

Seattle Urban Forestry Commission

Weston Brinkley (Position #3 – University), Chair • Joanna Nelson de Flores (Position #7 – NGO), Vice-Chair
Steve Zemke (Position #1 – Wildlife Biologist) • Sandra Whiting (Position #2 – Urban Ecologist)
Sarah Rehder (Position #4 – Hydrologist) • Stuart Niven (Position #5 – Arborist – ISA certified)
Michael Walton (Position #6 – Landscape Architect – ISA certified) • Andrew Zellers (Position #8 – Development)
Craig Johnson (Position #9 – Economist) • Megan Herzog (Position #10 – Get Engaged)
Megan Herzog (Position #10 – Get Engaged) • Whit Bouton (Position #11 – Environmental Justice)
Jessica Jones (Position #12 – Public Health) • Shari Selch (Position #13 – Community/Neighborhood)

August 31, 2018

Councilmembers Rob Johnson, Mike O’Brien, Lisa Herbold, and Lorena Gonzalez
City Hall
600 4th Ave
Seattle, WA 98104

RE: “LEG Tree regulation updates ORD D7” and August 16, 2018 Central Staff Memo “Summary of proposed tree regulation bill and identified issues”

Dear Councilmembers,

The Urban Forestry Commission (UFC) commends Councilmember Johnson and Central Staff for moving forward a tree protection ordinance update. The UFC is pleased to support the City in this important effort and thanks Councilmember Johnson and City staff for including UFC input and evaluation in this process.

Before getting into the details of this recommendation, the UFC would like to urge Council to extend the public comment period and allow for more evaluation of the proposed ordinance. Revising the tree code for Seattle is long overdue and nearly a decade in the making, however, the UFC believes fully understanding the potential impacts, incentives, and enforceability of the draft code will take more time than is currently planned for in this process. Please move the final decision on this to 2019 to allow for additional consideration, definition, analysis, and public input on the impacts of such policy proposals. One public daytime hearing on a still being revised draft is not adequate public involvement on a major policy issue affecting all property in the city.

Positive aspects of the current draft:

In specific response to the Draft Legislation D7, the UFC is pleased with much of the content. The UFC specifically applauds the draft ordinance’s following features:

- Expansion of the permit system for all private property tree removal activity in all zones.
- Use of a 6” diameter-at-breast-height (DBH) threshold for tree significance and removal and replacement permits.
- Inclusion of clear definitions for relevant terms.

- Creation of an in-lieu payment system and Tree Replacement and Canopy Maintenance Fund.
- Creation of an off-site mitigation planting system.
- Inclusion of maintenance requirements and a five-year major development activity restriction.
- Posting requirements on-site for removals.
- Innovative development standard reductions for tree preservation.
- Inclusion of a tree replacement mechanism and assurance that replacement trees reach size of significance, and
- Requiring notice on title for trees when property is undergoing development.

However, the UFC has concerns with some aspects of the draft ordinance including the removal of the purpose and intent to protect trees that was in previous versions: "...purpose and intent of this chapter [is] to avoid the removal of trees, [and] to protect trees from impacts of development...". The UFC urges you to expand the purpose section to more fully emphasize the importance of protecting existing trees, in particular Exceptional trees as currently defined, and the benefits of trees to the city. Also, we recommend expanding the definition section to include more of the terms used in the ordinance.

Recommendations:

The UFC has recommendations to the draft ordinance that it feels would result in more effective management of our urban trees. The UFC strongly recommends the below adjustments:

1. Maintain and strengthen existing protections for valuable trees.

Concern: Using 6" DBH as the trigger point for a tree removal permit system is a good approach but doesn't replace important tree protections contained in the current code. The draft ordinance removes existing protection for groves, trees on undeveloped lots, limits on the number of trees that can be removed, and Exceptional trees including Heritage Trees. The UFC feels strongly this will result in the loss of a substantial number of large mature trees and their replacement with smaller trees, leading to reduction, not increase in the city's tree canopy as well as a loss of the unique ecosystem and health benefits of large mature trees. Losing large conifers and their significant canopy volume has a larger impact than simply losing their two-dimensional canopy spread.

Scientific findings show that small trees do not provide the same value as large trees. Young trees, if they survive, take decades to replace the benefits gained from large trees. Large, mature trees provide ecosystem values that collections of small trees cannot replicate; for example, large trees absorb CO2 at a faster rate than small trees. Residents rally around large trees, they contribute to communities in ways that collections of small trees don't. Also, diversity of age and species is crucial for a sustainable urban forest.

Recommendation: Add back in protections for Exceptional trees, groves, significant trees on undeveloped lots, and limit removal of trees on developed lots to no more than two per year.

The identification of Exceptional trees is not onerous or administratively burdensome. To this point, the permit system already requires the involvement of an arborist and/or SDCI professional taking the identification task over from the landowner for major tree permits. Additionally, the draft ordinance retains the inclusion of the City of Seattle Tree List and List of Suitable Tree Species and expects its use by landowners; the inclusion of Exceptional trees is fundamentally no different and could be part of these lists. Some of the proposed provisions in the draft ordinance, such as calculation of net canopy cover on a single lot before and after proposed tree removal by a property owner, would be far more burdensome than simple tree identification and DBH would be.

2. Abandon the canopy cover approach as a regulatory tool.

Concern: Using calculations of canopy coverage percentage on single lots is problematic because it's complicated, it might not be accurate since the data is not real-time, and data availability may be limited. Canopy coverage is a rough approximation that serves city-wide goals as a general aggregate metric. It is not as effective at the single lot scale. Some challenges include distinguishing trees and shrubs, tree canopy that crosses property lines or rights-of-way, and treating all tree canopy, regardless of the significance of the tree, the same. Trees are not evenly distributed throughout the city. Expecting landowners to be equally interested or capable of managing trees is unrealistic and an ineffective approach. Due to preference and necessity some lots will have more trees than others. Generally, this process is too complicated for property owners to effectively follow.

Recommendation

- A. The UFC recommends doing away with the TCMU approach and instead use a tree species and DBH approach. Implement the same rules for all land uses and zones. If a Significant tree is removed, it must be replanted on site. If someone is unable to plant on site due to site conditions or development scenarios, then they must plant off-site or pay a fee-in-lieu. This creates an equitable, legible tree code that is easy to follow appropriately and preserves the most trees possible. It can utilize updated tree species lists already available to the public.
- B. Expand the definition of Exceptional trees to also include all trees 24" DBH and above. That would expand the protection of the mature large trees that are providing the greatest ecological services to the city. For removal of trees between 6" and 24" DBH a permit is required. Trees 24" and larger are considered Exceptional and shall not be removed unless they are hazardous or preclude development. Also considered Exceptional should be all trees designated as "Heritage trees," trees that are "rare or exceptional by virtue of its size, species, condition, cultural/historic importance, age, and/or contribution as part of grove of trees," and trees on undeveloped lots.

For a variety of reasons, the UFC recommends the code be biased towards no tree removal, or if a tree is removed for replanting to occur on site. This will ensure that the ecosystem and health benefits of trees, which are often local, continue to benefit the original communities. Therefore, the UFC recommends that trees being removed

requiring permits should be replaced on site. If replacement on site is possible a Minor permit will be sufficient. If tree replacement cannot be completed on site due to insufficient plantable space for replacement requirements, then a Major removal permit should be issued. A Major permit allows for in-lieu payment or off-site planting. These rules should hold the same for properties in development or not in development.

- C. Require replacement for all tree removals, including hazardous trees. Replacement trees, in that they are younger and survival beyond five years is not certain, must exceed the trees removed to ensure city-wide canopy growth. Trees should be replaced in accordance to their ecological services and other values, which are previously calculated in determining the permit cost. Tree categorization could be provided in the updated City of Seattle Tree List and List of Suitable Tree Species and aligned with the valuation estimation tool. Categorizing for replacement could be as simple as small, medium, and large in twenty years. Consideration should be given to a tree replacement system like Portland, Oregon's where the number of replacement trees required increases with the size of the tree removed. This follows the arboricultural standard that tree replacement should reach a size equivalency in 20 years. The code should include a hierarchy of priorities for tree replacement location, species, size, etc.

3. Strengthen tree removal notice requirements.

Concern: The UFC is concerned that the removal notice is not posted until after the permit has been processed, which doesn't allow time for community input. Two-day notice is not adequate notice for minor permits. Using the same time period removes confusion as to what is required regarding posting.

Recommendation: The UFC recommends that all tree permits require two weeks posting notice on the property and a yellow ribbon around any trees to be removed as SDOT currently does. The UFC also recommends that all tree removal filings and replacement permits be posted in one location online for the public to view.

Additional general recommendations to improve tree management:

Finally, the UFC has six broad recommendations:

1. Adequately resource the ordinance: success of instituting an effective code is highly dependent on necessary funding for education/outreach, administration, enforcement, and data management. Although the UFC recognizes budgeting is a separate process, it believes it is necessary to have the expected resource needs in mind before approving the code and allocate necessary funding to successfully implement the ordinance.
2. Update any ordinance passed in the near future following the completion of the Urban Forest Management Plan (UMFP) update in late 2019: stipulate the ordinance be reviewed in unison with the UFMP every five years to ensure continuity of policy and use of best available data.
3. Institute an ability-to-pay, income-based program: this would allow for equitable establishment of permit prices, in lieu fees, and permit penalties associated with this

ordinance. The purpose of fees is to fund the program and to provide a disincentive for tree removal. This can be accomplished at sliding scale rates.

4. *Incorporate the values that the city gains from trees*: we benefit the most from big trees. People are connected to trees, particularly big trees. Fortunately, big trees also provide exponentially more environmental and public health benefits than an equivalent collection of small tree canopy.
5. *Align tree data throughout permit and tracking systems*: to ensure effective data and an ability to evaluate policy better tree data is needed. Work to ensure that tree removal permits are tracked and integrated with identified illegal removal complaints, SDOT street tree and Parks trees inventories, Seattle City Light tree removal, and other City tree data. Update SDCI's Accela permit tracking system to track all tree removals and replacement trees during development, as directed in Mayor Burgess's Executive Order 2017-11, and integrate this system with like metrics to be able to compare and tally all tree data in one system, including trees removed outside development and by other City departments like SDOT and Parks.
6. Ensure that the permit process is understandable, accessible, appropriately priced, easy to implement, and traceable.

The UFC appreciates how complex this legislation is and is committed to supporting the City in producing legislation that will adequately protect our urban trees. The current momentum needs to be preserved while striving to produce the best ordinance possible. The UFC looks forward to continuing to work with Council on this important piece of legislation.

Sincerely,

A handwritten signature in black ink on a light-colored background. The signature is stylized and appears to read 'Weston Brinkley'.

Weston Brinkley, Chair

cc: Mayor Durkan, Council President Harrell, Councilmember Bagshaw, Councilmember Juarez, Councilmember Mosqueda, Councilmember Sawant, Jessica Finn Coven, Nathan Torgelson, Michelle Caulfield, Mike Podowski, Noah An, Maggie Glowacki, Chanda Emery, Urban Forestry Management Team, Urban Forestry Core Team, Sara Maxana, Aaron Blumenthal, Eric McConaghy, Yolanda Ho, Susie Levy, Daniel Strauss, Evan Philip

Sandra Pinto de Bader, Urban Forestry Commission Coordinator
City of Seattle, Office of Sustainability & Environment
PO Box 94729 Seattle, WA 98124-4729 Tel: 206-684-3194 Fax: 206-684-3013
www.seattle.gov/UrbanForestryCommission