

Community Forest Advisory Board

City of San Diego



December 7, 2019

Ms. Elise Lowe, Director, Development Services
Ms. Cody Hooven, Director, Sustainability Department
Mr. Kris McFadden, Director, Transportation and Stormwater
Ms. Mara Elliott, City Attorney

Dear Ms. Lowe, Ms. Hooven, Mr. McFadden and Ms. Elliott:

SUBJECT: *Code Compliance for Urban Trees*

The Community Forest Advisory Board (CFAB) strongly recommends that the City address illegal tree maintenance, code compliance, and climate action. This letter was approved at the November 13, 2019 meeting, and is a request for the following information about tree-related code compliance:

- City policy for inspecting commercial permits, for long-term consistency and compliance
- Number, type of, and resolution of code compliance complaints, in the past five years
- Number and amount of penalties imposed and collected, in the past five years
- Workload analysis and staffing requirements for code compliance

We are concerned that illegal tree maintenance goes undetected, unreported and unresolved. Penalties are not considered, imposed, or collected—and property owners and managers currently assume that they can violate City code. This results in loss of tree canopy, declining tree health and safety, and City exposure to liabilities and lawsuits. The illegal topping of 100 trees at 6670 Montezuma Road, in October, is highly egregious and illustrative of these compliance issues.

Code Violations

City code requires that trees in permitted developments be maintained in healthy condition. Trees in parking lots and other developments are covered by the City's code relating to land development, §142.0403 General Planting and Irrigation Requirements, (b) Plant Material Requirements <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art02Division04.pdf>

(6) Plant material shall be maintained in a healthy, disease-free, growing condition at all times.

(7) All pruning shall comply with the standards of the National Arborist Association. *[Note: standards are not set by the National Arborist Association, but by the Tree Care Industry Association (TCIA) and the Accredited Standards Committee (ASC) A300.]*

If trees are removed from permitted developments, they must be replaced, as covered by §142.0403 General Planting and Irrigation Requirements, (b) Plant Material Requirements <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art02Division04.pdf>

(8) Any plant material required by this division that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan.

Trees in street easements are to be maintained by the City, and permit required for any maintenance of street trees by businesses, §62.0604 Removal of Planting Without Permit Prohibited, <https://docs.sandiego.gov/municode/MuniCodeChapter06/Ch06Art02Division06.pdf>

No person, firm or corporation shall, without a permit from the Park and Recreation Director, remove, destroy, break, cut, trim, deface, or in any other way injure or interfere with any tree, palm, shrub or plant, or endanger the life of any such tree, palm or shrub or plant that is now or may hereafter be growing in any street or other public highway of the City of San Diego.

[Note: City Forester Brian Widener is working with the City Attorney to revise this code.]

Trees pruned under power lines must be done by contractors of San Diego Gas & Electric, according to state law.

Penalties

Administrative abatement and/or civil penalties must be imposed for code violations. To do less would be to sanction the illegal and unsafe tree topping that (too) many property owners and managers are doing. Financial penalties need to be substantial and highly publicized, so that other property owners and managers do not risk future illegal tree work. Without strong enforcement, negligent property owners and managers may assume that there will be no consequences for illegal tree work, dead trees, and removal without replacement.

Most US cities have and enforce tree protection policies, that often include three-for-one replacements and retribution for lost ecosystem services and economic values. Enforcement is more than punishment; it is a management tool that enhances city assets, offsets city costs, educates property owners, and enhances residents' quality of life. Cities that fail to enforce tree protection have declining tree canopy and high numbers of unhealthy and unsafe trees.

Staffing

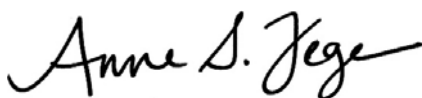
Effective urban forestry programs include active and strategic code enforcement. Currently, the City takes a reactive approach, for the reports that are filed. There were about 4,000 tree-related service requests in 2018 and almost 6,000 to date in 2019, posted at <https://data.sandiego.gov/datasets/get-it-done-311/>. Whereas the City is trying to better track and monitor key performance indicators related to service notifications, the resources to address the reported conditions are admittedly inadequate.

At least one code enforcement officer needs to be added, partially or fully financed by fines. When the "tree warden" position was vacated in about 2012, it was funded but unfilled. It was transferred from Development Services to Transportation and Stormwater in FY 2019 for general urban forest management work, which is a welcome addition but eliminates staff for code enforcement.

City-wide Implications

The thousands of trees required in development permits could be contributing to cooler neighborhoods, stormwater retention, and climate action--if the City inspected, issued compliance notices and fines, and required trees to be replaced and maintained.

Sincerely,



Anne S. Fege, Ph.D.

Chair, Community Forest Advisory Board, City of San Diego

cc: Councilmembers, Council staff, CFAB, City staff