

1 CITY OF HOMER
2 HOMER, ALASKA

Stroozas

3
4 ORDINANCE 19-27

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE CHAPTER 11.36, "VEGETATION IN
8 RIGHTS-OF-WAY" TO AMEND HCC 11.36.020 AND ADD HCC
9 11.36.030 "REMOVAL FOR COMPLIANCE-PUBLIC WORKS
10 DIRECTOR DISCRETION," TO PERMIT PUBLIC WORKS DIRECTOR
11 TO AUTHORIZE REMOVAL OF VEGETATION TO BRING ROADS
12 CONSTRUCTED PRIOR TO CITY REGULATION INTO COMPLIANCE
13 WITH CITY LAWS AND CONSTRUCTION PROCEDURES

14
15 WHEREAS, in October 2016, the Homer City Council adopted Ordinance 16-51 clarifying
16 the City of Homer's right and obligation to maintain public rights-of-way; and

17
18 WHEREAS, there are a number of roads, especially in the annexed portion of the City,
19 that were not built to City standards and as such have offset center lines and narrow rights-of-
20 way, making maintenance difficult (especially snow removal/storage) and particularly
21 noticeable to adjoining property owners,

22
23 NOW THEREFORE, The City of Homer Ordains:

24
25 Section 1. Homer City Code Chapter 11.36, "Vegetation in Rights-of-Way, is amended
26 as follows:

27
28 Chapter 11.36

29
30 VEGETATION IN RIGHTS-OF-WAY

31
32 Sections:

33 11.36.010 Vegetation in rights-of-way.

34 11.36.020 Removal of vegetation in rights-of-way.

35 **11.36.030 Removal for compliance-Public works director discretion.**

36
37 11.36.010 Vegetation in rights-of-way.

38
39 All or any part of a tree, shrub or other vegetation that is located in, over or under a
40 public right-of-way in the city is subject to removal by the city as necessary for the reasonable
41 public use of the right-of-way, including without limitation removal as authorized in HCC
42 11.36.020, regardless of whether:

- 43
44 a. The vegetation existed in, over or under the right-of-way before the granting,
45 dedication or improvement of the right-of-way;
46 b. The vegetation was planted in the right-of-way by another person, including without
47 limitation an owner of property adjacent to the right-of-way; or
48 c. The vegetation originated on property adjacent to the right-of-way, to the extent that
49 limbs, branches or roots of the vegetation extend into, over or under the right-of-way.

50
51 11.36.020 Removal of vegetation in rights-of-way.

52
53 **Except as otherwise provided in this chapter,** ~~the~~ city manager may cause the
54 removal of all or any part of a tree, shrub or other vegetation that is located on, over or under
55 a public right-of-way if the city manager finds that the vegetation:

- 56
57 a. Obstructs or interferes with the use of the right-of-way by vehicular or pedestrian
58 traffic;
59 b. Obscures visibility to or from the right-of-way or otherwise constitutes a safety
60 hazard;
61 c. Interferes with the maintenance of the right-of-way, including without limitation
62 paving, grading, cleaning and snow removal;
63 d. Has the potential if not removed to damage pavement or other improvements in the
64 right-of-way;
65 e. Has the potential if not removed to damage or interfere with the operation of
66 overhead or underground public utility facilities in the right-of-way.

67
68 **11.36.030 Removal for compliance-public works director discretion**

69
70 **a. The public works director retains the sole discretion and authority to remove**
71 **or retain any part of a tree, shrub or other vegetation within three feet of a City-owned**
72 **right-of-way abutting a road acquired by the City after the road was constructed.**

73
74 **b. Notwithstanding subsection (a), the public works director shall only exercise**
75 **his or her authority under this section when he or she determines it is more likely than**
76 **not that the removal of all or part of a tree, shrub or other vegetation within the three**
77 **feet area will improve safety, allow for effective maintenance activities, or otherwise**
78 **make the road more compliant with City laws and procedures.**

79
80 Section 2. This ordinance shall take effect upon its adoption by the Homer City
81 Council.

82
83 Section 3. This ordinance is of a permanent and general character and shall be

[Bold and underlined added. Deleted language stricken through]

84 included in Homer City Code.

85

86 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ___ day of _____, 2019.

87

88

89

CITY OF HOMER

90

91

92

93

KEN CASTNER, MAYOR

94

95 ATTEST:

96

97

98

99 _____
MELISSA JACOBSEN, MMC, CITY CLERK

100

101 Introduction:

102 Public Hearing:

103 Second Reading:

104 Effective Date:

105

106 YES:

107 NO:

108 ABSTAIN:

109 ABSENT:

110

111 Reviewed and approved as to form:

112

113

114 _____
Katie Koester, City Manager

Holly Wells, City Attorney

115

116 Date: _____

Date: _____

[Bold and underlined added.] Deleted language stricken through]

