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April 7, 2023

Seattle City Council  
600 4th Ave  
Seattle, WA 98104

**RE: Urban Forestry Commission input regarding the draft Tree Protection Ordinance**

Dear Councilmembers,

Duwamish Lands (Seattle, WA) – The Urban Forestry Commission (UFC) thanks you for your time and attention to update Seattle’s Tree Protection Regulations.

The Urban Forestry Commission exists per city ordinance to advise the Mayor and City Council concerning the establishment of policy and regulations governing the protection, management, and conservation of trees and vegetation in the City of Seattle. All commissioners serve on a volunteer basis; the UFC is always willing to provide input on such important policy development.

The UFC is disappointed with the City’s policy development process relating to CB 120534. From the UFC perspective, the proposed legislation appears to have been developed behind closed doors without substantive participation by the Commission and other stakeholders. The March 2023 draft is substantially different from the February 2022 draft the UFC had seen last and made a substantial list of recommendations on. The timeline established by the City Council for acting on the proposal is relatively short given the complexity of the policy and the implications for our city. The UFC does not feel there has been adequate time for all interested stakeholders, including this Commission, to reflect and make well-informed recommendations.

We know firsthand that Seattle’s urban forest is in decline and threats are mounting. Our expertise in the field, and past and present data, point to the reality that Seattle cannot take its canopy for granted. A change in the way we manage our trees is past due. The UFC applauds the Mayor’s Office in aiming with this ordinance to:

- Improve regulations on private property, where more than half of our tree canopy is located, and;
- Increase tree canopy, especially within neighborhoods and communities with low tree canopy.

While this tree ordinance is important for reducing unnecessary and untimely tree removals and supporting some tree replacement, it is not a panacea. Alone, stronger regulations will not reverse Seattle's canopy decline. Reaching our canopy goals will require more collective efforts that center racial and social justice.

The UFC acknowledges that these recommendations on CB 120534 are incomplete. The Commission urges the City Council to review these suggestions and recommendations in combination with those from other stakeholders and to improve the proposal through amendments, especially where multiple groups have shared common concerns.

### **Enumeration of support for general policy updates**

The UFC supports the following elements that are in the current draft ordinance:

- Lowering the general size threshold of 30" DSH to 24" diameter at standard height (DSH) for Tier 2 – Exceptional Tree designation.
- Requiring street trees when establishing, constructing, or modifying principal single-family dwelling units on Neighborhood Residential, Commercial, and Seattle Mixed zones.
- Increasing protections for Tier 1 – Heritage Trees.
- Requiring replacement of all trees 12" DSH and larger removed for development.
- Offering a voluntary fee in-lieu system to support tree replacement when trees 12" DSH or larger cannot be replaced on-site or on public property nearby.
- Further restricting removal of trees when no development is proposed.
- Covering protected trees and replacement trees with a covenant.
- Requiring five-year maintenance and survivability for relocated and replaced trees.
- Requiring six-day advance notice online of tree work.

### **Items Missing from the Ordinance or Additional Considerations for Citywide Urban Forestry**

The UFC would like to see the following additional items addressed in the ordinance:

- Prioritizing environmental and social justice principles that can be tracked with short-term goals. (e.g. what is the percent of tree canopy this current administration wants to reach as opposed to the long-term goal of 2037?)
- Strengthening the connections between this ordinance and affordable housing.
  - As is, it is unclear how this ordinance is supporting affordable housing in the city. While we can infer how this is being connected, strengthening this connection can help us address the lens that is being used to support affordable housing with changes made to this ordinance.
  - Apart from some exemptions to the Yesler Terrace Project and permanent supportive housing, it is unclear how this legislation is connected to production of affordable housing.
- City level support for community-led tree planting, training, and maintenance programs.
- Development of programs to train new arborists, as many arborists are approaching retirement.
- Creating a more robust and responsive system of enforcement for code compliance that accommodates easy navigation for the public.

## Specific recommendations by ordinance section

Below is a listing of sections of the ordinance the UFC is providing feedback on, where background information and rationale are included, and UFC recommendations are highlighted in bold and italicized.

### **23.44.020, 23.47A.016, and 23.48.055**

The UFC supports requiring street trees when establishing or constructing principal single-family dwelling units as proposed.

***The UFC further recommends requiring street trees when establishing or constructing accessory dwelling units.***

The UFC observes that each of these sections exempts street tree requirements for structure expansions up to 1,000 square feet, which is the footprint of many entire homes in Seattle. ***The UFC believes the threshold for exemption should be 500 square feet or less.***

Most Environmental Justice Priority Communities are in neighborhoods currently zoned as Neighborhood Residential, Neighborhood Commercial, Commercial, or Seattle Mixed zones (Appendix A). Environmental Justice Priority Communities are statistically more likely to have lower canopy cover and a higher proportion of residents of color or residents with lower incomes. Prioritizing tree planting in conjunction with development in these communities should be a priority for the City. Stronger street tree requirements may help.

The UFC also notes a concern with the following language, which appears in proposed sections **23.44.020.C.2.b; 23.47A.016.B.4, and 23.48.055.D.4:**

“If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot setback shall be planted with street trees along the street property line or landscaping other than trees shall be provided in the planting strip, subject to approval by the Director of Transportation. If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is not feasible, the Director of the Seattle Department of Construction and Inspections may reduce or waive this requirement.”

Five feet is a small amount of space, especially if it is directly adjacent to a structure. Trees in these areas will have restricted area to grow in and would be unlikely to reach their potential size at maturity. This restricted area would potentially lead to tree decline and removal within the first five years after planting.

### **25.11.010 Purpose and intent**

***The UFC recommends revising and restructuring the purpose and intent to ensure clarity and reading of the code, by incorporating the underlined language suggested below.***

The current ordinance and this proposed CB120354 do not separate the purpose and intent; the UFC believes it is important to do so. The purpose should explain why we are establishing regulations and processes for trees; the Intent should describe how we actualize the purpose.

25.11.010 Purpose and intent.

A. It is the purpose of this chapter to protect and enhance the public health, safety, environment, and general welfare of the people of the City of Seattle by establishing protections and processes for Seattle’s trees and urban forest located on both public and private land because they provide necessary and substantial economic, social, health and environmental benefits needed for a thriving, livable and resilient city. These benefits include improved mental and physical public health, stormwater retention, wildlife habitat preservation for birds and other species, pollution reduction, climate change mitigation and adaptation, erosion control, urban heat island reduction, wind protection, and aesthetic beauty.

B. It is the intent of this chapter to:

1. Preserve and enhance the city's environmental, physical and aesthetic character by preventing untimely, unnecessary or indiscriminate removal or destruction of trees and our urban forest on undeveloped land, developed land, and land undergoing development by:

a. Establishing categories of regulated trees;

b. Protecting regulated trees because their historical, ecological, social equity/justice, cultural, habitat, environmental services or aesthetic value constitute an important community resource;

c. Protecting trees on undeveloped or vacant sites that are not undergoing development and prevent unnecessary or premature loss of trees so their retention may be prioritized and encouraged during the development review and approval process.

2. Facilitate tree protection efforts by granting flexibility for certain development standards and innovative construction practices and promote site planning and horticultural practices that are consistent with the reasonable use of property, including:

a. Encouraging flexibility in design and site planning to protect regulated trees;

b. Encouraging and increasing retention of trees through the design review and other processes for projects, through education concerning the value of retaining trees, and by regulating and limiting their removal;

3. Require replacement when certain regulated trees are removed to compensate for their loss. Replacement requirements will also:

a. Ensure the survival and protection of required replacement trees;

b. Track tree removal and replacement over time by establishing improved data collection and accountability through Commercial Tree Work reporting requirements;

c. Allow voluntary payment in-lieu of replacement for certain regulated trees when tree replacement on-site or on nearby public property is not possible or advisable;

4. Promote responsible stewardship of our urban forest and code compliance by establishing a Tree Service Provider Registry;

5. Implement the goals and policies of Seattle's Comprehensive Plan especially those in the Environment Element dealing with protection of trees and the urban forest while balancing other citywide priorities such as housing production;

6. Implement the goals and policies of Seattle's Green New Deal, specifically as it relates to mitigating greenhouse gasses and improving climate resiliency for vulnerable communities; and

7. Support the goals and policies of the City of Seattle Urban Forest Management Plan, especially those related to existing Citywide policies that commit the City to realize its vision of racial equity and environmental justice.

#### **25.11.020 Exemptions**

In section 25.11.020.H, ***the Commission recommends extending payment-in-lieu exemptions to affordable housing developments*** where at least 50% of units are rented to households of 60% area median income (AMI) or less, or sold to households of 80% or less AMI.

***The Commission also recommends adding a reference to "pathogens" in subsection 25.11.020.I, to read:***

- I. Tree removal or commercial tree work as approved by the Director prior to removal, in accordance with a recommendation from a certified arborist for an **insect, pest, and/or pathogen** infestation that does not meet a high risk hazard,...

Please also see the UFC's recommendation at the bottom of this letter to add an additional Director's Rule clarifying the conditions and process for exemptions based on insect, pest, and/or pathogen infestation.

#### **25.11.050 General Provisions for regulated tree categories**

The UFC supports subsection 2, prohibiting removal or topping of regulated trees on developed lots in Neighborhood Residential, Lowrise, Midrise, Commercial, and Seattle Mixed Zones. ***The UFC recommends extending these protections to all zones, suggesting the following language:***

2. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on developed lots all zones, except as allowed in subsection 25.11.050.B.

#### **Tree Tier Nomenclature**

The UFC has heard concerns from community members that the proposed tree tier nomenclature has the potential to create confusion by changing the currently used and well-known tree categories, namely "Heritage Tree," "Exceptional Tree," and "Significant Tree." There is concern, too, that the tiered convention removes important value signifiers that the current names convey: "Heritage," "Exceptional," and "Significant" have emotional resonances not captured by the tier nomenclature.

The UFC has also heard an appreciation for the ease with which the tier nomenclature allows when discussing the code. No doubt it is simpler to say “Tier 3” rather than “Significant Tree between 12-24” DSH.”

***The UFC recommends a hybrid approach, using categories as in the following example:***

- Tier 1 – Heritage Trees
- Tier 2 – Exceptional Trees
- Tier 3 – Significant Trees 12-24” DSH
- Tier 4 – Significant Trees 6-12” DSH

#### Protecting Tier 1 / Heritage Trees.

The UFC supports prohibiting removal of Tier 1 – Heritage trees except when they are hazardous, and supports requiring their replacement when removed.

While these trees are worthy of protection, keep in mind that there are very few of them across the city: only about 258 according to SDOT street tree data. That’s approximately three-hundredths of one percent of Seattle’s estimated trees. Most are within the right-of-way or on parkland and therefore outside the purview of this legislation. While the individual protection of Tier 1 trees is great, the protection it represents to the urban forest overall is negligible.

The UFC also notes that, historically, Heritage Trees have been designated through a nomination process co-sponsored by Plant Amnesty and SDOT. Will the City continue to allow heritage nominations? Will that program be updated and supported? If not, how will new Heritage trees come to be?

#### Tree removal allowances outside of development

The UFC supports limitations on tree removal allowance outside of development. However, the current proposal in subsection B, which reads “no more than two Tier 4 trees may be removed in any three-year period in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones, and no more than three Tier 3 and Tier 4 trees may be removed in any one-year period in all other zones”, is confusing and inconsistent.

The UFC has heard the Seattle Arborist Association express concern about the potential for more restricted removal allowances to disincentivize tree ownership, stewardship, and proactive management. Given that 80% of canopy loss on Neighborhood Residential zones was found to not be associated with development in the 2021 City of Seattle Tree Canopy Cover Assessment, the UFC believes the proposed restrictions are warranted. ***The UFC therefore recommends the following:***

***B. When no development is proposed, no more than three Tier 4 trees may be removed in any three-year period in all zones.*** Even if no development is proposed, an abbreviated development permit application may be filed to request the removal of additional regulated trees for good cause shown. A Director's Rule shall define the procedure for application and the limited criteria for evaluation.

***The UFC urges the city to develop an online tree removal and replacement permit system to track tree removal and replacement. The UFC has noted in the past that our tree protections rely on a community complaint-based system for enforcement. This does not serve our trees or urban forest well and needs more consideration.***

However, the City needs to establish rigorous monitoring and evaluation requirements for this legislation, and set a process for adjusting the code based on learning after implementation. If we find the new restrictions disincentivize tree ownership, stewardship, or proactive management, the City must adjust in a timely manner. See UFC recommendation on monitoring and evaluation below.

**25.11.060 Determination of Tier 1, Tier 2, Tier 3, and Tier 4 trees, including tree protection area delineation**

Establishing appropriate tree protection areas is critical for ensuring the long-term viability of trees retained throughout the development process. Inadequate tree protection areas during development may stress, injure, or kill a tree, signs of which may not manifest until well after building development is complete.

The proposed basic tree protection area would be defined as the “area within the drip line of a tree, which may be irregular in shape to reflect variation in branch outer limits.” Since trees in urban environments are often limbed and pruned in irregular ways, a definition based on drip line may not be the best first pass at tree protection delineation. There is also concern that a tree may be intentionally pruned in such a way to create a basic tree protection area that is more favorable to development, but does reflect below ground conditions.

***The UFC recommends that the ordinance support various methods of determining the tree protection area, with the aim of providing multiple industry references for arborists to assess the tree protection need in the field.*** In addition to the “dripline” method, the ordinance should also reference ISA's Critical Root Zone (CRZ) method, which establishes a circular tree protection area centered on the tree base, with a radius equal to one foot for every inch of the tree's Diameter at Standard Height (DSH).

***The UFC recommends that the delineation of tree protection areas should be required as part of the tree protection report, including details as stated in section 25.11.060.C of the ordinance draft.*** In order to mitigate both immediate harm and long-lasting impacts on existing trees caused by construction activities, protection is essential in maintaining the preserved trees' health in an urban setting. Therefore, the tree protection area should be based on a thorough assessment of the tree's condition, potential construction impacts, and other factors such as species, location, and the history of disturbances.

The UFC does NOT support temporarily reducing tree protection areas during specific construction activities. This provision is subject to wide and generous interpretation, and given the lag time between stressor and stress signs in trees, it is advisable to maintain the tree protection area throughout all construction activities. ***Therefore, the UFC recommends that proposed subsection 25.11.060.A.4.d. be removed.***

The City has claimed that all regulated trees would be required to be documented on all plan review sheets. However, Tier 4 trees are currently missing from the list of required trees on the proposed 25.11.060.B.1. ***Please amend so that it reflects the city's intention:***

B. Site plan requirements

1. All trees 6 inches DSH or larger are required to be documented on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.
2. Tree protection areas as determined by subsection 25.11.060.A for all trees 6 inches DSH or larger are required to be identified on site plans.

**25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones**

The UFC acknowledges the desire to provide predictability to builders through the code. The 85% hardscape allowance in Lowrise, Midrise, Commercial, and Seattle Mixed zones proposed in section 25.11.070.B attempts to provide that predictability.

This is a novel proposal, to the UFC's knowledge, not tested in other jurisdictions. It is unclear how, in reality, this will serve to provide the clarity desired by builders or tree preservation as intended by these regulations.

This needs to be studied using real-world examples. The table in Appendix A shows the approximate square footage of a tree's tree protection area assuming one foot of radius for every inch of DSH. Assuming a tree's entire tree protection area were entirely within a lot, **the 85% hardscape allowance would not protect even a single, standard 24" Tier 2 / Exceptional tree, even reducing its tree protection area by 35%**, as the Director might allow under proposed 25.11.060.A.4.b.

The UFC has doubts that the 85% hardscape allowance will serve to protect regulated trees, both on a site undergoing development and potentially impacting trees rooted on adjacent lots. This has potentially serious implications for canopy equity and our canopy goals, given that:

- Lowrise, Midrise, Commercial, and Seattle Mixed zones currently account for 21% the total land area of Environmental Justice Priority Communities. These communities already tend to have lower canopy. The UFC believes that an 85% hardscape allowance may exacerbate canopy inequities.
- Upzoning significant portions, or all, of Neighborhood Residential zones to allow multifamily development is highly probable in Seattle's near future (per proposed state legislation HB 1110). A plurality of Environmental Justice Priority areas are currently zoned as Neighborhood Residential (45%).
- By the City's analysis in the 2021 Canopy Cover Assessment, 80% of canopy loss in Multifamily zones was attributable to development.
- If canopy cover on even one-fifth of the land currently zoned as Neighborhood Residential is reduced to the current average canopy cover on Multifamily, that would represent a potential canopy loss of nearly 460 acres; almost twice the loss between 2016-2021 (see calculation in appendix B).
- Finding public land on which to add trees is challenging; competition with overhead and underground utilities limits opportunity in the right of way and parks natural areas are already at 82% canopy cover.
- The urban forest and Environmental Justice Priority areas may be better served if we attempt creatively and earnestly to retain as many trees as possible in residential zones, including Multifamily zones, especially since we are likely to upzone significantly in coming years.

For these reasons, the UFC believes an 85% hardscape allowance is ill advised.

**Tree preservation should not be determined by measuring area numbers; instead, it will depend on the tree protection report and its examination against the design proposal(s). This is why a site design plan should be requested as part of the permitting process prior to Tier 2 tree removal. If the design proposal cannot meet the tree protection requirements per the tree protection report, the impacted trees may be removed.**



Per 25.11.060.C.2, the tree protection report can provide "An evaluation of the anticipated effects of proposed construction on the viability of the tree". This means the design proposal should be developed before or together with the tree protection report.

If Seattle is to meet its canopy and equity goals, canopy must continue to persist and expand on private property. Replacement on public property will not be sufficient. ***The UFC therefore recommends adding to 25.11.070.B: if one or more tier 2 trees are removed to accommodate development, 20% of the development impact area shall be used for replacement tree planting.*** A dedicated tree area on site, instead of payment-in-lieu, will ensure we recover a certain level of canopy loss.

The idea of 85% guaranteed lot coverage is novel. The commission acknowledges that reducing the guaranteed percentage lot coverage relative to the draft ordinance could decrease the development capacity of residential zones and subsequently the number of housing units that can be produced. We urge the City Council to find a compromise that protects trees and produces new housing units, and we also recommend allowing additional design flexibility to encourage more creative building strategies and tree retention. Please consult with builders to determine what additional design standard departures would be appropriate.

#### **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

The UFC recommends encouraging major institutions to comply with proposed mitigation requirements where master plans come in conflict with tree protection.

#### **25.11.090 Tree replacement, maintenance, and site restoration**

***The UFC recommends increasing the replacement requirement.*** The proposed ordinance would only require a replacement tree to result in a canopy roughly proportional to the canopy cover prior to removal.

Tree loss is an event that occurs nearly instantly. Tree replacement is a slow process. There is a lag time during which replacement trees do not provide the same level of benefits as the original tree provided. This lag can be shortened by requiring additional mitigation.

***The UFC recommends increasing mitigation requirements with increasing size of the removed tree. For example:***

Table A: UFC mitigation requirement recommendations

<b>Removed tree size</b>	<b>Required Mitigation</b>
36" DSH or greater	4 replacement trees
24"-36" DSH	3 replacement trees
12"-24" DSH	2 replacement trees

***The UFC recommends that the ordinance incorporate specific guidelines aimed at ensuring the replacement tree's ability to survive, maintain good health, and have adequate space to grow.***

These requirements will facilitate the tree's eventual growth to fill the void left by the original canopy loss. Examples of such guidelines may include provisions for proper irrigation, sufficient soil volume, and identification of any potential conflicts with utilities.

***The UFC recommends that the director make tree replacement selections based on, to the extent practicable, native species, indigenous or cultural significance to the area in which it is being planted, or a climate adaptive species from a similar ecosystem that will maximize mitigation of carbon and stormwater runoff and be resilient to climate change and pests.***

**25.11.100 Tree service provider registration**

In previous recommendations, the UFC advised maintaining the current definition of reportable work meaning “removal of branches two inches in diameter or greater; pruning or removal of roots two inches in diameter or greater; or removal of branches constituting 15% or more of a tree’s foliage-bearing area.”

The Seattle Arborist Association has advised that these pruning thresholds are well below thresholds for routine maintenance outlined in the ANSI A300 standard and best management practices. These low thresholds could then mean landscapers and horticulturalists who are not Tree Service Providers may inadvertently be engaging in Reportable Work in violation of the SMC 25.11.

***The UFC also recommends the City closely review the Seattle Arborist Association’s other concerns relating to the Tree Service Provider Registry.***

**25.11.110 Off-site planting and voluntary payment in lieu**

The UFC supports establishing a payment in-lieu of tree replacement. However, the payment structure proposed in the draft [Director's Rule](#) does not seem adequate.

The Trees for Seattle Parks program estimates the cost of planting and establishing trees over a five year period at approximately \$4,000 (Table B).

Table B: Budgeted cost for tree establishment for Trees for Seattle Parks program<sup>1</sup>

<b>Tree Establishment Activity</b>	<b>Budget</b>
Planting	\$371
Year 1 Watering (2x/wk/5mo)	\$1,022
Year 2 Watering (2x/wk/5 mo)	\$1,022
Year 3 Watering (2x/wk/2mo-1x/wk/3mo)	\$715
Year 4 Watering (1x/wk/5mo)	\$511
Year 5 Watering (1x/wk/3mo)	\$307
<b>Total</b>	<b>\$3,948</b>

Given this, the UFC is concerned that the draft [Director's Rule](#) on payment in-lieu does not propose adequate fees to support City-run tree replacement and establishment for a five-year period. The UFC recommends establishing a base payment in-lieu fee of \$4,000.

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<sup>1</sup> Source: [Trees for Seattle Parks presentation](#) to the Urban Forestry Commission on Nov. 2, 2022.

The UFC is also concerned that the proposed payment in-lieu fee structure would allow trees that become Tier 2 – Exceptional at smaller sizes to be removed for very little cost. For example, a Pacific Madrone becomes Tier 2 – Exceptional at 6” DSH. The current payment in lieu for replacement of a 6” DSH Pacific Madrone would only be \$505.00. This is inadequate and needs to be corrected. ***The UFC recommends the following payment structure:***

Payment Categories	Required Mitigation	Payment In-Lieu
Tier 1, Tier 2, and Tier 3 Trees	Cost per tree, or cost per square inch of trunk removed, whichever is greater	\$4,000 or \$17.87/square inch, whichever is greater.

Costs associated with tree planting and establishment may increase in future years and payment in-lieu fees will need to be adjusted accordingly.

**25.11.120 Enforcement and penalties**

Once implemented this legislation will expand the number of trees regulated and appropriate funding will need to be given to the city departments conducting this work.

**25.11.130 Definitions**

***The UFC recommends the definition of “Tree grove” specifically state that trees within groves are protected as Tier 2 – Exceptional trees.*** A “Tree grove” definition should also be incorporated in the Director’s Rule of Tier 2 trees.

**Section 9 Reporting**

***The UFC recommends significantly improving monitoring and evaluation of this legislation.***

The UFC believes strong monitoring and evaluation requirements are a critical missing component of the proposed tree protections update.

Seattle’s urban forest is managed by nine City departments and hundreds of thousands of individual property owners. Coordinated governance is challenging, and changes to the urban forest can have multiple social, technological, and environmental consequences.

Due to the complexity of urban forest ownership and management, and the potential impacts at different scales and across systems, it is difficult to predict the consequences some of the proposed regulations will have. Will tighter removal limitations outside of development increase illegal removal, disincentivize tree planting or care, or increase misuse of the TRAQ hazard assessment to facilitate removal of trees that may otherwise not be allowed to be removed? Do the departures from the design standards actually provide incentives for builders to protect trees? If so, how often, and in which cases, and is there more we can do? Is the hardscape allowance clear and does it provide helpful predictability to developers? How many Tier 2 trees has the hardscape allowance preserved? Do the regulations unduly delay new development without serving tree protection? Do the regulations redress canopy inequities as expected? How will the code impact the livelihoods of arborists, horticulturalists, and other professional stewards of our urban forest?

These questions and more remain to be answered.

***The UFC therefore recommends updating Section 9 of the proposed ordinance with the following language:***

Section 9: Monitoring and evaluation

Twelve months after the effective date of this ordinance, and no less frequently than every three years thereafter, the Department of Construction and Inspections, in collaboration with the Office of Sustainability and Environment, the Urban Forestry Commission, and in consultation with outside experts and stakeholders, shall prepare and deliver a report to the Mayor and Chair of the City Council Land Use Committee, or its successor committee, on changes needed to ensure this ordinance serves its purposes, especially as it pertains to reducing indiscriminate tree loss, addressing canopy inequities, and avoiding undue delays or burdens on development. Specifically, the report shall include:

- The use by permit applicants of payment in-lieu of tree replacement. This report shall include the number of permit applicants that used the payments, payment amounts, total payments collected, City costs related to tree planting and establishment, and any recommendations for changes to the payment amounts to be included in a revised Director's Rule. Recommendations for changes to fee amounts shall include consideration of adequacy of payment amount to replace removed trees, cover City planting and establishment costs, and effects of payment amount on permit applicant decisions about usage of the payment option.
- The use by permit applicants of development standard flexibility to preserve trees. This report shall include the number of permit applicants that take advantage of allowed departures from development standards to accommodate tree preservation. The report shall include the types of departures used and the number of trees preserved therefrom, as well as the number of trees removed. Species, size, and other information about tree preservation, removal, and replacement shall also be reported. Recommendations for changes to the development standard departures shall include consideration for adequacy of tree preservation, adequate incentives to builders, and effects of hardscape allowance on tree preservation, replanting, and development processes.
- The number and location of replacement trees planted offsite. The report shall include descriptions, statistics, and qualitative reports about required replacement trees planted offsite, both through direct replacement by developers or by City efforts funded by the One Seattle tree fund. The report shall include information on costs, survivability, and community reception and feedback.
- The role and responsibility of the City Urban Forester relative to these regulations. The report shall include recommendations on how the newly established City Urban Forester will interface with these tree regulations on private property.
- Identification of unintended consequences. The report shall include an assessment of any unintended consequences arising from the implementation of this ordinance, including but not limited to inequitable canopy impacts on Environmental Justice communities; disincentivized tree ownership, stewardship, or proactive management; impacts to the livelihoods of urban forest professionals; and cost and time to developers.
- Recommendations on how this legislation supports the strategies in the forthcoming Tree Canopy Equity and Resilience Plan.
- Reporting on impacts to the urban forest due to climate change including from pests, pathogens, and insects.

**Additional recommendations**

Additionally, the UFC recommends development of the following additional Director’s Rules:

**Add an additional Director’s Rule for nuisance trees.** The language in the code defines “Invasive tree” to mean “any tree species documented on the King County Noxious Weed Board’s Class A, Class B, or Class C Noxious Weed lists.” This potentially excludes some species of concern that are difficult to control and should not be planted, including Cherry Laurel (*Prunus laurocerasus*), English Holly (*Ilex aquifolium*), and European Mountain-ash (*Sorbus aucuparia*). A Director’s Rule would provide additional clarification on which species specifically to avoid.

**Add an additional Director’s Rule concerning pest, pathogen, and insect infestations.** New, longer, and more severe outbreaks of pest, pathogens, and insects will almost certainly arise as an impact of climate change. The UFC generally supports allowing exemptions to SMC 25.11 as articulated in the proposed 25.11.020.I. However, the proposed language is unclear. What type of insect infestation is cause for exemption? Arborists have shared that they are often asked to remove trees because termites have been observed. Termites do not typically attack live wood, and so are unlikely to be cause for removal. Clarifying the conditions and general types of pests, insects, and pathogens this exemption would cover, as well as the process for performing removal or reportable work on infested trees, will aid arborists.

Thank you for considering these recommendations. The UFC is always willing to meet in small groups and discuss our recommendations in detail.

Sincerely,



Josh Morris, Co-Chair



Becca Neumann, Co-Chair



Laura Keil, Co-Chair

CC: Yolanda Ho, Naomi Lewis, Toby Thaler, Mayor Bruce Harrell, Adiam Emery, Christa Valles, Marco Lowe, Dan Nolte, Jessyn Farrell, Sharon Lerman

**Appendix A – Approximate tree protection area sizes for trees of various diameters at standard height (DSH)**

This table illustrates the UFC’s concern that an 85% hardscape allowance may not serve to protect a standard Tier 2 tree of 24” DSH, which would require between 18% and 28% of a 6,400 square foot lot.

The first column provides the DSH of a tree in inches. The second column provides the square footage of a tree protection area, assuming one foot radius for each inch of diameter. The third column provides the percentage of a 6,400 square foot lot that would be occupied by the tree protection area, assuming it is fully within the lot boundaries. The fourth column shows the approximate square footage of the tree protection area reduced by 35%, as might be allowed under proposed regulations. The fifth column shows the percentage of a 6,400 square foot lot that would be occupied by the reduced tree protection area.

<b>DSH (inches)</b>	<b>Approximate TPA (ft<sup>2</sup>)</b>	<b>TPA % of 6,400 ft<sup>2</sup> lot</b>	<b>Approximate TPA reduced 35% (ft<sup>2</sup>)</b>	<b>Reduced TPA % of 6,400 ft<sup>2</sup> lot</b>
6	113.1	2%	73.5	1%
12	452.4	7%	294.1	5%
17	907.9	14%	590.1	9%
22	1,520.5	24%	988.3	15%
23	1,661.9	26%	1,080.2	17%
24	1,809.6	28%	1,176.2	18%
30	2,827.4	44%	1,837.8	29%

**Appendix B – Calculation for potential canopy loss if average canopy on 20% of land currently zoned as Neighborhood Residential were reduced to the average canopy cover<sup>2</sup>**

- 2021 land area of Neighborhood Residential zones: 20,841 acres
- Average canopy cover in Neighborhood Residential zones in 2021: 34%
- Average canopy cover in Multifamily zones in 2021: 23%
- If 20% of Neighborhood Residential zones were to be converted to multifamily, that would be 4,168.2 acres of land area:

$$20,841 \text{ acres of Neighborhood Residential zones} \times 0.20 = 4,168.2 \text{ acres}$$

- Currently, average canopy cover on Neighborhood Residential zones is 34%. Therefore, 20% of land currently zoned as Neighborhood Residential could contribute 1,417.2 acres of canopy cover to the city:

$$4,168.2 \text{ acres} \times 0.34 \text{ average canopy cover on Neighborhood Residential} \\ = 1,417.2 \text{ acres canopy cover}$$

- If the average canopy cover on these zones were to decline to the average canopy cover on multifamily, the number of canopy acres they would contribute would fall to 958.7 acres.
- $4,168.2 \text{ acres} \times 0.23 \text{ average canopy cover on multifamily zones} = 958.7 \text{ acres canopy cover}$
- The difference between current canopy contribution and potential canopy contribution after rezoning yields a potential loss of 458.5 acres.

$$1,417.2 - 958.7 = 458.5 \text{ acres of canopy potentially lost}$$

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<sup>2</sup> Data pulled from 2021 City of Seattle Tree Canopy Cover Assessment.