TITLE 12

TREES, WEEDS AND VEGETATION

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12.08 Weed and Rubbish Abatement
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Chapter 12.04

Trees and Vegetation

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12.04.005. Purpose and Intent. Mill Valley, lying at the base of Mt. Tamalpais, derives much of its character and beauty from its large majestic trees and natural setting. The preservation of these trees enhances Mill Valley's natural scenic beauty and creates the identity and quality of the community. Therefore it is necessary to enact regulations controlling removal and preservation of trees within the City. (Ord. 1186, Sec. 1, March 3, 2003.)

12.04.010 Declaration of policy. It is hereby declared to be the policy of the City of Mill Valley to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in the City in order to eliminate and guard against dangerous conditions which may result in property damage or injury to persons using streets, alleys, sidewalks, or any other property of the City of Mill Valley; to promote and enhance the visual appearance and beauty of the City; to prevent damage to any sewer or water main, street, sidewalk, or other property; to protect trees and shrubs located in public areas from undesirable or unsafe planting, removal, treatment, and maintenance practices; and to guard against spread of disease or pests within the City. (Ord. 999, Sec. 3, November 15, 1982; Ord. 1186, Sec. 1, March 3, 2003.)

12.04.020 Definitions. Whenever the following words or terms appear in this Chapter they shall be construed to have the following meanings:

A. Person. The word "person" shall mean person, firm, association, or corporation.

B. Public trees and shrubs. The words "public trees and shrubs," shall mean all trees or shrubs located or to be planted on any park, playground, or other property owned or controlled by the City, or upon any public street, parkway, alley, sidewalk, or highway within the public right-of-way.

C. Definition of Tree Committee. The committee shall consist of the Parks Superintendent, one staff member from the City Planning Department and one representative from the Parks and Recreation Commission. (Ord. 1186, Sec. 1, March 3, 2003.)

12.04.030 Enforcement. The departments and divisions responsible for the enforcement of this Chapter shall be:

A. Parks and Recreation Department. The Parks and Recreation Department shall be responsible for studying the tree planting and replacement program, together with the proper care and treatment of shrubs and trees; recommending the removal of undesirable trees and shrubs and their replacement with more desirable types; encouraging property owners in the program of proper planting and care of trees and shrubs in such a way as to beautify the City; and investigating applications for trimming or removal of trees to ascertain if they should be granted, and to make recommendations thereon.

B. Park Maintenance Division. The Park Maintenance Division shall be responsible for all work pertaining to public trees and shrubs. The Parks Superintendent shall direct, regulate and control the planting, care, and removal of all public trees and shrubs within the City and shall cause the provisions of this Chapter to be enforced. In cases of obvious emergency, the Parks Superintendent shall proceed with proper steps to alleviate the situation, particularly if danger to persons or property exists, and shall report such activities to the Director of Parks and Recreation. The Parks Superintendent shall supervise and direct all work pertaining to public trees and shrubs whether the work is done by City employees or private businesses hired for this work. (Ord. 570, Sec. 1, November 15, 1982; Ord. 1186, Sec. 1, March 3, 2003.)

12.04.040 Planting, care and removal of public trees and shrubs.

A. Permit Required. No person, except City employees working under supervision of the Parks Superintendent and in accordance with this Chapter, shall plant, remove, replace, trim, brace, or in any manner alter or destroy public trees and shrubs without first obtaining a permit as hereinafter set forth. Provided, however, that public utility companies rendering service within the City of Mill Valley shall be authorized in cases of immediate emergency to cut, remove, or trim any tree or shrub so far as may be necessary to protect the physical property of such public utility company from injury, or to prevent any disruption of service which the company provides.

B. Permits. Any person who desires to plant, remove, replace, trim, brace, or in any manner alter public trees and shrubs, shall file an application for a permit with the Parks Superintendent of the City of Mill Valley, except for Heritage Trees, which shall be filed in accordance with Chapter 20.67 of this Code. The application shall be accompanied by the appropriate filing fee as established by resolution of the City Council. All work to be done under the permit shall be done at the applicant's expense. The Parks Superintendent shall be notified 48 hours in advance of commencement of work.

C. Public Notice. The City shall provide public notice when considering authorization for removal of any public tree over 20" in diameter, measured 4' above the ground; or for any tree that, in the opinion of the Parks Superintendent, may have significant value to the neighborhood and/or community. Such notice shall be posted on or near the tree ten (10) days prior to the ruling and shall be mailed to the owners of property (as identified on the latest equalized assessment roll) within 300 feet of the tree.

The notice shall contain:

1. A brief description of the tree to be removed and its location.
2. The address where copies of the permit application are to be available for public review
3. Methods of public response.
4. Date the decision will be made and where the decision results may be obtained.

D. Standard of Issuance. The Parks Superintendent shall consider the history of the tree or types of trees when making a decision regarding the permit for tree removal. In the instance of the tree being in excess of 20 inches in diameter the decision will be made by the Tree Committee. Removals shall be allowed when characteristics of a tree are so undesirable that the negative factors clearly outweigh any positive effects to the community that would result if the tree were retained. The permit may contain reasonable conditions including, but not limited to, provisions for replacement such trees, initial maintenance of such replacement trees, protection of the traveling public and the road improvements, and a fee to be paid to defray the cost of any necessary inspections.

E. Appeals. Decisions of the Parks Superintendent or Tree Committee regarding permits may be appealed to the Parks and Recreation Commission within 15 days of the decision to approve or deny the permit. No tree shall be removed prior to expiration of this appeal period. The appeal will be heard at a regularly scheduled Commission meeting. The applicant and any other interested parties shall have the right to attend and be heard. The appeal shall be conducted by the Commission, who may affirm, modify or reverse the prior action. The decision of the Parks and Recreation Commission shall be final. (Ord. 1186, Sec. 1, March 3, 2003).

12.04.050 General Tree and Shrub Regulations.

A. Injury to trees and shrubs prohibited. No person shall do, or cause to be done by others, any of the following acts on any public tree or shrub:

1. Secure, fasten, or run any rope, wire, sign, unprotected electric installation or other device or material to, around, or through a tree or shrub.

2. Break, injure, deface, or destroy, or permit any fire to burn where it will injure any tree or shrub.

3. Permit any toxic chemical, gas, salt brine, oil, or any other injurious substance to be emptied on or about any tree or shrub, or emptied or spilled where it may drain or seep around any tree or shrub.

4. Excavate any ditch, tunnel, or trench, or lay any drive within one-half the radius of the drip line of any tree or shrub.

5. Erect, alter, repair, or raze any building or structure without placing suitable guards around all nearby trees or shrubs that may be injured by such operations.

6. Knowingly permit any unprotected electric service wires to come in prolonged contact with any tree or shrub.

7. Remove any guard, stake, or other device or material intended for the protection of a tree or shrub, or obstruct any open space about the base of the tree or shrub designed to permit access of air, water, or fertilizer.

B. Trees to be kept trimmed. Trees and shrubs standing in or upon any public right-of-way between the lot line and the curb or edge of the improved street, and trees and shrubs standing upon any private property adjacent to any public street, park, parkway, playground, walkway or right-of-way of any kind, shall be kept trimmed by the owner, or owners, of the premises on, or in front of which, such trees or shrubs are standing so that the lowest branches projecting over such public properties provide a clearance of not less than eight (8) feet. No fee shall be required to obtain a permit for such trimming under Section 12.04.040.

C. Obstructions of view at intersections prohibited**.** No person shall maintain, plant, or permit to remain on any private property situated at the intersection of two or more streets or alleys or on any curved streets, trees, bushes, shrubs, hedges, or other growth which obstructs the view of the operator of any vehicle approaching an intersection or curve, to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing such intersection or curve. At such locations lower tree branches must be kept trimmed to 8 feet for sidewalks and 12 feet for streets. Hedges, bushes, or shrubs must be limited to 4 feet in height for a distance of 50 feet from any intersection or curve, or for such a distance and height as determined to be necessary for intersection and curve visibility by the City Engineer. Any tree, bush, shrub, or hedge not kept trimmed in such a way that visibility is provided at curves and intersections is hereby declared a public nuisance.

D. Authority over private trees, shrubs, or plantings. Whenever a tree, shrub, or planting is on private property, in whole or in part, and is determined to be a public nuisance, or which endangers life, health, or safety of the public; or which has become infested with parasites, insect pests, or disease which may spread to public trees, bushes or shrubs, the Parks Superintendent shall notify the owner or his agent in writing that the nuisance shall be abated as directed in the notice within the time specified. Should the owner, or his agent, refuse to comply with the notice within the time specified, the Parks Superintendent shall cause the nuisance to be abated in whatever manner is necessary, the expense thereof to be a lien against the property upon which the nuisance was located. (Ord. 570, Sec. 1, September 3, 1963; Ord. 1186, Sec. 1, March 3, 2003.)

12.04.060 Abatement. Whenever trees, bushes, or shrubs are declared a nuisance as defined in this Chapter, the Parks Superintendent shall cause notice to be given in writing, either by personal service or United States Mail, to the owner or occupant of property upon which such nuisance exists, of the declared nuisance, directing the owner or occupant to have the nuisance removed. If the owner or occupant of the premises fails to comply with the notice, the City of Mill Valley shall have the right to abate such nuisance and to enter upon private property when necessary to do so, and to take all steps required to abate said nuisance. All costs incurred by the City of Mill Valley to abate said nuisance shall be a charge against the person, firm, or corporation who caused, or who causes, such nuisance to exist, or be maintained, and the City shall have the right to bring a court action to collect from such person, firm or corporation all of the charges incurred in abating the nuisance.

12.04.070 Penalties. Violations of this Chapter are hereby declared to constitute a public nuisance and shall be punishable as misdemeanors or infractions, with penalties not to exceed the amounts set forth in Government Code Sections 36900 and 36901, at the discretion of the City's designated code enforcement official following consideration of the severity of the violation. Continuing violations shall constitute a separate offense for every day the violation occurs or continues. In addition, violators shall be liable for all costs associated with taking corrective action deemed reasonably necessary as the result of a violation of this Chapter, including the planting of replacement trees, erosion control and slope stabilization. At the City's option, any necessary corrective action may be undertaken pursuant to the nuisance abatement procedures set forth in Chapters 8.33 and 20.66 of this Code. In addition, the City may pursue any other available legal or equitable remedies. (Ord. 570, Sec. 1, September 3, 1963; Ord. 1186, Sec. 1, March 3, 2003.)

Chapter 12.08

Weed and Rubbish Abatement*[1]

Sections:

12.08.010 Weeds, rubbish may be declared nuisance by Council.
12.08.020 Council resolution required--Procedure.
12.08.030 Notice of resolution posted on property--Form.
12.08.040 Hearing on resolution--Council jurisdiction.
12.08.050 Removal of nuisance by Street Supervisor.
12.08.060 Cost of abatement recorded with Council.
12.08.070 Cost of abatement assessed in tax against property owners.
12.08.080 Penalty for violation.

12.08.010 Weeds, rubbish may be declared nuisance by Council. All weeds growing upon the street or sidewalk or private property, within the City, which bear seeds of a wingy or downy nature, or attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous, and all rubbish, refuse and dirt upon streets, parkways, sidewalks or private property within the City, may be declared to be a public nuisance by the City Council and may be abated as herein provided. (Ord. 352, Sec. 1; July 7, 1948.)

12.08.020 Council resolution required--Procedure. Whenever such weeds are growing upon any street or sidewalk or private property, or whenever rubbish, refuse, or dirt is upon any street, parkway, sidewalk or private property, the City Council may, by resolution, declare the same to be a public nuisance. Said resolution shall refer to the street by the name under which it is commonly known and describe the property upon which, or in front of which, said nuisance exists, by giving the lot and block number of the same, according to the official map or the assessment map of such City used for describing property on tax bills; and no other description of said property shall be required. Any number of streets, sidewalks or parcels of private property may be included in any one and the same resolution. (Ord. 352, Sec. 2; July 7, 1948.)

12.08.030 Notice of resolution posted on property--Form. After the passage of said resolution, the Street Supervisor shall cause to be conspicuously posted on and in front of the property on which, or in front of which, such nuisance exists, one notice to each piece or parcel or property in separate ownership of not over 50 feet frontage, or not more than two notices to any piece or parcel of property of separate ownership with a frontage of 100 feet or less. If the frontage of any piece or parcel of property in separate ownership is greater than 100 feet, notices shall be posted not more than 100 feet apart. Such notices shall be headed "Notice to Destroy Weeds and to Remove Rubbish, Refuse and Dirt," such heading to be in words of not less than one inch in height and substantially in the following form:

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* Refuse disposal on streets and sidewalks--see Section 11.24.010 of this Code.

NOTICE TO DESTROY WEEDS AND TO REMOVE
RUBBISH, REFUSE AND DIRT

Notice is hereby given that on the _____ day of _____, (year) the City Council of Mill Valley passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street, and that rubbish, refuse and dirt was upon or in front of any property on this street, in said _____, and more particularly described in said resolution, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds and said rubbish, refuse and dirt, otherwise they will be removed and the nuisance will be abated by the municipal authorities, in which case the cost of such removal shall be assessed upon the lots and lands from which or in front of which such weeds and such rubbish, refuse and dirt are removed, and such costs will constitute a lien upon such lots or lands until paid. Reference is hereby made to said resolution for further particulars.

All property owners having any objections to the proposed removal of such weeds and such rubbish, refuse and dirt are hereby notified to attend a meeting of the City Council of Mill Valley to be held (give date), when their objections will be heard and given due consideration.

Dated this _____ day of _____, (year).

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Said notices shall be posted at least five days prior to the time for hearing objections by the City Council of Mill Valley. (Ord. 352, Sec. 3; July 7, 1948.)

12.08.040 Hearing on resolution--Council jurisdiction. At the time stated in the notices, the City Council shall hear and consider all objections or protests, if any, to the proposed removal of weeds, rubbish, refuse and dirt, and may continue the hearing from time to time. Upon the conclusion of said hearing, the City Council by motion or resolution shall allow or overrule any or all objections, whereupon the City Council shall be deemed to have acquired jurisdiction to proceed and perform the work of removal, and the decision of the City Council on the matter shall be deemed final and conclusive. (Ord. 352, Sec. 4; July 7, 1948.)

12.08.050 Removal of nuisance by Street Supervisor. After final action has been taken by the City Council on the disposition of any protests or objections, or in case no protests or objections have been received, the City Council, by motion or resolution, shall order the Street Supervisor or such other public officer as the City Council may designate, to abate said nuisance by having the weeds, rubbish, refuse and dirt referred to, removed, and he and his assistants or deputies are hereby authorized to enter upon private property for that purpose. Any property owner shall have the right to have any such weeds and rubbish, refuse and dirt removed at his own expense, providing the same is done prior to the arrival of the Street Supervisor or such other public officer so designated or his representatives to do the same. (Ord. 352, Sec. 5; July 7, 1948.)

12.08.060 Cost of abatement recorded with Council. The Street Supervisor or such other public official so designated shall keep an account of the cost of abating such nuisance in front of each separate lot or parcel of land where the work is done by him or his deputies, and shall render an itemized report in writing to the City Council of the City showing the cost of removing such weeds, rubbish, refuse and dirt on each separate lot or in front thereof, or both; provided that before said report is submitted to said legislative body a copy of the same shall be posted for at least three days prior thereto on or near the chamber door of the

City Hall of said City, together with a notice of the date when said report shall be submitted to the legislative body for confirmation. (Ord. 352, Sec. 6; July 7, 1948.)

12.08.070 Cost of abatement assessed in tax against property owners. The City Council shall thereupon confirm said costs, if the same are fair and reasonable. The City Council shall cause a report to be made as of June 30th of each year to the City Assessor, which report shall show all parcels of property on or in front of which, or both, costs have been charged, and said report shall direct the City Assessor to enter said costs as a weed abatement tax against all of said respective parcels of real property, said entries to be made upon the assessment roll for the current fiscal year. (Ord. 352, Sec. 7; July 7, 1948.)

12.08.080 Penalty for violation. Any person maintaining such nuisance, or suffering or permitting such nuisance to exist, after notice given of the existence of the same as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $500.00 or by imprisonment in the county jail for a period not exceeding six months, or by both fine and imprisonment. (Ord. 352, Sec. 8; July 7, 1948.)

Chapter 12.10

Exemption from California Solar Shade Control Act

Sections:

12.10.010 Exemption from Solar Shade Control Act

12.10.010 Exemption from Solar Shade Control Act. Pursuant to the provisions of California Public Resources Code Section 25985, the City of Mill Valley is hereby declared to be exempt from the provisions of the Solar Shade Control Act (Public Resources Code, Division 15, Chapter 12). (Ord. 998, Sec. 1; November 15, 1982.)