H-3083.1

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**SECOND SUBSTITUTE HOUSE BILL 1078**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Duerr, Doglio, Simmons, Reed, Ryu, Walen, Ramel, Macri, Reeves, and Kloba)

AN ACT Relating to urban forest management ordinances; amending RCW 76.15.010 and 76.15.110; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that there is currently a shortage of housing, particularly affordable housing, within the state. The legislature finds one of the most efficient and sustainable ways to address this shortage is through the development of housing options within existing urban growth areas. The legislature also finds that tree canopy and green space are necessary for the health and wellness of urban growth area residents. To improve the quality of tree canopy and green space in the state, the legislature previously adopted chapter 76.15 RCW to encourage planning for, planting, maintaining, and managing trees in the state's cities, counties, and tribal lands.

Local government policies, programs, activities, and management plans regarding urban and community forestry may, however, limit or prevent development opportunities that would provide needed additional housing. The legislature believes it is important that actions taken by local governments to promote urban and community forestry and to address the negative impacts of a reduction in tree canopy do not adversely impact the ability of local governments to provide housing that is needed to accommodate projected population growth. Therefore, it is the intent of the legislature to provide guidance to local governments wishing to create tree bank programs as an additional tool for promoting urban and community forestry while also allowing for the development of needed housing. Tree banks can allow the removal of trees in one area being developed to be offset by the addition of trees to one or more areas in which the need for trees is more acute. Using tree banks can facilitate adding trees in areas that have historically suffered from environmental inequality and health disparities, areas subject to the urban heat island effect, and areas in which the trees will most benefit salmon and orca recovery efforts. It is the intent of the legislature that these programs be voluntary and that cities retain discretion in choosing whether to adopt a program.

**Sec.**  RCW 76.15.010 and 2021 c 209 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of natural resources.

(2) "Evergreen community" means a city, town, or county designated as such under RCW 76.15.090.

(3) "Highly impacted community" has the same meaning as defined in RCW 19.405.020 or an equivalent cumulative impacts analysis that identifies the environmental health conditions of communities as a factor of both environmental health hazards and vulnerable populations as defined in RCW 19.405.020.

(4) "Management plan" means an urban forest management plan developed pursuant to this chapter.

(5) "Tree bank" means an area or areas designated by a community wherein trees can be planted to compensate for the removal of trees elsewhere, and includes programs providing for the payment of a fee in lieu of physically planting the trees.

(6) "Tree canopy" means the layer of leaves, branches, and stems of trees that cover the ground when viewed from above and that can be measured as a percentage of a land area shaded by trees.

((~~(6)~~)) (7) "Tribes" means any federally recognized Indian tribes whose traditional lands and territories include parts of the state.

((~~(7)~~)) (8) "Urban and community forest" or "urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Urban and community forestland may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas. Nothing in this chapter may be construed to apply to lands subject to or designated under chapter 76.09, 79.70, 79.71, 84.33, or 84.34 RCW.

((~~(8)~~)) (9) "Urban and community forest assessment" or "urban forest assessment" means an analysis of the urban and community forest inventory to: Establish the scope and scale of forest-related benefits and services; determine the economic valuation of such benefits, highlight trends, and issues of concern; identify high priority areas to be addressed; outline strategies for addressing the critical issues and urban landscapes; and identify opportunities for retaining trees, expanding forest canopy, and planting additional trees to sustain Washington's urban and community forests.

((~~(9)~~)) (10) "Urban and community forest inventory" or "urban forest inventory" means a management tool designed to gauge the condition, management status, health, and diversity of an urban and community forest. An inventory may evaluate individual trees or groups of trees or canopy cover within urban and community forests, and will be periodically updated by the department.

((~~(10)~~)) (11) "Urban and community forestry" or "urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants individually, in small groups, or under more naturally forested conditions within cities, counties, and tribal lands.

((~~(11)~~)) (12) "Urban and community forestry ordinance" or "urban forestry ordinance" is an ordinance developed by a city, county, or tribe that promotes urban forestry management and care of trees.

((~~(12)~~)) (13) "Vulnerable populations" has the same meaning as defined in RCW 19.405.020.

**Sec.**  RCW 76.15.110 and 2021 c 209 s 10 are each amended to read as follows:

(1) The department must provide technical assistance and capacity building resources and opportunities to cities, counties, federally recognized tribes, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of urban and community forestry.

(2) The department may use existing urban and community forestry inventory tools or develop additional tools to assist cities, counties, federally recognized tribes, and other public and private entities to collect urban and community forest tree data that informs urban and community forestry management, planning, and policy development.

(3) The department shall strive to enable Washington cities' urban forest managers to access carbon markets by working to ensure tools developed under this section are compatible with existing and developing urban forest carbon market reporting protocols.

(4) The department may use existing tools to assist communities to develop urban forestry management plans. Management plans may include, but not be limited to, the following elements:

(a) Inventory and assessment of the jurisdiction's urban and community forests utilized as a dynamic management tool to set goals, implement programs, and monitor outcomes that may be adjusted over time;

(b) ((~~Canopy~~)) Tree canopy cover goals;

(c) Reforestation and tree canopy expansion goals within the city's, town's, and county's boundaries;

(d) Restoration of public forests;

(e) Achieving forest stand and tree diversity goals;

(f) Maximizing vegetated stormwater management with trees and other vegetation that reduces runoff, increases soil infiltration, and reduces stormwater pollution;

(g) Environmental health goals specific to air quality, habitat for wildlife, and energy conservation;

(h) Vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(i) Prioritizing planting sites;

(j) Standards for tree selection, siting, planting, and pruning;

(k) Scheduling maintenance and stewardship for new and established trees;

(l) Staff and volunteer training requirements emphasizing appropriate expertise and professionalism;

(m) Guidelines for protecting existing trees from construction-related damage and damage related to preserving territorial views;

(n) Integrating disease and pest management;

(o) Wood waste utilization;

(p) Community outreach, participation, education programs, and partnerships with nongovernment organizations;

(q) Time frames for achieving plan goals, objectives, and tasks;

(r) Monitoring and measuring progress toward those benchmarks and goals;

(s) Consistency with the urban wildland interface codes developed by the state building code council;

(t) Emphasizing landscape and revegetation plans in residential and commercial development areas where tree retention objectives are challenging to achieve; and

(u) Maximizing building heating and cooling energy efficiency through appropriate siting of trees for summer shading, passive solar heating in winter, and for wind breaks.

(5) The department may use existing tools to assist communities to develop urban forestry ordinances. Ordinances may include, but not be limited to, the following elements:

(a) Tree canopy cover, density, and spacing;

(b) Tree conservation and retention;

(c) Vegetated stormwater runoff management using native trees and appropriate nonnative, nonnaturalized vegetation;

(d) Clearing, grading, protection of soils, reductions in soil compaction, and use of appropriate soils with low runoff potential and high infiltration rates;

(e) Appropriate tree siting and maintenance for vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(f) Native species and nonnative, nonnaturalized species diversity selection to reduce disease and pests in urban forests;

(g) Tree maintenance;

(h) Street tree installation and maintenance;

(i) Tree and vegetation buffers for riparian areas, critical areas, transportation and utility corridors, and commercial and residential areas;

(j) Tree assessments for new construction permitting;

(k) Recommended forest conditions for different land use types;

(l) Variances for hardship and safety;

(m) Variances to avoid conflicts with renewable solar energy infrastructure, passive solar building design, and locally grown produce; and

(n) Permits and appeals.

(6) The department must establish optional model urban forestry ordinances and recommendations and deliver technical assistance and planning support to local jurisdictions that decide to utilize the model ordinances and recommendations. These model ordinances and recommendations must:

(a) Establish criteria for including tree bank programs in urban forestry ordinances;

(b) Establish criteria for designating areas for tree banks, including that tree banks must be located within areas identified as priority regions under RCW 76.15.100 and areas suffering from adverse environmental factors including, but not limited to, erosion, flooding, air or water pollution, and the urban heat island effect;

(c) Using the best available science, determine, at a minimum:

(i) The appropriate ratios of trees planted within the tree bank to trees removed elsewhere within the community; and

(ii) The appropriate species of trees to be used within the tree bank;

(d) Provide a tree selection and siting tool for use by local jurisdictions; and

(e) Provide best practices for maintaining and growing newly planted trees within a tree bank, including by:

(i) Providing estimates of the cost to maintain and nurture newly planted trees to ensure their survival; and

(ii) Providing alternative methods for covering those costs, including through the imposition of an appropriate fee related to the use of the tree bank, to ensure that sufficient funds will be available to cover the costs of maintaining and nurturing the newly planted trees.

(7) Subject to the availability of amounts appropriated for this specific purpose, the department shall develop and administer a grant program to provide grants to cities and counties that adopt, without substantive changes, the model urban forestry ordinances produced by the department, for the purpose of implementing the requirements of the ordinances. The department may also award grants to a county or city that has adopted, prior to the effective date of this section, ordinances for urban forestry that the department determines, in its discretion, are substantially similar to the model ordinances produced by the department, for the purpose of implementing the county's or city's ordinances.

(8) The department may consult with the department of commerce in the process of providing technical assistance, on issues including, but not limited to, intersections between urban forestry programs and growth management act planning.

((~~(7)~~)) (9) The department may use existing and develop additional innovative tools to facilitate successful implementation of urban forestry programs including, but not limited to, comprehensive tool kit packages (tree kits) that can easily be shared, locally adapted, and used by cities, counties, tribes, and community stakeholders.

((~~(8)~~)) (10) The department must encourage communities to include participation and input by vulnerable populations through community organizations and members of the public for urban and community forestry plans in the regions where they are based.

((~~(9)~~)) (11) Delivery of resources must be targeted based on the analysis and prioritization provided in RCW 76.15.100.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void.

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