

Chapter 16.34 SIGNIFICANT TREES PROTECTION

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16.34.075 In-lieu fee for tree replacement

(A) Purpose. The purpose of this section is to establish an in-lieu fee program as an option to mitigate the impacts of tree removal when on-site tree replacement is not feasible and to aid development projects in satisfying tree planting mitigation standards. Alternatives to on-site replacement tree planting are permissible upon a finding that the alternate measure is consistent with the purpose and goals of this chapter. In-lieu contributions will be collected prior to tree removal. The County will utilize these funds to support the management of urban forests within the Coastal Zone through the purchase, planting, maintenance and monitoring of trees on public lands, or on private lands where appropriate protections have been established. Funds may also be used for updates to the adopted Urban Forest Management Plan and the establishment of an Oak Woodland Management Plan.

(B) Applicability.

Commented [RT1]: By whom?

Commented [MJ2R1]: The Environmental Coordinator

Commented [RT3]: Shall be paid?

Commented [MJ4R3]: sure

Commented [RT5]: Do we need to limit this to the Coastal Zone? Can we apply this to tree removals outside the Coastal Zone so it covers PG&E tree removals in the SC Mtns?

Commented [MJ6R5]: The Sig-tree ordinance is only in effect in the Coastal Zone, and our authority to regulate PG&E is only in association with our implementation of the Coastal Regulations.

Commented [RT7]: Do we need to define what these are? Conservation easements? Anything else?

Commented [MJ8R7]: Good call - I'm thinking conservation and access easements that are held by the county, but land trust properties could play in as well.

(1) This section applies to any property owner or applicant who is required to replace a tree pursuant to: SCCC 16.34.070, or a coastal development permit, or as identified as mitigation for tree loss through the CEQA process, and where on-site replacement is not feasible due to the following, as determined by the Environmental Coordinator:

(a) Insufficient space to plant a replacement tree of appropriate mature size.

(b) Underground utilities or other physical limitations on the property.

(c) Projects that are linear in nature, such as modifications to transit corridors or utility protection projects, where no suitable planting areas are available.

(2) The property owner or applicant may propose an alternative to paying an in-lieu fee where on-site tree replacement is not feasible. Alternatives to the in-lieu fee program shall be considered on a case-by-case basis at the discretion of the Environmental Coordinator.

(a) On-site planting and management shall always be the first option for mitigating the loss of trees.

(b) The in-lieu fee is the preferred option if on-site planting is not feasible.

(c) Other mitigation options may be considered by the County Environmental Coordinator as proposed by the applicant or owner.

(C) Approval Process for In-Lieu Fee

(1) The property owner shall submit a written request to the Environmental Coordinator for approval to pay an in-lieu fee.

(2) The request shall include:

(a) A detailed explanation of why on-site tree replacement is not feasible.

(b) A site plan illustrating the limitations that prevent on-site planting.

(3) The Environmental Coordinator shall review the request and make a determination within 10 business days. The decision shall be based on the information provided and whether the limitations genuinely prevent on-site planting.

Commented [RT9]: How is this determination made? The language below in Section (C) states that the Environmental Coordinator approves the request.

Commented [MJ10R9]: 16.01.020 defines the Env Coord as the Planning Director or designee, but this change makes it cleaner.

Commented [SH11]: Are there any species or locational concerns to add here? Do we want any off site mitigation to be within the County, or the same watershed, or the same Planning Area, for instance? Do we want species to be Oak, or drought tolerant, or native?

Commented [MJ12R11]: I thought I'd leave it up to the EC discretion. I liked the in-lieu in lieu of phrasing, but prose and code don't go together I guess...

Commented [SH13]: Move up to be with the other alternatives discussion in 2.

Commented [RT14]: What is the process for approving these alternate requests? Maybe all approvals should reference the process in Section (C)?

Commented [MJ15R14]: I purposefully left this vague to allow for some outside the box mitigation to be considered - the property owner may own other property where they can plant trees, or they may be able to get credit for a restoration project that removes significant acacia or eucalyptus and the restoration of riparian habitat is enough to offset the loss of invasive species.

Commented [RT16]: Is that enough time?

Commented [MJ17R16]: It should be a quick decision. I think 2 weeks should be fine.

(D) In-Lieu Fee Calculation. The amount of the in-lieu fee shall be determined by a fee study by the Department of Community Development and Infrastructure and approved by the Board of Supervisors based on the following factors:

(1) The size (diameter at breast height) of the tree(s) to be removed.

(2) The prevailing cost of purchasing and installing a replacement tree from the approved replacement tree species list.

(3) The cost of five years of maintenance for the replacement tree.

(4) The fee study shall be updated at least every 8 years.

(E) Use of In-Lieu Fees. All in-lieu fees collected pursuant to this section shall be deposited into a dedicated Tree Mitigation Fund overseen by the Department of Community Development and Infrastructure. The Tree Mitigation Fund shall be used exclusively for the following purposes:

(1) Planting new trees on public property or within the public right-of-way within the Coastal Zone in the unincorporated portions of Santa Cruz County, consistent with the Urban Forest Management Plan.

(2) Maintenance and care of existing trees on public property or within the public right-of-way, or on private lands where appropriate protections have been established, within the Coastal Zone consistent with the Urban Forest Management Plan.

(3) Public education programs regarding the benefits of trees and proper tree care.

(4) Updates to the Urban Forest Management Plan, Oak Woodland Management Plan, or similar plans that address establishment and maintenance of trees within the Coastal Zone.

(a) At least 80 percent of funds must be spent on tree replacement and management.

(5) Use of funds shall be recommended by a committee made up of a staff representatives from the Department of Parks, Open Space & Cultural Services, the Department of Public Works, and the Environmental Coordinator. Final authority for disbursement of funds shall lie with the Environmental Coordinator, upon the recommendations of the committee.

(F) Recordkeeping. The Department of Community Development and Infrastructure shall maintain records of all in-lieu fees collected, including the property address or parcel number, reason for fee payment including number, size and species of trees removed and replaced, and the amount of the fee. The Department of Parks, Open Space & Cultural Services and the Department of Community Development

Commented [RT18]: Should we include this fee in the Unified Fee Schedule and add language to automatically increase the fee to keep up with inflation?

Commented [RT19]: This is a little unclear to me. Is this referring to the size of the replacement tree that will be planted, or the size of the tree that is being replaced? Suggest clarifying language.

I would recommend against calculating fees based on the size of the replacement tree that is being planted b/c we likely will not know how big the tree is that is being planted at the time the in-lieu fee is being collected.

If the goal is to calculate fees based on the size of the tree that is being removed, I suggest we tie it to related permit conditions from the County and other regulatory agencies that would require a greater than 1:1 replacement ratio. For example, for coast live oaks that are greater than 24" DBH, the CCC typically requires a 10:1 replacement ratio. Does this mean the in-lieu fee for the removal of a large oak would be 10x the cost of the in-lieu fee of a small acacia? In a way that makes sense, but may complicate the fee structure.

Commented [RT20]: Do we need to state which Department is responsible for collecting and holding the Tree Mitigation Fund? I assume CDI?

Commented [RT21]: Consider adding "...or on private lands where appropriate protections have been established" to be consistent with Section (A).

Commented [RT22]: If we can expand this to cover areas outside the Coastal Zone, then suggest revising this to give us greater latitude in planting.

Commented [MJ23R22]: Not without opening a whole can of worms. The sig tree ordinance only applies in the CZ, and that's the focus of the mitigation.

Commented [RT24]: Within the Coastal Zone?

Commented [RT25]: If we can expand this to cover areas outside the Coastal Zone, then suggest revising this to give us greater latitude in planting.

Commented [MJ26R25]: Not without opening a whole can of worms. The sig tree ordinance only applies in the CZ, and that's the focus of the mitigation.

Commented [SH27]: Or implementation of?

Commented [MJ28R27]: Covered in 1 above

Commented [RT29]: CDI?

Commented [MJ30R29]: Thought about that, but I think with the Environmental Coordinator coming from

Commented [RT31]: Suggest also including CDI in this requirement since it will probably be both departments that are planting and maintaining trees.

and Infrastructure shall maintain records of all funds spent from the fund, including location, number and species of trees planted, associated permit triggering replacement, tree maintenance and funds spent upon plan updates.

Commented [RT32]: Do we want to include records of money spent on tree maintenance since this is an allowable use of the funds?

(G) Severability. If any provision of this section is held to be invalid, such invalidity shall not affect the remaining provisions of this section.

16.34.110 Enforcement penalties, remedies and procedures for violations.

(A) Any violation of any provision of this chapter shall be subject to the enforcement penalties, remedies, and procedures set forth in SCCC Title 19, Enforcement of Land Use Regulations.

B. In addition to the provisions allowed in SCCC Title 19, Enforcement of Land Use Regulations, under the authority granted a Hearing Officer in SCCC Title 1.12, General Penalty and Enforcement, penalties associated with violations of the chapter and ordered by the Hearing Officer shall be deposited into the Tree Mitigation Fund.