

Seattle Urban Forestry Commission

Weston Brinkley, Chair • Joanna Nelson de Flores, Vice-Chair
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January 10, 2018.

Faith Lumsden
Seattle Department of Construction and Inspections
Seattle Municipal Tower
700 5th Ave
Seattle, WA 98124

RE: Recommendation about SDCI's Draft Director's Rule 21-2017 on Calculating Tree Valuations and Civil Penalties for Tree Protection Code Violations

Dear Ms. Lumsden,

Thank you for the invitation to comment on this important and timely issue. The Urban Forestry Commission (UFC) feels that clarifying how penalties for illegal tree removal are calculated and assessed assists the goal of Director's Rule 21-2017 (DR), and supports maintaining and enhancing Seattle's urban forest.

While much of the spirit of the DR is appropriate, it doesn't address the overall lack of effectiveness of the current code, as reported in the City's Tree Regulations Research Project's findings. We recommend instead instituting a comprehensive tree removal permit system, a simpler calculation method for tree valuation to assess penalties, and a registry for all tree work companies in the city.

Director's Rule 21-2017 tree valuation and penalty calculation

We acknowledge that the valuation method in the DR is dictated by current code. SDCI proposes using discounting factors that the UFC believes are overly generous to the violator and seem unsubstantiated. We suggest that no discounting factors be applied, and the tree appraisal value of the most valuable tree species be used, unless the offender can prove otherwise. We also recommend using multiplying weighing factors based on whether the illegal removal involves a grove. We support the provision for increased penalties for willful or malicious cutting as proposed, and recommend clarifying that this includes building permits as well as development permits.

In recommending a comprehensive tree permit system, a simpler calculation method for tree valuation to assess penalties, and a registry for all tree work companies in the city, the UFC realizes that it's possible that each effort may require a change in code and might be, therefore, beyond the scope of a Director's Rule.

In reviewing SMC 25.11.100 - Enforcement and Penalties Section A. Authority, it appears that SDCI already has the authority to expand its current hazardous tree permit to include all tree-related activities, as well as creating a tree workers registry. However, the UFC believes changing the valuation method will require a code update. We recommend engaging the City Attorney's Office to weigh in on the UFC's interpretation.

Recommend comprehensive permit system for tree removal

To be successful, the UFC believes that SDCI needs to implement a permit-based system for all tree removal. The current prohibition in SMC 25.11 from cutting down exceptional trees and removing more than three non-exceptional trees greater than 6" in diameter per year, as well as other limits to tree removal, are mainly based on a complaint system. While having the ability to impose fines for violations that are reported, most violations have and will go unreported, which does not help to deter trees being removed illegally. A complete tree removal permit system would help the City better monitor tree removals citywide and help plan accordingly in order to meet the Urban Forest Stewardship Plan goals.

The City's recent Tree Regulations Research Project Report confirms that serious problems with compliance are a result of the current complaint-based system. A better system to protect trees than under the existing ordinance and regulations is to require the use of a permit system for all trees over 6" in diameter. This provides a check on the possible removal of more than three non-exceptional significant trees greater than 6" in diameter a year, and provides confirmation as to whether a tree is Exceptional or not, reducing the loss of Exceptional trees which are protected under SMC 25.11.

Likewise, a comprehensive permit system would allow for more careful and timely consideration of Exceptional trees removed as hazardous rather than trying to determine this after the fact. While a permit for hazardous tree removal exists, not having a permit requirement for all trees allows Exceptional trees to be removed without verification before they are cut.

City departments currently use a permit system for tree removal, i.e. SDCI for hazardous trees and SDOT for tree removal in the right-of-way (ROW). The UFC recommends expanding existing programs to cover all significant trees in Seattle. Other cities have successfully implemented permit systems for trees on private property such as Lake Forest Park, Kirkland, Redmond, and Vancouver in WA; Portland, OR; and Atlanta, GA.

Recommend adopting a simpler Tree Valuation and Penalty Calculation

The UFC recommends utilizing a simpler valuation method for trees, not following one of the approaches outlined in the Guide for Plant Appraisal as stated in SMC 25.11.100.I. While the Cost Approach appears to be the most appropriate of the options provided, it is still too complex for its ultimate purpose. The UFC feels that having multi-part calculations for penalty assessments adds challenges to code enforcement through undue complexity. This complicated formula leads to a code that cannot be understood by property owners, the public, or many tree work professionals. Ideally, the penalty scheme should be simple enough to apply and provide a significant enough penalty to deter violation. The UFC would be happy to collaborate

with SDCI on determining what an effective valuation and penalty calculation method would be.

Create Tree Workers Registry

Finally, the UFC recommends requiring arborists, tree care providers, and landscape companies to register with the City and participate in tree protection code training. This is an approach similar to the one SDOT currently uses for ROW trees. Such a registry allows tree companies to be informed of current tree laws and ordinances. The registry would become a list of tree service companies that are up-to-date with the City's codes that would provide additional support for residents.

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 Jenny Durkan, Council President Harrell, Councilmember Bagshaw, Councilmember Gonzalez, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant, Jessica Finn Coven, Michelle Caulfield, Nathan Torgelson, Diane Davis, Mike Podowski, Maggie Glowacki, Evan Philip, Aaron Blumenthal, Peter Lindsay

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