

ORDINANCE NO. 2292

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF ARCADIA, CALIFORNIA, REQUIRING THE SUMMARY  
REMOVAL OF DOWNED PRIVATELY OWNED TREES WITHIN A  
PUBLIC RIGHT-OF-WAY

WHEREAS, beginning on November 30, 2011, conditions of extreme peril to the safety of persons and property arose within the City of Arcadia ("City") which were created by a high wind event; and

WHEREAS, said high wind event caused substantial damage to property throughout the City, resulting in downed trees and utility poles, and knocking out power to areas of the City; and

WHEREAS, pursuant to Ordinance No. 1431 of the City of Arcadia, the Director of Emergency Services of the City issued a Local Emergency Proclamation on December 1, 2011 proclaiming the existence or threatened existence of a local emergency; and

WHEREAS, pursuant to Resolution No. 6811, the City Council of the City of Arcadia ratified and confirmed said Local Emergency Proclamation and proclaimed that a Local Emergency shall continue to exist until its termination is proclaimed by the City Council; and

WHEREAS, the City Council finds that this Urgency Ordinance, and the regulations set forth herein, are necessary for the immediate preservation of the public peace, health and safety in order to protect residents from the threat that downed private trees within the public rights-of-way pose to public health and safety; and

WHEREAS, such an urgency measure requires at least four affirmative votes of the City Council for adoption; and

WHEREAS, all other legal prerequisites to the adoption of this Urgency Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION. 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. Reasons for Urgency. The City Council hereby declares that the adoption of this Urgency Ordinance is necessary as an emergency measure for the immediate preservation of the public peace, health and safety. In accordance with Section 415 of the Charter of the City of Arcadia and in order to protect the public peace, health and safety, the City Council of the City of Arcadia further finds as follows:

- A. The high wind event that began on November 30, 2011, has downed, uprooted, damaged or caused numerous private trees in the City to rest within City streets, sidewalks or public rights-of-way in such a manner so as to create an immediate danger to the public health, safety or welfare of persons and motorists. As used in this Urgency Ordinance, the term “private trees” means any trees or shrubs owned by private property owners or for which said property owners are otherwise responsible.
- B. These downed private trees have in some cases damaged power lines and utilities and obstruct repair crews and slow the restoration of power to areas of the City affected by the high wind event.

- C. Downed private trees continue to endanger the security or usefulness of public streets or sidewalks by obstructing access to driveways, sidewalks and traffic and pose a particular danger for pedestrians and motorists traveling on City streets after sunset.
- D. Downed private trees in the City also obstruct or slow emergency vehicles' access to residences and businesses and delay emergency response times in the City.
- E. The City has a substantial, urgent and legitimate governmental interest in protecting the health and safety of its residents and those traversing City streets and other public rights-of-way from the danger posed by downed private trees.
- F. The goals of mitigating the foregoing dangers may properly be served by this narrowly tailored regulation.
- G. Adoption of this Urgency Ordinance will permit and enhance the City's ability to protect the public health and safety of its residents.

SECTION 3. Amendment of Municipal Code. Article IX, Chapter 4 of the Arcadia Municipal Code is hereby amended by adding Section 9408 to read as follows:

**9408. MAINTAINING OR REMOVING A DOWNED OR FALLEN PRIVATE TREE WITHIN A PUBLIC RIGHT-OF-WAY – POWERS TO REMOVE**

(a) As used herein, the term "private trees" means any trees or shrubs owned by private property owners or for which said property owners are otherwise responsible.

Any downed or fallen privately owned tree, or any part thereof, within a City street, sidewalk or public right-of-way which endangers or which in any way may endanger the security or usefulness of any public street or sidewalk, or which impedes pedestrian or vehicular traffic, is declared to be a public nuisance and may be subject to immediate abatement by City forces without the use of procedures set forth in Section 9407.1. The Development Services Director or his or her duly authorized representative shall provide notice to the property owner giving said property owner at least 48 hours to trim or remove any such private tree, or the City may permit any public utility to do so or the City may trim or remove such tree. Notwithstanding any provision herein to the contrary, in any instance where the Development Services Director determines that the severity of the danger caused by the private tree requires immediate removal by the City, the City may cause such removal and assess the costs thereof to the owner of the private tree. Such notice shall also provide for an opportunity for an administrative hearing in front of a Hearing Officer designated by the City Council within ten (10) days after any summary abatement action is taken pursuant to this Section.

(b) Failure of the property owner or his or her duly authorized agent to trim or remove such tree in the time ordered by the Development Services Director or his or her duly authorized representative based on the dangerous nature of the private tree, shall be deemed to be a violation of this Chapter, and the Development Services Director or his or her duly authorized representative may then trim or remove the tree and assess the cost against the property pursuant to Section 9406.11 of the Arcadia Municipal Code. Nothing stated herein shall prohibit the Development Services Director or his or her duly authorized representative from pursuing any other remedy provided

for in this Chapter and deemed necessary to recover the cost of abatement for actions taken pursuant to this Section.

SECTION 4. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to implement this Urgency Ordinance.

SECTION 5. CEQA. Pursuant to Section 15378(b)(4) of the California Environmental Quality Act Guidelines (Title 14 of the California Code of Regulations), the City Council finds that this Urgency Ordinance is not a project subject to CEQA.

SECTION 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 240 West Huntington Drive, Arcadia, California 91066. The custodian for these records is the City Clerk.

SECTION 7. Severability. If any provision of this Urgency Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Urgency Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Urgency Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 8. Effective Date. This Urgency Ordinance shall become effective immediately upon its adoption.

SECTION 9. Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in the official newspaper and shall post a certified copy of this Urgency

Ordinance, including the vote for and against the same, in the Office of the City Clerk of the City of Arcadia, City Hall, located at 240 West Huntington Drive, Arcadia, California 91007.

Passed, approved and adopted this 6<sup>th</sup> day of December, 2011.

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Mayor of the City of Arcadia

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

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Stephen Deitsch  
City Attorney