

1 CITY OF HOMER
2 HOMER, ALASKA

Stroozas/Lord

3
4 ORDINANCE 19-27(S)

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 HOMER CITY CODE 11.36.020 AND
9 ADD HOMER CITY CODE 11.36.030 "REMOVAL FOR COMPLIANCE-
10 PUBLIC WORKS DIRECTOR DISCRETION," TO PERMIT PUBLIC
11 WORKS DIRECTOR TO AUTHORIZE REMOVAL OF VEGETATION TO
12 BRING ROADS CONSTRUCTED PRIOR TO CITY REGULATION INTO
13 COMPLIANCE WITH CITY LAWS AND CONSTRUCTION
14 PROCEDURES.

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

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

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24 NOW THEREFORE, The City of Homer Ordains:

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

28
29 Chapter 11.36

30
31 VEGETATION IN RIGHTS-OF-WAY

32
33 Sections:

34 11.36.010 Vegetation in rights-of-way.

35 11.36.020 Removal of vegetation in rights-of-way **and rights-of-way maintenance.**

36 **11.36.030 Removal for compliance - public works director discretion.**

37
38 11.36.010 Vegetation in rights-of-way.

39
40 All or any part of a tree, shrub, **ground material** or other vegetation that is located in,
41 over or under a public right-of-way in the city is subject to removal by the city as necessary for
42 the reasonable public use of the right-of-way, including without limitation removal as

43 authorized in HCC 11.36.020, regardless of whether:

44

45 a. The vegetation existed in, over or under the right-of-way before the granting,
46 dedication or improvement of the right-of-way;

47 b. The vegetation was planted in the right-of-way by another person, including without
48 limitation an owner of property adjacent to the right-of-way; or

49 c. The vegetation originated on property adjacent to the right-of-way, to the extent that
50 limbs, branches or roots of the vegetation extend into, over or under the right-of-way.

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52 **11.36.020 Removal of vegetation in rights-of-way and rights-of-way maintenance.**

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

57

58 a. Obstructs or interferes with the use of the right-of-way by vehicular or pedestrian
59 traffic;

60 b. Obscures visibility to or from the right-of-way or otherwise constitutes a safety
61 hazard;

62 c. Interferes with the maintenance of the right-of-way, including without limitation
63 paving, grading, cleaning, **drainage,** and snow removal;

64 d. Has the potential if not removed to damage pavement or other improvements in the
65 right-of-way;

66 e. Has the potential if not removed to damage or interfere with the operation of
67 overhead or underground public utility facilities in the right-of-way.

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69 **11.36.030 Removal for compliance - public works director discretion**

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71 **a. The public works director retains the sole discretion and authority to remove or**
72 **retain any part of a tree, shrub, ground material, or other vegetation located from the**
73 **outer edge to three feet inside of a City-owned right-of-way abutting a road acquired by**
74 **the City after the road was constructed.**

75

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

81

82 Section 2. This ordinance shall take effect upon its adoption by the Homer City
83 Council.

[Bold and underlined added. Deleted language stricken through]

