

ORDINANCE BILL NO. 2 FOR 1994

ORDINANCE NO. 1068

AN ORDINANCE AMENDING CHAPTER 12.16 OF THE SWEET HOME MUNICIPAL CODE; AND DECLARING AN EMERGENCY.

The City of Sweet Home does ordain as follows:

PUBLIC TREES, SHRUBS AND BUSHES

Sections:

- 12.16.010 Purpose.
- 12.16.020 Applicability.
- 12.16.030 Definitions.
- 12.16.040 Creation of the Tree Commission.
- 12.16.050 Duties and responsibilities of the Tree Commission.
- 12.16.060 Review by the City Council.
- 12.16.070 Street tree planting specifications.
- 12.16.080 Street tree maintenance.
- 12.16.090 Street tree removal.
- 12.16.100 Tree permit.
- 12.16.110 Private trees.
- 12.16.120 Abuse or mutilation of trees.
- 12.16.130 Enforcement--penalties.
- 12.16.140 Liability on city.

12.16.010 Purpose. It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs and other plants within the city of Sweet Home.

12.16.020 Applicability. This chapter provides the city full power over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or thereas described herein.

12.16.030 Definitions. As used in the chapter, the following words mean:

"Caliper" means the American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four inch caliper size and twelve inches above the ground for larger sizes.

"Canopy" means the space of the tree above ground including the trunk and branches measured in volume.

"Drip line" means the outermost edge of the tree's original canopy. When depicted on a plan, the drip line will appear as an irregular shaped circle that follows the canopy edge of the tree branches as seen from overhead.

"Hazard tree" means any tree with any structural defect, disease, extreme size or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property.

"Grove" means a stand of three or more trees (of the same species or a mixture), which form a visual and biological unit.

"Park tree" means a tree, shrub, bush or other woody vegetation located in a public park or other area owned by the city having an individual name, and all other areas owned by the city, or to which the public has free access as a park.

"Park strip" means a portion of street right-of-way that is located between a curb and a sidewalk.

"Private tree" means a tree, shrub, bush or other woody vegetation located on private property other than a dedicated right-of-way or public easement, or public parks and grounds.

"Right-of-way" means the area between the boundary lines of a street or public easement. This area includes the park strip or tree lawn area between the curb and sidewalk.

"Remove or removal" means the act of removing a tree by digging up, cutting down or any which causes a tree to die within a period of three years; including but not limited to damage inflicted on the root system by machinery, storage of materials or soil compaction; changing the ground level in the area of the tree's root system; damage inflicted on the tree permitting infections or infestation; excessive pruning, or any other action which is deemed harmful to the tree.

"Root zone" means the area of the ground around the base of the tree measured from the trunk to 5 feet beyond the drip line.

"Severely prune" means to top a tree or remove more than 20% of the canopy within a one year.

"Street tree" means a tree, shrub, or other woody vegetation on land lying within the right-of-way along either side of a street, avenue or other way or within a public easement of the city.

"Topping" means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

"Tree" means any woody, perennial plant, deciduous, evergreen or coniferous, characterized by having a main stem or trunk of six inches or more in diameter 4.5 feet above natural grade. In cases of multi-stemmed or multi-trunk trees, the diameter shall be the sum of diameters of all individual stems or trunks.

12.16.040 Creation of Tree Commission. There is created a standing commission that shall be known as the Tree Commission. The members of the commission shall consist of appointed members, as well as representatives from the city council, and city staff as set out in Chapter 2.24.

12.16.050 Duties and responsibilities of the Tree Commission. The Tree Commission shall study, investigate and develop and/or update annually, and administer a written plan for the care, preservation, pruning, replanting, removal or disposition of street trees and park trees. The Tree Commission shall also be responsible for developing and reviewing planting and maintenance standards. The Tree Commission, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. The commission shall perform the powers and duties as set out in Chapter 2.24.

12.16.060 Review by the city council. The city council may review the conduct, acts and decisions of the tree commission. A person may appeal the ruling or order of the commission to the city council who shall hear the matter and make a final decision.

12.16.070 Street tree planting specifications. A. TREE SELECTION. The official city street tree list of acceptable species for trees, shrubs, bushes and other woody plant material is included in Appendix E of the 1993 Sweet Home Park and Street Tree Planting Plan. No person, without the written permission of the city, shall plant a street tree of a species other than those included on the list.

B. SIZE OF TREE TO BE PLANTED. Unless otherwise specified by the City of Sweet Home all trees and their cultivars shall conform to the American Standard for Nursery Stock. The minimum size for planting stock for use along arterial street is a caliper of 2 inches or greater, and 1-1/2 inches or greater along a collector street.

C. TREE GRADE. Unless otherwise specified by the City, all trees shall have straight trunks, well developed leaders and tops. The root system shall be characteristic of the species and it shall exhibit evidence of proper nursery practices.

D. TYPE OF PLANTING STOCK. Unless otherwise specified by the city, all nursery stock shall conform to the American Standard for Nursery Stock.

E. SPACING OF PLANTINGS. The spacing of street trees shall be in accordance with the species, size and listed in Appendix E of the Sweet Home Park and Street Tree Planting Plan, and no trees shall be planted closer together than the following:

SPACING REQUIREMENTS (in feet)	SMALL TREES <35'	MEDIUM TREES 35 - 50'	LARGE TREES >50'
1. Total width of planting area	3 - 4'	4 - 8'	>8'
2. Distance from back of curb or sidewalk	1.5'	3'	4'
3. Distance from alley or drive	10'	10'	10'
4. Distance from cross-walk	4'	6'	6'
5. Distance from face of curb at cross street	20'	20'	20'
6. Distance from stop sign or signal	30-50'	30-50'	30-50'
7. Distance between trees	1/2 of the mature crown spread, approx. 20-30'	1/2 of the mature crown spread, approx. 30-50'	1/2 of the mature crown spread, approx. 40-60'
8. Distance from water meter or sewer service	4'	6'	6'
9. Distance from utility or light pole	10'	30'	30'
10. Distance from building	5'	10'	25'

F. UTILITY LINES. No street trees other than those species listed in Appendix E of the 1993 Park and Street Tree Planting Plan may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

12.16.080 Street Tree Maintenance. A. PERMIT REQUIRED. Unless specifically exempted in this chapter, no person shall remove, severely prune, or disturb any tree on any street, park, or other public place without first filing an application and procuring a tree permit from the city. Minor pruning and maintenance, as described in subsection 12.16.100(C)(1), does not require a permit.

B. PRUNING AND CORNER CLEARANCE. All public trees overhanging a street right-of-way within the city shall be pruned so that the branches do not obstruct the light from a street lamp or obstruct the view of any street intersection. All dead, diseased, dangerous, broken or decayed limbs which constitute a menace to the safety of the public shall be removed.

C. CLEARANCE HEIGHT. All public trees shall be maintained so that the clearance height from a pedestrian walk is not less than 8 feet, a clearance height from a residential street is not less than 12 feet, and the clearance height from a collector or arterial street is 14 feet.

D. ADJACENT LANDOWNER RESPONSIBILITY. In consideration of the value and benefits derived from the beauty and enjoyment of the street trees, the property owners abutting dedicated rights-of-way shall share the responsibility and cost of maintenance and care of the street trees abutting their property, and shall have the primary duty to regularly inspect and remove, as set out herein, any conditions that violate this chapter as needed. Failure to do so is a violation of this chapter.

12.16.090 Street Tree Removal. A. PERMIT REQUIRED. Unless specifically exempted in this chapter, no person may remove a public tree without first filing an application and procuring a permit from the city.

B. REMOVAL OF STUMPS. All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

C. TREE REPLACEMENT. The city may require the replacement by the abutting land owner, at the land owner's expense, of a new tree after removal of an existing street tree.

12.16.100 Permit. A. CITY APPROVAL REQUIRED. Unless specifically exempted by this section, no person may remove, severely prune, or disturb any tree on any street, park, or other public place without first filing an application and procuring a tree permit and a public works permit from the city. Both permits shall be processed concurrently. The person receiving the permit shall abide by any conditions placed on the permit, the standards set forth in this ordinance and the provisions of the 1993 Park and Street Tree Planting Plan.

B. APPLICATION.

1. The applicant shall file a public works permit and a tree permit application concurrently with the Public Works Department. The owner or authorized agent must submit information on the location, type, and size of the tree or trees in question, and the reasons for the desired action. The information and reasons shall address any appropriate criteria based on the type of area and tree designation.

C. REVIEW PROCEDURES. The tree permit application will be forwarded to the City Manager or his/her authorized agent for review prior to the issuance of a public works permit by the Public Works Director. Review and issuance of the public works permit shall be in conformance with Chapter 12.08. The following shall also apply:

1. The city may require the verification of any stated tree illness, safety problem, etc. by an arborist certified by the International Society of Arboriculture, paid for at the applicant's expense.

2. The applicant shall submit any additional or more detailed information required by the City Manager or his/her authorized agent to ensure compliance with the provisions of this chapter and the 1993 Park and Street Tree Planting Plan.

3. The City Manager or his/her authorized agent shall ascertain whether the request is valid under the terms of this ordinance. To be valid evidence must be submitted by the applicant demonstrating that the tree(s) identified for pruning or removal poses a threat to the health, safety or general welfare of the abutting property owner and/or private or public property.

4. If valid, the permit shall be processed by city staff unless referred to the Tree Commission. All tree permits shall be issued with the following conditions attached:

a. Trees shall be removed or pruned following pruning standards of the International Society of Arboriculture and shall be provided to the applicant at the time a permit is issued.

b. It is the responsibility of the applicant to assure that all trees are removed or pruned in a manner which ensures safety to individuals and public and private property.

c. Other conditions as the City Manager or his/her authorized agent or the Tree Commission shall attach in keeping with the purpose with this ordinance and the 1993 Park and Street Tree Planting Plan.

C. PERMIT EXEMPTION.

1. Regular maintenance by adjacent property owners which does not require removal of over 20% of the tree's canopy or tree topping.

2. The trimming, pruning, cutting, or removal of any tree or shrub on a public street or right-of-way or upon any publicly-owned or controlled property, if such trimming, pruning, cutting or removal is done in the ordinary maintenance or repair of streets, sidewalks, pavement marking, existing utility lines, street signs, traffic signs, or is done in order to repair or replace the same as a result of damage or deterioration as a result of accident, casualty, or natural elements such as wind, rain, ice, electrical storm, or the like.

3. Necessary measures may be taken to protect public safety or private or public property from imminent danger and to respond to emergencies declared by the city, county, state or federal governments. Such emergencies may include a windstorm, mud slide, flood, freeze, dangerous and infectious insect infestation or disease, or other disaster.

12.16.110 Private Trees. A. PRUNING. The city shall have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be hazardous or a public nuisance and interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any street intersection, traffic control device or sign.

B. CLEARANCE HEIGHT. All private trees shall be maintained so that the clearance height from a pedestrian walk is not less than 8 feet, a clearance height from a residential street is not less than 12 feet, and the clearance height from a collector or arterial street is 14 feet.

C. REMOVAL. The city may cause the removal of all, or part of any dead, dangerous or diseased tree located on private property that constitutes a hazard to life or property or harbors insect or disease which constitute a potential threat to other trees within the city, or may require the property owner to remove or trim any such tree on private property. Failure of the property owner to take corrective action within thirty days after receiving notice by the city is a violation of this chapter.

12.16.120 Abuse and mutilation of street and park trees.

A. ABUSE. No person shall abuse, destroy, or mutilate any street tree, in a dedicated public right-of-way, or any other public place or attach or place any rope or wire (other than one used to support the tree itself), sign poster, handbill, or other thing to, or on any tree growing in a public place or to cause or permit any wire charged with electricity to come into contact with any such tree, or to allow any gaseous liquid or solid substance, which is harmful to such tree, to come into contact with their roots or leaves.

B. TOPPING. It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Planner.

12.16.130 Enforcement--Penalties. A. AUTHORITY. it shall be the duty of the City Manager or his/her authorized agent to administer the provisions of this chapter. The City Planner shall have authority to issue permits, impose conditions, enforce the provisions and requirements of this chapter and permits issued thereunder, and establish administrative procedures and guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of this chapter.

B. AUTHORIZED ACTIONS. In addition to other remedies, the city may bring injunctive, declaratory or other actions to enforce this chapter.

C. STOP WORK ORDERS/PERMIT REVOCATION.

1. The City Manager or his/her authorized agent shall suspend work or revoke a permit, as appropriate, if s/he finds that:

a. The work is not authorized by a valid permit;

b. Inaccurate information was used to obtain the permit;

c. The permittee is not complying with the terms of the permit or approved plans;

d. The work is, in the City Manager or his/her authorized agent's judgment, a hazard to property or public safety, is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, water-course, environmentally sensitive area or stormwater facility, or otherwise adversely affecting the public health, safety or welfare.

2. The City Manager or his/her authorized agent shall issue the permittee/violator a written notice specifying the nature of the violation or problem which must be remedied prior to resuming other work on the project. If the permittee does not comply with the order within the time specified, the city may enter the project site and perform the required work. All costs incurred by the city in performing such work shall be charged to the applicant and/or the city may place a lien against the property in the amount of the funds expended to perform the required work.

D. ABATEMENT/RESTORATION. Violators of this chapter or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the City Manager or his/her authorized agent, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). If the violator does not restore the damaged area, then the city may restore the area and the cost thereof shall be charged to the violator and/or be a lien upon the property as set forth in paragraph C.2. herein.

E. PENALTY.

1. A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a stop work order issued under this chapter is in violation of this chapter and said violation constitutes an infraction and may be prosecuted under the provisions of Chapter 9.36.

12.16.140 Liability on the city. Nothing in this chapter shall be deemed to impose any liability upon the city or upon any of its officers or employees, or to relieve the owner or occupant of any private property from the duty to keep in safe and healthy condition the trees upon their property or upon a public right-of-way over their property.

Emergency Clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety. Therefore, an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage and approval by the Mayor.

PASSED by the Council and approved by the Mayor this 12th day of April, 1994.



Mayor

ATTEST:



City Manager - Ex Officio City Recorder