

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH
AMENDING CHAPTER 12.36 OF THE HERMOSA BEACH
MUNICIPAL CODE AND AMENDING CHAPTER 1.10 TO
SUBJECT VIOLATIONS OF CHAPTER 12.36 TO
ADMINISTRATIVE PENALTY PROCEDURES**

The City Council of the City of Hermosa Beach does ordain as follows:

Section 1. Chapter 12.36 of Title 12 of the Hermosa Beach Municipal Code is hereby amended in its entirety to read as follows:

Chapter 12.36

TREES

Sections:

- 12.36.010 Purpose.**
- 12.36.020 Definitions.**
- 12.36.030 Planting of Trees in the Parkway.**
- 12.36.040 Maintenance of Trees in the Parkway.**
- 12.36.050 Prohibition of Damage, Destruction, or Removal of Parkway Trees.**
- 12.36.060 Permit Requirement for Tree Removal.**
- 12.36.070 Prohibition of Attaching Objects to Parkway Trees.**
- 12.36.080 Protection of Parkway Trees During Construction.**
- 12.36.090 Abatement of Nuisance Conditions.**
- 12.36.100 Remedies.**
- 12.36.110 Violations.**

12.36.010 Purpose.

The purpose of this Chapter is to realize the City's commitment to creating, maintaining, and promoting a safe, healthy, and environmentally sound urban forest. Mature trees and abundant landscaping, with proper maintenance, add to the quality of life valued by the Hermosa Beach community and to the character of its neighborhoods. To increase green space citywide, the City's tree ordinance serves to preserve and protect existing parkway trees, and to ensure that trees are replaced when, consistent with the public health, safety and welfare, preservation is not feasible.

12.36.020 Definitions.

As used in this chapter:

"Director" means the Public Works Director or his/her designee.

“Parkway” means that portion of the public right-of-way that is not paved as a street or sidewalk, including encroachment areas used as yards by abutting property owners.

“Property Owner” means the person or entity that owns the real property abutting and usually extending to the centerline of the immediately adjacent public-right-of-way, where a parkway tree is located. In the case where the parkway tree is located on the property line between two properties, then the “Property Owner” shall refer to both property owners.

“Public right-of-way” means any area owned by or dedicated to the City for highway purposes.

“Tree” means any perennial plant having a self-supporting woody main stem or trunk measuring at least five inches in circumference at a height of six feet above the ground, usually characterized by the ability to grow to considerable height or size and to develop woody branches.

12.36.030 Planting of Trees in the Parkway.

No person other than the City and the Property Owner shall plant a tree on any parkway. The Property Owner requesting to plant a tree in the parkway shall first obtain a permit from the Director. Only those species of trees specified on the City’s official list of approved parkway trees shall be planted in the parkway. Trees planted on the parkway by the Property Owner shall be planted in accordance with horticultural standards promulgated by the Director. All work under a permit shall be performed within thirty days of the issue date of the permit, and shall be performed in accordance with the conditions and requirements set forth in the permit.

12.36.040 Maintenance of Trees in the Parkway.

- A. With the exception of those trees maintained by the City, it is the duty of the Property Owner at his or her expense to cultivate and provide for the complete maintenance of all trees located in the parkway adjacent to the Owner’s real property. Trees shall be maintained in a manner as not to cause or constitute a nuisance. The Property Owner’s obligation to maintain parkway trees includes responsibility for the costs of any approved tree removal and replacement. It does not include the costs to repair a sidewalk damaged by the roots of a parkway tree.
- B. The Property Owner shall be liable for all damages or injuries incurred by any person or to any real or personal property arising from the Property Owner’s failure to maintain parkway trees as required by this Section.
- C. No person other than the City and the Property Owner, including but not limited to utility companies and others owning facilities or performing work in the public right-of-way, shall trim, prune or cut a tree without first obtaining a permit from the Director. All work under a permit shall be performed within thirty days of the issue date of the permit, and shall be performed in accordance with the conditions and requirements set forth in the permit.

12.36.050 Prohibition of Damage, Destruction, or Removal of Parkway Trees.

- A. No person, including the Property Owner, shall willfully injure, deface, mutilate, poison or destroy a parkway tree.
- B. No person shall place or maintain any stone, concrete, cement, asphalt, brick or other substance or object within the drip-line of a parkway tree so as to impede free access of water and air to the roots of the tree.
- C. No person shall cause or allow any substance deleterious to tree life, including but not limited to oil, dye, brine or any other substance, to pour, flow or drip on any parkway tree or around the base of any such tree.

12.36.060 Permit Requirement for Tree Removal.

- A. Except in cases of emergency requiring immediate tree removal to protect the public health and safety, no person, including the Property Owner, shall remove a parkway tree without first obtaining a permit from the Director. Permit applications shall be subject to an application fee established by resolution of the City Council in an amount not to exceed the City's reasonable cost of providing the services required by this Chapter.
- B. A permit to remove a tree may be issued if the tree is dead, otherwise constitutes a public nuisance, or interferes significantly with the use and enjoyment of the immediately adjoining property. All work under a permit shall be performed within thirty days of the issue date of the permit, and shall be performed in accordance with the conditions and requirements set forth in the permit.
- C. The Director shall consider and decide any application to remove a tree with a trunk diameter of twelve inches or less (as measured four feet above the ground). The Director may consider and decide any application to remove a tree that is dead, as confirmed by an arborist's report, provided that removal is conditioned on on-site replacement. An application to remove a dead tree with a trunk diameter in excess of twelve inches shall be referred to the Public Works Commission when on-site replacement is not feasible and may otherwise be referred to the Commission at the Director's discretion. The Director's decision respecting the removal of any tree with a trunk diameter in excess of twelve inches may be appealed to the Public Works Commission.
- D. All other applications to remove a tree with a trunk diameter in excess of twelve inches (as measured four feet above the ground) shall be referred to and decided by the Public Works Commission following a public hearing. Notice of the hearing shall be provided to the owners of all real property within a radius of three hundred (300) feet of the subject tree. Any Commission decision made pursuant to this chapter may be appealed to the City Council. Appeals shall be filed in writing within ten days of the Commission's final decision. The decision of the City Council shall be final.

- E. A permit to remove a tree shall be conditioned on replacement of the tree, either on-site or elsewhere as prescribed by the City. On-site replacement (in the parkway adjacent to the permittee's real property) is required unless on-site replacement is infeasible. Removed trees shall be replaced at a minimum 2:1 ratio with a tree from the City's official list of approved parkway trees.
- F. A demolition permit shall not authorize removal of parkway trees absent a removal permit issued pursuant to this Chapter.

12.36.070 Prohibition of Attaching Objects to Parkway Trees.

No person shall tack, nail, paste or otherwise attach by any means whatsoever any sign, notice, advertisement or any other printed matter, or place any board, platform or other object on a tree. No person shall attach any rope or wire to any tree for the purpose of maintaining or repairing the tree without first receiving a permit from the Director.

12.36.080 Protection of Parkway Trees During Construction.

During the construction, repair or renovation of any structure, utility facility or right-of-way improvement, the person responsible for such activity shall take all necessary precautions to protect parkway trees in the vicinity of the construction project.

12.36.090 Abatement of Nuisance Conditions.

- A. The Property Owner shall abate any condition of a parkway tree determined by the Director to constitute a public nuisance. For purposes of this section, "tree" shall include shrubs and other vegetation in the parkway. Conditions constituting a nuisance include, but are not limited to, dead or diseased trees, trees constituting a danger to persons or property, trees impairing vehicular visibility, trees endangering utility wires, trees damaging the sidewalk pavement, or trees impairing pedestrian use of the sidewalk.
- B. Prior to abating a nuisance condition of a parkway tree, the Property Owner shall first obtain a permit from the Director. The Director will prescribe the manner in which the nuisance condition shall be abated. In the event the Property Owner fails or refuses to abate the nuisance, the provisions of Chapter 8.28 pertaining to abatement of public nuisances will apply.

12.36.100 Remedies.

In addition to any other remedies provided for in this Code and State law, a person who damages, mutilates, removes or destroys a parkway tree shall be liable to the City for the full replacement cost of the tree.

12.36.110 Violations.

Violations of the provisions of this chapter shall be punishable in accordance with Chapter 1.10.

Section 2. Section 1.10.040, subsection (A) of Title 1 of the Hermosa Beach Municipal Code—“Code violations subject to administrative penalty procedures”—is hereby amended to add paragraph 19 to read as follows:

19. Chapter 12.36, Trees.

Section 3. Severability. If any provision of this ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect any remaining provision hereof. The City Council of the City of Hermosa Beach hereby declares that it would have adopted this ordinance despite any partial invalidity of its provisions.

Section 4. CEQA. This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it is not a “project” under CEQA Guidelines Section 15378. There is also no possibility that the proposed amendments to the City’s tree ordinance may have a significant adverse effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

Section 5. Effective Date. This ordinance shall take effect thirty (30) days after its passage and adoption pursuant to California Government Code section 36937.

Section 6. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED this ____ day of _____ 2019.

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

MAYOR of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney