The tree or shrub is harboring injurious insects or pathogens and may present a danger to the city's community forest.
3. The tree or shrub is dying or near dead and/or poses a public safety hazard.
4. 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.
5. The tree or shrub causes sight obstruction in the vision triangle that cannot be resolved (see section 10-07-07).
6. 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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

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 10-08-10 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.

(Ord. 3252, 3-16-2020)

10-08-11: DAMAGING, DESTROYING OR TOPPING OF PUBLIC TREES AND 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 or most current 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 article 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.

(Ord. 3252, 3-16-2020)

10-08-12: PRIVATE TREE SERVICE FEE LICENSING AND 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:

1. **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:

(A) The applicant has not been convicted of a violation of this section within the preceding two (2) years.

(B) 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.

2. **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.

3. **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.

1. **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.

2. **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.

(Ord. 3252, 3-16-2020)

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 ten (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.

(Ord. 3252, 3-16-2020)

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 10-08-18 of this code for the recommended tree list and section 10-08-20 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.

(Ord. 3252, 3-16-2020)

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 10-08-16.

(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 three hundred dollars (\$300) or be imprisoned in the Canyon County Jail for a period not to exceed six (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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

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 10-08-20 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 10-08-20 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 10-08-20 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 10-08-20 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.

(Ord. 3252, 3-16-2020)

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.

(Ord. 3252, 3-16-2020)

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

Please see the Tree Selection Guide at tvcnopy.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 ten feet (10') or wider. Conifers and shrub plantings over three feet (3') are not allowed in the City of Caldwell right of way.

(Ord. 3252, 3-16-2020)

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 10-08-10 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.

(Ord. 3252, 3-16-2020)