

Title 12

TREES AND VEGETATION

Chapters:

- 12.04** **Infected Trees, Plants and Shrubs**
- 12.12** **Weed and Rubbish Abatement**
- 12.16** **Tree Preservation and Protection**

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Chapter 12.04

INFECTED TREES, PLANTS AND SHRUBS

Sections:

- 12.04.010 Authority to abate – Dangerous trees.
- 12.04.020 Destroying trees in public place.
- 12.04.030 Notice of public nuisance – Tree on private property.
- 12.04.040 Form and content of notice to abate.
- 12.04.050 Failure to abate – Lien on property.

12.04.010 Authority to abate – Dangerous trees.

All trees, plants, and shrubs when infected by any insect, borer, pest or disease, threatening the life of the same, or which by reason of such infection endanger the life, growth, or healthful existence of other trees, plants, or shrubs not so infected, may be declared to be a public nuisance by the city manager, and thereafter abated as in this chapter provided. Any tree liable to menace life or property is hereby included in the above.

(Ord. 02-13 § 1 (part), 2002).

12.04.020 Destroying trees in public place.

Whenever any such tree, plant or shrub so infected is located on any street, lane, alley or public place, it shall be the duty of the city manager to order the same destroyed.

(Ord. 02-13 § 1 (part), 2002).

12.04.030 Notice of public nuisance – Tree on private property.

Whenever any such tree, plant or shrub so infected is located in or upon private property, the city manager may declare the same to be a public nuisance, and shall give written notice thereof to the property owner, in the manner provided in Section 1.12.010 of this code.

(Ord. 02-13 § 1 (part), 2002).

12.04.040 Form and content of notice to abate.

The notice to abate shall refer to the premises on which such public nuisance is alleged to exist, by lot and block number, or other appropriate description. After the giving of such notice a copy shall be conspicuously posted on the property upon which such public nuisance is alleged to exist; such notice to be in letters not less than one inch in height and substantially in the following form:

NOTICE TO ABATE PUBLIC NUISANCE

Notice is hereby given that on the _____ day of _____, 20____, the City Manager declared that trees, plants, or shrubs, infected by insects, borers, pests, or diseases, threatening the life of the same, and which by reason of such infection endanger the life or growth or healthful existence of other trees, plants or shrubs, within the city, or any other reason menacing life or property, are located upon the following described premises therein, to wit: _____: and that the same constitute a public nuisance which must be abated by the removal of the same, otherwise they will be removed and the nuisance abated by the municipal authorities, in which case the cost of such removal shall be assessed upon the lots and land from which any such infected trees, plants, or shrubs are removed or danger abated, and such cost will constitute a lien upon such lots or lands until paid.

Dated this _____ day of _____, 20____.

City Manager of the City of Pacific Grove.

(Ord. 02-13 § 1 (part), 2002).

12.04.050 Failure to abate – Lien on property.

If such owner has not abated said nuisance within ten days from the date of deposit of such notice in the post office, it shall be the duty of the city manager to cause such nuisance to be abated, in which case the city manager shall make out a verified statement of the expense incurred by him or her in abating such nuisance, and place the same on file with the city clerk. The city clerk shall thereupon cause an entry to be made on the tax roll opposite the description of the property, as fol-

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lows: "Abating public nuisance, \$_____, " filling in the amount of the expense in each particular case and the tax collector shall cause a corresponding entry to be made on the tax bill for the said property, and thereafter before any further payment shall be received for any tax or for the redemption of said property, the cost of abating such nuisance shall first be paid.

(Ord. 02-13 § 1 (part), 2002).

Chapter 12.12

WEED AND RUBBISH ABATEMENT

Sections:

- 12.12.010 Public nuisance.
- 12.12.020 Notice to abate nuisance.
- 12.12.030 Appeal.
- 12.12.040 Removal by city authorities.
- 12.12.050 Charging cost of weed clearance.
- 12.12.060 Violation.

12.12.010 Public nuisance.

No owner, agent, lessee or other person occupying or having charge or control of any building, lot or premises within the city shall permit weeds to remain upon the premises, public sidewalks, streets, or alleys between the premises and the centerline of any public street or alley.

"Weeds," as used in this chapter, means all weeds growing upon streets, alleys, sidewalks, or private property in the city and includes any of the following:

- (a) Weeds which bear or may bear seeds of a downy or wingy nature;
- (b) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which are otherwise noxious or dangerous, including but not limited to pampas grass (*cortaderia selloana*) and jubata grass (*cortaderia jubata*);
- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;

(e) Accumulation of garden refuse, cuttings and other combustible trash.

Every property owner shall remove or destroy such weeds from his or her property, and in the abutting half of any street or alley between the lot lines as extended.

This chapter of the code is enacted for the purpose of providing for the summary abatement of such public nuisances under the provisions of Section 38773.5 of the Government Code of the state of California.

(Ord. 02-29 § 1, 2002: Ord. 02-13 § 2 (part), 2002).

12.12.020 Notice to abate nuisance.

Whenever any such weeds accumulate to the point that they become a public nuisance, the chief of the fire department shall give notice to the owner of the property on which the nuisance exists in conformity with Section 1.12.010 of this code that unless the nuisance be abated within ten days by the destruction or removal of the weeds, the work of abating the nuisance will be done by city authorities, or a contractor designated by the city council, and the expense thereof assessed upon the lots and lands from which, and or in the front and rear of which, weeds have been destroyed or removed.

(Ord. 02-13 § 2 (part), 2002).

12.12.030 Appeal.

A property owner, on payment of a fee established by resolution of the council, may appeal the determination that the weeds on or about his/her property constitute a public nuisance, to the board of administrative appeals, which shall consist of three residents of the city appointed by the mayor with the consent of the council, for terms established by the council. The board shall give five days' notice to the property owner and to the fire chief of its hearing on the matter, and shall render its decision within ten days of the date of appeal. Failure to render a decision in that time shall constitute a granting of the appeal. An affirmative vote of a majority of the total

members of the board shall be required for action by the board.

(Ord. 02-30 § 7, 2002; Ord. 02-13 § 2 (part), 2002).

12.12.040 Removal by city authorities.

If the weeds constituting a nuisance have not been removed within ten days of the giving of notice thereof as provided in Section 12.12.020, or in the event of an appeal under Section 12.12.030 within ten days of the decision of the board confirming the determination of the fire chief, then the fire chief, his or her deputies, assistants, or city employees, contracting agents, or other representatives, shall enter upon the private property on which the nuisance exists for the purpose of abating the nuisance. The abatement shall be done by spraying, disking and mowing, unless it is determined by the fire chief that such a procedure is impractical. It is unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the fire chief, or city employees or contracting agents to enter upon the premises for the purpose of abating the nuisance.

(Ord. 02-13 § 2 (part), 2002).

12.12.050 Charging cost of weed clearance.

Within thirty days after abatement of the nuisance, the fire chief shall notify the owner of the property as shown on the last equalized assessment roll in conformity with Section 1.12.010 of this code of the cost of the abatement, which cost shall include a fee of twenty percent of the cost of clearance for administrative expenses.

The owner may file a written protest objecting to the amount of the assessment with the city clerk within thirty days. The city clerk shall set the matter for a public hearing by the board of administrative appeals. The decision of the board shall be final. If the amount due the city is not paid within ten days of the decision of the board, or the expiration of the time in which to file an appeal, a collection fee as established by resolution of the council shall

be added to the amount due the city, and interest at a rate as established by resolution of the council shall be charged to the total amount due from the date of the decision of the board or of the expiration. The city council may by resolution confirm the amount due the city and, as so confirmed, the amount shall become a special assessment against the parcel in question and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the auditor of Monterey County, on or before the tenth day of August following such confirmation, so that the auditor may enter the amounts of the respective assessments against the respective parcels of lands as they appear on the current assessment roll, and the tax collector may include the amount of the assessment on bills for taxes levied against the respective lots and parcels of land. Procedures for collection and the incidence of the assessment shall otherwise be the same as those set forth in Article 3, Chapter 4, Division 12, of the Health and Safety Code of the state of California, pursuant to the authority in Section 38773.5 of the Government Code of the state of California.

(Ord. 02-13 § 2 (part), 2002).

12.12.060 Violation.

A violation of this chapter shall constitute an infraction.

(Ord. 02-13 § 2 (part), 2002).

12.16.010

Chapter 12.16

TREE PRESERVATION AND PROTECTION

Sections:

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12.16.010 Findings and purpose.

Article II. Definitions

- 12.16.020 Generally.
- 12.16.025 Certified authorities.
- 12.16.030 Certification letter.
- 12.16.035 City forester
- 12.16.036 Community tree program fund.
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- 12.16.050 Dripline.
- 12.16.060 Replacement tree
- 12.16.070 Root protection zone.
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- 12.16.140 Tree planting, removal, pruning on public streets – Permission required – Standards – Appeals.
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ARTICLE I. FINDINGS AND PURPOSE

12.16.010 Findings and purpose.

(a) General Findings. The city council makes the following general findings regarding the relationship between health, safety and general welfare, and the conservation, protection and maintenance of trees as addressed in this chapter.

(1) Trees are a valuable long-term community asset, and tend to increase property values. Residents are encouraged to plant trees in order to maintain the urban forest.

(2) Trees protect us from climatic extremes. They recycle air and water, convert carbon dioxide into oxygen, provide shade and windbreak protection, and they can moderate temperatures for an entire neighborhood or community.

(3) Trees can improve human health by absorbing air pollution and trapping dust. In

addition, they buffer noise from traffic and other sources.

(4) Trees diffuse the effects of rain that weather houses, erode topsoil, and cause flooding. They provide enrichment of the soil for more plant growth.

(5) Trees, particularly those indigenous to the Monterey Peninsula, provide habitat for birds, butterflies and other animals.

(6) Trees contribute to the pleasantness and serenity of neighborhoods.

(7) The presence of trees in our lives does much to reduce the stress of modern living.

(8) Trees enhance the architectural character of a neighborhood, accent or soften the effect of structures, promote visual formality and aesthetic interest, and screen undesirable views.

(b) Purpose. The city lies on the Monterey Peninsula, the beauty of which is greatly enhanced by the presence of large numbers of trees, especially the native Monterey pine, cypress and coast live oak trees. At one time, the city was predominantly covered by a forest of pines and oaks; however, development of the city has resulted in the removal of a great number of these trees. Tree regulations are necessary to retain the great historical and environmental value of our urban forest and thus contribute to the welfare and aesthetic qualities of the community. Accordingly, this chapter is adopted to establish rules and regulations relating to the planting, care, maintenance and removal of trees in public and private areas.

(Ord. 02-13 § 3 (part), 2002).

ARTICLE II. DEFINITIONS

12.16.020 Generally.

For the purposes of this chapter, certain terms are defined as set out in the sections following in this article.

(Ord. 02-13 § 3 (part), 2002).

12.16.025 Certified authorities.

The public works director shall have available a list of "tree experts," as defined in Sec-

tion 12.16.120, who are able to act on behalf of the city forester in instances when the city forester is unavailable.

(Ord. 02-13 § 3 (part), 2002).

12.16.030 Certification letter.

"Certification letter" shall mean a concluding statement by a tree expert stating that the work that was performed was observed by a tree expert, and that said work fully complies with the conditions of the discretionary permit, tree expert report, the tree permit and the provisions of this chapter.

(Ord. 02-13 § 3 (part), 2002).

12.16.035 City forester

"City forester" shall mean the Pacific Grove city forester or the public works director's authorized designee who shall be a tree expert as defined in Section 12.16.120.

(Ord. 02-13 § 3 (part), 2002).

12.16.036 Community tree program fund.

The "community tree program fund" is a dedicated fund comprised of fines, tree damage assessments and in-lieu fees collected under the authority of the city tree ordinance. community tree fund expenditures shall be used solely for the planting of trees on city property.

(Ord. 02-13 § 3 (part), 2002).

12.16.040 Damage.

"Damage" shall mean any action undertaken which causes injury, death, reduced stability or disfigurement of a tree. This includes, but is not limited to, cutting, poisoning, over watering, relocating or transplanting a tree, or trenching, excavating or paving within the root protection zone of a tree.

(Ord. 02-13 § 3 (part), 2002).

12.16.050 Dripline.

"Dripline" shall mean the outermost edge of the tree's canopy. When depicted on a map, the dripline will appear as an irregular shape

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that follows the contour of the tree's branches as seen from overhead.
(Ord. 02-13 § 3 (part), 2002).

12.16.060 Replacement tree

"Replacement tree" shall mean a replacement planting that fits the description of a live tree as described in Section 12.16.110 and will grow to a height greater than 15 feet. Live replacement trees are trees that have been planted as a replacement for trees that have been permitted for removal.
(Ord. 02-13 § 3 (part), 2002).

12.16.070 Root protection zone.

"Root protection zone" shall mean the circular area surrounding the trunk with a radius fifteen times the trunk diameter, or the area between the dripline and the trunk, whichever is greater.
(Ord. 02-13 § 3 (part), 2002).

12.16.080 Slash.

"Slash" shall mean the debris resulting from the cutting of trees.
(Ord. 02-13 § 3 (part), 2002).

12.16.085 Snag.

"Snag" shall mean a dead tree from which the top and a majority of the branches have been removed.
(Ord. 02-13 § 3 (part), 2002).

12.16.090 Street trees and other public trees.

"Street trees and other public trees" shall mean any tree whose trunk is located solely on public property.
(Ord. 02-13 § 3 (part), 2002).

12.16.100 Topping.

"Topping" shall mean the severe cutting back of limbs to stubs larger than three inches in diameter within the trees crown to such a degree so as to remove the normal canopy and disfigure the tree.
(Ord. 02-13 § 3 (part), 2002).

12.16.110 Tree.

"Tree" shall mean a woody perennial plant, distinguished from a shrub by having a comparatively greater height and, characteristically, a single trunk rather than several stems.
(Ord. 02-13 § 3 (part), 2002).

12.16.120 Tree expert.

"Tree expert" shall mean a city approved licensed professional forester or certified arborist.
(Ord. 02-13 § 3 (part), 2002).

12.16.125 Tree permit.

"Tree permit" shall mean the form on which permission is granted by the City of Pacific Grove to undertake approved actions with respect to a tree or trees. The tree permit shall contain tree evaluation and determinations as to the amount of tree pruning or tree removal allowed, amount of replanting that is required, and shall be signed by the city forester.
(Ord. 02-13 § 3 (part), 2002).

12.16.130 Prune substantially.

"Prune substantially" shall apply to both above-surface and underground cutting. For branches, it shall mean the removal of more than twenty-five percent of the live branches of the entire tree or removal of any limb with a diameter of four inches or a circumference of 12.6 inches or greater at any point on such limb. For roots, "prune substantially" shall include the cutting of any root four inches or greater in diameter.
(Ord. 02-13 § 3 (part), 2002).

ARTICLE III. STREET TREES

12.16.140 Tree planting, removal, pruning on public streets – Permission required – Standards – Appeals.

(a) It shall be unlawful for any person, firm or corporation to plant or set out any trees along public streets without the written consent of the city forester.

(b) It shall be unlawful for any person, firm or corporation to remove any tree, or device necessary for the protection thereof, from public streets without the written consent of the city forester.

(c) Except as otherwise allowed in this article it shall be unlawful for any person, firm or corporation to prune or in any way alter the shape or interfere with the growth of any tree along a public street without the written consent of the city forester.

(d) In permitting any planting, pruning or removal of trees pursuant to this section, the city forester shall require adherence to the standards of the International Society of Arboriculture and an approved street tree plan.

(e) Any person aggrieved by or objecting to any act or determination of the city forester in the exercise of the authority granted by this section shall have the right of appeal to the natural resources committee. Any appeal not supported by a written statement of grounds for appeal may be disregarded by the natural resources committee. Within sixty days of receipt of an appeal by the city clerk, the natural resources committee shall hold a public hearing on the appeal unless such time is continued by the committee for good cause demonstrated. At least ten days prior to the hearing, the property on which the tree or trees subject to appeal are located shall be posted with a notice of the time and date of the hearing at or near the subject tree or trees. Two identical notices shall be posted by the city forester within two hundred feet of the property on which the tree or trees are located. The party appealing shall be notified by mail of the date and time of the hearing. The natural resources committee may affirm, reverse or modify the action of the city forester and in so doing shall apply the standards set out in this section. The action of the natural resources committee may be appealed to the city council. Once the council has considered an application for removal or alteration of a tree, all further applications relating to that tree(s) shall be made directly to the council using the standards that apply for council review.

(Ord. 02-13 § 3 (part), 2002).

**12.16.150 Franchise holders –
Emergency pruning of trees on
public street.**

Notwithstanding the other provisions of this chapter, duly authorized personnel of utility companies whose franchises from the city are current and in effect may in any emergency prune trees or remove trees in the public street which are threatening to interrupt or have interrupted utility service only to the extent necessary to alleviate the emergency. The utility company shall report all such instances of emergency action on any street tree to the city forester within seventy-two hours of the event. All other tree pruning or removal by utility companies is subject to Section 12.16.140.

(Ord. 02-13 § 3 (part), 2002).

**12.16.160 Beautification and natural
resources committee –
Determination of suitable trees
for public and private
planting.**

The beautification and natural resources committee shall be charged with the duty of preparing a street landscaping tree plan setting forth the types and kinds of trees and shrubs, especially recommending native species, suitable and desirable for planting along public streets within the city. The beautification and natural resources committee shall also be charged with developing a list of trees and shrubs suitable for use on private property. Such determinations shall be made by the committee after consultation with the city's staff, arborists, and nurserypersons familiar with the subjects of such plantings. Thereafter, the committee shall from time to time file revised reports covering the same subjects, each of which shall be complete in itself and each of which shall be transmitted and filed in the office of the city clerk.

(Ord. 04-02 § 8, 2004; Ord. 02-13 § 3 (part), 2002).

12.16.170

12.16.170 Duty of abutting land owners to cultivate trees on public property.

Property owner's responsibility for street tree maintenance of trees planted by the property owner includes irrigation, pruning, keeping the right-of-way planting area free from weeds, debris or other obstructions inimical to public safety and/or contrary to the street tree plan, and otherwise maintaining such areas in a neat, clean, orderly manner. The placing of tarpaper, plastic or other impermeable material over the ground, or the use of materials or chemicals intended to permanently sterilize the soil of these areas, is prohibited unless expressly approved by the natural resources committee.

Notwithstanding other provisions, it is made the duty of all persons owning any land within the city to keep all street trees within any public street planting areas immediately adjacent to their respective real properties and all private trees which extend over any public street or walkway pruned so as to remove any foliage encroaching into space above a street to a height of fourteen feet, and above sidewalk areas to a height of eight feet.

Any person claiming both financial and physical inability to perform the duties set out in this section may petition the city manager for relief. If the city manager concurs that such inability exists, the city manager shall direct city crews to perform the required work. (Ord. 02-13 § 3 (part), 2002).

ARTICLE IV. PUBLIC PARKS

12.16.180 Tree work in public parks.

Tree planting, removal or pruning in public parks shall be in accordance with the following policies approved by the natural resources committee and adopted by the city council: Any tree work shall be done under the direction of the city forester. Normally, tree removal shall be limited to dead or hazardous trees. Trees may be pruned as necessary for public safety reasons or to provide for the efficient operation of public services such as

street sweeping. For the purpose of providing wildlife habitat, nonhazardous dead trees (e.g. snags) may be retained in public parks at the discretion of the city forester. (Ord. 02-13 § 3 (part), 2002).

ARTICLE V. TREES ON PRIVATE PROPERTY

12.16.190 Removal, alteration – Permit required and exceptions.

(a) Permit Required. No person shall cut down, remove, prune substantially, encroach into the root zone, top or relocate any tree meeting any of the following criteria and growing in the City of Pacific Grove unless a valid tree permit has been issued by the city pursuant to the provisions of Sections 12.16.140, 12.16.200 or 12.16.210:

- (1) Four inches or greater in trunk diameter when measured at a point four feet six inches above ground;
- (2) Ten feet or greater in height;
- (3) Five or more trees, regardless of size; within one-year (12 months) period.
- (4) Live replacement trees, regardless of size.

(Ord. 02-13 § 3 (part), 2002).

12.16.200 Removal or alteration – Not related to development.

(a) This section shall govern requests for removal or alteration, as defined in Section 12.16.190, of trees in all cases where removal or alteration is not for the purpose of erecting or adding to a structure, providing parking, grading or lot clearance, or any other activity requiring a building permit or any discretionary land use entitlement.

(b) Application for a permit shall be made to the city forester, on forms provided by the city, accompanied by a fee established by resolution of the council. (No fee shall be charged for a permit for removal of a dead tree.)

(c) The city forester shall inspect the tree or trees and the surrounding area to determine whether or not, and under what conditions, the permit should be granted. The standards to be

observed in granting a permit under this section are as follows:

(1) A tree shall not be removed or substantially altered for the primary purpose of securing or improving a view, for acquiring more sunlight or air, or to reduce litter.

(2) A tree, which serves as part of a wind-break system, or assists in drainage or the avoidance of soil erosion, or serves as a component of a wildlife habitat, is to be preserved if at all feasible.

(3) A tree should not be removed solely because it is diseased if the disease is readily curable or is not spreading. In cases where an applicant for a tree permit feels that the tree is diseased, the city forester may require an analysis of the tree to determine the type, extent, and degree to which the disease directly affects the tree. Such testing shall be performed by an independent expert chosen by the city forester. Costs for the analysis shall be borne solely by the applicant.

(4) Trees which contribute aesthetic beauty to an area are to be preserved if at all feasible.

(5) Trees which are dangerous to public safety causing significant damage to private property (e.g. cracking of a house foundation), or which by reason of disease constitute a danger to other forms of vegetation, shall be removed, pruned or treated, as appropriate.

(6) No tree shall be pruned to an extent which destroys its identity as a tree, unless the conditions for its removal exist.

(7) All work done under a permit shall be performed according to the standards of the

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International Society of Arboriculture.

(8) To the extent feasible, every tree which is removed, shall be replaced on site by a minimum of two trees, of a comparable use and size as determined by the city forester. Replacement shall be at the owner's expense. Replacement and maintenance of trees shall be the responsibility of the property owner(s). Replacement trees shall be planted within thirty days after a tree removal permit is issued. Maintenance of replacement trees is required. Replacement trees that die shall be replaced. Failure to replant trees within the specified time shall be subject to penalties contained in Section 12.16.270. Removal of any replacement tree shall require a tree permit, regardless of the size of the tree.

(9) Native Species shall be preferred as replacement trees where feasible. Trees should be selected from *Landscape Trees for Pacific Grove*, available from the city.

(10) In order to maintain the existing coniferous tree cover, particularly in the area between Sunset Drive and 17 Mile Drive, replacement planting shall be with pitch canker resistant Monterey pines if available. Otherwise, Monterey cypresses and other species of pines as recommended by the city forester, shall be used.

(11) The city forester shall impose such conditions on a permit as are necessary to fulfill the standards set out herein.

(12) The city forester may refer permit applications to the natural resources committee for review and recommendation.

(d) A permit approved pursuant to this section shall not be effective until the tenth day following the date of posting the property, on which the tree or trees subject to the permit are located, with a notice stating that the permit approval may be appealed by any interested person during the ten-day posting period. The notice shall be posted on site by city personnel, and in a location clearly visible to the public. Two identical notices shall be posted within two hundred feet of the property on which the subject tree or trees are located.

(e) Appeals of the city forester's action

hereunder shall proceed as follows:

(1) Any applicant or interested person may, upon payment of a fee established by the council, appeal a permit decision to the natural resources committee within ten days of the decision. Such appeal shall suspend a permit approval pending natural resources committee hearing on the appeal.

(2) Within sixty days of receipt of an appeal the natural resources committee shall hold a public hearing on the appeal unless such time is continued for good cause demonstrated. At least ten days prior to the hearing, the property on which the tree or trees subject to the appeal are located shall be posted with a notice of the date and time of the public hearing. Two identical notices shall be posted within two hundred feet of the property on which the subject tree or trees are located. The party appealing shall be notified by mail of the date and time of the hearing.

(3) The natural resources committee may affirm, reverse or modify the action of the city forester, and in so acting shall apply the standards set out in subsection (c), above.

(4) The action of the natural resources committee may be appealed to the city council according to the procedure in Section 12.16.140(e).

(5) Once the council has considered an application for removal or alteration of a tree, all further applications relating to that tree shall be made directly to the council. (Ord. 02-13 § 3 (part), 2002).

12.16.210 Removal or alteration – Development.

(a) This section shall govern requests for removal or alteration, as defined in Section 12.16.190, of trees in all cases where removal or alteration is for the purpose of (1) erecting or adding to a structure, including but not limited to, fences, sheds, decks and retaining walls, (2) providing parking, (3) grading, trenching, or lot clearance, or (4) any other activity requiring a building permit or any discretionary land use entitlement.

(b) Applications for a permit shall be

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made on forms provided by the city, accompanied by a fee established by resolution of the council. The applicant shall submit project plans, including the location of all trees on the site, with each tree's dripline shown, their type and trunk diameter measured four feet six inches above ground, and indicating the trees proposed for removal or alteration. Photos of the site shall be submitted with the project plans. In case of new construction and additions, the forester may require trees to be located by a licensed surveyor. In addition, the forester may require, at the expense of the applicant, a tree expert report containing specific information on tree location and condition, an analysis of potential impacts of development, recommended actions, mitigation measures, and monitoring regarding one or more trees on an individual lot or project site. In such cases the tree expert must monitor work that impacts the trees and, at completion of such work, submit a certification letter.

(c) Application for a permit shall be first reviewed for recommendation and comment by the city forester. The city forester shall identify potential impacts on trees, mitigation measures, and determine the ability of the site to support any replacement trees. The city forester shall identify under what conditions the permit should be granted, by the entity or official listed below:

(1) By the planning commission, as part of any application requiring planning commission and architectural review board consideration;

(2) By the community development director, as part of any application requiring consideration of the community development director and the architectural review board;

(3) By the community development director, as part of any application requiring only consideration by the community development director;

(4) By the architectural review board, as part of any application requiring only architectural review board consideration;

(5) By the planning commission, as part of any application requiring only planning com-

mission action;

(6) By the city forester, for any proposal not requiring either architectural review board, planning commission approval, or community development director consideration whether or not a building permit is required.

(d) Standards and provisions to be observed considering a permit under this section are as follows:

(1) A tree shall not be removed or substantially pruned for the primary purpose of securing or improving a view, for acquiring more sunlight or air, or to reduce litter. The design and placement of development should incorporate existing healthy trees into the site design.

(2) A tree which serves as part of the windbreak system, or assists in drainage or the avoidance of soil erosion, or serves as a component of a wildlife habitat, is to be preserved if at all feasible.

(3) No tree shall be pruned to an extent which destroys its identity as a tree, unless conditions for removal exist.

(4) A tree shall not be removed solely because it is diseased if the disease is readily curable or is not spreading. In cases where an applicant feels that a tree is diseased, the city forester may require analysis of the tree to determine the type, extent, and degree to which the disease directly affects the health of the tree. Such testing shall be performed by an independent expert chosen by the city forester. Costs for the analysis shall be borne solely by the applicant.

Removal or alteration shall not be approved unless one of the following shall apply:

(A) The tree(s), due to their location in respect to topography and required setbacks, prevent reasonable development of permitted uses. Existing development on similar sites in the same zone and having similar topographic and vegetation characteristics shall be considered when determining reasonable development of permitted uses.

(B) The condition of the tree(s), with respect to disease, maturity, danger of falling, proximity to existing structures, parking, high

pedestrian traffic areas, activity areas or interference with utility services, cannot be controlled or remedied through reasonable preservation procedures and practices.

(C) Good forestry practice suggests a reduction in the number of trees due to incapacity of the property to sustain the present number in a healthy condition.

(5) The visual prominence and function of each tree on the site shall be considered prior to a decision on the application.

(6) To the extent feasible, every tree which is removed, shall be replaced on site by a minimum of two trees, of a comparable use and size as determined by the city forester. Replacement shall be at the owner's expense. Replacement and maintenance of trees shall be the responsibility of the property owner(s). Replacement trees shall be planted prior to final building approval. Maintenance of replacement trees is required. Replacement trees that die shall be replaced. Failure to replant trees within the specified time shall be subject to penalties contained in Section 12.16.270. Removal of any replacement tree shall require a tree permit, regardless of the size of the tree.

(7) Native species shall be preferred as replacement trees where feasible. Trees should be selected from *Landscape Trees for Pacific Grove*, available from the city.

(8) In order to maintain the existing coniferous tree cover, particularly in the area between Sunset Drive and 17 Mile Drive, replacement planting shall be with pitch canker resistant Monterey pines if available. Otherwise, Monterey cypresses and other species of pines as recommended by the city forester, shall be used.

(9) The city forester shall impose such conditions on a permit as are necessary to fulfill the standards set out herein.

(10) The city forester may refer permit applications to the natural resources committee for review and recommendation.

(11) Trees of unusually large size, high visibility, or extraordinary aesthetic quality may be required to be replaced by specimen trees as deemed appropriate by the city for-

ester.

(12) All work done under a permit shall be performed according to the standards of the International Society of Arboriculture.

(13) In those cases where a site cannot support a minimum of two replacement trees for each tree removed, a fee shall be paid to the community tree fund according to a fee schedule established by resolution of the city council.

(14) If the application is approved, such conditions shall be imposed as are deemed necessary to fulfill the standards of this section.

(e) Construction shall not be done in a manner which negatively affects the growth or health potential of a tree required to be preserved. To improve the chances for long-term survival of any tree required to be preserved on a development site, the following tree protection standards shall apply:

(1) All cut, fill and/or building foundations shall be at least three times a tree's diameter from the outside edge of the trunk of any tree scheduled for preservation, including any affected tree on adjacent properties, unless, because of the species affected, a lesser distance is adequate, as determined by the city forester. No stockpiling or placement of excavated spoils or other changes in grade shall occur within the dripline of any tree either temporarily or permanently.

(2) All trees scheduled for preservation shall be temporarily fenced during construction. Fencing shall be located outside the trees' dripline, if possible, and shall be installed prior to the start of construction. At no time shall the fencing be located closer than five feet from the outside edge of the trunk, unless a lesser distance is adequate, as determined by the city forester. Fencing shall consist of chain link, snowdrift, plastic mesh, or field fence. Fencing shall be rigidly supported and shall stand a minimum height of four feet above grade. Fenced areas shall not be used for material stockpile, storage or vehicle parking. Fenced areas shall be maintained in a natural condition and not compacted. Fencing

12.16.210

shall remain in place and in good condition until the final building inspection has been completed.

(3) To avoid beetle infestation, the lower six feet of Monterey pine trees scheduled for preservation shall be sprayed with an appropriate pesticide as recommended by a licensed pest control adviser.

(4) In order to avoid unnecessary damage to the root system of trees, the applicant will be required to submit a utility trenching pathway plan to the community development department for review and approval prior to issuance of a building permit. The plan will depict all systems to be placed below ground including but not limited to the following systems: storm drains, sewers, easements, area drains, gas lines, electrical service, cable television, telephone and water mains. Additionally, the plan must show all lateral lines serving the proposed construction and any proposed irrigation system. The plan must include trees accurately located on the project site as well as an accurate plotting of the root zone. The plan should be developed considering the following general guidelines:

(A) The trenching pathway plan should avoid the root zone of any tree.

(B) In cases where alternative routes are not available, tunneling under roots shall be used for all underground lines such as utility and drain lines in order to preserve roots two inches or larger in diameter. All tunneling shall be performed under the on-site supervision of the city forester or his or her delegate.

(C) Wherever possible, all underground lines shall be placed in one trench.

(D) Where it is not possible to avoid some encroachment into root zones, the design must minimize the extent of such encroachment. The forester may require that these encroachments and mitigation measures be documented in a supplemental report prepared by a tree expert.

(5) Because of the sensitive nature of Monterey pine trees, requests for impacting more than one-third of the root zone shall receive critical review and are discouraged. No

more than one-third of the root feeding zone of pine trees scheduled for preservation shall be allowed to be damaged by new development, unless it can be demonstrated by a tree expert, to the satisfaction of the city forester, that a greater area of the root feeding zone can be involved without damaging the tree.

(6) No more than one-half of the root feeding zone of oak trees scheduled for preservation may be allowed to be damaged by new development, unless it can be demonstrated by a tree expert, to the satisfaction of the city forester, that a greater area of the root feeding zone can be involved without damaging the tree.

(7) Root feeding zone damage to other species shall be as allowed by the city forester.

(8) All approved construction work within the root zone of trees scheduled for preservation shall observe the following minimum tree protection practices:

(A) Hand trenching shall be done at point of grade cuts closest to the trunk to expose major roots, i.e., two inches in diameter or larger. Major roots shall be cut only with permission of the forester. In cases where rock or unusually dense soil prevents hand trenching, mechanical equipment may be approved, provided that work inside the dripline is closely supervised by the city forester to prevent tearing or other damage to major roots.

(B) Where permitted, exposed major roots shall be cut with a saw. Major roots shall not be ripped by construction equipment.

(C) Absorbent tarp or heavy cloth fabric shall be placed over new grade cuts and secured by stakes. Two to four inches of compost or woodchip mulch shall be spread over the tarp to prevent soil moisture loss. The tarp shall be thoroughly wetted twice per week to insure constant moisture levels until backfilling occurs.

(D) Pruning of branches shall be done with a saw, cut clean, and performed according to standards of the International Society of Arboriculture. No tree sealant shall be used on cuts.

(E) Decks located within the root zone of

trees scheduled for preservation shall be of post and beam construction to eliminate any need for root pruning or removal.

(F) On-grade patios or paving that cover more than one-third of the root feeding zone of pine trees or more than one-half of the root feeding zone of oak trees shall be constructed of permeable materials that allow aeration and water penetration.

(G) Planting and weed control beneath trees scheduled for preservation shall take into consideration watering requirements of the tree to prevent damage from over or under watering, and shall not adversely affect the health of the trees. Planting beneath native oak trees is of special concern and should be avoided. (Installing lawn or other planting that requires frequent watering insures a slow death for oak trees due to their sensitivity to over watering and susceptibility to oak root fungus.)

(f) Appeals of actions hereunder shall proceed as follows:

(1) Any interested person may appeal action taken on a permit application pursuant to subsections (c)(1), (c)(2), or (c)(3) of this section. Such appeals shall be directly to the council pursuant to appeal procedures for architectural review board and planning commission actions set out in Title 23.

(2) Any interested person may appeal action taken on a permit application pursuant to subsection (c)(4) of this section. Such appeal shall be directly to the council pursuant to appeal procedures set out in Section 12.16.140(e).

(g) Once the council has considered an application for removal or alteration of a tree, all further applications relating to that tree shall be made directly to the council. (Ord. 02-13 § 3 (part), 2002).

ARTICLE VI. MISCELLANEOUS PROVISIONS – VIOLATIONS

12.16.220 Stumps and snags – Removal – Nuisance.

No person shall leave any portion of a tree stump or snag above the ground if such stump or snag is determined by the city forester to be detrimental to public health, safety or welfare; or if it is determined that for aesthetic reasons, it should be removed. However, a snag from which the top and limbs have been removed, may be left standing if in the determination of the city forester the snag provides shelter for animals and/or birds and poses no threat to public health, safety or welfare.

(Ord. 02-13 § 3 (part), 2002).

12.16.230 Slash removal.

Fallen trees and limbs, slash, or other portions of trees on the ground are generally beneficial to the wildlife habitat and shall be left undisturbed in open space areas where deemed feasible by the forester. However, in instances where such wood is found by the forester or public safety personnel to be detrimental to health, safety or welfare it shall be removed promptly.

(Ord. 02-13 § 3 (part), 2002).

12.16.240 Monarch butterfly habitats – Protected.

(a) For the purposes of this chapter, the following sites are designated as monarch butterfly overwintering sites in Pacific Grove:

Monarch Grove Sanctuary: That portion of land bordered on the east and west by Ridge Road and Grove Acre Avenue, respectively, on the south by Short Street, and on the north by the northerly boundary of assessor's parcel no. 006-361-30 extended from Grove Acre easterly to Ridge Road.

Washington Park Site: That portion of land bordered on the east and west by Alder Street and Melrose Avenue, respectively, on the north by Pine Avenue, and on the south by the imaginary extension of Junipero Avenue westerly from Alder to Melrose.

12.16.250

(b) Pruning or removal of trees in designated monarch butterfly overwintering sites shall be prohibited except as prescribed in an approved habitat management plan or upon a finding by the city council that such is necessary for proper maintenance of the site or for public health, safety or welfare.

(c) Pruning or removal of trees in designated monarch butterfly overwintering sites, or within one hundred yards of any boundary of such site, shall be prohibited during the months of October through April unless deemed necessary by the city council for public health, safety or welfare.
(Ord. 02-13 § 3 (part), 2002).

12.16.250 Tree planting required by the architectural review board, planning commission, city forester, and community development director.

The architectural review board, planning commission, city forester, and community development director, in considering applications for a building permit, use permit or variance, shall require tree planting on or adjacent to the project site, when it is determined that tree(s) will mitigate a project's impacts regarding matters such as massing, loss of open space and/or neighborhood aesthetics. The following minimum standards are recommended:

(1) Residential zoning – One tree per 1,800 square feet of property

(2) Commercial zoning – One tree per thirty feet of frontage, minimum of two trees, if space available.

(Ord. 02-13 § 3 (part), 2002).

12.16.260 New subdivisions – Cost of trees paid to city.

Before any street improvements in any new subdivision of real property in the city are accepted by the city council, the subdivider shall pay to the city the total cost for purchasing and planting of all trees to be planted along all streets in said subdivision. After receipt of said payment, the city will plant said trees at

the proper time as determined by the city forester.

(Ord. 02-13 § 3 (part), 2002).

12.16.270 Violations – Enforcement.

(a) Any person who violates any of the provisions of this chapter or any of the conditions of any permit issued hereunder is guilty of a misdemeanor. Each violation shall be punishable by a fine of no more than \$1,000.00 or by imprisonment for no longer than six months, or by both fine and imprisonment. Subsequent to written notice, each day an offense is allowed to continue shall be considered as a separate offense and prosecuted accordingly.

(b) In addition to criminal penalties and civil nuisance enforcement authorized by this code, any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed \$250.00 for each day or part thereof that said violation occurs. Further, if such violation results in unauthorized removal, destruction or disfigurement of trees, the responsible person shall be liable for a civil penalty equal to the value of the removed, destroyed or disfigured tree. That evaluation shall be as set out in the *Guide for Plant Appraisal* (latest edition published by the International Society of Arboriculture) and on file in the office of the city forester. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the city.

(c) Whenever any construction or work is being performed contrary to the provisions of this chapter, city community development department personnel may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation or danger, and no work shall be allowed until the violation or danger has been rectified and approved by the community development director and city forester.

(Ord. 02-13 § 3 (part), 2002).

**Title 13
(RESERVED)**

