

COUNCIL POLICY

SUBJECT: PUBLIC TREE PROTECTION
POLICY NO.: 900-19
EFFECTIVE DATE: June 13, 2005

BACKGROUND:

In 1995 the City of San Diego recognized the value of developing additional regulations for the community forest when it adopted Resolution No. R-286098 creating the Tree Advisory Board. The main duties of the Tree Advisory Board include advocating and formulating proactive urban forestry policies, ordinances and guidelines to promote the planting of more new trees and to protect existing trees. In 1999 the City Council adopted Municipal Code Sections 26.0501 through 26.0503 additionally charging the Board with providing advice and recommendations directly to the Mayor, City Council and the City Manager on all policy issues relating to urban forestry.

In 2002, the Tree Advisory Board, now referred to as the Community Forest Advisory Board (CFAB), began working with City staff to draft an ordinance or policy that would protect community trees, specifically ones that have historical value, by allowing for the designation of these trees as heritage and landmark trees. The draft ordinance or policy also attempted to set guidelines for replacement of existing public trees and a procedure for saving existing trees.

PURPOSE:

To provide special policies to protect designated tree resources located in the public rights-of-way, on city-owned open space, in parks or other publicly owned lands, wherever practical. In addition, the policy will apply to private land restricted by dedicated open space easements. At the option of a property owner, a tree may be designated on private property for tree inventory purposes and for protection status. This voluntary action by the private property owner can be specified to carry with the property in the form of a deed restriction. Nothing in this policy will restrict the removal of any designated tree if the tree is a threat to public safety after reasonable efforts have been made for additional care, corrective actions or maintenance to correct these problems.

POLICY:**A. Definition of Tree Protection Categories**

A community group, individual citizen, Council Member, Mayor, City Manager or designated city staff can ask for a tree protection designation under one of the four categories listed below.

1. Landmark Tree

Trees that are unusual or have a very high aesthetic quality. A Landmark tree is unusual due to: large size obtained for that species; special and intact aesthetic form; unusual shape not normally seen in most trees; very interesting flowers and/or branching patterns; or being a species of tree that rarely occurs in the City. The intent of this category is to recognize unusual trees that have achieved a landmark status and not to apply this category to a broad number of trees.

2. Heritage Tree

Trees that are naturally occurring or have been planted, qualify under this category if they are 50 years or older or have a connection to some historic event, building, district or were planted by a historically significant individual. Specific proof of age may be difficult to ascertain but research using aerial photographs or estimating based on the age of the adjacent development or the estimating based on the size of the tree can be adequate for this designation.

3. Parkway Resource Tree

Planted groups of trees in public rights-of-way, public parking lots or trails with a consistent design theme, are considered to be parkway tree resources when their overall size, health and form are relatively consistent. A consistent design theme usually requires that more than 50% of the parcels per block contain the same tree. Groups of different species that provide a consistent canopy over a portion of a street should be considered as parkway resource trees as well.

4. Preservation Grove

Naturally occurring trees in public right-of-way, open space, designated Environmentally Sensitive Lands or parkland may be considered Preservation groves. A grove consists of at least six (6) trees grouped in close proximity (within a one-quarter (1/4)-acre area) with trunks closer together than 100 feet that are of the same species or are very similar in form. The trees shall be native, naturalized or endemic and surviving without intervention or supplemental watering. Non-native or naturalized species found within the following areas listed below, would not be eligible for protection under this Policy, though native trees within these areas may be designated as Preservation Groves:

- a. City-owned designated or dedicated open space containing Multiple Habitat Planning Area (MHPA) lands or Environmentally Sensitive Lands;
- b. City-owned designated or dedicated open space containing other natural areas found to have sensitive or endangered species, or that can be expected to sustain these species with enhancement and management efforts; and
- c. Privately-owned lands meeting the criteria in a. and b. above that have an open space or conservation easement placed on them

B. Criteria for Tree Protection Designation

1. All public trees within the City of San Diego that are classified as trees (defined as having a single trunk or can be trained into distinctive multi-trunks versus branches) and that have a caliper of at least 8” measured at 4 feet above the ground surface, shall be considered as potentially qualifying under this tree protection policy. The size of the tree caliper does not guarantee its qualification under this policy, though it does require that the tree be evaluated for consideration once nominated. These consideration criteria will require that all trees of this size be added to the tree removal review process as currently performed by Street Division. This requirement applies to all areas within the City of San Diego, including redevelopment areas and public parklands.

2. As required in other sections of this policy, all tree removal permit requests will be sent to Community Planning Groups, the Community Forest Advisory Board as well as to the Council members. Reviewing individuals will have the normal 30-day period to request an extension of time on the removal if they feel that the tree may qualify according to one of the four categories listed above. The City Manager's designee, considering any input received from community group members, the Community Forest Advisory Board, and Council members, will make a determination on extension requests and if the tree qualifies. If the tree qualifies, the City of San Diego Urban Forester or Park Arborist will designate the tree as protected.
3. To the extent budgetary resources are available, the appropriate City department will be required to cross-check this tree with any permits that may call for its removal. Protected tree resources will either need to be in computer databases, Geographic Information System maps or other hardcopy maps available to plan checkers in Development Services.
4. The City Urban Forester will assess an appraised value for the tree upon its designation. Up to a three time multiplier of the assessed value will become the basis for penalty if an individual is found to be responsible for the tree's illegal removal or damage that results in its death. The assessed penalties shall be used to fund any replacement trees or other mitigations as deemed appropriate from the City Attorney's Office and by the City Manager's designee.
5. Community groups will be encouraged to provide a community wide assessment showing those trees considered important community resources that may or may not qualify for tree protection status. The Community Forest Advisory Board will be invited to review and comment on the proposed designation. The Urban Forester, Park Arborist, or City Manager Designee, will be responsible for reviewing the community recommendations and any comments received from the Community Forest Advisory Board and either providing administrative approval or rejecting the proposed designations.

C. Measures Afforded Tree Protection Categories

Special protection offered trees with tree protection status, as designated under Section B include:

1. No permits will be issued for tree removal unless a clear, imminent and significant public safety hazard exists or if the City Urban Forester, in consideration of any comments received from the Community Forest Advisory Board, informed by a certified arborist's report and recommendations, determines that protection may not be the appropriate course and the project applicant or adjacent owner has agreed to pay 100% of the assessed value of the tree.
2. Tree pruning or root pruning will only occur under the guidance of a licensed arborist, with the written approval of the City Arborist. This shall not apply to root pruning that is necessary to protect the water and sewer infrastructure.
3. Extraordinary measures will be taken to avoid excessive pruning, topping or removals related to line clearance that may be required by the California Public Utilities Commission.

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4. Regardless of sidewalk damage, no action will be taken that will result in the death of the tree. Sidewalk relocation or redesign may be considered.
5. Special techniques for extending the life of the tree will include, but not be limited to: limb supports, root zone protection and other disease control to be administered by the City.
6. Roadway widening requirements will avoid damage to trees where possible. When avoidance is not possible, tree protection during construction, tree transplanting or tree replacements will be required.
7. Environmental review of all projects requiring CEQA documentation will consider the protected status of these trees as a factor in determining potential significant impact to visual quality and community character resources.
8. When the designated tree is in the city street rights-of-way or on public lands administered by the city, as a priority, funds will be expended to allow for an annual inspection, pruning or other corrective actions that may be needed to resolve any particular public safety or sidewalk problem.
9. Trees damaging public or private improvements and utility infrastructure can be removed if damage cannot be reasonably corrected by trimming, root pruning, or other corrective action or adjustment, as determined by the City's Urban Forester. All trees so removed require replacement consistent with existing policies.

D. Penalties for Tree Removal or Damage without a Permit

The following fines shall be assessed to those individuals found to be responsible for removal or damage of protected public trees without a permit:

1. For protected trees, fines in the amount of 300% (or up to the maximum amount allowed currently under municipal code) of the assessed value of the tree will be levied for anyone found responsible for intentionally removing trees without permit or causing fatal damage to any tree found in the public street rights-of-way. The assessed value will be determined by the City of San Diego Urban Forester.
2. Any individual or company found to have caused the topping, excessive pruning or permanent disfigurement of protected trees within the public street rights-of-way will be subject to the same penalty as listed. Topping of trees is illegal under current State of California statutes and results in trees that are not only aesthetically inferior but are unsafe due to weak trunks and limbs.

All fees, in-lieu fees, permit fees and fines collected under this policy will be deposited into a tree replacement program administered by the City Urban Forester with review and comments on the uses of these funds provided by the Community Forest Advisory Board.

REFERENCES:

Council Policy 200-5, Effective November 15, 1993
Landscape Regulations, Chapter 14, Article 2, Division 4
Landscape Technical Manual, November 1989

HISTORY:

Adopted by Resolution R-300523....06/13/2005