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Draft response for consideration by Seattle Urban Forestry Commission 1/10/2018 -v2

Regarding Draft Director's Rule 21-2017

Thank you for the invitation to comment on this important and timely issue. We feel that reevaluating how penalties are calculated and assessed, as is the goal of DR 21-2017, is important for maintaining and enhancing our city's urban forest. While much of the spirit of DR 21-2017 is appropriate and will likely improve outcomes for the urban forest, the core shortcomings of SMC 25.11.100 are not addressed in DR 21-2017. We recommend instead a comprehensive tree permit system, a simpler calculation method for valuation, and a registry for all tree work companies in the city.

Code Changes

In recommending the above approaches we realize that it is likely that each will require a change in code and is therefore beyond the scope of a Directors Rule. While this is the case, we would like to use this opportunity to make recommendations for the issues addressed in the Directors Rule, regardless of the mechanism ultimately needed.

Additionally, we ask ~~the Department~~SDCI to seek guidance on the scope of SMC 25.11.100 Enforcement and penalties section A. Authority. We question if this section of existing code does not currently grant latitude to ~~the department~~SDCI to issue permits and enforce the tree code in a more effective manner as presented below.

Permit System for Removal

To be successful we believe that SDCI needs to implement a permit-based system for tree removal. The current prohibition in SMC 25.11 from cutting down exceptional trees and removing more than 3 trees per year and 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.

The recent Tree Regulations Research Project Report by OSE and SDCI 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 inches in diameter. This provides a check on the possible removal of more than 3 significant trees a year and provides confirmation as to whether a tree is ~~e~~Exceptional or not, reducing the loss of exceptional trees which are protected under SMC 25.11. Likewise, a comprehensive permit system would allow more careful and timely consideration of ~~e~~Exceptional trees removed as hazard trees rather than trying to determine this after the fact. While a permit for a hazard tree exists, not having a permit requirement for all trees allows ~~E~~exceptional trees to be removed without verification before they are cut.

A permit-based system for tree removal is frequently used, including currently by the City for hazard trees and by SDOT for posting requirement for illegal tree cutting in the right-of-way. We recommend expanding these programs to cover all significant trees. Other cities have also implemented successful permit systems, such as Lake Forest Park, Portland OR, Atlanta GA, and Vancouver WA.

Tree Valuation and Penalty Calculation

We recommend 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 far too complex for its ultimate purpose. We feel that having multi-part calculations for penalty assessments adds challenges into 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. Ultimately moving to a method that considers simply DBH-trunk diameter and species, we feel will be better utilized and better serve the intended purpose of retaining and enhancing our urban forest.

Tree Workers Registry

Finally, we recommend requiring arborists and other tree care people to register with the City. This is an approach similar to the one SDOT currently uses for ROW. Such a registry allows tree companies to be informed of current tree laws and ordinances and sign an affidavit that they have received this information and its requirements. This puts the main responsibility on compliance with Seattle's tree ordinance on tree care professionals rather than individual property owners.