

January 13, 2016
Chair and Members
Law and Legislation Committee
City of Sacramento, City Hall
915 I Street
Sacramento, CA 95814
Via email

Dear Chair and Members of the Law and Legislation Committee:

Thank you for this opportunity to comment on the draft amendments to the Sacramento city tree ordinance. Trees are important to Sacramento in many ways, and I hope the city is committed to its trees. I find it very challenging to discern what the changes are to the ordinance and what those changes will do. I have many questions about the changes I see.

This letter does not include all of my concerns, and instead focuses on major areas of concern and the changes to the definitions section of the ordinance. Ultimately, this updated ordinance changes significantly how the city manages trees and creates a new administrative structure to address tree issues, these changes weaken tree protection in Sacramento.

I. The Effect of the Changes to the Ordinance Is Impossible to Discern from the Text Provided

It appears that the city used the practice of amending an ordinance by repealing the entire ordinance and then replacing it with those portions to be maintained in original form along with changed provision. Because the city did not track the changes or explain what the changes were to accomplish, it is nearly impossible to identify what changes have been made and to discern what the effects of those changes will be. Even if this is a lawful practice for amending ordinances, the practical result is that an average person cannot understand what the changes are. This is particularly true where, as here, the substantive changes to the ordinance are comprehensive and complex.

Further, there are potential funding issues. Can existing funding sources, such as assessment, legally fund new activities resulting from the amendments? Will code enforcement need new funding for the additional responsibilities it will have under the changes? How will the apparent new regulatory role of tree services be implemented? Apparently, the city will no longer maintain street trees. How will the fund currently allocated for tree maintenance be redirected, and is it lawful to do so?

The California Environmental Quality Act (CEQA) categorically exempts activities that maintain, restore, enhance and protect natural resources and the environment. Because this ordinance weakens tree protection and results in loss of canopy, these amendments are not exempt from CEQA.

II. Comments to specific sections of the ordinance

Findings

There are changes to the Findings section (now the Findings and Purpose section) that reflect a change in city council policy towards trees. The ordinance repealed the finding that the planting and preservation of trees enhances the city and benefits residents

The new findings section states that when proper arboricultural practices are applied, trees enhance the city. Also, the city council finds that it is important to manage the trees and conserve existing tree resources and optimize tree canopy while recognizing individual property rights consistent with the general plan.

Since the new ordinance reflects that the city council no longer finds value in planting and preserving trees, but rather finds value in managing the existing tree resources without planting or necessarily preserving existing and heritage trees, the changes to this section must be analyzed. . The city's revision to this fundamental policy is telling, particularly when coupled with other revisions that substantively weaken protections provided by the existing ordinance.

Definitions

The definition of “city street tree” was repealed and added. In the repealed definition, “city street tree” means any tree growing in the city’s right of way and city street trees are maintained by the city.

The new definition of “city street tree” requires a tree’s trunk, when measured at 4.5 feet above ground, to be at least partially within a public right of way. The language requiring the city to maintain a “city street tree” was repealed.

It is a tremendous change that the city is no longer required to maintain city street trees. It appears the property owner will be responsible for the maintenance of the city street tree. This change needs to be analyzed under CEQA because it will almost certainly lead to changes to the physical environment – specifically the City’s canopy that provides environmental benefits.

The definitions section repealed three definitions regarding maintenance easements: “maintain” or “maintenance”, “maintenance easement” and “maintenance easement private street tree”. These definitions explained the parameters of the city’s responsibility to maintain city street trees. It appears these sections were repealed because they are not necessary since the city is no longer maintaining street trees.

“Planting List” was repealed. This repeal is consistent with the removal of the city council’s finding that the planting of trees has value. Since the city council no longer finds that the planting and preservation of trees is important, it appears that a planting list is not necessary.

“Private tree” was repealed. Under the existing ordinance, a private tree includes any tree on private property that is outside of the maintenance easement. The owner is responsible for maintaining private trees. The removal of this term is consistent with the removal of the term “city street tree” and those sections related to maintenance easements. With the removal of this group of definitions, the city no longer is required to maintain street trees that are within a city maintenance easement.

“Private protected tree” is added. This new definition defines what trees on private property are protected. Unless the city council designates that a private tree is protected, the diameter of the tree determines whether the tree is protected. A native tree listed in the ordinance must have a 12 inch diameter. A tree on an undeveloped lot or a developed lot that does not have a single unit or duplex must have a 24 inch diameter. A tree on property with a single unit or a duplex must have a 32 inch diameter.

The new ordinance reduces significantly the number of trees in Sacramento that are under the care and protection of the city. This is a significant impact on the physical environment that must be analyzed under CEQA.

Here are some photos to give an idea of the size a private protected tree.



This is a tree with a 14-inch diameter. This size tree will be protected only if it is one of the enumerated natives listed in the ordinance. It took this Chestnut tree 30 years to reach this 14-inch diameter.



This is a 14 in diameter Cedar tree trunk.



This is a photo of a pipe liner emerging from a 24 inch pipe. A tree that has a diameter smaller than this pipe and is located on a vacant lot or a developed lot with 3 or more units is not protected under the proposed ordinance. If this size tree is on a property that has one unit or a duplex it is not protected. In that situation, a tree will not be protected until the diameter of the trunk is 32 inches or greater. That includes street trees.



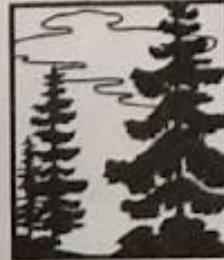
This globe is 32 inches in diameter. A tree located on private property with one residential or commercial unit or a duplex must have this diameter to qualify as a private protected tree.



This is a 29 inch diameter tree. Under the proposed ordinance, this tree is not protected if it is located on a property with a single or duplex unit.

Calculating the Age of a Tree without Harm

1. using the string, measure the circumference of the "tree"
2. lay the string onto the yardstick and measure out the circumference
3. Document the circumference in the chart.
4. use the following formula to calculate the tree's diameter. Round to the nearest whole number.



$$\text{Diameter} = \frac{\text{circumference}}{\pi}$$

5. Document the tree's diameter in the chart.
6. use the next formula and the Growth Factor Chart to calculate the tree's approximate age. Round to the nearest whole number.

$$\text{Diameter} \times \text{growth rate} = \text{tree age}$$

7. Fill in the age for the tree in your chart.

Species	circumference	diameter	approx. age
American Beech	9 in.	2.87 in.	17 yrs.
Norway Spruce	7 in.	2.2292493	11 yrs.
Little Leaf Linden	13.5 in.	4.3 in.	13 yrs.
Colorado Blue Spruce	58 in.	18.471337 in.	83 yrs.
River Birch	22.5 in.	7.165605	25 yrs.

This is a worksheet for students to teach them how to calculate a tree's age. Under the proposed ordinance, the only tree from this worksheet

that would be protected in Sacramento is 83 years old. While some fast growing trees may become protected after ten or twenty years, it is unacceptable for it to take over 80 years for many trees to become protected under the city's ordinance.

The definition of "Public tree" has been repealed. It included any tree on public property, except trees in the street right-of-way. The repeal means parks trees and trees located on any public property are not protected in any way in the proposed ordinance. For purposes of the proposed ordinance, park trees and other public property trees do not exist. The City must analyze the impact on the physical environment resulting from eliminating these protections to the city's existing canopy.

The city needs to continue to have an open process that protects park trees and trees on other public properties. With no protection of these trees under the ordinance, public trees can be removed at the city's discretion, with no explanation or public notice. This change is not acceptable. The city council needs to explain why it supports this change and how it benefits Sacramento. Does the city council believe that eliminating protections to the city's existing canopy is outweighed by other benefits? If so, the city should document that in a statement of overriding considerations.

The proposed ordinance repeals the tree planting list. While this is consistent with the repeal of the city council's finding that the planting of trees is important to Sacramento, the change needs to be analyzed in an EIR.

The proposed ordinance most likely will result in the loss of many mid size trees, no interest in a planting regime by the city and the overall loss of the benefits of trees in the city of Sacramento. The city must analyze, by way of an EIR, the potential effects of these changes on the physical environment including but not limited to the wildlife that uses the trees for habitat and other biological resources, on hydrology/Water Quality/utilities and service systems due to likely increase in storm water runoff, air quality, land use, noise, recreation, green house gas emissions and other potential areas of impact.

Thank you for the opportunity to comment on the draft ordinance.

Sincerely,

Nancy Finch

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