

ORDINANCE NO. 2017-1120

AN ORDINANCE OF THE CITY OF BELMONT AMENDING BELMONT CITY CODE CHAPTERS 2 AND 25 REGARDING TREES AND INCORPORATING BY REFERENCE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) A300 (PART 1) 2017 PRUNING AND INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA) *BEST MANAGEMENT PRACTICES—TREE PRUNING (SECOND ADDITION)*

WHEREAS, the City of Belmont is forested by trees indigenous to the San Francisco Peninsula, as well as non-native species introduced to the area; and,

WHEREAS, in general, trees contribute to property values and provide benefits for residents, property owners, and visitors to the city by reducing heat buildup and retaining moisture, producing oxygen and reducing carbon dioxide, providing shade, windbreaks, erosion control, and by screening property; and,

WHEREAS native trees, in particular Coast Live Oak, Valley Oak, Redwood, Madrone, Bay Laurel, and Buckeye, are especially valuable to the city and the urban forest as a whole as these trees provide habitat for indigenous wildlife, are 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; and,

WHEREAS, trees can be burdens when located in a way that damages property, interferes with utilities, or impacts the reasonable economic use of property, and when a fire hazard, toppling hazard, or limb fall hazard; and,

WHEREAS, invasive non-native tree species, diseased trees, hazardous trees, and trees with poor structural integrity, can adversely affect native habitat, public health, safety and welfare; and,

WHEREAS, loss or removal of trees from one location in the city's urban forest can often be at least partially mitigated by planting trees in the same or a different location; and,

WHEREAS, the City seeks to regulate trees to encourage the planting of native trees and locally adapted tree species, and the preservation and maintenance of healthy, non-invasive trees, while allowing for reasonable and conforming use of private property.

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 – Title.

The provisions of this chapter may be referred to as the Belmont Tree Ordinance.

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 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 × 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.

Principal Native 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 14 inches or more DBH, or up to three of the largest secondary stems totaling 18 inches or more DBH..

Person means any natural person, property owner, partnership, firm, corporation,

governmental agency or other legal entity other than the City of Belmont.

Protected Tree means a Principal Native Tree, a City Tree, a Replacement Tree, a Right-of-Way 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.

Right-of-Way Tree means a tree located in a public street right-of-way.

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 American National Standards Institute (ANSI) A300 (Part 1) 2017 Pruning entitled *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 under the following circumstances.

(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.

(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) *Nursery.* The tree is planted, grown or held for sale as part of a licensed nursery business.

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 the 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 of the criteria in subsection (c). 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.

(b) The reviewing authority shall issue a permit to remove the following trees without consideration of the criteria in subsection (c):

- (1) Blue Gum Eucalyptus (*Eucalyptus globulus*);
- (2) Dwarf Blue Gum Eucalyptus (*Eucalyptus globulus* 'Compacta');
- (3) Monterey Pine;
- (4) Palm (all species);
- (5) Acacia (all species);
- (6) a dead tree (any species); and
- (7) Any tree that a public utility is required to remove under California Public Utility Commission regulations.

(c) Criteria.

(1) Criteria Supporting Removal	(2) Criteria Supporting Retention
(A) The tree is: (i) in poor condition; (ii) at	(A) The tree is located outside of the

<p>the relative end of its life span of the particular species; (iii) diseased or infested beyond reasonable 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 hazard.</p> <p>(C) The tree is damaging or interfering with existing structures, site improvements, or 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>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>
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(d) Conditions of Approval.

(1) For each Protected Tree removed, the applicant must plant a preferred species tree, minimum 15 gallons, or pay an in lieu of planting fee established by the city council. A preferred species tree planted as part of a landscape plan, screening, or bulk reduction condition may be counted toward this requirement.

(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 requiring notice

shall 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.

Sec. 25-10. – Preferred Species Trees.

(a) Preferred species trees include principal native trees. The City Manager, in consultation with the City Arborist, may determine whether to designate other native or locally acclimated tree species as preferred species trees.

(b) An applicant may request that the City Manager designate a native or locally acclimated tree as a preferred species tree. The City Manager’s decision is final.

(c) The City Manager shall maintain a schedule of designated preferred species trees.

SECTION 2. BCC SECTION 2-166 AMENDED.

Belmont City Code Section 2-166 is amended to read.

(a) Planning commission.

(1) A planning commission consisting of a minimum of 5 and maximum of 7 members is created.

(2) Planning commission appointments are for 3 years unless otherwise determined by the city council.

(3) The duties of the planning commission are as follows:

(A) Review and recommend to the city council the adoption of or amendments to the general plan.

(B) Exercise the control provided by city ordinances over the subdivision of land within the city.

(C) Exercise the control provided by city ordinances over the zoning plan and advise as to proposed changes in the plan.

(D) Perform such other functions and duties as may be required by other city ordinances.

(E) Perform such other duties as may be assigned to the commission by the city council.

(b) Parks and recreation commission.

(1) A parks and recreation commission consisting of a minimum of 5 voting members and a maximum of 7 voting members and 2 non-voting youth members is created. The two non-voting youth members must be at least 13 years old, and no more than 17 years old at the time of appointment ("youth commissioners") and must present parental/guardian consent to be considered for appointment. The youth members may not receive compensation and serve only in an advisory capacity.

(2) Parks and recreation commission appointments are for one year for a youth commissioner and 2 years for other members unless otherwise determined by the city council.

(3) The duties of the parks and recreation commission are as follows:

(A) Advise the city council on the adoption and amendment of policies and programs in the general plan related to city recreation and open space. In doing so, the commission shall comply with Government Code Sections 65353 and 65354.

(B) Advise the parks and recreation department on standards for and matters related to development of recreational areas, facilities, parks and programs.

(C) Assist the parks and recreation department in making periodic inventories of recreational services and facilities and parks that exist or may be needed, and interpret such matters to the public and the city council.

(D) Advise the parks and recreation department in the preparation of the annual budget and long-range recreation and park capital improvement program.

(E) Advise the public works department regarding bicycle and pedestrian projects eligible for Transportation Development Act local transportation funding and the development of comprehensive bicycle plans.

(F) Perform such other duties as may be assigned to the commission by the city council.

(c) Measure I Advisory Committee

(1) Committee established. A Measure I Advisory Committee ("Committee") consisting of a minimum of 3 and a maximum of five members is created to report annually to the City Council regarding the collection and expenditure of revenue from Measure I, the Belmont Streets and City Services Measure, a one-half cent transaction and use tax.

(2) Committee appointments. Appointments to the committee are for 3 years unless

otherwise determined by the City Council.

(3) Committee duties. The Committee's duties are to review the annual audit prepared by the City's independent auditor related to the prior fiscal year's collection and expenditure of Measure I revenue and cause a report to be transmitted annually regarding the accuracy of the auditor's findings. The Committee's report shall be transmitted through the City Manager's Office to the City Council for consideration at a City Council meeting. The City Manager shall provide any reasonable administrative or technical assistance to enable the committee to fulfill its duties.

(4) Conflicts. In order to preserve the integrity and independence of the advisory process, Committee members shall not have a role in determining the use of revenue generated by Measure I.

(5) Meetings. The Committee shall meet once to be briefed on the annual budget (mid-year) and again to review the Measure I Audit Report.

SECTION 3. PRUNING STANDARDS ADOPTED.

The American National Standards Institute (ANSI) A300 (Part 1) 2017 Pruning entitled *Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (Pruning)*, and *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. 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 since 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.

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The City Council of the City of Belmont, California introduced the foregoing ordinance, on June 27, 2017 and adopted the ordinance at a regular meeting held on July 11, 2017 by the following vote:

Ayes: Hurt, Kim, Reed, Lieberman, Stone

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney