

ORDINANCE NO. 1163

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS
ADDING CHAPTER 13.36 TO THE SAN DIMAS MUNICIPAL CODE
APPROVING COMMUNITY TREE MANAGEMENT
FOR THE CITY OF SAN DIMAS**

WHEREAS, Tree ordinances are adopted by communities striving to attain a healthy, vigorous and well-managed community forest; and

WHEREAS, the Tree ordinance shall include the authorization, regulations, penalties, liabilities, and policy necessary to consistently and objectively manage the community forest.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN DIMAS DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 13.36 is hereby added to the San Dimas Municipal Code and shall read as follows:

Chapter 13.36 COMMUNITY TREE MANAGEMENT

Sections:

- 13.36.010 Purpose.**
- 13.36.020 Definitions.**
- 13.36.030 Responsibility for Community Tree Care.**
- 13.36.040 Tree valuation.**
- 13.36.050 Permits.**
- 13.36.060 Prohibited Activities and Conditions.**
- 13.36.070 Penalties and Liabilities for Violations of this Chapter.**
- 13.36.080 Severability.**
- 13.36.090 Appeals.**

13.36.010 Purpose

This chapter establishes responsibility, policy, standards and regulations necessary to ensure that Community Trees are maintained in a safe and healthy condition through professionally accepted arboricultural standards. In adopting this chapter, it is the intent of the City to protect, preserve and enhance Community Trees as hereafter defined.

13.36.020 Definitions

The definitions in this section shall apply to this chapter. Words used in the singular include the plural and vice versa.

13.36.0201 "Community Tree" means any city owned tree which is located within any public park, city right of way, median, parkway, planting easement, or on any other city-owned property.

13.36.0202 "Community Forest Management Plan" means a written document developed and implemented by the city which sets forth policies, procedures, standards and other relevant guidelines regarding the selection, planting, maintenance and removal of community trees, and establishes general preservation and planned management objectives to promote and perpetuate a sustainable community forest. This management plan shall include a copy of the City Council approved Street Tree Palette and the Designated Street Tree List.

13.36.0203 "Director" means the Director of the Parks and Recreation Department or his or her designee.

13.36.0204 "Easement" or "right-of-way" means land owned by another over which the city has an easement or right-of-way for street and related purposes.

13.36.0205 "Parkway" refers to that portion of a street right-of-way which is available for landscaping, and not for curb, gutter or pavement.

13.36.0206 "Heritage Tree" is a Community Tree which by virtue of its species, size, age, appearance or historical interest has been found by the City Council to be of importance to the community. The Parks and Recreation Department shall retain a detailed inventory of all Heritage Trees.

13.36.0207 "Maintain" or "maintenance" means activities such as, but not limited to, trimming, root-pruning, spraying, watering, fertilizing, mulching, treating for disease or injury, or any other similar act which promotes the safety, growth, health, beauty and life of any Community Tree.

13.36.0208 "Owner" means and includes all Persons who have a legal interest in private real property, as well as tenants, lessees, and other persons who have control or possession of, or who are responsible for, private real property.

13.36.0209 "Person" means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture, trust or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons. "Person" also includes any public entity or agency that acts as an owner in the city.

13.36.0210 "Pruning," "trimming" or "thinning" means and includes any act by which the reduction of the density of a Community Tree using professionally accepted arboricultural standards occurs.

13.36.0211 "Responsible Person" means and includes any Person, whether as an owner as defined in this section, or otherwise, who allows, causes, creates, maintains, or permits a violation of this chapter to exist or continue, by any act or the omission of any act or duty. The actions or inactions of a Responsible Person's agent, employee, representative, service provider or contractor shall be attributable to that Responsible Person. Such persons shall also constitute Responsible Persons.

13.36.0212 "Topping", "stubbing" or "pollarding" means removal of a branch to a stub, bud or lateral branch not large enough to assume a terminal role which produces less desirable results than more moderate pruning with respect to the natural form of the tree and which is generally hazardous to the overall health and stability of the tree.

13.36.030 Responsibility for Community Tree Care

The powers and duties of the Director under this chapter are as follows:

- A. To have charge of, direct and supervise the planting, maintenance, and removal of any Community Tree.
- B. To establish and revise when necessary the Community Forest Management Plan which states policies, procedures, and standards concerning the selection, planting, maintenance and removal of community trees.
- C. To review all landscaping, construction or development plans when the actions proposed therein, may directly or indirectly, affect the health or welfare of Community Trees.
- D. To grant or deny the issuance of all permits for the planting, pruning or maintenance of Community Trees.
- E. To impose conditions on the issuance of a permit that is granted pursuant to this chapter.
- F. To prepare and keep appropriate records of all Community Trees as deemed necessary.
- G. To enforce the provisions of this chapter.

13.36.040 Tree Valuation

When it is necessary to assign a value to a Community Tree the latest edition of the International Society of Arboriculture Guide for Plant Appraisal shall be utilized.

13.36.050 Permits

- A. A Person shall obtain a written permit from the Director prior to undertaking, causing or allowing the following actions, to occur:
 - (1) Planting, pruning, root pruning, thinning, trimming, or otherwise performing, causing, or allowing an act of maintenance to occur on a Community Tree.
 - (2) Applying pesticides to a Community Tree.
 - (3) Engaging in any form of alteration, construction, demolition, relocation or repair of a building or structure, or commencing any other form of improvement on city or private real property that may directly or indirectly affect the health or welfare of a Community Tree. A permit is required pursuant to this chapter notwithstanding the issuance of any city technical code permits, approvals or other permits.
- B. Applications for permits must be made to the Parks and Recreation Department on forms provided by the department, and shall include such information as the Director deems necessary to review the application. A fee shall not be charged for a permit issued pursuant to this section.
- C. The Director shall issue a permit, upon determining that, the public interest is best served by such action, and that the service provider, in performing the proposed action will

adhere to the standards defined in the Community Forest Management Plan. Any permit granted shall contain a date of expiration and the work must be completed in the time allowed on the permit and in the manner in which it is described. A permit shall be null and void if its terms are violated.

D. The Director may impose conditions to any permit in order to protect the health and welfare of Community Trees.

E. Work undertaken by the permittee or his or her agents may be stopped immediately and the permit may be revoked by oral or written order of the Director when it is determined that the program of work or conditions violates the terms of the permit.

F. City personnel, contractors and service providers who remove a Community Tree pursuant to a written agreement with the city are exempt from the requirements of this section.

13.36.060 Prohibited Activities and Conditions

It is prohibited and unlawful for any Person to do, cause, or allow the following activities or conditions to occur:

A. Damage, carve, disturb, transplant, prune, root prune or remove any Community Tree, or undertake any other action that may directly or indirectly affect the health or welfare of a Community Tree, except as provided in pursuant to section 13.36.050.

B. Top, stub or pollard any Community Tree.

C. Cause or allow any poison or other substance harmful to tree life to lie, leak, pour, flow or drip upon or into the soil within the drip line of any Community Tree; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of a Community Tree; or to operate any device, equipment, object or tool such as a mechanical weeding device, in such a manner as to cause damage to a Community Tree in any way.

D. Except pursuant to a permit issued by the Director pursuant to section 13.36.050, improve a city easement or public dedication area, or parkway that is on or abuts private real property with structures or hardscape materials (including but not limited to, concrete, asphalt, bricks or pavers) or to otherwise place, store or maintain any stone, brick, concrete, lumber, tile, pipe or other personal property in such areas when such actions, structures, materials and items could directly or indirectly damage a community tree because of harm or possible harm to its root system or any portion of the tree or when such actions, structures, materials and items could compact the soil over roots or otherwise impede free passage of water, air or fertilizer to the root system of a Community Tree.

E. Cause or allow irrigation on or in close proximity in such a manner as to cause harm, decline or death to a Community Tree.

F. Install or maintain any plants, vegetation or irrigation system underneath the canopy of a Coast Live Oak (*Quercus agrifolia*) except plants, vegetation or irrigation system that is approved in writing by the Director. The Parks and Recreation Department shall maintain a list of City approved plants that are appropriate for planting beneath the canopy of the native Coast Live Oak. The City has the right to cause to be removed any unapproved plants, vegetation or irrigation systems that are growing or installed beneath a community Coast Live Oak tree.

G. Fail to install, implement or maintain sufficient guards or protectors, as identified in the Community Forest Management Plan, during the course of any construction or repair to, or alteration or demolition of a structure, or other improvement on city or private real property so as to prevent injury, harm or detriment to any Community Tree. Prior written approval of the Municipal Arborist shall be obtained before such devices are installed or implemented.

H. Undertake actions for which a permit is required; exceed the scope of a permit; violate a condition of a permit, or perform actions after a permit has expired.

13.36.070

Penalties and Liabilities for Violations of this Chapter

A. Any Person who violates any provision of this chapter is guilty of a misdemeanor, unless the prosecuting attorney charges the offense as an infraction.

B. Responsible Persons shall be jointly and severally liable to the city for the appraised value of each Community Tree that is removed in violation of this chapter, as well as for each damaged or injured Community Tree that the Director determines will not regain its complete health, appearance or life expectancy as a result of an action or inaction that constitutes a violation of this chapter.

C. Responsible Persons who unlawfully remove an entire Community Tree, or who partially remove, damage or injure a Community Tree in violation of this Chapter, which the Director determines must then be entirely removed, shall also mitigate the loss of said tree to the community forest as follows:

(1) Heritage Trees shall be replaced at a ratio of four to one, either on the site of their removal or in other public areas in the city as determined by the Director.

(2) Other Community Trees shall be replaced at a ratio of two to one, either on the site of their removal or in other publicly owned or dedicated areas in the city as determined by the Director.

(3) Responsible persons shall be jointly and severally liable to the city for the removal costs and disposal charges or fees in connection with any damaged Community Tree. These include, but are not limited to, the costs and expenses that the city incurs when city personnel are used, or those fees and expenses that a contractor charges the city for its services. When a contractor removes and disposes of a tree, the responsible persons, shall also be jointly and severally liable to the city for staff time of city personnel in overseeing this project.

(4) Tree replacement size shall be determined based upon tree valuation per section 13.36.040. Responsible Persons shall be jointly and severally liable for the city's purchase and delivery of such trees to the selected locations, as well as for the cost of their installation.

(5) If the Director elects to not designate a replacement location, the Responsible Person shall nevertheless be jointly and severally liable for the city's present cost of replacement trees, which funds, when received, shall be placed in a Community Tree fund and utilized for Community Tree planting projects in the city.

(6) The Responsible Persons shall tender full payment for the liabilities described in Subsections (B) and (C) above to the city within ten (10) calendar days of the date the Parks and Recreation Department issues a written request for payment by first class mail to said person. The city's receipt of full payment of said liabilities from one Responsible Person shall inure to the benefit of any other Responsible Persons. The city may collect unpaid sums

in any manner allowed by law.

D. The liabilities set forth in this section shall be in addition to any other fines, damages or other sanctions that may be imposed on a responsible person pursuant to California Civil Code Section 3346 or other applicable state law.

E. The penalties and consequences provided for in this section are cumulative and not exclusive.

13.36.080 Severability

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same shall not affect the validity of the chapter as a whole, or parts thereof, other than the part so declared to be invalid.

13.36.090 Appeals

Should any person disagree with a determination made by the Director they may appeal to the City Manager or his or her designee. All appeals shall be made in writing and shall state the basis for the appeal.

SECTION 2. This ordinance shall take effect thirty (30) days after its final passage, and within fifteen (15) days after its passage, the City Clerk shall cause it to be published at least once in the Inland Valley Daily Bulletin, a newspaper of general circulation published in the City of San Dimas, and hereby designated for that purpose.

PASSED, APPROVED AND ADOPTED this 24th day of October, 2006.

Jeffrey Templeman Pro Tem
Mayor of the City of San Dimas

ATTEST:

Andrea Ruiz
City Clerk

I, INA RIOS, City Clerk of the City of San Dimas, do hereby certify that the foregoing Ordinance No. 1163 was regularly introduced at the regular meeting of the City Council on October 10, 2006, and was thereafter adopted and passed at the regular meeting held on October 24, 2006, by the following vote:

AYES: Councilmembers Bertone, Ebiner, McHenry, Morris
NOES: None
ABSENT: Mayor Pro Tem Templeman
ABSTAIN: None

I DO FURTHER CERTIFY that within fifteen (15) days from the date of its passage, I caused a copy of said Ordinance No. 1163 to be published in the Inland Valley Daily Bulletin.



City Clerk