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**Draft Urban Forestry Commission comments on SDCI Director's Rule 13-2020
July 28 2020 SZ**

[Discussed by the UFC on 8/5/20](#)

Dear,

The UFC would like to thank SDCI for their work improving tree protections and clarifying tree management systems. The UFC supports updating DR 16-2008 on exceptional trees and its expansion to also provide guidance on significant tree protection, tree care providers, hazard trees, and SEPA.

A. The UFC supports the following in proposed Director's Rule 13-2020:

- Reducing the upper threshold on exceptional trees to 24 inches diameter at standard (DSH) from 30 inches DSH.
- Clarifying the definition of a significant tree.
- Requiring tree care provider registration with the [City](#).
- Acknowledging tree protection and retention starting with the platting process.
- Continuing tree grove protection even if a tree is removed from a grove.
- Acknowledging that Exceptional trees removed during development must be replaced under existing SMC 25.11.090.
- Tightening requirements for removal of exceptional trees as hazard trees.
- Expanding the scope of the Director's Rule to include more protections and clarity.
- Developing a tree tracking worksheet.

B. The UFC ~~makes-recommends adding~~ the following [text general comments](#) on the scope and intent of the Director's Rule 13-2020 [to capture current code's intent to maximize retention of existing trees 6 inches DHS and larger throughout the development process.](#)

[Proposed new text to be added](#) ~~Make a simple addition~~ to the Director's Rule: ~~that~~ "To meet Seattle's 2035 Comprehensive Plan goals and Tree Protection code, all development projects shall be designed to maximize the retention of existing trees 6 inches DSH and larger."

[The following information is provided in support of this recommendation:](#)

Existing code SMC 23.22 requires that all trees at least 6 inches DSH be indicated on site plans and retained as much as possible throughout the development process. Several sections of the code already imply this intent:

- SMC 23.22.020 A: “Every preliminary plat application shall consist of one or more maps together with written data including the following... Specific *location and description of all trees at least 6 inches in diameter* measured 4½ feet above the ground, with species indicated.”
- SMC 23.22.054 A: “...if [the Hearing Examiner] finds that the proposed plat...is designed to *maximize the retention of existing trees*... then it shall be approved”
- SMC 23.24.020: “Applications for approval of a short subdivision shall include the following: ... F. Specific *location and description of all trees at least 6 inches in diameter* measured 4.5 feet above the ground, with complete scientific and common names of species indicated.”
- SMC 23.24.040 A: “The Director shall, after conferring with appropriate officials, use the following criteria to determine whether to grant, condition, or deny a short plat:
... 7. Whether the proposed division of land is *designed to maximize retention of existing trees*.”

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Specifically, as identified in the existing code, “tree” is clearly meant to mean any tree 6 inches DSH, and larger and does not just refer to exceptional trees. Therefore, the Director’s Rule should clarify that maximizing the retention of all significant trees is part of development designs.

This follows from the goals in the 2035 Seattle Comprehensive Plan:

The 2035 Seattle Comprehensive Plan in the Environment Section, Land Policies states:

“EN1.1 Seek to achieve an urban forest that contains a thriving and sustainable mix of tree species and ages, and that creates a contiguous and healthy ecosystem that is valued and cared for by the City and all Seattleites as an essential environmental, economic, and community asset.”

“EN 1.2 Strive to increase citywide tree canopy coverage to 30 percent by 2037 and to 40% over time.”

SMC 25.11 further clarifies in the purpose and intent section guidance for protecting trees:

SMC 25.11.010: It is the purpose and intent of this chapter to:

- A. *Implement the goals and policies of Seattle’s Comprehensive Plan especially those in the Environment Element dealing with the protection of the urban forest.*
- B. *To preserve and enhance the City’s physical and aesthetic character by preventing untimely and indiscriminate removal and destruction of trees.*

We note that SMC 25.11 expands tree protection established by SMC 23 by giving additional protection to exceptional trees. However, to maintain a specific tree species and a thriving urban forest, it is not enough just to maintain the largest specimens. Big, old trees will inevitably die. Trees of varying ages must be protected to replace those we lose to old age. Otherwise, there will be a significant loss of tree canopy area and volume and its associated environmental services over time. The following section of SMC 25.11 discusses potential exceptional trees:

SMC 25.11.050 (General Provisions for exceptional tree determination and tree protection area delineation in Single Family, Residential Small Lot, Lowrise, Midrise, and Commercial zones): *"Exceptional trees and potential exceptional trees shall be identified on site plans and exceptional tree status shall be determined by the Director according to standards promulgated by the Seattle Department of Construction and Inspections."*

Additionally, SMC 25.11.100 gives the Director broad discretion on protecting trees as outlined in the purpose and intent of SMC 25.11 and its other provisions: *"SMC 25.11.100 A. Authority. The Director shall have authority to enforce the provisions of this chapter, to issue permits, impose conditions, and establish administrative procedures and guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of this chapter."*

The inclusion of this provision would not limit the development potential of a lot as it still allows SDCI the authority to approve removal of significant trees and exceptional trees if necessary to complete a project. Clarifying that a development project must be "designed to maximize the retention of existing trees" would however give SDCI the authority to stop unnecessary clearcutting of lots that is occurring as well as excessive and unnecessary removal of trees not impacted by the development. The priority should be to protect existing trees that are already providing environment services and benefits to the city, rather than planting replacement trees for those removed. Policies for the protection of exceptional trees would not be altered.

C. The UFC has the following additional recommendations on the proposed Director's Rule 13-2020:

PURPOSE AND BACKGROUND

After the first paragraph add:

"SMC 23 requires that all trees 6 inches DSH and larger must be indicated on all site plans throughout the platting and sub-platting process, and that projects must be designed to maximize the retention of existing trees throughout the development process."

SECTION 1. DEFINITIONS

1. Include the SMC 25.11.020 definition of exceptional tree:

"Exceptional tree" means a tree or grove of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections.

2. Add a definition for "Tree". The UFC suggests: *"Tree" means a plant having a permanent woody stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground. Some trees develop more than one stem or trunk.*

Commented [PdBS1]: Use ISA definition of tree

Trees do not include any species which appear on the King County Noxious Weeds or Weeds of Concern list.

3. Under "Trees not considered exceptional," the language "have defects or damage that now or in the foreseeable future will result in increased poor health condition and/or limited life expectancy" is vague and open to different interpretations. Consider phrases such as 'permanent damage' and 'continued declining health,' to reduce guess work and arbitrary timeframes that may vary greatly by species, health, and site conditions. Additionally, the notion of 'defects in the foreseeable future resulting in limited life expectancy' is so general that it could arguably be applied to all trees in urban areas. Please avoid dangerously loose definitions that would allow for the continued over-identification of 'hazard trees.'

4. Please consider removing special characterization for red alders, black cottonwoods, and bitter cherries as 'never exceptional.' This stipulation adds undue complexity to the rules, and removes possible tree protections. These alders and cottonwoods are native trees that have important roles in our ecosystems.

5. Add sentence: "A significant tree may become exceptional as it grows in size and are future replacements in the urban forest for large exceptional trees when they die. Development projects must be designed to maximize the retention of existing trees six inches DSH and larger to maintain a diversity of tree species and ages."

6. Tree groves: The UFC recommends removing the exclusion of street trees from tree groves. Street trees are often planted and maintained by adjacent property owners or unidentified as street trees. This street tree exclusion adds undue complexity and has no ecological basis. They are no different than a grove of trees located across property lines on abutting and/or adjacent lots. UFC also recommends using a reduced significance threshold of six inches for defining trees in a grove. This again reduces complexity and aligns with the rest of the rules and code. Additionally, in that groves are a function of adjoining canopy, not stem size, this threshold is would be a more accurate metric to gauge grove function and formation.

SECTION 2. EXCEPTIONAL TREE PROTECTION

1. The UFC urges the removal of "EXCEPTIONAL" from the Director's Rule heading. Each of these protections listed apply to all trees six inches DSH and larger.

2. Exceptional Trees during Platting. The UFC recommend removing "Exceptional" from subsection heading. The platting criteria apply to all trees six inches DSH and larger, not just exceptional trees.

3. The UFC recommends adding after second paragraph: "The tree retention policy initiated to maximize the retention of existing trees six inches DSH and larger during platting in SMC 23 continues through any subsequent development of lots in all zones in the city."

4. The UFC recommends revising the last sentence to read: *“All plats and subsequent development site plans shall contain the following notation: Pruning and removal of trees as well as future development must comply with city of Seattle tree retention regulations including - SMC 23 - Land Use Code, SMC 25.11 -Seattle Tree Protection Code, SMC 25.05 - SEPA, and SMC 25.09 Environmental Critical Areas Code.*

5. 2. Allowable Encroachment in Exceptional Tree Protection Areas During Proposed Development: Remove “Exceptional” from subsection heading. These rules apply to all tree six inches DSH or greater. Clarify in this section that tree protection areas must include all trees being retained, not just exceptional trees.

SECTION 3. EXCEPTIONAL TREE REMOVAL

1. The UFC recommends simplifying the third paragraph, as certified professionals are familiar with the details. The UFC recommends simply stating: “The tree risk assessment must conclude that the exceptional tree is a “high” risk hazard using the tree risk assessment methodology and criteria established by the International Society of Arboriculture ([ISA](#)) and that the risk cannot be mitigated by pruning, cabling, bracing or other means that would preserve the tree.” And removing the list of bulleted conditions.

2. Tree Risk Assessment Required for Tree Removal, fourth paragraph: The UFC is concerned by potential equity issues with [the lack of clarity about](#) -the requirement that the qualified professional have a minimum of three years’ experience in tree evaluation AND a Tree Risk Assessment Qualification ([TRAQ](#)). [This might be interpreted to mean additional three years beyond the qualification’s requirements.](#) Those eligible for [TRAQ qualification](#) must already have three years of full-time experience in arboriculture or a combination of education and practical experience. The UFC is unclear what is meant by “three years’ experience in tree evaluation” and are concerned that it could prohibit younger TRAQ certified arborists from receiving work in their field.

3. Tree Risk Assessment Required for Tree Removal [section](#), fifth paragraph and associated bulleted list. The third bullet. “International Society of Arborists” should be “International Society of Arboriculture.” The “and/or” conjunctions obscure the meaning of this bullet point and we the education requirements are not clearly connected to arboriculture or forestry. These educational requirements may be redundant anyway, as the ISA Certified Arborist credential has clear experiential and educational requirements for eligibility. Further educational requirements by the city may disproportionately impact arborists who may have not had the resources for post-secondary education. If the educational requirements are necessary, the point could be clarified by the following:

- *International Society of Arboriculture (ISA) Certified Arborist with at least one of the following:*
 - Associate Degree with at least [two](#) courses related to arboriculture or forestry;

- Two years college-level credits with at least two courses related to arboriculture or forestry; and/or
- 120 Continuing Education Units relating to tree care.

SECTION 4. REQUIRED MITIGATION FOR ALLOWED TREE REMOVAL

1. In the first paragraph The UFC recommends adding a sentence at end: *“The Director shall have the authority to allow trees to be planted on private property to meet the goals and objectives of race and social justice under Seattle’s Equity and Environment Initiative.”*

2. Require that a certified arborist either be present on work site or sign off on work.

3. Require that Tree Removal and Replacement applications be posted on development site for two weeks where exceptional trees will be removed, as well as posted on the city website.

4. Tree replacement needs to have an associated timeframe requirement. By what time is the applicant required to replace the removed tree? What if the tree is removed at the start of summer? Best practice in Seattle is to plant in autumn. The UFC suggests, *“All replacement trees shall be planted in October through December. The applicant shall prepare and, if necessary, amend the existing soil conditions...”*

5. To help ensure survival of replacement trees, they shall be watered during the summer months for 5 years.

6. For Table 1, A single column header spans two columns and is not the easily understood; the UFC suggest revising to two headings. The UFC also recommends adding notation to indicate native species as below:

Tree Species	DSH at which becomes Exceptional
ALDER, Sitka – <i>Alnus sinuate</i>	6”
APPLE, Orchard (Common) – <i>Malus sp.</i>	20”
ASH, European – <i>Fraxinus excelsior</i>	22”
ASPEN, Quaking – <i>Populus tremuloides*</i>	12”
...	...
...	...

*Native to Washington state.

7. For Table 1’s record for WILLOW species. All specific epithets, subspecies, and variety names should be lower case, and species varieties should be indicated by “var.” instead of “ver.” The entry should read:

WILLOW (All native species) – <i>Salix sp. (geyeriana var. meleina, eriocephala ssp. mackenzieana, hookeriana, piperi, scouleriana, sitchensis)</i>	8”
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8. Preference for replacement trees shall be selected from a City list of comparable native trees or trees that meet future climate criteria. Evergreen trees shall have preference over deciduous trees.

SECTION 5: USE OF THIS RULE IN THE APPLICATION OF SEPA

1. This section needs to accurately communicate the SEPA requirements as enumerated in SMC 25.05.675 N. These requirements are for protecting special habitats and should be considered at the beginning of the process. The policy language calls for the city to protect special habitats. The specific language should be included, as in previous drafts of this Director's Rule, to leave no ambiguity. Current language suggests it pertains only perhaps saving an exceptional tree rather than giving protection to trees and vegetation that comprise special or unique habitat, including tree groves.

Exact SMC 25.05.675 N. wording below:

2. Policies

a. It is the City's policy to minimize or prevent the loss of wildlife habitat and other vegetation which have substantial aesthetic, educational, ecological, and/or economic value. A high priority shall be given to the preservation and protection of special habitat types. Special habitat types include, but are not limited to, wetlands and associated areas (such as upland nesting areas), and spawning, feeding, or nesting sites. A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.

b. For projects that are proposed within an identified plant or wildlife habitat or travelway, the decisionmaker shall assess the extent of adverse impacts and the need for mitigation.

c. When the decisionmaker finds that a proposed project would reduce or damage rare, uncommon, unique, or exceptional plant or wildlife habitat, wildlife travelways, or habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological, or economic value, the decisionmaker may condition or deny the project to mitigate its adverse impacts. Such conditioning or denial is permitted whether or not the project meets the criteria of the overview policy set forth in Section 25.05.665.d. Mitigating measures may include but are not limited to:

1) Relocation of the project on the site;

2) Reducing the size or scale of the project;

3) Preservation of specific on-site habitats, such as trees or vegetated areas;

4) Limitations on the uses allowed on the site;

5) Limitations on times of operation during periods significant to the affected species (e.g., spawning season or mating season); and

6) Landscaping and/or retention of existing vegetation.

2. The complexity of all the codes and requirements relevant for tree protections again suggests that SDCI needs to, like SDOT has done for street trees, put all the requirements in one manual rather than having people search through many different SMCs, TIPS, and Director's Rules to figure out what to do. Here is [SDOT's Street Tree Manual](#). This would make it a lot easier for residents, developers, Tree Care Providers, and others to understand the code.

Section 6. TREE CARE PROVIDER ACKNOWLEDGEMENT

1. The UFC suggests that SDCI follow more closely SDOT's Tree Service Provider Registration language. Change the title of the form to "SDCI Tree Service Provider Registration" rather than "acknowledgement." SDOT calls them Tree Service Providers.
2. More than three citations during a one-year period before a tree service provider is removed from the City's list to do business in Seattle is overly generous. Please reduce the number of citations per one-year period to two.
3. Require annual registration, same as Seattle business licenses require, so that Tree Care Providers can confirm who their current licensed arborists are and review and acknowledge any updated code language and regulations. Otherwise as personnel change in a company, data filed with the City may quickly become outdated and the company will not be confirming they are aware of any code and regulation changes.
4. The UFC recommends that SDCI require tree service providers to submitting the same documents and certifications as [SDOT Tree Service provider registration](#) requires:
 - WA state contractor license (L&I) to ensure workers have ability to get worker's compensation if injured.
 - City of Seattle Business license - annual
 - Certificate of Insurance - City of Seattle must be listed as additional insured. (See SDOT Client Assistance Memo (CAM) 2102 for their detailed instructions. Not having Seattle being listed as additional insured opens them up to being sued for accidents and harm.
 - If your business has a current Street Use Annual Vehicle Permit, provide the permit number.
 - Require that a certified arborist either be present on work site or sign off on all work
5. Require that Tree Removal and Replacement permits be posted on development site where exceptional trees will be removed.

Again, thank you for advancing this important work in protecting and maintain Seattle's trees.

Respectfully,