

January 12, 2006

City Council Meeting
January 24, 2006

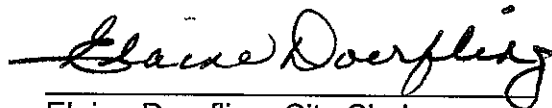
Mayor and Members
of the City Council

**ORDINANCE NO. 06-1261 - "AN ORDINANCE OF THE CITY OF
HERMOSA BEACH, CALIFORNIA, REGARDING TREES IN PUBLIC
RIGHTS-OF-WAY AND AMENDING THE HERMOSA BEACH
MUNICIPAL CODE."**

Submitted for **waiver of full reading** and **adoption** is Ordinance No. 06-1261, relating to the above subject.

At the meeting of January 10, 2006, the ordinance was presented to the City Council for consideration and was introduced by the following vote:

AYES:	Edgerton, Keegan, Reviczky, Mayor Tucker
NOES:	None
ABSENT:	None
ABSTAIN:	None



Elaine Doerfling, City Clerk

Noted:


Stephen R. Burrell, City Manager

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ORDINANCE NO. 06-1261

AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, REGARDING TREES IN PUBLIC RIGHTS-OF- WAY AND AMENDING THE HERMOSA BEACH MUNICIPAL CODE

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 amended in its entirety to read as follows:

TREES

Sections:

- 12.36.010 Definitions**
- 12.36.020 Planting of trees in parkway.**
- 12.36.030 Maintenance of trees in the parkway.**
- 12.36.040 Prohibition of damage, destruction or removal of parkway
trees.**
- 12.36.050 Permit requirement for tree removal.**
- 12.36.060 Prohibition of attaching objects to parkway trees.**
- 12.36.070 Protection of parkway trees during construction.**
- 12.36.075 Abatement of nuisance conditions.**
- 12.36.080 Remedies.**
- 12.36.090 Violations.**
- 12.36.010 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

1 parkway tree is located. In the case where the parkway tree is located on the property line between
2 two properties, then the "Property Owner" shall refer to both property owners.

3 "Public right-of-way" means any area owned by or dedicated to the City for highway
4 purposes.

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

8 **12.36.020 Planting of trees in parkway.**

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

16 **12.36.030 Maintenance of trees in the parkway.**

17 A. With the exception of those trees maintained by the City (as set forth in an inventory of
18 City-maintained trees published by the Director), it is the duty of the Property Owner at his or her
19 expense to cultivate, care for and provide for the complete maintenance of all trees on the parkway
20 adjacent to their real property. Trees shall be maintained in accordance with horticultural
21 standards promulgated by the Director, and shall be maintained in a manner as not to cause or
22 constitute a nuisance. The Property Owner shall be liable for all damages or injuries incurred by
23 any person or to any real or personal property arising from his or her failure to maintain parkway
24 trees as required by this Section.

25 B. No person other than the City and the Property Owner, including but not limited to
26 utility companies and others owning facilities or performing work in the public right-of-way, shall
27 trim, prune or cut a tree without first obtaining a permit from the Director. All work under a
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1 permit shall be performed within thirty days of the issue date of the permit, and shall be performed
2 in accordance with the conditions and requirements set forth in the permit.

3 **12.36.040 Prohibition of damage to or destruction of parkway trees.**

4 A. No person, including the Property Owner, shall willfully injure, deface, mutilate,
5 poison or destroy a parkway tree.

6 B. No person shall place or maintain any stone, concrete, cement, asphalt, brick or other
7 substance or object within the drip-line of a parkway tree so as to impede free access of water and
8 air to the roots of the tree.

9 C. No person shall cause or allow any substance deleterious to tree life, including but not
10 limited to oil, dye, brine or any other substance, to pour, flow or drip on any parkway tree or
11 around the base of any such tree.

12 **12.36.050 Permit requirement for tree removal.**

13 A. No person, including the Property Owner, shall remove a parkway tree without first
14 obtaining a permit from the Director except under exigent or emergency services. A permit to
15 replace a tree may be issued if the tree is dead, otherwise constitutes a public nuisance or interferes
16 significantly with the use and enjoyment of the immediately adjoining property. All work under a
17 permit shall be performed within thirty days of the issue date of the permit, and shall be performed
18 in accordance with the conditions and requirements set forth in the permit.

19 B. Applications for permits to remove a tree with a trunk diameter in excess of twelve
20 inches (measured six feet above the ground) shall be referred to and decided by the Public Works
21 Commission following a public hearing. Notice of the hearing shall be provided to the owners of
22 all real property within a radius of three hundred feet of the subject tree. The decision of the
23 Commission may be appealed to the City Council. Appeals shall be filed in writing within ten
24 days of the final decision of the Commission. The City Council's decision shall be final.

25 C. A permit to remove a tree shall include imposition of a condition requiring replacement
26 of the tree at the same or a different location with a tree from the City's official list of approved
27 parkway trees, unless the Director or the Commission find that replacement is physically
28 impractical or infeasible.

1 **12.36.060 Prohibition of attaching objects to parkway trees.**

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

6 **12.36.070 Protection of parkway trees during construction.**

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

10 **12.36.070 Abatement of nuisance conditions.**

11 The Property Owner shall abate any condition of a parkway tree determined by the Director
12 to constitute a public nuisance. For purposes of this section, "tree" shall include shrubs and other
13 vegetation in the parkway. Conditions constituting a nuisance include, but are not limited to, dead
14 or diseased trees, trees constituting a danger to persons or property, trees impairing vehicular
15 visibility, trees endangering utility wires, trees damaging the sidewalk pavement, or trees
16 impairing pedestrian use of the sidewalk. The nuisance condition shall be abated in the manner
17 prescribed by the Director. In the event the Property Owner fails or refuses to abate the nuisance,
18 the provisions of Chapter 8.28 pertaining to abatement of public nuisances shall be applicable.

19 **12.36.080 Remedies.**

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

23 **12.36.090 Violations.**

24 Violations of the provisions of this Chapter shall be infractions, punishable in accordance
25 with Section 1.12.010 of this Code.

26 **SECTION 2.** This ordinance shall become effective and be in full force and effect from
27 and after thirty (30) days of its final passage and adoption.
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1 **SECTION 3.** Prior to the expiration of fifteen (15) days after the date of its adoption, the
2 City Clerk shall cause this ordinance to be published in the Easy Reader, a weekly newspaper of
3 general circulation published and circulated, in the City of Hermosa Beach in the manner provided
4 by law.

5 **SECTION 4.** The City Clerk shall certify to the passage and adoption of this ordinance,
6 shall enter the same in the book of original ordinances of said city, and shall make minutes of the
7 passage and adoption thereof in the records of the proceedings of the City Council at which the
8 same is passed and adopted.

9 **PASSED, APPROVED and ADOPTED** this 10th of January 2006 by the following vote:

10 AYES:
11 NOES:
12 ABSENT:
13 ABSTAIN:

14 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

15
16 ATTEST:

16 APPROVED AS TO FORM:

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19 _____
City Clerk

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19 _____
City Attorney