



SEATTLE CITY COUNCIL

Land Use Committee

Agenda

Thursday, May 4, 2023

9:30 AM

Special Meeting - Session I at 9:30 a.m. & Session II at 2 p.m.

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

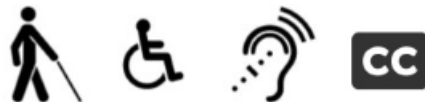
Dan Strauss, Chair
Tammy J. Morales, Vice-Chair
Teresa Mosqueda, Member
Sara Nelson, Member
Alex Pedersen, Member

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

Session I - 9:30 a.m.

If time permits during Session I, the Land Use Committee may complete its business or continue discussion of Session I Agenda items during Session II.

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 v2](#)

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 \(updated v2\)](#)

[Group I - Amendments for Individual Vote](#)

[Group II – Amendments to be Considered as one Group Vote](#)

Briefing, Discussion, and Possible Vote (120 minutes)

Presenters: Yolanda Ho and Ketil Freeman, Council Central Staff

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](#)

[Amendment B1 - SDOT staffing \(Strauss\) v2.pdf](#)

Briefing, Discussion, and Possible Vote (120 minutes)

Presenters: Yolanda Ho and Ketil Freeman, Council Central Staff

Session II - 2:00 p.m.

If time permits during Session I, the Land Use Committee may complete its business or continue discussion of Session I Agenda items during Session II.

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

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

3 4. If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot
4 setback shall be planted with street trees along the street property line or landscaping other than
5 trees shall be provided in the planting strip, subject to approval by the Director of Transportation.
6 If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is
7 not feasible, the Director of the Seattle Department of Construction and Inspections may reduce
8 or waive this requirement.

9 * * *

10 Section 3. Section 23.48.055 of the Seattle Municipal Code, last amended by Ordinance
11 125792, is amended as follows:

12 **23.48.055 Landscaping and screening standards**

13 * * *

14 **D. Street trees requirements**

15 1. Street trees are required when any development is proposed, except as provided
16 in subsection 23.48.055.D.2 and Section 23.53.015. Existing street trees shall be retained unless
17 the Director of Transportation approves their removal. The Director, in consultation with the
18 Director of Transportation, will determine the number, type, and placement of street trees to be
19 provided to:

- 20 a. ((~~To improve~~)) Improve public safety;
21 b. ((~~To promote~~)) Promote compatibility with existing street trees;
22 c. ((~~To match~~)) Match trees to the available space in the planting strip;
23 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. Emergency ~~((activities necessary to remedy an immediate threat to public health,~~
21 ~~safety, or welfare))~~ actions pursuant to Section 25.11.030, except that tree service providers
22 conducting commercial tree work on these trees must comply with Section 25.11.100;

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

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

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

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

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

E. Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and payment in lieu of replanting undertaken as part of redevelopment that meets the planned action ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section 23.75.160, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100;

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

G. Tree removal or commercial tree work as approved by the Director prior to removal in accordance with a recommendation from a certified arborist for an insect and/or pest infestation that does not meet a high risk hazard, except that tree service providers conducting commercial

tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; and

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

25.11.030 Emergency actions

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

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

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

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

((25.11.040 Restrictions on tree removal

A. Tree removal or topping is prohibited in the following cases, except as provided in 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.)~~

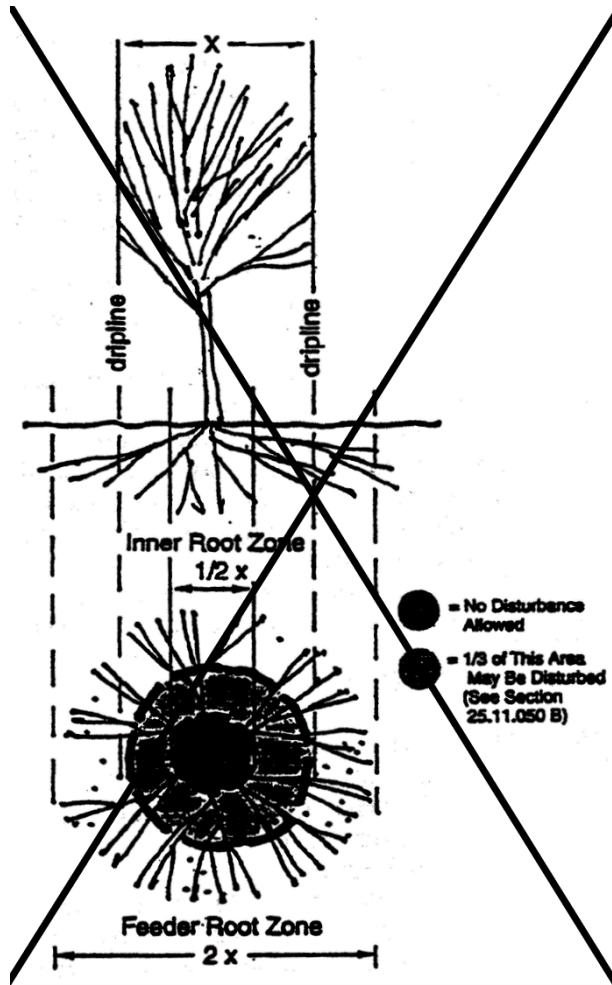


Exhibit 25.11.050B

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 all 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 on developed lots in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones, and no more than three Tier 3 and Tier 4 trees may be removed on developed lots 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 Requirements for trees when development is proposed

A. Tree protection area

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

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

3. The tree protection area may be modified from the basic tree protection area based on species tolerance; expected impacts of construction activities; tree size, age, and health; and soil conditions not to exceed the area of the feeder root zone. The Director may require 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, Tier 3, and Tier 4 trees are required to be documented on all plan
14 review 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.

1 4. For the purposes of this subsection 25.11.070.A, a lot coverage calculation
2 shall not include any portion of a parcel containing a biodiversity area or corridor, riparian
3 corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion
4 hazard area, unless the Director has approved critical areas reduction, waiver, or modification
5 pursuant to Chapter 25.09.

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

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

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

15 c. When multiple Tier 2 trees are located on a lot, the minimum number of
16 trees needed to reach 85 percent may be removed based on the evaluation required by subsection
17 25.11.060.C.

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

20 e. For the purposes of this subsection 25.11.070.B, allowable development
21 area shall not include any portion of a parcel containing a biodiversity area or corridor, riparian
22 corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion

1 hazard area, unless the Director has approved a critical area reduction, waiver, or modification
2 pursuant to Chapter 25.09.

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

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

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

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

11 3) Landscaping and screening may be reduced by a maximum of
12 25 percent; and

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

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

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

21 d. In Lowrise zones, for a principal structure with a base height limit of 40
22 feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may
23 permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50

1 feet if the increase is needed to accommodate, on an additional story, the amount of floor area
2 lost by avoiding development within the tree protection area and the amount of floor area on the
3 additional story is limited to the amount of floor area lost by avoiding development within the
4 tree protection area.

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

9 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
10 ~~zones~~

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

12 ~~A. Exceptional trees~~

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

18 ~~2. The Director may permit an exceptional tree to be removed only if the~~
19 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~
20 ~~area could not be achieved through the development standard adjustments permitted in Section~~
21 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
22 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
23 ~~in the standards of Section 23.54.030.~~

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

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

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

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

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

~~1. Trees over 2 feet in diameter, measured 4.5 feet above the ground, shall be 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 25.11.080.A.))~~

25.11.080 Tree protection on sites in Major Institution Overlay Districts

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

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

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

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

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

25.11.090 Tree replacement, maintenance, and site restoration

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

~~((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.))~~

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

3 Maintenance and monitoring shall include the following:

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

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

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

9 2. Replacement and replanting of failed trees; and

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

13 **25.11.100 Tree service provider registration**

14 A. Applicability

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

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

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

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

B. Tree service provider registration required. A tree service provider must be registered by the Director before it may conduct commercial tree work unless otherwise provided in subsection 25.11.100.A. A tree service provider registration shall be valid for one year from the date of issuance. The Director shall publish a registry of registered tree service providers on a City web page available to the public. Registered tree service providers are required to renew their registration annually. Annual registration renewals shall require submittal to the Director of documentation of continued compliance with this Chapter 25.11, provided that renewal may be 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) A brief description of the commercial tree work the registered tree service provider will be conducting that identifies whether the tree meets the City's definition of ((exceptional)) a Tier 2 tree;

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

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

b. The Director shall provide the public notice information required by subsection 25.11.100.C.1.a to the public on a City web page at least three business days in advance of reportable work and at least six business days in advance of removal of any tree 6

1 inches or greater (~~(DBH)~~) DSH. By March 31, 2024, the web page shall provide the information
2 through an online mapping tool.

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

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

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

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

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

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

22 b. The registered tree service provider must submit documents as required
23 by the Director, including a brief report that summarizes the factors contributing to the tree's risk

1 rating. This report should include information on the overall health of the tree, the dimensions
2 and structure of the tree, and analysis of potential targets should it or major parts of it fall. When
3 deemed necessary by the Director, the report should also include analysis of tissue samples to
4 confirm disease or other issues concerning whether the tree poses a hazard to property or human
5 safety;

6 c. If the tree does not meet the City's definition of (~~exceptional~~) a Tier 2
7 tree, the registered tree service provider that prepares the report required by subsection
8 25.11.100.C.3.b for the hazardous tree removal permit application may also perform the removal
9 of the tree; and

10 d. If the tree meets the City's definition of (~~exceptional~~) a Tier 2 tree, the
11 Director may require that the registered tree service provider or hiring entity shall engage another
12 registered tree service provider to independently assess the tree and prepare the report required
13 by subsection 25.11.100.C.3.b. The registered tree service provider that independently assesses
14 the tree and prepares the report must be different from the registered tree service provider that
15 will perform the removal of the tree.

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

21 **25.11.110 Off-site planting and voluntary payment in lieu**

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

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

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

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

8 **25.11.120 Enforcement and penalties**

9 A. Authority

10 1. The Director ~~((shall have))~~ has authority to enforce the provisions of this
11 Chapter 25.11, ~~((to))~~ issue permits, impose conditions and establish penalties for violations of
12 applicable law or rules by ~~((registered tree service providers,))~~ the responsible party, establish
13 administrative procedures and guidelines, conduct inspections, and prepare the forms and publish
14 Director's Rules that may be necessary to carry out the purposes of this Chapter 25.11.

15 2. The Director shall remove a registered tree service provider from the public
16 registry for a period of one year after that registered tree service provider has been issued two
17 notices of violation. Following the one-year removal period, the tree service provider may
18 submit an application to be added to the public registry.

19 B. Violation. It ~~((shall be))~~ is a violation of this ~~((chapter))~~ Chapter 25.11 for any person,
20 firm, or corporation to remove, clear, or take any action detrimental to trees contrary to or in
21 violation of any provision of this ~~((chapter))~~ Chapter 25.11. It ~~((shall be))~~ is a violation of this
22 ~~((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

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

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

3. Service. The Director shall serve the notice upon a responsible party either by personal service or by first class mail to the party's last known address. ~~((If the address of the responsible party is unknown and cannot be found after a reasonable search, the notice may be served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if))~~
If the whereabouts of the responsible party ~~((is))~~ are unknown and cannot be ascertained in the

exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service may be accomplished by publishing the notice once each week for two consecutive weeks in the City official newspaper and by posting a copy of the notice at a conspicuous place on the property.

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

D. ~~((Stop work Order))~~ Stop work order. Whenever a continuing violation of this ~~((chapter))~~ Chapter 25.11 will materially impair the Director's ability to secure compliance with this ~~((chapter))~~ Chapter 25.11, when the continuing violation threatens the health or safety of the public, or when the continuing violation threatens or harms the environment, the Director may 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~~
e. ~~Continue~~) sustain, withdraw, modify, or amend the notice of violation, or continue the review to a date certain for receipt of additional information(~~;~~~~or~~
d. ~~Modify or amend the Notice of Violation, order, or invoice~~) .

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

F. Referral to City Attorney for (~~Enforcement~~) enforcement. If a responsible party fails to correct a violation or pay a penalty as required by a (~~Notice of Violation~~) notice of violation, or fails to comply with a Director's order, the Director may refer the matter to the City

1 Attorney's Office for civil ~~((or criminal))~~ enforcement action. Judicial enforcement of a violation
2 of this ~~((subtitle))~~ Chapter 25.11 shall be by de novo review in Municipal Court.

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

7 H. Change of ~~((Ownership))~~ ownership. When a ~~((Notice of Violation))~~ notice of
8 violation, voluntary compliance agreement, or ~~((an))~~ order issued by the Director or ~~((court))~~
9 Municipal Court has been filed with the King County ~~((Department of Records and Elections))~~
10 Recorder's Office, a ~~((Notice of Violation))~~ notice of violation or an order regarding the same
11 violations need not be served upon a new owner of the property where the violation occurred. If
12 no ~~((Notice of Violation))~~ notice of violation or order is served upon the new owner, the Director
13 may grant the new owner the same number of days to comply as was given the previous owner.
14 The compliance period for the new owner shall begin on the date that the conveyance of title to
15 the new owner is completed.

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

17 1. Any person, firm, or corporation ~~((who is))~~ responsible for the removal,
18 topping, or other action detrimental to a tree in violation of this ~~((chapter))~~ Chapter 25.11 or any
19 notice, decision, or order issued by the Director pursuant to this ~~((chapter))~~ Chapter 25.11 shall
20 be subject to a civil penalty in ~~((the))~~ an amount ~~((equal to the appraised value of the tree(s)~~
21 ~~affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor))~~ as stated in
22 a Director's Rule with a 50 percent increase above that amount. If the violation is found to have
23 been willful or malicious, conducted purposefully to improve views, increase market value, or

1 expand development potential, or the result of negligence by a contractor or operator of
2 construction machinery, the amount of the penalty may be trebled as punitive damages.

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

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

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

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

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

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

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

22 2. Anyone violating or failing to comply with any of the provisions of this
23 ~~((chapter))~~ Chapter 25.11 and who within the past five ~~((5))~~ years has had a judgment against

1 them pursuant to subsection 25.11.120.B shall upon conviction (~~((thereof,))~~) be fined in a sum not
2 to exceed (~~((Five Thousand Dollars (\$5,000)))~~) \$5,000 or by imprisonment for not more than
3 (~~((three hundred sixty four (364)))~~) 364 days, or by both such fine and imprisonment. Each day's
4 violation or failure to comply shall constitute a separate offense.

5 **25.11.130 Definitions**

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

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

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

17 "Director" means the Director of the Seattle Department of Construction and Inspections.

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

21 "Emergency action" means any action taken to a Tier 1, Tier 2, or Tier 3 tree that has an
22 extreme risk of imminent failure risk rating using the International Society of Arboriculture
23 (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 evaluation standards))~~ according to tree risk assessment evaluation standards established by the International Society of Arboriculture.

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

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

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

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

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

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

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

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

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

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

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

21 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
22 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
23 branches to lateral branches that are less than ~~((one-half (1/2)))~~ half of the diameter of the limb

1 or branch that is cut. Topping does not include acceptable pruning practices as described in the
2 ANSI A300 standards or their successor such as crown reduction, utility pruning, or crown
3 cleaning to remove a safety hazard or dead or diseased material. Topping is a type of tree
4 removal.

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

10 “Tree protection area” means the area surrounding a tree defined by a specified distance,
11 in which excavation and other construction-related activities must be avoided unless approved by
12 the Director. The tree protection area is variable depending on species, age and health of the tree,
13 soil conditions, and proposed construction.

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

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

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

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

1 Section 8. New portions of Seattle Municipal Code Chapter 25.11 substantially identical
2 to struck provisions shall be construed as continuations of the struck portions rather than new
3 enactments.

4 Section 9. The provisions of this ordinance are separate and severable. The invalidity of
5 any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the
6 invalidity of its application to any person or circumstance, does not affect the validity of the
7 remainder of this ordinance or the validity of its application to other persons or circumstances.
8

1 Section 10. 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 11. 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 sp. (Geyeriana ver meleina, eriocephala ssp. mackenzieana, Hookeriana, Piperi, Scouleriana, 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>18-Apr</i>	--	---	<i>Amendments due to Central Staff</i>
Fri	21-Apr	2:00 PM	Special Land Use Committee	Vote on Substitute Bill
Mon	24-Apr	10:30 AM	Special Land Use Committee	Public Hearing
Wed	26-Apr	2:00 PM	Land Use Committee	Vote on Amendments
Thurs	4-May	9:30 AM	Special Land Use Committee	Vote on Amendments and possibly Vote Bill out of Land Use Committee as Amended
<i>Thurs</i>	<i>4-May</i>	<i>2:00 PM</i>	<i>Special Land Use Committee</i>	<i>Vote on Amendments and Vote Bill out of Land Use Committee as Amended</i>
Tues	9-May	2:00 PM	City Council	Vote on Final Passage of Bill as Amended

Group I – Amendments for Individual Vote

A. Development Capacity and Development Standard Modifications				
#	No.	Short title	Sponsor(s)	Pg.
1	A2	Development area percentage in Midrise, Commercial and Seattle Mixed zones	Strauss	2
2	A6	Maintain current FAR method for determining when trees can be removed in Lowrise, Midrise and Seattle Mixed zones	Pedersen	4
3	H3	Findings related to the public health, safety, and welfare associated with tree preservation and protection	Pedersen	8
4	A3	Development standard modifications	Strauss	12
5	A5	Tier 2 tree removal allowance and accessory dwelling units	Strauss	17
G. Tree Protections During Development				
#	No.	Short title	Sponsor(s)	Pg.
6	A4	Calculation of lot coverage standard – tree protection areas	Strauss	19
7	G2	Tree protection area delineation	Pedersen	22
8	G3	Temporary Reduction of Tree Protection Areas	Pedersen	23
9	G4	Off-site trees during development	Strauss	25
C. Permit Review Process				
#	No.	Short title	Sponsor(s)	Pg.
10	C1	Tree review improvements	Pedersen Strauss	28
11	C2	Major Development Projects	Pedersen	29
12	C3	Tree Protection Areas and subdivisions, short subdivisions, and lot boundary adjustments	Pedersen	36
13	C4	Require certified arborist report and participation on application team	Pedersen	40
E. In-Lieu Fees and Tree Replacement Requirements				
#	No.	Short title	Sponsor(s)	Pg.
14	E2	Minimum in-lieu fee payment for Tier 1 and Tier 2 trees	Strauss	42
15	E6	Codify and increase in-lieu fee amount	Pedersen	44
16	E4	Increase tree replacement requirements	Pedersen	46
17	E1	Relationship to Green Factor requirements	Strauss	48
18	E5	Off-site replacement in low-canopy areas	Pedersen	50
19	E8	Require replacement of failed replacement trees for ten years	Pedersen	52
20	E11	Relocated and replacement tree locations	Strauss	54
F. Tree Service Providers				
#	No.	Short title	Sponsor(s)	Pg.
21	F1	Exempt fruit trees and hedges from reportable work	Strauss	56
22	F2	Penalties for unregistered tree service providers	Strauss	57
23	F3	Removal from tree service provider registry	Strauss	59
24	F4	Modification of definition for reportable work	Strauss	60
H. Other Substantive Amendments				
#	No.	Short title	Sponsor(s)	Pg.
25	G1	Street tree requirements in Neighborhood Residential and Commercial zones	Pedersen	61

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Amendment A2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Development area percentage in Midrise, Commercial and Seattle Mixed zones

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

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

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

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

* * *

25.11.070 Tree protection on sites undergoing development in Neighborhood Residential,

Lowrise, Midrise, commercial, and Seattle Mixed zones

* * *

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

1. Tier 2 trees may be removed as follows:

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

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

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

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

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

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

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

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Amendment A6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

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

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

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

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

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

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

126777, is amended as follows:

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

B. Lowrise, Midrise, commercial and Seattle Mixed zones

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Amendment H3 Version 1 to CB 120534 – Tree Protection Updates

Sponsor: Councilmember Pedersen

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

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

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

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

Section 1. The City Council finds that:

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

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

B. Trees have the following benefits:

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

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3. Moderate the effects of wind and temperature and have a positive impact on global climate change;
 4. Slow runoff from precipitation, reduce soil erosion and sedimentation and pollution of natural waterways; and thus minimize the public and private costs for storm water control and treatment and utility maintenance;
 5. Improve air quality, through the absorption of pollutants and contamination;
 6. Mask unwanted sound and reduce noise pollution; and
 7. Enhance the economic value of both new and existing development.
- C. Tree removal to accommodate urban development has resulted in the loss to the public of these beneficial functions of trees and has also resulted in environmental degradation.”
- B. An “interim” or “temporary” update to the City’s tree ordinance, Ordinance 122919, was adopted in 2009, including the following recitals:

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

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

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

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

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

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

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

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

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

Amendment A3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Development standard modifications

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

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

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

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

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

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

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

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

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

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

b. For development that:

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

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

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

The following Type I modifications to standards are permitted:

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

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

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

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

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

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

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

* * *

Aly Pennucci
 Land Use Committee
 May 4, 2023
 D1a

Amendment A5 Version 1 to CB 120534

Sponsor: Councilmember Strauss

Tier 2 tree removal allowance & accessory dwelling units

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

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

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

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

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

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

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

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

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

* * *

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

A. Neighborhood Residential zones

1. Tier 2 trees may be removed only if:

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

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

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

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

* * *

Yolanda Ho
Land Use Committee
May 4, 2023
D1a

Amendment A4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Calculation of lot coverage standard – tree protection areas

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

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

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

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

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

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

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

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

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

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

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

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

25.11.130 Definitions

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

Yolanda Ho
Land Use Committee
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Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment G2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Tree protection area delineation

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

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

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

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

126777, is amended as follows:

25.11.130 Definitions

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

Eric McConaghy
Land Use Committee
May 4, 2023
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Amendment G3 Version 1 to CB 120534 – Tree Protection Updates

Sponsor: Councilmember Pedersen

Temporary reduction of tree protection areas

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

Amend Section 7 of CB 120534 as follows:

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

25.11.060 Requirements for trees when development is proposed

A. Tree protection area

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

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

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

Eric McConaghy
Land Use Committee
May 4, 2023
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Master Use Permits or building permits to include measures to protect tree(s) during construction, including within the feeder root zone.

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

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

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

c. Existing encroachments do not count toward the reduction.

d. The tree protection area may be temporarily reduced in size during a specific construction activity that is not likely to cause appreciable damage to ~~or reduce the long-term viability of the tree, as determined by the Director.~~ Appropriate mitigation measures shall be implemented per ANSI A300 standards or their successor~~5~~. ~~The tree protection area should not be reduced to an area smaller than the critical root zone~~ and the tree protection area shall be returned to its permanent size after the specific construction activity is complete.

Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment G4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Off-site trees during development

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

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

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

126777, is amended as follows:

25.11.060 Requirements for trees when development is proposed

B. Site plan requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Amendment C1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen and Strauss

Tree review improvements

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

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

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

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Amendment C2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Major Development Projects: Notice, Review and Definition

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

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

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

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

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

126777, is amended as follows:

* * *

25.11.060 Requirements for trees when development is proposed

A. Tree protection area

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

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

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

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

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

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

c. Existing encroachments do not count toward the reduction.

d. The tree protection area may be temporarily reduced in size during a specific construction activity that is not likely to cause appreciable damage to the tree. Appropriate mitigation measures shall be implemented per ANSI A300 standards or their successor, and the tree protection area shall be returned to its permanent size after the specific construction activity is complete.

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

B. Site plan requirements

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

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

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

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

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

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

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

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

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

3. A hazardous tree risk assessment, if applicable;

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

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

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

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

a. Health and physical condition;

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

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

D. Trees protected by covenant

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

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

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

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

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

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

E. Major Development Projects

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

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

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

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

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

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

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

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

* * *

25.11.130 Definitions

* * *

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

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

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

* * *

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

Sponsor: Councilmember Pedersen

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

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

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

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

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

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

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

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

126777, is amended as follows:

* * *

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

A. Tree protection area

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

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

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

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

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

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

c. Existing encroachments do not count toward the reduction.

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

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

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

B. Site plan requirements

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

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

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

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

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

* * *

Ketil Freeman
Land Use Committee
May 4, 2023
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Amendment C4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Require certified arborist report and participation on application team

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

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

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

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

25.11.060 Requirements for trees when development is proposed

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

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

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

3. A hazardous tree risk assessment, if applicable;

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

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

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

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

a. Health and physical condition;

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

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

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

Sponsor: Councilmember Strauss

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

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

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

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

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

126777, is amended as follows:

25.11.110 Off-site planting and voluntary payment in lieu

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

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

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

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

Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment E6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Codify and increase in-lieu fee amount

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

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

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

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

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

126777, is amended as follows:

25.11.110 Off-site planting and voluntary payment in lieu

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

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

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

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

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

Sponsor: Councilmember Pedersen

Increase tree replacement requirements

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

Amend Section 7 of CB 120534, as follows:

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

25.11.090 Tree replacement, maintenance, and site restoration

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

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~~determined by the Director, preference for off-site replacement shall be on public property.))~~

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

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

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 Land Use Committee
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Amendment E1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Relationship to Green Factor requirements

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

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

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

* * *

25.11.090 Tree replacement, maintenance, and site restoration

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

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

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

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

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

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

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

2. Replacement and replanting of failed trees; and

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

Eric McConaghy
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Amendment E5 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Off-site replacement in low-canopy areas

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

Amend Section 7 of CB 120534, as follows:

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

25.11.090 Tree replacement, maintenance, and site restoration

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

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

Lish Whitson
Land Use Committee
May 4, 2023
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Amendment E8 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Require replacement of failed replacement trees for ten years

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

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

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

126777, is amended as follows:

* * *

25.11.090 Tree replacement, maintenance, and site restoration

* * *

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

1. Sufficient maintenance actions to ensure survival of ~~the each relocated or required~~ replacement tree;

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

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

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2. Replacement and replanting of failed trees; and

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

Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment E11 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Relocated and replacement tree locations

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

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

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

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

25.11.090 Tree replacement, maintenance, and site restoration

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

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

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

Maintenance and monitoring shall include the following:

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

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

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

2. Replacement and replanting of failed trees; and

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

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

Eric McConaghy
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Amendment F1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Exempt fruit trees and hedges from reportable work

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

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

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

126777, is amended as follows:

25.11.130 Definitions

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

Yolanda Ho
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Amendment F2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Penalties for unregistered tree service providers

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

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

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

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

126777, is amended as follows:

25.11.120 Enforcement and penalties

A. Authority

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

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

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Amendment F3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Removal from tree service provider registry

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

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

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

25.11.120 Enforcement and penalties

A. Authority

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

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Amendment F4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Modification of definition for reportable work

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

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

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

25.11.130 Definitions

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

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

Sponsor: Councilmember Pedersen

Street tree requirements in Neighborhood Residential and Commercial zones

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

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

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

1. Amend Section 2 to CB 120534 as follows:

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

23.44.020 Tree requirements

* * *

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

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

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

2. Exceptions to street tree requirements

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

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

- 1) Expanding an existing structure by 500 square feet or less to establish a new ADU.
- 2) Adding a new detached ADU with a footprint of 500 square feet or less.

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

* * *

2. Amend Section 2 to CB 120534 as follows:

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

23.47A.016 Landscaping and screening standards

B. Street tree requirements

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

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

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

2. Exceptions to street tree requirements

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

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

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

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

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

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

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

Group II – Amendments to be Considered as one Group Vote

B. Urban Forestry Programs and Budget				
#	No.	Short title	Sponsor(s)	Pg.
1	B11	Create an attachment with requests for future work	Strauss	2
2	B2	Assistance for low-income residents	Pedersen Strauss	5
3	B3	Future Council actions to support urban forestry programs and enforcement	Strauss	7
4	B4	Reporting requirements	Pedersen	8
5	B5	Outreach to residents and tree service providers	Morales	12
6	B6	Improving management of trees on City property	Nelson	13
7	B7	Tree fund	Pedersen	14
8	B10	Urban forestry oversight improvements	Strauss	16
I. Non-Substantive Technical Amendments				
#	No.	Short title	Sponsor(s)	Pg.
9	I1	Tree groves clarification	Pedersen Strauss	17
10	I3	Emergency action clarification	Strauss	19
11	I4	Tree service provider activities and qualifications clarification	Strauss	20
D. Tree Removals Outside of Development				
#	No.	Short title	Sponsor(s)	Pg.
12	D1	Add exemption for tree removal due to pathogens	Strauss	22
13	D3	Allow tree removal to avoid conflicts with utility infrastructure and building foundations	Strauss	24
14	D5	Exemption for dead trees	Strauss	26
15	D6	Exemption for invasive and nuisance species	Strauss	27
16	D7	Exemption for developed lots with high-canopy cover	Strauss	30
17	D8	Allow tree removal to improve access for the elderly and people with disabilities	Strauss	32
E. In-Lieu Fees and Tree Replacement Requirements				
#	No.	Short title	Sponsor(s)	Pg.
18	E3	Authority to create Director's Rule for replacement trees	Herbold Pedersen Strauss	35
19	E9	Prohibit applications for new development on sites with an active Tree Code notice of violation	Pedersen Strauss	37
20	E10	Racial equity considerations and use of in-lieu fee revenues	Morales	38
H. Other Substantive Amendments				
#	No.	Short title	Sponsor(s)	Pg.
21	H1	Removal of invasives during development	Pedersen Strauss	41
22	H2	Add benefit and goals recitals and modify purpose and intent	Strauss	43
23	H4	Process for modifications to Tree Code requirements for excess mitigation or severe economic hardship	Strauss	46

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May 4, 2023
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Amendment B11 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen and Strauss

Create an attachment with requests for future work

Effect: This would amend Section 10 to Council Bill (CB) 120534. This amendment would move the language in Section 10 as introduced to an attachment to the CB. The purpose of this amendment is to create a single location for all amendments that are noncodified statements or intent or request for future work.

As introduced, Section 10 would establish a reporting requirement on use by permit applicants that choose the payment-in-lieu option for replacement trees. There are several amendments (listed below) to this CB that are intended to support implementation of the tree protection regulations and enhance Seattle's urban forest. Including all requests for reporting or future work into a single attachment will make it easier to track and provide oversight of the progress made on each of the requests.

The following amendments, if approved, will be included in Attachment 1 to CB 120534:

- B2: Assistance for low-income residents
- B3: Future Council actions to support urban forestry programs and enforcement
- B4: Reporting requirements
- B5: Outreach to residents and tree service providers
- B6: Improving management of trees on City property
- B7: Tree fund
- B10: Urban forestry oversight improvement
- C1: Tree review improvements

Add a new Section 10 to CB 120534 and add reference to the attachment as follows:

Section 10. This section establishes the Council's intent for the City to take additional measures to support implementation of the tree protection regulations enacted by this ordinance and enhance Seattle's urban forest. Attachment 1 to this ordinance outlines specific requests to the Executive for future work and additional actions the Council intends to implement related to protecting trees and increasing tree canopy cover on both public and private property. ((The Department of Construction and Inspections shall prepare a report months after the effective date of this ordinance on the use by permit applicants of payment in lieu of tree replacement. This

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~~report shall include the number of permit applicants that used the payments, payment amounts, total payments collected, City costs related to tree planting and establishment, and any recommendations for changes to the payment amounts to be included in a revised Director's Rule. Recommendations for changes to fee amounts shall include consideration of adequacy of payment amount to replace removed trees, cover City planting and establishment costs, and effects of payment amount on permit applicant decisions about usage of the payment option. The report shall be provided to the Mayor and the Chair of the City Council Land Use Committee, or successor committee.))~~

Section 11. 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.

[signature block – full text of signature block omitted]

(Seal)

Attachments:

Attachment 1 – Tree Protection Requests and Additional Actions

Aly Pennucci
Land Use Committee
May 4, 2023
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PROPOSED ATTACHMENT

Header for the attachment

Att 1 to CB 120534 - Tree Protection Requests and Additional Actions
V1

Body of the Attachment

Attachment 1 to CB 120534: Tree Protection Requests and Additional Actions

It is the Council's intent that the following measures be considered to support implementation of the tree protection regulations enacted in the Ordinance introduced as CB 120534 and enhance Seattle's urban forest:

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

Yolanda Ho/Aly Pennucci
Land Use Committee
May 4, 2023
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Amendment B2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen and Strauss

Assistance for low-income residents

Effect: This would state the Council’s intent that the Seattle Department of Construction and Inspections (SDCI) identify options to reduce the financial impact of the costs associated with removal of hazardous trees outside of development for applicants whose household income is at or below 80 percent of area median income (AMI).

Section 25.11.040 of CB 120534 would allow the SDCI director to approve the removal of hazardous trees if the tree is rated by a registered tree service provider as an Extreme or High-risk Hazard. If removal is approved, Tier 1, Tier 2, and Tier 3 trees must be replaced pursuant to Section 25.11.090. The costs to the applicant requesting the hazardous tree removal include: (1) preparation of the risk assessment by a registered tree service provider; (2) SDCI’s review of the application to remove a hazardous tree (current estimate is \$500); and, if removal is approved, the cost for (3) removal of the hazardous tree by a registered tree service provider; and (4) a replacement tree.

Reducing or waiving the fee for SDCI’s review will require increasing General Fund (GF) support, or other City resources that can be used for this purpose, to SDCI to cover the cost that would otherwise be recovered from the application fee. In addition, SDCI would need additional GF resources to have staff, or an outside entity, determine if the applicant meets the income eligibility requirements. This amendment also requests an analysis of the estimated impact on GF resources.

Add a new section to Attachment 1 to CB 120534 (number to be determined) as follows:

Section X. The Council requests that the Seattle Department of Construction and Inspections (SDCI) identify strategies to reduce the financial burden on applicants requesting approval to remove a hazardous tree outside of development if the applicant’s annual household income is at or below 80 percent of area median income (AMI). The Council requests that SDCI consider the following strategies (1) reducing or waiving SDCI’s review fee for applicants if the applicant’s household income is at or below 80 percent of AMI; and (2) coordinating with Seattle Public Utilities to provide applicants who qualify with free replacement trees through its

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Trees for Neighborhoods program, if replacement trees are required. The Council requests that SDCI report to the Chair of the Land Use Committee with practicable strategies by September 26, 2023. In addition to identifying strategies to mitigate the financial impact on income qualified applicants, the Council requests that the report include an annual estimate of the increased General Fund (GF) resources, or other City resources that could be for this purpose, that would be necessary for a reduced- or no- fee review, including the resources necessary to determine if the applicant meets the income eligibility requirements. The Council encourages SDCI to think broadly about strategies to reduce the impact on qualifying applicants and minimize the impact on the GF.

Yolanda Ho
Land Use Committee
May 4, 2023
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Amendment B3 Version 2 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Future Council actions to support urban forestry programs and enforcement

Effect: This would add a new section to Attachment 1 to CB 120534 expressing the Council's intent to maintain and expand access to the Seattle Department of Transportation's heritage (Tier 1) tree program and provide additional resources to Seattle Public Utilities to expand the Trees for Neighborhoods program, which provides free yard and street trees to residents, and the Seattle Department of Construction and Inspections to support additional code enforcement staff during the 2024 Budget deliberations this fall.

For reference, the 2023 Adopted Budget includes around \$740,000 for the Trees for Neighborhoods program. This is funded by a mix of General Fund (GF), City Light Fund, and Drainage and Wastewater Fund. Additional code enforcement staff would require GF appropriations to SDCl. The estimated cost for a field arborist to support code enforcement is \$159,000 per year.

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

#. The Council intends to ensure that the Seattle Department of Transportation continues to administer the heritage (Tier 1) tree program and expands access for the public to submit new nominations for designation. Additionally, the Council recognizes the need to invest in programs and activities that help enhance and protect Seattle's urban forest and thus intends to add resources during the 2024 Budget deliberations to:

A. Seattle Public Utilities to expand the Trees for Neighborhoods program, which provides free yard and street trees to residents; and

B. The Seattle Department of Construction and Inspections for additional code enforcement staff to ensure that residents, businesses, and others are complying with the provisions of Seattle Municipal Code Chapter 25.11.

Yolanda Ho/Lish Whitson
Land Use Committee
May 1, 2023
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Amendment B4 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Reporting requirements

Effect: This amendment would expand the reporting requirement included in CB 120534 to provide a more comprehensive evaluation of the impacts of the proposed regulations, both on the City's trees and private development, and other considerations related to urban forest management.

The amendment requests that the Seattle Department of Construction and Inspections (SDCI) work with the Office of Sustainability and Environment's (OSE's) City Urban Forester or other staff as appropriate, and the Urban Forestry Commission on this reporting. The City Urban Forester, is also requested to report independently on how they will be involved in policy decisions regarding trees on private property.

The City Urban Forester, a new position added to OSE in the 2023-2024 budget, has not yet been hired. Per Council Budget Action OSE-005-B-001-2023 it is intended to "work with executive leadership and staff across urban forestry departments to establish and/or affirm citywide and department-specific strategy intended to support a healthy and robust tree canopy and urban forest in Seattle; provide an on-going assessment on the efficacy of policies and programs in meeting these goals; and recommend changes as needed to decision-makers."

Some of the information required to complete these reports is not currently planned to be captured in an easily usable manner by SDCI's permitting system, Accela. SDCI estimates that adding the relevant data points to Accela would cost between \$11,000 and \$13,500. That work may be an eligible expenditure for permitting fees.

Increasing the reporting request will increase the work required of SDCI and other departments including OSE, the Seattle Department of Transportation, and the Seattle Parks and Recreation. Additional resources may be needed, or SDCI's ability to address other priorities may be reduced.

1. Add two new sections to Attachment 1 to CB 120534 (number to be determined) as follows:

#. Twelve months after the effective date of this ordinance, and no less frequently than every three years thereafter, the Seattle Department of Construction and Inspections, in collaboration with the Office of Sustainability and Environment's City Urban Forester or other staff as appropriate, the Urban Forestry Commission, and other members of the Urban Forestry

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Core Team, and in consultation with outside experts and stakeholders, shall prepare and deliver a report to the Mayor and the Chair of the City Council Land Use Committee, or its successor committee, on changes needed to ensure this ordinance serves its purposes, especially as it pertains to reducing indiscriminate tree loss, addressing canopy inequities, and avoiding undue delays or burdens on development. Specifically, the report shall include:

A. The number of permit applicants that used the voluntary payment in lieu option, payment amounts, total payments collected, City costs related to tree planting and establishment, and any recommendations for changes to the payment amounts to be included in a revised Director's Rule. Recommendations for changes to fee amounts shall include consideration of adequacy of payment amount to replace removed trees, cover City planting and establishment costs, and effects of payment amount on permit applicant decisions about usage of the payment option.

B. The number of permit applicants that elect to use development standard modifications to retain Tier 2 trees per Seattle Municipal Code subsection 25.11.070.B.2. The report shall include the types of modifications used, the number of Tier 2 trees preserved when utilizing the modifications, and the number of Tier 2 trees that were removed as part of development as part of those same project permit applications.

C. The total number of trees removed during development, the total number of trees removed outside of development, and total number of hazardous trees removed, including information regarding tree species and size, and any other information about tree preservation, removal, and replacement that the Department deems relevant to consideration of the impacts of this ordinance.

D. Recommendations for changes to the development standard departures, as appropriate, based on consideration of the adequacy of tree preservation regulations, adequacy of incentives

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provided to builders, and effects of hardscape allowances on tree preservation, replanting, and development processes.

E. The number and location of replacement trees planted onsite, as well as the number and location of replacement trees planted offsite. The report shall include descriptions, statistics, and qualitative reports about required replacement trees planted offsite through direct replacement by developers and through City efforts funded by the One Seattle Tree Fund. The report shall include information on costs, survivability, and community reception and feedback.

F. An assessment of any unintended consequences arising from the implementation of this ordinance, including but not limited to:

1. Inequitable canopy impacts on Environmental Justice communities;
2. Disincentives to tree ownership, stewardship, or proactive management;
3. Impacts to the livelihoods of urban forest professionals; and
4. Cost and time to developers.

G. An evaluation of impacts to the urban forest due to climate change including from pests, pathogens, and insects.

H. Analysis of tree removal on both public and private property, using data available through permit applications and public notices required by subsections 15.43.030 and 25.11.100.C.1.

#. The Seattle Department of Construction and Inspections, in collaboration with the Office of Sustainability and Environment's City Urban Forester or other staff as appropriate, and Urban Forestry Commission, and in consultation with outside experts and stakeholders, shall include the following information in its first two reports prepared pursuant to Section 10 of this ordinance:

A. How the City Urban Forester position in the Office of Sustainability and Environment has interfaced with regulations affecting trees on private property; recommendations from the City

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Urban Forester for improvements to interdepartmental urban forest management; and recommendations from the City Urban Forester for other improvements to the City's tree policies and programs to conserve and protect the city's urban forest.

B. Analysis of how this ordinance relates to the strategies in the forthcoming Tree Canopy Equity and Resilience Plan, and recommendations for future amendments to Seattle Municipal Code Chapters 15.43 and 25.11 to better implement those strategies.

Yolanda Ho
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Amendment B5 Version 2 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Morales

Outreach to residents and tree service providers

Effect: This would add a request for the Seattle Department of Construction and Inspections, in consultation with the Office of Sustainability and Environment, Department of Neighborhoods, and other departments as needed, to develop a culturally- and linguistically-appropriate plan to inform residents and tree service providers of the updated tree regulations, particularly in regard to tree removal limits outside of development, by August 31, 2023.

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

#. The Council requests that the Seattle Department of Construction and Inspections, in consultation with the Office of Sustainability and Environment and Department of Neighborhoods, and other departments as needed, develop a plan to conduct culturally- and linguistically-appropriate outreach to inform residents and tree service providers about the updated tree protection regulations, particularly those related to tree removal limits outside of development, by August 31, 2023. The plan should include a proposed timeline, budget, and detailed description of the proposed outreach strategy.

Eric McConaghy
Land Use Committee
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Amendment B6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Nelson

Improving management of trees on City property

Effect: This would request that the Executive identify causes of tree loss on City-owned and City-managed property and propose potential improvements to the City's efforts to increase tree canopy and to maintain existing trees on City-owned and City-managed property. The proposed improvements would be informed by the recommendations of the City of Seattle 2021 Tree Canopy Assessment Final Report released in March 2023.

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

#. The Council requests that the Executive identify causes of tree loss on City-owned and City-managed property and propose potential improvements to the City's maintenance activities, including via contractors and partnerships, to increase tree canopy cover on City-owned and City-managed property, enhance the health of existing trees on City-owned and City-managed property, and prevent the loss of the same. The proposed improvements should be informed by the recommendations of the City of Seattle 2021 Tree Canopy Assessment Final Report released in March 2023.

Yolanda Ho / Aly Pennucci
 Land Use Committee
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Amendment B7 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Tree fund

Effect: This amendment would add a new section to Attachment 1 to CB 120534 to request that the City Budget Office submit legislation with the 2024 Proposed Budget that would establish a fund to receive in-lieu fees, and other grant or donation revenues received by the City related to protecting and growing the city's tree canopy. The intent is to provide transparent tracking of the revenues generated from implementation of this legislation and accountable use of the in-lieu fees.

Creating a new fund does introduce some administrative complexities, such as managing and monitoring the cash balances for this new fund, and additional reporting and monitoring. In establishing a new fund, the administrative complexities need to be considered alongside the need to provide greater transparency in how the funds are used.

SDCI estimates the revenue from in-lieu fees to be approximately \$580,000 per year; creating a separate fund for that amount of estimated revenue may not offset the administrative complexities. However, the Mayor noted intent to create a "One Seattle Tree Fund" for fee-in-lieu payments in [Executive Order 2023-03](#); this amendment would signal Council's concurrence. If, upon further review, the Executive determines that the administrative complexities outweigh the benefits of creating a separate fund, the Council would consider other strategies that would provide transparent tracking of the revenues and accountable use of the in-lieu fees.

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

#. The Council requests that the City Budget Office (CBO) submit legislation with the 2024 Proposed Budget that would establish a fund to receive in-lieu fee payments from developers and private property owners in accordance with Seattle Municipal Code Section 25.11.110. In addition, any donations, grants, or other revenues the City receives to protect and grow the City's tree canopy should be deposited into this fund. The legislation should include any spending restrictions for this fund (e.g., revenues from payments in-lieu may be used to plant

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new trees). If CBO determines that creating a new fund is not the best approach, the Council requests that CBO propose other strategies that would provide transparent tracking of these revenues and expenditures, such as creating a new Capital Improvement Program (CIP) project in the 2024-2029 Proposed CIP and requesting annual reporting of revenues and expenditures with the annual budget.

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Amendment B10 Version 2 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Urban forestry oversight improvements

Effect: This would request that the Executive consider strategies to improve oversight of trees located on private property and ensure that the City is considering impacts to Seattle's urban forests while also balancing the need for housing production by creating an independent Urban Forestry Division with dedicated staff in the Seattle Department of Construction and Inspections; assigning urban forestry oversight to the Office of Sustainability and Environment; and/or other organizational changes, as appropriate.

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

#. The Council requests that the Executive consider strategies to improve oversight of trees located on private property and ensure that the City is considering impacts to Seattle's urban forest while also balancing the need for housing production, including but not limited to: establishing an Urban Forestry Division with dedicated staff within the Seattle Department of Construction and Inspections; assigning responsibility for urban forestry oversight to the Office of Sustainability and Environment; and/or other organizational changes, as appropriate.

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Amendment I1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen & Strauss

Tree groves clarification

Effect: This would amend CB 120534 to clarify the definitions of “Tier 2 tree” and “tree grove” under Section 25.11.130 (Definitions). Specifically, it would state that each tree within a tree grove shall be regulated as a Tier 2 tree, which is consistent with current regulations. It would also clarify the definition of Tier 2 trees to align the language with Table A in Section 25.11.050 and replace reference to the “public right-of-way” with “public place,” which is a defined term in the Seattle Municipal Code that includes the public right-of-way.

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

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

25.11.130 Definitions

“Tier 2 tree” means any tree that is 24 inches in diameter at standard height or greater, ~~includes tree groves and, each tree comprising a tree grove as well as, and~~ specific tree species below 24 inches in diameter at standard height as ~~deemed as such by the Director pursuant to standards promulgated by the Seattle Department of Construction and Inspections provided by~~ Director’s Rule.

“Tree grove” means a group of eight or more trees, ~~over~~ 12 inches in diameter at standard height ~~or greater~~ that has a continuous canopy. It excludes red alders, black cottonwoods, bitter cherries, Lombardy poplars, invasive trees, and any tree, the entire trunk of which is in ~~a public~~

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~~right-of-way the public place.~~ Trees planted as a hedge or clearly maintained as such are not tree groves. A tree grove may be located across property lines on abutting and/or adjacent lots. A tree grove shall be regulated as a Tier 2 tree, and each tree comprising that grove shall also be regulated as a Tier 2 tree.

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Amendment I3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Emergency action clarification

Effect: This would amend CB 120534 to clarify the definition of “emergency action” under Section 25.11.130 (Definitions) to clarify that risk assessment should be determined according to standards established by the International Society of Arboriculture, consistent with the proposed definition of “hazardous tree.”

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

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

25.11.130 Definitions

“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~~ according to tree risk assessment evaluation standards established by 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.

Yolanda Ho
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Amendment I4 Version 2 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Tree service provider activities and qualifications clarification

Effect: This would (1) clarify that registered tree service providers conducting tree risk assessments are required to have either an employee or a person on retainer who is currently credentialed with an ISA Tree Risk Assessment Qualification and (2) align provisions related to tree service provider requirements with proposed tree tier nomenclature.

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

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

25.11.040 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 that has an employee or a person on retainer who is currently credentialed with an ISA Tree Risk Assessment Qualification as an Extreme or High Risk hazard~~;~~, according to the following:

25.11.100 Tree service provider registration

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

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to conducting commercial tree work that involves reportable work or removal of any ~~tree 6~~
~~inches or greater ((DBH)) DSH~~ Tier1, Tier 2, Tier 3, or Tier 4 tree:

25.11.130 Definitions

“Commercial tree work” means any of the following actions conducted within ~~((the City~~
~~of))~~ Seattle in exchange for financial compensation: reportable work; and the removal ~~of any tree~~
~~6 inches or greater ((DBH)) DSH; and the assessment of the health or hazard risk of trees larger~~
~~than 6 inches ((DBH)) DSH~~ or assessment of the health or hazard risk of any Tier 1, Tier 2, Tier
3, or Tier 4 tree. Normal pruning and maintenance that does not meet the definition of reportable
work is not commercial tree work.

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Amendment D1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Add exemption for tree removal due to pathogens

Effect: This would add pathogens to the proposed exemption for trees that are infested with insects and/or pests. This would allow for removal of trees that do not meet a high risk hazard due to the presence of pathogens, which can include fungi, bacteria, viruses, parasitic plants, nematodes and other microorganisms. It would also require replacement of any Tier 1, Tier 2, or Tier 3 tree removed for this reason to be replaced.

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

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

126777, is amended as follows:

25.11.020 Exemptions

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

G. Tree removal or commercial tree work as approved by the Director prior to removal in accordance with a recommendation from a certified arborist for an insect ~~and/or~~ pest, and/or pathogen infestation that does not meet a high risk hazard, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; and

25.11.090 Tree replacement, maintenance, and site restoration

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

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Amendment D3 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Allow tree removal to avoid conflicts with utility infrastructure and building foundations

Effect: This would allow for removal of Tier 3 and additional Tier 4 trees outside of development in case of conflicts with infrastructure or building foundations. For reference, CB 120534 would only allow removal of up to two Tier 4 trees in a three-year period in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones. It would also require replacement for any Tier 3 tree removed for these reasons.

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

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

126777, is amended as follows:

25.11.050 General provisions for regulated tree categories

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

D. In addition to the tree removal allowances in subsection 25.11.050.B, the Director may authorize removal and replacement of a Tier 3 tree, or removal of a Tier 4 tree, from developed lots in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones when

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removal is needed because the tree is causing obvious physical damage to building foundations or utility infrastructure, where continued or additional damage cannot be avoided through actions other than removal

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous ~~or are,~~ infested by insects or pests ((in all zones)), or in accordance with the removal criteria in subsection 25.11.050.D, shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is ~~((at least equal))~~ roughly proportional to the canopy cover prior to tree removal. ~~((Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.))~~ When off-site replacement is proposed, preference for the location shall be on public property.

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Amendment D5 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Exemption for dead trees

Effect: This would exempt removal of dead trees from some of the requirements for hazardous tree removal. Removal of a dead tree would still require approval prior to removal by the Seattle Department of Construction and Inspections and the department will charge a fee, but no risk assessment or replacement would be required.

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

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

* * *

25.11.040 Hazardous tree removal

* * *

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

D. Removal of dead trees is exempt from the risk assessment requirements of subsection 25.11.040.B and replacement requirements of subsection 25.11.040.C.

* * *

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Amendment D6 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Exemption for invasive and nuisance species

Effect: This would exempt removal of invasive or nuisance trees (i.e., those listed on the King County Noxious Weed Board's Class A, Class B, Class C Noxious Weed, or Weeds of Concern Lists) from tree removal limits, but would require that if the tree is a Tier 1, Tier 2, or Tier 3 tree, it would need to be replaced. While the Noxious Weed Lists include only a few small tree species, the Weeds of Concern List includes trees that can grow to be quite large, including English holly, horse-chestnut, and Norway maple. There are at least a few designated heritage (Tier 1) trees that are species listed on the Weeds of Concern List, and this amendment would not allow those to be removed.

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

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

* * *

25.11.020 Exemptions

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

* * *

G. Tree removal or commercial tree work as approved by the Director prior to removal in accordance with a recommendation from a certified arborist for an insect and/or pest infestation that does not meet a high risk hazard, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; ~~and~~

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

I. Removal of invasive or nuisance trees, excluding those that are Tier 1 trees, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090.

* * *

25.11.090 Tree replacement, maintenance, and site restoration

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

* * *

25.11.130 Definitions

* * *

Yolanda Ho
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“Invasive tree” or “nuisance tree” means any tree species that is documented on the King
County Noxious Weed Board’s Class A, Class B, ~~or~~ Class C Noxious Weed, or Weeds of
Concern Lists.

* * *

Yolanda Ho
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Amendment D7 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Exemption for developed lots with high-canopy cover

Effect: This would exempt removal of Tier 3 and Tier 4 trees to thin trees that were initially overplanted on developed lots, provided that those lots have at least 40 percent canopy cover or higher, when taking the planned removal into account. Removal of such trees would be required to be done by a registered tree service provider.

CB 120534 would only allow removal of up to two Tier 4 trees in a three-year period in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones. This exemption would allow residents to remove trees above this limit and not require replacement for trees that are removed, recognizing that such lots are unlikely to have sufficient space to accommodate new trees.

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

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

126777, is amended as follows:

* * *

25.11.020 Exemptions

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

* * *

G. Tree removal or commercial tree work as approved by the Director prior to removal in accordance with a recommendation from a certified arborist for an insect and/or pest infestation that does not meet a high risk hazard, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; ~~and~~

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

I. Removal of Tier 3 and Tier 4 trees to thin trees that were initially overplanted, as approved by the Director prior to removal, on developed lots that, when taking the planned tree removal into account, would have 40 percent canopy cover or higher; except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100.

* * *

Lish Whitson
 Land Use Committee
 May 4, 2023
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Amendment D8 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Allow tree removal to improve access for the elderly and people with disabilities

Effect: This amendment would exempt tree removal or tree work that is necessary to improve access to the elderly or disabled from the provisions of Chapter 25.11. Section 25.11.020 as proposed would exempt activities necessary to comply with the Americans with Disabilities Act (ADA) from the provisions of the Chapter. Under the amendment, this exemption would be expanded to include all changes necessary to improve access for the elderly and people with disabilities, whether those changes are required under the ADA, or are voluntary improvements. This language is consistent with language found in the Land Use Code (Chapter 23 of the Seattle Municipal Code) regarding permitted changes to structures that would otherwise not be allowed. Common improvements that may necessitate the removal of a tree to improve access include the addition of a ramp, or the regrading of a pathway to a site.

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

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

* * *

25.11.020 Exemptions

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

- A. Normal pruning and maintenance;
- B. Emergency (~~((activities necessary to remedy an immediate threat to public health, safety, or welfare))~~) actions pursuant to Section 25.11.030, except that tree service providers conducting commercial tree work on these trees must comply with Section 25.11.100;
- C. Tree removal undertaken as part of tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments;

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

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

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

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

E. Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and payment in lieu of replanting undertaken as part of redevelopment that meets the planned action ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section 23.75.160, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100;

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

G. Tree removal or commercial tree work as approved by the Director prior to removal in accordance with a recommendation from a certified arborist for an insect and/or pest infestation that does not meet a high risk hazard, except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; and

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H. Tree removal or commercial tree work to comply with the Americans with Disabilities Act, or as necessary to improve access for the elderly or people with disabilities; except that tree service providers conducting commercial tree work on these trees must comply with the tree service provider registry requirements of Section 25.11.100.

* * *

Aly Pennucci
Land Use Committee
May 4, 2023
D1a

Amendment E3 Version 1 to CB 120534 - Tree Protection Updates

Sponsors: Councilmembers Pedersen and Strauss

Author: Councilmember Herbold

Authority to create Director's Rule for replacement trees

Effect: This amendment would authorize the Director of the Seattle Department of Construction and Inspections to promulgate a Director's Rule to add more specificity to the requirements for maintenance practices intended to maintain the long-term health and ensure survival of replacement trees. This would include requirements for regular monitoring and establish requirements about the type of acceptable replacement trees, limiting that to trees that are native and/or culturally significant, and resilient to climate change.

Amend Section 7 of CB 120534 as follows:

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

* * *

25.11.090 Tree replacement, maintenance, and site restoration

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

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

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

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

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

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

2. Replacement and replanting of failed trees; and

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

C. In addition to the maintenance actions for replacement trees described in subsection 25.11.090.B.1, the Director shall promulgate rules to maintain the long-term health and ensure survival of replacement trees. This shall include rules that specify:

1. The watering of replacement trees necessary to ensure survival; and

2. Tree species that will fulfill the replacement requirement. Qualifying tree species shall be limited to trees that are native and/or culturally significant, and resilient to climate change.

Ketil Freeman
Land Use Committee
May 4, 2023
D1

Amendment E9 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmembers Pedersen and Strauss

Prohibit applications for new development on sites with an active Tree Code notice of violation

Effect: This would amend Section 7 to CB 120534 to prohibit the Seattle Department of Construction and Inspections (SDCI) Director from accepting applications for new development on a site for which a Notice of Violation (NOV) has been issued.

This amendment is intended to create a disincentive for sellers of property to illegally remove trees to facilitate future development by a purchaser.

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

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.

3. The Director shall not accept an application for development on a site for which a notice of violation has been issued until that notice of violation is resolved.

Yolanda Ho
Land Use Committee
May 4, 2023
D1c

Amendment E10 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Morales

Racial equity considerations and use of in-lieu fee revenues

Effect: This would amend CB 120534 to add recitals related to the key findings of the 2021 Tree Canopy Assessment, including the ongoing issue of inequitable tree canopy cover distribution throughout Seattle. It would specify that revenues generated from the in-lieu fee for replacement trees be directed to planting new trees in census tracts with tree canopy cover of 25 percent or less, prioritizing planting new trees in the public place (i.e., right-of-way) in such census tracts. This language would align with the Executive's proposed use of the in-lieu fee revenue.

1. Add recitals to CB 120534, as follows:

WHEREAS, The City of Seattle (City) established a goal of achieving at least 30 percent tree canopy cover by 2037; and

WHEREAS, the City's 2021 Tree Canopy Assessment determined that Seattle has experienced a net loss of 255 acres of tree canopy since 2016, representing a relative decrease of 1.7 percent; and

WHEREAS, tree canopy is inequitably distributed, with neighborhoods most impacted by racial and economic injustice starting with lower canopy and losing more canopy than the citywide average between 2016 and 2021; and

WHEREAS, these neighborhoods also tend to suffer from lower air quality and associated health impacts, and trees help to absorb air pollutants and increase air quality; and

WHEREAS, higher tree canopy cover helps to lower ambient temperatures and reduce heat island effects during the summer months, which are predicted to become increasingly hotter as the climate warms; and

Yolanda Ho
Land Use Committee
May 4, 2023
D1c

WHEREAS, while all areas in Seattle suffered some amount of tree canopy cover loss, the Parks Natural Areas and Neighborhood Residential management units exhibited the greatest net losses, accounting for 78 percent of total canopy cover lost between 2016 and 2021; and

WHEREAS, the trends revealed by the 2021 Tree Canopy Assessment indicate that Seattle is further away from achieving its goal of 30 percent canopy cover; and

WHEREAS, to reverse this decline in canopy cover and realize the City's goal of an equitably distributed urban forest in Seattle, the City needs to consider innovative, equity-focused strategies that promote housing development while also prioritizing tree planting, preservation, and maintenance and community engagement; and

WHEREAS, the Office of Sustainability and Environment's 2023 Adopted Budget includes \$150,000 for a tree canopy equity and resilience assessment and plan that will identify the best strategies and locations for planting, growing, and maintaining trees on private and public land and in the right-of-way, with a focus on low-canopy neighborhoods in environmental justice priority areas; and

WHEREAS, this legislation is intended to advance the City's efforts to increase housing production; reduce climate pollutants per the goals of the Green New Deal for Seattle; increase community climate resiliency, particularly for vulnerable populations; and address inequitable tree canopy cover so that all communities can enjoy the environmental and aesthetic benefits of greater tree canopy cover in their neighborhoods;
NOW, THEREFORE,

Yolanda Ho
Land Use Committee
May 4, 2023
D1c

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

25.11.110 Off-site planting and voluntary payment in lieu

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

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

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

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

D. Revenue generated from payment in lieu of planting shall be used to plant and maintain new trees in census tracts with tree canopy cover of 25 percent or less, according to the 2021 Seattle Tree Canopy Assessment (or successor tree canopy assessment). Within these census tracts, the City shall prioritize planting new trees in the public place.

Ketil Freeman
Land Use Committee
May 4, 2023
D1

Amendment H1 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Pedersen

Removal of invasives during development

Effect: This would amend Section 7 to CB 120534 to require removal of invasive vegetation as part of site restoration and preclude planting of new invasive species when replacement is required as part of development.

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

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

25.11.090 Tree replacement, maintenance, and site restoration

A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1, Tier 2, and Tier 3 trees removed in association with development or because they are hazardous or are infested by insects or pests ((in all zones)) shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is ((at least equal)) at least roughly proportional to the canopy cover prior to tree removal. Site restoration where there is on-site tree replacement in association with development shall include the removal of all invasive vegetation and shall prohibit replacement with invasive species. ((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.

Ketil Freeman
Land Use Committee
May 4, 2023
D1

~~((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.))~~

Eric McConaghy
Land Use Committee
May 4, 2023
D1

Amendment H2 Version 1 to CB 120534 - Tree Protection Updates

Sponsor: Councilmember Strauss

Add benefit and goals recitals and modify purpose and intent

Effect: This would amend CB 120354 to add recitals about (1) the benefits of trees and the urban forest and (2) the goals of the legislation. It would also modify the Purpose and Intent section to include reference to increasing Seattle’s climate resilience and reducing urban heat islands. The amendment would not impact the implementation or enforcement of the proposed regulations.

1. Add recitals to CB 120534, as follows:

WHEREAS, trees and urban forest provide necessary and substantial economic, social, health and environmental benefits needed for a thriving, livable and resilient city. These benefits include improved mental and physical public health, stormwater retention, wildlife habitat preservation for birds and other species, pollution reduction, climate change mitigation and adaptation, erosion control, urban heat island reduction, wind protection, and aesthetic beauty; and

WHEREAS, the goals of this legislation are to protect and enhance the public health, safety, environment, and general welfare of the people of the City by improving protections and processes for Seattle’s trees and urban forest located on both public and private land;

NOW, THEREFORE,

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

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

25.11.010 Purpose and intent ((-))

Eric McConaghy
Land Use Committee
May 4, 2023
D1

~~((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;

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

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

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

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

Eric McConaghy
Land Use Committee
May 4, 2023
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H. Support the goals and policies of the City of Seattle Urban Forest Management Plan,
specifically those related to existing Citywide policies that commit the City to realize its vision of
racial equity and environmental justice~~;~~ and

I. Increase Seattle's climate resilience and reduce urban heat islands in the City.

Ketil Freman
Land Use Committee
May 4, 2023
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Amendment H4 Version 1 to CB 120534 –

Sponsor: Councilmember Strauss

Process for modifications to Tree Code requirements for excess mitigation or severe economic hardship

Effect: This would amend Section 7 to CB 120534 to add a new section setting out a process for applicants to request relief from tree protection requirements if: (1) an applicant can demonstrate that mitigation required under Chapter 25.11 exceeds what is necessary to mitigate tree removals or, (2) for Tier 1 tree removals, an applicant can demonstrate that retention of a Tier 1 tree would cause a severe economic hardship.

Applicants would first be required to demonstrate that they had exhausted other administrative remedies, such as taking advantage of the ability to modify development standards. The burden of proof for demonstrating economic hardship would be on the applicant. Decisions made under the new section would be appealable to the City Hearing Examiner.

Amend Section 7 of CB 120534, as follows:

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

25.11.115 Modification of tree removal, replacement, and voluntary in-lieu payment requirements

A. General

1. An applicant may request a modification, according to subsections 25.11.115.B and 25.11.115.C, of the amount of mitigation calculated according to Section 25.11.110 or the limitation on Tier 1 tree removals according to Section 25.11.050, respectively.

Ketil Freman
Land Use Committee
May 4, 2023
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2. An applicant requesting a modification under subsection 25.11.115.B regarding the amount of mitigation calculated according to Section 25.11.110 shall have requested a modification to standards according to Section 25.11.070, if applicable.

3. The decision on any modification shall specify a mitigation amount.

B. Modification based on mitigation greater than impact. The Director shall, as a special exception according to Chapter 23.76, modify the amount of mitigation calculated according to Section 25.11.110 if the applicant demonstrates that the required amount of mitigation exceeds the amount that would be needed to mitigate the actual cost of tree canopy loss from a proposed development.

C. Modification based on severe economic impact

1. The purpose of this subsection 25.11.115.C is to allow the Director, as a special exception according to Chapter 23.76, to modify regulations that limit the removal of Tier 1 trees according to Section 25.11.050, if the applicant can demonstrate facts supporting a determination of severe economic impact at such a level that a property owner's constitutional rights may be at risk.

2. For the purposes of this subsection 25.11.115.C, the Director is not making a determination of the constitutional rights of a property owner, but instead is reviewing the credibility and strength of facts demonstrating severe economic impact.

3. The Director may waive or modify regulations that limit the removal of Tier 1 trees, if the applicant shows that application of the requirements according to this Chapter 25.11 would:

a. Create severe economic impact by depriving a property owner of all economically beneficial use of the property; or

Ketil Freman
Land Use Committee
May 4, 2023
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b. Create severe economic impact, not reaching deprivation of all economically beneficial use, but as applied on a case-by-case basis after weighing the economic impact of the regulations on the property owner, the extent to which the regulations have interfered with distinct investment-backed expectations, and the character of the City's tree regulations.

4. In determining whether there is a severe economic impact under Section 25.11.115.C.3.b, the Director may weigh the following factors:

a. The severity of the economic impact caused by the application of the requirements according to this Chapter 25.11;

b. The degree to which the Tier 1 tree removal limitations under Section 25.11.050 were or could have been anticipated at the time the property owner purchased the property or at the time the property owner voluntarily agreed to enter into the Heritage Tree Program;

c. The extent to which alternative uses of the property or configurations of the proposed development would alleviate the need for the requested waiver or modification;

d. The extent to which any economic impact was due to decisions by the applicant and/or property owner; and

e. Other factors relevant to whether the burden should be borne by the property owner.

5. The waiver or modification may be approved only to the extent necessary to grant relief from the severe economic impact.

6. A request to the Director for a waiver or modification according to this subsection 25.11.115.C shall include, at a minimum, all of the following:

Ketil Freman
Land Use Committee
May 4, 2023
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a. A description of the requested waiver or modification, including any proposed voluntary in lieu payment amount;

b. Documentation showing that any relief available according to subsection 25.11.070 would not eliminate the need for the requested waiver or modification;

c. The identity of the property owner and the date of the owner's acquisition of the property and the date the property owner voluntarily entered into the Heritage Tree Program;

d. Documentation showing the use of the property at the time of the request or, if the property is vacant at that time, the use of the property prior to commencement of vacancy;

e. Documentation explaining and supporting the claim of economic impact; and

f. Documentation showing that a different development configuration that satisfied the requirements according to this Chapter 25.11 would not alleviate the need for the requested waiver or modification.

7. The applicant shall provide any additional information as may be required by the Director to make a determination on the request. The applicant shall have the burden of proving by a preponderance of the evidence that a waiver or modification authorized according to this subsection 25.11.115.C is justified.

8. The fact of a decrease in property value, standing alone and without consideration of the full range of relevant factors including those according to subsection 25.11.115.C.4, shall not be a sufficient basis for the Director to grant a waiver or modification authorized according to this subsection 25.11.115.C.

Ketil Freman
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9. In any appeal to the Hearing Examiner, the parties will have an additional opportunity to make a record on the factual issues, consistent with due process.



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

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

Amendment B1 Version 2 to CB 120535 - Tree Protection Appropriations and Positions

Sponsor: Councilmember Strauss

Seattle Department of Transportation position authority and appropriations

Effect: This would amend CB 120535 to add 1.0 FTE Civil Engineering Specialist, Senior, and \$100,000 Transportation Fund to the Seattle Department of Transportation to increase the department's capacity to review street tree permits. CB 120534 would expand the current street tree requirement in Seattle Municipal Code 23.44.020 to new development in all Neighborhood Residential (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.

In 2023, fund balance in the Transportation Fund, generated from 2022 street use permit revenues that came in higher than 2022 expenditures, are available to cover the costs of this position. Ongoing, the full cost of this position is estimated to be \$303,400 a year. If street use permit revenues continue to come in higher than currently programmed expenditures, there may be a sustainable ongoing source of funds to pay for this position. However, in 2025 the financial plan for the Transportation Fund is currently projecting a \$8.2 million deficit. In the future, either increased street use permit fees or reductions in other spending may be necessary to fund this position.

1. Amend Section 1 of CB 120535, 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:

Yolanda Ho/Aly Pennucci
Land Use Committee
May 4, 2023
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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
<u>10.3</u>	<u>Transportation Fund (13000)</u>	<u>Seattle Department of Transportation</u>	<u>Maintenance Operations (BO-TR-17005)</u>	<u>\$100,000</u>
Total				\$273,000 <u>\$373,000</u>

2. Add a new Section 3 to CB 120535 and renumber the subsequent section, as follows:

Section 3. The following new positions are created in the Seattle Department of Transportation:

<u>Department</u>	<u>Position Title</u>	<u>Position Status</u>	<u>Number</u>
<u>Seattle Department of Transportation</u>	<u>Civil Engineering Specialist, Senior</u>	<u>Full-time</u>	<u>1.0</u>
<u>Total</u>			<u>1.0</u>

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

Section ~~3~~ 4. 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.