

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELMONT AMENDING BELMONT CITY CODE CHAPTER 25 REGARDING TREES AND INCORPORATING BY REFERENCE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) A300 (PART 1) (2008 REVISION) AND INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA) *BEST MANAGEMENT PRACTICES—TREE PRUNING* (SECOND ADDITION)

THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. BCC CHAPTER 25 AMENDED

Belmont City Code Chapter 25 is amended to read:

Chapter 25 - TREES

Sec. 25-1 - Findings, purpose, and goals

(a) The City of Belmont is forested by trees indigenous to the San Francisco Peninsula, as well as non-native species introduced to the area.

(b) In general, trees provide benefits for both residents and visitors to the city.

(1) Trees contribute beneficially to the climate of the city by reducing heat buildup and providing shade, moisture, and wind control.

(2) Trees contribute to the protection of other natural resources by providing erosion control for the soil, and oxygen for the air. Trees aid in the treatment of storm water by increasing the water retention capacity of soils.

(3) Trees provide screens and buffers to separate land uses.

(4) Valley Oak, Live Oak and Redwood trees are especially valuable to the city and the urban forest as a whole. In addition to providing the benefits identified above, these trees provide habitat for indigenous wildlife, and contribute to the economy of the city by increasing and sustaining property values. They are also naturally pest resistant, require less water, little to no fertilizer, are better adapted to the arid, fire ecology of the San Francisco Bay Area, and can provide a bridge to nearby open space areas, creating an element of nature in the midst of an urban setting.

(b) Trees can be burdens when located in a way that damages property, interferes with utilities, and impacts the reasonable economic use of property. In addition, non-native invasive tree species, diseased trees, hazardous trees, and trees with poor structural integrity, can adversely affect public health, safety and welfare.

(c) The city's trees collectively constitute an urban forest, and removals or additions of even a single tree can negatively or positively affect the urban forest and the city as a whole. However, the loss or removal of a tree from one location in the city's urban forest can often be at least partially mitigated by planting a replacement tree(s) in the same or a different location.

(d) For the reasons stated in this section, the City of Belmont enacts these regulations for the conservation of trees while recognizing private rights to develop and use property in a manner not prejudicial to the public interest. Accordingly, this chapter is intended to promote the following specific goals:

- (1) Encourage the preservation and maintenance of healthy trees while allowing for reasonable and conforming use of private property.
- (2) Encourage the replacement of trees removed by necessity with native, especially drought tolerant, trees and locally adapted tree species.
- (3) Create an efficient and cost effective tree removal permit process for unsafe or unhealthy trees, trees in poor condition, trees that cause a significant fire hazard, trees that adversely impact utilities or cause significant property damage, and trees that are required to be removed as part of vegetation/fire management plan approved by the Belmont Fire Department.
- (4) Create public awareness of the tree ordinance, the role of trees in our environment, and best practices for tree management.

Sec. 25-2. - Definitions.

Where used in this chapter the following terms are herein defined as:

Arborist means an American Society of Consulting Arborists (ASCA) registered consulting arborist, or an arborist certified by the International Society of Arboriculture.

Arborist report means a report prepared by an arborist containing specific information on the location, condition, potential impacts of development, recommended actions and mitigation measures regarding one or more trees on an individual lot or project site.

Certification letter means a concluding statement by an arborist stating that work that was performed by an arborist or was observed or inspected by an arborist and complies with the conditions of the arborist report, and the tree permit or conditions of project approval.

City Tree means any woody, perennial plant, regardless of size, located in the city right-of-way, a city park, a designated open space, or on any other city property. A single or multi-stemmed shrub or bush is not a city tree.

Conforming Use means permitted uses that conform to the development criteria of the zoning district for the site.

DBH means the diameter of the tree at breast height and is measured across the widest face of the tree trunk, 4½ feet above natural grade. On a slope, the four and one-half-foot height is measured from the center of the trunk, halfway between the uphill and downhill side. In the case of multiple stemmed trees, the measurement is the sum of the diameters of the three largest stems measured at 4½ feet above natural grade.

Dead Tree means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs or

branches exists to sustain life) and has been determined to be such by a certified arborist, landscape architect or city official.

Dripline (canopy dripline) means the diameter of the existing tree canopy, or the estimated diameter of the root system (calculated as DBH inches \times 2 feet) whichever is greater.

Excessive Pruning means removal of the leaf, stem area, predominately on one side, topping, or excessive tree canopy removal or crown raising. Exceptions are when clearance from overhead utilities or public improvements is required, or to abate a hazardous condition or public nuisance.

Heritage tree means a Coast Live Oak, Valley Oak, Redwood, Madrone, Bay Laurel, or Buckeye having a single main stem or trunk of 10 inches or more DBH, or up to three of the largest secondary stems totaling 10 inches or more DBH.

Large diameter tree means a woody, perennial plant characterized by having a single main stem or trunk of 16 inches or more DBH, or up to three of the largest secondary stems totaling 18 inches or more DBH, with the exception of Eucalyptus, Monterey Pine, Palm, or Acacia.

Person means any natural person, property owner, partnership, firm, corporation, governmental agency or other legal entity.

Protected Tree means a Heritage Tree, a City Tree, a Replacement Tree, or a Large Diameter Tree.

Pruning means selectively cutting or trimming to enhance the health and structure of a tree, improve balance and aesthetics, promote healthy growth, and prevent damage.

Removal means physically removing a tree or causing the removal of a tree; causing the death of a tree through direct or indirect action, or severely damaging a tree.

Replacement tree means any tree, regardless of size, which has been planted as required mitigation for the previous removal of another tree at the same site or elsewhere in the city.

Severe Damage means any action undertaken which causes or may cause death or significant injury to a tree or its roots, or which places the tree in an irreversible state of decline. This includes, but is not limited to:

- (1) Excessive pruning as herein defined;
- (2) Topping, which generally means reduction of tree size using inter-nodal cuts without regard to tree health or structural integrity;
- (3) Trenching, excavating, grading, paving or other action which causes a significantly harmful incursion within the root system or canopy drip-line of a tree;
- (4) Poisoning, or leaching of construction related or other damaging materials into the canopy dripline;
- (5) Overwatering or withholding of water or nutrition.

Sec. 25-3. – Standard Tree Protection Measures.

The City Manager shall prepare a schedule of standard tree protection measures that may be required by the reviewing authority as conditions of approval for development projects when construction or other site disturbance occurs within the dripline of a Protected tree. The City Manager may approve alternative measures on a case by case basis to better meet site conditions.

Sec. 25-4. - Pruning Standards.

Tree pruning must be performed consistent with the guidelines of the 2008 American National Standards Institute (ANSI) A300 (Part 1) *American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (Pruning)*, or *Best Management Practices—Tree Pruning* (Second Addition) published by the International Society of Arboriculture (ISA) as a companion publication to the ANSI A300 pruning standards.

Sec. 25-5. - Tree removal permit requirement.

(a) *Permit Requirement.* Except as provided in this section, it is unlawful for a person to remove a Protected Tree without a permit issued in accordance with this chapter.

(b) *Exceptions to Permit Requirement.* A permit is not required to remove a Protected Tree when:

- (1) *Emergency.* The tree is damaged by storms, floods, earthquakes, fires or natural disasters, or firefighting personnel actively engaged in fighting a fire determine that removal of the tree is necessary, or a peace officer, firefighter or other city official acting in their official capacity determines that the tree poses an imminent danger to people or property. The City Manager shall be promptly notified of the nature of the emergency action taken.
- (2) *Fire Danger.* The fire marshal or other city official acting in their official capacity has determined that the tree is a substantial fire hazard that cannot be reasonably mitigated.
- (3) *Public utilities.* The tree is hazardous to public utilities and there is no reasonable mitigation as determined by city officials. The City Manager shall be promptly notified of the determination.
- (4) *Nursery.* The tree is planted, grown or held for sale as part of a licensed nursery business.
- (5) The tree is a *Dead Tree* as defined herein.

Sec. 25-6. – Tree Removal Permit Application.

(a) *Permit Application.*

- (1) A person desiring to obtain a permit to remove a Protected Tree must submit a complete application in compliance with this Section to the City Manager through the

City's Permit Center and pay applicable fees as established by the City Council.

(2) The application must include:

(A) Name and address of the applicant;

(B) Address of the property where the tree is located;

(C) Name of the person performing the work;

(D) State contractor's license number of the person performing the work, or if the person claims to be exempt from or not a contractor under the state contractor licensing law, the basis for the claim;

(E) Number, species, size, and exact location of the tree or trees to be removed,

(F) A brief statement of the reason for the requested removal, and

(G) any other pertinent information as may be required by the City Manager.

(b) *Application review.*

(1) An application to remove one or more Protected Trees associated with other improvements of property for which a development application is pending or contemplated shall be reviewed as part of the development project by the city reviewing authority authorized to grant the other entitlements for the property on which the tree is located.

(2) All applications not within the scope of (b)(1) shall be reviewed by the City Manager.

(3) Upon receiving a complete application, the reviewing authority must timely determine whether to issue the permit.

(c) *Project Notice.* When posting is required by Section 25-8, the applicant must post the project site with a notice of the tree removal permit application on a form approved by the City Manager.

(d) *Appeals.* An applicant may appeal a decision under (b)(1) to the body authorized to hear appeals concerning the development application. An applicant may appeal a decision under (b)(2) to the City Council. All appeals must be filed with the Permit Center within 10 days of the decision by the reviewing authority. All appeals must include a detailed statement describing the decision appealed and the basis of the appeal, and be accompanied by the fee established by the City Council.

Sec. 25-7. – Criteria for Permit Determination

(a) The reviewing authority must base its determination to approve, conditional approve or deny an application for a tree removal permit on a balancing the following criteria. When the reviewing authority determines one or more criteria does not support removal, it must consider whether reasonable conditions would mitigate the circumstances that do not support removal under the criteria.

(1) Criteria Supporting Removal	(2) Criteria Supporting Retention
<p>(A) The tree is: (i) in poor condition; (ii) at the relative end of its life span of the particular species; (iii) diseased or infested beyond reasonable attempts at remediation; (iv) has poor structural integrity; (v) is in danger of falling; or, (vi) poses a safety hazard.</p> <p>(B) The particular tree species is undesirable due to characteristics such as invasiveness, tendency toward limb failure, and fire hazards.</p> <p>(C) The tree is damaging or interfering with existing structures site improvements and utility services.</p> <p>(D) Removal of the tree is needed in order to construct improvements or otherwise allow conforming use of the property.</p> <p>(E) Proximity of the tree to existing or proposed structures.</p>	<p>(A) The tree is located outside of the developable area of the property.</p> <p>(B) The tree and its location contribute substantially to the aesthetic appeal of the property or the neighborhood.</p> <p>(C) The effect of the requested tree removal on the remaining number, species, size and location of existing trees on the site and in the area, including trees mutually dependent on each other for survival, structural integrity or aesthetics.</p>

(b) Conditions of Approval.

- (1) For each tree removed, the applicant must pay a removal fee or replant trees, or both, in accordance with a schedule adopted by the city council.
- (2) The reviewing authority may impose conditions of approval when City staff have determined that the tree removal may substantially affect erosion or soil retention.
- (3) Conditions imposed by the reviewing authority must be reasonably related to the particular impacts caused by the tree removal and not disproportional to those impacts.

Sec. 25-8. - Permit issuance.

(a) *Permits not associated with development projects.* Permits not associated with a development project shall be issued in writing and remain valid for a period of 60 days from issuance.

(b) *Permits associated with development projects.* Permits approved in conjunction with development projects shall be valid until the expiration of associated project entitlements, unless those entitlements are extended. Permits issued in conjunction with grading or building permits will become valid simultaneously with the issuance of such other permits and the time for completion of the work will commence at that time unless otherwise provided in the permit.

(c) *Posting of permit.* Permits not associated with a development project shall must be posted on the subject property in a location visible from, and not more than 20 feet from, the public right-of-way.

(1) The permit shall be posted no less than 48 hours in advance of any work and remain posted for not less than one week following completion of all work.

(2) For emergency tree removal, the City Manager may waive the 48 hour posting of permit requirement to allow for immediate removal if the tree is creating a danger to persons or damaging real or personal property.

Sec. 25-9. - Enforcement.

(a) In addition to any penalties or remedy, any person who removes or damages a Protected tree in violation of this chapter must pay removal fees and replant trees on or off-site in equal value to the tree(s) removed without benefit of permits.

(b) The City Manager may issue a stop work order on a project, pending submittal of an acceptable mitigation plan providing for replacement trees, or payment of an in lieu fee as determined by the city council, to the city tree planting and establishment fund.

SECTION 2. BCC SECTION 2-166 AMENDED.

Belmont City Code Section 2-166, added by Section 1 of Ordinance 2015-1083, is amended by deleting subsection (c).

SECTION 3. PRUNING STANDARDS ADOPTED.

the 2008 American National Standards Institute (ANSI) A300 (Part 1) *American National Standard for Tree Care Operations—Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (Pruning)*, or *Best Management Practices—Tree Pruning (Second Addition)* published by the International Society of Arboriculture (ISA) as a companion publication to the ANSI A300 pruning standards are adopted reference and incorporated herein.

SECTION 4. EFFECTIVE DATE.

This Ordinance takes effect 30 days after its adoption.

SECTION 5. ORDINANCE 2015-1086 REPEALED.

Ordinance 2015-1086 is repealed.

SECTION 6. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c), once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members

voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The City Council of the City of Belmont, California introduced the foregoing ordinance, on July 14, 2015, and adopted the ordinance at a regular meeting held on _____ by the following vote:

Ayes:

Noes:

Absent:

Abstain:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney