

## AMENDED TITLE 12 REVISIONS (March 2024)

### ORIGINAL PROPOSED TITLE 12 REVISIONS & BNRC REVIEW

During its Special Meeting on January 30, 2024, the Beautification and Natural Resources Commission (BNRC) undertook a comprehensive review of the first iteration of suggested amendments to the Pacific Grove Municipal Code, Title 12, Trees and the Urban Forest, and provided valuable input.

→ **Detailed information on the first iteration can be accessed [here](#).**

This link includes the agenda report, which provides background details, a summarized overview of the proposed changes, and a link to the original set of proposed changes.

Numerous comments from both the public and commissioners were received, with significant focus directed towards the following proposed revisions:

- Alteration of the appeal process
- Replacement of "Arborist" with "Public Works Director or designee" throughout the code, and
- Removal of urban canopy coverage goals

Ultimately, the BNRC recommended that staff review the commissioner's feedback, and public comments received during the public outreach process, and return to the commission for another review.

### MODIFICATIONS – AMENDED PROPOSED TITLE 12 REVISIONS (MARCH 2024)

City staff took into account the feedback received from both the BNRC and the public and have consequently revised the proposed Title 12 revisions. Attached are the amended proposed Title 12 revisions (March 2024), taking into account the feedback provided.

The amended Title 12 Revisions (March 2024) incorporates the following modifications from the original proposal:

- Maintaining the current stipulations regarding the appeal process, allowing appeals to proceed through BNRC and, subsequently, upward to City Council.
- Retaining the term "Arborist" and eliminating references to "Public Works Director or designee."
- Addition of language relating to the importance of urban canopy coverage to the findings section.

### NEXT STEPS

This draft is being made available for public review. The item will be brought forth to the BNRC at their April 16, 2024, meeting.

Staff is encouraging comments on the amended proposed Title 12 revisions (March 2024) to be sent to [pwoutreach@cityofpacificgrove.org](mailto:pwoutreach@cityofpacificgrove.org) by April 10, 2024.

# **TITLE 12**

# **TREES AND THE URBAN FOREST**

**AMENDED PROPOSED REVISIONS (MARCH 2024)**

*PROPOSED REVISIONS*  
*(Clean Copy)*

## CHAPTERS

### Original Chapters

- 12.04 Infected Trees, Plants and Shrubs
- 12.08 Weed and Rubbish Abatement
- 12.10 Purpose, Definitions, Applicability, and Effect
- 12.16 Repealed
- 12.20 Protected Trees
- 12.30 Trees and Development
- 12.40 High-Risk Trees and Nuisance Trees
- 12.50 Tree Service Contractors
- 12.60 Permit Application and Processing
- 12.70 Appeals

### Proposed Modifications

- 12.01 Purpose, Findings, Intent and Definitions
- 12.02 Nuisance Trees (*PROPOSING TO MOVE SECTION TO CHAPTER 11*)
- 12.03 Protected Trees
- 12.04 Trees and Development
- 12.05 High-Risk Trees
- 12.06 Tree Service Contractors
- 12.07 Wildlife Protection (NEW CHAPTER)
- 12.08 Permit Application and Processing
- 12.09 Appeals
- 12.10 Emergency Action (NEW CHAPTER)

## **New Proposed Chapters**

- 12.01 Purpose, Findings, Intent and Definitions
- 12.02 Nuisance Trees
- 12.03 Protected Trees
- 12.04 Trees and Development
- 12.05 High-Risk Trees
- 12.06 Tree Service Contractors
- 12.07 Wildlife Protection
- 12.08 Permit Application and Processing
- 12.09 Appeals
- 12.10 Emergency Action

## **12.01 PURPOSE, FINDINGS, INTENT AND DEFINITIONS**

### **12.01.010 Purpose and intent.**

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

(b) Accordingly, this title provides regulations relating to the Removal and Pruning of Trees in public and private areas, to safeguard life, health, property, and public welfare, by managing the urban forest pursuant to these regulations and the Urban Forestry Standards, and by developing programs for the urban forest of the city of Pacific Grove.

(c) This code 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.

### **12.01.020 Findings.**

The City recognizes the vital role of trees in promoting community well-being and enhancing visual appeal. Trees offer numerous environmental, social, and economic benefits, enriching the landscape and urban form. To safeguard these advantages, the community forest will be diligently protected and managed.

The city council makes the following general findings regarding the relationship between health, safety, and general welfare, and the selection, planting, conservation, protection, and maintenance of Trees in public and private areas as addressed in this chapter.

(a) Trees are a valuable long-term community asset and tend to increase property values.

(b) Trees protect us from climatic extremes. They recycle air and water, absorb carbon dioxide and release oxygen, provide shade and windbreak protection, and can potentially moderate temperatures for an entire neighborhood or community.

(c) Trees can improve human health by absorbing air pollution and trapping dust. In addition, they buffer noise from traffic and other sources.

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

(e) Trees reduce the volume and slow the velocity of storm drainage and dry weather flows. They can filter out many contaminants that would otherwise end up in the ocean.

(f) Trees provide habitat for wildlife.

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

(h) Street trees enhance the visual appeal of the business community, creating an inviting and pleasant atmosphere for customers; A business community with a well-maintained and green streetscape is more resilient to economic fluctuations.

(i) The presence of Trees can do much to reduce the stress of modern living.

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

k) Tree canopy coverage plays a critical role in sustainable urban development, offering a wide range of ecosystem services, benefits, and values to both humans and the environment. Preserving and enhancing urban tree canopy coverage is essential for creating healthier, more resilient, and livable cities for present and future generations.

The above general findings are applicable when the health of Trees is preserved, and the safety and general welfare of the public are observed. Healthy Trees are achieved when the right Trees are planted in the right location and are properly maintained.

### **12.01.030 Definitions.**

For the purposes of this title, the definitions in the Urban Forestry Standards shall be the same as for the following regulations issued to implement this title. The Urban Forestry Standards are available on the City's Website and with the City Clerk's Office. Terms defined in the Urban Forestry Standards are indicated with initial capital letters when used in this title.

### **12.01.040 Applicability, conflicts, and other requirements.**

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

(b) Conflicts. If conflicts occur between this title and PGMC Title 18 (Buildings and Construction) or Title 23 (Zoning), or the Local Coastal Program, the more protective requirements shall prevail. If conflicts occur between this title and other titles of the PGMC, the Urban Forestry Standards, or other city regulations, this title shall prevail.

(c) Liability. Nothing contained in this title, within the adopted Urban Forestry Standards, other management programs, 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 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, 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 this title as a whole or any part thereof other than the part held to be invalid.

(e) Adoption of Standards. The Urban Forestry Standards, adopted in 2012, establish specific technical standards and specifications necessary to implement this chapter. The Urban Forestry Standards may be amended from time to time.

(f) Adoption of Management Programs. The city may also adopt management programs, lists of appropriate Tree species, Public or Street Tree landscaping plans, and other standards for the planting, maintenance, and Removal of Trees on public lands. All work performed under this title shall be performed in accordance therewith.

### **12.01.050 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 shall be responsible for the maintenance of all Public and Street Trees. Pruning, other maintenance, and the replacement of Street Trees shall generally be the responsibility of the city and shall be at city's expense. Property owners may maintain, at their initiative and expense, Street Trees adjacent to their property. Such maintenance shall be in full conformance with the Urban Forestry Standard and shall be approved by the City Arborist or designee.

Pruning, condition assessment, and other maintenance by a Qualified Professional, and replacement of Trees on private property shall generally be the responsibility of the property owner(s) and shall be at the property owner's expense. Any Person who determines that 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, support the Tree, or Remove the Tree, as appropriate, to safeguard both Persons and improvements from harm. In determining the level of risk and urgency to address a potential danger, refer to requirements in PGMC sections 12.10 Emergency Action, PGMC 12.03 Protected Trees and PGMC 12.05 High-Risk Trees.

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 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 or contractors to perform the required work.

(b) City Staff. The city manager, through the departments of public works and community development, shall be responsible for the establishment and maintenance of standards necessary for implementation of this title, known as the Urban Forestry Standards. The city arborist and public works director, among other duties, shall issue Tree maintenance and Removal permits, oversee implementation of the Urban Forestry Standards and other management activities, and monitor and evaluate the effectiveness of this title.

(c) Beautification and Natural Resources Commission. The Beautification and Natural Resources Commission shall review tree and forestry standards including lists of Trees recommended for or discouraged for use as described in Landscape Trees for Pacific Grove. The commission shall make recommendations to the city council after review of such materials. (d) Utilities. Public and private utilities that have easements within the city-owned right-of-way shall be responsible for Tree management and appropriate Pruning consistent with this title and the Urban Forestry Standards to protect critical infrastructure, by obtaining a city-wide permit, in consultation with the city arborist.

(e) California Department of Transportation Right-of-Way. Within the State Highway 68 corridor, the California Department of Transportation shall have authority to manage Trees within the state-owned right-of-way and is encouraged to implement Tree management programs consistent with this title and the Urban Forestry Standards.

### **12.10.060 Enforcement.**

Enforcement of this title shall be in accordance with PGMC Chapter 1.16, except as it relates to infractions described in PGMC Section 1.16.011. Infractions are punishable by fees established in the City's adopted fee schedule. The fee schedule can be obtained from the City Clerk's Office



## **12.02 NUISANCE TREES**

### **12.02.010 – Nuisances.**

A Tree, plant or shrub meeting one or more of the following criteria may be determined to be a public nuisance:

- (a) Containing one or more limbs that obscure and impair the view of passing motorists, cyclists, or pedestrians so as to create a safety hazard;
- (b) Limiting access to a fire hydrant or other facility necessary for public safety;
- (c) Being irretrievably infested or infected with insect, borer, pest or disease that results in mortality, and that may infect or attack adjacent Trees, which cannot be preventatively treated;
- (d) Being infected with pitch canker and having crown damage that exceeds 50 percent of total canopy volume, or has other crown damage exceeding 50 percent;
- (e) Imposing a detriment to or crowding an adjacent Protected Tree;
- (f) Being of an invasive species as identified by Landscape Trees for Pacific Grove, the California Invasive Plant Council, or the California Invasive Species Advisory Committee;
- (g) Such other conditions as agreed to by the city arborist and the property owner.

### **12.02.020 Authority to declare and abate – Nuisances.**

The City Arborist may declare trees, plants or shrubs that meet the Nuisance criteria, PGMC 12.02.010, a public nuisance and thereafter abate per this chapter.

### **12.02.030 Nuisances in public place.**

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

### **12.02.040 Nuisances on Private Property.**

The property owner is responsible for addressing a nuisance on their property, using appropriate techniques; if the Tree is a Protected Tree, the owner shall follow the processes detailed in PGMC 12.08 (Permit Application and Processing).

When a nuisance exists, for which the owner is not taking the appropriate action, the city arborist may give written notice thereof to the property owner, in the manner provided in PGMC 1.12.010 (Giving of notice).

The notice to abate shall refer to the premises on which the public nuisance is alleged to exist, by lot and block number or other appropriate description. A copy shall be conspicuously posted on the property upon which such public nuisance is alleged to exist.

### **12.02.050 Failure to abate – Lien on property.**

If such owner has not abated said nuisance within the timeframe provided on the notice the city manager may cause such nuisance to be abated, in which case the city manager shall maintain a record of the expenses incurred by abating such nuisance., and place the same on file with the city clerk. If the expenses remain unpaid by the property owner, for a period of 90

days from the date of the verified statement, the City may begin the process of imposing a lien on the property. The process of imposing a lien on the property shall follow PGMC Sections 1.19.260-1.190.280.

***(PROPOSING TO MOVE SECTION TO CHAPTER 11)***

**PROPOSING TO MOVE ALL OF PGMC 12.08 TO CHAPTER 11.**

## **12.03 PROTECTED TREES**

### **12.03.010 Categories of Protected Trees.**

Four categories of Trees are protected as specified below:

(1) California Native Trees most prevalent in Pacific Grove, six inches or greater in trunk diameter measured at 54 inches above natural grade, shall be classified as a protected category; this includes all Monterey Cypress, Coast live oak, California incense cedar, Coast redwood, Monterey pine, Gray pine, Torrey pine, and Doug fir.

(2) In addition to subsection (1) of this section, all other Trees on private or public property, regardless of species, 12 inches or greater in trunk diameter, measured at 54 inches above native grade.

(3) 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) George 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.

(4) Designated Trees. All Trees that are otherwise Protected and will be impacted as a result of Development, both proposed for Pruning or Removal and where the Development will impact the Tree Protection Zone of the Tree that requires protection during construction, and all Trees otherwise identified – during Development or otherwise – for special protection by the property owner. Trees that are proposed to be Removed as part of a Development project shall be processed as part of the community Development permit application and approval process, and replaced in accordance with this chapter, and the Urban Forestry Standards.

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

### **12.03.020 Planting and maintenance of Protected Trees.**

(a) The city, its residents, and its property owners benefit by having the right Tree planted in the right place. California Native Trees are preferred, where Feasible. Trees to be planted should be selected from a list of appropriate Landscape Trees for Pacific Grove. The planting and maintenance of Protected Trees shall be in accordance with the city's Urban Forestry Standards and any approved Tree Permits.

(b) Planting of Public and Street Trees shall be in conformance with any approved management plan for Trees on public property, and the Urban Forestry Standards.

### **12.03.030 Standards for review -Criteria for removal of Protected Trees.**

(a) Substantial Pruning or Removal of any Protected Tree requires a permit, as described in Chapter 12.08 PGMC (Permit Application and Processing), except in an Emergency as defined by PGMC 12.10. The City Arborist shall review each tree removal permit by following the standards for review. The standards for review provide criteria for evaluating tree removal requests and provide the basis upon which removal can be authorized. To authorize removal, one or more of the following criteria must be met.

Criteria for Removal of Protected Trees is as follows:

- (1) The International Society of Arboriculture (ISA) Basic Tree Risk Assessment Form categorizes the likelihood of failure as "High" or "Extreme" and there are not more cost-effective remedial solutions. (see PGMC 12.05.020 for actions to be undertaken for high-risk trees.)
- (2) The tree(s) is dead, severely diseased, decayed or disfigured to such an extent that the tree is unable to recover or return to a healthy and structurally sound condition. 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 by agreement of the applicant and City Arborist. The cost of the analysis shall be borne by the applicant.
- (3) The tree(s) or some of its major component parts present a clear safety hazard that cannot be controlled or remedied through preventative procedures or pruning within ISA guidelines.
- (4) The tree(s) is crowding other trees to the extent that removal is necessary to ensure the long-term viability of adjacent and more significant trees.
- (5) The tree(s) has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
- (6) The tree(s) is interfering with the use and function of public sidewalks, curb and gutter, pavements, or other public improvements and cannot be retained through root pruning or reasonable modifications of the affected public improvements.
- (7) The tree(s) is of a species, size or character such that removal and replacement with a more appropriate tree species will enhance the city's urban forest.
- (8) The Tree is causing significant damage to hardscape (house foundations, driveways, retaining walls, patios, etc.), or infrastructure (sidewalk, curb, storm drain, Street, etc.) and the issue cannot be mitigated through ISA guidelines.
- (9) The Tree is within the fuel management zone around an occupancy, or is within a Very High Fire Hazard Severity Zone, as defined by CalFire, and such work is necessary to reduce the risks due to wildfire (see the Urban Forestry Standards, Flammable Fuel Management).
- (10) The Tree is determined to be a nuisance (see PGMC 12.02), and there are not more cost-effective remedial solutions.

All such work shall be done in accordance with the latest ISA, ANSI A300 Standards.

### **12.03.040 Standards for Review – Criteria for Substantial Pruning of Protected Trees.**

Substantial pruning of a Protected Tree requires a permit, as described in PGMC 12.08 (Permit Application and Processing), Substantial pruning is defined as:

- (a) pruning of more than 25% of the tree foliage
- (b) removal of major component parts greater than 6" in diameter
- (c) removal or pruning of any roots greater than 4" in diameter

Per ISA guidelines, substantial pruning activities shall not occur more than once annually.

The City Arborist shall review each tree pruning permit by following the standards for review. The standards for review provide criteria for evaluating substantial tree pruning requests and provide the basis upon which substantial pruning can be authorized. To authorize substantial pruning, one or more of the criteria below must be met.

Criteria for pruning protected trees is as follows:

- (1) The requested percentage of foliage or limb removal is appropriate for the tree species, age, health and site conditions.
- (2) A safety hazard is present and cannot be controlled or remedied through preventative procedures or pruning within ISA guidelines.
- (3) The tree is crowding other trees to the extent that excessive pruning is necessary to ensure the long-term viability of adjacent and more significant trees.
- (4) The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the branch structure of the tree.
- (5) The tree has caused significant damage to an existing structure that cannot be controlled or remedied through reasonable modification of the branch structure of the tree.

Applications requesting substantial pruning more than once annually shall not be authorized.

All such work shall be done in accordance with the latest ISA Tree Pruning Guidelines, ANSI A300 Standards and under the direction of Public Works.

### **12.03.050 Tree Protection.**

Unless authorized by permit, no person shall:

- (a) Remove, top, or in any way damage, destroy, injure, or mutilate a Public Tree.
- (b) Fasten any sign, wire, or injurious material to any Public Tree, other than a Public Tree under PGMC 12.08.050.
- € Excavate any ditch or tunnel, or place concrete or other pavement, within the Tree Protection Zone of any Public Tree.

(d) Prune a protected tree to an extent that destroys its identity as a Tree unless conditions for Removal exist and the Tree is to remain as a Snag for the purpose of wildlife habitat

(e) Substantially Prune or Remove a protected tree for the purpose of securing or improving a view, for acquiring more sunlight or air, or to reduce organic litter The city shall strive to preserve view corridors, as defined in the General Plan, through the maintenance and Pruning of Public Trees and by encouraging private property owners to maintain and Prune their Trees.

(f) A Tree that serves as part of a windbreak system, assists in storm water drainage, the avoidance of soil erosion, or serves as a component of a wildlife habitat, is to be preserved if Feasible.

Failure to comply may result in fines in accordance with PGMC 12.01.060, Enforcement.

**12.03.060 Replacement of Protected Trees.**

Removal of all Protected Trees, whether living or dead, as well as in those cases where the Tree is being left as a Snag, replacement Tree(s) shall be required for each Protected Tree Removed as follows:

Size of tree removed	Replant Requirement
<24" diameter	1 replant
>24" diameter	2 replants

Replacement tree type and size are to be determined by the City Arborist on the approved Tree Permit and planted in a Suitable location. The appropriate configuration (size, species, and placement) will depend on a series of interrelated, site-specific factors, as determined by the City Arborist or designee.

Failure to comply with replant will result in assessment of fees in compliance with the City's fee schedule.

**12.03.070 Alternatives When Protected Trees Cannot Be Replaced On Site.**

If the City Arborist determines that site conditions do not allow for replanting on site, the in-lieu fee shall be paid to the City by the applicant and retained in the Community Tree Fund; the Community Tree Fund shall be used solely for the planting and maintenance of Trees on city property.

## **12.04 TREES AND DEVELOPMENT**

### **12.04.010 Assessment of the Tree resources.**

All permit applications for protected Trees associated with Development shall be processed as a component of the Community Development permit application, and through the appropriate Review Authority for the project. During the Development process, a Tree resource assessment shall be performed by a Qualified Professional, if deemed necessary by the City Arborist, in accordance with the Urban Forestry Standards. This Qualified Professional will be designated the project arborist for the duration of the project. All costs associated with the project arborist shall be borne by the applicant.

The Development shall preserve, or mitigate for, the maximum number of Suitable individual Trees that exist on the site pre-Development, and shall identify any protected Trees that would be Removed as a result of Development. Protected Trees shall be replaced as required by this title.

If replacement of protected Trees is not Feasible, the in-lieu fee, incorporated in the City's Master Fee Schedule shall be assessed at the time of a building permit and shall be deposited into the Community Tree Program Fund.

All Trees that are otherwise Protected and will be impacted because of Development and shall comply with PGMC 12.03.

Prior to pre-construction activities, barriers to visually indicate the Tree Protection Zone shall be erected.

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

### **12.04.020 Construction impact analysis.**

Prior to issuance of a planning or building permit, the Project Arborist shall review grading, drainage, utility, building and landscape plans to determine impacts to individual Trees, as described in the Urban Forestry Standards. Conditions of approval, minimum Tree protection standards during construction, or other necessary mitigation requirements for designated Trees Removed due to construction impacts shall be determined.

All Tree Protection Zone specifications recommended by the project arborist through review of planning or building permits shall be conditions of project approval and delineated on construction drawings for the building permit.



## **12.05 HIGH-RISK TREES**

### **12.05.010 High-Risk Trees.**

High Risk Trees shall be reviewed by the City Arborist through the permit application process pursuant to PGMC 12.08, Permit Application and Processing. Risk levels shall be determined using the International Society of Arboriculture (ISA) Basic Tree Risk Assessment Form , as detailed in the Urban Forestry Standards. The ISA Basic Tree Risk Assessment Form shall be completed by a qualified professional and included as an element of the permit application within the Tree Report.

The City Arborist retains the discretionary right to approve or amend a hazardous rating, in writing, and recommend any action that may reduce the condition to a less-than significant level of hazard while imposing the least impact on the Tree.

Upon review, the City Arborist may have the tree report and/or Risk Assessment peer reviewed.

Immediate action may be authorized in emergencies pursuant to PGMC 12.10, Emergency Actions.

## **12.06 TREE SERVICE CONTRACTORS**

### **12.06.010 Tree Service Contractors.**

All Tree Service Contractors providing Tree pruning 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 contractor's 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 City, to review written standards for Tree pruning 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.

### **12.06.020 Contractor adherence title and Urban Forestry Standards.**

If the City Arborist finds work by a licensed Tree Service Contractor to conflict with this title or the Urban Forestry Standards, they will review the concerns with the contractor. Continued failure to abide by these standards shall be grounds for revocation of the contractor's city business license.

## **12.07 WILDLIFE PROTECTION**

### **12.07.01 Wildlife protection.**

- A. All tree removal and substantial pruning activity that occurs during the typical bird nesting season (February 22 – August 1), shall require a visual bird nesting survey to be performed to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of the proposed tree removal or pruning activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to tree removal. If nests or nesting birds are found on the project site, an appropriate buffer plan shall be established by a biologist, and approved by the City Arborist, prior to work being performed.
- B. Pruning or Removal of Monarch butterfly habitat Trees, within the designated butterfly habitat sites, shall be prohibited except as prescribed in the approved Monarch grove sanctuary management plan or upon a finding by Public Works that such is necessary for proper maintenance of the site or for public health, safety, or welfare.
- C. Pruning or Removal of Trees within 100 yards of any boundary of a Monarch sanctuary shall be prohibited during the months of October 1<sup>st</sup> through April 30<sup>th</sup> unless deemed necessary by the Public Works Director or designee for public health, safety, or welfare. Any Person aggrieved by or objecting to any exercise of authority by the public works director under this section shall have the right of appeal to the Hearing Officer Panel in accordance with PGMC 12.10.

## **12.08 PERMIT APPLICATION AND PROCESSING**

### **12.08.010 Permit required for certain work.**

It shall be a violation of this title for anyone to Remove, cause to be Removed, or Substantially Prune a Protected Tree, except as allowed in this title and as addressed by the Urban Forestry Standards. In the absence of Development, Protected Trees shall not be Substantially Pruned or Removed unless approved by the City Arborist. Applications for Removal of protected Trees associated with Development shall be processed as part of the community Development permit review and approval process for the project, as provided in PGMC Title [23](#), Zoning and noted in 12.04 Trees and Development.

### **12.08.020 Application for Permit.**

Removal or substantial pruning of a Protected Tree requires completion of a Tree Permit application on forms provided by the city, accompanied by a fee as established in the city's master fee schedule. Any person desiring to do any of the work described in this title shall apply for such permit.

### **12.08.030 Tree Report.**

The application for Removal of one or more live Protected Trees shall include a written Tree Report, as specified in the Urban Forestry Standards. Dead trees do not require a Tree Report.

The Report shall be prepared for the applicant by a Qualified Professional and shall be submitted to the city to provide accurate information and a professional opinion regarding the condition, welfare, maintenance, preservation, and value of a Protected Tree.

### **12.08.040 Review of Application.**

The City Arborist shall review each application and may inspect the Tree and the surrounding area to determine whether, and under what conditions, the permit is to be granted within the provisions of this title.

The City Arborist may refer a permit application to the Hearing Officer Panel for review and a determination on permit approval or denial.

Before approving any application, the City Arborist shall review each tree removal and substantial pruning request and determine if appropriate standards have been met to the authorize the action, per PGMC 12.03.040 and/or PGMC 12.03.050.

### **12.08.050 Public Noticing Requirements.**

A permit to Remove any live 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 unless it is an Emergency pursuant to PGMC 12.10 or nuisance pursuant to PGMC 12.02.

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, by the City Arborist. This shall remain on the Tree until work has begun. All notices shall remain posted until all work is completed. Noticing for designated Trees shall follow the procedures as provided in PGMC Title [23](#), Zoning.

**12.08.060 Dead Trees and High-Risk Trees.**

All permit applications for dead Trees and High-Risk Trees with likelihood of failure as high or extreme shall be processed in a timely manner; requirements for a Tree Report, public noticing, etc. shall be adjusted accordingly.

**12.08.070 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 Arborist.

**12.08.080 Issuance of Permit.**

If approved, a permit shall be issued authorizing a scope of work. 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 provided to the applicant within 10 days and in no case longer than 20 days, except in the case of designated Trees associated with Development where processing timelines are as provided in PGMC Title [23](#), Zoning.

Each Tree permit shall expire 60 days after its effective date, except in the case of designated Trees associated with Development where permit expirations are as provided in PGMC Title [23](#), Zoning. The City Arborist may grant up to one extension not to exceed 30 days.

**12.08.090 Time Limits.**

Whenever a number of days is 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.

## **12.09 APPEALS**

### **12.09.010 Appeal of decision associated with Development.**

For designated Trees associated with Development, any Person aggrieved by or objecting to any project decision by the approval authority shall have the right of appeal to the appeal authority as specified in Chapter [23.70](#) PGMC. Filing a timely and complete appeal with the community development department shall suspend any permit or approval until the hearing on the appeal has been completed. Appeals associated with Development shall follow the appeal procedures provided in Chapter [23.74](#) PGMC.

### **12.09.020 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 beautification and natural resources commission. Filing a timely and complete appeal, utilizing the Appeal Form, with the Community Development Department shall suspend any permit or approval until the hearing on the appeal has been completed.

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 found in the Fee Schedule, appeal a tree permit application approval or denial made by City Arborist to the beautification and natural resources commission. The appeal form and payment must be received by the Community Development Department within the 10-day posting period, for approved permits, or 10-days from the date in which the applicant was notified of the denial. 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 beautification and 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 appeal shall be properly noticed in compliance with Chapter 12.09.030.
- (3) The beautification and natural resources commission may affirm, reverse, or modify the action of the City Arborist, and in so acting, apply the standards of this Title and the Urban Forestry Standards.
- (4) The action of the Beautification and 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.

### **12.09.030 Notice of commission Hearing.**

At least 10 days prior to the hearing, the City Arborist shall post the property on which the Tree or Trees subject to appeal are located with notice of the time and date of the hearing at or near the subject Tree or Trees. Two identical notices shall be posted 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 chartreuse ribbon. The property owner and party appealing shall be notified by mail of the date and time of the hearing.

### **12.09.040 Decision of the beautification and natural resources commission.**

The beautification and natural resources commission may affirm, reverse, or modify the decision and/or the action of the City Arborist and, in so doing, shall apply the findings set out in PGMC 12.030.030 and 12.030.040, and the Urban Forestry Standards.

#### **12..09.050 Review by city council.**

The decision of the beautification and 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 Community Development Department. Filing of this appeal shall suspend any permit or approval until the hearing on the appeal has been completed.

#### **12.09.060 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.

#### **12.09.070 Decision of the city council.**

The council may affirm, reverse, or modify the decision of the beautification and natural resources commission and/or the action of the city arborist and, in so doing, shall apply the findings set out in PGMC PGMC 12.030.030 and 12.030.040 and the Urban Forestry Standards.

#### **12.09.080 Further Action.**

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

## **12.10 EMERGENCY ACTION**

### **12.10.010 Emergency action.**

A protected tree may be removed or substantially pruned without a permit where it presents an imminent danger to life, property, utilities, or essential transportation systems. In such event, the property owner or representative shall be responsible for the following:

(1) Notify the Public Works Department during business hours. If after standard business hours, notify the Police or Fire Department and request authorization of the proposed emergency action, including removal or substantial pruning.

(2) Emergency action may be authorized by the City Manager, Public Works Director or designee, or a member of the police or fire department or other emergency personnel when the situation and conditions warrant immediate action to protect life or property and other City officials are unavailable.

(3) No later than 72 hours after the emergency action has been taken the property owner shall submit photo documentation and written verification to the Community Develop Department confirming the emergency condition and describing the action taken. If the Director determines that the condition was not reasonably determined to have been an emergency requiring immediate action, the person responsible for removing or damaging the protected tree shall be subject to fines and penalties as set forth in the City's fee schedule.