

CITY COUNCIL OF THE CITY OF HERCULES

ORDINANCE NO. 331

AN ORDINANCE OF THE CITY OF HERCULES
ADDING CHAPTER 4-14 TO THE HERCULES
MUNICIPAL CODE TEMPORARILY PROHIBITING
THE REMOVAL OF MATURE TREES ON PUBLIC
AND PRIVATE PROPERTY

The City Council of the City of Hercules does hereby ordain as follows:

SECTION 1. Chapter 14, entitled "Removal of Mature Trees" is hereby added to Title 4 of the Hercules Municipal Code, to read as follows:

Section 4-14.01	Purpose
Section 4-14.02	Definitions
Section 4-14.03	Tree Removal Prohibited
Section 4-14.04	Exceptions
Section 4-14.05	Tree Removal in Conjunction with Development
Section 4-14.06	Penalties
Section 4-14.07	Sunset Provision

4-14.01 **Purpose.** The presence of mature trees within the City of Hercules constitutes an important community amenity. These trees are found on both public and private property. This has raised a concern that mature trees could be removed from land slated for development, precluding the City from planning for the preservation of trees and identifying feasible mitigation measures during the land use approval process. At present, the City has no regulations restricting the removal of trees. The uncontrolled removal or destruction of mature trees on undeveloped or partially developed properties threatens to adversely affect the character and scenic beauty of the City and increase the risk of erosion and flooding. Removal of large numbers of mature trees could create an environmental impact which would not be subject to City review under current ordinances. In order to preserve the public health, safety and general welfare, it is necessary to establish a prohibition on the removal of any living mature trees in the City. The City Council specifically declares its intention not to restrict the removal of trees by residential property owners.

4-14.02 Definitions.

A. "Mature tree" includes any living tree with a trunk diameter measuring twelve (12) inches or greater when measured at "breast height," which is roughly four and one-half (4-1/2) feet above the surface of the ground.

B. "Tree removal" shall include any one or more of the following:

- (1) Complete removal of a mature tree.
- (2) Any action foreseeably leading to the death of a mature tree or permanent damage to its health.
- (3) Removal of more than one-third (1/3) of the foliage of a mature tree, except where such removal of foliage is necessary for periodic maintenance appropriate to the particular tree species in question.

C. "Undeveloped or partially developed property" includes all properties which are available for future development or redevelopment, but does not include developed residential or nonresidential properties.

4-14.03 Tree Removal Prohibited. Except as provided in Section 4-14.04 or 4-14.05, no mature tree shall be removed from any undeveloped or partially developed property, whether public or private, within the City of Hercules for any reason.

4-14.04 Exceptions.

A. If a mature tree poses an immediate and substantial threat to the safety of persons or property, the property owner may contact the Public Works Director and request approval to remove the tree. After consultation with the City Manager if at all possible, the Public Works Director shall confirm that an emergency situation exists. The Public Works Director may then authorize removal. The Public Works Director may consult with a certified arborist if deemed necessary to confirm the necessity for tree removal. The removal of a mature tree under emergency conditions with approval by the Public Works Director shall be reported to the City Council at the next regularly scheduled City Council meeting.

B. The prohibition in section 4-14-03 shall not apply to trees located on the grounds of any public school within the City.

4-14.05 Tree Removal in Conjunction with Development.

Mature trees may be removed in conjunction with development projects for which the City has issued all necessary land use approvals, provided however, that the City approves and the developer implements a tree replacement plan. In addition, mature trees may be removed in conjunction with development projects for which the California Department of Toxic Substances Control, U.S. Army Corps of Engineers and/or the California Department of Fish and Game has issued a permit, provided that the following conditions are satisfied:

A. The property owner has obtained and is in compliance with a Grading Permit and Erosion and Sediment Control Plan pursuant to Chapter 7-2 of this Code;

B. The City has approved and the property owner is implementing a tree replacement plan as part of an environmental mitigation program approved by the applicable state or federal agency; and

C. The proposed pre-development activities are consistent with the City's General Plan, as determined by the Community and Business Development Director.

4-14.06 Penalties. Violation of any of the provisions of this Chapter or the knowing or intentional misrepresentation to any officer or employee of the City of any material fact when requesting tree removal under Sections 4-14.04 or 4-14.05 shall constitute a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.

SECTION 2. Publication and Effective Date.

A. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or

2. Publishing the entire Ordinance at least once in the *West County Times*, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or

3. Publishing a summary of the Ordinance prepared by the City Attorney in the *West County Times* and posting a certified copy of the

entire Ordinance in the office of the City Clerk at least five (5) days prior to passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

B. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

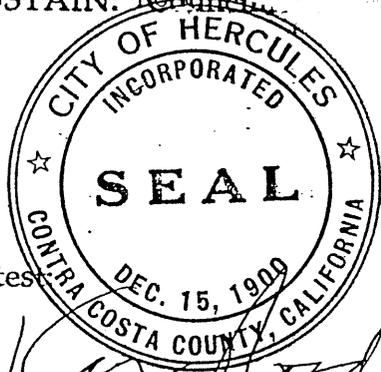
THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 12th day of December, 1996, and was passed and adopted at a regular meeting of the Hercules City Council on the 9th day of January, 1996, by the following vote:

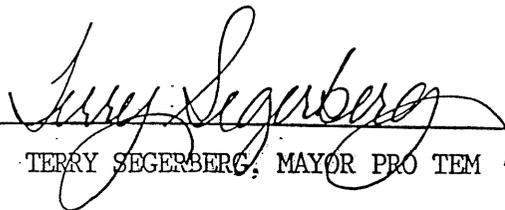
AYES: Bärtke, Manuel, Wagstaff, Segerberg

NOES: None

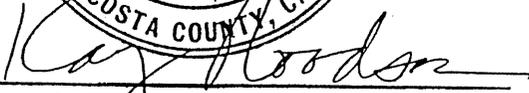
ABSENT: Tucker

ABSTAIN: ~~None~~

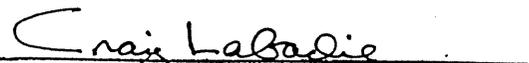



TERRY SEGERBERG, MAYOR PRO TEM

Attest


Kay Woodson, City Clerk

Approved as to form:


Craig Labadie, City Attorney