

Group I – Amendments for Individual Vote

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Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

Ketil Freeman
Land Use Committee
May 4, 2023
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Amendment A2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Development area percentage in Midrise, Commercial and Seattle Mixed zones

Effect: This would amend Section 7 to CB 120534 to allow removal of Tier 2 trees from lots in Midrise (MR), Commercial, and Seattle Mixed (SM) zones if an otherwise allowable development area of 100 percent cannot be achieved without removal. The 85 percent lot coverage standard for Lowrise, MR, Commercial, and SM zones included in CB 120534 seems to be specific to townhouse development and does not reflect the development area associated with denser development that can occur in some more intense multifamily, commercial, and Seattle Mixed zones. This may inadvertently reduce development capacity for mixed-use or denser residential development.

Typical mixed-use developments in commercial and SM zones cover the entire lot and have little to no ground level open space. Applicable setbacks generally apply above the first floor. The Seattle Department of Construction and Inspections' (SDCI's) SEPA analysis of CB 120534 indicates that typical development in MR, Commercial and SM zones have a hard surface coverage that ranges from 90 percent to 99 percent of the lot.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

* * *

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

* * *

B. Lowrise, Midrise, commercial, and Seattle Mixed zones((7))

1. Tier 2 trees may be removed as follows:

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a. In Lowrise zones, if an otherwise allowable development area of 85 percent cannot be achieved without extending into the basic tree protection area more than allowed pursuant to subsection 25.11.060.A, as follows:

~~((e))~~ 1) Calculate the basic tree protection area on the lot.

~~((b))~~ 2) Subtract the basic tree protection area and the area of any portions of the lot between a property line and basic tree protection area when the portion of the lot is 15 feet or less measured from a lot line to a basic tree protection area from the lot area. If this number is less than 85 percent of the total lot area, Tier 2 trees may be removed.

~~((e))~~ 3) When multiple Tier 2 trees are located on a lot, the minimum number of trees needed to reach 85 percent may be removed based on the evaluation required by subsection 25.11.060.C.

~~((e))~~ 4) When the tree protection area of an off-site Tier 2 tree is located on the lot, this area may be included in accordance with subsection 25.11.070.B.

b. In Midrise, Commercial, and Seattle Mixed zones Tier 2 trees may be removed, if an otherwise allowable development area of 100 percent cannot be achieved without extending into the basic tree protection area more than allowed pursuant to subsection 25.11.060.A.

c. ~~((e))~~. For the purposes of this subsection 25.11.070.B, allowable development area shall not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved a critical area reduction, waiver, or modification pursuant to Chapter 25.09.

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Amendment A6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Maintain current FAR method for determining when trees can be removed in Lowrise, Midrise and Seattle Mixed zones

Effect: This would amend Section 7 to CB 120534 to maintain the current Floor Area Ratio (FAR) standard for determining when tree removals are allowed in Lowrise, Midrise, and Seattle Mixed zones. As proposed, CB 120534 would introduce a new 85 percent development area test for determining when Tier 2 trees could be removed in Lowrise, Midrise and Seattle Mixed zones. If an 85 percent development area cannot be achieved, then an applicant could remove Tier 2 trees as part of a development.

“Development Area” is not a defined term in the proposed bill but is generally understood to include all facets of a development, including features outside of a structure, like driveways, retaining walls, and walkways.

Current regulations do not specify a percentage, but rather utilize allowable FAR for determining when an exceptional tree can be removed. FAR is a standard based on the allowable amount of floor area inside a structure that can be developed on a site and does not consider site features outside of the building. Existing regulations and portions of CB 120534 would continue to provide options for departures that could allow the retention of existing trees. CB 120534 maintains lot coverage as a standard for determining when trees may be removed in Neighborhood Residential zones.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

B. Lowrise, Midrise, commercial and Seattle Mixed zones

1. Tier 2 trees may be removed if the total floor area that could be achieved within the maximum permitted FAR and height limits of the applicable zone according to Title 23

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~~otherwise allowable development area of 85 percent~~ cannot be achieved without extending into the basic tree protection area more than allowed pursuant to subsection 25.11.060.A, as follows:

~~((a. Calculate the basic tree protection area on the lot.~~

~~b. Subtract the basic tree protection area and the area of any portions of the lot between a property line and basic tree protection area when the portion of the lot is 15 feet or less measured from a lot line to a basic tree protection area from the lot area. If this number is less than 85 percent of the total lot area, Tier 2 trees may be removed.~~

~~c. When multiple Tier 2 trees are located on a lot, the minimum number of trees needed to reach 85 percent may be removed based on the evaluation required by subsection 25.11.060.C.))~~

a ((d)). When the tree protection area of an off-site Tier 2 tree is located on the lot, this area may be included in accordance with subsection 25.11.070.B.

b ((e)). For the purposes of this subsection 25.11.070.B, ~~((allowable development area shall not include))~~ maximum permitted FAR calculations do not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved a critical area reduction, waiver, or modification pursuant to Chapter 25.09.

2. If an applicant chooses to retain Tier 2 trees that would otherwise be allowed to be removed under subsection 25.11.070.B.1, modifications to development standards are allowed as follows:

a. For development not subject to design review, the following Type I modifications to standards:

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1) Setbacks and separation requirements, if applicable, may be reduced by a maximum of 50 percent;

2) Amenity areas may be reduced by a maximum of ten percent;

3) Landscaping and screening may be reduced by a maximum of 25 percent; and

4) Structure width, structure depth, and facade length limits, if applicable, may be increased by a maximum of ten percent.

b. For development subject to design review, the departures permitted in Section 23.41.012.

c. Parking reduction. A reduction in the parking quantity required by Section 23.54.015 and the modification of standards for safe access of any required parking of Section 23.54.030 may be permitted in order to protect a Tier 2 tree, if the reduction would result in a project that would avoid the tree protection area.

d. In Lowrise zones, for a principal structure with a base height limit of 40 feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50 feet if the increase is needed to accommodate, on an additional story, the amount of floor area lost by avoiding development within the tree protection area and the amount of floor area on the additional story is limited to the amount of floor area lost by avoiding development within the tree protection area.

3. Tree removal required for development to achieve the allowable maximum permitted FAR (~~development area according to subsection 25.11.070.B.1~~) or height limits of

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the applicable zone includes, but is not limited to, the construction of new structures, vehicles and pedestrian access, utilities, retaining wall, or other similar improvement.

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Amendment H3 Version 1 to CB 120534 – Tree Protection Updates

Sponsor: Councilmember Pedersen

Findings related to the public health, safety, and welfare associated with tree preservation and protection

Effect: This would add a new section of findings to CB 120534 to support the range of regulatory tools proposed to be utilized in the bill and proposed in other amendments.

The findings incorporate prior findings from the 2001 tree protection ordinance, recitals from the 2009 temporary tree protection ordinance, findings from the City’s internal working group on tree protection, findings from the 2018 Fourth National Climate Assessment, information from the City’s 2023 Tree Canopy Assessment Report. In addition, the findings reference changes to state law to require more density in the zones the City of Seattle currently refers to as Neighborhood Residential zones.

Add a new Section 1 to CB 120534, renumber following sections.

Section 1. The City Council finds that:

A. The first comprehensive City of Seattle tree ordinance was unanimously adopted in 2001 by Ordinance 120410. The findings accompanying that ordinance remain valid today:

“A. Trees provide a valuable asset to the community as a whole and that preserving trees provides valuable environmental, economic, and aesthetic benefits to the citizens and businesses of Seattle. Retention of trees can promote the public health, safety and general welfare.

B. Trees have the following benefits:

1. Preserve and enhance the City's natural beauty;
2. Provide varied and rich habitats for wildlife;

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3. Moderate the effects of wind and temperature and have a positive impact on global climate change;
 4. Slow runoff from precipitation, reduce soil erosion and sedimentation and pollution of natural waterways; and thus minimize the public and private costs for storm water control and treatment and utility maintenance;
 5. Improve air quality, through the absorption of pollutants and contamination;
 6. Mask unwanted sound and reduce noise pollution; and
 7. Enhance the economic value of both new and existing development.
- C. Tree removal to accommodate urban development has resulted in the loss to the public of these beneficial functions of trees and has also resulted in environmental degradation.”

B. An “interim” or “temporary” update to the City’s tree ordinance, Ordinance 122919, was adopted in 2009, including the following recitals:

“WHEREAS, it is in the public interest to maximize the retention of large and exceptional trees as these trees provide considerable benefit to the city in reducing storm water runoff and pollution, absorbing air pollutants, providing wildlife habitat, absorbing carbon dioxide, providing shade, stabilizing soil, and enhancing property value; and WHEREAS, the City is aware of ongoing tree removal on sites that are not undergoing development, which is inconsistent with Comprehensive Plan goals concerning no-net loss of tree canopy, tree retention to enhance Seattle's historic, cultural, environmental and aesthetic character, and general land use policies calling for the retention and protection of trees; and

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WHEREAS, the lack of sufficient regulations on sites not undergoing development undermines the long-term goals for tree retention and preservation and encourages tree removal prior to the application of a development permit; and

WHEREAS, it is necessary for the City to adopt interim regulations that temporarily reduce or limit the removal of certain trees prior to the adoption of permanent regulations that address existing tree removal practices that compromise the City's ability to achieve its stated goals for tree protection.”

C. In 2017, a study prepared by the City’s Interdepartmental Tree Team concluded that “Current code is not supporting tree protection.” Tree Regulations Research Project Phase II Final Report, March 31, 2017.

D. The Fourth National Climate Assessment, published November 2018, concludes:

“Cities around the United States face a number of challenges to prosperity, such as social inequality, aging and deteriorating infrastructure, and stressed ecosystems. Urban social inequality is evident in disparities in per capita income, exposure to violence and environmental hazards, and access to food, services, transportation, outdoor space, and walkable neighborhoods. ... Urban forests, open space, and waterways provide multiple benefits, but many are under stress because of land-use change, invasive species, and pollution. These social, infrastructure, and environmental challenges affect urban exposure and susceptibility to climate change effects” [references omitted].

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E. The City's latest Tree Canopy Assessment report, published in early 2023 based on data through 2021, shows a continued reduction in tree canopy on both City-owned and private lands. Tree canopy loss on private land occurs at a higher rate on land zoned for higher density housing and other buildings.

F. Engrossed Substitute House Bill 1110, which passed the state legislature on April 20, 2023, requires the City to increase its development capacity by allowing more housing in Seattle's zones currently defined as Neighborhood Residential zones. Without mitigation, implementing this requirement would likely decrease the City's existing ability to retain and plant trees in residential zones, especially where the City's latest Tree Canopy Assessment Report indicates there is the most acreage of existing tree canopy coverage.

G. To maintain the public health, safety, and welfare benefits of trees, the City must utilize a range of regulatory tools including: requiring property owner mitigation for tree removals; maintaining incentives for tree preservation during development; providing adequate ground-level area for tree planting and preservation; and allowing for construction design adjustments or reasonable reductions in the size of development to accomplish preservation of large trees.

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May 4, 2023
D2

Amendment A3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Development standard modifications

Effect: This would amend Section 7 to CB 120534 to amend the tree protection provisions for multifamily, commercial and Seattle Mixed zones under Section 25.11.070. Specifically, it would increase the potential modifications to development standards permitted by this section in order to provide greater incentives to the preservation of trees.

As proposed under CB 120534, in Lowrise, Midrise, commercial, and Seattle Mixed zones, setback and separation requirements may be reduced by 50 percent; amenity area requirements may be reduced by 10 percent; and landscaping and screening requirements could be reduced by 25 percent if a project applicant chooses to retain a Tier 2 tree that would otherwise be permitted to be removed. Similarly, structure width, structure depth, and façade length limits could be increased by a maximum of ten percent.

Under the proposed amendment, setback, separation, amenity area, landscaping, and screening requirements could be reduced by 75 percent; and structure width, depth and façade length could be increased by 30 percent for a project that chooses to retain a Class 2 tree on site. Affordable housing projects would be able to completely waive the setback, separation, amenity area, landscaping, and screening requirements, and double the structure width, depth, and façade length.

The intended effect of the amendment is to provide greater incentive to applicants to maintain trees by allowing greater flexibility in building design.

The impacts of this amendment will differ depending on the zone and design choices made by the permit applicant. It is important to note that the development standards that are proposed to be modified by the proposed bill are used for a wide range of different purposes. For example, setbacks are used in the code to meet diverse goals:

- setbacks alongside lot lines are typically required to maintain space between abutting development, maintaining light and air for residents with windows facing the lot line, and allowing sufficient space to maintain structures;
- setbacks are required for ground-floor residential units to provide privacy to future residents from passing pedestrians;
- upper-level setbacks are required to provide for light at street level in dense neighborhoods, including the light that is needed by street trees;
- setbacks are required in some zones along alleys to allow space for loading without requiring that a development include an on-site loading dock;

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- In some zones, setbacks are required along specified streets to provide additional space for pedestrians or reduce the impacts of very large buildings in a changing neighborhood.

Because of the wide range of different standards and different policy goals that these development standards address, it is difficult to assess the impacts of these changes.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

* * *

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

* * *

B. Lowrise, Midrise, commercial and Seattle Mixed zones.

1. Tier 2 trees may be removed if an otherwise allowable development area of 85 percent cannot be achieved without extending into the basic tree protection area more than allowed pursuant to subsection 25.11.060.A, as follows:

a. Calculate the basic tree protection area on the lot.

b. Subtract the basic tree protection area and the area of any portions of the lot between a property line and basic tree protection area when the portion of the lot is 15 feet or less measured from a lot line to a basic tree protection area from the lot area. If this number is less than 85 percent of the total lot area, Tier 2 trees may be removed.

c. When multiple Tier 2 trees are located on a lot, the minimum number of trees needed to reach 85 percent may be removed based on the evaluation required by subsection 25.11.060.C.

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Land Use Committee
May 4, 2023
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d. When the tree protection area of an off-site Tier 2 tree is located on the lot, this area may be included in accordance with subsection 25.11.070.B.

e. For the purposes of this subsection 25.11.070.B, allowable development area shall not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved a critical area reduction, waiver, or modification pursuant to Chapter 25.09.

2. If an applicant chooses to retain Tier 2 trees that would otherwise be allowed to be removed under subsection 25.11.070.B.1, modifications to development standards are allowed as follows:

a. For development not subject to design review, the following Type I modifications to standards:

1) Setbacks and separation requirements, if applicable, may be reduced by a maximum of ~~((50))~~ 75 percent;

2) Amenity areas may be reduced by a maximum of ~~((ten))~~ 75 percent;

3) Landscaping and screening may be reduced by a maximum of ~~((25))~~ 75 percent; and

4) Structure width, structure depth, and facade length limits, if applicable, may be increased by a maximum of ~~((ten))~~ 30 percent.

b. For development that:

1) ~~Receives public funding or an allocation of federal low-income housing tax credits; and~~

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2) Is subject to a regulatory agreement, covenant, or other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, U.S. Department of Housing and Urban Development, or other similar entity as approved by the Director of Housing; and

3) Either: restricts at least 40 percent of rental units to occupancy by households earning no greater than 60 percent of median income, and controls the rents that may be charged for a minimum period of 40 years: or restricts at least 40 percent of ownership units to occupancy by households earning no greater than 80 percent of median income, and controls the sale price of the units for a minimum period of 40 years

The following Type I modifications to standards are permitted:

1) Setback, separation, amenity area, landscaping, and screening requirements, if applicable, may be reduced by a maximum of 100 percent; and

2) Structure width, structure depth, and facade length limits, if applicable, may be increased by a maximum of 100 percent.

b. For development subject to design review, the departures permitted in Section 23.41.012.

c. Parking reduction. A reduction in the parking quantity required by Section 23.54.015 and the modification of standards for safe access of any required parking of Section 23.54.030 may be permitted in order to protect a Tier 2 tree, if the reduction would result in a project that would avoid the tree protection area.

d. In Lowrise zones, for a principal structure with a base height limit of 40 feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may

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Land Use Committee
May 4, 2023
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permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50 feet if the increase is needed to accommodate, on an additional story, the amount of floor area lost by avoiding development within the tree protection area and the amount of floor area on the additional story is limited to the amount of floor area lost by avoiding development within the tree protection area.

3. Tree removal required for development to achieve the allowable development area according to subsection 25.11.070.B.1 or height limits of the applicable zone includes, but is not limited to, the construction of new structures, vehicles and pedestrian access, utilities, retaining wall, or other similar improvement.

* * *

Aly Pennucci
 Land Use Committee
 May 4, 2023
 D1a

Amendment A5 Version 1 to CB 120534

Sponsor: Councilmember Strauss

Tier 2 tree removal allowance & accessory dwelling units

Effect: This would amend subsection 25.11.070.A.1.b to clarify that a Tier 2 tree may be removed if its required tree protection area results in a portion of a structure containing a principal dwelling unit or accessory dwelling unit to be less than 15 feet wide in Neighborhood Residential (NR) zones. As proposed, subsection 25.11.070.A.1.b includes reference to a "portion of a dwelling unit." It is not clear if the intent is to include an allowance to remove a Tier 2 tree if required tree protection would result in an accessory dwelling unit to be less than 15 feet wide.

The terms "dwelling unit" and "accessory dwelling unit" are not defined in Title 25; Title 23 defines "dwelling unit" and "accessory dwelling unit" terms as follows:"

"Dwelling unit" means a room or rooms located within a structure that are configured to meet the standards of Section 23.42.048 and that are occupied or intended to be occupied by not more than one household as living accommodations independent from any other household.
(SMC subsection 23.84A.008 – "D")

"Accessory dwelling unit" means one or more rooms that:

- a. Are located within a principal dwelling unit or within an accessory structure on the same lot as a principal dwelling unit;
- b. Meet the standards of Section 23.44.041, Section 23.45.545, or Chapter 23.47A, as applicable;
- c. Are designed, arranged, and intended to be occupied by not more than one household as living accommodations independent from any other household; and
- d. Are so occupied or vacant.

(SMC subsection 23.84A.032 - "R")

Assuming reliance on the definitions in Title 23, as written, subsection 25.11.070.A.1.b should include the same allowances for principal dwelling units and accessory dwelling units. To ensure that is clear, this amendment would specify that the allowance under subsection 25.11.070.A.1.b to remove a Tier 2 tree would apply to both principal and accessory dwelling units in NR zones.

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Land Use Committee
May 4, 2023
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Amend Section 7 of CB 120534 as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

* * *

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

A. Neighborhood Residential zones

1. Tier 2 trees may be removed only if:

a. The maximum lot coverage permitted on the site pursuant to Title 23 cannot be achieved without extending into the basic tree protection area more than is allowed pursuant to Section 25.11.060 or into a required front and/or rear yard to an extent greater than provided for in subsection 25.11.070.A.2;

b. Avoiding development in the basic tree protection area including reductions to the tree protection area allowed by subsection 25.11.060.A would result in a portion of a principal dwelling unit, or an accessory dwelling unit, being less than 15 feet in width; or

c. Tree removal is necessary for the construction of new structures, vehicle and pedestrian access, utilities, retaining wall, or other similar improvements associated with development.

2. Permitted extension into front or rear yards shall be limited to an area equal to the amount of the basic tree protection area not located within required yards. The maximum projection into the required front or rear yard shall be 50 percent of the yard requirement.

* * *

Yolanda Ho
 Land Use Committee
 May 4, 2023
 D1a

Amendment A4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Calculation of lot coverage standard – tree protection areas

Effect: This would clarify that the basic tree protection area (defined generally as the area beneath the drip line of a tree in which excavation and other construction-related activities must be avoided) cannot be modified for the purposes of calculating the 85 percent allowable development area in Lowrise, Midrise, commercial, and Seattle Mixed zones. It would also align the definition of “basic tree protection area” with the definition of “tree protection area” to clarify that the basic tree protection area is an area in which excavation and other construction-related activities must be avoided.

Establishing a tree protection area that is easily delineated and cannot be changed by the Seattle Department of Construction and Inspections (SDCI) would provide greater certainty for permit applicants during the site planning process. However, given that each tree and its particular site conditions are unique, this could result in more tree removal than may be necessary to accommodate a proposed development (i.e., it may be feasible to retain more existing trees if SDCI has discretion to delineate smaller tree protection areas).

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

B. Lowrise, Midrise, commercial and Seattle Mixed zones.

1. Tier 2 trees may be removed if an otherwise allowable development area of 85 percent cannot be achieved without extending into the basic tree protection area ~~more than~~ ~~allowed pursuant to subsection 25.11.060.A,~~ as follows:

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Land Use Committee
May 4, 2023
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a. Calculate the basic tree protection area on the lot. For the purposes of this subsection 25.11.070.B, the basic tree protection area cannot be modified.

b. Subtract the basic tree protection area and the area of any portions of the lot between a property line and basic tree protection area when the portion of the lot is 15 feet or less measured from a lot line to a basic tree protection area from the lot area. If this number is less than 85 percent of the total lot area, Tier 2 trees may be removed.

c. When multiple Tier 2 trees are located on a lot, the minimum number of trees needed to reach 85 percent may be removed based on the evaluation required by subsection 25.11.060.C.

d. When the tree protection area of an off-site Tier 2 tree is located on the lot, this area may be included in accordance with subsection 25.11.070.B.

e. For the purposes of this subsection 25.11.070.B, allowable development area shall not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved a critical area reduction, waiver, or modification pursuant to Chapter 25.09.

25.11.130 Definitions

“Tree protection area, basic” means the area ~~within~~ surrounding a tree in which excavation and other construction-related activities must be avoided unless approved by the Director. This area is delineated using the drip line of a tree, which may be irregular in shape to reflect variation in branch outer limits.

Yolanda Ho
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May 4, 2023
D1a

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 Land Use Committee
 May 4, 2023
 D1a

Amendment G2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Tree protection area delineation

Effect: CB 120534 would define the “basic tree protection area” using the drip line method, which generally uses the extents of a tree’s branches to determine the area where excavation and other construction-related activities must be avoided. This amendment would change the methodology to use the trunk diameter method (ANSI A300 standard), which would establish a tree protection area with a radius that is six to 18 times a tree’s diameter at standard height, depending on the type and age of tree.

The drip line can be easily delineated but does not consider the unique characteristics of a specific tree or account for a situation where branches have been significantly cut back, whereas the trunk diameter method provides a more tailored approach to ensure that the tree protection area is adequate for each tree. Using the trunk diameter method instead of the drip line method may make it more difficult for permit applicants to predict what trees may be retained or removed as they are conducting initial site planning.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.130 Definitions

“Tree protection area, basic” means the area ~~within the drip line of a tree, which may be irregular in shape to reflect variation in branch outer limits~~ surrounding a tree in which excavation and other construction-related activities must be avoided unless approved by the Director. This area is delineated using a radius that is six to 18 times the tree’s diameter at standard height, depending on species tolerance to construction damage and the tree’s age, per ANSI A300 standards or their successor.

Eric McConaghy
Land Use Committee
May 4, 2023
D1

Amendment G3 Version 1 to CB 120534 – Tree Protection Updates

Sponsor: Councilmember Pedersen

Temporary reduction of tree protection areas

Effect: This would amend CB 120534 to further define the parameters under which the Director of the Seattle Department of Construction and Inspections (SDCI) may allow a temporary reduction in size of a tree protection area during a specific construction activity. Allowing SDCI to temporarily reduce the size of a tree protection area during construction could allow for more retention of on-site trees.

Amend Section 7 of CB 120534 as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

25.11.060 Requirements for trees when development is proposed

A. Tree protection area

1. A tree protection area is required for all existing Tier 1, Tier 2, and Tier 3 trees that are not removed during development, as well as any tree relocated offsite if on private property or any tree planted onsite as part of required mitigation pursuant to this Chapter 25.11.

2. The tree protection area for Tier 1, Tier 2, and Tier 3 trees shall be determined by the Director pursuant to this subsection 25.11.060.A and any rules promulgated by the Director.

3. The tree protection area may be modified from the basic tree protection area based on species tolerance; expected impacts of construction activities; tree size, age, and health; and soil conditions not to exceed the area of the feeder root zone. The Director may require

Eric McConaghy
Land Use Committee
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Master Use Permits or building permits to include measures to protect tree(s) during construction, including within the feeder root zone.

4. The tree protection area may be reduced by the Director pursuant to the provisions of Title 23 and this Chapter 25.11, as follows:

a. Any new encroachment into the tree protection area may not be closer than one half of the tree protection radius. Existing encroachments closer than one half of the tree protection radius may remain or be replaced if no appreciable damage to the tree will result.

b. The tree protection area shall not be reduced more than 35 percent ~~of the tree protection area per ANSI A300 standards or their successor~~ unless an alternative tree protection area or construction method will provide equal or greater tree protection and result in long-term retention and viability of the tree as determined by a certified arborist.

c. Existing encroachments do not count toward the reduction.

d. The tree protection area may be temporarily reduced in size during a specific construction activity that is not likely to cause appreciable damage to ~~or reduce the long-term viability of the tree, as determined by the Director.~~ Appropriate mitigation measures shall be implemented per ANSI A300 standards or their successor~~s~~. ~~The tree protection area should not be reduced to an area smaller than the critical root zone~~ and the tree protection area shall be returned to its permanent size after the specific construction activity is complete.

Yolanda Ho
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Amendment G4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Off-site trees during development

Effect: This would add consideration of off-site trees during development. It would require that permit applicants show all off-site regulated trees (Tiers 1 through 4) with canopies overhanging and/or roots extending onto the lot and would also require that tree protection areas for Tier 1 and Tier 3 trees be included in consideration of the 85 percent lot coverage standard. It would allow development that cannot otherwise avoid encroachment into tree protection areas of off-site Tier 1, Tier 2, or Tier 3 trees to use the same modifications to development standards available to projects that elect to retain on-site Tier 2 trees. It would also clarify that only trees that will be retained during development are required to have a tree protection area identified on site plans.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.060 Requirements for trees when development is proposed

B. Site plan requirements

1. Tier 1, Tier 2, Tier 3, and Tier 4 trees, including off-site Tier 1, Tier 2, Tier 3, and Tier 4 trees with canopies overhanging and/or roots extending onto the lot, are required to be documented on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.

2. Tree protection areas as determined by subsection 25.11.060.A for all Tier 1, Tier 2, and Tier 3 trees that will be retained during development are required to be identified on

Yolanda Ho
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site plans. Tree protection fencing and signage are required to be shown on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.

3. Any development standard modifications pursuant to the provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area are required to be identified on site plans.

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones

B. Lowrise, Midrise, commercial and Seattle Mixed zones=

1. Tier 2 trees may be removed if an otherwise allowable development area of 85 percent cannot be achieved without extending into the basic tree protection area more than allowed pursuant to subsection 25.11.060.A, as follows:

a. Calculate the basic tree protection area on the lot.

b. Subtract the basic tree protection area and the area of any portions of the lot between a property line and basic tree protection area when the portion of the lot is 15 feet or less measured from a lot line to a basic tree protection area from the lot area. If this number is less than 85 percent of the total lot area, Tier 2 trees may be removed.

c. When multiple Tier 2 trees are located on a lot, the minimum number of trees needed to reach 85 percent may be removed based on the evaluation required by subsection 25.11.060.C.

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d. When the basic tree protection area of an off-site Tier 1, Tier 2, or Tier 3 tree is located on the lot, this area ~~may~~ shall be included in accordance with subsection 25.11.070.B.

e. For the purposes of this subsection 25.11.070.B, allowable development area shall not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved a critical area reduction, waiver, or modification pursuant to Chapter 25.09.

2. If an applicant chooses to retain Tier 2 trees that would otherwise be allowed to be removed under subsection 25.11.070.B.1 or if encroachment into the tree protection area of an off-site Tier 1, Tier 2, or Tier 3 tree cannot otherwise be avoided, modifications to development standards are allowed as follows:

a. For development not subject to design review, the following Type I modifications to standards:

1) Setbacks and separation requirements, if applicable, may be reduced by a maximum of 50 percent;

2) Amenity areas may be reduced by a maximum of ten percent;

3) Landscaping and screening may be reduced by a maximum of 25 percent; and

4) Structure width, structure depth, and facade length limits, if applicable, may be increased by a maximum of ten percent.

Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment C1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen and Strauss

Tree review improvements

Effect: This would request that the Seattle Department of Construction and Inspections (SDCI) examine its existing practices and make modifications to ensure that SDCI is consistently implementing tree regulations at the beginning and throughout the permit review process and that applicants understand requirements related to trees.

1. Add a new section to Attachment 1 to CB 120534 (number to be determined) as follows and renumber subsequent sections as needed:

#. The Council requests that the Seattle Department of Construction and Inspections (SDCI) examine existing practices and make modifications to ensure that processes and requirements for the administration of Seattle Municipal Code Chapter 25.11 are clear and understandable to permit applicants and other interested parties. Modifications should include steps such as the pre-application process, updates or revisions to forms, checklists, meetings, continuous review by SDCI staff arborists from pre-application through final inspection, and informational documents such as tips and webpages. SDCI should seek to ensure that trees and tree protection areas are considered as early as possible in the permit review process.

Lish Whitson
Land Use Committee
May 4, 2023
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Amendment C2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Major Development Projects: Notice, Review and Definition

Effect: This amendment would create a new category of development “Major Development Project” and provide additional notice and reporting requirements for Major Development Projects.

Major Development Projects would be defined as sites of at least 20,000 square feet for which there is an application for construction, for ground-disturbing activities, or for a subdivision, short subdivision, or lot boundary adjustment, if that site includes at least one Tier 1 or Tier 2 tree, or three or more Tier 3 trees.

All Major Development Projects would be required to prepare a tree protection report, and would be required to post and mail notice of any proposals to remove, relocate or replace trees as part of the development, and provide such notice through the Land Use Information Bulletin. If notice of a land use application is already required, such notice would be required to include information regarding removal, replacement or relocation of trees, if any.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

* * *

25.11.060 Requirements for trees when development is proposed

A. Tree protection area

1. A tree protection area is required for all existing Tier 1, Tier 2, and Tier 3 trees that are not removed during development, as well as any tree relocated offsite if on private property or any tree planted onsite as part of required mitigation pursuant to this Chapter 25.11.

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Land Use Committee
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2. The tree protection area for Tier 1, Tier 2, and Tier 3 trees shall be determined by the Director pursuant to this subsection 25.11.060.A and any rules promulgated by the Director.

3. The tree protection area may be modified from the basic tree protection area based on species tolerance; expected impacts of construction activities; tree size, age, and health; and soil conditions not to exceed the area of the feeder root zone. The Director may require Master Use Permits or building permits to include measures to protect tree(s) during construction, including within the feeder root zone.

4. The tree protection area may be reduced by the Director pursuant to the provisions of Title 23 and this Chapter 25.11, as follows:

a. Any new encroachment into the tree protection area may not be closer than one half of the tree protection radius. Existing encroachments closer than one half of the tree protection radius may remain or be replaced if no appreciable damage to the tree will result.

b. The tree protection area shall not be reduced more than 35 percent unless an alternative tree protection area or construction method will provide equal or greater tree protection and result in long-term retention and viability of the tree as determined by a certified arborist.

c. Existing encroachments do not count toward the reduction.

d. The tree protection area may be temporarily reduced in size during a specific construction activity that is not likely to cause appreciable damage to the tree.

Appropriate mitigation measures shall be implemented per ANSI A300 standards or their successor, and the tree protection area shall be returned to its permanent size after the specific construction activity is complete.

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5. The tree protection area is required to include fencing, signage, and other safety requirements as required in the Seattle Department of Construction and Inspections Tree and Vegetation Protection Detail.

B. Site plan requirements

1. Tier 1, Tier 2, Tier 3, and Tier 4 trees are required to be documented on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.

2. Tree protection areas as determined by subsection 25.11.060.A for all Tier 1, Tier 2, and Tier 3 trees are required to be identified on site plans. Tree protection fencing and signage are required to be shown on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.

3. Any development standard modifications pursuant to the provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area are required to be identified on site plans.

4. Site plans that include modifications to development standards pursuant to the provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area are required to be reviewed and approved by a certified arborist to determine that the development shown would protect applicable trees.

5. Site plans are required to include any existing tree and its tree protection area, if applicable, that is documented by the Seattle Department of Construction and Inspections to be retained by a previous Master Use Permit or building permit.

C. The Director may require a tree protection report prepared by a certified arborist to confirm the accuracy of the tree protection area. The Director shall require a tree protection report by a certified arborist for all Major Development Projects. The report must use ANSI

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A300 standards or their successor and be prepared by a certified arborist. Tree protection evaluation and requirements may include but are not limited to the following:

1. A tree evaluation with respect to its size, age, general health, damage, danger of falling, species tolerance to construction impacts, location of structural roots, existing soil conditions, proximity to existing or proposed structures, extent of proposed grade changes (e.g., soil cut and fill), and/or utility services;

2. An evaluation of the anticipated effects of proposed construction on the viability of the tree;

3. A hazardous tree risk assessment, if applicable;

4. A plan that documents required tree protection or tree replacement measures including payment in lieu pursuant to Section 25.11.110;

5. A plan that describes post-construction site inspection and evaluation measures;

6. A certified arborist's description of the method(s) selected to determine the tree protection area. Methodologies may include exploratory root excavations for individual trees together with a case-by-case description; and

7. The life expectancy of regulated trees shall be determined by the Director pursuant to this subsection 25.11.060.C and any rules promulgated by the Director. The Director shall determine the likelihood that a tree will live to maturity due to factors including but not limited to:

a. Health and physical condition;

b. Development site constraints such as proximity to existing or proposed development, access and utilities, soil conditions, and exposure to sunlight; and

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c. Environmental conditions external to the development site such as the likely occurrence of a disease or an insect infestation, a landslide, or presence of a high water table.

D. Trees protected by covenant

1. A covenant shall be required prior to the issuance of any permit or approval that includes modification to development standards to avoid development within a designated tree protection area for the following trees:

a. Tier 1 trees that are not determined to be hazardous or in need of emergency action;

b. Tier 2 trees that are not removed pursuant to Sections 25.11.070 or 25.11.080; and

c. Tier 3 trees that are not proposed to be removed.

2. A covenant shall describe the required tree protection areas, include a survey, if one has been prepared, and include documentation that acknowledges that development is prohibited on and within any of the tree protection areas, including any disturbance of the tree protection area that is inconsistent with the provisions of this Chapter 25.11.

3. Required covenants shall run with the land and shall be recorded in the King County Recorder's Office for the remainder of the life of the building or for the remainder of the life of the tree.

E. Major Development Projects

1. For Major Development Projects that are required to provide notice pursuant to Section 23.76.012, such notice shall include information regarding any proposal to remove, replace, or relocate trees on the site.

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2. For Major Development Projects that are not required to provide notice pursuant to Section 23.76.012, notice of a proposal to remove, replace, or relocate trees on the site shall be provided as follows:

a. The applicant shall provide the Director with the following information:

1) A brief description of the trees proposed to be removed, replaced, or relocated on the site, including location, type of tree, and tier.

2) Any associated permit number or numbers, if a permit is required. If no permit is required, the applicant shall indicate that no permit is required.

b. The Director shall provide the public notice information required by subsection 25.11.060.E.1.a. to the public on a City web page. By March 31, 2024, the web page shall provide the information through an online mapping tool.

c. The applicant shall post the public notice in a safe location at or adjacent to the site in a manner clearly visible from the public right-of-way. The notice should remain in place for five days after the tree removal, replacement or relocation has been completed.

d. The notice of a Major Development Project may be combined with any public notice of commercial tree work.

* * *

25.11.130 Definitions

* * *

“Invasive tree” means any tree species that is documented on the King County Noxious Weed Board’s Class A, Class B, or Class C Noxious Weed Lists.

Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

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“Major Development Project” means, for sites that are 20,000 square feet or larger in area and that include one or more Tier 1 or Tier 2 trees, or three or more Tier 3 trees, an application for construction or disturbance of the site, including land disturbing activity, or an application for a subdivision, short subdivision, or lot boundary adjustment of the site.

“Maturity” means the eventual size of a tree, both in height and trunk width, to be expected in Seattle. Maturity does not mean the maximum possible size of a tree.

* * *

Lish Whitson
 Land Use Committee
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Amendment C3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Tree Protection Areas and subdivisions, short subdivisions, and lot boundary adjustments

Effect: This amendment would clarify that tree protection areas need to be included on site plans for subdivisions, short subdivisions, and lot boundary adjustments.

Tree protection areas are the areas surrounding trees in which excavation and other construction-related activities must be avoided. CB 120534 would require the identification of tree protection areas for all Tier 1, Tier 2 and Tier 3 trees by the Seattle Department of Construction and Inspections. Tree protection areas would need to be shown on all site plans for Master Use Permits (MUPs). When a subdivision or plat is proposed, it is considered part of the MUP.

Subdivision (greater than nine parcels) and short subdivision (fewer than nine parcels) applications are currently required to include landscape plans. When considering approval of subdivision applications, the Seattle Hearing Examiner must find that it is “designed to maximize the retention of existing trees” (SMC 23.22.054 A).

Lot boundary adjustment applications, which allow for the reconfiguration of lot lines that divide two or more lots without creating new lots, do not require landscape plans. The location of trees on the lots is not one of the criteria for approval of a lot boundary adjustment.

The proposed amendment would clarify that the requirements to identify tree protection areas on site plans apply to subdivisions, short subdivisions, and lot boundary adjustments as well as development proposals.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

* * *

25.11.060 Requirements for trees when development or subdivision, short subdivision, or lot boundary adjustment is proposed

A. Tree protection area

Lish Whitson
Land Use Committee
May 4, 2023
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1. A tree protection area is required for all existing Tier 1, Tier 2, and Tier 3 trees that are not removed during development, as well as any tree relocated offsite if on private property or any tree planted onsite as part of required mitigation pursuant to this Chapter 25.11.

2. The tree protection area for Tier 1, Tier 2, and Tier 3 trees shall be determined by the Director pursuant to this subsection 25.11.060.A and any rules promulgated by the Director.

3. The tree protection area may be modified from the basic tree protection area based on species tolerance; expected impacts of construction activities; tree size, age, and health; and soil conditions not to exceed the area of the feeder root zone. The Director may require Master Use Permits or building permits to include measures to protect tree(s) during construction, including within the feeder root zone.

4. The tree protection area may be reduced by the Director pursuant to the provisions of Title 23 and this Chapter 25.11, as follows:

a. Any new encroachment into the tree protection area may not be closer than one half of the tree protection radius. Existing encroachments closer than one half of the tree protection radius may remain or be replaced if no appreciable damage to the tree will result.

b. The tree protection area shall not be reduced more than 35 percent unless an alternative tree protection area or construction method will provide equal or greater tree protection and result in long-term retention and viability of the tree as determined by a certified arborist.

c. Existing encroachments do not count toward the reduction.

d. The tree protection area may be temporarily reduced in size during a specific construction activity that is not likely to cause appreciable damage to the tree.

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Land Use Committee
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Appropriate mitigation measures shall be implemented per ANSI A300 standards or their successor, and the tree protection area shall be returned to its permanent size after the specific construction activity is complete.

5. The tree protection area is required to include fencing, signage, and other safety requirements as required in the Seattle Department of Construction and Inspections Tree and Vegetation Protection Detail.

B. Site plan requirements

1. Tier 1, Tier 2, Tier 3, and Tier 4 trees are required to be documented on all plan review sheets within a plan set submitted for a Master Use Permit or building permit, [including any application for a subdivision, short subdivision, or lot boundary adjustment.](#)

2. Tree protection areas as determined by subsection 25.11.060.A for all Tier 1, Tier 2, and Tier 3 trees are required to be identified on site plans, [including any site plans in an application for a subdivision, short subdivision, or lot boundary adjustment.](#) Tree protection fencing and signage are required to be shown on all plan review sheets within a plan set submitted for a Master Use Permit or building permit.

3. Any development standard modifications pursuant to the provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area are required to be identified on site plans.

4. Site plans that include modifications to development standards pursuant to the provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area are required to be reviewed and approved by a certified arborist to determine that the development shown would protect applicable trees.

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Land Use Committee
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5. Site plans are required to include any existing tree and its tree protection area, if applicable, that is documented by the Seattle Department of Construction and Inspections to be retained by a previous Master Use Permit or building permit.

* * *

Ketil Freeman
 Land Use Committee
 May 4, 2023
 D1

Amendment C4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Require certified arborist report and participation on application team

Effect: This would amend Section 7 to CB 120534 to require that applications with Tier 1 and Tier 2 trees include a tree protection report prepared by a certified arborist and ongoing participation in the permit process by a certified arborist.

CB 120534, as introduced, leaves it up to the discretion of the Seattle Department of Construction and Inspections' Director to require a tree protection report prepared by a certified arborist.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

25.11.060 Requirements for trees when development is proposed

C. The Director shall ~~((may))~~ require a tree protection report prepared by a certified arborist to confirm accuracy of the tree protection area ~~for Tier 1 and Tier 2 trees and may require a tree protection report prepared by a certified arborist for other trees.~~ The report must use ANSI A300 standards or their successor and be prepared by a certified arborist. ~~The certified arborist must respond to all permit application correction items for this Chapter 25.11 that require a certified arborist's review. To the extent applicable, ~~((Free))~~ tree protection evaluation and requirements ~~((may)) shall include,~~ but are not limited to, the following:~~

1. A tree evaluation with respect to its size, age, general health, damage, danger of falling, species tolerance to construction impacts, location of structural roots, existing soil conditions, proximity to existing or proposed structures, extent of proposed grade changes (e.g., soil cut and fill), and/or utility services;

Ketil Freeman
Land Use Committee
May 4, 2023
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2. An evaluation of the anticipated effects of proposed construction on the viability of the tree;

3. A hazardous tree risk assessment, if applicable;

4. A plan that documents required tree protection or tree replacement measures including payment in lieu pursuant to Section 25.11.110;

5. A plan that describes post-construction site inspection and evaluation measures;

6. A certified arborist's description of the method(s) selected to determine the tree protection area. Methodologies may include exploratory root excavations for individual trees together with a case-by-case description; and

7. The life expectancy of regulated trees shall be determined by the Director pursuant to this subsection 25.11.060.C and any rules promulgated by the Director. The Director shall determine the likelihood that a tree will live to maturity due to factors including but not limited to:

a. Health and physical condition;

b. Development site constraints such as proximity to existing or proposed development, access and utilities, soil conditions, and exposure to sunlight; and

c. Environmental conditions external to the development site such as the likely occurrence of a disease or an insect infestation, a landslide, or presence of a high water table.

Yolanda Ho
 Land Use Committee
 May 4, 2023
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Amendment E2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Minimum in-lieu fee payment for Tier 1 and Tier 2 trees

Effect: This would establish that the minimum fee in lieu of planting for Tier 1 and Tier 2 trees that are below 24 inches diameter at standard height (DSH) shall be equal to the fee for a Tier 1 or Tier 2 tree that is 24 inches DSH.

As currently proposed in the draft Director’s Rule, the in-lieu fee for Tier 1 and Tier 2 trees could be as low as \$505 (calculated using 6 inches DSH at \$17.87 per square inch), well below the proposed in-lieu fee of \$2,833 per Tier 3 tree. This would set the minimum in-lieu fee for a Tier 1 or Tier 2 tree at \$8,084.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.110 Off-site planting and voluntary payment in lieu

If tree removal is approved by the Director, the applicant may elect to make a voluntary payment in lieu of tree replacement on-site as specified in this Section 25.11.110.

A. A combination of planting trees on site, planting trees off-site and/or payment in lieu is allowed, provided that the combination is consistent with the provisions of this Chapter 25.11 and the results shall be equivalent to or greater than the minimum requirements for on-site tree plantings.

B. All payments shall be paid to the Seattle Department of Construction and Inspections before the issuance of a permit authorizing removal of trees pursuant to this Chapter 25.11.

Yolanda Ho
Land Use Committee
May 4, 2023
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C. Payments shall be calculated pursuant to a rule promulgated by the Director. **For Tier 1 and Tier 2 trees that are below 24 inches DSH, the payment shall be equal to the amount for a Tier 1 or Tier 2 tree that is 24 inches DSH.**

Yolanda Ho
Land Use Committee
May 4, 2023
D1b

Amendment E6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Codify and increase in-lieu fee amount

Effect: This would codify the in-lieu payment amount to be \$4,000 or \$17.87 per square inch of tree removed, whichever is higher, and increase these amounts annually to account for inflation. It would specify that the minimum fee in lieu of planting for Tier 1 and Tier 2 trees that are below 24 inches diameter at standard height (DSH) shall be equal to the fee for a Tier 1 or Tier 2 tree that is 24 inches DSH.

The impact of this amendment on the in-lieu fee structure is illustrated in the table below. For Tier 1 and Tier 2 trees that are below 24 inches DSH, the in-lieu fee would be \$8,084.

DSH (inches)	Proposed Fee	Amendment E6	Difference
12	\$2,833	\$4,000	\$1,167
13	\$2,833	\$4,000	\$1,167
14	\$2,833	\$4,000	\$1,167
15	\$2,833	\$4,000	\$1,167
16	\$2,833	\$4,000	\$1,167
17	\$2,833	\$4,056	\$1,223
18	\$2,833	\$4,547	\$1,714
19	\$2,833	\$5,067	\$2,234
20	\$2,833	\$5,614	\$2,781
21	\$2,833	\$6,189	\$3,356
22	\$2,833	\$6,793	\$3,960
23	\$2,833	\$7,425	\$4,592
24	\$8,084	\$8,084	\$0

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.110 Off-site planting and voluntary payment in lieu

Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

Yolanda Ho
Land Use Committee
May 4, 2023
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If tree removal is approved by the Director, the applicant may elect to make a voluntary payment in lieu of tree replacement on-site as specified in this Section 25.11.110.

A. A combination of planting trees on site, planting trees off-site and/or payment in lieu is allowed, provided that the combination is consistent with the provisions of this Chapter 25.11 and the results shall be equivalent to or greater than the minimum requirements for on-site tree plantings.

B. All payments shall be paid to the Seattle Department of Construction and Inspections before the issuance of a permit authorizing removal of trees pursuant to this Chapter 25.11.

~~C. Payments shall be calculated pursuant to a rule promulgated by the Director. The payment amount shall be \$4,000 or \$17.87 per square inch of tree removed, whichever is higher. For Tier 1 and Tier 2 trees that are below 24 inches DSH, the payment shall be equal to the amount for a Tier 1 or Tier 2 tree that is 24 inches DSH. Beginning on January 1, 2024, and on January 1 of every year thereafter, the Director shall increase the payment amount commensurate with the rate of growth of the prior year's June-to-June Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bellevue area as published by the United States Department of Labor.~~

Eric McConaghy
 Land Use Committee
 May 4, 2023
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Amendment E4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Increase tree replacement requirements

Effect: This would amend CB 120534 to require that tree replacement be guided by a Seattle Department of Construction and Inspections (SDCI) Director's Rule and establish minimum tree replacement requirements as shown in a table. This amendment would require SDCI to develop and adopt a new Director's Rule per Seattle Municipal Code (SMC) Section 3.06.040. SDCI would consult with the Urban Forestry Commission and the Office of Sustainability and Environment on the development and updating of the Director's Rule.

Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous or are infested by insects or pests ((in all zones)) shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be guided by a Director's Rule on replacement tree canopy cover developed and updated as needed in consultation with the Urban Forestry Commission and the Office of Sustainability and Environment and shall comply at a minimum with the specifications provided in Table A for 25.11.090 ((designed to result, upon maturity, in a canopy cover that is)) ((at least equal)) roughly proportional ((to the canopy cover prior to tree removal.)) ((Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as

Eric McConaghy
Land Use Committee
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determined by the Director, preference for off-site replacement shall be on public property.))

When off-site replacement is proposed, preference for the location shall be on public property.

<u>Table A for 25.11.090 Tree Replacement Requirements</u>	
<u>Size of removed tree</u>	<u>Required tree replacement</u>
<u>36 inches DSH or greater</u>	<u>Replacement trees with total combined DSH of 36 inches or greater; example: 6 replacement trees averaging 6 inches DSH (6 x 6 = 36)</u>
<u>24 to 36 inches DSH</u>	<u>Replacement trees with total combined DSH of 24 inches or greater; example: 4 replacement trees averaging 6 inches DSH (4 x 6 = 24)</u>
<u>12 to 24 inches DSH</u>	<u>Replacement trees with total combined DSH of 12 inches or greater; example: 2 replacement trees averaging 6 inches DSH (2 x 6 = 12)</u>

Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

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Amendment E1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Relationship to Green Factor requirements

Effect: This amendment would continue the Seattle Department of Construction and Inspections' current practice of allowing replacement trees that are required to mitigate for tree removal to be counted toward Seattle Green Factor landscaping requirements. The Seattle Green Factor is a flexible landscaping requirement that provides scores to different landscaping elements based on the benefits that they provide. Multipliers weight the different landscape elements. For example, the planting of one new small tree is counted at 22.5 square feet. The planting of a new large tree is worth 315 square feet. The retention of an existing tree is counted at 20 square feet per inch of trunk diameter at standard height (4.5 feet above grade). This amendment clarifies that replacement trees planted on site shall be counted towards the Seattle Green Factor score.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

* * *

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous or are infested by insects or pests ((in all zones)) shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is ((at least equal)) roughly proportional to the canopy cover prior to tree removal. ((Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off site replacement shall be on public property.)) When on-site

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replacement is proposed, such trees count toward the Green Factor under SMC 23.86.019. When off-site replacement is proposed, preference for the location shall be on public property.

~~((B. No tree replacement is required if the tree is (1) hazardous, dead, diseased, injured, or in a declining condition with no reasonable assurance of regaining vigor as determined by a registered tree service provider; or (2) proposed to be relocated to another suitable planting site as approved by the Director.))~~

B. For each relocated or required replacement tree, maintenance and monitoring is required for a five-year period. The period begins when the replacement tree is planted.

Maintenance and monitoring shall include the following:

1. Sufficient maintenance actions to ensure survival of the replacement tree:

a. When more than one replacement tree is required, 80 percent survival of new trees planted at the end of five years;

b. When one replacement tree is required, 100 percent survival of the new tree planted at the end of five years;

2. Replacement and replanting of failed trees; and

3. Photographic documentation of planting success retained for the five-year period. Submission of documentation to the Seattle Department of Construction and Inspections is not required unless requested by the Department.

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Amendment E5 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Off-site replacement in low-canopy areas

Effect: This would amend CB 120534 to require that off-site tree replacement be on public property in census tracts with tree canopy cover of 25 percent or less, according to the 2021 Seattle Tree Canopy Assessment (or successor tree canopy assessment). It would also authorize the Seattle Department of Construction and Inspections (SDCI) to promulgate a Director's Rule, in consultation with the Office of Sustainability and Environment, that would further specify locations within such census tracts for planting off-site replacement trees.

Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous or are infested by insects or pests ((in all zones)) shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is ((at least equal)) roughly proportional to the canopy cover prior to tree removal. ((Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.)) ~~When off-site replacement is proposed, preference for the location~~ Off-site tree replacement shall be on public property in census tracts with tree canopy cover of 25 percent or less, according to the 2021 Seattle Tree Canopy Assessment (or successor tree canopy assessment) with those locations

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further prioritized, to the extent practicable, by a Director's Rule completed in consultation with the Director of the Office of Sustainability and Environment or their designee.

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Amendment E8 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Require replacement of failed replacement trees for ten years

Effect: This amendment would require that relocated and replacement trees be maintained and replaced for ten years, rather than for five years after planting as proposed by CB 120534. Additionally, it would require that all such trees be replaced and remove the allowance for failure of up to 20 percent of required replacement trees within the five-year time period if more than one replacement tree is required.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

* * *

25.11.090 Tree replacement, maintenance, and site restoration

* * *

B. For each relocated or required replacement tree, maintenance and monitoring is required for a ~~five-year~~ ten-year period. The period begins when the ~~relocated or required~~ replacement tree is planted. Maintenance and monitoring shall include the following:

1. Sufficient maintenance actions to ensure survival of ~~the each relocated or~~

~~required~~ replacement tree;

~~a. When more than one replacement tree is required, 80 percent survival of~~

~~new trees planted at the end of five years;~~

~~b. When one replacement tree is required, 100 percent survival of the new~~

~~tree planted at the end of five years;~~

Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

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2. Replacement and replanting of failed trees; and

3. Photographic documentation of planting success ~~for each relocated or required replacement tree, which shall be retained by the owner of the property for the five-year~~ ~~ten-year period~~. Submission of documentation to the Seattle Department of Construction and Inspections is not required unless requested by the Department.

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Amendment E11 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Relocated and replacement tree locations

Effect: This would require that the Seattle Department of Construction and Inspections (SDCI) make the locations of relocated and replacement trees planted per Section 25.11.090 available via a publicly-accessible online mapping tool by March 31, 2024.

This matches the deadline for SDCI to make public notices for commercial tree work available through an online map included in Ordinance 126777 (modifying tree service provider requirements) and is intended to help registered tree service providers avoid violating the prohibition against removing relocated and replacement trees.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance 126777, is amended as follows:

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous or are infested by insects or pests ((in all zones)) shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is ((at least equal)) roughly proportional to the canopy cover prior to tree removal. ((Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.)) When off-site replacement is proposed, preference for the location shall be on public property.

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~~((B. No tree replacement is required if the tree is (1) hazardous, dead, diseased, injured, or in a declining condition with no reasonable assurance of regaining vigor as determined by a registered tree service provider; or (2) proposed to be relocated to another suitable planting site as approved by the Director.))~~

B. For each relocated or required replacement tree, maintenance and monitoring is required for a five-year period. The period begins when the replacement tree is planted.

Maintenance and monitoring shall include the following:

1. Sufficient maintenance actions to ensure survival of the replacement tree:

a. When more than one replacement tree is required, 80 percent survival of new trees planted at the end of five years;

b. When one replacement tree is required, 100 percent survival of the new tree planted at the end of five years;

2. Replacement and replanting of failed trees; and

3. Photographic documentation of planting success retained for the five-year period. Submission of documentation to the Seattle Department of Construction and Inspections is not required unless requested by the Department.

C. The locations of replacement and relocated trees shall be available to the public on a City web page through an online mapping tool by March 31, 2024.

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Amendment F1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Exempt fruit trees and hedges from reportable work

Effect: This would amend CB 120534 to modify the definition of “reportable work” to state that pruning of trees cultivated for fruit production and maintenance of hedges are not included. This would allow other landscaping professionals that are not tree service providers, such as landscapers and horticulturalists, to conduct these types of work without having to meet the registration requirements with the Seattle Department of Construction and Inspections or provide public notice.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.130 Definitions

“Reportable work” means removal of live branches 2 inches in diameter or greater; pruning or removal of live roots 2 inches in diameter or greater; or removal of live branches constituting 15 percent or more of a tree’s foliage-bearing area. Pruning of trees cultivated for fruit production and maintenance of hedges is not reportable work.

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Amendment F2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Penalties for unregistered tree service providers

Effect: This would increase the penalties for tree service providers that conduct commercial tree work without first registering with the City. The Seattle Department of Construction and Inspections (SDCI) has promulgated Director’s Rule (DR) 08-2022, which provides additional information about SDCI’s registry and includes a \$5,000 penalty for violations of the tree service provider registry provisions. This would increase the penalty amount for unregistered tree service providers to \$10,000 per violation beginning on January 1, 2024 (assuming DR 08-2022 is not updated before then). The delayed implementation is intended to provide time for the City to conduct outreach to tree service providers operating in Seattle.

As previously discussed during deliberations about Ordinances 126554 and 126777 related to the tree service provider registration requirements, national data show that workers in the landscaping industry skew disproportionately Hispanic or Latino – 44 percent of workers in landscaping services are Hispanic or Latino whereas workers who are Hispanic or Latino represent 19 percent of the total U.S. workforce. Thus, increasing penalties for businesses in this industry could result in disproportionately negative impacts to Hispanic or Latino workers unless this change is also accompanied by a rigorous outreach effort to these businesses and their workers.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.120 Enforcement and penalties

A. Authority

2. The Director shall remove a registered tree service provider from the public registry for a period of one year after that registered tree service provider has been issued two

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notices of violation. Following the one-year removal period, the tree service provider may submit an application to be added to the public registry. Beginning on January 1, 2024, penalties shall be double the amount set by Director's rule for a violation of Section 25.11.100 for tree service providers that conduct commercial tree work without first registering with the City.

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Amendment F3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Removal from tree service provider registry

Effect: This would specify that registered tree service providers that are issued two notices of violation for illegal removal of any regulated tree (i.e., Tiers 1 through 4) within a one-year period will be removed from the Seattle Department of Construction and Inspections’ registry. This is intended to prevent the removal of a tree service provider from the registry for clerical or other procedural errors that might result in a notice of violation.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.120 Enforcement and penalties

A. Authority

2. The Director shall remove a registered tree service provider from the public registry for a period of one year after that registered tree service provider has been issued two notices of violation for the removal of a Tier 1, Tier 2, Tier 3, or Tier 4 tree in violation of this Chapter 25.11 within a period of one year. Following the one-year removal period, the tree service provider may submit an application to be added to the public registry.

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Amendment F4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Modification of definition for reportable work

Effect: This would amend CB 120534 to increase the size threshold for reportable work that triggers the public notice requirement for registered tree service providers. Specifically, this would increase the branch size threshold from two inches to four inches and increase the amount of removal of a tree’s canopy from 15 percent to 25 percent.

1. Amend Section 7 of CB 120534, as follows:

Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance

126777, is amended as follows:

25.11.130 Definitions

“Reportable work” means removal of live branches ~~2~~ 4 inches in diameter or greater; pruning or removal of live roots 2 inches in diameter or greater; or removal of live branches constituting ~~15~~ 25 percent or more of a tree’s foliage-bearing area.

Note: Multiple amendments may amend the same sections or subsections. Following Land Use Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.

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Amendment G1 to Version 1 to CB 120534 – Tree Protection Updates

Sponsor: Councilmember Pedersen

Street tree requirements in Neighborhood Residential and Commercial zones

Effect: This amendment would (1) add a new requirement for street trees when adding a new accessory dwelling unit (ADU) in Neighborhood Residential zones; and (2) change the proposed threshold for exceptions to street tree requirements in Commercial zones for expansion of a structure by 1,000 square feet or less to 500 square feet or less in subsection 23.47A.016.B.2.b.

Neighborhood Residential (NR) zones: Currently, street trees are required to be planted in the street right-of-way (ROW) only if a new principal structure is added to the lot. This amendment would add a street tree requirement when adding a new ADU to the lot if the new ADU requires expanding an existing structure by 500 square feet or more or adding a new structure with a footprint of 500 square feet or more. This may incrementally increase the costs to construct a new ADU in NR zones.

Commercial Zones: Currently, street trees are required to be planted in the ROW for construction of any development except if the development is: a modification to a new single-family dwelling unit, a change in use or establishment of a temporary or intermittent use, an expansion of a structure by 1,000 square or more, or expansion of a surface area parking. As introduced, CB 120534 would require, in Commercial zones, planting of street trees when any expansion of 1,000 square feet or larger is planned for an existing structure (i.e., additions 1,000 square feet or more would not be exempt from street tree requirements). This amendment would lower that threshold to 500 square feet.

1. Amend Section 2 to CB 120534 as follows:

Section 1. Section 23.44.020 of the Seattle Municipal Code, last amended by Ordinance 126509, is amended as follows:

23.44.020 Tree requirements

* * *

C. Street tree requirements ((~~in RSL zones~~))

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1. Street trees are required (~~(in RSL zones)~~) for development that would add one or more principal or accessory dwelling units on a lot, except as provided in subsection ~~((23.43.020.C.2))~~ 23.44.020.C.2 and Section 23.53.015. Existing street trees shall be retained unless the Director of Transportation approves their removal. The Director, in consultation with the Director of Transportation, shall determine the number, type, and placement of additional street trees to be provided in order to:

- a. Improve public safety;
- b. Promote compatibility with existing street trees;
- c. Match trees to the available space in the planting strip;
- d. Maintain and expand the urban forest canopy;
- e. Encourage healthy growth through appropriate spacing;
- f. Protect utilities; and
- g. Allow access to the street, buildings, and lot.

2. Exceptions to street tree requirements

a. If a lot borders an unopened right-of-way, the Director may reduce or waive the street tree requirement along that right-of-way as a Type I decision if, after consultation with the Director of Transportation, the Director determines that the right-of-way is unlikely to be opened or improved.

b. Street trees are not required for any of the following:

1) Expanding an existing structure by 500 square feet or less to establish a new ADU.

2) Adding a new detached ADU with a footprint of 500 square feet or less.

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~~((b))~~ c. If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot setback shall be planted with street trees along the street lot line that abuts the required front yard, or landscaping other than trees shall be provided in the planting strip, subject to approval by the Director of the Seattle Department of Transportation. If, according to the Director of the Department of Transportation, a 5-foot setback or landscaped planting strip is not feasible, the Director may reduce or waive this requirement as a Type I decision.

* * *

2. Amend Section 2 to CB 120534 as follows:

Section 2. Section 23.47A.016 of the Seattle Municipal Code, last amended by Ordinance 125603, is amended as follows:

23.47A.016 Landscaping and screening standards

B. Street tree requirements

1. Street trees are required when any development is proposed, except as provided in subsection 23.47A.016.B.2 and Section 23.53.015. Existing street trees shall be retained unless the Director of Transportation approves their removal. The Director, in consultation with the Director of Transportation, will determine the number, type, and placement of street trees to be provided to:

- a. ~~((to improve))~~ Improve public safety;
- b. ~~((to promote))~~ Promote compatibility with existing street trees;
- c. ~~((to match))~~ Match trees to the available space in the planting strip;
- d. ~~((to maintain))~~ Maintain and expand the urban forest canopy;
- e. ~~((to encourage))~~ Encourage healthy growth through appropriate spacing;
- f. ~~((to protect))~~ Protect utilities; and

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g. ~~((to allow))~~ Allow access to the street, buildings, and lot.

2. Exceptions to street tree requirements

a. If a lot borders an unopened right-of-way, the Director may reduce or waive the street tree requirement along that street if, after consultation with the Director of Transportation, the Director determines that the street is unlikely to be opened or improved.

b. Street trees are not required for any of the following:

1) ~~((establishing, constructing or modifying))~~ Modifying principal single-family dwelling units, except as provided in subsection 23.47A.016.B.3; or

2) ~~((changing))~~ Changing a use, or establishing a temporary use or intermittent use; or

3) ~~((expanding))~~ Expanding a structure by ~~((1,000))~~ 500 square feet or less; or

4) ~~((expanding))~~ Expanding surface area parking by less than ten percent in area and less than ten percent in number of spaces.

3. When an existing structure is proposed to be expanded by more than ~~((1,000))~~ 500 square feet, one street tree is required for each 500 square feet over the first ~~((1,000))~~ 500 square feet of additional structure, up to the maximum number of trees that would be required for new construction.