



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 9, 2008

TO: Mayor and Councilmembers

FROM: Administration Division, Parks and Recreation Department
Planning Division, Community Development Department

SUBJECT: Tree Preservation And Landscape Plan Maintenance Policies And Enforcement Procedures Recommendations

RECOMMENDATION: That Council:

- A. Receive a presentation on the Tree Preservation and Landscape Plan Maintenance Policies and Enforcement Procedures Review; and
- B. Refer the proposed revisions to the City's Municipal Code and enforcement procedures related to the protection of trees and the maintenance of landscape plans to the Ordinance Committee for further consideration.

EXECUTIVE SUMMARY:

In late January 2008, as a result of several high profile violations, the City Council directed staff to conduct an in-depth review of City policies and enforcement procedures related to tree removals, excessive pruning of trees, and failures to maintain approved landscape plans. Since then, an inter-departmental team of staff from the City Administrator's office, City Attorney's office, and the Community Development, Fire, and Parks and Recreation Departments, evaluated the City's current policies and enforcement procedures. Staff developed preliminary recommendations that were presented and discussed at two public workshops and meetings of the Street Tree Advisory Committee, Park and Recreation Commission, Single Family Design Board, Architectural Board of Review, and Historic Landmarks Commission. Following these discussions, staff reviewed the proposed recommendations, made some revisions, and is now presenting recommendations to the City Council. Staff recommends revisions to the Municipal Code to clarify tree protection standards and the maintenance standards for approved landscape plans, the adoption of significant penalties for tree removal and excessive pruning violations, improvements to public outreach regarding City regulations and requirements, and the implementation of a voluntary education program for tree and landscape contractors.

DISCUSSION:

Introduction

The inter-departmental team reviewed the City's current policies and procedures related to tree preservation and landscape plan maintenance. During the course of this review, staff identified some ways to immediately improve enforcement and has already implemented these changes. In addition, staff developed a set of recommended revisions to the Municipal Code and City policies and enforcement procedures relating to tree preservation and landscape plan maintenance. These recommendations were presented at multiple public meetings. A list of the public meetings and their minutes are attached to this report. Based on the discussions held in the public meetings, staff revised the recommendations and is presenting them to the City Council for consideration and referral to the Ordinance Committee.

Administrative Improvements to Enforcement Procedures

Staff has implemented the following improvements to existing enforcement procedures:

- Increased inter-departmental communication and coordination of tree preservation and landscape plan maintenance enforcement cases,
- Clarified staff's understanding of available enforcement tools resulting in more timely actions, and
- Initiated enforcement on persons or companies that are responsible for tree preservation violations in addition to the property owners who authorize the work.

Policy and Procedure Recommendations

Staff recommends amendments to the Municipal Code and revisions to City policies and enforcement procedures related to tree preservation and landscape plan maintenance. The purpose of these recommendations is to clarify City standards, establish appropriate deterrents to violations, and simplify comprehensive enforcement of tree violations and the maintenance of approved landscape plans. In the course of its review and the public discussions, staff determined that tree violations (removals and excessive pruning) required greater penalties and more aggressive enforcement procedures in order to achieve an appropriate deterrent effect. Some members of City boards and commissions, as well as the general public, called for increased penalties based on the size or prominence of the tree involved in the violation. For these reasons, staff believes it is appropriate to consider different policies and different enforcement procedures for tree preservation violations than landscape plan maintenance violations. Therefore, the recommended revisions are separated into three groups: recommendations relating to tree preservation, recommendations relating to landscape plan maintenance, and recommendations of general application.

Tree Preservation Recommendations

Staff recommends revisions to the Municipal Code to clarify existing standards and to expand the protection of trees shown on approved landscape plans for multi-family residential and commercial developments. Staff also recommends a significant increase in the fines for excessive pruning or tree removal violations.

Recommendation 1: Municipal Code Revisions

- Revise Municipal Code Chapter 15.24, Preservation of Trees, to clarify the enforcement standards:
 - Define the treatment of trees that straddle the setback (If 50% or more of the trunk is within the front setback, the tree is regulated.)
 - Add an exemption for tree removals or trimming when required by the Fire Department in order to maintain defensible space or to comply with the City's Wildland Fire Plan.
- Extend the current protection afforded to front setback and parking lot trees to trees shown on approved landscape plans for multi-family residential and commercial development.
- Establish a consistent trunk measurement height of 4½ feet above grade throughout the Municipal Code.
- Cross-reference all Municipal Code sections related to tree preservation and landscape plan maintenance.

Recommendation 2: Establish Significant Penalties for Tree Violations

Over the course of the staff review and the public discussion, it became clear that the current administrative fine of \$100 per tree violation is not an adequate deterrent. It is anticipated that higher fines, in addition to requiring corrective action (rehabilitation or replacement of trees that are affected), will achieve greater compliance.

The initial fine schedule presented at the public meetings made distinctions based on the identity of the person who committed the violation and the number of violations that had been committed as follows:

Initial Fine Schedule

Action without or in violation of a permit	Single Family Owner	Multi-family Owner	Tree company/ Contractor
1st pruning offence	\$250	\$375	\$500
2nd pruning offence	\$500	\$750	\$1000
Removal	\$500	\$750	\$1000

Responding to calls from the public for consistent treatment of violators and for an escalating fine schedule based on the size or significance of the tree involved, staff now recommends the following schedule of administrative fines for violations involving excessive pruning or tree removals:

Revised Fine Schedule

Action without or in violation of a permit	Trunk diameter from 4" up to 12"	Trunk diameter over 12" and up to 24"	Trunk diameter over 24"
Pruning Offense	Up to \$500	Up to \$1,000	Up to \$1,000
Removal	Up to \$1,000	Up to \$3,000	Up to \$5,000

The proposed schedule details the maximum fines and allows flexibility to differentiate between minor violations and more significant or repeated violations.

Landscape Plan Maintenance Recommendations

Presently, the Municipal Code does not require the maintenance of an approved landscape plan. When a property owner fails to maintain his or her landscaping in accordance with an approved landscape plan, the case is processed as a violation of the project's conditions of approval. This enforcement procedure is not very flexible (in terms of scaling the response to the scope of the violation) and requires a substantial expenditure of staff resources in order to resolve each violation. In order to add flexibility to the City's enforcement response and to streamline City enforcement efforts, staff recommends the adoption of an ordinance requiring the maintenance of approved landscape plans. Because landscape plan maintenance violations are generally less significant than tree preservation violations, a different fine schedule is proposed for maintenance violations.

Recommendation 1: Municipal Code Revisions

- Adopt an ordinance that requires maintenance of approved landscape plans in accordance with a defined maintenance standard.

Recommendation 2: Landscape Plan Maintenance Violations (other than trees)

- Administrative fine of \$100 per violation, with an additional fine of \$100 per day if violation is not corrected by deadline.
- Administrative discretion to respond to minor changes to approved landscape plans.

General Recommendations

In addition to the recommendations specifically related to tree preservation and landscape plan maintenance, Staff recommends the following efforts to educate property owners and industry professionals on the City's rules and regulations regarding tree preservation and the maintenance of landscape plans:

Recommendation 1: Implement a Voluntary Education Program

Over the course of the review process and public discussions, staff concluded that local tree and landscape professionals are not completely familiar with City requirements and regulations regarding tree preservation or landscape plan maintenance. Therefore, staff recommends establishing a voluntary program to educate tree and landscape professionals on the City's requirements and regulations. This training would be available at least once per year.

Recommendation 2: Improve Methods to Disseminate Tree Preservation and Landscape Plan Maintenance Requirements

The City's website currently includes links to the Municipal Code and other information related to tree preservation and landscape plan maintenance policies. Staff recommends using a variety of methods to disseminate information to the public, including adding a specific page to the City's website for tree preservation and landscape plan maintenance information.

Other Proposals Considered, But Not Recommended

In addition to the proposals recommended in this report, the inter-departmental staff team evaluated other proposals regarding tree preservation policies and enforcement procedures. A couple of these proposals deserve mention. For the reasons explained below, staff does not recommend these proposals at this time.

Protection of Oaks and Sycamores Anywhere on a Lot

The City's current tree preservation regulations extend to trees within the front setback in most zones, and parking lot trees. In this report, staff recommends extending these protections to trees shown on approved landscape plans for multi-family residential and commercial development. In addition, staff evaluated a policy that would extend tree protections to oaks and sycamores anywhere on the lot.

While the public workshops and meetings with Boards and Commissions demonstrated a general support for protecting mature specimen trees and to some extent native trees (such as Oaks), there was some reluctance to extend new rules into private backyards and other areas not currently regulated. The Street Tree Advisory Committee did not support expanding the City's purview on private property beyond the current established setbacks. From an implementation standpoint, staff also had concerns that additional staff resources would be necessary to enforce the expanded scope of the regulations.

Based on the mixed support and the concerns expressed, staff does not recommend the extension of tree preservation regulations beyond trees located within the front setback or parking lots, or shown on approved landscape plans in multi-family and commercial developments. Additional review and consideration of extending preservation regulations could be undertaken during the upcoming development of the urban forest management plan.

Adoption of ANSI Standards for the City's Tree Preservation Ordinance

Currently, the Municipal Code prohibits cutting down or otherwise destroying a tree without a permit. The term "cutting down or otherwise destroying" is defined as cutting a tree down or pruning a tree in such a way that its natural character is significantly altered or its overall size is reduced by more than one-third. Some members of the public have requested that the City adopt the American National Standard Institute (ANSI) pruning standards and best management practices as the means of establishing tree violations under the Municipal Code.

Staff supports the use of the ANSI standards and best management practices as guidelines for tree pruning techniques and intends to include a link to this information on the proposed City webpage. However, staff does not recommend the use of the ANSI standards or best management practices as the means of establishing violations under the Municipal Code. First, the ANSI standards regarding tree pruning are generally written as guidelines, not strict prohibitions. Therefore, they do not provide strict rules of conduct that can be enforced with a penal ordinance. Second, the ANSI standards recommend that pruning reduce the foliage of a tree by no more than one-quarter within an annual growing season. Staff believes reductions of one-quarter would be more difficult to prove than reductions of more than one-third through an after-the-fact investigation of a tree pruning complaint. In addition, City maintenance practices

regularly require City staff to prune more than one-quarter of the foliage of a tree within an annual growing season. City staff is hesitant to recommend an enforcement standard for private property owners different than the City's current pruning practices.

BUDGET/FINANCIAL INFORMATION:

Staff anticipates an increase in the number of enforcement cases, particularly cases involving approved landscape plans, as our recommendations include codifying standards for landscape plan maintenance. These additional cases would be managed by existing Planning Division staff, and would be placed on a priority list with all other pending enforcement cases awaiting assignment. Parks & Recreation Department staff would continue to work with Planning Division staff in identifying and correcting violations involving excessive tree pruning and removal. This assistance would be provided by existing staff. Although the overall workload may increase, the Community Development and Parks & Recreation Departments do not anticipate a significant fiscal impact at this time.

SUSTAINABILITY IMPACT:

Tree preservation and landscape plan maintenance policies are essential tools for the maintenance of a healthy urban forest and provide community aesthetic benefits. Updated policies will provide long-term protection for the City's urban forest which provides community energy conservation, water quality, air quality, and wildlife habitat benefits.

- ATTACHMENTS:**
1. September 22, 2008 Public Workshop Handout
 2. Summary of Comments from September 22, 2008 Public Workshop and November 13, 2008 Public Workshop
 3. Meeting minutes from the Street Tree Advisory Committee, Park and Recreation Commission, Single Family Design Board, Historic Landmarks Commission and the Architectural board of Review

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