



July 10, 2024

To: Mayor Lund and Landmark Tree staff
RE: WMTF Feedback on the Landmark Tree Ordinance

This letter represents Whatcom Million Trees Project's detailed feedback about the Emergency Landmark Tree Ordinance that was approved in June 2024 by the City Council, which will be reviewed in a final hearing soon.

We feel the Ordinance is well-written but needs a few refinements and clarifications which are detailed below. Our goal is to improve the Ordinance's clarity and appropriateness, reducing possible misunderstandings and delays. Many people have been contacting us about the Ordinance and its relevance to trees of interest to them.

Section 3: Black cottonwood exclusion.

Black cottonwood trees (*Populus balsamifera*) can have significant infrastructure conflicts, which is why they are sometimes excluded in urban forest plans. They have...

- aggressive root systems that can damage nearby infrastructure,
- shallow rooting making them susceptible to wind damage, and
- large branches that can shed.

We agree that the trees are therefore not suitable for long-term retention on a *densely developed urban lot*. However, most black cottonwoods in Bellingham are located along relatively large riparian restoration corridors or parks/Greenways. They provide valuable eco-system benefits (nesting habitat for larger birds, riparian shading for salmon, soil stabilization, flood mitigation, carbon capture, etc.). Source: [USDA Database](#)

Recommendation: Black cottonwoods are an important and significant native tree, especially in riparian areas. Our community's largest black cottonwood trees deserve Landmark Tree status wherever they do not create conflicts with infrastructure. Do not exclude Landmark-size black cottonwoods on public or private parcels that have trunks 30' or farther from buildings, public paths, or conflicting utilities.

Section 3: Grove definition.

Section 3's definitions currently states: "Grove" means a group of eight or more trees, 12 inches in diameter at breast height or greater that has a continuous canopy. It excludes red alders, black cottonwoods, bitter cherries, Lombardy poplars, invasive trees, and **any tree, the entire trunk of which is in the public place**. Trees planted as hedges or clearly maintained as such are not tree groves. A tree grove may be located across property lines on abutting and/or adjacent lots.

Suggested rewording: "Grove" means a group of eight or more trees, 12 inches in diameter at breast height or greater that has a continuous canopy. It excludes red alders, bitter cherries, Lombardy poplars, and invasive trees. Trees planted as hedges or clearly maintained as such are not tree groves. A tree grove may be located across property lines on abutting and/or adjacent lots.

Discussion:

Regarding "any tree, the entire trunk of which is in the public place": This wording seems to exclude any tree on public lands. Was that the intent? If yes, this needs re-thinking.

Section 6: Replacement tree ratio.

Section 6a(iii) currently states: *iii. Compensating for the removal or impact at a ratio as determined by the director.*

Suggested rewording: *iii. Compensating at a ratio of 5 replacement trees planted per removed or impacted Landmark tree, to be planted within or adjacent to the site, when possible, otherwise to be planted within the same neighborhood or in neighborhoods with lower tree canopy coverage.*

Discussion:

We recommend that the replacement tree ratio not be discretionary. This will allow developers to plan/budget with certainty and relieve the Director from potentially controversial judgement calls. A higher ratio will more quickly recover at least a portion of the significant eco-system services lost by the Landmark tree's removal.

The locational hierarchy is also suggested in our "white paper" review of the draft Urban Forest Plan. It will (whenever possible) recover the lost eco-system services in the affected area, although it will still be five or more decades before equivalency may be reached.

Section 6: Tree Risk rating verification.

Section 6c(i) currently states: *The tree is hazardous according to the following:*

i. The landmark tree is rated as an Extreme or High Risk hazard in a risk tree assessment conducted by a Tree Risk Assessment Qualified (TRAQ) Arborist...

Suggested re-wording: *The tree is hazardous according to the following:*

i. The landmark tree is rated as an Extreme or High Risk hazard in a risk tree assessment conducted by a Tree Risk Assessment Qualified (TRAQ) Arborist and independently verified in the field by a City-employed arborist...

Discussion:

We recommend that any potential Landmark tree that is rated Moderate risk or higher by an independent arborist will have that rating confirmed in the field by a City-employed arborist (perhaps the Urban Forester position when filled). This will eliminate any imagined or real concerns in the community about a developer-paid arborist making accurate tree risk assessments.

Section 6: Moderate/Low Risk mitigation.

Section 6c(iv3) currently states:

If a landmark tree is rated as Moderate Risk or Low Risk, the Director may allow complete removal of the tree subject to compliance with an approved mitigation plan, hazard pruning, or other actions, as appropriate, to mitigate the identified risk.

Suggested re-wording:

If a landmark tree is rated as Moderate Risk or Low Risk, the Director may approve hazard pruning, or similar actions, as appropriate, to mitigate an identified risk.

Discussion:

For a Landmark Tree that's rated Moderate or Low Risk rated, pruning will almost always mitigate any risk and should be the preferred approach for such trees.

Section 8: Bellingham Landmark Tree Committee.

Section 8c currently states: *In carrying out these responsibilities, the Committee is authorized to engage in the following:*

- i. Create and maintain a comprehensive inventory of landmark trees and groves of trees within the boundaries of the city to be known as the City of Bellingham's Landmark Tree Inventory and publicize and periodically update the inventory. Trees listed on the inventory shall be identified in the city's GIS database to alert staff and the public as to the presence of a landmark tree.*
- ii. Review nominations to the Landmark Tree Inventory according to criteria in section 4 of this ordinance.*
- iii. Review Applications for Removal of Landmark Tree that may result in the loss, removal or significantly affect trees or groves in the Landmark Tree inventory using criteria in section 6 of this ordinance and make a recommendation to the Director.*
- iv. Review and comment to the city council, the planning commission, or the hearing examiner, when a development proposal pending before them would impact trees on the inventory.*
- v. Provide information and recommendations to the city council, the planning commission, and the mayor generally with respect to landmark tree preservation, as requested.*
- vi. Encourage efforts by owners to maintain, rehabilitate and preserve the trees, provide information to the public on methods of maintaining and preserving landmark trees. This may take the form of pamphlets, newsletters, workshops, or similar activities.*

Our Recommendations:

a) We recommend that the inventory, publicizing, and periodic updating elements of 8c(i), plus all of 8c(v)-(vi), be shifted to a newly created advisory Urban Tree Commission made up of five Mayor-appointed community members and a non-voting representative from the Planning Department. Note: This also impacts the wording of Section 9e.

b) We recommend that 8c(ii) and 8c(iii) both include the statement... *within 30 days of nomination submittal.*"

c) For transparency, we recommend that the Committee's discussion be summarized in written form, explaining in a single page (perhaps with an attached site plan) the considerations and rationale for their decision. This summary would be available to the Commission and other policy bodies mentioned in (iii), and would serve to inform the nominee and interested citizens.

Discussion:

Many cities in our region [i.e. Seattle, Vancouver WA,] and nationally have urban tree commissions performing the roles we suggest. This parallel, community-based, advisory group can offload some of the above responsibilities from COB staff, saving the City time and money.

If a *Commission* is not possible, then we recommend that the BLTC should include two Mayor-appointed members from the community to ensure that evaluations are more inclusive than an insular staff process. Transparency to the public should be maintained.

Regarding 8c(ii) and 8(iii), developers need time-certainty to ensure Landmark trees evaluations don't become a costly delay for a project application, especially when a multi-family housing project is involved. This suggestion is in alignment with the City's goal to mitigate housing costs.

Section 8: Hearing Examiner rulings.

Section 8f(iii) currently states: *In addition to the variance criteria identified in Chapter 20.18 BMC, the hearing examiner shall consider the importance of preserving trees listed on the Landmark Tree Inventory when reviewing an application for a variance where the requested variance, if granted, would result in the preservation of the landmark tree.*

Suggested re-wording: *In addition to the variance criteria identified in Chapter 20.18 BMC, the hearing examiner shall consider the importance of preserving trees listed on the Landmark Tree Inventory when reviewing an application.*

Discussion:

The current wording seems to say the Hearing Examiner can only rule about Landmark tree(s) affected by a development application *if a variance is in question*. We strongly recommend the Hearing Examiner can evaluate a development application that affects Landmark tree(s) for any reason. Otherwise, many existing Landmark trees will remain at risk of being removed.

Section 10: Fees.

Section 10 currently states: *A nomination for inclusion on the Landmark Tree Inventory shall be accompanied by a fee payment to the city in an amount set by city council resolution.*

Discussion:

Section 10's wording is ambiguous about how the fee would be applied. Perhaps the Council resolution will clarify it. Here's what we suggest: The fee charged per Landmark Tree nomination is small (such as \$10, just enough to discourage spurious submittals) and is per *nomination submittal*, not per tree. Thus, if a citizen, neighborhood association, or other entity nominates a collection of isolated trees, or a grove, the \$10 fee would apply to their *entire* submittal.

Thank you for considering our suggestions.

Sincerely,



Michael Feerer, Executive Director
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<https://whatcommilliontrees.org>