

Chapter 12.16

TREES, PLANTS AND SHRUBS

Sections:

12.16.10	Purpose
12.16.20	Definitions
12.16.30	Title for citation
12.16.40	Permission to plant trees
12.16.42	Tree pruning and maintenance
12.16.45	Tree topping
12.16.50	Permission to remove trees
12.16.60	Issuance of a permit
12.16.70	Removal of trees and shrubs
12.16.80	Public nuisance
12.16.90	Prohibited trees
12.16.100	Removal or abatement of nuisance
12.16.110	Notice of hearing to declare nuisance
12.16.120	Mutilation or abuse of trees or other vegetation
12.16.130	Arborist's Certification and bond
12.16.140	City Liability

12.16.010 Purpose. It is hereby declared that the preservation and development of the beauty of nature is essential to the progress and growth of the Town of Fairfield. It is the policy of the town to plant and maintain, and to encourage the planting and maintenance of the desirable trees and other plantings to enhance the beauty of the community, and for the health, welfare and safety of its citizens. The council has become concerned with the proper selection, location and care of trees planted in parking strips, other public places and adjacent areas, and has studied ways to eliminate problems connected with adequate street illumination, safety to the community, preservation of public utilities, and providing the greatest aesthetic value to the Town.

12.16.20 Definitions. As used in this ordinance, the following words and phrases shall have the meaning ascribed to them in this section

- A. OWNER means the legal owner of real property fronting or abutting on any property of the Town, and the Lessees or legal representatives of such owner.
- B. PUBLIC PROPERTY means all roads, streets, avenues, alleys, public rights of way, parking strips or any other public property or portion thereof belonging to the Town.
- C. PERSON as used in this ordinance shall include an individual, a Firm, an Association, a Corporation, a Partnership, or any legal entity, or the legal representatives of such person, and any person or entity holding by through or under such person.
- D. TOWN shall mean the Town of Fairfield.
- E. PARKING STRIP means that part of the public street or avenue not covered by sidewalks or other paving, lying between the property line and that portion of the street or avenue usually used for vehicular traffic.

12.16.30 Title for citation. This ordinance shall hereafter be referred to as the STREET TREE ORDINANCE.

12.16.040 Permission to plant trees. All trees, shrubs and plants planted in any public place in town shall be with; prior permission of the Town Council and in accordance with the provisions of this ordinance. No tree shall be planted in parking strips less than four (4) feet in width. No tree shall be planted within twenty (20) feet of another tree in a parking strip or within twenty-five (25) of a street light. Trees planted under utility lines shall not exceed a maximum mature height of twenty-five (25) feet. No tree, shrub or plant over two (2) feet in height shall be planted or maintained in that portion of any parking strip lying within thirty (30) feet of the right of way line of any intersection

12.16.042 Tree pruning and maintenance. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of at least eight feet above the surface of the street or sidewalk. The Town Council shall give 30 days' notice to said owners to remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. If the owner fails to remove the condition constituting a safety hazard, the town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or otherwise creates a safety hazard.

(2) Private parties may have public trees pruned with written permission from the town council at the private party's expense.

(3) The town may prune, spray, or otherwise maintain public trees in order to control infestations of insects or disease or to maintain public safety.

12.16.045 Tree topping It shall be unlawful as a normal practice for any person, firm or City department to top any street tree, park tree, or other tree on public property or in a public easement. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. 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 chapter at the determination of the city council.

12.16.050 Permission to remove trees. No trees shall be removed from any parking strip or other public property in town, without permission to the council

12.16.060 Issuance of a permit. No tree, shrub or plant situated on public property shall be trimmed or removed prior to approval by the council of an application for such work, and the issuance of a permit by the town clerk-treasurer

12.16.070 Removal of trees and shrubs. The stumps and roots of trees or shrubs being removed under authority of this chapter shall be removed to an elevation of at least one foot below the top of the adjacent curb or grade, treating the remaining roots with a suitable compound to prevent future sprouting or growth. Roots from trees planted on public property or adjacent private property which have disrupted or broken the adjacent street surface, curb or sidewalk shall be removed and the street surface, sidewalk, or curb shall be repaired at the adjacent property owner's expense.

12.16.80 Public nuisance. See ordinance 334 Abatement of Nuisances

12.16.90 Prohibited trees. It is unlawful to plant in or on any parking strip or other public property, the following kinds of trees: Poplar, Willow, Cottonwood, fruit-bearing or nut-bearing, Elkhorn, Mountain Ash, Oregon or Big Leaf Maple. American Elm trees must be planted at least one hundred feet distant from any public sewer. Violation of this section shall constitute a public nuisance.

12.16.100 Removal of abatement of nuisance. A. If the owner of any property upon which a public nuisance exists, as defined by this chapter, fails to abate any such public nuisance, the town may adopt a resolution declaring such existing condition to be a public nuisance and fixing a time within which the nuisance shall be abated.

B. It the owner of this property upon which the declared nuisance exists, fails or refuses to abate such nuisances within the time prescribed. By the resolution of the council, the town may take such action as is necessary to abate the nuisance. The cost of abating the nuisance shall be at the expense of the property owner, and the town shall have a lien upon the property for the reasonable cost of abating the nuisance. Notice of such a lien shall be filed in the office of the county auditor in the manner and form of a labor and material man's lien, and enforced in the manner of a labor and material man's lien under the laws of the State of Washington.

12.16.110 Notice of hearing to declare nuisance. A. No resolution to declare a public nuisance shall be passed by the council until a public hearing has been held for that purpose. The owner of the property upon which the alleged nuisance is situated shall be given at least ten days' written notice of any such hearing. The notice shall be mailed to the legal owner of the property by certified mail, return receipt, at the owner's last known address.

B. If there is no known address for the legal owner, as established by affidavit made by the town clerk-treasurer; notice to the legal owner shall be made by publication one time in a newspaper of general circulation in Spokane County,, Washington, notifying the legal owner of the time and place of the hearing. Such notice shall be published not less than twenty-five days prior to the hearing.

C. The notice of hearing, whether mailed or published in the newspaper, shall fairly apprise the owner of the condition existing on the property which the council believes to be in violation of this chapter.

D. If the council determines the condition of the property constitutes an immediate danger to human life, the condition may be abated without notice to the owner and cost assessed and collected as provide in Section 12.16.100.

12.16.120 Mutilation or abuse of trees or other vegetation. Except to abate a nuisance as defined in this chapter, it is a violation of this chapter to:

A. Damage, destroy, or mutilate any tree, shrub or plant located in a parking strip or other public place.

B. Attach to or place upon any tree, shrub or plant in a parking strip or other public place, any rope or wire (other than one used to support a young or broken tree) sign, poster, handbill or other display or advertisement.

C. Cause or permit any wire charged with electricity to come in contact with any tree, shrub or plant located in a parking strip or other public place.

D. Cause or permit any gaseous, liquid, or solid substance which is harmful to trees, shrubs, or plants to come in contact with the roots, branches, stems or leaves of any tree, shrub or plant in a parking strip or other public place.

E. Provided however, nothing in this section shall preclude any owner or occupant of real property from trimming, or removing trees, plants or shrubs from adjacent parking strips or other public places in accordance with this chapter.

12.16.130 Arborist's certification and bond. It shall be unlawful for any person or firm to engage in the business or occupation of pruning or treating public trees within the town without first obtaining a certification form the International Society of Arboriculture; provided, however, that any public service company or town employee doing such work in the pursuit of their public service endeavors shall perform said work under the direction of a certified arborist. The person or firm conducting tree work shall also posses evidence of liability insurance in the minimum amounts of \$500,000 for bodily injury and \$1,000,000 property damage resulting from the pursuit of such endeavors as herein described.

12.16.140 City liability. The town right to trim, prune or remove privately owned trees under this chapter shall not be interpreted as an obligation upon the town, and the town's failure to act shall not constitute a basis for any claim of liability against the town.