

**CITY OF BLACKFOOT  
CITY COUNCIL MEETING  
OCTOBER 6, 2015**

**PLEDGE OF ALLEGIANCE**

Mayor Loomis welcomed those in attendance and invited everyone to join in the Pledge of Allegiance.

**ROLL CALL**

Roll call was taken and those in attendance were: Councilman Brown, Councilman Gardner, Councilman Jensen and Councilwoman Simpson.

**AMEND AGENDA**

Mayor Loomis requested that the Agenda be amended to add discussion of the approval of a \$20,000 payment to the golf course Pro for golf course equipment. Councilman Gardner motioned to amend the agenda, Councilwoman Simpson seconded. All were in favor, motion carried.

**CONSENT AGENDA**

The consent agenda includes the following: City Council Minutes for 9/1/15, payables and the annual alcohol licenses. Councilman Brown motioned to accept the Consent Agenda, Councilman Jensen seconded. All were in favor, motion carried.

**REVIEW AND APPROVAL OF THE BLACKFOOT URBAN RENEWAL AGENCY 2016 BUDGET**

Councilman Brown motioned to approve the Blackfoot Urban Renewal Agency 2016 budget, Councilman Jensen seconded. All were in favor, motion carried.

**DRONE (UAV) ORDINANCE DISCUSSION**

This is an initial discussion of UAV use within the City boundaries. Public comment was provided as follows:

Pete Stewart, a licensed pilot and aircraft mechanic, stated the FAA has established guidelines for UAVs, although he does not believe that the guidelines have been published and approved by Congress. The guidelines state that UAVs: 1) are not to be flown above 400 feet; and 2) must be flown in line of sight (as yet to be defined). Further, it is Mr. Stewart's understanding that there is only one company in the US, located in the western part of Idaho, approved for commercial use of UAVs. Mr. Stewart, understanding that this is the way of the future, is concerned for safety as well as the regulation of their use.

Lee Orr: Informed Council that the State of Idaho has a regulation for unmanned aircraft. Mr. Orr is concerned because of the difficulty to regulate this when individuals are flying for non-commercial use and is aware of several companies approved for commercial use of UAVs. Mr. Orr feels the use of UAVs requires thorough research with the result of a City ordinance being put in place. Senate Bill 1134 deals with this issue at the State level.

Council is going to review Senate Bill 1134, research additional information and return to this topic at a later date.

**APPROVAL OF NEW ADA COORDINATOR – Lisa Tornabene**

Mayor Loomis recommends that Lisa Tornabene serve as the City's ADA and Fair Housing Coordinator. Councilman Brown motioned to approve this recommendation, Councilwoman Simpson seconded. All were in favor, motion carried.

## **CANCELLATION OF THE NOVEMBER 3<sup>RD</sup> CITY COUNCIL MEETING DUE TO CITY ELECTIONS**

Mayor Loomis recommended the Council meeting, scheduled for November 3, 2015, be cancelled due to City elections. The next session of Council would then be December 1, 2015. Councilman Jensen motioned to approve the cancellation, Councilman Brown seconded. All were in favor, motion carried.

## **TRAFFIC STUDY RESULTS FROM WALKER STREET**

Council members received and reviewed the traffic study on Walker Street. The data shows that 80% of the drivers are traveling at 31 MPH or less. Councilmembers don't believe this warrants a reduction of the posted speed limit. Councilman Gardner suggested reviewing it again in the spring. No further action is necessary at this time.

## **APPROVAL OF CHECK FOR PAYMENT OF EQUIPMENT**

Councilman Jensen motioned to approve a payment of \$20,000 as the first installment of payment for equipment that the City is purchasing from the golf pro, Councilman Gardner seconded. All in favor, motion carried.

## **PROPOSED ORDINANCE REVISION TO CHAPTER 10 OF TITLE 11 REGARDING TREES**

Attorney Sandow made two changes to the original ordinance as follows: 1) added the requirement that any rules & regulations recommended by the Forestry Department are subject to City Council approval, and 2) removed the requirement for stickers to be placed on trucks belonging to licensed tree removal companies. Gary Bates was present to address questions and concerns. Scott Hays stated this ordinance has changed very little from the existing tree ordinance; specifically, changes are the formalization of the Forestry Department and increasing the space between trees. Councilman Gardner motioned to approve proposed Ordinance No. 2137 with the additions and waive further readings, Councilman Brown seconded. Roll call was completed, Councilmembers Brown, Gardner and Simpson were in favor, Councilman Jensen was not in favor, motion carried.

### **ORDINANCE NO: 2137**

AN ORDINANCE OF THE CITY OF BLACKFOOT, IDAHO, ADDING THE FOLLOWING CHAPTER 10 OF TITLE 11 ENTITLED "TREE ORDINANCE."

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BLACKFOOT, IDAHO AS FOLLOWS:

SECTION 1: THAT THE FOLLOWING CHAPTER 10 BE ADDED TO TITLE 11 OF THE BLACKFOOT CITY CODE AS FOLLOWS:

#### **11-10-1. STATEMENT OF VALUE:**

Established trees are valuable assets to the community of Blackfoot. In the ecosystem typical of the area, trees are uncommon and dependent on human care to survive. Healthy, strategically placed trees beautify, increase property values, and make the community a more pleasant place to live.

#### **11-10-2. PURPOSE:**

This ordinance is intended to establish a Blackfoot Community Forestry Department and provide direction in planting and caring for trees. The major objective is to promote and protect the public

health, safety and general welfare by providing for the regulation of the planting, preservation, protection, and proper maintenance of trees within city limits.

#### 11-10-3. DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ADJACENT PROPERTY OWNER – any person(s) owning property adjacent to public rights-of-way.

ANSI A300: That certain standard tree, shrub and other woody plant maintenance standard practice as set forth in ANSI A300 (Part I)—2001, as published by the American National Standards Institute, Inc. and approved on May 22, 2001.

ANSI Z133.1 - That certain safety standard regarding the planting and maintenance of trees in proximity to utility lines as published by the American National Standards Institute, Inc. May 22, 2001 Edition.

ARBORICULTURE – the management of trees; including planting, pruning, watering, fertilizing, removal or any other action which affects the healthy growth and maintenance of trees.

COMMUNITY FOREST - The sum of all trees and shrubs within the City.

CRITICAL ROOT ZONE - The area under a tree extending from the base of a tree in all directions to a line 10 feet outside of the drip-line.

DISEASE – a process that causes anatomical disruptions, physiological dysfunctions, and energy disruptions that lead to decline and/or death of an organism or any of its parts.

HAZARDOUS TREES - Public or private trees that create any unsafe situation for persons using adjacent public property.

LICENSE – an annually issued license issued by the city which allows the city to determine adequate liability insurance coverage and proper knowledge of ANSI standards by any contractor doing tree contracting within the city limits.

OBSTRUCTIVE TREES, SHRUBS OR HEDGES - Public or private trees that prevent appropriate passage or safe vision on any public right of way.

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

PERMIT – written approval issued by the city and required for any activity above or below ground that may impact the canopy or the critical root zone of any public tree.

PERSON - Any individual, firm, partnership, corporation, association, company, or other governmental entity or organization of any kind.

PEST - any insect, disease, animal or other organism that causes harm or damage to trees.

PRIVATE TREES: Any trees other than public trees.

PROPERTY OWNER – the recorded owner or contract purchaser of any parcel of land.

PRUNING – the practice of managing tree health according to the national standards as set forth in ANSI A300.

PUBLIC PROPERTY – real property owned, managed, or leased to the city and dedicated to the public for present or future use.

PUBLIC RIGHT OF WAY - Improved or unimproved public property owned by, dedicated to, or deeded to the public for pedestrians, vehicular or other public use. It includes, but is not limited to, streets, alleys, sidewalks, access routes for public utilities, and open public spaces.

PUBLIC SAFETY – the condition of being safe from bodily harm or injury and/or property damage resulting from tree conditions and/or failures while using public property.

PUBLIC TREES - Trees located upon public property owned by the City, including street trees.

SHRUB - A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15) feet in height.

STREET TREES - 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.

TOPPING - The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown or the removal of the top part (trunk and limbs) of a coniferous tree, thereby removing the normal canopy and disfiguring the tree.

TREE - A woody perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen (15) feet in height and two (2) inches in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree.

#### 11-10-4. ESTABLISHMENT OF A COMMUNITY FORESTRY DEPARTMENT:

There shall be a Community Forestry Department to serve and assist with issues involving public trees. This includes issues involving planting, maintenance, preservation, and removing of trees and shrubs within city limits. All decisions and plans of the Community Forestry Department are subject to approval by the Blackfoot City Council.

A. Membership: There shall be a total of four (4) members in the Community Forestry Department, consisting of the Parks Department Superintendent, the Street Department Superintendent, and two other members picked by the two Superintendents. Membership should consist of people with interest in and knowledge of issues involving trees and urban horticulture.

#### 11-10-5. TERM OF OFFICE:

The term of the two non-superintendent members shall be two years, or until his or her successor is appointed.

#### 11-10-6. OPERATION:

The Community Forestry Department shall choose its own officers, make its own rules and regulations regarding meetings, and keep a journal of its proceedings. All rules and regulations shall be subject to City Council approval. A majority of the members shall constitute a quorum for the transaction of business. Members will maintain a 75% attendance rate at meetings and work sessions, or will be removed from the department and his or her successor shall be appointed for the unexpired portion of the term.

#### 11-10-7. DUTIES AND RESPONSIBILITIES:

The Blackfoot Community Forestry Department shall provide advice to the, Mayor, City Council and Public Works Department as to the preservation, protection and management of the community forest of Blackfoot, in accordance with the intent and purpose of this chapter. The Department shall have the following duties and responsibilities:

(A) Assist the City in encouraging landscaping installation and maintenance on private property by providing information on the value of landscaping and the proper planting and care of trees and other vegetation;

(B) Recommend policies and procedures to identify, mark, publicize and preserve historic and notable trees on both public and private property;

- (C) Assist the City in promoting appreciation of trees and the Community Forest through annual Arbor Day observances and other activities;
- (D) Encourage improvement of the Community Forest through planning and policy development;
- (E) Assist City departments in every way possible to enhance the community forest in the City;
- (F) Enhance opportunities for obtaining monetary funds for tree purchases, related supplies and community forestry activities through local and federal assistantship grants and donations;
- (G) Serve as an advocate of the City's community forest.
- (H) Meetings: This Department will meet when needed.
- (I) Advisors: Advisors may also be called to serve under a nonvoting status.
- (J) Compensation: Members and advisors of the committee shall serve without compensation.
- (K) Quorum: A majority of the members shall be present for the transaction of business.
- (L) Journal: The Department shall keep a journal of its proceedings. The City will provide an assistant to record notes and prepare minutes of each meeting.

**11-10-8. SPECIES OF TREES PERMITTED:**

The "Master List of Public Trees" shall be the official guideline for the selection and planting of trees on public property. It shall include tree species recommended and species prohibited for planting on public property and tree spacing suggestions. The "Master List of Public Trees" shall be approved by the City Council as set forth in Blackfoot City Code 11-9-4.

The Department and City Forestry Advisor shall maintain and periodically update the "Master List of Public Trees". The Master List of Public Trees is available at the Blackfoot City Hall and on the City of Blackfoot Website.

It shall be unlawful to plant any tree within any public right-of-way or planting median or immediately adjacent to a public street except those trees identified in the Master List of Public Trees unless advance, written permission is granted by the City Council.

**11-10-9. UTILITIES:**

(A) It shall be unlawful for any person to plant any public or private tree under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, electric transmission or distribution line, or other utility except the species of trees identified in the Master List of Public Trees for Utility Planting.

(B) It shall be unlawful to plant any public or private tree at any location in any manner which does not comply with the safety standards for planting and maintenance of trees in proximity to public utilities, as set forth in ANSI Z133.1.

(C) The City of Blackfoot will not be responsible for damage to any tree or shrub located within a utility easement as a result of the operation or maintenance of City utility lines. Damage to any public utility system caused by trees improperly located within the public right-of-way or easement will be repaired at the owner's expense.

**11-10-10. ADJACENT PROPERTY OWNERS' RESPONSIBILITIES FOR PUBLIC TREES:**

(A) Permits: Adjacent property owners shall:

1. Meet all requirements and obtain all permits necessary for work done (including, but not limited to, pruning and removal) on any public trees.

2. Meet all requirements and obtain all permits necessary prior to commencing repair of damage done to public streets or sidewalk adjacent to any public trees.
3. Meet all requirements and obtain all permits necessary for any tree planting on public property.

(B) Routine Public Tree Maintenance for Trees

1. Adjacent property owners shall:
  - a. Prune and maintain trees planted according to ANSI A300, a copy of which is available on the City of Blackfoot website.
  - b. Topping, heading, shearing or rounding over are not acceptable forms of tree pruning and are not allowed on public trees.
  - c. Except as otherwise determined by the Public Works Department, branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel.
  - d. Trees shall be pruned to remove dead limbs or other limbs that are considered a public nuisance.
2. Control pests on trees located on public rights-of-way adjacent to the owner's private real property.
3. Provide water sufficient to keep trees located on public rights-of-way adjacent to the owner's private real property in a healthy, growing condition.

(C) Protection/Preservation

1. Obtain a permit from the City before performing any activity, which may harm any part of a public tree (inclusive of the critical root zone).
2. Notify the City when any part of a public tree is damaged or destroyed.

11-10-11. RESPONSIBILITIES FOR PRIVATE TREES:

All Owners of real property shall provide the following Routine Tree Maintenance:

1. Removal or pruning of trees located on the owner's private real property that are considered a public nuisance.
2. Pruning of trees located on the owner's private real property that are considered a public nuisance. Branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel.
3. Control of pests on trees located on the owner's private real property that may pose a threat to public trees upon determination by the Community Forestry Department or City Forestry Advisor.
4. Remove or barricade all debris (wood, branches & leaves) on public property the end of the working day on which any tree work is done.

11-10-12. RESPONSIBILITIES FOR ALLEY TREES:

Adjacent property owners shall prune, remove or otherwise abate public nuisances caused by alley trees.

11-10-13. LICENSING OF PRIVATE TREE SERVICE COMPANIES:

Tree Service companies performing work on public trees are required to apply for a license through the Blackfoot Public Works Department. Applications are then reviewed by designated members of the

Blackfoot Community Forestry Department and the Public Works Department. Upon approval, licenses shall be issued by the Blackfoot Public Works Department valid for one (1) year from the date of issue for a fee of twenty-five (\$25) dollars.

(A) Licensing Requirements

1. International Society of Arboriculture (ISA) Certified Arborist on staff.
2. An ISA Certified Arborist to be on site while work is being performed.
3. Liability Insurance in the amount of \$1,000,000.
4. Knowledge and compliance of OSHA regulations.
5. Knowledge and compliance of ANSI A300 standards, a copy of which will be on the City of Blackfoot website.

(B) Revocation of License

The Blackfoot Public Works Department with the recommendation of the Blackfoot Community Forestry Department may revoke a license for violation of any section of this Code.

11-10-14. NOTIFICATION & PERMITS:

(A) No person may perform any of the following acts without first notifying the Blackfoot Public Works Department. Contact the Blackfoot Public Works Department via, mail, phone, fax, or e-mail at a minimum of two (2) business days prior to commencement of the proposed work. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as required by law:

1. Prune, cut, remove or otherwise disturb any public tree. This provision shall not be construed to prohibit owners of property adjacent to public rights-of-way from watering or fertilizing such trees;
2. Attach any object to public tree(s);
3. Dig, trench, excavate or pile soil or any other materials within the critical root zone of any public tree(s);

(B) Permit Application Procedures and Requirements for Public Tree(s) Removal

1. This is in no way intended to interfere with the immediate removal of a tree that presents a hazardous or emergency situation;
2. Upon inspection, the Blackfoot Community Forestry Department may issue a permit through the Blackfoot Public Works Department. Permits are available at the Blackfoot City Hall during regularly scheduled business hours;
3. The Blackfoot Public Works Department may condition the approval of any permit;
4. Prior to the removal of any public, street, or alley tree, the property owner or private tree service company intending to perform the work, which is currently licensed by the City of Blackfoot, must make a request for permit. All work must be completed within 30 days of issuance of said permit;
5. Whenever a public or street tree is removed, the stump of said tree shall also be removed. Permit holders shall then replace the removed tree. Tree replacement shall be a condition of issuance of a permit for removal, unless the Blackfoot Community Forestry Department for good cause shown waives such requirement. Tree replacement is the responsibility of the permit holder.

11-10-15. REGULATIONS FOR PLANTING STREET TREES:

Street trees shall be classified in accordance with the three species size classes listed in the Blackfoot approved tree list. Street trees shall not be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; large trees, 40 feet. No trees may be planted closer to the backside of any curb or the nearest edge of any sidewalk than the following: small trees, 2 feet; medium trees, 4 feet; and large trees, 6 feet. All distances shall be measured from the center of the tree trunk at ground level.

11-10-16. TREES AND SHRUBS OVERHANGING PUBLIC PROPERTY:

All owners, or persons in control of private real property upon which a street tree or shrub is growing, shall remove or trim, at his or her expense, all limbs or foliage which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the clear view requirements of the landscaping regulations of the City. Street trees and shrubs shall be trimmed from the ground level to at least twelve feet (12') above any public street, public easement or alley, and to at least seven feet (7') above the curb and sidewalk.

All owners, or persons in control of real property within the City of Blackfoot, Idaho, shall remove or trim, at his or her expense, all trees, bushes and shrubs or other ornamental foliage on such property which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the clear view requirements of the landscaping regulations (City code 11-9-1 et seq.). Any such person who fails to comply with the provisions of this section within ten (10) days after receiving written notice from the Blackfoot Street Department to do so shall be guilty of a misdemeanor, and any trees and shrubs not trimmed in accordance with this section may then be trimmed by the City and the expenses therefore may be charged to the persons or property owners who fail to comply with the provisions of this chapter.

#### 11-10-17. ABUSE OF PUBLIC TREES AND SHRUBS:

(A) Unless authorized by an appropriate public officer, it shall be unlawful for any person to:

- (1) injure, deface, disfigure or destroy any public tree;
- (2) permit any animal under his control to injure any public tree or shrub;
- (3) permit any fire to injure any portion of any public tree or shrub;
- (4) cause any toxic chemical to be applied to, seep, drain or be emptied on or about any public tree or shrub;
- (5) attach any device or structure to or on public trees, in a manner which harms or which may potentially harm a public tree;
- (6) injure, destroy, cut or pick any flower or ornamental plant growing, standing or being on public property;
- (7) make or cause excavations in the soil near roots of public trees unless appropriate measures are taken to prevent exposed soil from drying out;
- (8) damage the roots of a public tree by compacting or filling on or around the base of the tree;
- (9) to top, prune or trim any public tree, except in accordance with the provisions of ANSI A300.
- (10) Remove any public or street tree and fail to plant a replacement tree. The replacement tree shall be an approved variety from the City of Blackfoot Master List of Public Trees and shall be a minimum of a ten (10) gallon size specimen. Where utility lines are present, a Class I type tree (mature height not greater than twenty (20) feet), shall be required. Replacement tree shall be planted within thirty (30) days of removal of said tree, or as soon as weather conditions allow.
- (11) Nothing herein shall prevent or prohibit the pruning, removal, treatment, care or maintenance of any public tree or shrub, provided such work complies with the provisions of ANSI A300.

#### 11-10-18. STREET TREE CARE:

The Blackfoot Street Department shall have the right to remove, trim, destroy and control all street trees which are planted, grown or maintained in violation of the provisions of this Chapter. The Street



Department shall have the right to plant, prune, maintain and remove street trees 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.

11-10-19. TREE TOPPING:

It shall be unlawful for any person to prune or top any public tree or other public tree, except in accordance with ANSI A300.

11-10-20. ABATEMENT OF NUISANCES:

(A) The City hereby declares the following actions, practices or objects to be a public nuisance:

(1) Any living or standing private or public elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman) or which harbors any of the elm bark beetles *Scolytus multistriatus* (Marsham) or *Hylurgopinus rufipes* (Eichhoff).

(2) Any public or private dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not buried, burned, sprayed with an effective elm bark beetle-destroying insecticide, or from which the bark has not been removed.

(3) The cultivation, maintenance or allowing to grow of any private or public tree which harbors any insect, disease or infestation by any living creature which poses a threat to the health or safety of any other public or private tree within the City or which poses a health or safety threat to any person or property.

(4) Any public or private tree infested by any insect, pest or disease which is determined by the City Forester to pose a threat to the health of any other public or private tree.

(5) Any public or private tree, the roots of which are growing beneath a public sidewalk and which cause a public hazard to the safe and efficient pedestrian travel upon such sidewalk.

(6) Any public tree planted, growing or maintained in violation of the provisions of this Chapter.

(B) Any person who fails to commence the abatement of any nuisance within ten (10) days after receiving written notice from the City, or who fails to diligently prosecute and complete the abatement of such nuisance within a reasonable time after the delivery of such notice, shall be guilty of a misdemeanor. Such notice shall be delivered to the owner or person in control of any property upon which such nuisance shall exist. Notice shall be deemed complete upon its deposit in the United States mail, postage prepaid, certified mail, return receipt request, addressed to the last known address of such owner or person.

(C) In the event any owner or person in control of private real property fails to abate such nuisance in accordance with the time frame set forth above, then the City may prevent, remove or abate such nuisance at the expense of such owner or person and may levy a special assessment against the property upon which such nuisance is located, in accordance with the provisions of Idaho Code § 50-334.

11-10-21. 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 Community Forestry Department. The value of a tree shall be determined by the City Forestry Advisor in accordance with accepted plant appraisal methods

set forth in the 9th edition of The Guide for Plant Appraisal published by the International Society of Arboriculture or the same as amended from time to time. If no suitable location exists in the vicinity of the tree removed or if the replacement tree(s) is of lesser value, the person causing the tree to be removed shall make a compensatory payment to the City of Blackfoot equal to the difference in value between the tree removed and any replacement tree(s). Any public tree that is determined by the City Forestry Advisor to be damaged, but not sufficiently to justify its removal, shall be considered to be devalued. The amount of devaluation shall be paid to the City by the person causing the damage. Compensatory payments shall be paid into a fund established for that purpose and restricted to use for community forestry programs. Nothing in this Ordinance shall prohibit the City of Blackfoot from negotiating agreements with other governmental entities regarding penalties and compensatory payment for removal, damage or destruction of public trees.

**11-10-22. INTERFERENCE WITH COMMUNITY FORESTRY DEPARTMENT OR OTHER VIOLATIONS OF THIS CHAPTER:**

It shall be unlawful for any person to prevent, delay or interfere with the Community Forestry Advisor, the Community Forestry Department, or any of the City Departments, or their agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees, or trees on public property, as authorized in this chapter. Any violation of this Chapter shall be considered a misdemeanor and subject the person to a fine of not more than three hundred dollars (\$300.00) and/or imprisonment for a period not to exceed thirty (30) days in the County jail.

**11-10-23. ADOPTION OF ANSI A300 AND ANSI Z133.1:**

There is hereby adopted as an official code for the maintenance of trees, shrubs and other woody plants that certain standard maintenance practice as published in ANSI Standard A300 (Part I)—2001, as published by the American National Standards Institute, Inc. and approved on May 22, 2001. There is also hereby adopted as an official code, that certain safety standard for planting and maintenance of three in proximity to utility lines, known as ANSI Z133.1 as published by the American National Standards Institute, Inc., May 22, 2001 Edition. One copy of such codes shall be filed with and maintained in the office of the City Clerk, for use and examination by the public.

**11-10-24. APPEAL PROCESS:**

All portions of the tree ordinance are appealable to the planning and zoning commission or hearing examiner and subsequently, to the mayor and city council, provided the applicant, or their representative, exercises that right, timely, by filing an appeal. A mediation process is also available. All procedures herein to be conducted pursuant to Blackfoot City Code.

**11-10-25. REVIEW BY CITY COUNCIL:**

The city council shall consider input from the citizens as well as the community forestry department and shall make the final decision on issues properly brought before City Council. On all issues brought before City Council, the decisions made by City Council shall be final and conclusive.

**SECTION 2:** That the effective date of this Ordinance shall be the 6th day of October, 2015.

**PASSED AND APPROVED** by the Mayor and City Council this 6th day of October, 2015.

CITY OF BLACKFOOT, IDAHO

By: \_\_\_\_\_  
Paul M. Loomis, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**PROPOSED ROYAL STREET VACATION REQUEST**

Attorney Sandow explained this is a discussion to formalize the recommendation from Planning & Zoning to deed a portion of Royal Street to the Eastern Idaho State Fair, and a small portion of that same area to one property owner. The City does not currently have the right of way through this area. Councilman Jensen motioned to approve the findings & facts of the P&Z commission regarding the vacation of Royal Street, Councilman Gardner seconded. All in favor, motion carried.

FINDINGS OF FACT, CONCLUSIONS  
AND RESOLUTION ADOPTED  
BY THE  
PLANNING AND ZONING BOARD  
OF THE  
CITY OF BLACKFOOT  
September 22, 2015

At the regularly scheduled meeting of the Planning and Zoning Board of the City of Blackfoot on September 22, 2015, the Board held a hearing on the request by the City of Blackfoot to vacate a portion of Royal Street in the City of Blackfoot. During the hearing, testimony was heard and evaluated by the Board. Based on the testimony, documents, relevant ordinances, and evidence presented, the Board finds as follows:

FINDINGS OF FACT

1. The portion of Royal Street that is proposed to be vacated is described as follows: Part of the Wells–McIntosh Plat according to the recorded plat, recorded in Book 3 of Plats, Page 62, Records of Bingham County, Idaho described as:

All of Royal Street from the West right-of-way line of Lemon Street West to the West line of said Wells–McIntosh Plat also described as all of Royal Street between Block 5 and Block 12 and North of Block 16.

2. Ownership of the vacated portion of the roadway shall revert to the adjoining property owners as provided by Idaho law.

3. Easements for utilities should be retained as provided by Idaho law.

UPON MOTIONS DULY MADE, SECONDED AND CARRIED,

IT WAS RESOLVED THAT:

The Board recommends to the City Council to vacate the portion of Royal Street as outlined above.

These findings of fact, conclusions, and resolution formally were adopted by a majority vote of the planning and zoning board on September 22, 2015.

\_\_\_\_\_  
Secretary of Planning & Zoning Board  
City of Blackfoot, Idaho

Attorney Sandow then read in Ordinance No 2138. Councilman Jensen motioned to approve Ordinance No 2138 as presented and waive any further readings, Councilman Brown seconded. Roll call was taken, all were in favor, motion carried.

ORDINANCE NO. 2138

AN ORDINANCE OF THE CITY OF BLACKFOOT, IDAHO, VACATING A PORTION OF ROYAL STREET;  
PROVIDING FOR THE EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF BLACKFOOT, IDAHO AS  
FOLLOWS:

SECTION 1: That the property, known as a portion of Royal Street, described as follows:

Part of the Wells–McIntosh Plat according to the recorded plat, recorded in Book 3 of Plats, Page 62,  
Records of Bingham County, Idaho described as:

All of Royal Street from the West right-of-way line of Lemon Street West to the West line of said Wells-  
McIntosh Plat also described as all of Royal Street between Block 5 and Block 12 and North of Block 16.

is hereby vacated.

SECTION 2: That any easements for utilities shall be retained by the City of Blackfoot as  
provided by Idaho Code § 50-311.

SECTION 3: That said vacated property shall revert to the adjacent property owners  
pursuant to Idaho Code § 50-311.

SECTION 4: That the effective date of this Ordinance shall be the 6th day of October, 2015.

PASSED AND APPROVED by the Mayor and City Council this 6th day of October, 2015.

CITY OF BLACKFOOT, IDAHO

By: \_\_\_\_\_  
Paul M. Loomis, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**MOVED TO EXECUTIVE SESSION**

Councilman Jensen motioned to move to Executive Session under Idaho Code 74-206 (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement; Councilman Gardner seconded. Roll call was taken, all in favor, moved to Executive Session 7:55 PM.

Councilman Jensen motioned to move back into Regular session; Councilman Gardner seconded. All in favor, motion carried. Council Meeting reconvened at 8:24 p.m.

**ADJOURNMENT**

Councilman Jensen moved to adjourn the meeting, Councilman Brown seconded. All were in favor. The meeting was adjourned at 8:25 PM.

City of Blackfoot

Attest

\_\_\_\_\_  
Mayor Paul Loomis

\_\_\_\_\_  
City Clerk, Suzanne McNeel

Prepared By

\_\_\_\_\_  
Lisa J Tornabene