

Ordinance 11-09

An Ordinance Regulating the Streetscape of Public Rights of Way in Nibley City

Be it ordained by the Nibley City Council, Nibley, Utah, that the following is hereby adopted as part of Title 7 of the Nibley City Code, entitled Public Ways and Property

I. DEFINITIONS: For the purposes of this chapter:

PARK TREES: Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city or to which the public has free access to as a park.

STREET TREES: Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.

TREE BOARD: The Tree Board of Nibley City, or its designated representative.

II. PLANTINGS: Street tree plantings must conform in species and location with the Nibley City Tree Care Plan. No species other than those included in the forest plan may be planted as street trees or park trees without the written permission of the Nibley City Tree Board.

a. In the case of new residential, commercial or industrial development (of any size or type), the developer shall be responsible for new street tree planting. The developer must purchase and plant in the public right of way, trees no smaller than one and one-half inch (1 ½") caliper. As part of the subdivision approval, developers shall be required to submit a plan for street trees in their subdivision.

b. A variety of tree species, of similar shape and mature height, is required of all tree planting plans submitted to the City, with a minimum of one tree per fifty (50') feet.

III. DISTANCES FROM STREET CORNERS AND FIRE HYDRANTS: No street trees shall be placed any closer than forty feet (40') to any street corner, measured from the point of intersection of the street lines. No street tree shall be planted any closer than ten feet (10') to any fire hydrant.

IV. PUBLIC TREE CARE: The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Tree Board may remove or order to be removed any tree or part thereof in an unsafe condition or which by reason of nature is injurious to sewers, sidewalks, electrical power lines, gas lines, water lines or other public improvements, or is affected by any injurious insect, pest or disease. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with this chapter.

V. PRUNING, CORNER CLEARANCE:

a. Every owner of any tree overhanging any street or right of way within the city shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the

view of any street intersection and so that there shall be a clear space of eight feet (8') above the sidewalk and thirteen (13') feet above the street surface.

- b. Said owners shall remove all dead, diseased, dangerous, broken or decayed limbs that constitute a menace to the safety of the public. The city shall have the right to enter upon private property to prune any tree or shrub on said private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign.

VI. **DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY:** The city shall have the right to cause the removal of any dead or diseased trees on private property, when such trees constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the city. The Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to enter upon said property to remove such trees and charge the cost of removal on the owner's property tax notice.

VII. **TREE REMOVAL ON PUBLIC PROPERTY:**

- a. **Application And Permit:** Except for trees within a public right-of-way, no person shall remove or otherwise seriously disturb any tree on municipal property without first filing an application and procuring a permit from the Tree Board. Applications for permits must be made with the Parks Superintendent not less than forty eight (48) hours of the time work is to be done.
- b. **Standards Of Issuance:** The Tree Board shall issue the permit provided for in this section if, in its judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed by the permit and in the manner as therein described. Any permit shall be void if its terms are violated. Notice of completion shall be given within five (5) days to the Parks Superintendent for their inspection.

VIII. **INTERFERENCE WITH CITY REPRESENTATIVES:** It is unlawful for any person to prevent, delay or interfere with Nibley City personnel, the Tree Board or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds as authorized in its ordinance.

IX. **ARBORIST'S LICENSE AND BOND:** It is unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a business license. No license shall be required of any public service company or city employee doing such work in the pursuit of their public endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of twenty five thousand dollars (\$25,000.00) for bodily injury and two hundred fifty thousand dollars (\$250,000.00) for property damage, indemnifying the city or any person injured or damage resulting from the pursuit of such endeavors as described in this section.

X. **REVIEW BY CITY COUNCIL:** The city council shall have the right to review the conduct, acts and decisions of the tree board. Any person may appeal any ruling or order by the tree board to the city council who may hear the matter and make a final decision.

XI. VIOLATION; PENALTY: Any person violating any of the provisions of this chapter shall be, upon a conviction or a plea of guilty, subject to a fine not to exceed two hundred ninety nine dollars (\$299.00).

REPEALER: All ordinances, resolutions, and policies of the city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

SEVERABILITY: Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

PASSED BY THE NIBLEY CITY COUNCIL THIS ___ DAY OF _____, 2011.

Mayor

ATTEST _____
City Recorder

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