

# 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"> <li>+ Improves customer service with clear regulations for more predictable outcomes</li> <li>+ Faster permit review times allows for reduced delays for builders which helps make more housing available sooner</li> <li>+ Reduces illegal tree removals</li> <li>+ Reduces obstacles that can be difficult for disadvantaged communities to navigate</li> <li>+ Updates enforcement provisions</li> <li>+ Helps achieve City’s canopy coverage goals</li> </ul> |

**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 trees<sup>1</sup> 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 trees<sup>2</sup>. 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 lots<sup>3</sup>. The increase in the number of newly regulated trees is 48,000 additional trees<sup>4</sup>.

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).

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<sup>1</sup> 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.

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

<sup>3</sup> 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%.

<sup>4</sup> 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**

| <b>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</b> |  |
|---|--|
| <b>Resolution Strategy</b>  | <b>Benefits</b>  |
| A. Retaining protections for exceptional trees and expanding the definition of exceptional trees  | <ul style="list-style-type: none"> <li>+ Preserves more established large, mature trees which have greatest environmental benefits</li> <li>+ Removes invasive species from list of protected trees</li> <li>+ Increases clarity for improved customer service and compliance</li> <li>+ 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)</li> <li>+ Helps accomplish citywide canopy coverage goals faster when preserving or requiring replacement for large, mature trees</li> </ul> |

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

| <b>DEFINE SIGNIFICANT TREE (TIER 3 AND TIER 4 TREES) AS ANY TREE 6 INCHES OR GREATER AND NOT EXCEPTIONAL (TIER 2 TREES)</b>   |  |
|---|--|
| <b>Resolution Strategy</b>  | <b>Benefits</b>  |
| 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   | <ul style="list-style-type: none"> <li>+ 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</li> <li>+ Mitigation would help City reach canopy coverage goals faster than without any mitigation for tree replacement</li> <li>+ 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</li> <li>+ 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</li> <li>+ 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</li> <li>+ Helps the City keep track of trees removed, replanted, and preserved</li> <li>+ Removes uncertainty for property owners and builders when requirements are clearer and more understandable</li> </ul> |
| 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 |  |

**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.<sup>5</sup> 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**

| <b>Tree Category</b> | <b>Required Mitigation</b>                          | <b>Amount</b>       |
|----------------------|---|---------------------|
| 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 Seattle<sup>6</sup>. 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.

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

<sup>6</sup> 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   |
|--|---|---|
| <b>Draft Director’s Rule:<br/>Exceptional Trees<br/>(Tier 2 trees)</b>             | <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>   |
| <b>Draft Director’s Rule:<br/>Payment In-Lieu</b>                                  | <p>New Draft Director’s Rule provides payment amount:</p> <p>Tier 1 &amp; 2 Trees: \$17.87/square inch of tree removed</p> <p>Tier 3 Trees: \$2,833/tree removed</p> <p><b>(Updated payment amount added to 2022 draft rule)</b></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>  |
| <b>23.44.020<br/>Tree requirements<br/>(New proposal added to 2022 draft code)</b> | <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 <a href="#">Preliminary Results of the Canopy Cover Assessment</a> 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> |
| <b>23.47A.016<br/>Landscaping and screening standards</b>                          | <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><b>(New proposal added to 2022 draft code)</b></p>  | <p>+ Respond to findings of <a href="#">Preliminary Results of the Canopy Cover Assessment</a> prepared by OSE to meet citywide canopy coverage percentage goals in <a href="#">2020 Urban Forest Management Plan (UFMP)</a></p>  |

| RULE/SMC   | CHANGE   | PURPOSE   |
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| <b>23.48.055</b><br><b>Landscaping and screening standards</b>   | 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<br><b>(New proposal added to 2022 draft code)</b>  | + Respond to findings of <a href="#">Preliminary Results of the Canopy Cover Assessment</a> prepared by OSE to meet citywide canopy coverage percentage in <a href="#">2020 Urban Forest Management Plan (UFMP)</a>   |
| <b>23.76.004</b><br><b>Land use decision framework</b><br><br><b>SMC 23.76.006</b><br><b>Master Use Permits required</b> | 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)   |
| <b>25.11.010</b><br><b>Purpose and intent</b>  | 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  |
| <b>25.11.020</b><br><b>Exemptions</b>  | Clarifies actions exempt from Chapter 25.11 as follows (but not limited to):<br><br>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<br><br>Tree replanting and payment in lieu option undertaken as part of development by permanent supportive housing as regulated by Title 23<br><br>Tree removals for insect and/or pest infestation<br><br>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)<br><br>+ Add development project proposals that are exempt to include permanent supportive housing |
| <b>25.11.030</b><br><b>Emergency actions</b>   | 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<br><br>+ Clarifies emergency activities necessary to remedy an immediate threat to public health, safety, or welfare   |

| RULE/SMC   | CHANGE   | PURPOSE  |
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| <p><b>25.11.040</b><br/><b>Hazardous tree removal</b></p>  | <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 <b>(New proposal added to 2022 draft code)</b></p>  | <ul style="list-style-type: none"> <li>+ Updated references to established industry standards for tree risk assessment evaluation</li> <li>+ Requires mitigation for hazardous tree removal</li> </ul>   |
| <p><b>25.11.050</b><br/><b>General provisions for regulated tree categories</b></p>  | <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 <b>(New proposal added to 2022 draft code)</b></p> <p>Adds new Table A for 25.11.050 for different tree related activities <b>(Clarifications added to 2022 draft code)</b></p> <p>Removes the graphic illustration of the tree protection area Exhibit 25.11.050B <b>(Clarifications added to 2022 draft code)</b></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 <b>(Clarifications added to 2022 draft code)</b></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"> <li>+ Simplify the tree code by creating tree categories that are easier to understand, especially for people for whom English is not their first language</li> <li>+ Provide a summary table for different tree related activities (i.e. - not part of development, during development)</li> <li>+ Add new provisions to adjust tree removal limits; This is intended to lessen tree removal outside of development</li> </ul> |
| <p><b>25.11.060</b><br/><b>Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area delineation</b></p> | <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"> <li>+ Add increased certainty during plan review for a property owner, builder, and neighbor when a tree is located on the site</li> <li>+ Add clear and understandable industry recognized standards (i.e. - ANSI 300)</li> </ul>  |



| RULE/SMC   | CHANGE   | PURPOSE   |
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|  | <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<br/><b>(Clarifications added to 2022 draft code)</b></p>  |   |
| <p><b>25.11.070<br/>Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones</b></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. <b>(New proposal added to 2022 draft code)</b></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 <b>(New proposal added to 2022 draft code)</b></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"> <li>1) For development not subject to design review: <ol style="list-style-type: none"> <li>a) Setbacks and separation requirements may be reduced by a maximum of 50 percent</li> <li>b) Amenity areas may be reduced by a maximum of 10 percent</li> <li>c) Landscaping and screening may be reduced by a maximum of 25 percent</li> <li>d) Structure width, structure depth, and façade length limits may be increased by a maximum of 10 percent</li> </ol> </li> <li>2) For development subject to design review, the departures permitted in Section 23.41.012</li> </ol> | <p>+ 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</p> <p>+ 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</p> <p>+ Maintain incentives for code flexibility to accommodate retention of regulated trees while supporting housing production on sites undergoing development</p> |

| RULE/SMC   | CHANGE  | PURPOSE   |
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|  | <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>   |   |
| <p><b>25.11.080</b><br/><b>Tree protection on sites in Major Institution Overlay Districts</b></p> | <p>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 <b>(New clarification added to 2022 draft code)</b></p>   | <p>+ Clarify approved MIMPs supersede Chapter 25.11</p>   |
| <p><b>25.11.090</b><br/><b>Tree replacement, maintenance, and site restoration</b></p>             | <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 <b>(New clarification added to 2022 draft code)</b></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 <b>(New proposal added to 2022 draft code)</b></p> <p>Adds language to make it clear what is required for maintenance and monitoring for newly planted trees <b>(New proposal added to 2022 draft code)</b></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> |
| <p><b>25.11.100</b><br/><b>Tree service provider registration</b></p>                              | <p>Relocates hazardous tree language section to its own subsection and add approval from SDCI is required prior to removal of any hazardous tree</p>  | <p>+ Add clarity and consistency with updates to tree service provider code language</p>  |
| <p><b>25.11.110</b><br/><b>Off-site planting and voluntary payment in lieu</b></p>                 | <p>Updates language to make it clearer and more concise</p>   | <p>+ Make more succinct and make clear that payment in lieu is voluntary per state law</p>  |

| RULE/SMC  | CHANGE  | PURPOSE   |
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| <p><b>25.11.120<br/>Enforcement and penalties</b></p> | <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 <b>(New clarifications added to 2022 draft code)</b></p>   | <p>+ Make briefer and clearer to understand</p>   |
| <p><b>25.11.130<br/>Definitions</b></p>               | <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” <b>(New clarification added to 2022 draft code)</b></p> <p>Defines four new tree categories - <b>(New proposal added to 2022 draft code)</b></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> |