

ORDINANCE NO. 1630

**AN ORDINANCE OF THE CITY COUNCIL OF LAGUNA BEACH,
CALIFORNIA TO ESTABLISH A TREE REMOVAL PERMIT PROCESS
RELATING TO THE REMOVAL OF HERITAGE, DESIGN REVIEW APPROVED
AND PRIVATELY MAINTAINED TREES IN THE PUBLIC RIGHT OF WAY**

The City Council of the City of Laguna Beach does ORDAIN as follows:

SECTION 1. Chapter 12.06 (entitled "Tree Removal Permit Process") is hereby added to the Laguna Beach Municipal Code to read in its entirety as follows:

Chapter 12.06 Tree Removal Permit Process

12.06.010	Intent and Purpose
12.06.020	Definitions
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12.06.040	Permit Application Process
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12.06.010 Intent and Purpose.

The City Council declares that trees serve as an important feature to the urban forest of Laguna Beach. The City Council recognizes that trees not only add to the scenic beauty and character of the community, but also serve to prevent erosion, protect against flood hazards and the risk of landslide, counteract pollutants in the air, decrease wind velocities and help maintain a climatic balance. The City Council further recognizes that while the benefit of trees is great, for a variety of reasons, private property owners may decide to remove trees from their property or privately maintained trees on the public right of way adjacent to their property. These reasons may include but are not limited to tree decline or death, damage to private or public infrastructure, view protection, property maintenance, or simply a desire to modify the visual aspects of their landscape. Further, while the City has various processes that govern the removal

of trees, sometimes a property owner may not be aware of these processes. It is the intent of this chapter to establish a tree removal permit process that will aid in monitoring and processing requests for (1) the removal of Heritage trees, (2) the removal of tree(s) on landscape plan(s) approved through the design review process in Section 25.05.040, and (3) the removal of privately maintained trees in the public right of way. It is also the purpose and intent of this chapter to establish penalties for the unpermitted removal of Heritage trees, trees on design review approved landscape plans and privately maintained trees in the public right of way. This chapter is not intended to encourage or result in the clear-cutting or substantial denuding of any property of its trees or other vegetation by overzealous application of provisions of this chapter. This chapter applies to all properties within the boundaries of the City and the City's permitting jurisdiction, excluding property owned by other governmental entities not subject to the City's regulatory jurisdiction.

12.06.020 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined as follows:

“Authorized agent” means a person who has been designated and approved in writing by the property owner of record to act on his, her or its behalf in matters pursuant to this chapter.

“Certified arborist” means a person with an education and experience in arboriculture or horticulture and is a Registered Consulting Arborist (RCA) of the American Society of Consulting Arborists (ASCA) and/or International Society of Arboriculture (ISA) certified arborist. The certified arborist shall be chosen by staff from a list of qualified and professionally trained persons with whom the city has a contract to provide arborist services.

“City” means the City of Laguna Beach and its city council, employees and staff and those designated by the city council or city staff to act on behalf of the city.

“City-maintained vegetation” means vegetation designated for maintenance by the city. Such vegetation may include vegetation in city parks, on city properties, and city-maintained street trees within rights-of-way. City-maintained vegetation is exempt from the provisions of this chapter.

“City property” means any real property of which the city is the fee simple owner of record.

“Claimant” means any residential property owner or authorized agent submitting an application for a tree removal permit.

“Complete removal” means the removal and disposal of vegetation by sawing or grinding the limbs, leaves, trunk and stump to the existing grade. Complete removal shall not include or require the removal and disposal of a plant’s root system unless specified on the permit to allow for installation of replacement vegetation.

“Diameter at breast height” (DBH) means the diameter of the trunk of a single-trunk tree measured at four and one-half feet above grade level or the total diameter of all stems of a multi-trunk tree measured at four and one-half feet above grade. The diameter is calculated by dividing the circumference in inches by 3.1416.

“Heritage tree” means any tree or stand of vegetation that have been placed on the heritage tree list by the city council pursuant to Chapter 12.08.

“Person” means any individual, individuals, corporation, partnership, firm or other legal entity.

“Privately maintained vegetation in right-of-way” means vegetation located in the public or private right-of-way areas along developed or undeveloped “paper street” roadways, which are the responsibility of private persons to maintain and which are not specifically designated by the city for city maintenance. (A “papers street” is a roadway that has not been formally accepted into the city’s official street system.) Privately maintained vegetation in the right-of-way is subject to the provisions of this chapter.

“Shall” and “May.” “Shall” is mandatory and “may” is permissive, unless the context of the term’s usage indicates otherwise.

“Street” means the entire dimension of ownership (right-of-way) along developed roadways, including vehicular paving, sidewalks and planted or natural areas.

“Tree Removal Permit” means a permit issued by the City of Laguna Beach to allow the removal of Heritage Trees in compliance with Chapter 12.08, trees on a landscape plan approved through the design review process, and privately maintained trees located in the public right of way.

“Vegetation” means woody type plants or grasses taller than six feet in height with the potential to obstruct views. “Vegetation” includes without limitation trees, shrubs, grasses, hedges and bushes. However, “vegetation” shall not include any type of vegetation affected by a prior city tree or vegetation height entitlement, such as a landscape plan in which vegetation height limits were approved through the design review process specified in Section 25.05.040 or finalized hedge or view claim. In addition, “vegetation” shall not include heritage trees or city-maintained vegetation.

“Vegetation owner” means a person owning property, including underlying fee-ownership of privately maintained vegetation in right-of-way, containing vegetation that a claimant applies to remove.

12.06.030 Prohibition on Removal of Trees.

No person shall remove a Heritage tree, a tree approved on a landscape plan approved through the design review process or a privately maintained tree located in the public right of way without first obtaining a Tree Removal Permit (TRP) from the city authorizing such work. The permit may be granted on the condition that the property owner or authorized agent bears the cost of removal, the cost of planting any replacement vegetation and, when required, the cost of a certified arborist consultation. The permit shall become void unless the work is completed within 30 days of issuance of the permit. The time for completion of the work may be extended by the Director of Community Development or his or her designee if the claimant can demonstrate just cause for extending the completion date.

The time for completion of work may be extended if there is evidence provided to the city that the tree(s) subject to the permit for removal contain nests (or eggs) of birds that are designated under the Migratory Bird Treaty Act and California Department of Fish and Game Code, in which instance the city may extend the time for removal the subject tree(s) for up to ninety days following a determination by a qualified biologist or ornithologist that the nest is inactive.

12.06.040 Permit Application Process.

(a) A Tree Removal Permit application shall be submitted to the Director of Community Development and shall include: 1) the property owner’s name, contact information, address and parcel number; 2) the name of authorized agent (when applicable), relationship to property owner, contact information, address; 3) a plot plan of the site with the location of each tree on the application noted on the plan; 4) the common name, species and approximate DBH of each tree requested to be removed; 5) a current photograph of the tree(s) on the site; 6) suggested replacement tree(s) and size; and 7) the reason for the request for removal. Staff will review the application for completeness. Requests for removal based upon the health of the tree shall require an arborist report with the submittal.

(b) The application shall be assigned one of the following category classifications.

Category I: Tree(s) on the City’s Heritage Tree List.

Category II: Tree(s) on a landscape plan approved through the design review process.

Category III: Tree(s) privately maintained located in the public right of way.

(c) Applications submitted for removal of trees on the city's Heritage Tree list will be classified as Category I permits. Applications will be processed in accordance with the procedures established in Chapter 12.08. The city council serves as the decision-making body for Category I permits. The requirement for replacement vegetation, species and size, shall be at the discretion of the city council.

(d) Applications submitted for removal of trees that are part of a landscape plan approved through the design review process will be classified as Category II permits. Applications will be processed in accordance with the procedures established in Section 25.05.040. The design review board shall serve as the decision-making body for Category II permits. The requirement for replacement vegetation, species and size, shall be at the discretion of the design review board upon consideration and recommendation by city staff and the Fire Department. The Zoning Administrator or his or her designee shall set a date for the design review board to consider the permit application. Any decision of the design review board may be appealed pursuant to Section 25.05.070. The City Manager shall set the date for an appeal public hearing by the city council and shall not be limited by the time period specified in Section 25.05.070(B)(6).

(e) (1) Applications submitted for removal of privately maintained trees located in the public right of way will be classified as Category III permits. The application shall be submitted to the Director of Community Development by the adjacent property owner responsible for maintenance of the tree. The Director of Public Works shall be notified of the application and shall be consulted on the request for removal of the tree. The Director of Community Development shall serve as the decision-making body for Category III tree removal permit applications.

(2) The Director of Community Development or his or her designee shall review the application and evaluate the request for removal based upon the criteria established in Section 12.06.050. The requirement for replacement vegetation shall be considered in accordance with Section 12.06.060. Replacement vegetation shall be at the discretion of the Director of Community Development, who may consult with the Director of Public Works. A certified arborist may also be consulted to prepare a report related to the removal and/or replacement species and size. Fees associated with a certified arborist consultation shall be the responsibility of the applicant. Decisions on Category III applications shall state approval or denial of the permit applicant and note if replacement vegetation is required and shall so state species and size of the replacement tree. The expiration date of the permit shall also be noted on approved applications.

(3) Category III applications will be noticed pursuant to Section 12.06.090. The notice shall include a date for an on-site meeting to be held not less than ten days from the date of the notice. The Director may approve or deny the permit application after consideration of public testimony at the on-site meeting. Any decision of the Director of Community

Development may be appealed to the city council pursuant to Section 25.05.070. The City Manager shall set the date for an appeal public hearing by the city council and shall not be limited by the time period specified in Section 25.05.070(B)(6).

12.06.050 Criteria for Tree Removal.

(a) Criteria for removal of Heritage trees (Category I permits) are established in Section 12.08.070.

(b) Criteria for removal of Category II trees (trees included on a landscape plan approved through the design review process) are established in Section 25.05.040(F)(7)(H).

(c) Removal of Category III trees (privately maintained trees in the public right-of-way) shall be based upon consideration of one or more of the following criteria:

(1) The tree proposed for removal is unsuitable to the planting area in that the area is too small to accommodate the height, trunk diameter and canopy or root zone of the tree.

(2) The tree negatively impacts improvements in the public right of way and/or repair of damaged public infrastructure is not possible without removal of the tree.

(3) The site is deemed to be overplanted with mature trees and removal shall enhance the vigor of the remaining trees.

(4) The topography of the building site renders removal desirable.

(5) Removal of the tree will not have an adverse impact on adjacent properties by exposing undesirable features of adjacent structures and/or reducing the beneficial aspects of shading or screening.

(6) Removal of the tree will not have an adverse impact on the established public streetscape or neighborhood aesthetics.

(7) Replacement trees have been proposed to maintain the urban forest canopy and the replacement trees are more appropriate to the site location and to the planting conditions.

12.06.060 Criteria for Replacement Trees.

In order to replenish the urban forest, replacement trees may be required for approval of each tree removal permit.

(a) The city council will determine the requirement for replacement vegetation and approve the species of replacement vegetation for Category I permits.

(b) The design review board will determine the requirement for replacement vegetation and approve the species and size of replacement vegetation for Category II permits.

(c) The Director of Community Development will determine the requirement for replacement vegetation and approve the species and size of replacement vegetation for Category III tree removal permits. Replacement tree(s) will be evaluated based on the industry standard for mature height of the suggested species and any potential view impacts related to the location and mature height. Replacement vegetation may not be required when:

- (1) Replacement vegetation will interfere with overhead or underground utilities.
- (2) Removal is approved due to overcrowding of trees on the site.
- (3) The site, as determined by staff and/or an ISA certified arborist, is not suitable for replanting considering topography, size of planting area and /or soil conditions.
- (4) The site lies within a significant watercourse or the adjacent 25-foot buffer.

The Director of Community Development may request that a certified arborist determine if a replacement tree shall be required for the site. When required, the certified arborist may also determine the appropriate replacement tree species and size. Replacement trees shall be of a minimum fifteen-gallon size or larger. Any replacement tree(s) shall be installed within thirty days after the date the tree is removed from the property. The tree removal permit shall state the species and size of replacement vegetation or state the determination of the Director of Community Development for exclusion of the requirement of a replacement tree. The tree removal permit shall also state that replacement vegetation shall be installed within thirty calendar days after removal of the subject tree.

12.06.070 Duration of the Permit.

Any permit issued in accordance with Chapter 12.06 that is not acted upon within one year from the date of issuance, or, if an appeal is filed, one year from the date of the final decision, shall become null and void, except that the Director of Community Development or his or her designee has the sole discretion to extend the expiration date of any tree removal permit.

12.06.080 Exemptions.

The requirement for a tree removal permit does not apply for removal of a tree based on the following conditions.

(a) Trees within a utility easement where an ISA certified arborist, in writing to the City prior to removal, has determined that such trees are a hazard to utility lines or utility facilities.

(b) Trees that pose an imminent threat to public health, safety and welfare as determined by agents of the city including the City Manager, the Director of Community Development, the Director of Public Works, the Fire Chief, the Police Chief, or the Chief of Marine Safety.

(c) Trees that are structurally unsound, or unstable as determined by an ISA certified arborist, in writing to the City prior to removal, because they are dead, dying, diseased, overcrowded or exhibit other characteristics that pose a threat to public safety and welfare.

(d) Trees with a trunk diameter less than six inches when measured 4'6" above grade.

(e) Trees that are subject to a View Restoration Order adopted by the View Restoration Committee pursuant to Chapter 12.16.

(f) Trees located on private property that cannot be classified under Category I, II or III of this ordinance.

12.06.090 Noticing Requirements.

Noticing of tree removal permits classified as Category I and II shall comply with the procedures established in Section 25.05.065. The applicant shall be responsible for submitting a noticing list with the permit application from an authorized listing agency. Noticing for permits classified as Category III shall be sent to the claimant, the city council and the City Manager, posted on the City's website, emailed to an interested parties list and posted on the tree. In addition, the tree subject to the permit shall be identified with a yellow ribbon. No tree shall be altered in in any way after the date of the application and until a final determination has been made, and the application and notice shall so state.

12.06.100 Violations and Penalties.

(a) Any property owner, firm or corporation, including a contractor of the property owner, who violates any provision of this chapter may be subject to one or more of the following:

(1) Prosecution for an infraction or misdemeanor pursuant to Section 1.04.025.

(2) Daily accrual of civil fines associated with the issuance of an administrative citation pursuant to Chapter 1.15.

(3) Withholding of the issuance of final building permits for a pending project until the approved tree removal permit conditions are successfully implemented.

(4) Assessment of city costs associated with compliance to the tree removal permit through a nuisance abatement act or similar proceeding.

(5) Penalties as prescribed in Chapter 1.18.

(b) In addition to the provisions of subdivision (a), any person committing a violation either knowingly or with intent to remove a tree without a permit may also be subject to an administrative penalty as set forth below. The penalty for removal of permit Category I Heritage trees shall be double the penalty for permit Category II and III trees.

Removal without or in violation of a permit.	Trunk DBH 6" up to 12"	Trunk DBH over 12" up to 24"	Trunk DBH over 24"
Permit Category	I / II & III	I / II & III	I / II & III
First Violation	\$2,000 / \$1,000	\$6,000 / \$3,000	\$10,000 / \$5,000
Second Violation	\$6,000 / \$3,000	\$14,000 / \$7,000	\$24,000 / \$12,000
Third Violation	\$10,000 / \$5,000	\$20,000 / \$10,000	\$30,000 / \$15,000

Note: Each tree removed without a permit or in violation of a permit shall constitute an offense and a separate fine may be assessed. DBH means Diameter at Breast Height. DBH shall be measured as diameter at breast height, 4'6" above the adjacent grade. DBH of multi-trunk trees shall be calculated as the total DBH of all trunks greater than 6".

(c) Any property owner, firm or corporation, including a contractor of the property owner, who violates any provision of this chapter may be subject to other administrative, civil or criminal remedies to the maximum extent permitted by law that may be available to the City.

12.06.110 Remedies not exclusive.

To the maximum extent permitted by law, administrative remedies specified in this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

12.06.120 Fees.

Before accepting for filing any request or application submitted relative to Chapter 12.06, the Department of Community Development shall charge and collect a filing fee for each such request or application as determined by resolution of the city council.

12.06.130 Costs for Tree Removal.

All costs associated with the tree removal shall be at the expense of the property owner. Any damages to the public right-of-way and or infrastructure as a result of removal of a tree shall be the responsibility of the property owner.

SECTION 2: The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Sections 15061(b)(2) and (b)(3) and 15308 of the State CEQA Guidelines.

SECTION 3: All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

ADOPTED this 26th day of June, 2018.



Kelly Boyd, Mayor

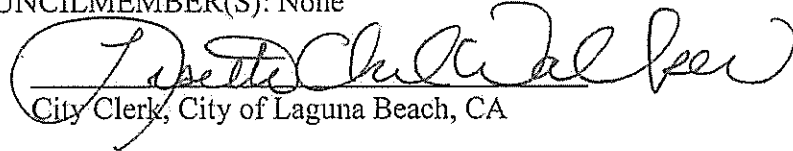
ATTEST:



City Clerk

I, Lisette Chel-Walker, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing **Ordinance No. 1630** was introduced at a regular meeting of the City Council on May 8, 2018 and was finally adopted at a regular meeting of the City Council of said City held on June 26, 2018 by the following vote:

AYES: COUNCILMEMBER(S): Dicterow, Iseman, Whalen, Zur Schmiede, Boyd
NOES: COUNCILMEMBER(S): None
ABSTAIN: COUNCILMEMBER(S): None
ABSENT: COUNCILMEMBER(S): None


City Clerk, City of Laguna Beach, CA