



August 14, 2020

Public Comments

Department of Construction and Inspections

700 5<sup>th</sup> Ave, #2000

Seattle, WA 98104

*via email to [SCI\\_DRulesComments@seattle.gov](mailto:SCI_DRulesComments@seattle.gov)*

**RE: SDCI Director's Rule 13-2020 Designation of Exceptional and Significant Trees, Tree Protection, Retention, and Tree Removal During Land Division, Including Tree Service Provider Requirements**

To Whom It May Concern:

On behalf of Seattle Audubon, thank you for your work to update the SDCI Director's Rule on the designation of exceptional trees and expanding it to include significant trees, tree protection, retention, and tree removal during land division, including tree service provider requirements. **Seattle Audubon urges you to strengthen the proposed Rule per the recommendations below and to adopt and implement the Rule without delay.**

Seattle Audubon advocates and organizes for cities where people and birds thrive. Urban forestry is a priority issue for our organization as trees provide important benefits to people and important habitat and food resources to over 100 bird species. **Both people and birds need a healthy, protected, and equitably distributed urban forest to thrive in Seattle.**

While the proposed Director's Rule offers improvements for tree protection, it is based on the current, ineffective tree protection ordinance, which, in effect, pits development against trees. We need an updated ordinance that recognizes the power of trees to enhance property values along with the multiple equity, climate, environmental, and public health services they provide. These are services no growing city should ignore.

A new code will need to include stronger, smarter, and simpler tree protections, including tree removal and replacement permits, a fee-in-lieu payment mechanism, and strong funding for code enforcement. The City also needs oversight and accountability for all urban forestry and tree management decisions in the form of a central Urban Forestry Division, preferably housed at the Office of Sustainability and Environment. And we need more city arborists who have the knowledge and skills to help the City make informed management decisions regarding its critical green infrastructure.

Below we provide specific comments on the proposed Director's Rule 13-2020.

**Seattle Audubon supports the following in the proposed Director's Rule:**

- Expanding the scope of the Rule to include more protections, guidance, and clarity.
- Protecting more exceptional trees by reducing the designation threshold from 30 inches diameter at standard height (DSH) to 24 inches DSH.
- Clarifying the definition of a significant tree.
- Clarifying protections for tree groves and continuing grove protection even after a tree is removed from a grove.
- Acknowledging tree protection and retention starting with the platting process.
- 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.
- Implementing a worksheet to track tree loss and replacement on private property, assuming that the data will be digitized and compiled in a publicly accessible database.
- Requiring tree care provider registration with the City.

**Seattle Audubon makes the following comments and recommendations to strengthen the proposed Director's Rule:**

**GLOBAL COMMENT**

To fulfill the purpose and intent of existing land use and tree protection codes, as well as to achieve the environmental goals set in the Seattle 2035 Comprehensive Plan, the City must maximize retention of exceptional trees and trees at least six inches DSH (SMC 23.22, SMC 25.11.010, 2035 Seattle Comprehensive Plan EN 1.1 & EN 1.2). Maximizing tree retention must be the goal during land division and throughout any subsequent development on all lots in all zones across the city. The proposed Rule as written does not communicate this goal and seems to imply that maximizing tree retention is limited to only exceptional trees and only during platting.

Please review and revise the rule accordingly. The Subject of the Rule should be changed to read "Designation of Exceptional and Significant Trees, Tree Protection, Retention, and Tree Removal During Development, Including Tree Service Provider Requirements."

Seattle Audubon also recommends that new text be added to the fourth paragraph of the Purpose and Background section so that it reads: "Applicants shall protect and retain significant and exceptional trees as required per Chapter 25.11 and as further clarified in this Rule. In addition, removal of any stem, root or other tree part on an existing exceptional tree is prohibited unless that action specifically responds to an adopted SMC requirement applicable only when new development is proposed. To meet Seattle's 2035 Comprehensive Plan goals and fulfill the purpose and intent of SMC 23.22 and SMC 25.11, all development projects in all zones across the city shall be designed to maximize the retention of existing trees six inches DSH and larger."

## SECTION 1: DEFINITIONS

1. *Trees not considered exceptional, first bullet point:* The proposed rule excludes trees that “have defects or damage that now or in the foreseeable future will result in increased poor health condition and/or limited life expectancy.” This language is so broad and vague that it could arguably apply to nearly any tree in an urban environment. Please tighten the language to avoid overly generous interpretations and over identification of hazard trees. Please use phrases such as “permanent damage” and “continuing declining health,” and avoid arbitrary timeframes.

Seattle Audubon notes that trees with defects or damage, including cavities, cracks, and crevices, can provide exceptional habitat and nesting opportunities for birds. Further, our urban forest is severely lacking in snags and coarse woody debris. The value of damaged, dead, and downed trees ought not to be overlooked.

2. *Trees not considered exceptional, second bullet point:* Why are red alders, black cottonwoods, and bitter cherries categorically excluded from protection unless they are part of a grove? These native tree species provide important food and habitat resources for birds and other wildlife. They are quick-growing and can contribute importantly to the city’s tree canopy area and volume. Through the Trees for Seattle Tree Walks program, the City highlighted black cottonwoods in Rainier Beach, a neighborhood where the canopy cover is lower than the City average. Following the “right tree, right place” philosophy, these native trees can safely thrive and deserve protections like other trees.
3. *Tree groves:* Why is a grove defined as a “group of eight or more trees where each individual tree has a DSH of twelve inches or greater”? To be consistent with other aspects of the Rule, any *significant* tree ought to contribute to a grove. And where did the number eight come from? Neighboring cities of Duvall, Woodinville, and Kirkland protect groves of just three trees at least six inches DSH with continuous canopy. Groves should be defined more simply and expansively as “a group of at least three significant trees.” Any smaller trees and/or vegetation (excluding any species on the noxious weed list) within the grove should be protected as well—they enhance the complexity of the grove, which helps support a diversity and abundance of birds. Seattle Audubon further recommends removing the exclusion of street trees from tree groves. Street trees are no different from trees located across property lines on adjacent lots and there is no ecologic basis to exclude them.

## **SECTION 2: EXCEPTIONAL TREE PROTECTION.**

1. Please remove "EXCEPTIONAL" from section heading. The section applies to all trees greater than six inches DSH.
2. *Section 2.1. Exceptional Trees During Platting.* Please remove "Exceptional" from subsection heading. The platting rules apply to all trees six inches DSH and larger.
3. *Section 2.2. Allowable Encroachment in Exceptional Tree Protection Areas During Proposed Development.* Again, please remove "Exceptional" from subsection heading. The rule applies to all trees retained during development.
4. *Section 2.3. Tree Groves.* Tree grove protections should be improved by protecting smaller trees, shrubs and ground cover within a grove. Shrubs and ground cover increase the vegetation complexity and improve habitat values for birds and other wildlife. The City of Portland protects vegetation within groves.

## **SECTION 3: EXCEPTIONAL TREE REMOVAL**

1. *Section 3.1. Tree Risk Assessment Required for Tree Removal. Second paragraph.* Please add a requirement for the applicant to post a public notice of hazard tree removal. For example, "This application will require the applicant to submit both an arborist report, a tree risk assessment, and display a public notice at the development site and online for at least 14 days before the tree can be removed." This ensures that neighbors will know when and where legal tree removal is occurring. This should be required for all exceptional trees that SDCI permits for removal and replacement.
2. *Section 3.1. Tree Risk Assessment Required for Tree Removal. Third paragraph and associated bulleted list:* A Tree Risk Assessment Qualified (TRAQ) tree service provider will understand the evaluative criteria established by the International Society of Arboriculture. Please remove the bulleted list all together and revise paragraph three to read: "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 and that the risk cannot be mitigated by pruning, cabling, bracing or other methods that would preserve the tree."
3. *Section 3.1. Tree Risk Assessment Required for Tree Removal. Fourth paragraph.* Please revise definition of "qualified professional" for clarity. It is unclear what "three years' experience in tree evaluation" means. Candidates for ISA Tree Risk Assessment

Qualification must already have three years of full-time experience in arboriculture or a combination of education and practical experience. Does a "qualified professional" per DR 13-2020 require an additional three years' experience? What exactly does "tree evaluation" mean? Does that mean performing tree risk assessments? If so, how would a younger TRAQ certified arborist gain experience if experience is required to receive work in the field?

4. *Section 3.1. Tree Risk Assessment Required for Tree Removal. Fifth paragraph and associated bulleted list. The third bullet point: "International Society of Arborists" should be "International Society of Arboriculture."* The "and/or" conjunctions obscure the meaning of this bullet point and 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 not have 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 urban forestry;
    - Two years of college-level credits with at least two courses related to arboriculture or urban forestry; and/or
    - 120 Continuing Education Units relating to tree care.

#### **SECTION 4: REQUIRED MITIGATION FOR ALLOWED TREE REMOVAL**

1. *First paragraph:* The first sentence reads "Mitigation is required for each exceptional tree that is not hazardous and is removed in association with development in all zones." Is mitigation *not* required for trees that are *not* removed in association with development? Mitigation of removed hazard trees ought to be required, too, if they were exceptional before they became hazardous. We understand that the intent here may be to not burden property owners with the replacement of a tree which was removed through no fault of their own. If the city had a fee-in lieu payment mechanism for trees which developers were unable to retain or replace on site, money from those funds could be used to assist property owners with tree replacement costs in an equitable way. Seattle Audubon recommends revising this sentence to read, "Mitigation is required for each exceptional tree or hazard tree removed in all zones."

2. *First paragraph:* Last sentence ends "...preference for off-site replacement shall be on public property." This preference may prove restrictive and unhelpful as the city works to meet its race and social justice goals under Seattle's Equity and Environment Initiative. Seattle Audubon suggests: "...preference for off-site replacement shall be on public or private property, where desired by the property owner, in order to meet the City's goals and objectives of racial and social justice under Seattle's Equity and Environment Initiative."
3. *Third paragraph:* Need to add a timing 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 the autumn. Seattle Audubon suggests, "All replacement trees shall be planted in October through December and no later than 12 months after removal. The applicant shall prepare and, if necessary, amend the existing soil conditions..."
4. *Fourth paragraph:* To aid the survival of replacement trees, add that replacement trees shall be watered during summer months for the first 5 years. Our suggestion: "The property owner of the site shall water replacement trees from June through September and ensure that the trees remain healthy for at least five years after planting. The property owner shall allow inspection by the City."
5. *Table 1. Size and Thresholds for Selected Specimen Exceptional Trees:* A single column header spans two columns and is not easily understood. We suggest revising to two headings and adding notation to indicate native species as below:

<b>Tree Species</b>	<b>DSH at which Species Becomes Exceptional</b>
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.

6. *Table 1. 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.</i> ( <i>geyeriana var. meleina, eriocephala ssp.</i> <i>mackenzieana, hookeriana, piperi, scouleriana,</i> <i>sitchensis</i> )*	8"
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### **SECTION 5: USE OF THIS RULE IN THE APPLICATION OF SEPA**

SEPA protects trees and other vegetation beyond our biggest trees. SMC 25.05.675 N.2.a. states "...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."

Over 100 bird species use Seattle's trees and dozens of species nest in them. Their nesting choices can seem quixotic—they do not just use exceptional trees. Age and species diversity in our urban forest is critical for protecting the abundance and diversity of birds and other wildlife in Seattle. This section seems to imply that SEPA and mitigating measures might only apply to exceptional trees that are rare, uncommon or unique, form a wildlife travelway, or if they are of substantial, aesthetic, educational, ecological, or economic value. That is not the case. SEPA protections are much broader. This section should adequately communicate as much.

### **SECTION 6: TREE CARE PROVIDER ACKNOWLEDGEMENT**

1. The proposed tree care provider acknowledgement would be improved by more closely mirroring SDOT's Tree Service Provider Registration. Consistency between departments will reduce confusion for professionals. Please change the title of the form to "SDCI Tree Service Provider Registration."
2. Please require the following documentation to be included with the registration:
  - Washington State Contractor License (L&I)
  - City of Seattle Business License
  - Certificate of Insurance
  - Street Use Annual Vehicle Permit (if applicable)
3. Registration should not be automatically renewed each year. Please require annual registration to ensure that tree service provider information remains up-to-date and that tree professionals regularly review the code for any updated language or regulations.

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4. 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. How many warnings are needed? Please reduce the number of citations per one-year period to no more than two.

Thank you again for your work to update the Director's Rule. We urge you to strengthen, adopt, and implement the Rule without delay.

Seattle Audubon notes again that the City needs and updated tree protection ordinance to conserve its urban forest. We ask you to continue working with the Urban Forestry Commission and to introduce legislation for City Council's consideration this year.

Respectfully,



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Deb Heiden, Interim Chair  
Conservation Committee  
Seattle Audubon



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