

ORDINANCE 1257

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF INYO, STATE OF CALIFORNIA,
ADDING CHAPTER 12.20 TO THE INYO COUNTY CODE AND AMENDING
CHAPTER 12.08 OF THE INYO COUNTY CODE RELATED
TO VEGETATION MANAGEMENT WITHIN THE RIGHT-OF-WAY**

The Board of Supervisors of Inyo County ordains as follows:

SECTION ONE. PURPOSE.

The purpose of this Ordinance is to add Chapter 12.20 to the Inyo County Code and amend Chapter 12.08 of the Inyo County Code to clarify certain responsibilities and rules surrounding the maintenance of trees and vegetation in the County highway, in the streetside apron / sidewalk, and on private property.

SECTION TWO. AUTHORITY.

This Ordinance is enacted pursuant to general police power possessed by the Inyo County Board of Supervisors as a means to protect public health and safety, preserve community aesthetics, and ensure the accessibility of Inyo County's roads and pedestrian areas.

SECTION THREE. MODIFICATIONS TO TITLE 12.

Chapter 12.20, attached hereto as Exhibit A, is hereby added to Title 12 of the Inyo County Code. Chapter 12.08 of the Inyo County Code is hereby amended as shown in Exhibit B. All other sections of Title 12 are not modified.

SECTION FOUR. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

SECTION FIVE. CEQA COMPLIANCE.


This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.)

SECTION SIX. EFFECTIVE DATE.

This ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this ordinance together with the names of the Board members voting for or against the same.

PASSED AND ADOPTED this 7th day of July, 2020, by the following vote:

AYES: -5- Supervisors Griffiths, Kingsley, Pucci, Tillemans, Totheroh
NOES: -0-
ABSTAIN: -0-
ABSENT: -0-



MATT KINGSLEY, Chairperson
Inyo County Board of Supervisors

ATTEST: Clint Quilter
Clerk of the Board

By: 

Darcy Ellis, Assistant
Assistant Clerk of the Board

Exhibit A

Inyo County Code Chapter 12.20 – County Roads and Trees Policy

12.20.010 Definitions

As used in this Chapter, the following terms shall have the following meanings:

1. “Adjacent to” or “abuts” shall mean and refer to any two parcels of land or areas of land that share a common boundary line.
2. “County highway” shall mean and refer to the entire width of the right-of-way that has been dedicated to and accepted by the County for highway purposes, minus the area that constitutes the “streetside apron,” as that term is defined below.
3. “County highway vertical clearance area” shall mean and refer to the area directly above a County highway to a height of 14 feet. For paved sidewalks, the vertical clearance area shall be measured in a straight line directly up from the face of the curb. For unpaved sidewalks, the vertical clearance area shall be measured in a straight line directly up from the outer edge of the pavement.
4. “Streetside apron” shall mean and refer to the portion of the County highway that is bounded by private property on one side and, in the case of unpaved sidewalks, the edge of the pavement on the other side. In the case of paved sidewalks, “sidestreet apron” shall mean and refer to the portion of the County highway that is bounded by private property on one side and the face of the curb on the other side.
5. “Private property” shall mean and refer to the land that abuts the sidestreet apron over which the owner has exclusive and absolute rights such that the owner may exclude the public from the land.
6. “Tree” shall mean and refer to any woody perennial plant having a single main axis, stem, or trunk, exceeding 8 feet in height.
7. “Vegetation” shall mean and refer to any plant that is not a tree.

12.20.020 Responsibility of property owner for maintenance of the streetside apron

Property owners shall be solely responsible for the maintenance of any streetside apron that is adjacent to any portion of their property. The streetside apron must be maintained in a manner that permits the safe and unobstructed passage of pedestrian traffic.

Maintenance responsibilities include, but are not limited to:

1. Maintaining trees in a properly trimmed state so that their branches do not present a hazard to pedestrians, vehicles, or private property and do not pose an excessive fire or fall hazard.
2. Maintaining trees in accordance with the standards set forth by the American National Standards Institute Standard for Tree Pruning (ANSI A300), as it may be amended from time to time.

3. Removing or remedying trees that are dead, seriously diseased, badly out of balance, or in the process of falling.
4. Trimming vegetation so that it does not obstruct travel on the streetside apron or present a hazard to pedestrians, vehicles, or private property.
5. Keeping the streetside apron free of permanent obstructions, refuse, junk, or any other large objects that would impede pedestrian travel.
6. Ensuring that paved sidewalks are not excessively cracked, lifted, or vertically displaced.
 - a. A crack greater than 2 inches in width is deemed excessive per se.
 - b. A vertical displacement or lift greater than 1 inch is deemed excessive per se.
7. Ensuring that paved sidewalks meet all structural and accessibility requirements set out in the Americans with Disabilities Act and the California Building Code.

A property owner shall be responsible for any nonconformance with the responsibilities listed above, regardless of the source or cause of the nonconformance.

Nothing in this section shall be interpreted to prohibit the parking of a properly registered and operable vehicle on an unpaved streetside apron if parking is otherwise permitted in that area.

12.20.030 Responsibility of property owner for maintenance of private property

Property owners shall be solely responsible for the maintenance of any trees or vegetation located on private property. Trees and vegetation located on private property must be maintained in a manner that minimizes, to the greatest extent possible, any hazards or nuisances posed by trees and vegetation.

Maintenance responsibilities for trees and vegetation located on private property include, but are not limited to:

1. Maintaining trees in a properly trimmed state so that their branches do not present a hazard or a nuisance to pedestrians, vehicles, or neighboring property.
2. Maintaining trees in accordance with the standards set forth by the American National Standards Institute Standard for Tree Pruning (ANSI A300), as it may be amended from time to time.
3. Removing or remedying trees that are dead, seriously diseased, badly out of balance, or in the process of falling.
4. Trimming vegetation so that it does not impede the access of emergency responders, encroach on neighboring property, or present a fire hazard.

12.20.040 Permitting requirements for the maintenance or removal of existing trees and vegetation in the streetside apron

Nothing in this Chapter shall be interpreted to require a property owner to seek permission from Inyo County before trimming, maintaining, or removing a tree or vegetation in the streetside

apron or on private property; provided, however, that this Chapter shall not exempt a property owner from seeking the required permits from any County department should the trimming, maintenance, or removal of a tree or vegetation cause the property owner to engage in an ancillary activity, such as encroaching on a County highway, that would otherwise require a permit.

12.20.050 Permitting requirements for the addition of new trees in the streetside apron

No plant that is reasonably anticipated within 10 years to reach a size that would qualify it as a tree shall be placed in any streetside apron in Inyo County until the Inyo County Public Works Department has, in their sole discretion, approved the kind, variety, and location of the tree and granted a permit for planting the tree.

In deciding whether to grant or deny a permit, the Inyo County Road Department may consider the following nonexclusive factors:

1. Whether the tree is of a type that can be reasonably anticipated to cause damage to or obstruct the County highway or streetside apron.
2. Whether the tree is of a type that can be reasonably anticipated to cause damage to surrounding properties.
3. Whether the tree is of a type that can be reasonably anticipated to thrive in the climate where it will be located.
4. Any other factors that the Road Department considers necessary due to the unique circumstances of the property.

12.20.060 Abatement procedures should a property owner not maintain the streetside apron or private property

The failure of a property owner to maintain the streetside apron adjacent to his or her private property in compliance with the standards described in Section 12.20.020 and/or to maintain their private property in compliance with the standards described in Section 12.20.030 is hereby declared to be a nuisance per se. Any County official may seek to abate a violation of Section 12.20.020 or Section 12.20.030 per the procedures described in Inyo County Code Section 22.12.050; provided, however, that if the failure to maintain the streetside apron or private property results in an encroachment into the County highway or the County highway vertical clearance area, then the abatement procedures described in section 12.20.070 shall apply.

12.20.070 Abatement of tree and vegetation encroachments on County highways

Should a private property owner fail to maintain the streetside apron or their private property such that vegetation or trees encroach into the County highway or the County highway vertical clearance area, the following abatement procedures shall apply:

1. If an encroachment is determined to exist, the Inyo County Road Commissioner or his or her designee shall notify the involved property owner and/or legal occupant in writing.
2. The written notification shall contain the following information:
 - a. That the property is causing a prohibited encroachment on the County highway and/or County highway vertical clearance area;
 - b. That the property owner has 60 days to remedy the encroachment;
 - c. That, if the encroachment is not removed within 60 days, the County reserves the right to remove the encroachment and bill the property owner for costs incurred in removing the encroachment.
3. If the encroachment is not removed within 60 days, the Inyo County Road Commissioner shall send a second letter to the property owner or legal occupant informing him or her of the date on which the County will remove the encroachment.
4. Should the property owner fail to remedy the encroachment by the date stated on the second letter, the Inyo County Road Commissioner may perform all maintenance necessary to ensure the safety of the County highway and the preservation of the County highway vertical clearance area. All costs including, without limitation, reasonable administrative and attorney fees associated with the removal of the encroachment shall be charged to the property owner. Any fine and/or cost of removing the encroachment may be recorded as a lien against the property.

The Inyo County Road Commissioner, in their discretion, may shorten the 60 day period for the property owner or legal occupant to remedy the encroachment based on a determination that the encroachment poses an imminent threat to public safety, substantially impedes vehicular traffic, or poses an imminent threat to the structural integrity of the County highway.

A property owner or legal occupant may appeal an order of abatement served pursuant to this section via the procedures and deadlines set out in Inyo County Code § 22.12.050(C) and 22.12.050(D).

All powers granted by this section shall be in addition to the powers given to the Inyo County Road Department by state and federal law and the Inyo County Code regarding the abatement of encroachments on County highways. Nothing in this section shall be interpreted to limit any power granted to the Inyo County Road Department by state or federal law regarding the abatement of encroachments on County highways.

Exhibit B

Chapter 12.08 – Encroachments on Highways

12.08.010 Definitions.

Unless the context otherwise requires, the definitions and general provisions set forth in this section govern the construction of this chapter:

- A. “County road commissioner” means the county road commissioner of Inyo County;
- B. “Encroach” includes going upon or using a public highway for any of the following purposes:
 - 1. Excavating or disturbing the public highway,
 - 2. Erecting or maintaining any post, sign, pole, loading platform or other structure on the public highway,
 - 3. Leaving on the public highway any rubbish, brush, earth or other material of any nature whatsoever,
 - 4. Constructing, placing or maintaining on the public highway any pathway, sidewalk, wall, culvert or other drainage facility, pipe, conduit or cable, traveling on the public highway by any vehicles or object of dimensions, weight or characteristic not permitted by law;
- C. “Public highway” means the full width of any paved or unpaved road, street, lane or alley, including any shoulder, used by or for the general public whether or not those roads, streets, lanes and alleys have been accepted as and declared to be part of the county system of public highways except highways forming a part of the state highway system or privately owned road, so posted;

12.08.020 Right of lawful use.

Any permit granted under this chapter shall be subject to the right of the county, or any other person or persons, firm, corporation, district or other body of persons entitled thereto, to use that part of the public highway for any purpose for which it may be lawfully used, and no part of the highway shall be unduly obstructed at any time.

12.08.030 Exceptions.

This chapter shall not apply to any officer or employee of the county in the discharge of his official duties, or to any work being performed by any person or persons, firm or corporation under contract with the county.

12.08.040 Permit—Required when.

It is unlawful for any person, firm, corporation or other body or association of persons, without first obtaining an encroachment permit, to

1. Make or cause to be made any excavation of any nature whatever within, upon or under the limits of any public highway;
2. Make or cause to be made any alteration of any nature within, upon or under any public highway;
3. Construct, put upon or leave thereon, or to cause to be constructed, put upon, maintained or left thereon any obstruction or impediment of any nature whatsoever in any public highway,
4. Place any pipeline, conduit or other fixture in any public highway
5. Move over or cause to be moved over the surface of any public highway, or over any bridge, viaduct or other structure maintained by the county, any vehicle or combination of vehicles, or other object of dimension or weight in excess of that permitted by law.
6. Otherwise encroach upon any public highway.

Nothing in this section shall be construed to require a permit for any activities that, per Chapter 12.20, may be performed without a permit.

12.08.050 Permit—Issuance.

The encroachment permits required by this chapter shall be issued by the county road commissioner subject to conditions set forth in this chapter or required by law. The Board of Supervisors shall, by resolution, establish a fee schedule for such permits. The fee shall be calculated so as to recover the total cost of administration and enforcement of all rules and regulations surrounding encroachment permits, but shall not exceed the actual cost of the regulatory program authorized by this Chapter.

12.08.060 Encroachment Permit—Application.

The county road commissioner shall prescribe and provide a regular form of application for the use of any applicant for an encroachment permit required by this chapter. The application form shall contain space for the name, address and principal place of business of the applicant, together with such details as in the judgment of the county road commissioner are necessary to establish the exact location, dimensions, duration and purpose of the proposed use or other encroachment. The application form shall be completed and signed by the applicant and thereafter filed in the office of the county road commissioner.

12.08.070 Violation—Penalty.

Any person, firm, corporation or other body or association of persons who violates this chapter is guilty of a misdemeanor and is punishable as provided in Section 1.20.010. Each day's violation of this chapter is a separate offense. Any violation of this Chapter may also be

punished pursuant to the abatement procedures and fines set out in Cal. Streets & Highway Code, Division 2, Chapter 6 (section 1480, *et seq.*), as may be amended from time to time.