ORDINANCE NO. 1466

AN ORDINANCE AMENDING CHAPTER 9-3 OF THE EL SEGUNDO MUNICIPAL CODE IN ITS ENTIRETY REGARDING STREET TREES.

The city council of the city of El Segundo does ordain as follows:

<u>SECTION 1:</u> Chapter 9-3 of the El Segundo Municipal Code ("ESMC"), entitled "*Parkway Rules and Regulations*," is amended in its entirety as follows:

"CHAPTER 9-3 -- STREET TREES

9-3-10: PURPOSE.
9-3-20: DEFINITIONS.
9-3-30: DIRECTOR'S AUTHORITY.
9-3-40: DIRECTOR'S DUTIES.
9-3-50: TREE REMOVAL OR MAINTENANCE BY DIRECTOR.
9-3-60: TREE REMOVAL OR MAINTENANCE BY PRIVATE PERSONS.
9-3-70: PROHIBITIONS.
9-3-80: COST RECOVERY.
9-3-90: PRIVATE TREES.
9-3-100: TREE REPLACEMENT.
9-3-110: PERMIT CONDITIONS.
9-3-120: HOUSE MOVING PERMIT.
9-3-130: IMPROVEMENT APPROVAL.
9-3-140: PAYMENTS AND CHARGES.
9-3-150: APPEALS.

9-3-160: **TREE TRUST FUND**.

- **9-3-10:PURPOSE.** This chapter is adopted pursuant to Article XI, § 7 of the California Constitution for the purpose of enhancing public health, safety, and welfare by regulating the planting and removal of trees, and other vegetation, located within the city's streets and public right-of-ways.
- **9-3-20:DEFINITIONS.** Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter:
 - A. "Director" means the city manager, or designee.
 - B. "Trees" collectively means trees, shrubs, and other vegetation.
 - C. "Public Right-of-Way" means any city street, sidewalk, pedestrian path, bike path or any other "public way," as defined by Streets & Highways Code § 18609, and any successor statute.

D. "Public street" means any city street or public right-of-way including, without limitation, the curb and gutter.

9-3-30: DIRECTOR'S AUTHORITY.

- A. Tree Maintenance. The director may direct the manner in which trees, shrubs, and other vegetation are planted, trimmed, pruned, cut, removed, placed, and otherwise maintained in and along all public streets.
- B. Kind and spacing of trees. The director will identify the type and variety of trees that may be placed in, upon, or along any street or portion thereof and the distance apart at which such trees will be planted.
- C. Improper planting. Whenever any tree is planted or set out in conflict with the provisions of this chapter, the director may remove it in accordance with this chapter. The cost of removal may be charged to the property owner responsible for the planting thereof.
- D. Permits. The director will receive applications, issue and revoke permits, and otherwise implement this chapter according to the procedures herein.

9-3-40:DIRECTOR'S DUTIES.

- A. Planting trees. The director will cause trees to be planted in, upon, or along the streets of this city in accordance with all applicable laws and encourage the planting, care, and preservation of all such desirable trees.
- B. Records. The director will prepare and maintain all necessary maps, plans, and records relating to the various functions carried on under this chapter.
- C. Reports. The director will report to the city council annually on the work and activities carried on under the provisions of this chapter. The director will also prepare and properly submit all reports required by law in connection with the planting or maintaining of trees on the streets of this city.
- D. Pest control. The director will properly control and remedy, by recognized methods, all insect pests and diseases which, if untreated, may permanently injure, disfigure, or kill any street tree or trees.
- E. Tree guards. Tree stakes or guards may be placed around trees, providing the same are near the tree for protecting or training such tree and providing that no hazard to public safety is created.

- F. Protection from injury. No person will pile building material, or other material, around any tree, plant or shrub in a street in such a manner that will in any way injure the tree.
- G. Landscaping Plans. The director will review landscaping plans for proposed developments and may require that trees be planted in any of the streets, parking lots, and other public places abutting the proposed development in accordance with the City tree policy.
- H. Administrative Policies and Procedures. The director is authorized to promulgate administrative policies and procedures to implement this chapter.

9-3-50:TREE REMOVAL OR MAINTENANCE BY DIRECTOR. The director may remove or maintain trees from public streets if the director determines that one or more of the following conditions exist:

- A. If a tree is dead, in severe physical decline; or if there is splitting or cracking of major limbs or the tree trunk; or if the tree appears dangerous or obstructive to public safety or travel.
- B. If the tree is incurably infected with a disease which will permanently injure, disfigure, or kill it.
- C. If there is a conflict between tree roots and sewer lines when:
 - 1. The street tree is located within ten (10) feet of the sewer lateral;
 - 2. Tree roots are evidenced by photographs and/or physical inspection of the sewer line as verified by the director; and
 - 3. Repair methods that allow sewer line repair/replacement to occur with minimal disruption to the tree are deemed inappropriate by the director.
- D. If tree growth resulted in sidewalk, curb, or gutter disruption that cannot be reasonably repaired without removing the tree.
- E. If the director determines that a specific tree is an inappropriate species, which was not permitted by the city, or conflicts with the city's tree master plan.
- F. When the director determines that tree removal or maintenance is justified to otherwise protect public health, safety, or welfare.

9-3-60:TREE REMOVAL OR MAINTENANCE BY PRIVATE PERSONS. Private persons seeking to remove or maintain a tree from a public street must apply to the director for a

tree permit. The director may issue a permit to such private parties to remove or maintain a tree if all the following apply:

- A. Tree removal or maintenance will occur under the direction of a certified arborist and completed by a licensed contractor. Tree removal or maintenance must adhere to standards issued by the International Society of Arboriculture);
- B. Trees sought to be removed must meet the criteria set forth in this chapter for removal;
- C. All removal or maintenance costs are borne by the permittee. A permittee must submit a refundable \$250 security deposit with the City to ensure compliance with this section;
- D. A permittee must pay a permit fee to the City in an amount established by City Council resolution:
- E. A permittee is required to mail notice to homeowners within fifty feet of the tree proposed for removal informing them of the intent and reason for the removal. The persons have fourteen (14) days to protest the removal to the Recreation and Parks Commission;
- F. The permittee complies with all other permit conditions listed in this chapter including, without limitation, entering into a hold harmless agreement with the city;

9-3-70:PROHIBITIONS.

- A. It is unlawful to attach or keep attached to any tree, tree guard, or tree stake located within a street, park, or other public place any wire, rope, sign or any other matter without first obtaining a tree permit issued in accordance with this chapter.
- B. It is unlawful for any person to plant, prune, deface, destroy, or remove or in any manner injure any tree on any street without first obtaining a tree permit issued in accordance with this chapter.
- **9-3-80:COST RECOVERY**. Except as otherwise provided by this chapter, or when tree removal is requested by a permittee, the city will bear the cost of removing trees and other vegetation under this chapter.
- **9-3-90:PRIVATE TREES.** If any tree standing on private property, but overhanging or extending into any street, is dead, appears ready to fall, is dangerous or obstructive to public safety or travel the director will have the tree or parts of it that are dangerous or obstructive, cut

down and removed in accordance with the nuisance abatement proceedings set forth in this code.

- 9-3-100: TREE REPLACEMENT. Whenever a tree is removed or destroyed pursuant to any tree permit, the permittee must plant another tree, of the kind and size specified in the permit, to replace the one destroyed or removed, within forty (40) days after the permit was issued.
- **9-3-110: PERMIT CONDITIONS.** The director may condition a tree permit on the following:
 - A. That the permittee plant another tree in the place of the one removed or destroyed.
 - B. That a particular species of tree, as determined by the city's approved street tree list, be used as a replacement. The director will select the species of tree that may be planted.
 - C. That the permittee enter into a hold harmless agreement with the city which will, in part, indemnify the city, its officers, employees, and agents, from any liability arising from the permittee's activities in a form approved by the city attorney.
- 9-3-120: HOUSE MOVING PERMIT. No person will move any building or other object along any street in such manner that trees are injured without first obtaining a permit. If deemed advisable, the director may require any person moving a building or other object into or along a street in this city to furnish a bond in an amount sufficient to cover the damage to or destruction of trees or shrubs on any street.
- **9-3-130: IMPROVEMENT APPROVAL.** No improvement will be installed or earth removed which may affect the root system of a street tree, if such improvement or earth removal is to be within six (6) feet of such street tree, without first obtaining a permit.
- **9-3-140: PAYMENTS AND CHARGES.** The director, subject to city council approval, will establish charges for obtaining permits under this chapter. Permit charges must be made at the time of issuance. The charges to be made for a permit are to merely cover costs of investigation, supervision or inspection and may be reestablished periodically.
- **9-3-150:** APPEALS. The director's decisions in implementing this chapter may be appealed to the recreation and parks commission. A decision of that commission is final.
- **9-3-160: TREE TRUST FUND.** All fees, fines, or assessments as defined in this chapter or the tree policy will be deposited in a Tree Trust Fund and reinvested into the city's community forest."
- SECTION 2: CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. This ordinance is exempt from review under the California Environmental Quality Act (California

Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it establishes rules and procedures to permit operation of existing facilities; minor temporary use of land; ensure maintenance, restoration and protection of the environment; and regulate normal operations of facilities for public gatherings. This Ordinance, therefore, is categorically exempt from further CEQA review under Cal. Code Regs. Title 14, §§ 15301, 15304(e), 15308, and 15323.

SECTION 3: SAVINGS CLAUSE. Repeal of any provision of the ESMC or any other regulation by this Ordinance does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

<u>SECTION 4:</u> SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

<u>SECTION 5:</u> VALIDITY OF PREVIOUS CODE SECTIONS. If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the ESMC or other regulation by this Ordinance will be rendered void and cause such ESMC provision or other regulation to remain in full force and effect for all purposes.

<u>SECTION 6:</u> The City Clerk must certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen calendar (15) days of the adoption and post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code § 36993, for the City of El Segundo.

SECTION 7: This Ordinance will become effective on the thirty-first (31st) day following its passage and adoption.

PASSED AND ADOPTED this 1st day of November 2011.

Eric Busch, Mayor

ATTEST:

STATE OF CALIFORNIA)	
COUNTY OF LOS ANGELES)	SS
CITY OF EL SEGUNDO)	

I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance No. 1466 was duly introduced by said City Council at a regular meeting held on the 18th day of November, 2011, and was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 1st day of November, 2011, and the same was so passed and adopted by the following vote:

AYES:

Busch, Fisher, Brann, Fuentes, Jacobson

NOES:

None

ABSENT:

None

ABSTAIN:

None

Cindy Mortesen, City Clerk

APPROVED AS

Mark D. Hensley, Qi

By:

Karl H. Berger, Assistant City Attorney