

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: October 14, 2020

TO: Public Works and Gang Reduction Committee
Attention: Office of the City Clerk
City Hall, Room 395

FROM: Adel H. Hagekhalil P.E. 
Executive Director and General Manager
Bureau of Street Services

Rachel Malarich 
City Forest Officer
Office of Forest Management

**SUBJECT: OFFICE OF FOREST MANAGEMENT AND BUREAU OF STREETS SERVICES
(STREETSLA) – JOINT REPORT ON COUNCIL FILE 13-1339**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

- Instruct the Department of City Planning (DCP) to amend the draft ordinance as described in the body of this report to ensure the City's ability to fulfill replacement requirements when off-site replacements are necessary; and
- Instruct the Bureau of Street Services (StreetsLA), in coordination with the City Administrative Officer (CAO), to report on required staffing levels and updated fee structure in order to effectively implement, and fully recover the City's costs for, the protection and replacement of protected trees and shrubs.

BACKGROUND

On January 27, 2015, the City Council adopted Council File 13-1339 which directs DCP with the assistance of StreetsLA, to report with recommendations relative to protecting the Mexican Elderberry and the Toyon, including the feasibility of adding these two shrubs to the list of Protected Trees as set forth in § 46.01 of the Municipal Code.

On May 7, 2018, DCP submitted a draft revised Ordinance which was referred to the Planning and Land Use Committee (PLUM) and the Public Works and Gang Reduction Committee (PWGR). On September 17, 2019, PLUM transmitted the revised ordinance to PWGR without recommendations. The Office of Forest Management (OFM) and StreetsLA now respectfully submit this joint report on the proposed Ordinance revisions, focusing on recommendations for effective implementation of the new policy.

POLICY CONTEXT

The City of Los Angeles is home to one of the largest urban forests in the nation. It has been estimated that the urban forest includes over 10 million trees, the majority of which are located on private property. As the City of Los Angeles's 2018 Biodiversity Report states, "urban biodiversity includes both native and non-native species, including LA's urban forest, which provide many ecosystem services that enhance the City's resilience to climate change." Thus, the private tree canopy of the city is an essential component of the City's biodiversity, and the Protected Tree Ordinance (PTO) is an important aspect of protecting certain species of trees on private property.

The City of Los Angeles is taking a range of policy oriented actions to maintain biodiversity, including the Wildlife Pilot Study currently being conducted by the DCP, the Biodiversity Index project completed by LA Sanitation and the Environment (LASAN), the development of the Urban Forest Management Plan, and a process underway and led by StreetsLA and the OFM under Council instructions to revise, update and enhance the PTO. A component of this revision is this proposed update to include two native shrubs to the PTO, the Toyon, *Heteromeles arbutifolia*, and the Mexican Elderberry, *Sambucus Mexicana*. This will be the first update to the PTO since the 2006 update which added the Western Sycamore, California Black Walnut, and California Bay to the species protected by this ordinance.

OFM and StreetsLA are supportive of the biodiversity and habitat conservation that is being sought by the inclusion of the Toyon and Mexican Elderberry to the PTO, and are currently working with DCP and the Bureau of Engineering (BOE), among others, on developing additional recommendations that will strengthen and enhance the ordinance and its implementation. Relative to the addition of the Toyon and Mexican Elderberry, OFM concurs with the recommendation as drafted by DCP that these shrubs should have at least one stem that measures a minimum of 2-inches at 4.5-feet in order to qualify for protection.

IMPLEMENTATION

StreetsLA has two operational concerns with the proposed update which should be addressed in order to assure successful implementation. The first is the strict requirement for replacing trees with trees and shrubs with shrubs when mitigation replacements are required, which leaves no discretion on the part of the approving authority. The second is the lack of resources available to implement these additions to the ordinance.

Replacement of Trees and Shrubs

The Ordinance as currently presented requires the replacement of Protected Trees and Shrubs at a 4:1 ratio. The proposed code stipulates that trees may only be replaced with trees, and shrubs may only be replaced with shrubs. These replacement requirements for Protected Trees and Shrubs are intended to restore the environmental benefits of the native species being removed.

The proposed code amendment does not make provisions for replacement shrubs which cannot be accommodated on-site. When replacement trees cannot be planted onsite, alternative arrangements for the planting of replacement trees offsite must be made. StreetsLA does not have a feasible means of planting replacement shrubs off-site, as it does not plant on private property and shrubs are not appropriate for the public right-of-way. Adjusting the ordinance to provide StreetsLA and DCP with administrative discretion regarding the selection of replacement species which cannot be accommodated on-site will help ensure the spirit of the ordinance is met,

to benefit urban forest ecosystem in Los Angeles. StreetsLA recommends that DCP be instructed to add the following amending language to the Ordinance:

17.05.R.4.a The protected tree or shrub be replaced within the property by at least four specimens of a protected variety included within the definition set forth in Section 17.02 of this article, except where the protected species is relocated pursuant to Subdivision 2(a) above. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees, to the extent feasible as determined by the Advisory Agency, Board of Public Works (Board), or their designee. The size of each replacement tree shall be a 15-gallon, or larger, specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than seven feet in height, measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

46.02.c.1 Require as a condition of a grant of permit for the relocation or removal of a protected tree or shrub, that the permittee replace the tree or shrub within the same property boundaries by at least four specimens of a protected variety included within the definition set forth in Section 46.01 of this Code, in a manner acceptable to the Board. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees, to the extent feasible as determined by the Board or their designee. In size, each replacement tree shall be at least 15-gallon, or larger, measuring one inch or more in diameter one foot above the base, and be not less than seven feet in height measured from the base. The size and number of replacement trees or shrubs shall approximate the value of the tree or shrub to be replaced.

Staff and Resources Required for Implementation

When the 2006 update to the PTO added three additional species for protection, the number of development cases handled by StreetsLA increased approximately five-fold. LAMC section 46.04, effective April 2006, made provisions for the implementation of a fee for the processing of applications to remove protected trees. The established \$1,084 fee, designed to cover administrative costs for each one to five trees, has not been adjusted in the last fourteen (14) years and is insufficient to cover staff costs. As a result, a measurable portion of each Protected Tree Removal application is subsidized using the General Fund.

In addition to permit processing administrative procedures, including the preparation and presentation of reports to the Board, additional staff activities are required to process Protected Tree Removal applications and permits. StreetsLA staff must:

- Review the applicant-provided tree report, a process which requires a site visit to verify the protected tree(s) on site, including species, location and condition;
- Review and approve the applicant-provided plan for replacement tree placement, including the posting of a multi-year assurance bond;
- Perform CEQA analysis and prepare a report to the Board of Public Works for the majority of Protected Tree Removal applications;
- Conduct site visit(s) to ensure that protected trees identified to remain on site are properly protected against construction activity;
- Do a site inspection to ensure that any replacement species have been planted according to the permit; and

- Conduct a final visual inspection to confirm that the replacement trees have survived and the bond can be released.

StreetsLA has been absorbing the additional unfunded workload utilizing general fund positions, however, the lack of position authorities specifically identified for this program has led to a processing time that averages three to four months. While it is unknown to what extent the addition of the Toyon and Elderberry species to the PTO will increase the current caseload, without the provision of additional resources it is anticipated to significantly further lengthen processing times and negatively impact other aspects of service delivery. The current Separation Incentive Program (SIP) and anticipated furlough program compound these negative impacts to case processing and service delivery.

Appropriate staffing levels are necessary in order to efficiently manage workflow, ensure timely case review and processing, and effectively protect and manage these native species of the urban forest, and the existing fee should be updated in order to recover these costs. StreetsLA recommends a minimum staffing level increase of two Tree Surgeon Supervisors and one Management Analyst to manage the Protected Tree Removal Program as outlined in the Ordinance. Therefore, StreetsLA requests that the Council, subject to the approval of the Mayor, authorize resolution authority in the Bureau for these three positions in order to support the services provided by StreetsLA in relation to the implementation of the PTO, and looks forward to working in conjunction with the CAO to identify additional needs and a cost recovery fee structure.

- To support the necessary resource levels for effective implementation and to minimize negative impacts of service delivery, StreetsLA recommends a revised, full cost recovery, fee structure be adopted for the processing of Protected Tree Removal applications which would account for both administrative and field staff time for each application. StreetsLA is currently reviewing fees Bureau-wide and would welcome the opportunity to work with the CAO to report with detailed recommendations on necessary staffing levels as well as an update to the fee structure and more fully recover the City's costs for the protection and replacement of protected trees and shrubs.

For questions regarding this report please contact Greg Spotts, Assistant Director and Chief Sustainability Officer, at Greg.Spotts@lacity.org or (213) 847-3352.