

WESTSIDE REGIONAL ALLIANCE OF COUNCILS

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WESTWOOD NEIGHBORHOOD COUNCIL

Land Use and Planning Committee

Oct. 7, 2018

Co-chairs: Marlene Savage, Sharon Commins, Barbara Broide

Resolution:

WRAC requests that NCs support the Encino NC resolution – “Protect Urban Canopy through and adjustments to the municipal code, tracking system & enforcement”

APPROVED: 7-0-0.

The City Council shall amend the gap in the municipal code to include enforcement, tracking, and corrective distribution of funds to the affected Neighborhood council boundary within 60 days.

Exhibit: Municipal code fix

Fines and Penalties:

Fines and penalties should be structured in two categories, Homeowners or Trades/Others. Fines should be on an escalating tier based system, such as the ones for cell phone use while driving. A repeat of infractions should result in an increase in fines. "Trades/Others" are classified as property management, contractors, developers, owner builders, and other agencies. Homeowner fines should start off at a lower rate to that of "others", seeing as that "others" by their very nature should know better. Contractors should receive an additional fee for doing work without a permit; and if doing work outside their authorized license, an additional fine and referral to the state license board. This is to ensure the right people are doing the work as well as discourage illegal activities by contractors who refuse to pull a permit and convince the homeowner it's not needed. The citation should include instructions on obtaining the necessary permits and where to pay them. What we want to avoid is the butchering of trees that will later die and possibly cause a lawsuit against the city.

Enforcement:

Enforcement should be done by existing city forces, not by the police since they are overwhelmed and will not respond to a low priority call. Currently, only the UFD can issue street tree correction notices but with no fees or fines. In speaking with several UFD representatives, they confirmed that such an on the spot citation would greatly

help their enforcement of their jobs. The department of Urban Forestry, Public Works Inspectors, DOT Inspectors, parking enforcement, etc. have over 600 inspectors combined. Currently, only a handful of Public Works Construction Inspectors can actually issue a ticket citation, and only for peak hour construction violations in the roadway. The fines should state to obtain a permit to conduct the work legally and be obtained at any BOE public counter throughout the city.

There, a "V" permit should be issued to distinguish it from the current "A" or "B" class permits. At the counter the city can obtain the fine plus the additional cost for the inspectors to ensure the time they spent enforcing the correct installation of trees for example, is being done. Under no circumstance should the city allow solely an "A" permit because it is not guaranteed by funds to complete if a violator just doesn't do the work. Either a Revocable Permit or a "B" permit has a bond against it. The "V" class permit should have the same refundable guarantee attached, set at the replacement cost of work to be done by city forces (see current cost tables by BOE). The system to track this already exists for "A" class permits and SRP Sidewalk rebate permits, so no need for additional IT development costs for a system. If a violator wishes to challenge the citation, it should follow existing protocol established by the Board of Public Works. Fines that are not paid and permits not pulled within 30 days, a delinquency notice with the citation plus an additional charge (for filing) now gets added on and is recorded against the property and/or license.

Fees/penalties generated by citations should be restricted to the area impacted and placed in a special fund for only use in restorative actions or improvements required/plan compliance under the Open Space Plan. They should be controlled by a combination of the City Council District and corresponding Neighborhood Councils with input by UFD. This will ensure not only more reporting of illegal activity but an oversight and pride of ownership by the localities. Part of the fine should also go to UFD to support additional inspectors since they do not draw funds from the current permitting system.

Exhibit: Background:

We are seeking your assistance in an ever increasing problem in our neighborhood and city wide, concerning illegal tree trimming and tree removals. Within the last month we've had several known incidents where trees in the public right of way were either destroyed or illegally cut.

The first incident was located on Newcastle Ave. in Encino where several pecan trees were illegally cut down. Local residents approached the contractor, hired by the property owner, and asked to view a permit for the tree removal. When a permit was not presented (and verified by Urban Forestry Division UFD that none was issued) the residents asked the contractor not to cut the trees down. Both a my311 request and a phone call was placed to report the incident. A UFD inspector showed up after all the trees were cut down and only stumps remained. To date, no fines have been issued, a safety hazard still exists on the street and although a Notice to Comply was issued, no "A" permit was obtained. The contractor is currently trying to install new, small trees with no inspection from CONAD and are installing it not per city standard.

The second incident occurred on [17550 Burbank Blvd.](#) where multiple parkway trees were trimmed illegally. It was reported both on my311 as well as a phone call with an urgent request to have a UFD inspector show. The service request number 1-942663401 was then closed 3 weeks later with the report of "no issue found." Even though photos and the name and number of the contractor were provided, a follow-up request with a superintendent from UFD was held, to which the response was prompt action to open up another request to vet the viability of the trees. When asked if citations were to be given to the contractor or property manager was to be given, the answer was "at most they will receive a letter not to do it again without obtaining a permit." Since then, a letter was sent out, a street tree notice (STN), with no fine or corrective action stated on the STN, was that if at some point in the future something were to happen then the owner can be held liable. Unfortunately, this is not recorded by a searchable record with a bond for damages on BOEs Permit through a revocable permit (R permit attached to an "A" permit). More than likely, when the tree fails, it will not be replaced. If it is replaced, it will be an additional cost to the city.

A third location on Clark St, SR# 1-847862047, had a protected California Black Walnut cut down from a mature fruit bearing tree to a 4-ft.' stump. These specific trees, only grow 1 ft. per year, and only about 17% when planted reach maturity per a UC Davis Study. When reported, the owner was told he should personally take legal action against the neighbor and contractor, so as to not be fined personally. To date, this service request is still open.

After looking up the tree and shrub ordinance, I found out that no process nor enforcement mechanisms exist if a tree is removed illegally or harmed, only that it says not to do so. I confirmed this with our neighborhood liaison to the city attorney's office, Raffy. See section 62.160s of Municipal Code. It is not only against the law to currently remove them, but a requirement to have an urban canopy under both State and City General Plan mandates and goals. Additionally, through the Mayor's directive, our urban forest is equivalent in importance to that of other city infrastructure. To compound the problem, Encino is not subject to the second pot of funds for Measure A; due to our "green" labeling in the street tree canopy plan as a result of the amount of trees we have. If we cannot protect the ones we have, we will not be able to replace them. What we are looking for is a fix to the glaring hole in the municipal code, not create additional laws.