

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager/
4 Public Works Director

5 **ORDINANCE 20-26**

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA
8 AMENDING HOMER CITY CODE 11.36 VEGETATION IN RIGHTS-OF-
9 WAY SECTIONS 11.36.010 VEGETATION IN RIGHTS-OF-WAY;
10 11.36.020 REMOVAL OF VEGETATION IN RIGHTS-OF-WAY AND
11 RIGHTS-OF-WAY MAINTENANCE; REPEALING 11.36.030 REMOVAL
12 FOR COMPLIANCE-PUBLIC WORKS DIRECTOR DISCRETION AND
13 REENACTING 11.36.030 ANNUAL ROAD MAINTENANCE PLAN; AND
14 ENACTING 11.36.040 PUBLIC NOTICE AND 11.36.050 EMERGENCY
15 AUTHORITY.
16

17 WHEREAS, In October 2016, the Homer City Council adopted Ordinance 16-51, which
18 established Chapter 11.36, Vegetation in Rights-of-Way, clarifying the City of Homer's right and
19 obligation to maintain public rights-of-way; and
20

21 WHEREAS, In October 2019, the Homer City Council adopted Resolution 19-073(S)
22 establishing a moratorium on the removal of vegetation located in all public rights-of-way and
23 establishing a ROW Policy Evaluation Team; and
24

25 WHEREAS, The ROW Policy Evaluation Team has recommended that it would be
26 beneficial for the Homer City Council to clarify policy and processes involving the removal of
27 vegetation in the public rights-of-way across all City streets.
28

29 NOW THEREFORE, THE CITY OF HOMER ORDAINS:
30

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

33 Chapter 11.36
34 VEGETATION IN RIGHTS-OF-WAY
35

36 Sections:

- 37 11.36.010 Vegetation in rights-of-way.
38 11.36.020 Removal of vegetation in rights-of-way and rights-of-way maintenance.
39 11.36.030 Removal for compliance – public works director discretion
40
41 11.36.010 Vegetation in rights-of-way
42

43 The city recognizes the value trees and vegetation generate for the public good by
44 helping to stabilize soils and their underlying substrates as well as by
45 counteracting the negative effects of “urban deforestation”, beautifying
46 neighborhoods, providing habitat for wildlife, serving as sight/sound barriers,
47 combatting climate change, and providing other benefits. That being said, there
48 are times when the city must exercise its stewardship over public rights-of-way to
49 maintain the functionality and integrity of roads, pedestrian ways and utilities
50 located in said rights-of-way by clearing trees and other vegetation that interferes
51 with that function/integrity. To this end, a

52 All or any part of a tree, shrub, ground
53 material or other vegetation that is located in, over or under a public right-of-way in the
54 city is subject to removal by the city as necessary for the reasonable public use of the
55 right-of-way, including without limitation removal as authorized in HCC 11.36.020,
56 regardless of whether:

- 57 a. The vegetation existed in, over or under the right-of-way before the granting,
58 dedication or improvement of the right-of-way;
59 b. The vegetation was planted in the right-of-way by another person, including
60 without limitation an owner of property adjacent to the right-of-way; or
61 c. The vegetation originated on property adjacent to the right-of-way, to the extent
62 that limbs, branches or roots of the vegetation extend into, over or under the right-
63 of-way.

64
65 11.36.020 Removal of vegetation in rights-of-way and rights-of-way maintenance.

66
67 Except as otherwise provided in this chapter, the City Manager may cause the removal
68 of all or any part of a tree, shrub, ground material or other vegetation that is located on,
69 over or under a public right-of-way if the City Manager finds that the vegetation:

- 70
71 a. Obstructs or interferes with the use of the ~~right-of-way~~ **road** by vehicular or
72 pedestrian traffic;
73 b. Obscures ~~visibility~~ **site distance** to or from the right-of-way ~~or otherwise constitutes~~
74 ~~a safety hazard;~~
75 **c. Constitutes a safety hazard;**
76 ~~e.d. Interferes with the~~ **Obstructs** maintenance of the ~~right-of-way~~ **road**, including
77 without limitation paving, grading, cleaning, drainage ~~and snow removal,~~ **and snow**
78 **storage;**
79 ~~d. e.~~ Has the potential if not removed to damage pavement or other improvements in
80 the right-of-way;
81 ~~e.f.~~ Has the potential if not removed to damage or interfere with the operation **or**
82 **maintenance** of overhead or underground public utility facilities in the right-of-way.
83

84 Section 2. HCC 11.36.030 Removal for Compliance-Public Works Director Discretion is
85 hereby repeal and reenacted as follows:

86
87 **11.36.030 Annual Road Maintenance Plan**

88
89 **a. The public works director shall develop an Annual Road Maintenance Plan,**
90 **which shall be updated on an annual basis, to document (i) the condition of the**
91 **all roads accepted by the city for maintenance, regardless when a particular**
92 **road was accepted, and (ii) the maintenance activities that will be performed**
93 **on said roads.**

94
95 **b. The Annual Road Maintenance Plan shall address, as a minimum, the following**
96 **topics:**

97 **1. Integrity of road structure;**

98 **2. Condition of road surface;**

99 **3. Integrity of drainage ways;**

100 **4. Integrity of any pedestrian ways;**

101 **5. Condition of road signage**

102 **6. Barriers to efficient operations/maintenance, such as limited opportunities**
103 **for snow storage, excessive vegetation, etc.;**

104 **7. A plan for maintenance, which, among other things, could include the**
105 **necessary removal of vegetation and resulting debris cleanup, crack**
106 **sealing, dust control, etc.;**

107 **8. Recommendations for capital improvements, which, among other things,**
108 **could include reconstruction or improvement of drainage works,**
109 **pedestrian ways, etc.**

110
111 **c. The Annual Road Maintenance Plan shall be presented to the City Council for**
112 **information as part of the City's budget process.**

113
114 Section 3. HCC 11.36.040 Public Notice and HCC 11.36.050 Emergency Authority are
115 hereby enacted as follows:

116
117 **11.36.040 Public Notice**

118
119 **a. Whenever the city needs to remove vegetation from its rights-of-way, the city shall**
120 **provide property owners who own property adjacent to the rights-of-way where**
121 **vegetation removal will take place with reasonable notice no less than 30 calendar**
122 **days before the vegetation removal commences.**

123
124 **b. In addition to notice provided under 11.36.040(a), whenever the city needs to cut**
125 **or limb mature trees and/or remove stumps from the rights-of-way, the city shall**

126 **provide property owners who own property adjacent to the rights-of-way where**
127 **the tree cutting/limbing will take place with individual notice no less than 7**
128 **calendar days before the work commences, via door knocking, door hangars, or a**
129 **phone call.**

130
131 **11.36.050 Emergency Authority**

132
133 **a. Upon finding that a hazard which could cause injury or property damage, the City**
134 **Manager is authorized to direct the removal/mitigation of the hazard. In this**
135 **event, the City Manager shall report the incident in his/her next City Manager's**
136 **Report.**

137
138 Section 4. This ordinance is of a permanent nature and general character and shall be
139 included in Homer City Code.

140
141 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 22 day of June, 2020.

142
143 CITY OF HOMER
144 Ken Castner
145
146 KEN CASTNER, MAYOR

147 ATTEST:
148 Melissa Jacobsen
149
150 MELISSA JACOBSEN, MMC, CITY CLERK



151
152 YES: 6
153 NO: 0
154 ABSTAIN: 0
155 ABSENT: 0

156
157 First Reading: 6-8-2020
158 Public Hearing: 6-22-2020
159 Second Reading: 6-22-2020
160 Effective Date: 6-23-2020

161 Reviewed and approved as to form.

162
163 Rick Abboud
164
165 Rick Abboud, Acting City Manager

166
167 Michael Gatti
Michael Gatti, City Attorney
Date: 8/16/2020

Date: 7/6/20