

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, AMENDING CHAPTER 12.35 (“TREES AND
SHRUBS”) OF TITLE 12 (“STREETS, SIDEWALKS AND
PUBLIC PLACES”) OF “THE CODE OF THE CITY OF
SANTA CLARA, CALIFORNIA”**

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, Section 12.35.150 (“Appeals”) of Chapter 12.35 (“Trees and Shrubs”) of Title 12 (“Streets, Sidewalks and Public Places”) of “The Code of the City of Santa Clara, California” (“SCCC”) stipulates that all appeals to a violation based on Chapter 12.35 shall be heard by the City Council; and

WHEREAS, the language governing appeals in SCCC Section 12.35.150 is inconsistent with the standard rules set forth in Chapters 1.05.070 (“Prosecutorial discretion for enforcement – Continuing violations – Range of penalties – Enforcement cost recovery”) and 1.10 (“Administrative Penalties – Citations”) of the SCCC; and

WHEREAS, the City desires to have violations of Chapter 12.35 follow the rules set forth in Chapter 1.05.070 by which a violation may be enforced as a criminal, civil, or administrative action; and

WHEREAS, In the event a violation of Chapter 12.35 is enforced as an administrative action, the City desires appeals for such violations follow the typical appeal procedures set forth in SCCC Chapter 1.10.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Section 12.35.140 (“Penalty for violation”) of Chapter 12.35 (entitled “Trees and Shrubs”) of Title 12 (entitled “Streets, Sidewalks and Public Places”) of the

SCCC is repealed in its entirety and replaced with the following:

“12.35.140 Penalty for violation.

(a) Any person who intentionally or negligently violates any of the provisions of this chapter or any permit issued to it, the City may assess a monetary penalty in a sum not to exceed five thousand dollars (\$5,000).

(b) In the event that the violation results in any substantial injury, damage, or removal of a city tree or protected tree as determined by the City Manager, an additional penalty shall be assessed in the amount of the monetary value of the tree, which is determined based on location, species and tree size. The appropriate penalty shall apply separately to each tree affected by the improper action.

(c) In any civil action brought to seek such civil penalties, and/or to obtain injunctive relief for violation of any provision of this chapter, in which the City prevails, the court shall determine and impose reasonable expenses, including the costs of employee time and attorneys’ fees incurred by the City in the investigation and prosecution of the action.

(d) The remedies provided for in this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal.”

SECTION 2: That Section 12.35.150 (“Appeals”) of Chapter 12.35 (entitled “Trees and Shrubs”) of Title 12 (entitled “Streets, Sidewalks and Public Places”) of the SCCC is repealed in its entirety and replaced with the following:

“12.35.150 Enforcement.

Pursuant to SCCC 1.05.070, the City, in its prosecutorial discretion, may enforce violation(s) of the provisions of this Chapter as a criminal, civil, and/or administrative action. Administrative citations issued under this Chapter shall follow the process set forth in

SCCC 1.10.”

SECTION 3: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 4: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

PASSED FOR THE PURPOSE OF PUBLICATION this _____ day of _____, 2022, by the following vote:

AYES: COUNCILORS:
NOES: COUNCILORS:
ABSENT: COUNCILORS:
ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None