



## Legislation Details (With Text)

**File #:** 18-502      **Version:** 1      **Name:** Discussion of Tree Fines  
**Type:** Staff Report      **Status:** Filed  
**In control:** City Council  
**On agenda:** 11/5/2018      **Final action:** 11/5/2018  
**Enactment date:**      **Enactment #:**  
**Title:** Staff Report for City Council Discussion of Potential Amendment of Section 5-2-200 of the City of San Leandro Municipal Code Related to Fines for the Unlawful Removal, Pruning, Injury, or Destruction of any City Tree  
**Sponsors:** Debbie Pollart

### Indexes:

### Code sections:

### Attachments:

Date	Ver.	Action By	Action	Result
11/5/2018	1	City Council	Received and Filed	

Staff Report for City Council Discussion of Potential Amendment of Section 5-2-200 of the City of San Leandro Municipal Code Related to Fines for the Unlawful Removal, Pruning, Injury, or Destruction of any City Tree

## SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council review the information presented and provide direction to staff.

## BACKGROUND

The City Council previously requested information on the City's current process for assessing fines associated with illegal City tree removals and/or pruning.

All City trees, including City street trees (defined as trees planted and maintained by the City that are located within the public right-of-way) are the property of the City. Chapter 5-2 of the City of San Leandro Municipal Code includes the following language:

"The [Public Works] Director shall have exclusive authority, except as hereinafter provided, to plant, remove, prune, inspect, maintain, root prune or otherwise alter such street trees."  
(*SLMC Section 5-2-205*)

"It shall be unlawful, a public nuisance, and an infraction punishable by a One Hundred Dollar (\$100) fine for any person to plant, remove, prune, injure or destroy any street tree, as hereinafter defined, except in conformance with the provisions of this Chapter." (*SLMC Section 5-2-200*)

## **Analysis**

When Public Works is notified of a situation where a City tree, including a street tree, has been illegally removed and/or pruned, after investigation or confirmation, the current practice is to require the responsible party to pay \$100 to the City for a replacement tree (for those situations where a tree was cut down) to be planted by Public Works staff. For instances of pruning, a note is made in the City's Tree Inventory database, so that if the tree dies in the future, the City may cite the responsible party, after investigation or confirmation, for payment of a replacement tree. In cases of illegal pruning, based on the extent and how the tree was pruned, and especially if in the extreme, Public Works staff will typically not return for future maintenance pruning. Typically, the property owner immediately adjacent to the City tree is informed that they are responsible for the tree's care. With over 20,000 City trees to maintain by four Public Works staff, it is not feasible to spend the extra amount of time needed on trees that have been illegally trimmed.

Given the City's primarily mature tree inventory, the loss of a tree (whether by removal or injury due to improper pruning) cannot be adequately addressed under the existing Municipal Code, which only allows for issuance of a \$100 fine. The administrative time alone to investigate and then issue the fine is not covered by the current fine. Additionally, new tree plantings are furnished at a 15-gallon size, which does not fully compensate for the loss of aesthetic value representative of a mature tree.

Utilizing the database of Bay Area cities that staff canvassed during the discussion of a potential private tree ordinance, an American Public Works Association listserv posting, and other cities with published information on their websites, the following information is provided to inform the City Council on how other jurisdictions address this matter. It is noted that some regulations apply only to what a city has defined as heritage or other special designation/size of tree, while other cities apply their regulations broadly.

## **Jurisdiction**

## **Regulations**

Livermore & Pleasanton	Value of tree* or \$5,000 if can't be determined
Oakland	Most City tree services eliminated in 2008 due to budget reductions
Union City	Value of tree
Fremont	\$250 first offense; \$750 second offense; \$1,000 third & subsequent offenses
San Jose	Varies from \$500-\$15,000 for removals based on size of tree and # of violations; 100% of maintenance responsibility on property owner
Dublin	Civil penalty equal to twice the amount of the appraised value of the Heritage tree
Rancho Cordova	Up to \$1,000 and/or 6 months in jail for public trees. For private trees, payment in lieu at \$165/inch dbh (diameter at breast height)
St. Helena	\$50-\$100 fine, plus the value of the tree for first offense; for subsequent violations, \$500 fine plus value of tree, or imprisonment not to exceed 6 months, or both
East Coast village	\$250/inch dbh

---

*\*Guide for Establishing Values of Trees and Other Plants*, Council of Tree & Landscape Appraisers, International Society of Arboriculture is the industry standard for determining tree value

The City Attorney's Office has indicated that in order to maintain the fine at the level of an infraction, the maximum amount that could be considered is \$5,000 per incident.

Staff requests direction from the City Council on the preferred fine structure. Based on that direction, staff will bring forward a resolution for Council consideration at a future meeting.

**ATTACHMENT(S)**

None.

**PREPARED BY:** Debbie Pollart, Director, Public Works Department