

Title 12

TREES AND VEGETATION

Chapters:

- 12.02 Purpose, Definitions, Applicability, and Effect *[new chapter]*
- 12.04 Infected Trees, Plants, and Shrubs *[unchanged]*
- 12.12 Weeds and Rubbish Abatement *[unchanged]*
- 12.16 Trees and the Urban Forest *[replacing existing chapter]*

Chapter 12.02

PURPOSE, DEFINITIONS, APPLICABILITY, AND EFFECT *[NEW CHAPTER]*

Sections:

- 12.02.100 Purpose and Authority Generally
- 12.02.120 Definitions
- 12.02.130 Applicability, Conflicts, and Other Requirements
- 12.02.140 Authority and Responsibility
- 12.02.150 Interpretations and Exceptions, Language, and Time Limits

Article I. Finding and Purpose

12.02.100 Purpose and Authority Generally

(a) The purpose of this title is to facilitate the protection, preservation, and restoration of Pacific Grove's urban forest and to enhance the visual and aesthetic uniqueness of Pacific Grove.

(b) Accordingly, this title provides regulations relating to the Removal and pruning of Trees in public and private areas, to safeguard life, limb, health, property, and public welfare, by managing the urban forest pursuant to these regulations and the city's *Urban Forest Management Plan*.

(c) This title is adopted pursuant to the authority granted by Section 7 of Article XI of the State constitution to a City to make and enforce such local, police, sanitary, and other regulations as are not in conflict with the general laws of the State.

Article II. Definitions

12.02.120 Definitions

For the purposes of this title the following words shall have the meaning ascribed to them below:

"Building Coverage" has the meaning assigned in Chapter 23.08 (Zoning—Definitions).

Comment [TF1]: Suggestion to place definitions either here, in Standards, or in both.

“Community Tree Program Fund” means a dedicated city fund comprising donations, moneys appropriated by the city council, fines, Tree damage assessments, and in-lieu fees collected under the authority of this title and established by the city council in the city’s master fee schedule. Community Tree Program Fund expenditures shall be used solely for the planting and maintenance of Street Trees and Trees on city property.

“Development” has the meaning assigned in Chapter 23.08 (Zoning—Definitions).

“Discretionary development approval” has the meaning assigned in Chapter 23.08 (Zoning—Definitions).

“Feasible” means capable of being implemented, taking into account such factors as safety of persons and property, the environment, aesthetics, and economic considerations.

“Hedge” means and includes any plant material, shrub or plant, when planted in a dense, continuous line or area, as to form a thicket or barrier.

“High-Risk Tree” means an imminent hazard or threat to the safety of persons or property.

“Invasive Tree” means a Tree that is not Native to the Monterey Peninsula and that has the ability to thrive and spread aggressively on the Peninsula. They tend to disrupt the natural habitat, squeeze out native plants and animals, and reduce biodiversity.

“Lower Canopy Tree” means a tree of a species that tends to be less than 40 feet tall at maturity. Lower Canopy Trees tend to have leaves and needles larger and softer than those of Upper Canopy Trees, better able to catch the available light and with less need to defend against the buffeting of the wind and rain. Most Lower Canopy Trees, including the ornamentals and fruit trees, are not native to the Monterey peninsula.

“Native Tree” means a species that was common on the Monterey Peninsula prior to the arrival of Europeans. These Trees, such as the Monterey pine and Monterey cypress, co-evolved over a very long period with other plants, animals, fungi, and microbes, to form the complex network of mutually reliant relationships found in the Peninsula’s native ecosystems.

“Parks” means and includes all Parks to which names have been given by action of the city council.

“Person” and “Persons” means and includes any all individuals, partnerships, firms, associations, corporations, governmental agencies, and other legal entities, and the agents, employees, and representatives thereof.

“Plant” means and includes all other plant material, non-woody, annual, or perennial in nature, not necessarily hardy.

“Protected Tree” means those Trees as defined in Section 12.16.100 and described in more detail in the *Urban Forestry Standards*.

“Prune” or “Pruning” means to Remove dead growth, tip live branches, thin live foliage, or a combination. Pruning does not include topping.

“Prune Substantially” or “Substantial Pruning” shall apply to both above-surface and underground cutting or Removal. With reference to branches, either term shall mean cutting or Removal of more than 25 percent of the live branches of the entire Tree within a 12-month period; or Removal of foliage so as to cause the unbalancing of a Tree; and/or cutting or Removal of any live limb with a diameter of 6 inches or greater or a circumference of 19 inches or greater at any point on such limb. With reference to roots, either term shall mean cutting or Removal of any root 4 inches or greater in diameter.

Deleted: 18

Comment [TF2]: Suggestion to consider larger limits—e.g., 33% and 8 inches—if performed by Tree Service Contractor licensed by the City.

“Public property” means and includes all grounds, other than Streets or Parks, owned by or leased to and under the control of the city of Pacific Grove or other governmental agency.

“Public Trees” means all Street Trees and all other Trees located on Public Property.

“Qualified Professional” means a Person who possesses the credentials, degrees, or qualifications that support the resource-specific skill required to adequately prepare and submit Tree Reports, including:

- A Person designated by the International Society of Arboriculture as a: Certified Arborist; Municipal Specialist; Board Certified Master Arborist; or Certified Tree Risk Assessor.
- A Person designated by the American Society of Consulting Arborists as a: Registered Consulting Arborist.
- A degreed Forest Ecologist.

“Remove” or “Removal” means any of the following:

- Complete Removal, such as cutting to the ground or extraction, of a Tree.
- Taking any action foreseeably leading to the death of a Tree or permanent damage to its health; including but not limited to excessive pruning, cutting, girdling, poisoning, overwatering, unauthorized relocation or transportation of a Tree, or trenching, excavating, altering the grade, or paving within the Tree Protection Zone.

“Review Authority” means the city official or body responsible for reviewing and making decisions on permit requests, either initially or on appeal.

“Root Crown” means the zone of transition between the Tree trunk and supporting roots.

“Shrub” means and includes any woody perennial plant, normally low, several-stemmed, and capable of being shaped and pruned without injury, within the area planted.

“Snag” means mean a dead tree, generally ranging between 12 and 30 feet high, from which the top and a majority of the branches have been removed, in order to provide wildlife habitat.

“Street” means and includes all land lying between the boundaries of property abutting on all public Streets, boulevards, alleys and walks.

“Street Tree” means any Tree whose trunk is located all or primarily within the Street easement or on public property between the Street right of way and a Street-facing property.

“Substantial Pruning”—see “Prune substantially.”

“Suitable” shall mean appropriate to the situation, taking into account: safety of persons and property; environmental values such as wind break, soil erosion, and wildlife habitat; Tree density; Tree health; aesthetic results; and economic factors.

“Tree” means any woody plant that has a trunk six inches or more in diameter at four and one-half feet (54 inches) above natural grade level. For purposes of this title, a multi-trunk Tree shall be considered a single Tree and the circumference of that Tree shall be the sum of the circumferences of the trunks of that Tree.

“Tree Protection Zone” means that area around each Protected Tree whose outer edge is a circle, the radius of which equals the trunk diameter in inches (at 54 inches above grade) times 1.5 with the resulting product measured in feet (e.g., 8 inches x 1.5 = 12 feet), or the outer edge of the Tree’s leaf canopy, whichever is larger.

“Tree Report” means a Tree assessment report meeting the standards specified in prepared by a Qualified Professional.

“Tree Service Contractor” means any Person providing tree trimming and removal services for a fee or other consideration.

“Upper Canopy Tree” means a Tree of a species that tends to be taller than 40 feet at maturity and is able to thrive (when mature) in circumstances providing greater direct exposure to the sun and wind. The leaves and needles of the upper canopy tree are often tough, to withstand drying without damage when moisture is less readily available. Upper Canopy Trees Native to the Monterey peninsula include Monterey pine, Monterey cypress, Monterey cypress, Monterey pine, and Torrey pine. Upper canopy trees provide shelter and shade for species lower in the canopy and on the ground.

“*Urban Forestry Standards*” means the regulations issued to implement this title, as found in the eponymous chapter of the *Urban Forest Management Plan*.

12.02.130 Applicability, Conflicts, and Other Requirements

(a) Applicability. This title applies to all Trees within the City of Pacific Grove, except on Federal lands and school district lands, which are exempt from these standards.

(b) Conflicts. If conflicts occur between this title and PGMC Title 18 (Building and Construction) or Title 23 (Zoning), the more protective requirements shall prevail. If conflicts occur between this title and other titles of the PGMC, or other City regulations, this title shall prevail.

(c) Liability. Nothing contained in this title, within the *Urban Forest Management Plan*, the *Landscape Trees for Pacific Grove: a Guide to Selection, Planting, and Care*, any Street Tree landscaping plan, or other city document, shall be deemed to impose any liability for duty of care or for damages upon the city, its officers, or employees, nor shall it relieve the owner of private property from the duty to keep a Protected Tree in any Street right of way, on his property, or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any Street, Park, pleasure ground, boulevard, alley, or public place within the City.

(d) Severability. Should any part or provision of this title be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

(e) Adoption of Standards. The city may adopt *Urban Forestry Standards*, a Street Tree landscaping plan, and other standards for the planting, maintenance, and Removal of Trees, shrubs, and other landscaping on public and private lands. All work performed in Streets, Parks, or public places shall be performed in accordance therewith. A copy of such standards shall be available at city hall and on the city's website.

(f) Other Requirements. Nothing in this title eliminates the need for Persons to adhere to any other requirements of the PGMC, or any requirement of any regional, State, or Federal agency.

12.02.140 Authority and Responsibility

(a) Generally. The Person in possession of Public Property and the owner of any private property shall have a duty to keep the Protected Trees upon the property and under their control in a safe and healthy condition. The City is responsible for maintaining all Street Trees except for those planted by the property owner at the property owner's initiative.

It is the responsibility of all Persons owning any land within the city to keep all private Trees that extend over any public Street or walkway pruned so as to Remove any foliage encroaching into space above a Street to a height of 14 feet, and above sidewalk areas to a height of eight feet. The City holds the same responsibility for Street Trees and other Public Trees.

Any Person who feels a Tree located on property possessed, owned, or controlled by them is a danger to the safety of themselves, others, or structural improvements on-site or off-site, shall have an obligation to secure the area around the Tree or support the Tree, as appropriate, to safeguard both Persons and improvements from harm.

Pruning, other maintenance, and replacement of Trees shall generally be the responsibility of the property owner(s) and shall be at property owner's expense. Pruning, other maintenance, and the

replacement of Street Trees shall generally be the responsibility of the city and shall be at city's expense.

(b) City Staff. The city manager, through the departments of Public Works and Community Development, shall be responsible for the development and maintenance of standards necessary for implementation of this title, which shall be known as the *Urban Forestry Standards* found in Chapter 5, Pacific Grove *Urban Forest Management*.

The city arborist and public works director are charged primarily with the duty of administering and enforcing this title. Among other duties, the city arborist and public works director shall issue Tree maintenance and Removal permits, oversee implementation of the *Urban Forest Management Plan* as adopted by the city council and amended from time to time, and monitor and evaluate the effectiveness of this title.

The public works director shall direct all planting, maintenance, and removal of Trees on Public Property. Such direction and work shall be in conformance with the *Urban Forestry Standards* or an approved *Monarch Sanctuary Habitat Management Plan*, as appropriate.

The city manager or his designee may enforce the provisions of this title by the issuance of citations. The city attorney may bring a civil action in any court of competent jurisdiction to enforce and/or recover civil penalties for the city as may be allowed by this title.

(c) Natural Resources Commission. The natural resources commission shall prepare a Street Tree landscaping 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 natural resources commission shall also develop lists of Trees and shrubs recommended for use on private property. The commission shall make such determinations after consultation with city staff, arborists, and nursery operators familiar with the subjects of such plantings.

Thereafter, the commission shall from time to time prepare updates covering the same subjects, each of which shall be complete in itself. Such lists shall be made available at City Hall and shall be posted on the city's website.

(d) Utility Franchises. 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 that 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 arborist within 72 hours of the event. All other Tree pruning or Removal by utility companies is subject to the requirements of this title.

12.02.150 Interpretations and Exceptions, Language, and Time Limits

(a) Interpretations and Exceptions. The city manager or his designee has the authority to interpret any provision of this title. Whenever the city manager determines that any aspect of this title is subject to interpretation, the city manager may issue an official written interpretation.

Such official interpretation shall be forwarded to the natural resources commission for informational purposes. The city manager or his designee may also make exceptions to this title, with natural resources commission notification, where a substantial hardship or other unusual condition warrants.

(b) Language. As used in this title, the words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory but is strongly recommended; “may” is permissive. The present tense includes the past and future tenses; the future tense includes the present. The singular number includes the plural, and the plural the singular, unless the natural construction of the sentence indicates otherwise. The words “includes” and “including” shall mean “including but not limited to.” Where there are references to code citations that no longer exist or have been renumbered due to code changes over time, it shall be construed that the reference is to the new or renumbered code section.

(c) Time Limits. Whenever a number of days are specified in this title, or in any permit, condition of approval, notice issued or given as provided in this title, the number of days shall be construed as calendar days. Where the last of the specified number of days falls on a weekend, holiday, or other day City Hall is closed, the time limit will extend to the following working day.

Chapter 12.04 **Infected Trees, Plants, and Shrubs** *[unchanged]*

Chapter 12.12 **Weeds and Rubbish Abatement** *[unchanged]*

Chapter 12.16 **Trees and the Urban Forest** *[replacing existing chapter]*

Sections

- 12.16.100 Protected Trees
- 12.16.200 Removal and Replacement of Protected Trees
- 12.16.250 Planting, Maintenance, and Pruning of Protected Trees
- 12.16.300 Trees and Development
- 12.16.400 High Risk Trees
- 12.16.500 Permit Required for Certain Work
- 12.16.600 Appeal of city arborist decision.
- 12.16.700 Enforcement
- 12.16.800 Tree Service Contractors

12.16.100 Protected Trees

(a). Five categories of Trees are protected by these regulations and the *Urban Forestry Standards*, as specified below. Removal or Substantial Pruning of any Protected Tree requires a permit, as described in Section 12.16.500 (Permit required for certain work).

(1) **Native Trees** – all Gowen cypress Trees, regardless of size; all Coast live oak, Coast redwood, Monterey cypress, and Monterey pine Trees 4 inches or greater in diameter, measured at 54 inches above native grade.

Comment [TF3]: Suggestion to remove redwoods (since not truly native) unless in a grove

(2) **Monarch Butterfly Habitat Trees** – all Trees in or within 100 yards of designated Monarch Sanctuaries. For the purposes of this title, the following sites are designated as Monarch Sanctuaries, serving as official Pacific Grove monarch butterfly over-wintering sites:

(A) 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 numbers 006-361-30-031, -032, -033, and -034, extended from Grove Acre easterly to Ridge Road.

(B) 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.

(3) **Public Trees** – all Trees on Public Property 6 inches or greater in diameter, measured at 54 inches above native grade, and all Street Trees, regardless of size.

(4) **Designated Trees** – all Trees that are specifically designated to be saved and protected on a public or private property during Development and all Trees otherwise identified—during development or otherwise—for special protection by the property owner.

(5) **Significant Trees** – all Trees not in one of the other four categories and that are six inches or greater in diameter, measured at 54 inches above native grade, until July 1, 2017, as a transition period for initial implementation of the *Urban Forest Master Plan*. At that time, unless this sunset provision has been repealed, such Trees will no longer serve as a separate category of Protected Trees.

Comment [TF4]: This is new, in response to a suggestion to address the concern that we may lose many trees very quickly, before the education and incentive programs have had an opportunity to take effect.

Approval from the chief planner or designee is required to Remove a Designated Tree. Approval from the city arborist or public works director is required to Substantially Prune a Designated Tree, as specified in Section 12.16.220.

(b) Nothing in this title limits or modifies the existing authority of the city under Title 23 (Zoning) to require Trees and other plants not covered by this title to be identified, retained, protected, and/or planted as conditions of the approval of Development.

12.16.225 Wildlife Protection. Tree pruning and removal activities shall take place outside of nesting periods or other timeframes that disrupt wildlife.

12.16.230 Maintenance of the Desired Tree Density and Canopy. The community benefits when properties in all areas share equitably in the burden of providing Protected Trees. In addition, the community has decided the overall nature and scope of tree canopy it desires to achieve a mixed, healthy urban forest, as follows:

(a) Residential properties:

<u>Lot Size (square Feet)</u>	<u>Upper Canopy Trees</u>	<u>Lower Canopy Trees</u>
Up to 4,000	0-1	1-2
4,001-6,000	2	2-3
6,001-8,000	3	3-4
Over 8,000	As determined by the appropriate Review Authority	As determined by the appropriate Review Authority

(b) Commercial and City properties. One Tree per 30 feet of frontage, with a minimum of two Trees, if space is available; and

(c) Parking Lots. Three Trees per 25 parking spaces or 5,000 square feet of parking area, or in conjunction with low impact development landscaping for stormwater management.

These tree-density-and-canopy standards may be adjusted with the city arborist or Review Authority in individual circumstances, taking into consideration individual site constraints and opportunities.

12.16.200 Removal and Replacement of Protected Trees.

(a) Removal of Protected Trees. A Protected Tree may not be Removed without city review and approval, as provided in Section 12.16.500 (Permit Required for Certain Work), except in an emergency. All such work shall be done under the direction of the city arborist and public works director. A Tree that serves as part of a 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. Acceptable criteria for the Removal of any Protected Tree are as follows:

(1) The Tree is dead and in falling would conceivably strike a use area, personal/public property, or a Protected Tree.

(2) The Tree poses a high risk to the immediate area that cannot be mitigated through prescriptive treatments.

(3) Tree Risk Assessment Level is greater than 6 (as defined in the *Urban Forestry Standards*) and alternative risk reduction treatments have been considered and are unable to be implemented.

Comment [TF5]: (2) and (3) seem partially redundant

(4) The Tree is causing significant damage to hardscape (house foundations, driveways, retaining walls, patios, etc.), utility service lines, or infrastructure (Streets, curb, sidewalk, storm drain etc) that cannot be mitigated with cost effective, low risk, remedial solutions.

(5) The Tree is irretrievably infested with insects that vector disease or that result in mortality, and may infect or attack adjacent Trees that cannot be preventatively treated.

(6) The Tree is infected with Pitch Canker and crown damage exceeds 50% of total canopy volume.

Comment [TF6]: Suggestion that this be increased.

(7) The Tree is identified as a nuisance and causing illness or emotional distress as verified by a medical doctor.

(8) The Tree causes high pollen counts that causes an incurable allergy, if verified by a medical doctor.

Comment [TF7]: Suggestion to remove

(9) The Tree has heavy cones or fruit drop that cannot be reasonably cleaned or targets relocated.

(10) The Tree is of an invasive species as identified by *Landscape Trees for Pacific Grove*, the California Invasive Plant Council, or the California Invasive Species Advisory Committee.

Pruning or Removal of Monarch Butterfly Habitat Trees shall be prohibited except as prescribed in the approved *Monarch Sanctuary 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. The plan is available at city hall and on the city's website.

Pruning or Removal of Trees within 100 yards of any boundary of a Monarch Sanctuary shall be prohibited during the months of October through April unless deemed necessary by the public works director for public health, safety, or welfare.

Owners of properties surrounding the Monarch Sanctuaries are encouraged to plant Trees that serve as windbreaks and that otherwise benefit the Sanctuaries.

Comment [TF8]: Suggest this go in standards.

A Tree shall not be Removed or substantially altered for the primary purpose of acquiring more sunlight or air, or to reduce litter.

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 for a Tree permit feels that the Tree is diseased, the city arborist 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 with the city arborist. Cost of the analysis shall be borne by the applicant.

The visual prominence and function of each Designated Tree will be considered prior to a decision on the Removal or alteration.

(b) Viewshed Protection. A Tree shall not be Removed, Substantially Pruned, or otherwise altered for the purpose of securing or improving a view. Instead, Trees may be Substantially Pruned in order to provide a framed or filtered view.

(c) Replacement of Protected Trees. In some cases, a Removed Tree shall be replaced by the property owner. 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 Arborist. A Protected Tree that does not meet any of the Tree Removal criteria listed above shall be replaced with an equally sized Tree or an amount equal to the fully appraised value shall be contributed to the Community Tree Program Fund.

Removal of any Protected Tree on a property that will continue to meet the Tree-density-and-canopy standards in the *Urban Forestry Standards* after the Removal shall not require replacement.

Replacement Trees shall be of a Suitable species as determined with the city arborist, after considering lot size, structure locations, other Trees in the area, community aesthetics, and environmental values such as wind break, soil erosion, and wildlife habitat. Owners are encouraged to select Replacement Trees from *Landscape Trees for Pacific Grove*. Invasive Trees will not be approved. For Upper Canopy Trees on lots in excess of 4,000 square feet, at least half of all replacement Trees shall be a Gowen Cypress, Coast live oak, Coast redwood, Monterey cypress, or Monterey pine.

Comment [TF9]: Suggestion to remove, unless a grove.

In order to maintain the existing coniferous Tree cover, particularly in the area between Sunset Drive and Seventeen Mile Drive, a Monterey pine that is removed shall be replaced with a pitch canker resistant Monterey pine if available and where Feasible.

The city arborist or designee shall inspect replacement Trees during the first two years after planting to monitor survivability and growth progress. Dead Trees or Trees in an irreversible decline shall be replaced.

12.16.250 Planting, Maintenance, and Pruning of Protected Trees

The city, its residents, and its property owners benefit by having the right Tree planted in the right place. The planting, maintenance, and Removal of Protected Trees shall be in accordance with the city's *Urban Forestry Standards*, available at city hall and on the city's website.

Pruning of any Protected Tree that does not conform to those standards shall require a city permit, as described in subsection 12.02.140B (Permit required for certain work). Root management promotes structurally stable and healthy Trees and contributes to storm water management.

No Tree can be pruned to an extent that destroys its identity as a Tree, unless conditions for Removal exist and the Tree is to remain as a Snag.

(a) Public and Street Trees and Street Landscaping. Planting of Public and Street Trees shall be in conformance with an approved management plan for Trees on public property, including a

Street Tree landscaping plan. Street Tree plantings shall be considered first from the viewpoint of the people passing on or using the Streets, the benefits to stormwater management, the extension of pavement life as a result of the shade they provide, and from the other broader community benefits. Of secondary consideration is the enhancement, embellishment, or other benefit of the properties abutting the Street or public property.

(b) Flammable Fuel Management. Fuel management is the planned reduction of living or dead vegetation to prevent the ignition of wildland fires and to reduce the spread and intensity of any wildfire. Property owners shall manage flammable fuel loads on their respective properties per the guidelines provided below and CalFire *General Guidelines for Creating Defensible Space*.

(c) Wildlife Protection. Tree pruning and Removal activities shall take place outside of nesting periods or other timeframes that disrupt wildlife.

12.16.300 Trees and Development

The standards for protection of Trees during development and construction are contained in the *Urban Forestry Standards* shall be followed during any development on property containing Designated Trees.

12.16.400 High-Risk Trees

In order for a Tree to be designated high risk, there must be both: 1) one or more defects in the Tree (e.g., disease, significant lean, large cracks, a shallow root system); and 2) one or more targets (e.g., a use area or structure that would be struck or otherwise damaged in the event the Tree fell).

For the purposes hereof, the following are defined to be High-Risk Trees:

(a) Any dead, diseased, infested, or dying Tree in any Street, or on any private property so near to any Public Tree, as to constitute a danger to Public Trees, or Streets, or portions thereof.

(b) Any Tree or shrub on any private property or in any Street, of a type or species apt to destroy, impair, or otherwise interfere with any Street improvements, sidewalks, curbs, approved Street Trees, gutters, sewers, or other public improvements, including utility mains or services.

(c) Any Tree limb, shrub, hedge, or plant reaching a height more than three feet above the curb grade adjacent thereto, except Tree trunks having no limbs lower than nine feet above curb grade, within the thirty-five foot triangle of public or private property, measured from the projected curb lines, at the intersections of any Street improved for vehicular traffic where either traffic signals, stop signs, or yield signs are not installed, or at any intersections which are determined by the chief transportation official to contain Tree limbs, shrubs, hedges, or plants that obscure and impair the view of passing motorists, cyclists, or pedestrians so as to create a safety hazard.

(d) Vines or climbing plants growing into or over any Public Tree; or any public hydrant, pole or electrolier.

(e) Existence of any Tree within the city limits that is infested, infected, or in danger of becoming infested or infected with objectionable insects, scale, fungus or growth injurious to Trees.

(f) The existence of any branches or foliage which interfere with visibility on, or free use of, or access to, obstruct public vehicular or pedestrian travel on any portion of any Street improved for vehicular or pedestrian travel.

(g) Hedges or dense thorny shrubs and plants on any Street or part thereof.

(h) Shrubs and plants more than two feet in height in any Street, measured above top of curb grade.

12.16.410 Removal of Protected Tree Verified to Be High Risk. To Remove a Protected Tree that has been verified as high risk, written approval from the city arborist is required and must be available on site when the Tree is being Removed, unless emergency conditions exist.

12.16.420 Abatement of Public Nuisances. When any public nuisance as defined herein exists, a notice may be sent by ordinary United States mail to the owner or tenant involved. Such notice shall describe the condition, state the work necessary to remedy the condition, and shall specify the time within which the work must be performed. If, at the end of the time specified, such work has not been performed, the city may perform such work, and the cost thereof shall constitute a charge against such owner or tenant, and if unpaid within 90 days of notice, shall be proposed to the city council as a lien on such property.

12.16.500 Permit Required for Certain Work.

It shall be a violation of this title for anyone to Remove or cause to be Removed or Substantially Pruned a Protected Tree, except as allowed in this section and as addressed by the *Urban Forestry Standards*.

In the absence of development, Protected Trees shall not be Removed unless determined by the city arborist, on the basis of a Tree Report prepared by a certified arborist for the applicant and other relevant information, that the Tree should be Removed because it is dead, is high risk, is a detriment to or crowding an adjacent Protected Tree, or constitutes a nuisance under Section 12.16.040 and 12.16.410 of this code.

(a) Unless authorized by permit, no person shall:

(1) Plant, Remove, top, or in any way damage, destroy, injure, or mutilate a Public Tree.

(2) Fasten any sign, wire, or injurious material to any Public Tree.

(3) Excavate any ditch or tunnel, or place concrete or other pavement, within a distance of ten feet of the center of the trunk of any Public Tree.

12.16.510 Application for Permit. Any person desiring to do any of the work described in this section shall apply for such permit to the city arborist on forms provided by the city,

accompanied by the fee specified in the city's master fee schedule. No fee will be charged for a permit for Removal of a dead or High Risk Tree.

The application for Removal of one or more Protected Trees shall include a written Tree Report from a Qualified Professional on company letterhead providing the following information for each Tree:

- Tree species—common and scientific.
- Tree location—in relation to Street, structures, and property line.
- Size—diameter at 54 inches above native ground, height, and crown spread.
- Condition—foliage, vigor, structural integrity, etc.
- Life expectancy and prognosis—is the Tree High Risk, in severe decline, causing or likely to cause property damage, etc.?
- Photos of the subject Tree—in color.
- Any additional information considered by the Qualified Professional submitting the Tree Report to be relevant to the request for removal or required by the city arborist, depending on site conditions.

The Tree Report shall be signed by the Qualified Professional, attesting to the accuracy of the information provided. The Qualified Professional signing the Tree Report shall not be a principal or employee of a Tree service or other contract service provider that has a vested interest or conflict of interest in the subject project.

12.16.520 Tree Reports

An arborist Report is needed for development projects and Tree Removal permits. The Report must be prepared by a Qualified Professional for the applicant and submitted to the city for the purpose of providing accurate information and opinion regarding the condition, welfare, maintenance, preservation, and value of a protected or designated Tree. The requirements and uses of such Reports are specified in the *Urban Forestry Standards*.

12.16.530 Review of Application. The city arborist shall review each application and may inspect the Tree and the surrounding area to determine whether or not, and under what conditions, the permit is to be granted.

The city arborist may refer a permit application to the natural resources commission for review and recommendation.

Before approving any application, the city arborist shall be required to make the findings that the approved actions best further the purposes of this title, as specified in Section 12.02.100 (Purpose).

12.16.540 Public Noticing Requirements. A permit to Remove or substantially alter any Protected Tree is not effective until the tenth day following the date of posting the property on which the Tree or Trees subject to the permit are located. The posted notice shall state that the permit approval may be appealed by any interested person during the 10-calendar-day posting

period. City personnel shall post one notice on the subject Tree(s), two identical notices on public property within 200 feet of the property on which the subject Tree or Trees are located, in positions clearly visible to the public, and on the city's website. The subject Tree(s) must also be marked with a bright chartreuse ribbon around the trunk, which shall remain on the Tree until work has begun. All notices shall remain posted until all work is completed.

Each Tree work permit shall expire 60 days after its effective date. The city arborist may grant up to one extension not to exceed 30 days.

12.16.550 Issuance of Permit. If approved, a permit shall be issued authorizing so much of the work as:

- (a) Will not create, continue, or aggravate any hazardous condition or public nuisance;
- (b) Will not prevent or interfere with the growth, location, or planting of approved Public Trees;
- (c) Is consistent with the planting plan being followed by the city.

All work performed under a permit shall be performed according to the Urban Forestry Standards

The city arborist shall include such conditions on a permit as are necessary to fulfill the standards set out herein.

Response will generally be mailed to the applicant within 10 days and in no case longer than 20 days.

12.16.600 Appeal of city arborist decision. Any Person aggrieved by or objecting to any exercise of authority by the city arborist under this title shall have the right of appeal to the natural resources commission. Filing a timely and complete appeal with the city clerk shall suspend any permit or approval until the hearing on the appeal has been completed. A complete appeal shall include the: action being appealed, property address or location of the Tree impacted by the action; name and contact information of the Person or Persons filing the appeal; reasons for the appeal; and any fee for such appeal as adopted by the city council and included in the city's master fee schedule, which is available at city hall and on the city's website.

(a) Appeals of the city arborist'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 Commission within the 10-day posting period. The appeal will suspend a permit approval pending the commission's hearing on the appeal.

(2) Within 60 days of receipt of an appeal, the Natural Resources Commission will hold a public hearing on the appeal unless the appeal is continued for good cause demonstrated. At least 10 calendar 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 are required to be posted on public property within 200 feet of the property on which the subject Tree or Trees are located, in positions clearly visible to the public. The party appealing shall be notified by mail of the date and time of the hearing.

(3) The Natural Resources Commission may affirm, reverse or modify the action of the city arborist, and in so acting apply the standards set out in subsection (c) of this section.

(4) The action of the Natural Resources Commission may be appealed to the City Council within 10 calendar days.

(5) Once the City 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.

12.16.610 Notice of Commission Hearing. Within 45 days of receipt of an appeal by the city clerk, the natural resources commission shall hold a public hearing on the appeal unless such time is continued by the commission for good cause demonstrated. At least 10 days prior to the hearing, the property on which the Tree or Trees subject to appeal are located shall be posted with 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 arborist on public property within 200 feet of the property on which the Tree or Trees are located, in positions clearly visible to the public. The subject Tree or Trees shall be marked with a bright ribbon around the trunk. The property owner and party appealing shall be notified by mail of the date and time of the hearing.

12.16.620 Decision of the Natural Resources Commission. Following the public hearing, the natural resources commission may affirm, reverse, or modify any decision of the city arborist and, in so doing, shall apply the regulations contained herein and the referenced standards.

12.16.630 Review by City Council. The decision of the natural resources commission may be appealed to the city council within 10 days by filing the appeal in writing, together with the fee set forth in the city's master fee schedule, with the city clerk. Filing of this appeal shall suspend any permit or approval until the hearing on the appeal has been completed.

12.16.640 Notice of Council Hearing. Within 30 days of receipt of an appeal, or its next regular meeting, the City Council shall hold a public hearing on the appeal unless such time is continued for good cause demonstrated. At least 10 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 on public property within 200 feet of the property on which the subject Tree or Trees are located, in positions clearly visible to the public. The property owner and party appealing shall be notified by mail of the date and time of the hearing.

12.16.650 Decision of the City Council. The council may affirm, reverse, or modify the decision of the natural resources commission, and/or the action of the city arborist and, in so doing, shall apply the standards set out in this title and the *Urban Forestry Standards*.

12.16.660 Further Action. Once the natural resources commission or city council has considered, on appeal, an application for Removal or alteration of a Tree(s), all further applications relating to that Tree shall be made directly to that same appeal authority.

12.16.700 Enforcement.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of this title. Knowingly or negligently providing false or misleading information in response to any requirement of this title shall constitute a violation of this title. Any Person who violates any provision of this title, or any condition of a permit issued pursuant to this title, shall be subject to enforcement pursuant to PGMC Chapters 1.19 (Municipal Code and Ordinance Enforcement).

12.16.710 Stop Work Notice. If construction or work is performed contrary to the provisions of this title, the city manager or his designee 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. No work shall be allowed until the violation has been rectified, subject to approval by the city manager or his designee.

12.16.720 Interference with Enforcement. No person shall interfere with or delay the authorized representatives of the city from the execution and enforcement of this title, except as provided by law.

12.16.730 Injunctive Relief. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of such violation.

12.16.740 Penalty Assessment. If violation of this title results in the disfigurement or Damage to a Tree, or the unauthorized transplanting, destruction, or Removal of a Tree, the responsible Person shall, in addition to any other penalty, be liable for administrative penalties and mitigation. Any such fines, penalties, and charges shall accrue to the Community Tree Program Fund. Mitigation costs for damage to any Public Tree, caused by any act or omission by any Person, whenever such act or omission is prohibited by or not authorized pursuant to this title, shall be charged to such Person consistent with the city's master fee schedule. Mitigation may include planting one or more replacement Trees, either on site and off site, as well as protection and maintenance. Alternatively, a contribution to the Community Tree Program Fund, equal to the value of the disfigured, Damaged, transplanted, destroyed, or Removed Tree, as well as the costs of replacing and maintaining it, may be required. The appraised value of the disfigured, Damaged, transplanted, destroyed, or Removed Tree shall be based on the *Guide for Plant Appraisal* (latest edition as published by the International Society of Arboriculture) and on file at City Hall and on-line.

12.16.750 Court Costs. In any civil action brought pursuant to this title in which the city prevails, the court shall award to the city all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

12.16.760 Failure to Receive Notice. The failure of any Person to receive a duly mailed, posted, or delivered notice required under this title shall not affect the validity of any proceedings or actions taken by the city or its employees, agents, or contractors under this title.

12.16.800 Tree Service Contractors. All tree service contractors providing Tree trimming and Removal services in the city of Pacific Grove shall:

(a) Hold a valid business license with the city of Pacific Grove, a current California State Contractors License, a C61-D49 classification, and sufficient liability insurance; be bonded; and participate in the state's workers' compensation program.

(b) As a condition of obtaining or renewing a business license, meet with the city arborist at least once a year, in meetings to be set by the arborist, to review written standards for Tree trimming and Removal services in the city of Pacific Grove, and agree in writing to abide by such standards.

(c) Visibly mark all truck(s) and/or other vehicles utilized by the Tree Service Contractor with the contractor's name, state contractor's license number, business address, and phone number, in letters at least two inches high.

If the city arborist finds work by a licensed Tree service contractor to be in conflict with this title or the *Urban Forestry Standards*, the arborist will review the concerns with the contractor. Continued failure to abide by these standards shall be grounds for revocation of the city business license.