



SEATTLE CITY COUNCIL

Land Use Committee

Agenda

Friday, April 7, 2023

2:00 PM

Special Meeting

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Dan Strauss, Chair
Tammy J. Morales, Vice-Chair
Teresa Mosqueda, Member
Sara Nelson, Member
Alex Pedersen, Member

Chair Info: 206-684-8806; Dan.Strauss@seattle.gov

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Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/land-use>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Strauss at Dan.Strauss@seattle.gov

Please Note: Times listed are estimated

A. Call To Order**B. Approval of the Agenda****C. Public Comment****D. Items of Business**

1. [CB 120534](#) **AN ORDINANCE** relating to tree protection; balancing the need for housing production and increasing tree protections; and amending Sections 23.44.020, 23.47A.016, 23.48.055, 23.76.004, 23.76.006, and Chapter 25.11 of the Seattle Municipal Code.

Attachments: [Full Text: CB 120534](#)

Supporting

Documents:

[Summary and Fiscal Note](#)

[Summary Att 1 - Expanded Summary of Code Changes](#)

[Director's Report](#)

[Draft Directors Rule 2023-XX - Tier 2 Trees](#)

[Draft Directors Rule 2023-XX - PIL](#)

[2023 Tree Hearing Schedule](#)

[Central Staff Memo](#)

[Central Staff Presentation \(4/7/23\)](#)

[Tree Protection Presentation \(4/7/23\)](#)

Briefing and Discussion (60 minutes)

Presenters: Mike Podowski and Chanda Emery, Department of Construction and Inspections (SDCI)

2. [CB 120535](#) **AN ORDINANCE** amending Ordinance 126725, which adopted the 2023 Budget; changing appropriations for various departments and budget control levels, and from various funds; and creating positions; all by a 3/4 vote of the City Council.

Supporting
Documents:

[Summary and Fiscal Note](#)

Briefing and Discussion (60 minutes)

Presenters: Mike Podowski and Chanda Emery, SDCI

E. Adjournment



Legislation Text

File #: CB 120534, **Version:** 1

AN ORDINANCE relating to tree protection; balancing the need for housing production and increasing tree protections; and amending Sections 23.44.020, 23.47A.016, 23.48.055, 23.76.004, 23.76.006, and Chapter 25.11 of the Seattle Municipal Code.

The Full Text is provided as an attachment.

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to tree protection; balancing the need for housing production and increasing tree protections; and amending Sections 23.44.020, 23.47A.016, 23.48.055, 23.76.004, 23.76.006, and Chapter 25.11 of the Seattle Municipal Code.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE 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~~))

1. Street trees are required ((~~in RSL zones~~)) for development that would add one or more principal 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. 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.

* * *

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
- 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 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 square feet, one street tree is required for each 500 square feet over the first 1,000 square feet of

additional structure, up to the maximum number of trees that would be required for new construction.

4. 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 property line or landscaping other than trees shall be provided in the planting strip, subject to approval by the Director of Transportation. If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is not feasible, the Director of the Seattle Department of Construction and Inspections may reduce or waive this requirement.

* * *

Section 3. Section 23.48.055 of the Seattle Municipal Code, last amended by Ordinance 125792, is amended as follows:

23.48.055 Landscaping and screening standards

* * *

D. Street trees requirements

1. Street trees are required when any development is proposed, except as provided in subsection 23.48.055.D.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

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 23.48.055.D.3;

2) Changing a use, or establishing a temporary use or intermittent use;

3) Expanding a structure by 1,000 square feet or less; or

4) 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 square feet, one street tree is required for each 500 square feet over the first 1,000 square feet of additional structure, up to the maximum number of trees that would be required for new construction.

4. 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 property line or landscaping other than trees shall be provided in the planting strip, subject to approval by the Director of Transportation.

1 If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is
2 not feasible, the Director may reduce or waive this requirement.

3 Section 4. Section 23.76.004 of the Seattle Municipal Code, last amended by Ordinance
4 126685, is amended as follows:

5 **23.76.004 Land use decision framework**

6 A. Land use decisions are classified into five categories. Procedures for the five different
7 categories are distinguished according to who makes the decision, the type and amount of public
8 notice required, and whether appeal opportunities are provided. Land use decisions are generally
9 categorized by type in Table A for 23.76.004.

10 B. Type I and II decisions are made by the Director and are consolidated in Master Use
11 Permits. Type I decisions are decisions made by the Director that are not appealable to the
12 Hearing Examiner. Type II decisions are discretionary decisions made by the Director that are
13 subject to an administrative open record appeal hearing to the Hearing Examiner; provided that
14 Type II decisions enumerated in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f,
15 and 23.76.006.C.2.g, and SEPA decisions integrated with them as set forth in subsection
16 23.76.006.C.2.o, shall be made by the Council when associated with a Council land use decision
17 and are not subject to administrative appeal. Type III decisions are made by the Hearing
18 Examiner after conducting an open record hearing and not subject to administrative appeal. Type
19 I, II, or III decisions may be subject to land use interpretation pursuant to Section 23.88.020.

20 * * *

**Table A for 23.76.004
LAND USE DECISION FRAMEWORK¹**

Director's and Hearing Examiner's Decisions Requiring Master Use Permits TYPE I Director's Decision (Administrative review through land use interpretation as allowed by Section 23.88.020 ²)	
* * *	
*	Building height increase for minor communication utilities in downtown zones
*	<u>Application of tree provisions pursuant to Chapter 25.11</u>
*	Other Type I decisions that are identified as such in the Land Use Code
* * *	
Footnotes for Table A for 23.76.004 ¹ Sections 23.76.006 and 23.76.036 establish the types of land use decisions in each category. This Table A for 23.76.004 is intended to provide only a general description of land use decision types. ² Type I decisions may be subject to administrative review through a land use interpretation pursuant to Section 23.88.020. ³ Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit, are appealable to the Shorelines Hearings Board along with all related environmental appeals.	

Section 5. Section 23.76.006 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

23.76.006 Master Use Permits required

A. Type I, II, and III decisions are components of Master Use Permits. Master Use Permits are required for all projects requiring one or more of these decisions.

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;
2. Establishment or change of use for uses permitted outright, uses allowed under Section 23.42.038, temporary relocation of police and fire stations for 24 months or less, transitional encampment interim use, temporary uses for four weeks or less not otherwise permitted in the zone, and renewals of temporary uses for up to six months, except temporary uses and facilities for light rail transit facility construction;

3. The following street use approvals:

a. Curb cut for access to parking, whether associated with a development proposal or not;

b. Concept approval of street improvements associated with a development proposal, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving;

c. Structural building overhangs associated with a development proposal;

d. Areaways associated with a development proposal;

4. Lot boundary adjustments;

5. Modification of the following features bonused under Title 24:

a. Plazas;

b. Shopping plazas;

c. Arcades;

d. Shopping arcades; and

e. Voluntary building setbacks;

6. Determinations of Significance (determination that an Environmental Impact Statement is required) for Master Use Permits and for building, demolition, grading, and other construction permits (supplemental procedures for environmental review are established in Chapter 25.05, Environmental Policies and Procedures), except for Determinations of Significance based solely on historic and cultural preservation;

7. Discretionary exceptions for certain business signs authorized by subsection 23.55.042.D;

8. Waiver or modification of required right-of-way improvements;

- 1 9. Reasonable accommodation;
- 2 10. Minor amendment to Major Phased Development Permit;
- 3 11. Streamlined design review decisions pursuant to Section 23.41.018 if no
- 4 development standard departures are requested pursuant to Section 23.41.012, and design review
- 5 decisions in an MPC zone if no development standard departures are requested pursuant to
- 6 Section 23.41.012;
- 7 12. Shoreline special use approvals that are not part of a shoreline substantial
- 8 development permit;
- 9 13. Determination that a project is consistent with a planned action ordinance,
- 10 except as provided in subsection 23.76.006.C;
- 11 14. Decision to approve, condition, or deny, based on SEPA policies, a permit for
- 12 a project determined to be consistent with a planned action ordinance;
- 13 15. Determination of requirements according to subsections 23.58B.025.A.3.a,
- 14 23.58B.025.A.3.b, 23.58B.025.A.3.c, 23.58C.030.A.2.a, 23.58C.030.A.2.b, and
- 15 23.58C.030.A.2.c;
- 16 16. Decision to increase the maximum height of a structure in the DOC2 500/300-
- 17 550 zone according to subsection 23.49.008.F;
- 18 17. Decision to increase the maximum FAR of a structure in the DOC2 500/300-
- 19 550 zone according to subsection 23.49.011.A.2.n;
- 20 18. Minor revisions to an issued and unexpired MUP that was subject to design
- 21 review, pursuant to subsection 23.41.008.G;
- 22 19. Building height departures for minor communication facilities in downtown
- 23 zones, pursuant to Section 23.57.013; ((and))

20. Application of tree provisions pursuant to Chapter 25.11; and

21. Other Type I decisions.

* * *

Section 6. The following sections of Chapter 25.11 of the Seattle Municipal Code are recodified:

25.11.020 (Definitions) to 25.11.130

25.11.030 (Exemptions) to 25.11.020

25.11.100 (Enforcement and penalties) to 25.11.120

25.11.095 (Tree service provider registration) to 25.11.100

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

25.11.010 Purpose and intent ((:))

~~((It is the))~~ The purpose and intent of this ~~((chapter))~~ Chapter 25.11 is to:

A. Implement the goals and policies of Seattle's Comprehensive Plan, especially those in the Environment Element dealing with protection of the urban forest while balancing other citywide priorities such as housing production;

B. ~~((To preserve))~~ Preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees;

C. ~~((To protect))~~ Protect trees on undeveloped sites that are not undergoing development by not allowing tree removal except in hazardous situations, to prevent premature loss of trees so their retention may be considered during the development review and approval process;

1 D. ~~((To reward))~~ Facilitate tree protection efforts by granting flexibility for certain
2 development standards, and ~~((to))~~ promote site planning and horticultural practices that are
3 consistent with the reasonable use of property;

4 E. ~~((To especially protect exceptional))~~ Protect Tier 2 trees and other trees that because of
5 their unique historical, ecological, or aesthetic value constitute an important community
6 resource~~((; to))~~ , and require flexibility in design to protect ~~((exceptional))~~ these trees;

7 F. ~~((To provide))~~ Provide the option of modifying development standards to protect
8 ~~((trees over two (2) feet in diameter in the same manner that modification of development~~
9 ~~standards is required for exceptional))~~ Tier 2 trees;

10 G. ~~((To encourage))~~ Encourage retention of trees ~~((over six (6) inches in diameter))~~
11 through the design review and other processes for larger projects, through education concerning
12 the value of retaining existing trees, and by not permitting their removal on undeveloped land
13 prior to development permit review~~((;))~~; and

14 H. Support the goals and policies of the City of Seattle Urban Forest Management Plan,
15 specifically those related to existing Citywide policies that commit the City to realize its vision
16 of racial equity and environmental justice.

17 **25.11.020 Exemptions**

18 The following trees and tree activities are exempt from the provisions of this Chapter 25.11:

19 A. Normal pruning and maintenance;

20 B. Abatement of hazardous tree or tree part as approved by the Director prior to removal
21 in accordance with Sections 25.11.040 and 25.11.100, except that commercial tree work on a
22 hazardous tree must comply with the requirements of Section 25.11.100;

1 C. Emergency (~~((activities necessary to remedy an immediate threat to public health,~~
2 ~~safety, or welfare))~~ actions pursuant to Section 25.11.030, except that tree service providers
3 conducting commercial tree work on these trees must comply with Section 25.11.100;

4 D. Tree removal undertaken as part of tree and vegetation management and revegetation
5 of public parkland and open spaces by responsible public agencies or departments;

6 E. (~~((Tree removal approved as part of an Environmentally Critical Area tree and~~
7 ~~vegetation plan as provided in Section 25.09.070, except that commercial tree work must comply~~
8 ~~with the requirements of Section 25.11.095;))~~ Trees located within an Environmentally Critical
9 Area, except that tree service providers conducting commercial tree work on these trees must
10 comply with the tree service provider registry requirements of Section 25.11.100;

11 (~~((F. Tree removal shown as part of an issued building or grading permit as provided in~~
12 ~~Sections 25.11.060, 25.11.070, and 25.11.080, except that commercial tree work must comply~~
13 ~~with the requirements of Section 25.11.095;~~

14 ~~G.))~~ (~~((Removal of street trees as))~~ F. Trees regulated by Title 15; (~~and~~

15 ~~H. Additions to existing structures, shown as part of an issued building or grading permit~~
16 ~~as provided in Sections 25.11.060, 25.11.070 and 25.11.080.))~~

17 G. Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and
18 payment in lieu of replanting undertaken as part of redevelopment that meets the planned action
19 ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section 23.75.160;

20 H. Replanting and payment in lieu of replanting undertaken as part of development by
21 permanent supportive housing providers meeting the definition in Section 23.84A.032;

22 I. Tree removal or commercial tree work as approved by the Director prior to removal in
23 accordance with a recommendation from a certified arborist for an insect and/or pest infestation

1 that does not meet a high risk hazard, except that tree service providers conducting commercial
2 tree work on these trees must comply with the tree service provider registry requirements of
3 Section 25.11.100; and

4 J. Tree removal or commercial tree work to comply with the Americans with Disabilities
5 Act; except that tree service providers conducting commercial tree work on these trees must
6 comply with the tree service provider registry requirements of Section 25.11.100.

7 **25.11.030 Emergency actions**

8 Emergency actions may be undertaken without obtaining a permit in advance from the Seattle
9 Department of Construction and Inspections. Prior to an emergency action, a registered tree
10 service provider must determine if there is an extreme risk of imminent failure for the tree or tree
11 part using the TRAQ method in its most current form. Any person undertaking an emergency
12 action must complete the following:

13 A. Notify the Director via email or through the Seattle Department of Construction and
14 Inspections' website before beginning the emergency action;

15 B. Submit a hazardous tree removal application to the Seattle Department of Construction
16 and Inspections within ten calendar days of the emergency action; otherwise, the responsible
17 party may be subject to enforcement including fines and penalties in accordance with Section
18 25.11.120; and

19 C. Include all documentation of tree status, including the TRAQ report and photographs
20 as part of the retroactive permit submission.

21 ~~((25.11.040 Restrictions on tree removal~~

22 ~~A. Tree removal or topping is prohibited in the following cases, except as provided in~~
23 ~~Section 25.11.030, or where the tree removal is required for the construction of a new structure,~~

~~retaining wall, rockery, or other similar improvement that is approved as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080:~~

~~1. All trees 6 inches or greater in diameter, measured 4.5 feet above the ground, on undeveloped lots;~~

~~2. Exceptional trees on undeveloped lots; and~~

~~3. Exceptional trees on lots in Lowrise, Midrise, commercial, and neighborhood residential zones.~~

~~B. Limits on Tree Removal. In addition to the prohibitions in subsection 25.11.040.A, no more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may be removed in any one year period on lots in Lowrise, Midrise, commercial, and neighborhood residential zones, except when the tree removal is required for the construction of a new structure, retaining wall, rockery, or other similar improvement that is approved as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080.~~

~~C. Tree removal in Environmentally Critical Areas shall comply with the provisions of Section 25.09.070:))~~

25.11.040 Hazardous tree removal

A. For any tree regulated pursuant to this Section 25.11.040, approval from the Seattle Department of Construction and Inspections is required in advance of hazardous tree removal unless it is an emergency action pursuant to Section 25.11.030.

B. Trees subject to the provisions of this Chapter 25.11 may be removed as hazardous, if those trees are rated by a registered tree service provider as an Extreme or High Risk hazard. according to the following:

1 1. A tree risk assessment, prepared by a registered tree service provider, assesses
2 the risk of the tree(s) as one of the following:

3 a. Extreme Risk. This category applies to trees in which failure is
4 imminent and there is a high likelihood of impacting a target, and the consequences of the failure
5 are severe.

6 b. High Risk. This category applies to trees in which consequences are
7 significant and likelihood is very likely or likely, or when consequences are severe and
8 likelihood is likely.

9 c. Moderate Risk. This category applies to trees in which consequences
10 are minor and likelihood is very likely or likely, or when likelihood is somewhat likely and the
11 consequences are significant or severe.

12 d. Low Risk. This category applies to trees in which consequences are
13 negligible and likelihood is unlikely; or when consequences are minor and likelihood is
14 somewhat likely;

15 2. A potential target includes permanent structures or an area of moderate to high
16 use;

17 3. If a potential target does not exist, applicants may be limited to routine pruning
18 and maintenance to mitigate hazards;

19 4. Assessment of Extreme and High Risk trees:

20 a. If a tree is assessed as a High Risk, then the Director may authorize
21 hazard pruning to mitigate the risk rather than removing the entire tree; or

1 b. If the tree is assessed as an Extreme or High Risk and mitigation of the
2 risk through pruning or moving of potential targets is not feasible, then the Director may
3 designate the tree as a hazardous tree and allow complete removal; and

4 5. The assessment of other risk categories applicable to regulated trees shall be at
5 the discretion of the Director.

6 C. Tier 1, Tier 2, and Tier 3 trees must be replaced pursuant to Section 25.11.090 when
7 approved for removal as hazardous.

8 ~~((25.11.050 General Provisions for exceptional tree determination and tree protection area~~
9 ~~delineation in Neighborhood Residential, Lowrise, Midrise, and Commercial zones.~~

10 ~~A. Exceptional trees and potential exceptional trees shall be identified on site plans and~~
11 ~~exceptional tree status shall be determined by the Director according to standards promulgated~~
12 ~~by the Seattle Department of Construction and Inspections.~~

13 ~~B. Tree protection areas for exceptional trees shall be identified on site plans. Applicants~~
14 ~~seeking development standard waivers to protect other trees greater than 2 feet in diameter~~
15 ~~measured 4.5 feet above the ground shall also indicate tree protection areas on site plans. The~~
16 ~~basic tree protection area shall be the area within the drip line of the tree. The tree protection area~~
17 ~~may be reduced if approved by the Director according to a plan prepared by a registered tree~~
18 ~~service provider. Such reduction shall be limited to 1/3 of the area within the outer half of the~~
19 ~~area within the drip line. In no case shall the reduction occur within the inner root zone. In~~
20 ~~addition, the Director may establish conditions for protecting the tree during construction within~~
21 ~~the feeder root zone. (See Exhibit 25.11.050 B.)~~

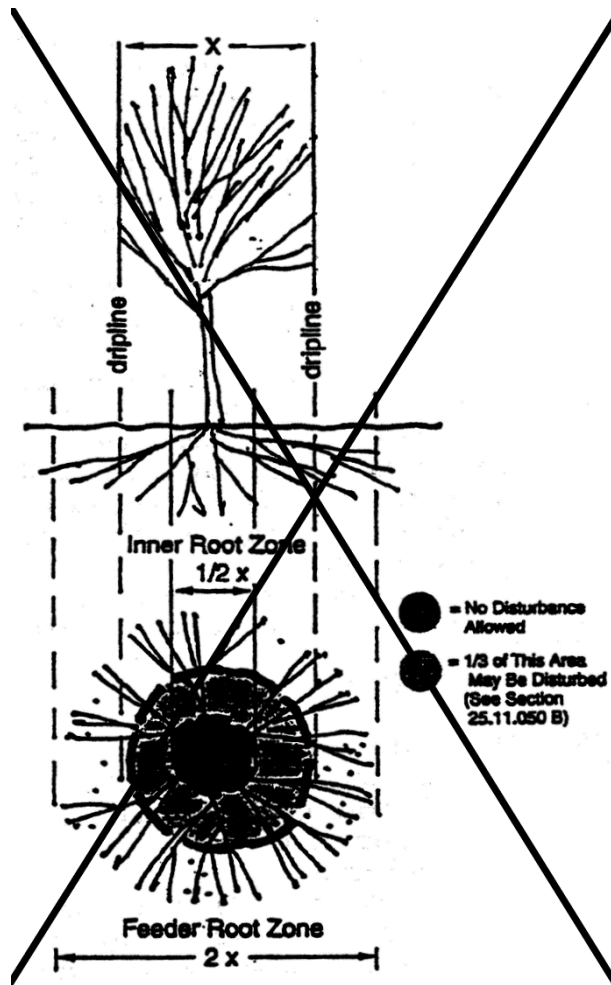


Exhibit 25.11.050B

C. If development standards have been modified according to the provisions of this Chapter 25.11 to avoid development within a designated tree protection area, that area shall remain undeveloped for the remainder of the life of the building, and a permanent covenant stating this requirement shall be recorded in the King County Recorder's Office.

D. The Director may require a tree protection report by a registered tree service provider who provides the following information:

1. Tree evaluation with respect to its general health, damage, danger of falling, proximity to existing or proposed structures, and/or utility services;

~~2. Evaluation of the anticipated effects of proposed construction on the viability of the tree;~~

~~3. A hazardous tree assessment, if applicable;~~

~~4. Plans for supervising and/or monitoring implementation of any required tree protection or replacement measures; and~~

~~5. Plans for conducting post construction site inspection and evaluation.~~

~~E. The Director may condition Master Use Permits or Building Permits to include measures to protect trees(s) during construction, including within the feeder root zone.))~~

25.11.050 General provisions for regulated tree categories

A. The removal or topping of the following trees is prohibited, except as provided in Section 25.11.020 and as performed in accordance with Sections 25.11.030 and 25.11.040:

1. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on undeveloped lots in all zones;

2. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on developed lots in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones, except as allowed in subsection 25.11.050.B;

3. When development is proposed, in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones:

a. Tier 1 trees may not be removed unless in emergency situations or unless they are hazardous as provided in Sections 25.11.030 and 25.11.040;

b. Tier 2 trees may not be removed except as permitted under Sections 25.11.070 and 25.11.080; and

c. Tier 3 and Tier 4 trees may be removed as part of a development permit.

B. When no development is proposed, no more than two Tier 4 trees may be removed in any three-year period in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones, and no more than three Tier 3 and Tier 4 trees may be removed in any one-year period in all other zones.

C. Relocated and required replacement trees included in an approved plan set may not be removed, unless removal is approved by a future permit.

Table A for 25.11.050

Tree related activities on developed lots including but not limited to removal and topping by tree category

<u>Tree category</u>	<u>Not part of a permit application¹</u>	<u>During development – Part of a permit application</u>
<u>Tier 1</u> <u>Includes trees designated as heritage trees</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>
<u>Tier 2</u> <u>Includes trees 24 inches at DSH or greater, tree groves, and specific tree species as provided by Director's Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 3</u> <u>Includes trees 12 inches at DSH or greater but less than 24 inches at DSH that are not considered Tier 2 trees as provided by Director's Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as provided in subsections 25.11.050.B and 25.11.050.C</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 4</u> <u>Includes trees 6 inches at DSH but</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as</u>	<u>Approval for removal is part of overall development permit</u>

<u>less than 12 inches at DSH</u>	<u>provided in subsections 25.11.050.B and 25.11.050.C</u>	
<u>Other trees (under 6 inches DSH)</u>	<u>Not regulated, except as provided in subsection 25.11.050.C</u>	<u>Not regulated, except as provided in subsection 25.11.050.C</u>
Footnote to Table A for 25.11.050 ¹ For standards related to undeveloped lots, see subsection 25.11.050.A.		

~~((25.11.060 Tree protection on sites undergoing development in neighborhood residential zones~~

~~A. Exceptional trees~~

~~1. The Director may permit a tree to be removed only if:~~

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

~~b. Avoiding development in the tree protection area would result in a portion of the house being less than 15 feet in width.~~

~~2. Permitted extension into front or rear yards shall be limited to an area equal to the amount of the 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.~~

~~3. If the maximum lot coverage permitted on the site can be achieved without extending into either the tree protection area or required front and/or rear yards, then no such extension into required yards shall be permitted.~~

~~B. Trees over 2 feet in diameter measured 4.5 feet above the ground shall be identified on site plans. In order to protect such trees, an applicant may modify their development proposal to~~

~~extend into front and/or rear yards in the same manner as provided for exceptional trees in subsection 25.11.060.A.))~~

25.11.060 Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area delineation

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 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

1 tree protection and result in long-term retention and viability of the tree as determined by a
2 certified arborist.

3 c. Existing encroachments do not count toward the reduction.

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

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

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

12 B. Site plan requirements

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

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

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

22 4. Site plans that include modifications to development standards pursuant to the
23 provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree

1 protection area are required to be reviewed and approved by a certified arborist to determine that
2 the development shown would protect applicable trees.

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

6 C. The Director may require a tree protection report prepared by a certified arborist to
7 confirm accuracy of the tree protection area. The report must use ANSI A300 standards or their
8 successor and be prepared by a certified arborist. Tree protection evaluation and requirements
9 may include but are not limited to the following:

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

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

16 3. A hazardous tree risk assessment, if applicable;

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

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

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

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

- 5 a. Health and physical condition;
6 b. Development site constraints such as proximity to existing or proposed
7 development, access and utilities, soil conditions, and exposure to sunlight; and
8 c. Environmental conditions external to the development site such as the
9 likely occurrence of a disease or an insect infestation, a landslide, or presence of a high water
10 table.

11 D. Trees protected by covenant

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

- 15 a. Tier 1 trees that are not determined to be hazardous or in need of
16 emergency action;
17 b. Tier 2 trees that are not removed pursuant to Sections 25.11.070 or
18 25.11.080; and
19 c. Tier 3 trees that are not proposed to be removed.

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

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

4 ~~((25.11.070 Tree protection on sites undergoing development in Lowrise zones~~

5 ~~The provisions in this Section 25.11.070 apply in Lowrise zones.~~

6 A. ~~Exceptional trees~~

7 1. ~~If the Director determines that an exceptional tree is located on the lot of a~~
8 ~~proposed development, which is not a major institution use within a Major Institution Overlay~~
9 ~~zone, and the tree is not proposed to be preserved, the development shall go through streamlined~~
10 ~~design review as provided in Section 23.41.018 if the project falls below the thresholds for~~
11 ~~design review established in Section 23.41.004.~~

12 2. ~~The Director may permit the exceptional tree to be removed only if the total~~
13 ~~floor area that could be achieved within the maximum permitted FAR and height limits of the~~
14 ~~applicable Lowrise zone according to Title 23 cannot be achieved while avoiding the tree~~
15 ~~protection area through the following:~~

16 a. ~~Development standard adjustments permitted in Section 23.41.018 or~~
17 ~~the departures permitted in Section 23.41.012.~~

18 b. ~~An increase in the permitted height as follows under subsection~~
19 ~~25.11.070.A.3.~~

20 3. ~~In order to preserve an exceptional tree, the following code modifications are~~
21 ~~allowed:~~

22 a. ~~Permitted height. For a principal structure with a base height limit of 40~~
23 ~~feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may~~

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

6 ~~b. Parking reduction. A reduction in the parking quantity required by~~
7 ~~Section 23.54.015 and the standards of Section 23.54.030 may be permitted in order to protect an~~
8 ~~exceptional tree if the reduction would result in a project that would avoid the tree protection~~
9 ~~area.~~

10 ~~4. If the Director determines that an exceptional tree is located within a Major~~
11 ~~Institution Overlay zone, and the tree is not proposed to be preserved, the Director may allow~~
12 ~~removal of an exceptional tree only if:~~

13 ~~a. The proposed development is for a major institution use identified in an~~
14 ~~adopted Major Institution Master Plan; and~~

15 ~~b. The location of an exceptional tree is such that planned future physical~~
16 ~~development identified in an adopted Major Institution Master Plan cannot be sited while~~
17 ~~avoiding the tree protection area; and~~

18 ~~c. Mitigation for exceptional trees and trees over 2 feet in diameter,~~
19 ~~measured 4.5 feet above the ground, is provided pursuant to Section 25.11.090 for trees that are~~
20 ~~removed in association with development.~~

21 **B. Trees over 2 feet in diameter**

22 ~~1. Trees over 2 feet in diameter, measured 4.5 feet above the ground shall be~~
23 ~~identified on site plans.~~

~~2. In order to protect trees over 2 feet in diameter, an applicant may request and the Director may allow modification of development standards in the same manner and to the same extent as provided for exceptional trees in subsection 25.11.070.A.))~~

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 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.

3. If the maximum lot coverage permitted on the site can be achieved without extending into either the basic tree protection area or required front and/or rear yards, then no such extension into required yards shall be permitted.

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 in accordance with 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.

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 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

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

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

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

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

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

20 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
21 ~~zones~~

22 ~~The provisions in this Section 25.11.080 apply in Midrise and Commercial zones.~~

23 ~~A. Exceptional trees~~

1 ~~1. If the Director determines that an exceptional tree is located on the lot of a~~
2 ~~proposed development, which is not a major institution use within a Major Institution Overlay~~
3 ~~zone, and the tree is not proposed to be preserved, the project shall go through streamlined~~
4 ~~design review as provided in Section 23.41.018 if the project falls below the thresholds for~~
5 ~~design review established in Section 23.41.004.~~

6 ~~2. The Director may permit an exceptional tree to be removed only if the~~
7 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~
8 ~~area could not be achieved through the development standard adjustments permitted in Section~~
9 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
10 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
11 ~~in the standards of Section 23.54.030.~~

12 ~~3. If the Director determines that an exceptional tree is located within a Major~~
13 ~~Institution Overlay zone, and the tree is not proposed to be preserved, the Director may allow~~
14 ~~removal of an exceptional tree only if:~~

15 ~~a. The proposed development is for a major institution use identified in an~~
16 ~~adopted Major Institution Master Plan; and~~

17 ~~b. The location of an exceptional tree is such that planned future physical~~
18 ~~development identified in an adopted Major Institution Master Plan cannot be sited while~~
19 ~~avoiding the tree protection area; and~~

20 ~~c. Mitigation for exceptional trees and trees over 2 feet in diameter,~~
21 ~~measured 4.5 feet above the ground, is provided pursuant to Section 25.11.090 for trees that are~~
22 ~~removed in association with development.~~

23 ~~B. Trees over 2 feet in diameter measured~~

1 1. ~~Trees over 2 feet in diameter, measured 4.5 feet above the ground, shall be~~
2 ~~identified on site plans.~~

3 2. ~~In order to protect trees over 2 feet in diameter, an applicant may request and~~
4 ~~the Director may allow modification of development standards in the same manner and to the~~
5 ~~same extent as provided for exceptional trees in subsection 25.11.080.A.))~~

6 **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

7 A. Except as otherwise provided in subsection 25.11.080.B, if the Director determines
8 that a Tier 2 tree is located within a Major Institution Overlay District, and the tree is not
9 proposed to be preserved, the Director may allow removal of a Tier 2 tree only if:

10 1. The proposed development is for a major institution use identified in an
11 adopted Major Institution Master Plan; and

12 2. The location of a Tier 2 tree is such that planned future physical development
13 identified in an adopted Major Institution Master Plan cannot be sited while avoiding the tree
14 protection area; and

15 3. Mitigation for Tier 2 trees is provided pursuant to this Chapter 25.11.

16 B. To the extent a provision of a Major Institution Master Plan approved pursuant to
17 Chapter 23.69 is inconsistent with subsection 25.11.080.A, the Major Institution Master Plan
18 provision shall control application of this Chapter 25.11 within the Major Institution Overlay
19 District.

20 **25.11.090 Tree replacement, maintenance, and site restoration**

21 A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ Tier 1, Tier 2, and
22 Tier 3 trees including hazardous trees removed in association with development in all zones shall
23 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.

~~((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.

25.11.100 Tree service provider registration

1 A. Applicability

2 1. This Section 25.11.100 establishes a public registration system for tree service
3 providers operating within Seattle.

4 2. ~~((Within 120 days of May 5, 2022, the Director shall establish a tree service~~
5 ~~provider registration application process and public registry. Starting November 10, 2022, after~~
6 ~~the Director has established the application process and public registry, no))~~ No tree service
7 provider may conduct commercial tree work unless ~~((it is listed))~~ registered on the City's tree
8 service provider public registry. The Director may promulgate rules as needed to support
9 administration of the application process and public registry.

10 3. Any commercial tree work must be done by a registered tree service provider.

11 4. This Section 25.11.100 does not regulate commercial tree work under the
12 jurisdiction and oversight of the Department of Transportation, the Seattle Parks and Recreation
13 Department, the Department of Finance and Administrative Services, Seattle Public Utilities, or
14 the City Light Department.

15 B. Tree service provider registration required. A tree service provider must be registered
16 by the Director before it may conduct commercial tree work unless otherwise provided in
17 subsection 25.11.100.A. A tree service provider registration shall be valid for one year from the
18 date of issuance. The Director shall publish a registry of registered tree service providers on a
19 City web page available to the public. Registered tree service providers are required to renew
20 their registration annually. Annual registration renewals shall require submittal to the Director of
21 documentation of continued compliance with this Chapter 25.11, provided that renewal may be
22 denied pursuant to any rules administering this Section 25.11.100 or as provided in Section

25.11.120. A tree service provider registration shall be issued by the Director to each applicant meeting the following requirements:

1. Possesses a current and valid Seattle business license;
2. Has at least one employee or a person on retainer who is a currently credentialed International Society of Arboriculture (ISA) certified arborist trained and knowledgeable to conduct work in compliance with ~~((American National Standards Institute (ANSI) Standard A-300))~~ ANSI A300 standards or ~~((its))~~ their successor ~~((standard))~~;
3. Acknowledges in writing knowledge of City codes applicable to commercial tree work;
4. Is not currently under suspension from registration under Section 25.11.120 and does not have any outstanding fines or penalties related to commercial tree work activities owed to The City of Seattle;
5. Possesses a current and valid Washington State contractor registration under chapter 18.27 RCW; and
6. Possesses a current certificate of insurance with an amount of insurance coverage determined by the Director.

C. Tree service provider activities

1. Unless it is an emergency action pursuant to Section ~~((25.11.020))~~ 25.11.030, a registered tree service provider shall comply with the following public notice requirements prior to conducting commercial tree work that involves reportable work or removal of any tree 6 inches or greater ~~((DBH))~~ DSH:

a. The registered tree service provider shall provide the Director with the following information:

1 1) A brief description of the commercial tree work the registered
2 tree service provider will be conducting that identifies whether the tree meets the City's
3 definition of ~~((exceptional))~~ a Tier 2 tree;

4 2) The tree service provider's registration number; and

5 3) The permit number, if a permit is required. If no permit is
6 required, the tree service provider shall indicate that no permit is required.

7 b. The Director shall provide the public notice information required by
8 subsection 25.11.100.C.1.a to the public on a City web page at least three business days in
9 advance of reportable work and at least six business days in advance of removal of any tree 6
10 inches or greater DBH. By March 31, 2024, the web page shall provide the information through
11 an online mapping tool.

12 c. While a registered tree service provider is conducting commercial tree
13 work subject to public notice required by subsection 25.11.100.C.1.a, the tree service provider
14 shall post the public notice in a safe location at or adjacent to the commercial tree work site in a
15 manner clearly visible from the public right-of-way. The posted public notice should remain in
16 place for five days after the work has been completed.

17 2. A registered tree service provider is responsible for complying with best
18 practices applicable to the particular commercial tree work for which they are retained,
19 including:

20 a. Determination of the commercial tree work needed to justify removal or
21 pruning outside ~~((of the routine pruning operations))~~ normal pruning and maintenance in order to
22 meet the objectives of the hiring entity; and

b. Maintaining adequate supervisory control over workers conducting commercial tree work under their direct supervision.

3. If a registered tree service provider is proposing to remove a tree based on it being a hazardous tree the following requirements apply:

a. The registered tree service provider applying or preparing the report required by subsection 25.11.100.C.3.b for the hazardous tree removal permit must either have an employee or a person on retainer who is currently credentialed with an ISA Tree Risk Assessment Qualification;

b. The registered tree service provider must submit documents as required by the Director, including a brief report that summarizes the factors contributing to the tree's risk rating. This report should include information on the overall health of the tree, the dimensions and structure of the tree, and analysis of potential targets should it or major parts of it fall. When deemed necessary by the Director, the report should also include analysis of tissue samples to confirm disease or other issues concerning whether the tree poses a hazard to property or human safety;

c. If the tree does not meet the City's definition of ~~((exceptional))~~ a Tier 2 tree, the registered tree service provider that prepares the report required by subsection 25.11.100.C.3.b for the hazardous tree removal permit application may also perform the removal of the tree; and

d. If the tree meets the City's definition of ~~((exceptional))~~ a Tier 2 tree, the Director may require that the registered tree service provider or hiring entity shall engage another registered tree service provider to independently assess the tree and prepare the report required by subsection 25.11.100.C.3.b. The registered tree service provider that independently assesses

the tree and prepares the report must be different from the registered tree service provider that will perform the removal of the tree.

4. Commercial vehicles used by the registered tree service provider shall (1) clearly display the tree service provider's City-issued registration number and (2) have the name of the business to which the vehicle is registered and the business's phone number or email address permanently displayed on the left, right, and rear (where applicable) sides in letters no less than 2 inches in height.

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.

C. Payments shall be calculated pursuant to a rule promulgated by the Director.

25.11.120 Enforcement and penalties

A. Authority

1. The Director (~~((shall have))~~) has authority to enforce the provisions of this Chapter 25.11, (~~((to))~~) issue permits, impose conditions and establish penalties for violations of applicable law or rules by (~~((registered tree service providers,))~~) the responsible party, establish

administrative procedures and guidelines, conduct inspections, and prepare the forms and publish Director's Rules that may be necessary to carry out the purposes of this Chapter 25.11.

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. Following the one-year removal period, the tree service provider may submit an application to be added to the public registry.

B. Violation. It ~~((shall be))~~ is a violation of this ~~((chapter))~~ Chapter 25.11 for any person, firm, or corporation to remove, clear, or take any action detrimental to trees contrary to or in violation of any provision of this ~~((chapter))~~ Chapter 25.11. It ~~((shall be))~~ is a violation of this ~~((chapter))~~ Chapter 25.11 for any person, firm, or corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce, or otherwise procure another to violate or fail to comply with this ~~((chapter))~~ Chapter 25.11.

C. Notice of ~~((Violation-))~~ violation

1. Issuance. The Director is authorized to issue a ~~((Notice of Violation))~~ notice of violation to a responsible party, whenever the Director determines that a violation of this ~~((subtitle))~~ Chapter 25.11 has occurred or is occurring. The ~~((Notice of Violation))~~ notice of violation shall be considered an order of the Director.

2. Contents~~((:))~~

a. The ~~((Notice of Violation))~~ notice of violation shall include ~~((the following information))~~:

i. A description of the violation and the action necessary to correct it;

ii. The date of the notice; and

1 iii. A deadline by which the action necessary to correct the
2 violation must be completed.

3 b. A ~~((Notice of Violation))~~ notice of violation may be amended at any
4 time to correct clerical errors, add citations of authority, or modify the description of the
5 violation(s) or the required corrective action.

6 3. Service. The Director shall serve the notice upon a responsible party either by
7 personal service or by first class mail to the party's last known address. ~~((If the address of the~~
8 ~~responsible party is unknown and cannot be found after a reasonable search, the notice may be~~
9 ~~served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if))~~
10 If the whereabouts of the responsible party ((is)) are unknown and cannot be ascertained in the
11 exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service
12 may be accomplished by publishing the notice once each week for two consecutive weeks in the
13 City official newspaper and by posting a copy of the notice at a conspicuous place on the
14 property.

15 4. Nothing in this ~~((subtitle))~~ Chapter 25.11 shall be deemed to obligate or require
16 the Director to issue a ~~((Notice of Violation))~~ notice of violation or order prior to the initiation of
17 enforcement action by the City Attorney's Office ~~((pursuant to SMC 22.808.030.E))~~ in
18 Municipal Court.

19 D. ~~((Stop work Order))~~ Stop work order. Whenever a continuing violation of this
20 ~~((chapter))~~ Chapter 25.11 will materially impair the Director's ability to secure compliance with
21 this ~~((chapter))~~ Chapter 25.11, when the continuing violation threatens the health or safety of the
22 public, or when the continuing violation threatens or harms the environment, the Director may
23 issue a ~~((stop work))~~ stop work order specifying the violation and prohibiting any work or other

activity at the site. The posting of the ~~((stop-work))~~ stop work order on the site shall be deemed adequate notice of the ~~((stop-work))~~ stop work order. A failure to comply with a ~~((stop-work))~~ stop work order shall constitute a violation of ~~((this chapter))~~ Chapter 25.11.

E. Review by Director and ~~((Judicial Appeal.))~~ judicial appeal

1. A ~~((Notice of Violation, Director's order, or invoice))~~ notice of violation issued pursuant to this ~~((subtitle))~~ Chapter 25.11 shall be final and not subject to further appeal unless an aggrieved party requests in writing a review by the Director within ten ~~((40))~~ days after service of the ~~((Notice of Violation, order or invoice))~~ notice of violation. When the last day of the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall ~~((period shall))~~ run until ~~((five (5:00)))~~ 5 p.m. on the next business day.

2. Following receipt of a request for review, the Director shall notify the requesting party, any persons served the ~~((Notice of Violation, order or invoice,))~~ notice of violation and any person who has requested notice of the review, that the request for review has been received by the Director. Additional information for consideration as part of the review shall be submitted to the Director no later than ~~((fifteen (15)))~~ 15 days after the ~~((written request for a review is mailed))~~ Director notifies the requester of timely receipt of the request for review.

3. The Director will review the basis for issuance of the ~~((Notice of Violation, order, or invoice))~~ notice of violation and all information received by the deadline for submission of additional information for consideration as part of the review. The Director may request clarification of information received and a site visit. After the review is completed, the Director may

a. ~~Sustain the Notice of Violation, order or invoice; or~~

b. ~~Withdraw the Notice of Violation, order or invoice; or~~

1 ~~e. Continue~~) sustain, withdraw, modify, or amend the notice of violation,
2 or continue the review to a date certain for receipt of additional information(~~(; or~~

3 ~~d. Modify or amend the Notice of Violation, order, or invoice~~) .

4 4. The Director's decision (~~(shall become final)~~) is final and is not subject to
5 further appeal unless an aggrieved party appeals (~~((the decision to the Municipal Court within ten~~
6 ~~(10) days after the Director issues the decision. Appeal hearings in Municipal Court shall be de~~
7 ~~novø~~) as allowed under state law.

8 F. Referral to City Attorney for (~~(Enforcement)~~) enforcement. If a responsible party fails
9 to correct a violation or pay a penalty as required by a (~~(Notice of Violation)~~) notice of violation,
10 or fails to comply with a Director's order, the Director may refer the matter to the City
11 Attorney's Office for civil (~~(or criminal)~~) enforcement action. Judicial enforcement of a violation
12 of this (~~(subtitle)~~) Chapter 25.11 shall be by de novo review in Municipal Court.

13 G. Filing Notice or (~~(Order)~~) order. A (~~(Notice of Violation)~~) notice of violation,
14 voluntary compliance agreement, or (~~(an)~~) order issued by the Director or (~~(court)~~) Municipal
15 Court may be filed with the King County (~~(Department of Records and Elections)~~) Recorder's
16 Office.

17 H. Change of (~~(Ownership)~~) ownership. When a (~~(Notice of Violation)~~) notice of
18 violation, voluntary compliance agreement, or (~~(an)~~) order issued by the Director or (~~(court)~~)
19 Municipal Court has been filed with the King County (~~(Department of Records and Elections)~~)
20 Recorder's Office, a (~~(Notice of Violation)~~) notice of violation or an order regarding the same
21 violations need not be served upon a new owner of the property where the violation occurred. If
22 no (~~(Notice of Violation)~~) notice of violation or order is served upon the new owner, the Director
23 may grant the new owner the same number of days to comply as was given the previous owner.

The compliance period for the new owner shall begin on the date that the conveyance of title to the new owner is completed.

I. Civil ~~((Penalties.))~~ penalties

1. Any person, firm, or corporation ~~((who is))~~ responsible for the removal, topping, or other action detrimental to a tree in violation of this ~~((chapter))~~ Chapter 25.11 or any notice, decision, or order issued by the Director pursuant to this ~~((chapter))~~ Chapter 25.11 shall be subject to a civil penalty in ~~((the))~~ an amount ~~((equal to the appraised value of the tree(s) affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor))~~ as stated in a Director's Rule. If the violation is found to have been willful or malicious, conducted purposefully to improve views, increase market value, or expand development potential, or the result of negligence by a contractor or operator of construction machinery, the amount of the penalty may be trebled as punitive damages.

2. Any person who fails to comply with ~~((Section))~~ subsection 25.11.120.D shall be subject to a civil penalty in an amount not to exceed ~~((Five Hundred Dollars (\$500)))~~ \$1,000 a day.

3. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty~~((;))~~ and shall assist the City Attorney in collecting the penalty.

J. Restoration. In addition to any other remedies available, violators of this ~~((chapter))~~ Chapter 25.11 shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for:

~~((repair))~~ 1. Repair of any environmental and property damage, and restoration of the site; and

1 ~~((which results in a))~~ 2. Restored site condition that, to the greatest extent
2 practicable, equals the site condition at planting maturities that would have existed in the absence
3 of the violation(s).

4 K. Criminal ~~((Penalty-))~~ penalty

5 1. Anyone violating or failing to comply with any order issued by the Director
6 pursuant to this ~~((chapter))~~ Chapter 25.11 shall~~((;))~~ upon conviction ~~((thereof,))~~ be punished by a
7 fine of not more than ~~((One Thousand Dollars (\$1,000)))~~ \$1,000 or by imprisonment for not
8 more than ~~((ninety (90)))~~ 90 days, or by both such fine and imprisonment. Each day's violation
9 or failure to comply shall constitute a separate offense.

10 2. Anyone violating or failing to comply with any of the provisions of this
11 ~~((chapter))~~ Chapter 25.11 and who within the past five ~~((5))~~ years has had a judgment against
12 them pursuant to subsection 25.11.120.B shall upon conviction ~~((thereof,))~~ be fined in a sum not
13 to exceed ~~((Five Thousand Dollars (\$5,000)))~~ \$5,000 or by imprisonment for not more than
14 ~~((three hundred sixty four (364)))~~ 364 days, or by both such fine and imprisonment. Each day's
15 violation or failure to comply shall constitute a separate offense.

16 **25.11.130 Definitions**

17 "Commercial tree work" means any of the following actions conducted within ~~((the City~~
18 ~~of))~~ Seattle in exchange for financial compensation: reportable work; removal of any tree 6
19 inches or greater ~~((DBH))~~ DSH; and the assessment of the health or hazard risk of trees larger
20 than 6 inches ~~((DBH))~~ DSH. Normal pruning and maintenance that does not meet the definition
21 of reportable work is not commercial tree work.

“Commercial vehicle” means: (1) a “motor truck” or “truck” except a passenger car; or (2) a station wagon or van that has been permanently modified to carry no more than three seated passengers. Such vehicles shall be properly licensed as a truck.

“Diameter at ~~((breast))~~ standard height” or ~~((“DBH”))~~ “DSH” means the diameter of a tree trunk measured at 4.5 feet above ground. ~~((Diameter at breast height is equivalent to “diameter at standard height” or “DSH.”))~~

“Director” means the Director of the Seattle Department of Construction and Inspections.

“Drip line” means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree’s branch tips down to the ground. The drip line may be irregular in shape to reflect variation in branch outer limits.

“Emergency action” means any action taken to a Tier 1, Tier 2, or Tier 3 tree that has an extreme risk of imminent failure risk rating using the International Society of Arboriculture (ISA) Tree Risk Assessment Qualification (TRAQ) method, including but not limited to such actions as trimming or removal that is necessary to remedy an immediate threat to people, structures, or health and safety.

~~((“Exceptional tree” means a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections.))~~

“Feeder root zone” means an area encircling the base of a tree equal to twice the diameter of the drip line.

“Hazardous tree” means any tree or tree part that poses a high risk of damage to persons or property, and that is designated ~~((as such))~~ by the Director ~~((according to the tree hazard~~

1 ~~evaluation standards~~)) according to tree risk assessment evaluation standards established by the
2 International Society of Arboriculture.

3 “Hedge” means a line of closely-spaced trees and/or shrubs intentionally planted and/or
4 maintained along a property boundary or landscape border for privacy, screening, safety, or
5 similar function, which typically requires ongoing pruning or shearing to maintain its intended
6 function and/or reasonable use of nearby developed areas.

7 ~~((“Inner root zone” means an area encircling the base of a tree equal to one-half the~~
8 ~~diameter of the drip line.))~~

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

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

13 “Normal pruning and maintenance” means for trees, shrubs, and other woody plants
14 compliance with American National Standards Institute A300 pruning standards.

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

18 “Responsible party” means, in cases of violations, a person in control of property in fee
19 ownership or tenancy where a tree or tree protection area is located and the person or entity that
20 damaged or removed the tree. The responsible party may include the owner or owners, lessees,
21 tenants, occupants, or other persons who direct or pay for the detrimental action. The responsible
22 party may also include the person, partnership, or corporation who violated the provisions of this
23 Chapter 25.11.

1 “Tier 1 tree” means a heritage tree. A heritage tree is a tree or group of trees as defined in
2 Title 15.

3 “Tier 2 tree” means any tree that is 24 inches in diameter at standard height or greater,
4 includes tree groves as well as specific tree species as deemed as such by the Director pursuant
5 to standards promulgated by the Seattle Department of Construction and Inspections.

6 “Tier 3 tree” means any tree that is 12 inches in diameter at standard height or greater but
7 less than 24 inches in diameter at standard height and is not defined as a Tier 1 or Tier 2 tree.

8 “Tier 4 tree” means any tree that is 6 inches or greater in diameter at standard height but
9 less than 12 inches in diameter at standard height and is not defined as a Tier 1 or Tier 2 tree.

10 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
11 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
12 branches to lateral branches that are less than ((one-half (1/2))) half of the diameter of the limb
13 or branch that is cut. Topping does not include acceptable pruning practices as described in the
14 ANSI A300 standards or their successor such as crown reduction, utility pruning, or crown
15 cleaning to remove a safety hazard or dead or diseased material. Topping is a type of tree
16 removal.

17 “Tree grove” means a group of eight or more trees, over 12 inches in diameter at standard
18 height that has a continuous canopy. It excludes red alders, black cottonwoods, bitter cherries,
19 Lombardy poplars, invasive trees, and any tree, the entire trunk of which is in a public right-of-
20 way. Trees planted as a hedge or clearly maintained as such are not tree groves. A tree grove
21 may be located across property lines on abutting and/or adjacent lots.

22 “Tree protection area” means the area surrounding a tree defined by a specified distance,
23 in which excavation and other construction-related activities must be avoided unless approved by

1 the Director. The tree protection area is variable depending on species, age and health of the tree,
2 soil conditions, and proposed construction.

3 “Tree protection area, basic” means the area within the drip line of a tree, which may be
4 irregular in shape to reflect variation in branch outer limits.

5 “Tree removal” means removal of tree(s) or vegetation, through either direct or indirect
6 actions including, but not limited to, clearing, topping, or cutting, causing irreversible damage to
7 roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation,
8 grading, or trenching in the ((~~dripline~~)) drip line area of a tree which has the potential to cause
9 irreversible damage to the tree, or relocation of an existing tree to a new planting location.

10 “Tree service provider” means any person or entity engaged in commercial tree work.

11 “Undeveloped lot” means a lot on which no buildings are located.

12 Section 7. New portions of Seattle Municipal Code Chapter 25.11 substantially identical
13 to struck provisions shall be construed as continuations of the struck portions rather than new
14 enactments.

15 Section 8. The provisions of this ordinance are separate and severable. The invalidity of
16 any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the
17 invalidity of its application to any person or circumstance, does not affect the validity of the
18 remainder of this ordinance or the validity of its application to other persons or circumstances.
19

1 Section 9. The Department of Construction and Inspections shall prepare a report 12
2 months after the effective date of this ordinance on the use by permit applicants of payment-in-
3 lieu of tree replacement. This report shall include the number of permit applicants that used the
4 payments, payment amounts, total payments collected, City costs related to tree planting and
5 establishment, and any recommendations for changes to the payment amounts to be included in a
6 revised Director's Rule. Recommendations for changes to fee amounts shall include
7 consideration of adequacy of payment amount to replace removed trees, cover City planting and
8 establishment costs, and effects of payment amount on permit applicant decisions about usage of
9 the payment option. The report shall be provided to the Mayor and the Chair of the City Council
10 Land Use Committee, or successor committee.

Section 10. This ordinance shall take effect and be in force 60 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023,
and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Seattle Department of Construction and Inspections	Chanda Emery	Christie Parker

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to tree protection; balancing the need for housing production and increasing tree protections; and amending Sections 23.44.020, 23.47A.016, 23.48.055, 23.76.004, 23.76.006, and Chapter 25.11 of the Seattle Municipal Code.

Summary and Background of the Legislation: This legislation updates Title 23 (Land Use Code) and Chapter 25.11 (Tree Protection Code). The legislation is applicable citywide, largely in the Neighborhood Residential, Lowrise, Midrise, commercial and Seattle Mixed zones.

The update to the Tree Code includes the following changes:

- Expands the types and sizes of trees that are regulated and includes three new categories. The updated categories are as follows:
 - Tier 1, which consists of all heritage trees;
 - Tier 2, which encompasses the current exceptional category but with a reduced size threshold;
 - Tier 3, which includes all trees 12 inches or greater in diameter that do not fall under Tier 2; and
 - Tier 4, which includes all trees 6 inches or greater in diameter that do not fall under Tier 2 or Tier 3.
- Applies replacement requirements to include both Tier 2 and Tier 3 trees
- Uses 85% development coverage to measure zoned development capacity in place of floor area ratio (FAR) in the zones allowing multifamily use
- Simplifies provisions, including allowing development standards to be modified to aid in tree preservation as an administrative process without requiring Design Review, while maintaining Design Review as an option in multifamily and commercial zones
- Establishes a payment option for tree replacement using one for one replacement for smaller trees and trunk area calculation for larger trees (payment in-lieu)
- Supports administration of the updated code with tracking of tree preservation, removal, and replacement
- Requires installation of street trees for certain new residential development
- Requires replacement of Tier 1, 2 and 3 trees when removed as hazardous

For additional detail, please see Summary Attachment 1 – Expanded Summary of Code Changes.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? X Yes No

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2026:
Urban Forestry Capital Establishment (SDOT)	MC-TR-C050	Citywide	2024	Ongoing	\$1,270,000
Urban Forestry-Tree Replacement (PRK)	MC-PR-41011	Citywide	2024	Ongoing	\$570,000

- This legislation does not affect the 2023 Adopted CIP but it does provide future CIP funding. Revenue from this legislation is not anticipated to be received until 2024.
- CIP funding is provided from the payment in lieu program established in this legislation. Payment in lieu fees pay for tree planting as well as 5 years of tree establishment costs (watering, trimming, etc.).
- Financial figures throughout this document are shown in inflated dollars using an annual inflation factor of 3%.
- These figures, and others related to funds from the payment in lieu program, assume that payment in lieu will be used in 1% of the cases where mitigation is required for tree removal. They also assume that usage of the program will ramp up at a steady rate from 2023 to 2025: in other words, 33% of its long-term capacity in 2023, 66% in 2024 and 100% in 2025.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes X No

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024
	\$0	\$0	\$0	\$0
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
	\$0	\$0	\$0	\$191,000
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024
	0	0	.0	0

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

Yes. A companion bill provides the appropriations and positions necessary to implement this legislation. This associated cost and position information is also included here for

informational purposes. In addition, there are long-term financial implications as indicated below.

While the number of permit applications anticipated by SDCI would not be changed by adoption of this legislation, the number of applications that would include newly regulated trees would increase. This results in a need for additional SDCI staff to be funded by permit fees for permit reviews and site inspections. Additional funding by the General Fund for code compliance and enforcement work may be necessary in the future. In addition, starting five years after implementation of the legislation, SDOT and SPR will incur long-term maintenance costs for the trees planted under those capital programs.

New positions are also needed to support the tree tracking as part of the review and inspection process for permits reviewed under the updated tree code. SDCI has supported tree tracking for two years through temporary hires. One regular position will allow this work to continue to support the permit process. SDCI estimates the additional City employee time needed for ongoing implementation and enforcement of this legislation as follows:

POSITION	QUANTITY/TYPE	ANNUAL COST	FUND SOURCE
Land Use Environmental Analyst (permit reviewer)	1.0 FTE	\$161,000	Fees
Inspection Services Site Inspector	1.0 FTE	\$148,000	Fees
Land Use Management Systems Analyst Supervisor (tree tracking)	1.0 FTE	\$167,000	Fees
Total	3.0 FTE	\$476,000	Fees

Since this legislation is being considered mid-year, the 2023 fiscal impact for staffing costs is based on 6 months plus fleet costs.

In addition, starting five years after implementation of the legislation, SDOT and SPR will incur long-term maintenance costs for the trees planted under those capital programs as follows:

Projected City-Funded Maintenance Costs by Year For Trees Planted Using Payment In Lieu						
	2028	2029	2030	2031	...	2042
SDOT	\$18,000	\$67,000	\$141,000	\$213,000	...	\$948,000
SPR	\$26,000	\$82,000	\$150,000	\$198,000	...	\$817,000

- Financial figures throughout this document are shown in inflated dollars using an annual inflation factor of 3%.
- These figures, and others related to funds from the payment in lieu program, assume that payment in lieu will be used in 1% of the cases where mitigation is required for tree removal. They also assume that usage of the program will ramp up at a steady rate from 2023 to 2025: in other words, 33% of its long-term capacity in 2023, 66% in 2024 and 100% in 2025.

- The establishment period, which consists of the first five years of each tree’s growth, is treated as part of the capital investment and will be funded by the capital projects identified above. Thus, City-funded maintenance costs do not begin to accrue until the fifth year (2028).

Are there financial costs or other impacts of *not* implementing the legislation?

Yes. Not implementing the legislation could result in the loss of tree canopy coverage or impact the achievement of future canopy cover goals over time in the Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones. The citywide 2037 Urban Forest Management Plan (UFMP) canopy cover goal (set in 2007) is 30%, and the 2021 canopy cover assessment measured Seattle’s current canopy at 28% citywide. Additionally, not implementing the legislation could contribute to delay in the permit process for development projects that have tree reviews, which could slow housing production.

This legislation is an opportunity for the City to address inequitable canopy cover in neighborhoods where BIPOC residents and business owners live and work. The 2021 Canopy Cover Assessment provides an analysis that shows areas where people of color and people with low incomes live in Seattle are also the areas that have fewer environmental benefits and greater environmental burdens due to low canopy cover. Some of these communities are closer to the most heavily trafficked roadways and have poor air quality.

3.a. Appropriations

_____ This legislation adds, changes, or deletes appropriations.

Appropriations Notes: Although appropriations are not included in this bill, a companion bill will include the appropriations necessary to implement this legislation. The companion bill increases 2023 appropriations for the Construction and Inspections Fund (48100) by \$273,000 in 2023 as follows:

- Budget Control Level BO-CI-U2200 – Land Use Services – \$164,000
- Budget Control Level BO-CI-U23A0 – Inspections – \$109,000

These changes assume position costs for 6 months in 2023 as well as a one-time fleet add in 2023 for a new site inspector position.

3.b. Revenues/Reimbursements

X This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
13000 – Transportation Fund	SDOT	Payments in lieu for tree removal mitigation	\$0	\$132,000
10200 – Park and Recreation Fund	SPR	Payments in lieu for tree removal mitigation	\$0	\$59,000
		TOTAL	\$0	\$191,000

Revenue/Reimbursement Notes: The revenue shown here is for the payment in lieu program. It therefore does not offset the SDCI staffing costs represented in the sections above. The revenue accrues to different funds: specifically, it funds the capital improvement programs identified in Section 2.

3.c. Positions

 This legislation adds, changes, or deletes positions.

Position Notes: Although appropriations are not included in this bill, a companion bill will include the positions necessary to implement this legislation. The companion bill includes the following three ongoing positions:

- FTE Environmental Analyst, SDCI (Land Use)
- FTE Site Inspector, SDCI (Inspection Services)
- Management Systems Analyst Supervisor (Land Use)

This is an initial estimate of FTE needs based on Subject Matter Expert (SME) input. The department will evaluate the project over time and determine if additional positions are required in the future.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

The City department with direct responsibility for implementation and enforcement of this legislation is the Seattle Department of Construction and Inspections (SDCI). Other departments have a supporting role, including Seattle Parks and Recreation (SPR) and the Seattle Department of Transportation (SDOT). These departments receive payments from the

payment in-lieu provisions and will use these payments to plant replacement trees. SDOT and SPR have been consulted and support this legislation.

b. Is a public hearing required for this legislation?

Yes.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Yes. Notices will be published in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. The SEPA Draft legislation, the City's Determination, pursuant to environmental review under the State Environmental Policy Act (SEPA), was published on February 17, 2022.

d. Does this legislation affect a piece of property?

Yes. The legislation affects properties in zones applicable to SMC 25.11 which includes properties citywide, largely zoned Neighborhood Residential, Lowrise, Midrise, commercial and Seattle Mixed zones. The legislation also requires certain new development to plant street trees within the street right-of-way (ROW). If there is no room to plant trees in the street ROW, then a builder or property owner could elect the payment in-lieu option.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This legislation helps plant trees in low canopy areas and/or low-income communities, many of which are BIPOC neighborhoods with public health disparities, including higher rates of asthma due to lower air quality than in higher tree canopy areas. This could be accomplished by either planting trees onsite when mitigation is required for tree removal and/or through the voluntary alternative to make a payment in-lieu of replanting on-site; in this case, the City will use the payment in lieu fees to plant trees elsewhere emphasizing neighborhoods with lower canopy cover. It is estimated that payments in-lieu alone will fund the planting of more than 3,000 trees over the next 20 years. As previously mentioned, data indicates that vulnerable and historically disadvantaged communities are most impacted by lower tree canopies in Seattle.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

This legislation will likely result in a small reduction of greenhouse gas emissions by reducing the energy needed to cool buildings during summer heat waves when preserved

and replanted trees provide shading. In addition, the legislation will likely foster other related tree benefits including carbon storage and sequestration.

2. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

This legislation increases Seattle’s resiliency and its ability to adapt to climate change by increasing tree protections (i.e., regulating more trees) together with the option to elect to make a payment in-lieu of replanting on-site. Documented resiliency benefits of the urban forest include shading and mitigation of stormwater impacts.

- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s).**

Not applicable.

Summary Attachments:

Summary Attachment 1 – Expanded Summary of Code Changes

Expanded Summary of Code Changes

Below is an expanded summary list of what requirements will be changing and how these requirements are changing with this legislation. These items are generally listed in the same order as presented in the draft legislation.

1. **Plant trees in street right-of-way (ROW) for new single-family development in Neighborhood Residential, commercial, and Seattle Mixed zones:** This legislation would require that trees must be planted in the street right-of-way for new construction of principal single-family dwelling units, except for accessory dwelling units and building additions, in Neighborhood Residential zones subject to Chapter 23.44 of the Land Use Code, and in commercial zones and Seattle Mixed zones subject to Chapters 23.47A and 23.48 of the Land Use Code.
2. **Adds that the application of the tree provisions pursuant to Chapter 25.11 is regulated as a Type I decision:** This would simplify provisions, including allowing development standards to be modified to aid in tree preservation as an administrative process without requiring Design Review, while maintaining Design Review as an option in multifamily and commercial zones. This means that new development projects would use an administrative Type I review (non-appealable, which is the same decision type as compliance with zoning). This change allows for the applicant and the City to work closer together and earlier in the development review process when a “tree review” is required.
3. **Updates the purpose and intent of Chapter 25.11:** This section was updated to include a new phrase which reads “while balancing other citywide priorities such as housing production.” This change signals that the intent of Chapter 25.11 is to support future growth and density with a balanced approach as per [Resolution 31902](#).
4. **Clarifies actions that are exempt from Chapter 25.11:** This change means that items listed in the exemption section of this legislation are exempt from these regulations and/or it is regulated within another section of the Land Use Code. Some of these exemptions include: when a tree needs to be removed because it is infested with insects and/or pests that have caused the tree’s health to be no longer beneficial to itself and the environment; tree removal that is necessary to be in compliance with the Americans with Disabilities Act (ADA) such as the installation of a curb ramp or a walkway for wheelchair access to a building from the sidewalk; tree removals and other tree-related activities as part of redevelopment that are applicable to planned action ordinances such as within the MPC-YT zone for Yesler Terrace. Additionally, permanent supportive housing development project proposals would be exempt from Chapter 25.11 because these types of projects are already regulated by the Land Use Code.
5. **Adds a new section addressing emergency actions that may be undertaken without obtaining a permit in advance:** This section was added to give increased certainty in the

tree code for what is required to be submitted to SDCI for an emergency action. An example of an emergency action could be a fallen tree from a severe windstorm that has the potential to cause injury (i.e., hazardous tree). This legislation clarifies the list of emergency activities and allows for the tree to be removed or pruned to remedy an immediate threat to public health, safety, or welfare.

6. **Adds a new section addressing provisions related to hazardous tree removal:** This legislation updates the references in the regulations to be in line with established industry standards for tree risk assessment evaluation. The other change is a new section that requires hazardous trees 12 inches in diameter and greater to be replaced if those trees are removed.
7. **New “tiers” naming:** Chapter 25.11 is updated to use a new “tiers” naming nomenclature. This change removes and replaces the “exceptional” tree category in the existing tree regulations. There are four tree tiers in this legislation: Tier 1 Tree, Tier 2 Tree, Tier 3 Tree, and Tier 4 Tree. With these new tiers, this legislation does the following:
 - a. Regulates heritage trees as Tier 1 Trees;
 - b. Expands the formerly “exceptional” tree category (now called Tier 2 Trees) to include more trees with a lowered threshold from 30” to 24” and now also includes tree groves. In addition, some “exceptional” trees that are currently regulated by species and size in existing Director’s Rule 16-2008 will retain their “exceptional” tree status as the name is changed from “exceptional” to Tier 2 Trees;
 - c. Regulates trees that are 12” to 24” diameter. This change now requires these Tier 3 Trees to either be replaced if removed or the property owner may elect to make a payment in-lieu of replacement onsite;
 - d. Regulates trees that are 6” to 12” diameter; and this legislation requires these Tier 4 trees to be delineated and shown on project proposals and site plans to assist SDCI in using GIS tracking to report on tree-related data including how many trees were removed, replaced and preserved during development. It should be noted that GIS tree tracking work activities apply not only to Tier 4 trees but all tree tiers (Tiers 1-4).
8. **Revisions to “tree protection area”:** This legislation includes a new description about factors relating to the tree protection area that is substantially similar to the existing provisions. It maintains the basic tree protection area (area within the drip line of a tree, which may be irregular in shape to reflect variation in branch outer limits) and factors that will be considered when modifying the basic tree protection area to determine the extent of the tree protection area.

It also adds the following:

- a. Description about determining the tree protection area, which “shall be determined 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.”
- b. Indicates that the tree protection area “shall not be reduced more than 35 percent (compared to 33 percent under existing code) 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” with existing encroachments not counting toward the reduction.
- c. New encroachments into the tree protection area, if allowed by the SDCI Director and with arborist findings, could not be closer than one-half of the tree protection radius; and existing encroachments closer than one-half radius could remain or be replaced if no appreciable damage to the tree would result.
 - d. For properties undergoing development, a tree protection area also would be required for trees relocated off the site and trees newly planted on-site as mitigation.
 - e. Removes the graphic illustration of the tree protection area, Exhibit 25.11.050B.
 - f. Provides new tree protection area using ANSI 300 standards. The tree protection area requirements are provided in the SDCI Tree and Vegetation Protection Detail.
9. **Tree removal limits:** This legislation adjusts tree removal limits when no development is proposed for an allowance of two Tier 4 trees in any 36-month period in the LR, MR, C and SM zones, and maintains the allowance for three Tier 3 and 4 trees in any 12-month period in all other zones.
10. **Outdated tree covenants can be discontinued:** This legislation clarifies wording to allow tree protection area covenants to be discontinued if the tree no longer exists (i.e., covenant applies “...for the remainder of the life of the tree”). Deletes references to “permanent” covenants.
11. **Zoning capacity calculation in dense zones:** Replaces floor area ratio (FAR) development capacity standard in the LR, MR, C and SM zones to use a hardscape area allowance of 85% coverage (in addition to a factor that includes leftover pieces of the property that are too small to accommodate usable development) to calculate zoned capacity for the application of the tree code.

Maintains and clarifies incentives for the retention of Tier 2 trees through a menu of adjustments to development standards. For development not subject to design review:

- a. Setbacks and separation requirements may be reduced by a maximum of 50 percent
- b. Amenity areas may be reduced by a maximum of 10 percent
- c. Landscaping and screening may be reduced by a maximum of 25 percent
- d. Structure width, structure depth, and façade length limits may be increased by a maximum of 10 percent

For development subject to design review, there are departures permitted in Section 23.41.012.

Reduction in parking quantity required by Section 23.54.015 is allowed if the reduction would result in avoidance of the tree protection area and the modification of standards for safe access.

In Lowrise zones, allows an increase in base height from 40 feet to 50 feet, for an additional building floor if needed to recover floor area lost within a tree protection area.

12. **Major Institutions clarification:** The update clarifies that if provisions of a City Council approved Major Institution Master Plan are inconsistent with the City’s tree protection code guidance, the Master Plan’s provisions will supersede.
13. **Tree replacement, maintenance and site restoration:** This legislation requires Tier 2 trees and Tier 3 trees that are removed in association with development, plus hazardous trees, to be replaced by one or more new trees; the size and species of the replacement trees is determined by the Director. Clarifies that replacement is to result in roughly proportional canopy cover prior to tree removal. It also adds a five-year maintenance and monitoring requirement by the property owner for newly planted replacement trees on private property, similar to a requirement used in existing codes for environmentally critical areas and shorelines. Prohibits removal of replacement trees of any size unless removal is approved by a future permit.
14. **Off-site planting and voluntary payment in lieu:** This legislation includes establishment of payment in lieu amounts and rates; such amounts are calculated to account for the cost for City departments to plant and establish trees for five years. Departmental planting costs include watering and minor pruning necessary to establish the trees for a reasonable likelihood of longer-term survival consistent with the City’s practices on capital funding.
15. **Enforcement and penalties:** The update adds language that if the violation is found to have been conducted purposefully to improve views, increase market value, or expand development potential, or was the result of negligence by a contractor or operator of its construction machinery, the amount of the penalty would be tripled as punitive damages.
16. **Definitions:** This legislation establishes a list of new definitions (e.g., tree grove, responsible party) and removes other definitions (e.g., caliper, exceptional tree, diameter at breast height) that are no longer applicable or are now inapposite given the updates to Chapter 25.11 and other sections of the Land Use Code.

SDCI Director's Report - Tree Legislation

March 17, 2023

BACKGROUND

The Seattle Department of Construction and Inspections (SDCI) recommended legislation addresses the City's urban forest on private property balanced with the need for housing as outlined in [Resolution 31902](#). The Resolution spotlights key strategies prepared by Council to elevate equitable outcomes by the delivery of multi-benefits of tree protections consistent with the goals and policies of the [2015-2035 Comprehensive Plan](#) and the [2020 Urban Forest Management Plan \(UFMP\)](#). This tree legislation will help address climate change and provide for healthy outcomes for the urban forest. At the same time there is a critical need for more housing across the City. Positive environmental and housing outcomes can be mutually supportive. This proposal is intended to balance the needs of the urban forest with housing in a way that affords a high quality of life for all Seattle residents.

PROPOSAL SUMMARY

The proposed legislation would update Title 23 (Land Use Code) and Title 25 (Tree Protection Code). The proposal largely is applicable citywide to the Neighborhood Residential, Lowrise, Midrise, commercial and Seattle Mixed zones. These are the zones where the majority of the tree canopy is found. This proposal builds on the draft legislation that was released for public review in mid-February 2022. Updates to the 2022 proposal are described in this report and called-out and summarized in the table in the report appendix.

The proposal addresses the strategies outlined in [Resolution 31902](#). The proposed legislation would:

- Achieve a comprehensive and balanced approach to tree protections by the inclusion of a menu of code flexibility and incentives, such as an allowance for the modification of development standards to help avoid impacting trees during development and preserving development potential;
- Create clearer standards for tree protection during the plan review process;
- Establish simpler tree categories to remove confusion over existing terminology;
- Include more trees in the regulations by expanding and lowering thresholds for tree regulation;
- Establish a payment in-lieu program to provide flexibility for tree replacement and address racial inequities and environmental justice disparities; and
- Maintain the ability to achieve zoned housing capacity while mitigating tree removals at new thresholds including mitigation for hazardous tree removal.

The following sections of this report describe the proposal in more detail. A table at the end of the report lays out the proposed amendments by section of the Seattle Municipal Code.

ANALYSIS

Code Flexibility and Incentives

The proposal would allow property owners and builders the flexibility to adjust development standards to help retain and preserve trees. Standards that may be adjusted by the SDCI Director include:

- Setbacks and separation requirements may be reduced by 50 percent;
- Amenity area may be reduced by 10 percent;
- A landscaping and screening may be reduced by 25 percent; and
- Structure width, structure depth, and facade length limit may be increased by 10 percent.

In addition, for development projects that are subject to design review, there are development standard departures for both parking quantity and access. In the Lowrise zones, there is a departure available to allow for an increase in height limit from 40 to 50 feet, as an incentive for an additional floor to recover reduced floor area at grade to protect a tree.

Clearer Standards for Tree Protection

The proposed legislation would create clear standards for tree protection before an application for development is filed with SDCI. This change would give increased certainty up front about tree-related development decisions and site planning to the property owners, SDCI staff, and neighbors. This update is timely and necessary because under the new regulations there will be more trees included for tree protection than what is currently regulated in the existing tree code.

Under the current tree code, SDCI plan reviewers use the floor area ratio (FAR) standard, which is the floor area allowance for a proposed building(s) relative to the overall parcel area, in concert with development plans that show all site features needed to meet all parts of the code. This total depiction including FAR is used to determine development capacity for multifamily and commercial development zones for the purposes of tree code review. Tree removal is allowed in order to permit for the zoned development capacity of a lot to be realized. This proposed legislation uses development coverage in place of FAR in the Lowrise, Midrise, commercial and Seattle Mixed zones. The updated development capacity standard would apply to approximately 8% of the regulated trees on private property, which are located on lots the applicable zones.

The proposal would allow for a builder or property owner to use a hardscape area allowance of 85% coverage (in addition to a factor that includes leftover pieces of the property that are too small to accommodate usable development) to calculate zoned capacity for application of the tree code. The intent is to balance the need for tree protections with the need for housing production by clearly depicting the locations, sizes and species of existing trees earlier in the design process while preserving development potential of the site. This is not a new SDCI standard but it is a more complete way to help applicants prepare permit applications including tree reviews by showing more detailed information about trees and other development/hard surface improvements.

The 85% coverage standard for measuring zoning capacity is based on a case study of permitted development and prototypes used in developing applicable zoning. The case study shows ranges of 80-90% in multifamily, commercial and mixed-use zones. This standard would account for the features needed to meet code requirements to serve new multifamily development and are accounted for in hardscape calculations used in demonstrating compliance with adopted drainage regulations, Title 22 – SMC Chapter 22.805 and SMC 22.807.020. Features include building footprints, eaves, parking and parking access areas, walkways, bicycle parking, solid waste storage areas, covered patios and other hard surfaces. The hardscape area allowance of 85% is a better reflection of the development that results from meeting the City's requirements for

multifamily development in place of the current FAR, which only accounts for the building footprint(s). For a builder, a homeowner, and neighbor this would provide more predictable outcomes for multifamily development.

In practice, builders and property owners would submit development plans with permit applications for review and approval by SDCI planners and arborists. For example, if there are multiple trees on a lot, tree preservation priority would be based on the ability to achieve the zoned development capacity and factors including tree health and longevity. SDCI would approve permit applications that meet all codes including provisions related to trees.

Simpler Review Process

The proposed legislation would shorten the City approval process using a simpler review process. The proposal would move the ability for permit applicants to seek flexibility in meeting development standards to protect trees from streamlined design review (SDR) to an administrative staff review. This would benefit applicants that would be going through design review solely for the purpose of protecting trees (projects that are exempt from design review because of their small size). Both SDR and administrative staff review are Type I review decisions (non-appealable, which is the same decision type as compliance with zoning). Under the proposal, an SDCI reviewer, in consultation with an arborist, if needed, would work with permit applicants on compliance with the tree code. This would put the most appropriate SDCI subject matter experts in more direct contact with the permit applicants.

The legislation includes several updates to further support more efficient permit reviews as follows:

- **Organization of trees by more straightforward and easier to understand categories.**
This includes an updated Director's Rule that would accompany the proposed legislation that describes the four tree categories;
- **Clarification on how trees in each of the four tree categories are regulated in different situations.**
This allows for a new tree code that is easier to understand how these trees are regulated and it works in all stages of development as well as outside of development (i.e. - when no development is proposed and tree removal is proposed by a property owner for property management purposes), during development (i.e. - when a builder or a property owner applies to SDCI for a permit to build) and on undeveloped lots;
- **Establishment of new business practice and technology improvements.**
Process improvements including new business practices and technology improvements would support better tracking of tree preserved, removed, and replaced including integration with [Ordinance 126554 Tree Service Provider Registration](#); and
- **Increased clarity in complex tree codes including City materials and websites that explain how codes work.** This would help remove ambiguity from the current process, reduce uncertainty for builders and, in turn, eliminate unnecessary costs.

Table 1 below summarizes anticipated benefits of the proposed legislation as per strategies addressed in [Resolution 31902](#) as it relates to the establishment of a new and simpler review process.

TABLE 1 Summary of Anticipated Benefits by Resolution 31902 Strategy Addressed in Legislation

SIMPLIFY PROCESSES	
Resolution Strategy	Benefits
D. Simplifying tree planting and replacement requirements, including consideration of mitigation strategies that allow for infill development while balancing tree planting and replacement goals	<ul style="list-style-type: none"> + Improves customer service with clear regulations for more predictable outcomes + Faster permit review times allows for reduced delays for builders which helps make more housing available sooner + Reduces illegal tree removals + Reduces obstacles that can be difficult for disadvantaged communities to navigate + Updates enforcement provisions + Helps achieve City's canopy coverage goals

New Tree Categories (Tiers 1, 2, 3 and 4) and Increased Regulation

This legislation would create four new categories: Tier 1, Tier 2, Tier 3, and Tier 4. Table 2 provides a description of each tier and the proposed definitions in the legislation.

TABLE 2 Summary of New Tree Categories: Tiers 1, 2, 3 and 4

TREE CATEGORY	DEFINITION
Tier 1	Includes heritage trees (falls under formerly exceptional trees)
Tier 2	Includes trees 24" at Diameter at Standard Height (DSH) or greater and groves as well as specific tree species provided in Director's Rule x-2023 or its successor
Tier 3	Includes trees 12" at DSH or greater but less than 24" at DSH that are not considered Tier 2 trees as provided in Director's Rule x-2023 or its successor
Tier 4	Includes trees 6" at DSH but less than 12" at DSH

Tier 2 and Tier 3 trees removed in association with development in the applicable zones would be replaced by one or more new trees, the size and species of which would be determined by the SDCI Director. Tree replacement would be required to result, upon maturity, in a canopy cover that is roughly proportional to the canopy cover prior to tree removal. Approval for removal is part of the overall development permit. If approved for removal, the property owner or builder would be required to either replace the tree onsite or may elect to make a payment in-lieu of replacement onsite. Trees that are not approved for removal are protected by covenant and documentation would be required for hazardous tree removal and emergency actions. A covenant would be required to be in place for the life of the development and may be allowed to be removed in situations that the tree has perished or when the covenant expires.

Tree removal limits in this legislation have been updated. Regulated trees may not be removed unless deemed hazardous or in need of emergency action. The proposal limits the trees that can be removed when no development is proposed to an allowance of up to two Tier 4 trees in any 36-month period in NR, LR, MR, C, and SM zones. It also maintains the allowance for up to three Tier 3 and Tier 4 trees in any 12-month period in the other zones applicable to this legislation (mainly downtown and industrial zones). Typically,

trees removed outside of development are done in support of the installation of solar arrays, creation of gardens, and the addition of outdoor amenities.

Hazardous trees measured at 12" diameter at standard height (DSH) or greater would be required to be replaced when approved for removal. Tree categories applicable to hazardous tree mitigation include Tier 1, Tier 2, and Tier 3 trees.

More Trees Included in Regulations

The proposed legislation would require street trees to be planted in the street right-of-way (ROW) for construction of a new single-family home in Neighborhood Residential zones and would remove an exemption for street tree planting in commercial and Seattle Mixed zones. Existing provisions for street tree requirements would apply and allow SDCI in consultation with the Seattle Department of Transportation (SDOT) to make exceptions depending on the suitability of tree planting in the ROW. The proposal would require builders to plant trees in the street right-of-way when a new single-family home is built but not for the construction of an accessory dwelling unit or an addition that is no larger than 1,000 square feet to an existing home. This new requirement would increase the number of trees¹ located in the ROW and it would help meet citywide canopy coverage percentage goals in the [2020 Urban Forest Management Plan \(UFMP\)](#).

This legislation would expand the definition of an exceptional tree (Tier 2) tree by lowering the threshold from 30" to 24" as measured by diameter at standard height (DSH) and add tree groves. Currently, over 70 species of trees are considered exceptional per Director's Rule 12-2008 which would be renamed as Tier 2 (and thus protected from removal) once they reach a certain [size](#). While a few species with smaller trunks, such as Madrona and Spruce, are exceptional once they are 6", most species must be much larger.

Heritage trees are cataloged by Plant Amnesty and the Seattle Department of Transportation. This legislation would add additional protections for heritage trees². The new requirement would be that heritage trees are prohibited from removal unless deemed hazardous or for an emergency action.

These changes described above would result in more trees regulated in the Tree Protection Code at the uniform diameter of 24". All other tree size considerations are included in the existing [Director's Rule 16-2008](#) in defining trees under the new Tier 2. Under this proposal, the percentage of lots that would be regulated during development is 16% or 25,920 lots³. The increase in the number of newly regulated trees is 48,000 additional trees⁴.

Tables 3 and 4 summarize anticipated benefits of the proposed legislation as per strategies addressed in [Resolution 31902](#) as it relates to new tree categories Tiers 1, 2, 3 and 4 (formerly exceptional and significant trees).

¹ In 2021, SDCI reviewed and approved 449 new homes in the Neighborhood Residential zones. This new requirement will help add more trees to the street right-of-way (ROW) when new homes are built.

² Approximately 10-15 heritage trees are added to the City's Heritage Tree Program each year.

³ Table 5 of Draft Director's Report states that the total number of approximately 162,000 applicable lots are in Neighborhood Residential, Lowrise, and commercial zones. Regulating trees 12" and larger plus exceptional trees would mean that the percentage of lots to be regulated during development is 16%.

⁴ Table 5 of Draft Director's Report: $70,400 - 22,400 = 48,000$ additional trees to be regulated during development.

TABLE 3 Summary of Anticipated Benefits by Resolution 31902 Strategy Addressed in Legislation

EXPAND DEFINITION OF EXCEPTIONAL TREE (TIER 1 AND TIER 2 TREES) BY LOWERING THRESHOLD FROM 30" TO 24" AND ADD TREE GROVES AND HERITAGE TREES	
Resolution Strategy	Benefits
A. Retaining protections for exceptional trees and expanding the definition of exceptional trees	<ul style="list-style-type: none"> + Preserves more established large, mature trees which have greatest environmental benefits + Removes invasive species from list of protected trees + Increases clarity for improved customer service and compliance + Clarifies heritage trees and tree groves are regulated as exceptional trees (Tier 1 are heritage trees, Tier 2 are 24" at DSH or greater and groves as well as specific tree species provided in Director's Rule x-2023 or its successor) + Helps accomplish citywide canopy coverage goals faster when preserving or requiring replacement for large, mature trees

TABLE 4 Summary of Anticipated Benefits by Resolution 31902 Strategy Addressed in Legislation

DEFINE SIGNIFICANT TREE (TIER 3 AND TIER 4 TREES) AS ANY TREE 6 INCHES OR GREATER AND NOT EXCEPTIONAL (TIER 2 TREES)	
Resolution Strategy	Benefits
B. Adopting a definition of significant trees as trees at least 6 inches in diameter and creating a permitting process for the removal of these trees C. Adding replacement requirements for significant tree removal (Tier 2, 3 and 4) D. Simplifying tree planting and replacement requirements, including consideration of mitigation strategies that allow for infill development while balancing tree planting and replacement goals	<ul style="list-style-type: none"> + Replacement requirement would help offset loss of tree benefits caused by tree removal; New requirement to plant trees in street right-of-way (ROW) in Neighborhood Residential zones + Mitigation would help City reach canopy coverage goals faster than without any mitigation for tree replacement + Maintaining tree removal limits in combination with the "Right Tree, Right Place" guidelines based on ecological benefits of the tree allow for increased flexibility for builders and property owners + Mitigation trees planted in street right-of-way in BIPOC communities help address environmental justice and lessen historical inequities of reduced public health benefits due to lack of trees and lower tree canopies + New replacement trees provide an opportunity to improve the age and species diversity and overall health of the urban forest over time increasing environmental tree benefits citywide + Helps the City keep track of trees removed, replanted, and preserved + Removes uncertainty for property owners and builders when requirements are clearer and more understandable

Ecological Function Criteria

This legislation would give SDCI arborist staff discretion to evaluate the life expectancy of Tier 3 trees at 12" diameter or greater, all Tier 2 trees, potential Tier 2 trees, and all Tier 1 trees. The purpose would be to determine the likelihood that the tree would live to maturity due to factors such as health and physical condition and development site constraints (i.e. - proximity to existing or proposed development). Other

factors that would be evaluated include driveway access, utilities, soil conditions, exposure to sunlight, and environmental conditions external to the development site such as the likely occurrence of disease or insect infestation, landslide, or high-water table.

Hazardous Tree Removal and Mitigation

SDCI approves the removal of a tree protected by Chapter 25.11 as long as the property owner or builder demonstrates the tree poses a significant risk of causing damage to people or property. This legislation would make it clear that hazardous trees can be removed with the usage and adherence to [adopted industry standards](#). A tree risk assessment is required to be prepared by a certified ISA Tree Risk Assessment Qualification (TRAQ) professional arborist.⁵ Under the proposal, the tree risk assessor must demonstrate that the protected tree meets the criteria for removal. Approval from SDCI is required in advance of hazardous tree removal unless it is an emergency action.

The existing tree code did not require replacement for hazardous tree removals. Under this proposal, the legislation now requires replacement for trees 12" and larger to be replanted or a payment made to a citywide fund in support of [City goals to increase tree canopy coverage](#). The new replacement requirement would lead to approximately 500 new trees per year.

Payment In-Lieu Option for Onsite Tree Replacement

Under the proposal, this legislation would allow for a voluntary payment option when tree replacement is required. One benefit to having an option to make a payment in-lieu of tree replacement onsite is that it would add flexibility for new development when there is not enough soil volume and space available to plant trees onsite or in the street ROW. This would also be helpful to a property owner if there is a preference by the owner to allow for the establishment of a garden or for the installation of solar arrays. In addition, the use of funds to plant trees in low canopy areas including BIPOC neighborhoods would help address environmental disparities and inequities in citywide canopy coverage.

Payment in-lieu amounts are proposed using a formula from the [Guide for Plant Appraisal, 10th Edition](#), authored by the Council of Tree and Landscape Appraisers. The payments also include consideration of costs for City departments to plant trees. Departmental planting costs include watering and minor pruning necessary to establish the trees for five years to help provide a reasonable likelihood of longer-term survival.

Proposed Payments in-lieu of tree replanting

Tree Category	Required Mitigation	Amount
Tier 1 and 2 Trees	Cost per square inch of trunk for each tree removed	\$17.87/square inch
Tier 3 trees	Cost per tree removed	\$2,833

Estimates of revenues to be generated for the citywide tree fund are based on the anticipated number and type of trees removed annually as well as research from other jurisdictions of comparable size and density to Seattle⁶. Usage would likely be less than direct replanting. SDCI estimates the revenue forecast to be approximately \$191,000 in 2024. Both Seattle Parks & Recreation (SPR) and the Seattle Department of Transportation (SDOT) report that this estimate would be used by existing tree planting programs.

⁵ The certified arborist is required to have [ISA Tree Risk Assessment Qualification \(ISA TRAQ\)](#) credentials.

⁶ Peer review cities interviewed experience approximately 1 percent payment in-lieu usage. SDCI anticipates a 1 percent usage.

The City would monitor payment in-lieu usage for future recommendations for adjustments to improve performance and consistency with City goals. Table 5 summarizes anticipated benefits of the proposed legislation as per strategies addressed in [Resolution 31902](#) as it relates to the new payment in-lieu program.

TABLE 5 Summary of Anticipated Benefits by Resolution 31902 Strategy Addressed in Legislation

ALLOW PAYMENT IN LIEU OPTION WHEN TREE REPLACEMENT IS REQUIRED	
Resolution Strategy	Benefits
D. Simplifying tree planting and replacement requirements, including consideration of mitigation strategies that allow for infill development while balancing tree planting and replacement goals	+ Payment in-lieu would provide resources for planting new trees in low canopy areas including BIPOC neighborhoods to lessen environmental disparities and inequities
E. Establishing an in-lieu fee option for tree planting	+ Adds flexibility for new development when there is not enough soil volume and space available to plant trees onsite or in the ROW and/or property owner's preference is to replant trees elsewhere to allow for a garden or solar access, etc.
F. Tracking tree removal and replacement on both public and private land throughout Seattle	+ Provides an opportunity to improve the age and species diversity and overall health of the urban forest over time increasing environmental tree benefits citywide
	+ Use of funds to plant trees on City managed property increases the likelihood that trees will live to maturity

Address Racial Inequities and Environmental Justice

The above-described payment in-lieu option would allow for new trees to be planted citywide. This would help to increase tree canopy in neighborhoods with lower canopy coverage. At the same time, the payment in-lieu program would keep lots available for new homes to be constructed supportive of the City's housing needs while providing for an option that would recognize and mitigate the impact of tree removal on a development site.

This climate forward benefit addresses historical environmental disparities by centering and prioritizing BIPOC communities. This would provide funding to the City to plant trees where tree canopy expansion is most needed that makes use of several options for tree planting programming (i.e. - Seattle Department of Transportation, Seattle Parks & Recreation and Seattle Public Utilities). In 2021, SDCI prepared a series of GIS maps to spotlight specific BIPOC, low income and low canopy neighborhoods on a citywide scale that would benefit from this program. Key high priority areas were noted on publicly owned property by census tracts.

Enforcement

Under the proposal, this legislation is intended to serve as a greater deterrent to violating tree regulations. If the violation is found to have been willful or malicious, or conducted purposefully to improve views, increase market value, or expand development potential, or was the result of negligence by a contractor or operator of its construction machinery, the amount of the penalty would be tripled as punitive damages.

ENVIRONMENTAL ANALYSIS

The City completed an environmental analysis under the State Environmental Policy Act (SEPA) for the draft legislation. In February 2022, SDCI issued a SEPA Determination of Non-Significance (DNS) for a proposed ordinance that would update the Land Use and Tree Protection Codes. The Appellants Master Builders Association of King and Snohomish County and five builders exercised the right to appeal pursuant to Chapter 25.05 of the Seattle Municipal Code. The appeal hearing was held on June 14, 15, and 22, 2022, before the Hearing Examiner. The Hearing Examiner upheld the City's determination on August 10, 2022.

ALIGNMENT WITH URBAN FORESTRY CITYWIDE PRIORITIES

The proposed legislation is consistent with City's [2020 Urban Forest Management Plan \(UFMP\)](#) and is supportive of several of the Urban Forestry Commission [2019 recommendations](#). SDCI, in consultation, with the Office of Sustainability and Environment (OSE) worked in partnership to consider all of the UFC's recommendations in the proposed legislation. Although not all of the UFC's recommendations are included in the proposal, it was important to discuss and explore each recommendation as part of the interdepartmental (IDT) technical team that was assembled to do this work from 2019-2022. IDT members included subject matter experts from SDCI as well as the OSE Departmental Staff Liaison to the UFC.

2020 Urban Forest Management Plan (UFMP)

This plan prepared by the City's Urban Forestry Core Team developed a set of overarching outcomes to guide urban forestry work in the next five years. These outcomes were informed by an inclusive engagement process. The UFMP has six outcomes that were prepared to represent a comprehensive approach to mobilizing informed and effective action:

1. Racial and social equity. Urban forestry benefits and responsibilities are shared fairly across communities, community trust is built, and decisions are guided by diverse perspectives, including those of environmental justice priority communities.
2. Ecosystems and human health. The urban forest improves air quality, human well-being, public health and water quality; provides beauty, environmental and economic benefits, fish and wildlife habitat, food, outdoor fun; and helps store rainwater.
3. Human safety and property protection. In implementing the work, urban forestry teams use up-to-date practices to protect the safety of the public and staff.
4. Climate change. Urban forestry work helps people, and urban trees and vegetation adapt to, recover from, and mitigate the impacts of climate change.
5. Community care. The Seattle community, including all people, organizations, institutions, and businesses, works together to appreciate and care for the urban forest and to understand tree protection regulations.
6. Balance competing priorities. City government will work to grow, maintain, preserve, enhance, and restore Seattle's urban forest as it meets other priorities.

Urban forestry practices and policies work with and support other City and community goals including access to spaces, climate action, culturally appropriate resource provision, economic development, environmental protection, social justice, food and medicine production, housing, balancing tree shade with light, public safety, recreation, transportation, and utility provision. The UFMP acknowledges that tree benefits and responsibilities should be shared across communities and that the City will work to grow, maintain, preserve, enhance, and restore Seattle's urban forest as it meets other priorities. The above stated outcomes and associated strategies were used to develop the specific actions included in the action agenda of the plan. The UFMP contains 19 actions to be undertaken within the next five years. These actions are in addition to and build upon the ongoing work of City departments.

Seattle's 2021 Canopy Cover Assessment

The Office of Sustainability and Environment (OSE) recently prepared a tree canopy cover assessment. The assessment used LiDAR (Light Detection And Ranging) methodology to measure the distance to objects below (i.e. - tree canopy) from a small airplane fitted with a LiDAR device. The purpose of the assessment was to use this technology to create an aerial imagery of the Seattle's tree canopy over time.

The [Preliminary Results of the Canopy Cover Assessment](#) have informed the development of this proposal. City departments have found from the preliminary 2021 data that the citywide canopy coverage has changed since 2016. Preliminary assessment findings from the most recent five-year period (2016-2021), indicated that there was a citywide net canopy cover loss of 1.7% together with a citywide population increase of approximately 8.5% which added 58,000 people and 4,700 housing units. Tree canopy loss was exacerbated by numerous factors including climate change, tree diseases and pest infestations. The assessment also found that the majority of tree canopy loss occurred in City parks and in the Neighborhood Residential zones.

To address the percentage loss of tree canopy in the Neighborhood Residential zones, this legislation includes a payment in-lieu recommendation that would infuse City departments (Seattle Parks & Recreation and the Seattle Department of Transportation) with funds to plant trees in areas of the City that are under-treed and where most of the tree loss has occurred. Trees would be planted to help address historical environmental disparities by making underserved neighborhoods greener and healthier. This would help to protect the most vulnerable Seattle residents from the impacts of climate change. New trees planted would reduce public health disparities, reduce the heat island effect, and cool neighborhoods with higher temperatures during the summer months which will further advance physical and mental health well-being for all.

COMPREHENSIVE PLAN CONSISTENCY

Seattle 2035: Comprehensive Plan

This overarching plan prepared by the Office of Planning and Community Development (OPCD) in consultation with all City departments is a [comprehensive collection of City-adopted goals and policies](#) about how the City will accommodate growth over the next twenty years. The goals stated in the Comprehensive Plan define a future outcome that the City is aiming for, and the policies in the Plan provide guidance for more specific decisions that will be made over time.

Washington's Growth Management Act (GMA) requires most counties and cities to prepare comprehensive plans that show how they will manage the population growth that the state has projected for each county. The GMA defines a set of goals for managing growth and lays out the basic contents of comprehensive plans. GMA goals include reducing urban sprawl, encouraging future development to occur in urbanized areas where public facilities and services already exist, maintaining transportation, housing, and open space opportunities, protecting property rights, and protecting the natural environment.

In conclusion, the [Draft Director's Report](#) issued by SDCI includes a summary of relevant goals and policies supportive and consistent with [Resolution 31902](#), [2015-2035 Comprehensive Plan](#) and the [2020 Urban Forest Management Plan \(UFMP\)](#). The proposed legislation is consistent with the Comprehensive Plan and would likewise support goals and policies in the documents included in this section of the report.

PUBLIC NOTICE AND OUTREACH

Public Outreach and Community Engagement – Two-Pronged Approach – 2021

Public outreach and community engagement was conducted and completed in 2021. As part of Seattle's 2020 UFMP Update and per Resolution 31902, SDCI evaluated the existing tree regulations that govern private property and explored strategies outlined in the resolution with subject matter experts in SDCI, OSE, City Urban Forestry teams and the Urban Forestry Commission. Because it was also important to hear from community regarding potential strategies, SDCI and OSE used a two-pronged approach to public outreach and community engagement: 1) an interdepartmental partnership with the Department of Neighborhoods' Community Liaisons to conduct culturally appropriate engagement using top tier languages that targeted the needs and input of low-income and low-tree-canopy neighborhoods and 2) focused engagement with other stakeholders to hear input through online listening sessions.

To allow time for more inclusive engagement, SDCI and OSE conducted the two phases concurrently. This work took place between July and October 2021. A summary report and meeting notes are available on SDCI's [Changes to Code - Tree Protection website](#). Feedback and input received from BIPOC communities, as well as community organizations, environmental groups, builders, homeowners, tree service providers, and real estate agents helped identify and understand community and stakeholder interests that shaped and informed the Director's recommendation.

Opportunities for Public Comment – 2022

The SEPA environmental review for the tree legislation included the analysis and disclosure of impacts. During this process, the public had opportunities for comment including whether to appeal the City's SEPA determination.

Additional Public Outreach, Educational Opportunities and Trainings – 2022/2023

After the proposed legislation is transmitted to City Council, a public hearing will be scheduled. Additional opportunities to provide input will occur as the City Council deliberates on amendments to the legislation. SDCI will work with the City's Urban Forestry Core Team and OSE to provide education and trainings to the public and permit applicants to help foster better understanding of the regulations, the value of preserving trees, the implications of tree removal and the importance of planting trees. In 2023, SDCI anticipates that there will be several educational opportunities and trainings that will be made available in the 'Top Tier' languages: traditional Chinese (Mandarin and Cantonese), Spanish, Vietnamese, Somali, Amharic, Korean, and Tagalog.

At a minimum, the education and outreach are anticipated to include:

- Design and distribution of a targeted and translated webpage on the new requirements
- Updates of existing educational materials such as SDCI's Tips
- Development of a translated informational video to be posted online
- Development of content outlining changes for SDCI's Building Connections email list, news/press releases, and coordination with news outlets for broad impact
- Development of translated social media posts
- Development and hosting of periodic virtual live Q&A sessions and webinars

CONCLUSION

The proposed legislation addresses both the needs of the urban forest and housing production. The legislation responds to the strategies explored in Resolution 31902 and provides for tree protection consistent with the Urban Forest Management Plan and Comprehensive Plan.

APPENDIX

Summary of Proposed Amendments

The proposed amendments in this legislation are summarized in the table below by Seattle Municipal Code (SMC) section. The two associated Draft Director's Rules are also listed and described for each topic.

TABLE 1 Summary of Proposed Amendments by Director's Rule or SMC Section

RULE/SMC	CHANGE	PURPOSE
Draft Director's Rule: Exceptional Trees (Tier 2 trees)	<p>Updates and replaces Director's Rule 16-2008</p> <p>Expands exceptional tree (Tier 2 tree) definition to include more trees with a lowered threshold from 30" to 24" and includes tree groves</p> <p>Table 1 of Director's Rule 16-2008 defining exceptional trees (Tier 2) to retain their exceptional tree (Tier 2) status</p>	<p>+ Support balanced approach per Resolution 31902 while expanding the definition of exceptional (Tier 2) trees to increase tree protections</p>
Draft Director's Rule: Payment In-Lieu	<p>New Draft Director's Rule provides payment amount:</p> <p>Tier 1 & 2 Trees: \$17.87/square inch of tree removed</p> <p>Tier 3 Trees: \$2,833/tree removed</p> <p>(Updated payment amount added to 2022 draft rule)</p>	<p>+ Add option to make a payment in lieu of tree planting</p> <p>+ Provide payment amount to help applicant determine whether to elect to make a payment, if approved for removal or choose to plant a replacement tree</p>
23.44.020 Tree requirements (New proposal added to 2022 draft code)	<p>Adds new requirement that trees must be planted in street right-of-way (ROW) during development in Neighborhood Residential zones</p>	<p>+ Respond to findings of Preliminary Results of the Canopy Cover Assessment prepared by OSE; vast majority of tree canopy loss occurred within these zones; new requirement addresses significant number of trees lost since 2016 by requiring trees to be planted in top priority zones at a citywide scale</p>
23.47A.016 Landscaping and screening standards	<p>Removes an existing exemption so that trees must be planted in street right-of-way (ROW) during development of a new residential construction in commercial zones</p> <p>(New proposal added to 2022 draft code)</p>	<p>+ Respond to findings of Preliminary Results of the Canopy Cover Assessment prepared by OSE to meet citywide canopy coverage percentage goals in 2020 Urban Forest Management Plan (UFMP)</p>

RULE/SMC	CHANGE	PURPOSE
23.48.055 Landscaping and screening standards	Removes an existing exemption so that trees must be planted in street right-of-way (ROW) during development of a new residential construction Seattle Mixed zones (New proposal added to 2022 draft code)	+ Respond to findings of Preliminary Results of the Canopy Cover Assessment prepared by OSE to meet citywide canopy coverage percentage in 2020 Urban Forest Management Plan (UFMP)
23.76.004 Land use decision framework SMC 23.76.006 Master Use Permits required	Adds "Application of tree provisions pursuant to Chapter 25.11" as Type I decision	+ Clarify that new development projects would use an administrative Type I review (non-appealable, which is the same decision type as compliance with zoning)
25.11.010 Purpose and intent	Adds 25.11.010.A "while balancing other citywide priorities such as housing production"	+ Support future growth and density with a balanced approach as per Resolution 31902
25.11.020 Exemptions	Clarifies actions exempt from Chapter 25.11 as follows (but not limited to): Tree removals, off-site replanting outside of the boundaries of the MPC-YT zone, and voluntary payment in lieu of replanting undertaken as part of redevelopment that meets the planned action ordinance within the MPC-YT zone for Yesler Terrace Tree replanting and payment in lieu option undertaken as part of development by permanent supportive housing as regulated by Title 23 Tree removals for insect and/or pest infestation Tree removal to comply with Americans with Disabilities Act	+ Add exemptions to bring Chapter 25.11 to be consistent and up to date with current business practices and provisions in Title 23 (i.e. - tree removals for insect and/or pest infestation and tree removal to comply with Americans with Disabilities Act) + Add development project proposals that are exempt to include permanent supportive housing
25.11.030 Emergency actions	Adds a new section addressing emergency actions that may be undertaken without obtaining a permit in advance	+ Give increased certainty in the tree code for what is required to be submitted to SDCI for an emergency action + Clarifies emergency activities necessary to remedy an immediate threat to public health, safety, or welfare

RULE/SMC	CHANGE	PURPOSE
25.11.040 Hazardous tree removal	<p>Adds a new section addressing provisions related to hazardous tree removal</p> <p>Requires mitigation for hazardous tree removal for trees over 12" diameter in all zones (New proposal added to 2022 draft code)</p>	<ul style="list-style-type: none"> + Updated references to established industry standards for tree risk assessment evaluation + Requires mitigation for hazardous tree removal
25.11.050 General provisions for regulated tree categories	<p>Provides new convention for grouping trees by Tiers 1, 2, 3 and 4 so heritage trees are Tier 1 and current exceptional trees would become Tier 2 and significant trees would be Tier 3 and Tier 4 trees (New proposal added to 2022 draft code)</p> <p>Adds new Table A for 25.11.050 for different tree related activities (Clarifications added to 2022 draft code)</p> <p>Removes the graphic illustration of the tree protection area Exhibit 25.11.050B (Clarifications added to 2022 draft code)</p> <p>Adds clarity to tree related activities (i.e. - tree removal or topping) is prohibited for all four tree tiers both during development as part of a permit application and outside of development when not part of a permit application (Clarifications added to 2022 draft code)</p> <p>Adjusts tree removal limits when no development is proposed for an allowance of two Tier 4 trees in any 36-month period in the NR, LR, MR, C and SM zones, and maintains the allowance for up to three Tier 3 and 4 trees per year in all other zones (mainly downtown and industrial)</p>	<ul style="list-style-type: none"> + Simplify the tree code by creating tree categories that are easier to understand, especially for people for whom English is not their first language + Provide a summary table for different tree related activities (i.e. - not part of development, during development) + Add new provisions to adjust tree removal limits; This is intended to lessen tree removal outside of development
25.11.060 Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area delineation	<p>Provides new ecological function criteria to help SDCI arborists work with applicants to determine likelihood that a tree will live to maturity</p> <p>Adds language that help determine the tree protection area, which "shall be</p>	<ul style="list-style-type: none"> + Add increased certainty during plan review for a property owner, builder, and neighbor when a tree is located on the site + Add clear and understandable industry recognized standards (i.e. - ANSI 300)

RULE/SMC	CHANGE	PURPOSE
	<p>determined 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” Removes the graphic of the tree protection area, Exhibit 25.11.050.B</p> <p>Indicates that the tree protection area “shall not be reduced more than 35 percent [compared to 33 percent under existing code] or if 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” with existing encroachments not counting toward the reduction (Clarifications added to 2022 draft code)</p> <p>Clarifies that new encroachments into the tree protection area, if allowed by the SDCI Director and with arborist findings, could not be closer than one-half of the tree protection radius; and existing encroachments closer than one-half radius could remain or be replaced if no appreciable damage to the tree would result (Clarifications added to 2022 draft code)</p> <p>Provides new tree protection area using ANSI 300 standards. The tree protection area is required to include fencing, signage, and other safety requirements as required in the SDCI Tree and Vegetation Protection Detail (Clarifications added to 2022 draft code)</p> <p>Clarifies Tier 1, Tier 2 and Tier 3 trees are required to be documented on all plan review sheets within a plan set submitted for a Master Use Permit or Building Permit</p> <p>Adds clarity when the Director may require a tree protection report prepared by a certified arborist</p>	<ul style="list-style-type: none"> + Increase clarity by inclusion of SDCI Tree and Vegetation Protection Detail requirements + Add clarity to site plan requirements and when a report is required for any proposed reduction to the tree protection area + Make clear that regulated trees are protected by covenants and can be removed in certain situations

RULE/SMC	CHANGE	PURPOSE
	<p>Clarifies trees protected by covenant for the life of the development and allows covenant to be removed with a perished tree (i.e.- covenant runs with the land and applies "...for the extent of the life of the trees") Deletes references to "permanent" covenants (Clarifications added to 2022 draft code)</p>	
<p>25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones</p>	<p>Clarifies development capacity (Neighborhood Residential zones) consideration based on lot coverage includes construction of new structures, vehicle and pedestrian access, utilities, retaining walls or other similar improvements. (New proposal added to 2022 draft code)</p> <p>Replaces FAR development capacity in LR, MR, commercial and Seattle Mixed zones to use a hardscape area allowance of 85% coverage (in addition to a factor that includes leftover pieces of the property that are too small to accommodate usable development) to calculate zoned capacity for the application of the tree code (New proposal added to 2022 draft code)</p> <p>Maintains and clarifies incentives for the retention of Tier 2 trees through a menu of adjustments to development standards:</p> <ol style="list-style-type: none"> 1) For development not subject to design review: <ol style="list-style-type: none"> a) Setbacks and separation requirements may be reduced by a maximum of 50 percent b) Amenity areas may be reduced by a maximum of 10 percent c) Landscaping and screening may be reduced by a maximum of 25 percent d) Structure width, structure depth, and façade length limits may be increased by a maximum of 10 percent 2) For development subject to design review, the departures permitted in Section 23.41.012 	<ul style="list-style-type: none"> + Clarify that lot coverage as development capacity consideration includes new structures, vehicle and pedestrian access, utilities, retaining walls or other similar improvements in Neighborhood Residential zones + Use of development coverage in place of Floor Area Ratio (FAR) in the Lowrise, Midrise, commercial and Seattle Mixed zones is a more complete way to help applicants prepare permit applications showing development/hard surface improvements needed to meet code requirements. This gives more certainty up front about development that is anticipated by the applicable zoning + Maintain incentives for code flexibility to accommodate retention of regulated trees while supporting housing production on sites undergoing development

RULE/SMC	CHANGE	PURPOSE
	<p>3) Reduction in parking quantity required by Section 23.54.015 and the modification of standards for safe access</p> <p>4) In Lowrise zones, an increase in base height of 40 feet to 50 feet, for an additional building floor if needed to recover floor area lost within a tree protection area</p>	
25.11.080 Tree protection on sites in Major Institution Overlay Districts	Establishes that to the extent a provision of a Major Institution Master Plan (MIMP) approved pursuant to Chapter 23.69 is inconsistent with Chapter 25.11, then the MIMP provision shall control application of the chapter within the Major Institution Overlay District (New clarification added to 2022 draft code)	+ Clarify approved MIMPs supersede Chapter 25.11
25.11.090 Tree replacement, maintenance, and site restoration	<p>Adds Tier 2 trees and Tier 3 trees removed in association with development plus hazardous trees must be replaced by one or more new trees, the size, and species of which is determined by the Director (New clarification added to 2022 draft code)</p> <p>Clarifies that replacement is to result in roughly proportional canopy cover prior to tree removal</p> <p>Adds a five-year maintenance and monitoring requirement for newly planted replacement trees (New proposal added to 2022 draft code)</p> <p>Adds language to make it clear what is required for maintenance and monitoring for newly planted trees (New proposal added to 2022 draft code)</p>	<p>+ Strengthen tree replacement requirements, maintenance requirements including site restoration for newly planted mitigation trees</p> <p>+ Add a new maintenance and monitoring requirement for newly planted replacement trees which helps keep trees healthy and alive longer through the establishment period</p> <p>+ Add consistency and alignment with tree service provider registry requirements in existing code</p>
25.11.100 Tree service provider registration	Relocates hazardous tree language section to its own subsection and add approval from SDCI is required prior to removal of any hazardous tree	+ Add clarity and consistency with updates to tree service provider code language
25.11.110 Off-site planting and voluntary payment in lieu	Updates language to make it clearer and more concise	+ Make more succinct and make clear that payment in lieu is voluntary per state law

RULE/SMC	CHANGE	PURPOSE
25.11.120 Enforcement and penalties	<p>Updates language to make it clearer and more concise; Adds language that if the violation is found to have been willful or malicious, or conducted purposefully to improve views, increase market value, or expand development potential, or was the result of negligence by a contractor or operator of its construction machinery, the amount of the penalty would be tripled as punitive damages (New clarifications added to 2022 draft code)</p>	<p>+ Make briefer and clearer to understand</p>
25.11.130 Definitions	<p>Removes “caliper”, “canopy cover”, “diameter at breast height”, and others; Establishes list of new definitions, including by not limited to: “invasive tree”, “responsible party”, and “tree grove”</p> <p>Revises the definition of drip line to include “the drip line may be irregular in shape to reflect variation in branch outer limits” (New clarification added to 2022 draft code)</p> <p>Defines four new tree categories - (New proposal added to 2022 draft code)</p> <p>Tier 1 means a heritage tree. A heritage tree is a tree or group of trees defined as such by Title 15.</p> <p>Tier 2 means any tree that is 24 inches in diameter at standard height (DSH) or greater, includes tree groves as well as specific tree species provided in Director’s Rule x-2023 or its successor</p> <p>Tier 3 means any tree that is 12 inches in diameter at standard height (DSH) or greater but less than 24 inches at DSH and is not defined as a Tier 1 or Tier 2 tree as provided in Director’s Rule x-2023 or its successor</p> <p>Tier 4 means any tree that is 6 inches in DSH or greater but less than 12 inches at DSH and is not defined as a Tier 1 or Tier 2</p>	<p>+ Remove some definitions to be consistent with SMC 25.11.095 as last amended by Ordinance 126554</p> <p>+ Add new definitions specific to current industry best practices to help increase clarity and enforcement of Chapter 25.11</p> <p>+ Updated definitions are in alignment with tree service provider registration requirements (Ordinance 126554) for tree tracking and reporting</p> <p>+ Add four tree categories to provide clear and understandable regulations</p>

SECTION 2: TIER 2 TREE DESIGNATION

Table 1 provides a list of size thresholds for Tier 2 trees. In addition, any named cultivars or subspecies of species on the following list have the same diameter threshold as the species on the list. For example, a Japanese maple cultivar (*Acer palmatum* “Burgundy Lace”) has the same threshold diameter as Japanese maple (*Acer palmatum*).

For all species not listed in Table 1, the threshold diameter is 24” or greater, except that the following are not Tier 2 trees regardless of the size measured at DSH:

- Red alder(*Alnus rubra*), black cottonwood (*Populus trichocarpa*), Lombardy poplar (*Populus nigra* ‘Italica’), and bitter cherry (*Prunus emarginata*)
- Any tree that is listed on the adopted and as subsequently revised King County Noxious Weed List, including weeds of concern

Table 1: Size Thresholds for Tier 2 Trees

ALDER, Sitka – <i>Alnus sinuata</i>	6”
APPLE, Orchard (Common) – <i>Malus sp.</i>	20”
ASH, European – <i>Fraxinus excelsior</i>	22”
ASPEN, Quaking – <i>Populus tremuloides</i>	12”
BIRCH, Paper – <i>Betula papyrifera</i>	20”
CASCARA – <i>Rhamnus purshiana</i>	8”
CHERRY, Japanese Flowering – <i>Prunus sp.</i> (<i>kwanzan</i> , <i>serrula</i> , <i>serrulata</i> , <i>sargentii</i> , <i>subhirtella</i> , <i>yedoensis</i>)	23”
CRABAPPLE, Pacific – <i>Malus fusca</i>	12”
DOGWOOD, Eastern – <i>Cornus florida</i>	12”
DOGWOOD, Kousa – <i>Cornus kousa</i>	12”
DOGWOOD, Pacific – <i>Cornus nuttallii</i>	6”
HAWTHORN, Black – <i>Crataegus douglasii</i>	6”
HAWTHORN, Common <i>Crataegus monogyna</i> Jacq.	16”
HAWTHORN, Washington – <i>Crataegus phaenopyrum</i>	9”
HORNBEAM, European – <i>Carpinus betulus</i>	16”
LOCUST, Honey – <i>Gleditsia triacanthos</i>	20”
MADRONA – <i>Arbutus menziesii</i>	6”
MAGNOLIA, Southern – <i>Magnolia grandiflora</i>	16”
MAPLE, Dwarf or Rocky Mountain – <i>Acer glabrum</i> <i>var. Douglasii</i>	6”
MAPLE, Japanese – <i>Acer palmatum</i>	12”
MAPLE, Paperbark – <i>Acer griseum</i>	12”
MAPLE, Vine – <i>Acer circinatum</i>	8”
MONKEY PUZZLE TREE – <i>Araucaria araucana</i>	22”
OAK, Oregon White or Garry – <i>Quercus garryana</i>	6”
PEAR, Callery – <i>Pyrus calleryana</i>	13”
PINE, Lodgepole – <i>Pinus contorta</i>	6”

PINE, Shore – <i>Pinus contorta</i> ‘contorta’	12”
PLUM, CHERRY – <i>Prunus cerasifera</i>	21”
SERVICEBERRY, Western – <i>Amelanchier alnifolia</i>	6”
SNOWBELL, Japanese – <i>Styrax japonica</i>	12”
SPRUCE, Sitka – <i>Picea sitchensis</i>	6”
WILLOW (All native species) – <i>Salix</i> sp. (<i>Geyeriana</i> , <i>ver meleina</i> , <i>eriocephala</i> ssp. <i>mackenzieana</i> , <i>Hookeriana</i> , <i>Piperi</i> , <i>Scouleriana</i> , <i>sitchensis</i>)	8”
YEW, Pacific – <i>Taxus brevifolia</i>	6”

¹ This table is based on Plants of the Pacific Northwest Coast, 2016, by Jim Pojar, Andy MacKinnon
Trees and Shrubs of the Pacific Northwest, 2014, by Mark Turner, Ellen Kuhlmann
Trees of Seattle, 2nd edition, 2006, by Arthur Lee Jacobson.
Champion Trees of Washington State, 1996, by Robert Van Pelt.
 International Society of Arboriculture, <https://www.isa-arbor.com/>

SECTION 3: USE OF THIS RULE IN THE APPLICATION OF SEPA

The policy provided in SMC 25.05.675.N.2.c calls for protecting specific special habitat:

- Rare, uncommon, unique or exceptional plant or wildlife habitat; or
- Wildlife travelways; or
- Habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value

If determined through SEPA review that a proposed project would reduce or damage one or more of these special habitats, a Tier 2 tree that may otherwise be approved for removal per Chapter 25.11 may be required to be retained.

Applicant: City of Seattle Department of Construction and Inspections	Page 1 of 2	Supersedes: None
	Publication: X/XX/2023	Effective: X/XX/2023
Subject: Payment in lieu of tree replacement pursuant to the Tree Protection Code	Code and Section Reference: SMC 25.11 – Tree Protection	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.06.040	
Index: Land Use Code/Technical Standards and Procedural Requirements	Approved	Date
	<u>(signature on file)</u> Nathan Torgelson, Director, DCI	X/XX/2023

Purpose and Background

The purpose of this Rule is to provide further guidance for the payment in lieu of tree replacement pursuant to Seattle Municipal Code (SMC) Chapter 25.11, Tree Protection.

Payment In-Lieu Calculation

Payments are calculated using the *Guide for Plant Appraisal*, published in 2018, 10th edition, authored by the Council of Tree and Landscape Appraisers and includes City costs related to tree establishment.

Nursery purchase price* / square inches of the nursery tree = unit cost to replace tree**
Square inches of tree removed* X unit cost to replace the tree = payment in lieu amount**

*Nursery purchase price = the average price of common trees found on sites in Seattle per survey from area nurseries.

**Square inches of the nursery tree is the average size of replacement tree per survey from area nurseries.

***Square inches of tree removed provided by permit applicant.

SDCI shall periodically conduct updates to the inputs for the formula above including surveys of regional tree nursery prices to deliver the resulting payment to be provided in subsequent rule(s).

Rule: Payments

Payment Categories	Required Mitigation	Payment In-Lieu
Tier 1 and Tier 2 Trees	Cost per square inch* of trunk for each tree removed	\$17.87/square inch
Tier 3 Trees	Cost per tree	\$2,833

*Square inch of tree removed is calculated as follows:

- Measure diameter of tree as defined in SMC 25.11 in inches and divide by 2 to get the radius.
- Square the radius and multiply by π ($r^2 \times 3.14$)



SEATTLE CITY COUNCIL
LEGISLATIVE DEPARTMENT

Tree Protection Ordinance Schedule				
Date		Time	Committee	Topic
Tues	21-Mar	2:00 PM	City Council	Introduction and Referral of bill to Land Use Committee
Wed	22-Mar	2:00 PM	Land Use Committee	Policy discussion: Overview of entire bill
Wed	29-Mar	9:30 AM	Special Land Use Committee	Policy discussion: Tree Protections & Tree Protection Standards
Fri	7-Apr	2:00 PM	Special Land Use Committee	Policy discussion: Tiers of Tree Protections, Budget Allocations, & Central Staff Analysis
<i>Tues</i>	<i>11-Apr</i>	--	---	<i>Amendments due to Central Staff</i>
Fri	21-Apr	2:00 PM	Special Land Use Committee	Committee vote on amendments to the bill
Mon	24-Apr	10:30 AM	Special Land Use Committee	Public Hearing only
Wed	26-Apr	2:00 PM	Land Use Committee	Vote bill out of Land Use Committee as amended
Tues	2-May	2:00 PM	Full Council	Vote on Final Passage of bill as amended
<i>Thurs</i>	<i>4-May</i>	<i>9:30 AM</i>	<i>Special Land Use Committee</i>	<i>Meeting time reserved in case additional committee time is needed</i>
<i>Tues</i>	<i>9-May</i>	<i>2:00 PM</i>	<i>City Council</i>	<i>Vote on Final Passage of bill as amended if additional committee time is needed</i>

April 5, 2023

MEMORANDUM

To: Land Use Committee
From: Yolanda Ho and Ketil Freeman, Analysts
Subject: Tree protection updates

On April 7, 2023, the Land Use Committee (Committee) will continue discussion of two Council Bills (CBs):

- [CB 120534](#) would expand protections for trees on private property, establish mitigation measures for tree removal, and establish a variety of provisions intended to slow the decrease, and possibly increase, Seattle's tree canopy cover while also balancing the need for development; and
- [CB 120535](#) would add position authority and funding to implement the updated tree protection regulations.

The Committee received briefings from the Seattle Department of Construction and Inspections (SDCI) on the legislation at its meetings on March 22 and March 29.

This memorandum: (1) provides an overview the City's efforts to establish permanent regulations for tree protections on private property and the policy context for these efforts; (2) describes CBs 120534 and 120535; (3) identifies preliminary issues for the Committee's consideration; and (4) presents next steps.

Background

Led by the City Council, Seattle's regulations for tree protection and preservation on private property were initially codified in 2001 and later amended in 2009 with interim tree protection measures. The interim measures reinforced limits on the removal of exceptional trees¹ and set an annual limit on removing non-exceptional trees six inches or greater diameter at standard height (DSH)² from developed lots. Since 2010, the Council has intermittently engaged with the Mayor and Executive departments to develop permanent regulations, but these earlier efforts did not produce any changes to the regulations.

¹ "Exceptional tree" means a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections. [Director's Rule 16-2008](#) generally defines a tree as being exceptional at 30 inches DSH, and specifically identifies 27 native and 47 non-native tree species that are exceptional at sizes less than 30 inches DSH.

² The industry standard for measuring trees is diameter at standard height, or breast height (more commonly), and is typically the diameter of the tree at 4.5 feet above grade.

The most recent effort resulted in [Resolution 31902](#) (adopted in September 2019), stating the Council's and the Mayor's shared commitment to explore a variety of strategies to protect trees and increase Seattle's tree canopy cover. These included the following:

1. Retaining protections for exceptional trees and expanding the definition of exceptional trees.
2. Adopting a definition of significant trees as non-exceptional trees at least six inches DSH and creating a permitting process for the removal of these trees.
3. Adding replacement requirements for significant tree removal.
4. Simplifying tree planting and replacement requirements, including consideration of mitigation strategies that allow for infill development while balancing tree planting and replacement goals.
5. Reviewing and potentially modifying tree removal limits in Neighborhood Residential zones.
6. Establishing an in-lieu fee option for tree planting.
7. Tracking tree removal and replacement on both public and private land throughout Seattle.
8. Providing adequate funding to administer and enforce tree regulations.
9. Requiring all tree service providers operating in Seattle to meet minimum certification and training requirements and register with the City.³

Since the first quarter of 2020, SDCI and the Office of Sustainability and Environment (OSE) have provided quarterly progress reports on the legislation and related efforts to the Council's Land Use Committee, as requested by the resolution. The City has a goal of achieving at least 30 percent canopy coverage by 2037.⁴ The [2021 City of Seattle Tree Canopy Assessment](#) found that Seattle had a net loss of approximately 255 acres of tree canopy since 2016, which represents a decline of 1.7 percent. The assessment indicates that Seattle's 2021 canopy cover was approximately 28.1 percent. Further, the analysis revealed that the Neighborhood Residential management unit⁵ comprises 39 percent of Seattle's land area and contains nearly half (47 percent) of the city's total canopy cover.

³ The Council separately addressed this strategy by passing [Ordinance 126554](#) in March 2022 to establish the tree service provider registration requirement. The Council modified these requirements in February 2023 via [Ordinance 126777](#).

⁴ This goal was established in the 2007 Urban Forest Management Plan and is also included in the Seattle 2035 Comprehensive Plan.

⁵ The tree canopy analysis divides Seattle into nine different management units (MUs) based on physical characteristics, management responsibility, and geographic location. The MUs are Commercial/Mixed Use, Developed Parks, Downtown, Major Institutions, Manufacturing/Industrial, Multifamily, Neighborhood Residential, Parks Natural Areas, and Right of Way.

In February 2022, SDCI published a [State Environmental Policy Act \(SEPA\) draft](#) of the tree protection updates legislation along with a Determination of Non-significance (DNS). The DNS was appealed, and the Hearing Examiner upheld the City's determination, allowing SDCI to move forward with developing the legislation that is currently before the Committee. On March 7, 2023, the Mayor issued [Executive Order \(EO\) 2023-03](#), which sets out actions and priorities for expanding Seattle's tree canopy cover, including increasing replacement requirements for trees removed from City property.⁶

CBs 120534 and 120535

CB 120534 would amend the Seattle Municipal Code (SMC) Title 23 (Land Use Code) and Chapter 25.11 (Tree Protections) to improve protections for trees on private property, increase mitigation for tree removal, and implement other strategies to enhance Seattle's urban forest. The proposed changes primarily impact Neighborhood Residential (NR), Lowrise (LR), commercial, Midrise (MR), and Seattle Mixed (SM) zones. The following is a general description of the changes included in the proposed legislation. For more detailed information, see the [SDCI Director's Report](#).

Changes to Title 23 (Land Use Code)

CB 120534 would expand the current street tree requirement in SMC 23.44.020 to new development in all NR zones, excluding accessory dwelling units and additions. Currently, this requirement only applies to new development in the Residential Small Lot zone, which only accounts for about four percent of the area zoned for NR. This provision could help increase tree canopy cover in the right-of-way (ROW) throughout the NR zone.

It would also change how permit applicants receive modifications to development regulations in LR, MR, and commercial zones in exchange for preserving existing trees on site. This would be done via administrative staff review rather than the current requirement for streamlined design review. While both are Type I decisions, meaning that SDCI's decision cannot be appealed to the Hearing Examiner, streamlined design review has additional public outreach and procedural requirements (SMC 23.41.018). This change would allow the modifications currently available only through streamlined design review to be available through administrative staff review.

⁶ EO 2023-03 supersedes [Executive Order 03-05](#) issued in 2005 by Mayor Nickels, which required the planting of two replacement trees for every one tree removed on City property

Changes to Chapter 25.11 (Tree Protections)

CB 120534 would amend the purpose and intent of the chapter to:

- Add that the City’s policies to protect the urban forest should be balanced with other priorities, such as housing production; and
- Include reference to the goals and actions included in Seattle’s Urban Forest Management Plan, specifically those related to racial equity and environmental justice.

It would add exemptions for the following from the requirements of Chapter 25.11:

- Yesler Terrace Planned Action Ordinance site (MPC-YT zone);
- Permanent supportive housing projects; and
- Tree removal to address insect and/or pest infestation or to comply with the Americans with Disabilities Act.

Other key changes to regulations are summarized in Table 1.

Table 1. Comparison between current regulations and CB 120534

Topic	Current Regulations	CB 120534
1. Naming conventions	Exceptional trees, which include heritage trees , defined by Director’s Rule (generally 30 inches DSH or greater)	<ul style="list-style-type: none">• Tier 1 = designated heritage trees• Tier 2 = trees at least 24 inches DSH, tree groves, and specific tree species identified via Director’s Rule that are Tier 2 at less than 24 inches DSH. Replaces exceptional trees.• Tier 3 = trees at least 12 inches DSH and less than 24 inches DSH• Tier 4 = trees at least 6 inches DSH and less than 12 inches DSH
2. Removal limits (outside of development)	NR, LR, MR, and commercial zones – limit of three non-exceptional trees 6 inches DSH or greater in a one-year period	<ul style="list-style-type: none">• NR, LR, MR, commercial, and SM zones – limit of two Tier 4 trees in a three-year period• Other zones – limit of three Tier 3 or Tier 4 trees in a one-year period
3. Hazardous trees	<ul style="list-style-type: none">• Permit requirements provided via Tip 331B• No replacement required for removal of hazardous trees	<ul style="list-style-type: none">• Codifies procedures and requirements for hazardous tree removal permits, including emergency removals• Requires replacement for Tier 1, Tier 2, and Tier 3 trees removed because they are hazardous
4. Replacement requirements	Requires replacement of exceptional trees and trees over 2 feet DSH removed for development. Number of replacement trees and species to be determined by SDCl.	Requires replacement of Tier 2 and Tier 3 trees removed for development (this increases the number of trees subject to replacement requirement). Number of replacement trees and species to be determined by SDCl.

Topic	Current Regulations	CB 120534
5. Replacement requirements: in-lieu fee option	Not available	<ul style="list-style-type: none"> Creates an in-lieu fee to be set by Director's Rule: <ul style="list-style-type: none"> Tier 1 and Tier 2 trees: \$17.87 per square inch of trunk for each tree removed Tier 3 trees: \$2,833 per tree removed Revenue to be used by the Seattle Department of Transportation (SDOT) and Seattle Parks and Recreation (SPR) to plant new trees on public land and in the ROW
6. Trees during development in LR, MR, commercial, and SM zones	Uses Floor Area Ratio (FAR), which solely accounts for the area occupied by the building(s), to identify existing trees that can be retained and those that may be removed	Uses 85 percent lot coverage, which includes buildings, walkways, driveways, etc., to identify existing trees that can be retained and those that may be removed

Other Provisions

The proposed legislation includes an uncodified section requiring SDCI to provide a report about the use of the payment in lieu 12 months after the effective date of the ordinance to the Mayor and City Council. The report would include the number of permit applicants who opt to pay the fee, payment amounts, and the total amount of payments collected. It would also present City costs for planting and establishing trees and provide recommendations for changes to the fee amount, as appropriate.

Finally, CB 120535 would add \$273,000 from the Construction and Inspections Fund and 3.0 FTE to SDCI's 2023 Adopted Budget to increase its capacity to implement the regulations as follows:

- 1.0 FTE Land Use Environmental Analyst for permit review;
- 1.0 FTE Site Inspector to monitor compliance with permit requirements; and
- 1.0 FTE Management Systems Analyst to track tree data.

Preliminary Issue Identification

CBs 120534 and 120535 directly address the strategies included in Resolution 31902 or generally meet their intent (see Attachment 1 for more details), with one exception that is included below with other Central Staff-identified issues for the Committee's consideration.

Table 2. Preliminary issues identified by Central Staff

Issue	Considerations and Options
1. Tree Removal Permit Outside of Development	<p>CB 120534 does not include a permit for tree removal outside of development as requested by Resolution 31902. This strategy was intended to track how residents manage trees on private property to support policy development. However, due to the requirement that SDCI's fees fully recover costs associated with permit review, a new permit for tree removal would be prohibitively expensive.⁷ Instead of creating a permit, SDCI proposes to collect data through the tree service provider public notice requirement and by mapping trees on sites undergoing development.</p> <p>The Committee could consider a permit requirement for the removal of Tier 3 and Tier 4 trees outside of development. Requiring a permit without adding ongoing General Fund (GF) appropriations to help defray the permit fee costs would probably result in low compliance with both the permit and tree replacement requirements (where applicable). Low-income residents, in particular, would be financially burdened by the permit and could disproportionately be subjected to enforcement action.</p>
2. Tree Removal Limits Outside of Development	<p>CB 120534 would reduce the number and size of trees that can be removed outside of development on developed lots in NR zones from three non-exceptional trees six inches DSH or greater (i.e., Tier 3 or Tier 4 in the new naming system) in a one-year period to two Tier 4 trees in a three-year period. To remove a Tier 4 tree beyond this limit, it must be hazardous. Tier 1, Tier 2, and Tier 3 trees may only be removed if they are hazardous, and removal of such trees would require replacement.</p> <p>Collectively, these measures are intended to protect more trees outside of development and require mitigation when larger trees are removed, but may result in unintended consequences. The additional restrictions could prevent residents from removing healthy trees that need to be removed because of conflicts with infrastructure and buildings or to support the long-term health of other trees (i.e., trees planted too close together). Residents may also remove unregulated trees (those less than 6 inches DSH) to avoid violating tree removal limits in the future and/or choose not to plant new trees on their property because of these proposed restrictions.</p> <p>The Committee could amend CB 120534 to allow trees to be removed because of conflicts with buildings and infrastructure or other reasons; and/or increase the number and size of trees that may be removed to provide residents with more flexibility in managing trees on their property.</p>

⁷ SDOT has a free permit for tree work in the ROW, including removal, and only charges permit applicants for inspections (if needed). The City of Portland charges \$100 for a permit to remove up to three trees 12 inches DSH or greater outside of development and requires that for every tree removed, a new tree must be planted. Portland waives the permit fee for low-income residents.

Issue	Considerations and Options
3. Cost to Low-income Residents for Hazardous Tree Removal Requirements	<p>The requirement that a Tier 3 or Tier 4 tree be assessed as hazardous before it can be removed (beyond the allowed removal limits) would result in residents having to pay for (1) the permit fee and (2) a registered tree service provider to submit a risk assessment report and remove the tree.</p> <p>Additionally, if it is a Tier 3 tree, it would need to be replaced by one or more trees. These costs would create a financial burden on low-income residents and could disincentivize the removal of hazardous trees.</p> <p>The Committee could consider requesting that the Urban Forestry Core Team develop a strategy to reduce the financial impacts of these requirements on low-income residents. This could potentially include providing replacement trees through Seattle Public Utilities' Trees for Neighborhoods program, which gives free street and yard trees to Seattle residents.⁸</p>
4. Tree Retention Requirements During Development	<p>CB 120534 largely maintains current requirements related to retaining existing trees during development, with the exception of requiring replacement of Tier 3 trees and increased protections for Tier 1 trees. Tier 1 trees cannot be removed for development and may only be removed if they are hazardous. SDCI's analysis reveals that the proposed regulations are expected to result in minimal changes to decisions about which trees can be retained or removed during development.</p> <p>The Committee could consider providing SDCI with greater authority to require retention of existing trees in NR zones (where much of Seattle's tree canopy cover is located) in certain situations, such as when a proposed development uses less than the maximum lot coverage area or in other instances.</p>
5. Capacity Test – Types of Development and Zone	<p>CB 120534 would allow removal of Tier 2 trees in LR, MR, commercial, and SM zones if the allowable development area of 85 percent of the lot cannot be achieved without tree removal. Allowed removals are limited to what is necessary to achieve an 85 percent development area.</p> <p>This standard 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 SM zones. This may inadvertently reduce development capacity for mixed-use or denser residential development. For example, typical mixed-use developments in commercial and SM zones cover the entire lot and have little to no ground level open space.</p> <p>The Committee could consider clarifying that the development area capacity test is specific to certain types of residential uses. Alternatively, the Committee could consider tailoring the capacity test to the development characteristics of the zone.</p>

⁸ Trees for Neighborhoods is routinely oversubscribed and uses a lottery system to provide residents with free trees, with a focus on residents in low-canopy neighborhoods. It currently prioritizes trees for residents whose trees are removed by Seattle City Light due to infrastructure conflicts.

Issue	Considerations and Options
6. Capacity Test – Environmentally Critical Areas	<p>CB 120534 is unclear about how the proposed new regulations would interact with regulations for Environmentally Critical Areas (ECAs). Trees located in ECAs are specifically exempted from the regulations in the bill because they are separately regulated by the Critical Areas Ordinance, SMC Chapter 25.09. However, it is unclear whether designated critical areas would be eligible for the capacity test calculation. For sites that are encumbered by ECAs, inclusion of the ECA in the capacity test could result in a calculation of development area that results in more tree removals.</p> <p>For example, if there is a 10,000 square foot lot, 5,000 square feet of which is in a wetland, it is unclear whether the 85 percent capacity test would apply to the entire site or the developable portion of the site that is not in an ECA. If it is the former, then a developer could argue that they should be able to get as close to 8,500 square feet as possible on the non-wetland portion of the site, which means they could clear all non-Tier 1 trees on the non-wetland portion of the site even though the wetland portion is undevelopable.</p> <p>The Committee could clarify that portions of a lot in a designated critical area or critical area buffer should be excluded from the capacity test calculation.</p>
7. Modifications to Landscaping Development Standards	<p>CB 120534 would allow modifications to development standards, such as setback, amenity areas, height (in some LR zones), parking, and landscaping as an incentive to preserve existing trees. Landscaping modifications can include a 25 percent reduction in landscaping and screening requirements.</p> <p>In most zones other than NR zones, landscaping requirements are accomplished through the Seattle Green Factor. The Green Factor provides a flexible menu for achieving a required score, which varies by zone. The system incentivizes preservation of existing trees larger than six inches DSH and planting new trees with larger canopy spreads. Because Green Factor favors tree retention, it is unclear whether modifications to Green Factor requirements would continue to provide an incentive for tree preservation.</p> <p>The Committee could clarify how modifications to landscaping standards would operate with Green Factor. Alternatively, the Committee could remove the option for landscaping modifications in zones where Green Factor applies.</p>

Issue	Considerations and Options
8. Delegation of Authority	<p>CB 120534 would authorize SDCI to establish a new in-lieu fee for replacement trees by Director’s Rule and would maintain SDCI’s current authority to determine penalty amounts and the designation of Tier 2 trees via Director’s Rules. Allowing a department to promulgate rules to support administration of the code is a common practice and provides the department with flexibility to decide how it will implement regulations. When Council delegates authority for rulemaking to a department, Council forgoes the opportunity, absent a future superseding change by ordinance, for policymaking on the subjects delegated.</p> <p>If the Committee is uncomfortable delegating these issues to SDCI for rulemaking, the Committee could amend CB 120534 to codify the in-lieu fee amounts, Tier 2 tree designations, and penalties. Alternatively, if the Committee is comfortable with SDCI promulgating regulations by rule but wants to prescribe certain features of future rules, the Committee could provide that direction in the bill.</p>
9. Implementation	<p>SDCI estimates that CB 120534 would increase the number of privately-owned trees the City regulates from 17,700 to 70,400 trees. CB 120535 would add 3.0 FTE funded by permit fee revenue to SDCI to implement the updated tree regulations. Not included in this proposal are additional code enforcement staff to respond to the anticipated increase in complaints and ensure compliance with the regulations outside of development. These staff positions are supported by GF; given the lack of available funding, new positions cannot be added without reducing GF support for other programs and activities. The estimated cost for a field arborist to support code enforcement is \$159,000.</p> <p>Additionally, SDOT’s urban forestry permit review workload is anticipated to increase as a result of the expanded street tree requirement in NR zones. No additional capacity has been proposed to be provided to SDOT for this work. SPR and SDOT would receive revenue from the in-lieu fees, but this funding solely covers the costs of trees and labor for planting and watering the trees during the five-year establishment period. These funds cannot be used for program administration or planning and designing spaces for trees, which would be needed for new trees in the ROW and possibly SPR sites as well.</p> <p>The Council could consider providing additional funding and position authority to support code enforcement, street tree permit review, program administration, and planning and design for trees funded by in-lieu fee revenue during the Mid-Year Supplemental Budget process this summer or 2024 Budget deliberations in the fall.</p>

Issue	Considerations and Options
10. Other Budget-Related Issues	<p>EO 2023-03 contemplates creation of a fund to receive in-lieu fee revenue for tree planting. Legislation creating that fund was not transmitted with the other bills. Creating an account in which to deposit in-lieu payments does not require legislative action. However, legislation is required to establish a new fund and any associated policies for the fund's use. The Mayor may transmit legislation creating a fund with the 2024 Proposed Budget.</p> <p>Additionally, the EO requires a three to one or two to one minimum tree replacement, depending on the reason for removal, for trees on City property within the City limits. Because the previously applicable EO 03-05 from the Nickels administration required two for one replacement, there should only be a marginal cost increase to the City. That increase will now become part of the base budgets for affected departments and will come with an associated opportunity cost. The Council may need to consider adding additional funding to meet the requirements of EO 2023-03.</p>

Next Steps

The Committee will consider amendments to CBs 120534 and 120535 at its next meeting on April 21 and hold the required public hearing for CB 120534 on April 24 at 10:30 AM. If Committee members are interested in proposing amendments, please contact Central Staff no later than end of day on April 11.

Attachments:

1. Comparison of Council Bills 120534 and 120535 with Resolution 31902

cc: Esther Handy, Director
Aly Pennucci, Deputy Director

Attachment 1. Comparison of Resolution 31902 with Council Bills (CBs) 120534 and 120535

Resolution 31902 Strategy	CBs 120534 (Tree Protection Updates) and 120535 (Appropriations and Positions)
1. Retaining protections for exceptional trees and expanding the definition of exceptional trees	<ul style="list-style-type: none"> • Tier 2 category replaces “exceptional tree” term • Lowers prior exceptional tree size threshold from 30 inches to 24 inches DSH • Director’s Rule identifies specific species that are Tier 2 below 24 inches DSH
2. Adopting a definition of significant trees as non-exceptional trees at least six inches DSH, and creating a permitting process for the removal of these trees	<ul style="list-style-type: none"> • Tier 3 and Tier 4 are the equivalent of “significant trees” • Tier 3 may be removed during development or through a hazardous tree removal permit • Tier 4 may be removed during development, but otherwise no removal permit is required • No permit required for removal outside of development
3. Adding replacement requirements for significant tree removal	<ul style="list-style-type: none"> • Requires replacement for removal of Tier 3 trees during development or if hazardous • No replacement required for Tier 4 trees
4. Simplifying tree planting and replacement requirements, including consideration of mitigation strategies that allow for infill development while balancing tree planting and replacement goals	<ul style="list-style-type: none"> • Tier system creates more clarity for the application of regulations • Change from using FAR to 85% lot coverage in LR, MR, commercial, and SM zones to identify earlier in the development process which trees will be preserved or removed • Change from streamlined design review to administrative staff review for development on LR, MR, commercial, and SM zones that seek modifications to development standards to preserve existing trees
5. Reviewing and potentially modifying tree removal limits in neighborhood residential zones	<ul style="list-style-type: none"> • Reduces number of trees that can be removed outside of development in NR, LR, MR, and commercial zones from three to two, increases this from a one- to three-year period, includes SM zones, and limits this to Tier 4 trees • Adds a removal limit for all other zones to three Tier 3 and Tier 4 trees in a one-year period
6. Establishing an in-lieu fee option for tree planting	Creates payment in lieu program (amounts to be determined by Director’s Rule)
7. Tracking tree removal and replacement on both public and private land throughout Seattle	Proposed 1.0 FTE Management Systems Analyst would be a new permanent position dedicated to this purpose
8. Providing adequate funding to administer and enforce tree regulations	<ul style="list-style-type: none"> • Funding (permit fee revenue) and positions authorized by CB 120535 • May need additional resources in the future to support code enforcement
9. Requiring all tree service providers operating in Seattle to meet minimum certification and training requirements and register with the City	Established via Ordinance 126554 in March 2022 (recently modified by Ordinance 126777)

Tree tiers:

- Tier 1 = heritage trees
- Tier 2 = formerly exceptional trees; 24” DSH or greater or as specified by Director’s Rule (DR)
- Tier 3 = 12” DSH and less than 24” DSH, not otherwise identified by DR as Tier 2
- Tier 4 = 6” DSH and less than 12” DSH



SEATTLE CITY COUNCIL
CENTRAL STAFF

Tree Protection Updates (Council Bills 120534 and 120535)

YOLANDA HO & KETIL FREEMAN, ANALYSTS

LAND USE COMMITTEE

APRIL 7, 2023

Presentation Overview

- Background
- Preliminary Issue Identification
- Next Steps

Background

- Tree canopy cover goal – 30 percent by 2037
- Tree canopy assessment
- Resolution 31902
- Executive Order (EO) 2023-03

Preliminary Issue Identification (1/5)

1. Tree Removal Permit Outside of Development
 - Requested in Resolution 31902
 - Permit fee costs
 - Tree data to be tracked via tree service provider notices and development permits
2. Tree Removal Limits Outside of Development
 - Increases restrictions on number and size of trees that may be removed outside of development
 - Unintended consequences – removing smaller trees, not planting new trees

Preliminary Issue Identification (2/5)

3. Cost to Low-income Residents for Hazardous Tree Removal Requirements

- Expenses – hazardous tree permit and tree service provider work
- Required replacement for hazardous Tier 3 trees

4. Tree Retention Requirements During Development

- Increases mitigation by requiring replacement of Tier 2 and Tier 3 trees removed during development
- Tier 1 trees must be retained during development (unless hazardous)
- Minimal changes expected for tree retention and removal decisions in NR zones

Preliminary Issue Identification (3/5)

5. Capacity Test – Types of Development and Zones

- Tier 2 trees may be removed if allowable development area of 85 percent cannot be achieved (appropriate standard for townhouse development)
- Could result in less dense development in denser zones

6. Capacity Test – Environmentally Critical Areas (ECAs)

- Unclear how capacity test interacts with ECA regulations (Chapter 25.09)
- Could result in more tree removal if ECA area is not excluded from calculation

Preliminary Issue Identification (4/5)

7. Modifications to Landscaping Development Standards

- Incentives for tree preservation during development include a 25 percent reduction to landscaping and screening requirements
- Seattle Green Factor applies to most zones (excluding NR)
- Unclear how modification will operate with Green Factor

8. Delegation of Authority

- In-lieu fees, Tier 2 tree designation, and penalties promulgated by Director's Rule
- Provides department with flexibility to administer code provisions
- Council forgoes opportunity to engage in policymaking

Preliminary Issue Identification (5/5)

9. Implementation

- Provides additional permit fee-funded staff to implement regulations
- Does not include additional code enforcement staff
- Additional funding may be needed for program administration, planning and design for trees funded by in-lieu fees

10. Other Budget-related Issues (EO 2023-03)

- Anticipate legislation to establish a new fund to receive revenues from in-lieu fees
- Increased replacement requirements for tree removal on City property

Next Steps

- April 11 – deadline for amendments to Central Staff
- April 21 – amendment discussion and possible vote
- April 23 – public hearing
- April 26 – possible Committee vote

Questions?



Tree Protection Legislation

Photo by John Skelton



Seattle Department of
Construction & Inspections

Land Use Committee
April 7, 2023

TODAY'S PRESENTATION

- Recap – Summary of Key Updates
- More Details: Payment In-Lieu, Replacement and Budget Appropriations



RECAP: SUMMARY OF KEY UPDATES

PROPOSED CHANGES

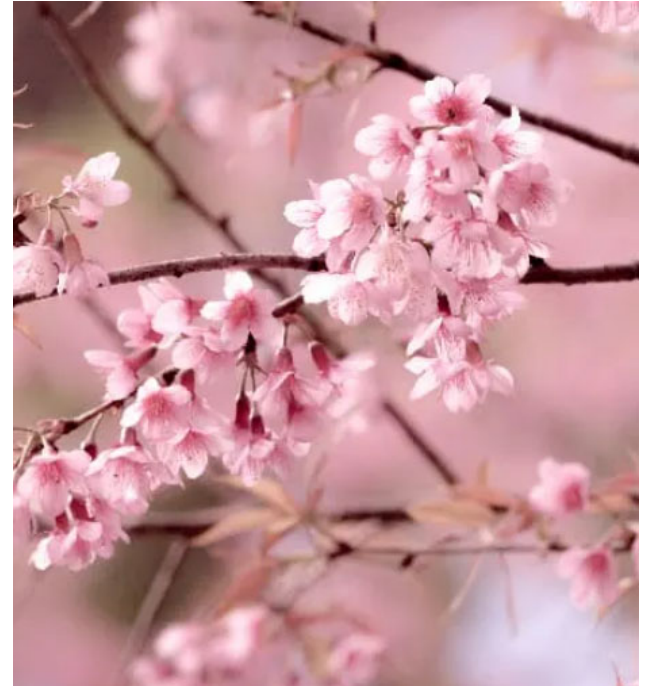
- Use tree tier nomenclature (Tiers 1 –4)
- Adjust tree removal limits
- Street trees required for new residential construction
- Use hardscape standard for zoned development capacity
- Add payment in-lieu option
- Require mitigation for hazardous tree removal (for trees 12” and greater)



PROTECTIONS OUTLINE

PROPOSED CHANGES - More trees regulated (70,400 trees)

1. **Payment In-Lieu** – starts at new 12” diameter
2. **Tree Tier Categories**
3. **Replacement Trees** – climate resiliency disease/pest/insect tolerance
4. **Threats to Canopy** – replacement trees
5. **Budget Appropriations**



PAYMENT IN-LIEU

PROPOSED CHANGES – Payment in lieu of planting on site

- Payment in lieu of planting based on cost of planting and establishing a tree per industry tree valuation manual
- Cost includes materials and labor necessary to plant the tree, and to establish for 5 years
- Payment can be reviewed annually and, if necessary, adjusted to reflect current costs



PAYMENT IN-LIEU

PROPOSED CHANGES – Applicable Tree Categories

TREE CATEGORY	REQUIRED MITIGATION	AMOUNT
TIER 1 (cannot be removed, only if hazardous or emergency action is necessary)	Cost per square inch of trunk for each hazardous tree removed	\$17.87/sq in
TIER 2 (24" or greater, tree groves and specific tree species in Director's Rule)	Cost per square inch of trunk for each tree removed	\$17.87/sq in
TIER 3 (12" up to less than 24")	Cost per tree removed	\$2,833

PAYMENT IN-LIEU

PROPOSED CHANGES

- Rate set to cover costs of City Departments (SDOT and SPR) to plant and establish new trees
- Rates designed to provide feasible option when on-site planting not feasible or desirable
- Helps make permit process more straight-forward
- Similar to approach taken in some peer cities in Pacific Northwest



PAYMENT IN-LIEU

FORMULA (Applicable to Tiers 1 and 2; Tier 3 is a flat fee)

Nursery purchase price divided by the **square inches of the nursery tree** = **unit cost to replace a tree**

Square inches of tree removed multiplied by the **unit cost to replace the tree** = **payment in-lieu amount**

Nursery purchase price is the average price of common trees found on sites in Seattle per survey from area nurseries

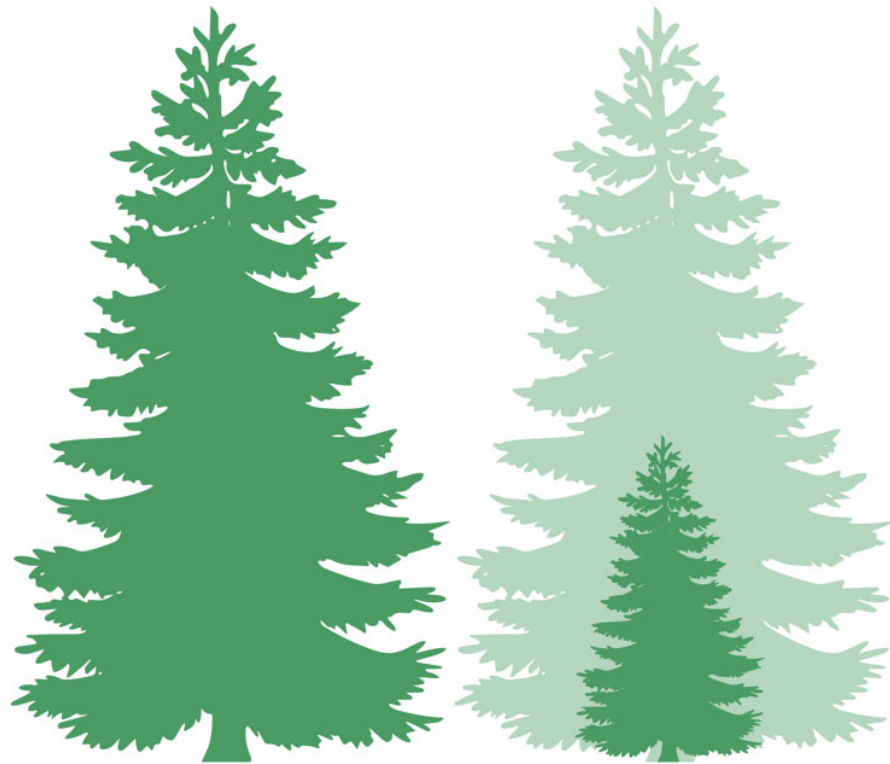
Square inches of the nursery tree is the average size of replacement tree per survey from area nurseries

Square inches of tree removed provided by permit applicant

REPLACEMENT, PAYMENT IN-LIEU

PROPOSED CHANGES

- Replacement trees will be required to reach the same canopy cover at maturity as the tree removed
- Same tree species or a species that is a better fit for site conditions and changing climate
- “Right tree, right place” to ensure long-term tree survival and best outcomes



TIER 1 TREES

HERITAGE TREE PROGRAM

- Cooperative program between City of Seattle and Plant Amnesty
- First Heritage Tree recognized jointly in 1996
- Currently – hundreds in the program; trees are added by property owners

PROPOSED CHANGES

- Continue to nominate 10-15 trees annually
- Heritage trees can be on City or private property
- Could be removed during development under existing regulations, but now may not be removed unless deemed hazardous or emergency action is necessary
- Must be replaced or the calculated payment in-lieu must be paid

TIER 2 TREES

PROPOSED CHANGES

- Updated Draft Director's Rule includes Tier 2 trees that measure 6", 8" and 9" diameters
- Tree groves are included for protections
- For all species not listed in Table 1, the threshold diameter is 24" or greater for Tier 2 trees
- Updates included removal of any tree that is listed on the adopted and as subsequently revised King County Noxious Weed/Tree List
- Must be replaced or the calculated payment in-lieu must be paid

Table 1: Size Thresholds for Tier 2 Trees

ALDER, Sitka – <i>Alnus sinuata</i>	6"
APPLE, Orchard (Common) – <i>Malus sp.</i>	20"
ASH, European – <i>Fraxinus excelsior</i>	22"
ASPEN, Quaking – <i>Populus tremuloides</i>	12"
BIRCH, Paper – <i>Betula papyrifera</i>	20"
CASCARA – <i>Rhamnus purshiana</i>	8"
CHERRY, Japanese Flowering – <i>Prunus sp.</i> (<i>kwanzan, serrula, serrulata, sargentii, subhirtella, yedoensis</i>)	23"
CRABAPPLE, Pacific – <i>Malus fusca</i>	12"
DOGWOOD, Eastern – <i>Cornus florida</i>	12"
DOGWOOD, Kousa – <i>Cornus kousa</i>	12"
DOGWOOD, Pacific – <i>Cornus nuttallii</i>	6"
HAWTHORN, Black – <i>Crataegus douglasii</i>	6"
HAWTHORN, Common <i>Crataegus monogyna</i> Jacq.	16"
HAWTHORN, Washington – <i>Crataegus phaenopyrum</i>	9"
HORNBEAM, European – <i>Carpinus betulus</i>	16"
LOCUST, Honey – <i>Gleditsia triacanthos</i>	20"
MADRONA – <i>Arbutus menziesii</i>	6"
MAGNOLIA, Southern – <i>Magnolia grandiflora</i>	16"
MAPLE, Dwarf or Rocky Mountain – <i>Acer glabrum</i> var. <i>Douglasii</i>	6"
MAPLE, Japanese – <i>Acer palmatum</i>	12"
MAPLE, Paperbark – <i>Acer griseum</i>	12"
MAPLE, Vine – <i>Acer circinatum</i>	8"
MONKEY PUZZLE TREE – <i>Araucaria araucana</i>	22"
OAK, Oregon White or Garry – <i>Quercus garryana</i>	6"
PEAR, Callery – <i>Pyrus calleryana</i>	13"
PINE, Lodgepole – <i>Pinus contorta</i>	6"
PINE, Shore – <i>Pinus contorta</i> 'contorta'	12"
PLUM, CHERRY – <i>Prunus cerasifera</i>	21"
SERVICEBERRY, Western – <i>Amelanchier alnifolia</i>	6"
SNOWBELL, Japanese – <i>Styrax japonica</i>	12"
SPRUCE, Sitka – <i>Picea sitchensis</i>	6"
WILLOW (All native species) – <i>Salix sp.</i> (<i>Geyeriana</i> var <i>meleina</i> , <i>eriocephala</i> ssp. <i>mackenziana</i> , <i>Hookeriana</i> , <i>Piperi</i> , <i>Scouleriana</i> , <i>sitchensis</i>)	8"
YEW, Pacific – <i>Taxus brevifolia</i>	6"

TIER 3 & TIER 4 TREES

PROPOSED CHANGES (TIER 3 – all trees 12” or greater and up to 24”)

- Existing regulations allowed up to three to be removed each year, but now, except during development and on lots already developed, these trees may not be removed, unless deemed hazardous or an emergency action is necessary
- During development and lots to be developed, must be replaced or the calculated payment in-lieu must be paid
- Tree protection standard restricts removal unless cannot meet development capacity
- Replacement required starting at 12” threshold

PROPOSED CHANGES (TIER 4 – all trees 6” but less than 12”)

- Up to two Tier 4 trees may be removed in any 36-month period (NR, LR, MR, C and SM zones)

REPLACEMENT TREES – Climate Resiliency

PROPOSED CHANGES

- Responds to the recent data presented by the Office of Sustainability & Environment (OSE)
- Replacement trees will increase tree diversity and planting tree species that are adapted to drier, warmer climates and will improve long-term functional stability
- Will include collaboration and partnerships with SPR, SDOT and others



THREATS TO TREE CANOPY (1 OF 2)

EXISTING CONDITIONS

- Two dangerous pests, the Bronze Birch Borer and Gypsy Moth, have arrived in Seattle
- Actual impact is greater because no data available for private property (majority of tree canopy is located)



PROPOSED CHANGES

- Replacement tree species will be selected with certified arborist input including consultation with subject matter experts
- Increase tree species diversity
- Ensure no one genus/species is overplanted



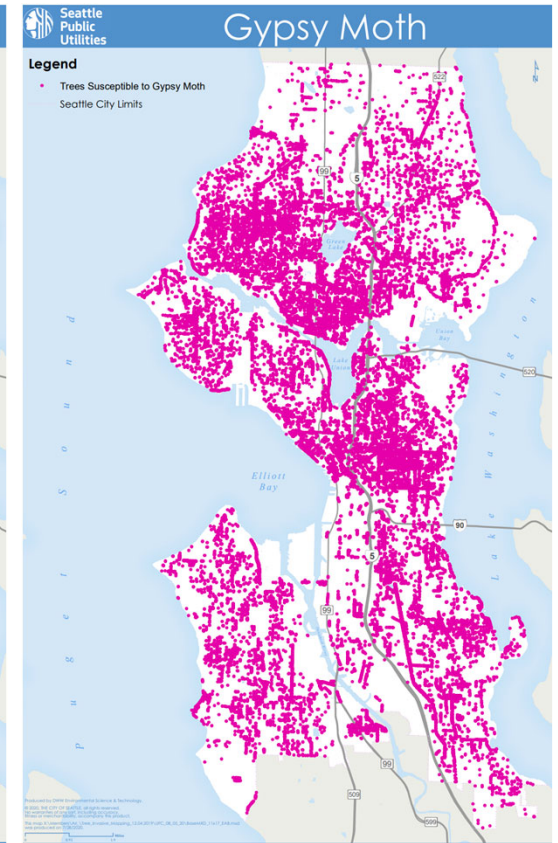
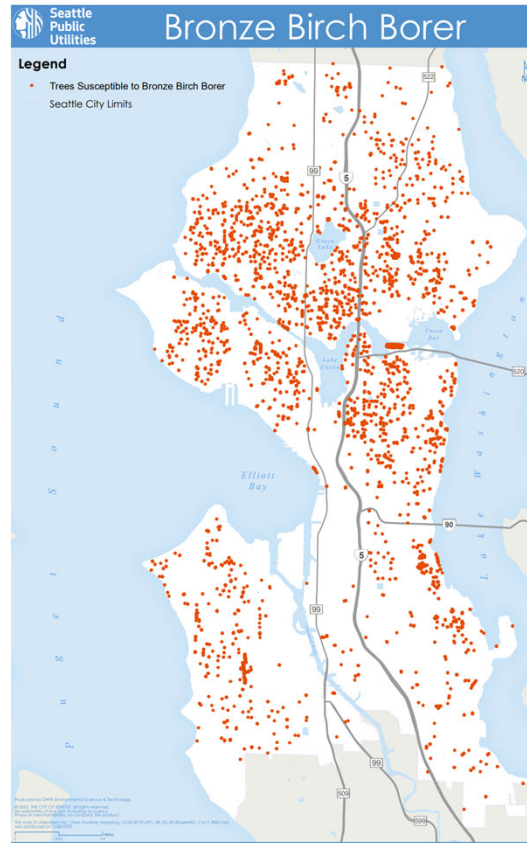
THREATS TO TREE CANOPY (2 OF 2)

IMPACT ON STREET TREES

- GIS maps show impacts citywide for dangerous pests
- Other pest/diseases prevalent

PROPOSED CHANGES

- Replacement tree species will be selected to anticipate future pests/diseases that have not yet arrived
- Preference given to tree species highest level of pest and disease resistance



BUDGET APPROPRIATIONS

PROPOSED CHANGES – Additional SDCI Positions

- Additional trees regulated and protected require more staff to review site plans and conduct inspections
- Three positions: Environmental Analyst, Site Inspector and Management Systems Analyst Supervisor
- Site inspector verify on-site tree protection
- Additional funding by the General Fund for code compliance and enforcement work may be necessary in the future



QUESTIONS?

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www.seattle.gov/sdci





Legislation Text

File #: CB 120535, **Version:** 1

CITY OF SEATTLE**ORDINANCE _____****COUNCIL BILL _____**

AN ORDINANCE amending Ordinance 126725, which adopted the 2023 Budget; changing appropriations for various departments and budget control levels, and from various funds; and creating positions; all by a 3/4 vote of the City Council.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. In order to pay for necessary costs and expenses incurred or to be incurred in 2023, but for which insufficient appropriations were made due to causes that could not reasonably have been foreseen at the time of the making of the 2023 Budget, appropriations for the following items in the 2023 Budget are increased from the funds shown, as follows:

Item	Fund	Department	Budget Summary Level	Amount
10.1	Construction and Inspections Fund (48100)	Seattle Department of Construction and Inspections	Land Use Services (BO-CI-U2200)	\$164,000
10.2	Construction and Inspections Fund (48100)	Seattle Department of Construction and Inspections	Inspections (BO-CI-U23A0)	\$109,000
Total				\$273,000

Section 2. The following new positions are created in the Seattle Department of Construction and Inspections:

Department	Position Title	Position Status	Number
Seattle Department of Construction and Inspections	Land Use Environmental Analyst (permit reviewer)	Full-time	1.0
Seattle Department of Construction and Inspections	Inspection Services Site Inspector	Full-time	1.0

Seattle Department of Construction and Inspections	Land Use Management Systems Analyst Supervisor (tree tracking)	Full-time	1.0
Total			3.0

The Director of the Seattle Department of Construction and Inspections is authorized to fill these positions subject to Seattle Municipal Code Title 4, the City's Personnel Rules, and applicable employment laws.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by a 3/4 vote of all the members of the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Seattle Department of Construction and Inspections	Chanda Emery	Christie Parker

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE amending Ordinance 126725, which adopted the 2023 Budget; changing appropriations for various departments and budget control levels, and from various funds; and creating positions; all by a 3/4 vote of the City Council.

Summary and Background of the Legislation: This legislation is companion legislation to a separate bill that updates Title 23 (Land Use Code) and Title 25 (Tree Protection Code). This legislation provides the appropriations and positions necessary to implement the tree protection legislation. The appropriations are backed by revenues from permit fees in SDCI's Construction and Inspections Fund.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ____ Yes X No

CIP Notes: Although this bill does not directly affect the CIP, the payment in lieu program established in the tree protection companion legislation funds two projects in the CIP beginning in 2024. For additional information, please consult the tree protection companion legislation.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? X Yes ____ No

	General Fund \$		Other \$	
	2023	2024	2023	2024
Appropriation change (\$):	\$0	\$0	\$273,000	\$667,000
	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
Estimated revenue change (\$):	\$0	\$0	\$0	\$0
	No. of Positions		Total FTE Change	
	2023	2024	2023	2024
Positions affected:	3.0	3.0	3.0	3.0

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The tree protection companion legislation includes a new payment in lieu of tree replacement program. That program is anticipated to generate no revenue in 2023 and \$191,000 in 2024. That revenue will be directed to funds within Parks and SDOT. For additional information, please consult the companion legislation and associated documents.

Are there financial costs or other impacts of *not* implementing the legislation?

If this legislation is not implemented, SDCI will be forced to use existing resources to implement the tree protection regulations; this will likely impact other SDCI programs and projects, including potential permit processing/issuance delays.

3.a. Appropriations

X This legislation adds, changes, or deletes appropriations.

Fund Name and Number	Dept	Budget Control Level Name/Number*	2023 Appropriation Change**	2024 Estimated Appropriation Change (ongoing)
Construction and Inspections Fund (48100)	SDCI	BO-CI-U2200 - Land Use Services	\$164,000	\$328,000
Construction and Inspections Fund (48100)	SDCI	BO-CI-U23A0 - Inspections	\$109,000	\$148,000
TOTAL			\$273,000	\$476,000

***2023 Appropriation Change assumes position costs for 6 months in 2023; includes one-time fleet add in 2023 for Site Inspector.*

Appropriations Notes: The appropriations included above will pay for staffing costs as outlined below in section 3c.

3.b. Revenues/Reimbursements

 This legislation adds, changes, or deletes revenues or reimbursements.

Revenue/Reimbursement Notes: Although this legislation does not affect revenues, the tree protection companion legislation will result in revenues for the payment in lieu program as follows:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
13000 – Transportation Fund	SDOT	Payments in lieu for tree removal mitigation	\$0	\$132,000
10200 – Park and Recreation Fund	SPR	Payments in lieu for tree removal mitigation	\$0	\$59,000
		TOTAL	\$0	\$191,000

The revenue shown here is for the payment in lieu program. It therefore does not offset the SDCI staffing costs represented in the sections above and identified in the appropriation increases.

3.c. Positions

 X This legislation adds, changes, or deletes positions.

Total Regular Positions Created, Modified, or Abrogated through This Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & Number	Program & BCL	PT/ FT	2023 Positions	2023 FTE	Does it sunset? (If yes, explain below in Position Notes)
N/A	Environmental Analyst, SDCI (Land Use)	Construction and Inspections Fund (48100)	Program: PO-CI-U22A1 BSL: BO-CI-U2200 - Land Use Services	FT	1	1	No
N/A	Site Inspector, SDCI (Inspection Services)	Construction and Inspections Fund (48100)	Program: PO-CI-U23N1 BSL: BO-CI-U23A0 - Inspections	FT	1	1	No
N/A	Management Systems Analyst Supervisor (Land Use)	Construction and Inspections Fund (48100)	Program: PO-CI-U22A1 BSL: BO-CI-U2200 - Land Use Services	FT	1	1	No

			TOTAL		3	3	
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Position Notes:

While the tree protection companion legislation does not change the anticipated number of permit applications anticipated by SDCI, the number of applications that would include newly regulated trees would increase. This results in a need for additional SDCI staff to be funded by permit fees for permit reviews and site inspections. Additional funding by the General Fund for code compliance and enforcement work may be necessary in the future.

All positions are ongoing. Since this legislation is being considered mid-year, the 2023 fiscal impact for staffing costs is based on 6 months plus fleet costs.

This is an initial estimate of FTE needs based on Subject Matter Expert (SME) input. The department will evaluate the project over time and determine if additional positions are required in the future.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

The City department with direct responsibility for implementation and enforcement of this legislation is the Seattle Department of Construction and Inspections (SDCI). Other departments have a supporting role in the tree protection companion legislation, including Seattle Parks and Recreation (SPR) and the Seattle Department of Transportation (SDOT). These departments receive payments from the payment in-lieu provisions and will use these payments to plant replacement trees. SDOT and SPR have been consulted and support this legislation.

b. Is a public hearing required for this legislation?

No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

d. Does this legislation affect a piece of property?

No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

None.

f. Climate Change Implications

1. **Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**
No.
 2. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**
No.
- g. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

Not applicable.