

Ordinance No. 119791

Council Bill No. 112965

The City of Seattle
Council Bill/Ordinance

WV

AN ORDINANCE relating to land use and zoning, amending Sections 23.22.020, 23.22.054, 23.24.020, 23.24.040, 23.41.014, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to provide for the added protection of trees during the development process.

11-19-99

CF No. _____

Date Introduced:	<u>OCT 13 1999</u>	
Date 1st Referred:	<u>OCT 13 1999</u>	To: (committee) <u>Business, Economic & Community Development Committee</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>12-6-99</u>	Full Council Vote: <u>9-0</u>
Date Presented to Mayor:	<u>12-7-99</u>	Date Approved: <u>12/13/99</u>
Date Returned to City Clerk:	<u>12/14/99</u>	Date Published: <u>14 pp.</u>
Date Vetted by Mayor:		T.O. <input checked="" type="checkbox"/> P.T. <input checked="" type="checkbox"/>
Date Passed Over Veto:		Date Veto Published:
		Veto Sustained:

11-29-99 HC

12-6-99 FCU

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: DRAGO
Councilmember

Committee Action:

11-19-99 BECD Do approve 3-0 Drago

McDrew

Compton

11-29-99 Hold 1 week 8-0

(E)

12-6-99 Full Council: Pass As Amended 9-0

This file is complete and ready for presentation to Full Council. Committee: _____

(initial/date)

Law Department

Law Dept. Review

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Review

City Clerk
Review

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Indexed

ORDINANCE

119791

1
2
3 **AN ORDINANCE** relating to land use and zoning, amending Sections 23.22.020,
4 23.22.054, 23.24.020, 23.24.040, 23.41.014, 23.44.014, 23.45.014, and 23.45.056 of
5 the Seattle Municipal Code to provide for the added protection of trees during the
6 development process. **NOW THEREFORE,**

7
8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9
10
11 **Section 1.** Subsection A of Section 23.22.020 of the Seattle Municipal Code, as
12 last amended by Ordinance 118012, is further amended as follows:

13
14 **23.22.020 Content of preliminary plat application.**

15
16 A. Every preliminary plat application shall consist of one (1) or more maps
17 together with written data including the following:

- 18 1. The name of the proposed subdivision;
19 2. North point and scale; the location of existing property lines; streets,
20 building, if any; watercourses and all general features;
21 3. The legal description of the land contained within the subdivision;
22 4. The names and addresses of all persons, firms and corporations
23 holding interest in the lands, including easement rights and interest;
24 5. The proposed names, locations, widths and other dimensions of
25 proposed streets, alleys, easements, parks, lots, building lines, if any, and all other
26 information necessary to interpret the plat, including the location of existing utility and
27 access easements which are to remain;
28 6. The location of streets in adjoining plats and the approximate location
29 of adjoining utilities and proposed extensions into the plat;
30 7. The names of adjoining plats;
31 8. The name, address and telephone number and seal of the registered
32 land surveyor who made the survey or under whose supervision it was made;
33 9. The date of the survey;
34 10. All existing monuments and markers located by the survey;
35 11. The zoning classification applicable to the land within the
36 subdivision;
37 12. The conditions of or the limitations on dedications, if any, including
38 slope rights;
39 13. Contour intervals as required, based upon City datum;
40 14. Property information including, but not limited to, address, legal
41 description, and Assessor's Parcel number;



1 d. When the nonconforming wall of the single-family structure is not
2 parallel or is otherwise irregular, relative to the lot line, then the Director shall determine the
3 limit of the wall extension, except that the wall extension shall not be located closer than
4 specified in subsections D3a-c above.

5 4. Uncovered Porches. Uncovered, unenclosed porches or steps may project
6 into any required yard, provided that they are no higher than four (4) feet on average above
7 existing grade, no closer than three (3) feet to any side lot line, no wider than six (6) feet and
8 project no more than six (6) feet into required front or rear yards.

9 5. Special Features of a Structure. Special features of a structure may extend
10 into required yards subject to the following standards only, unless permitted elsewhere in
11 this chapter:

12 a. External architectural details with no living area, such as
13 chimneys, eaves, cornices and columns, may project no more than eighteen (18) inches into
14 any required yard;

15 b. Bay windows shall be limited to eight (8) feet in width and may
16 project no more than two (2) feet into a required front, rear, and street side yard;

17 c. Other projections which include interior space, such as garden
18 windows, may extend no more than eighteen (18) inches into any required yard, starting a
19 minimum of thirty (30) inches above finished floor, and with maximum dimensions of six
20 (6) feet tall and eight (8) feet wide;

21 d. The combined area of features permitted in subsections D5b and c
22 above may comprise no more than thirty (30) percent of the area of the facade.

23 6. Private Garages, Covered Unenclosed Decks or Roofs Over Patios in Rear
24 Yards.

25 a. Any attached private garages or covered, unenclosed decks or
26 roofs over patios are portions of principal structures. They may extend into the required rear
27 yard, but shall not be within twelve (12) feet of the centerline of any alley, nor within twelve
28 (12) feet of any rear lot line which is not an alley lot line, nor closer than five (5) feet to any
29 accessory structure. The height of private garages shall meet the provisions of Section
30 23.44.016D2 and the height of the roof over unenclosed decks and patios may not exceed
31 twelve (12) feet. The roof over these decks, patios and garages shall not be used as a deck.
32 Any detached private garage meeting the requirements of Section 23.44.016, Parking
33 location and access, or detached permitted accessory structure meeting the requirements of
34 Section 23.44.040, General provisions, may be located in a rear yard. If a private garage has
35 its vehicular access facing the alley, the private garage shall not be within twelve (12) feet of
36 the centerline of the alley.

37 b. Garages meeting the standards of Section 23.44.016 and other
38 accessory structures meeting the standards of Section 23.44.040, shall be permitted in
39 required rear yards, subject to a maximum combined coverage of forty (40) percent of the
40 required rear yard. In the case of a rear yard abutting an alley, rear yard coverage shall be
41 calculated from the centerline of the alley.



1 7. Private Garages in Front Yards of Through Lots. On through lots less than
2 one hundred twenty-five (125) feet in depth, either an accessory garage structure or a portion
3 of the principal structure containing a garage shall be permitted to locate in one (1) of the
4 front yards. Private garages, either as accessory structures or as a portion of the principal
5 structure, shall be limited as set forth in Section 23.44.016. The front yard in which the
6 garage may be located shall be determined by the Director based on the location of other
7 accessory garages on the block. If no pattern of garage location can be determined, the
8 Director shall determine in which yard the accessory garage shall be located based on the
9 prevailing character and setback patterns of the block.

10 8. Access Bridges. Uncovered, unenclosed pedestrian bridges of any height,
11 necessary for access and five (5) feet or less in width, are permitted in required yards except
12 that in side yards an access bridge must be at least three (3) feet from any side lot line.

13 9. Barrier-free Access. Access facilities for the disabled and elderly meeting
14 Washington State Building Code, Chapter 11 are permitted in any required yards.

15 10. Freestanding Structures and Bulkheads.

16 a. Fences, freestanding walls, signs and similar structures six (6) feet
17 or less in height above existing or finished grade, whichever is lower, may be erected in any
18 required yard. The six (6) foot height may be averaged along sloping grade for each six (6)
19 foot long segment of the fence, but in no case may any portion of the fence exceed eight (8)
20 feet. Architectural features may be added to the top of the fence or freestanding wall above
21 the six (6) foot height when the following provisions are met: horizontal architectural
22 feature(s), no more than ten (10) inches high, and separated by a minimum of six (6) inches
23 of open area, measured vertically from the top of the fence, may be permitted when the
24 overall height of all parts of the structure, including post caps, are no more than eight (8)
25 feet high; averaging the eight (8) foot height is not permitted. Structural supports for the
26 horizontal architectural feature(s) may be spaced no closer than three (3) feet on center.

27 b. The Director may allow variation from the development standards
28 listed in subsection D10a above, according to the following:

29 ((+))(1) No part of the structure may exceed eight (8) feet;
30 and

31 ((+))(2) Any portion of the structure above six (6) feet shall
32 be predominately open, such that there is free circulation of light and air.

33 c. Bulkheads and retaining walls used to raise grade may be placed in
34 any required yard when limited to six (6) feet in height, measured above existing grade. A
35 guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or
36 retaining wall existing as of the date of the ordinance codified in this section. If a fence is
37 placed on top of a new bulkhead or retaining wall, the maximum combined height is limited
38 to nine and one-half (9-1/2) feet.

39 d. Bulkheads and retaining walls used to protect a cut into existing
40 grade may not exceed the minimum height necessary to support the cut or six (6) feet,
41 whichever is greater. When the bulkhead is measured from the low side and it exceeds six
42 (6) feet, an open guardrail of no more than forty- two (42) inches meeting Building Code



1 requirements may be placed on top of the bulkhead or retaining wall. A fence must be set
2 back a minimum of three (3) feet from such a bulkhead or retaining wall.

3 e. When located in the shoreline setbacks or in view corridors in the
4 Shoreline District as regulated in Chapter 23.60, these structures shall not obscure views
5 protected by Chapter 23.60 and the Director shall determine the permitted height.

6 11. Decks in Yards. Decks no greater than eighteen (18) inches above
7 existing or finished grade, whichever is lower, may extend into required yards.

8 12. Heat Pumps. Heat pumps and similar mechanical equipment, not
9 including incinerators, may be permitted in required yards if the requirements of the Noise
10 Control Ordinance, Chapter 25.08, are not violated. Any heat pump or similar equipment
11 shall not be located within three (3) feet of any lot line.

12 13. Solar Collectors. Solar collectors may be located in required yards,
13 subject to the provisions of Section 23.44.046.

14 14. Front Yard Projections for Structures on Lots Thirty (30) Feet or Less in
15 Width. For a structure on a lot which is thirty (30) feet or less in width, portions of the front
16 facade which begin eight (8) feet or more above finished grade may project up to four (4)
17 feet into the required front yard, provided that no portion of the facade, including eaves and
18 gutters, shall be closer than five (5) feet to the front line (Exhibit 23.44.014 B).

19 15. Front and rear yards may be reduced by twenty-five (25) percent, but no
20 more than five (5) feet, if the site contains a required environmentally critical area buffer or
21 other area of the property which can not be disturbed pursuant to subsection A of Section
22 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

23 16. Arbors. Arbors may be permitted in required yards under the following
24 conditions:

25 a. In any required yard, an arbor may be erected with no more than a
26 forty (40) square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a
27 maximum height of eight (8) feet. Both the sides and the roof of the arbor must be at least
28 fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two
29 (2) inches between crosspieces.

30 b. In each required yard abutting a street, an arbor over a private
31 pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the
32 horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight
33 (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or if latticework is
34 used, there must be a minimum opening of two (2) inches between crosspieces.

35 17. Protection of Trees. Front yards may be reduced to protect existing
36 trees in rear yards and rear yards may be reduced to protect existing trees in front yards. To
37 qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured
38 four and one-half (4½) feet above the ground. The tree must also be in a condition and
39 location such that it will not present a hazard to life or property following site development,
40 and can be expected to remain healthy for at least twenty years as determined by a qualified
41 tree care professional.



1 the application shall be provided in the manner prescribed for Type II land use decisions as
2 set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized only
3 when all the following facts and conditions are found to exist:

4 a. The applicable setback requirements would make it impossible
5 to protect existing tree(s) without causing undue hardship; and

6 b. The requested setback reduction does not go beyond the
7 minimum necessary to protect the tree(s) as determined by a qualified tree care professional;
8 and

9 c. The setback reduction will not result in a development that is
10 materially detrimental to the character, design and streetscape of the surrounding
11 neighborhood, considering such factors as height, bulk, scale, setbacks, pedestrian
12 environment, and amount of vegetation remaining.

13
14
15 **Section 8.** Subsection D of Section 23.45.056 of the Seattle Municipal Code, as
16 last amended by Ordinance 118414, is further amended as follows:

17
18 **23.45.056 Midrise – Setback requirements.**

19
20 * * *

21
22 **D. General Setback Exceptions.**

23 **1. Required Setbacks for Cluster Developments.**

24 a. Where two (2) or more principal structures are located on a lot, the
25 required setback between those portions of interior facades which face each other shall be as
26 follows:

27

Length of Facing Portions of Facades (in feet)	Average Setback (in feet)	Minimum Setback (in feet)
40 or less	15	15
41-60	20	15
61-80	25	15
81-100	30	15
101-150	40	15
151 or more	50	15

28
29 b. Structures in cluster developments may be connected by
30 underground garages or elevated walkways; provided, that:

31 (1) One (1) elevated walkway shall be permitted to connect
32 any two (2) structures in the development;



1 (2) Additional elevated walkways, in excess of one (1),
2 between any two (2) structures may be permitted by the Director when it is determined that
3 by their location or design a visual separation between structures is maintained;

4 (3) All elevated walkways shall meet the following standards:

5 i. The roof planes of elevated walkways shall be at
6 different levels than the roofs or parapets of connected structures.

7 ii. Walkways shall be set back from street lot lines and
8 the front facades of the structures they connect, and whenever possible shall be located or
9 landscaped so that they are not visible from a street.

10 iii. The design of the walkways and the materials used
11 shall seek to achieve a sense of openness and transparency.

12 iv. Elevated walkways shall add to the effect of
13 modulation rather than detract from it.

14 2. Structures in Required Setbacks.

15 a. Detached garages, carports or other accessory structures are
16 permitted in the required rear or side setbacks, provided that any accessory structure located
17 between a principal structure and the side lot line shall provide the setback required for the
18 principal structure (Exhibit 23.45.056 D). All such accessory structures shall be no greater
19 than twelve (12) feet in height, with open rails permitted above twelve (12) feet.

20 b. Ramps or other devices necessary for access for the disabled and
21 elderly, which meet Washington State Building Code, Chapter 11-Accessibility, are
22 permitted in required front, side or rear setbacks.

23 c. Uncovered, unenclosed pedestrian bridges, necessary for access
24 and less than five (5) feet in width, are permitted in required front, side and rear setbacks.

25 d. Permitted fences, freestanding walls, bulkheads, signs and other
26 similar structures, no greater than six (6) feet in height, are permitted in required front, side
27 or rear setbacks.

28 e. Decks which average no more than eighteen (18) inches above
29 existing grade may project into required setbacks. Such decks shall not be permitted within
30 five (5) feet of any lot line, unless they abut a permitted fence or freestanding wall, and are
31 at least three (3) feet below the top of the fence or wall. The fence or wall shall be no higher
32 than six (6) feet.

33 f. Underground structures are permitted in all setbacks.

34 g. Solar collectors are permitted in required setbacks, subject to the
35 provisions of Section 23.45.146, Solar collectors.

36 h. Fences, Freestanding Walls, Bulkheads, Signs and Other Similar
37 Structures.

38 (1) Fences, freestanding walls, signs and similar structures six
39 (6) feet or less in height above existing or finished grade whichever is lower, may be erected
40 in each required setback. The six (6) foot height may be averaged along sloping grade for
41 each six (6) foot long segment of the fence, but in no case may any portion of the fence
42 exceed eight (8) feet.



1 Architectural features may be added to the top of the fence or
2 freestanding wall above the six (6) foot height when the following provisions are met:
3 horizontal architectural feature(s), no more than ten (10) inches high, and separated by a
4 minimum of six (6) inches of open area, measured vertically from the top of the fence, may
5 be permitted when the overall height of all parts of the structure, including post caps, are not
6 more than eight (8) feet high; averaging the eight (8) foot height is not permitted. Structural
7 supports for the horizontal architectural feature(s) may be spaced no closer than three (3)
8 feet on center.

9 (2) The Director may allow variation from the development
10 standards listed in subsection D2h(1) above, according to the following:

11 i. No part of the structure may exceed eight (8) feet;
12 and

13 ii. Any portion of the structure above six (6) feet shall
14 be predominately open, such that there is free circulation of light and air.

15 (3) Bulkheads and retaining walls used to raise grade may be
16 placed in each required setback when limited to six (6) feet in height, measured above
17 existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a
18 bulkhead or retaining wall existing as of the effective date of the ordinance codified in this
19 section. If a fence is placed on top of a new bulkhead or retaining wall, the maximum
20 combined height is limited to nine and one-half (9 ½) feet.

21 (4) Bulkheads and retaining walls used to protect a cut into
22 existing grade may not exceed the minimum height necessary to support the cut or six (6)
23 feet whichever is greater. When the bulkhead is measured from the low side and it exceeds
24 six (6) feet, an open guardrail of no more than forty-two (42) inches meeting Building Code
25 requirements may be placed on top of the bulkhead or retaining wall. A fence must be set
26 back a minimum of three (3) feet from such a bulkhead or retaining wall.

27 i. Arbors. Arbors may be permitted in required setbacks under the
28 following conditions:

29 (1) In each required setback, an arbor may be erected with no
30 more than a forty (40) square foot footprint, measured on a horizontal roof plane inclusive of
31 eaves, to a maximum height of eight (8) feet. Both the sides and the roof of the arbor must
32 be at least fifty (50) percent open, or, if latticework is used, there must be a minimum
33 opening of two (2) inches between crosspieces.

34 (2) In each required setback abutting a street, an arbor over a
35 private pedestrian walkway with no more than a thirty (30) square foot footprint, measured
36 on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of
37 eight (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or, if
38 latticework is used, there must be a minimum opening of two (2) inches between
39 crosspieces.

40 3. Front and rear setbacks may be reduced by twenty-five (25) percent, but
41 no more than five (5) feet, if the site contains a required environmentally critical area buffer
42 or other area of the property which can not be disturbed pursuant to the provisions of



1 subsection A of Section 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally
2 Critical Areas.

3 4. Protection of Trees. Front setbacks may be reduced to protect
4 existing trees in rear setbacks and rear setbacks may be reduced to protect existing trees in
5 front setbacks. To qualify for this exception, the tree(s) shall be at least six (6) inches in
6 diameter, measured four and one-half (4½) feet above the ground. The tree must also be in a
7 condition and location such that it will not present a hazard to life or property following site
8 development, and can be expected to remain healthy for at least twenty years as determined
9 by a qualified tree care professional.

10 a. Upon the request of the applicant, the Director shall permit the
11 applicant to move the proposed development activity and other land disturbance activity and
12 obtain up to a five (5) foot reduction in front or rear setback requirements when this would
13 be sufficient to protect an existing tree as determined by a qualified tree care professional.

14 b. Any setback reduction greater than five (5) feet to protect a
15 tree shall require approval through a tree protection special exception. Notice of application
16 and review process and procedures for this special exception and of the Director's decision
17 on the application shall be provided in the manner prescribed for Type II land use decisions
18 as set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized
19 only when all the following facts and conditions are found to exist:

20 (1) The applicable setback requirements would make it
21 impossible to protect existing tree(s) without causing undue hardship; and

22 (2) The requested setback reduction does not go beyond
23 the minimum necessary to protect the tree(s) as determined by a qualified tree care
24 professional; and



1 (3) The setback reduction will not result in a development
2 that is materially detrimental to the character, design and streetscape of the surrounding
3 neighborhood, considering such factors as height, bulk, scale, yards, pedestrian
4 environment, and amount of vegetation remaining.
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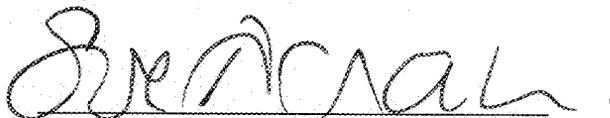
7 **Section 9.** The provisions of this ordinance are declared to be separate and
8 severable. The invalidity of any particular provision shall not affect the validity of any other
9 provision.
10

11
12 **Section 10.** This ordinance shall take effect and be in force thirty (30) days from
13 and after its approval by the Mayor, but if not approved and returned by the Mayor within
14 ten (10) days after presentation, it shall take effect as provided by Municipal Code Section
15 1.04.020.
16

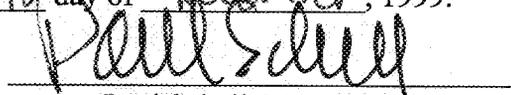
17 Passed by the City Council the 6th day of December, 1999, and

18 Signed by me in open session in authentication of its passage this 6th day of

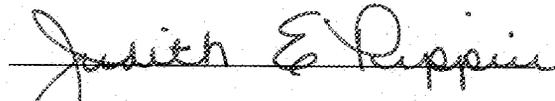
19 December, 1999.
20

21 
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23
24 President of the City Council

25 Approved by me this 15th day of December, 1999.

26 
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28 Paul Schell, Mayor
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30 Filed by me this 14th day of December, 1999.

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35 City Clerk
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37 (Seal)
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39





City of Seattle

Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

MEMORANDUM

TO: Sue Donaldson, City Council President, via
Margaret Klockars, Law Department

FROM: 
Rick Krochalis, Director

DATE: October 12, 1999

SUBJECT: Proposed Land Use Code Amendments Related to Tree Protection
During Project Development

Transmittal

With this memorandum we are transmitting for City Council consideration proposed legislation amending the Land Use Code related to tree protection measures during project development.

Background

For years some citizens have expressed concern that existing City policies do not sufficiently encourage or require the preservation and replacement of trees on private property. They have made the following arguments:

- Trees are often removed from properties undergoing development without considering the range of options for retaining them.
- In many cases, trees are removed from public rights of way due to conflicts with development on adjacent properties.
- Current regulations do not protect healthy mature trees that are valued for aesthetic or environmental reasons on public and private properties undergoing development.

In 1997 the City Council voted to incorporate goals and policies relating to tree preservation and enhancement into Seattle's Comprehensive Plan. The Council also adopted a work program to evaluate the best means to improve regulatory efforts regarding trees and propose changes as appropriate. An Urban Forest Work Group was convened in 1998 that included people who were active in the preservation of trees

throughout the city, people concerned with the ability to conduct business in the city, construction industry representatives, and conservationists. Work group participants discussed and identified specific ideas regarding the retention of trees. The Strategic Planning Office followed up this effort with a report in February, 1999 that presented a series of potential implementation actions.

DCLU has now prepared a series of recommended code and administrative changes, including:

- **Design Review Guidelines** Revisions to the Design Review guidelines to strengthen consideration of tree retention during development
- **SEPA Director's Rule** A new Director's Rule supplementing the State Environmental Policy Act (SEPA) Plants and Animals Policy to help identify exceptional trees.
- **Subdivisions and Short Plats** Changes to the subdivision and short plat regulations that would require identification of existing trees; also adds approval criteria for the retention of existing substantial trees
- **Yard and Setback Reduction and Variance** A new procedure to allow reductions of yard and setback requirements in single family, lowrise, and midrise zones to protect existing trees
- **Environmentally Critical Areas Vegetation Removal Permit** Changes to the Environmentally Critical Areas regulations that would limit tree removal on undeveloped sites (not associated with a development proposal) to trees that are safety hazards or harmful to property.

SEPA Environmental Review Determination

DCLU has completed environmental review and issued a Determination of Non-Significance (no environmental impact statement required) on October 14, 1999. The appeal period runs through October 28, 1999.

Public Workshop and City Council Hearing Scheduled

The Seattle City Council will hold a **workshop** on improving ways to protect trees during development on Monday October 25, 1999 at 5:00 PM in the Washington Park Arboretum Graham Visitor Center at 2300 Arboretum Dr. E. A **public hearing** on these provisions will be held on Monday November 1, 1999. The hearing will be held at 6:00 PM in the City Council Chamber, 11th Floor of the Municipal Building, 600 Fourth Avenue.

Financial Legislation

The proposed legislation has financial implications. Details are included in the attached fiscal note. However, there are several significant points that warrant your attention. The proposed legislation will add time and cost to the review of permit applications for new housing. This additional time and cost will likely be passed on from the developer to the buyer, contributing to the rising cost of housing in the city.

Additional review time that will result from the proposed legislation may exceed 400 hours, thereby necessitating an increase in permit fees. For example, as a result of amendments to design review, DCLU and SEATRAN agreed that a tree professional from SEATRAN would assist in the review of design review projects. The cost of this review and report will be approximately \$200 per project. For 1999, zoning review for Master Use Permit fees is covering the cost. However, we anticipate that when this fee is changed from value-based to hourly in the year 2000, a different funding mechanism will be needed. We will recommend that a charge to each design review application be assessed for SEATRAN expert review. If the Council wants to defray the cost to the applicant, it would be approximately \$28,000 assuming 140 projects.

The Council will also be considering a separate proposal, developed by Council staff, for enhancing tree protection. This proposal, requiring all proponents of all new multifamily and single family structures to either preserve or replace trees on site, will further increase staff review time and costs. In addition, these additional regulatory measures will likely result in additional enforcement challenges and costs.

If you have any questions about the proposed legislation, please contact Cliff Marks at (206) 684-8372, or Patrick Doherty at (206) 233-3852.

Attachments

cc: Denna Cline, Mayor's Office
Cynthia Parker, Office of Housing
Lizanne Lyons, Strategic Planning Office
Judy Barbour, Law Department
Rebecca Herzfeld, DCLU

kd
tree-tm
10/12/99



FISCAL NOTE

Department: Design, Construction and Land Use

Contacts: Cliff Marks, 4-8372
Patrick Doherty, 3-3852

CBO Analyst: Pascal St.Gerard, 4-8085

Legislation Title:

AN ORDINANCE relating to land use and zoning, amending Sections 23.22.020, 23.22.054, 23.24.020, 23.24.040, 23.41.014, 23.44.014, 23.45.014, 23.45.056 of the Seattle Municipal Code to provide for the added protection of trees during the development process.

Summary of the Legislation: The proposed legislation would amend the Design Review program to require the identification of trees six inches or greater in diameter in description of a development site and on plot plans. The legislation would also establish provisions for reductions in required yards or setbacks in single and multifamily zoned areas to preserve trees and require that existing trees be identified in application materials for subdivision of land to allow for site planning that would maximize their protection and preservation.

Additional amendments are proposed by Councilmember Jan Drago to accompany the executive's recommendations. These amendments are discussed under "Other Issues" below.

Background: In 1997, the Council voted to incorporate goals and policies relating to tree preservation and enhancement into the Seattle Comprehensive Plan (Policies L206, L207). The Council also adopted a work plan in Resolution 29647 to evaluate "the best means to improve regulatory efforts regarding trees and propose changes as appropriate...". In 1998, the City's Strategic Planning Office (SPO) in conjunction with the Urban Forest Work Group prepared a report entitled *Improving Tree Protection During Regulation of Property Development*. The report detailed various options for regulatory and other methods to enhance the City's ability to preserve trees. After extensive consideration, the preferred measures for development regulation to protect city trees to be incorporated into the City's Land Use Code were agreed upon and are contained in the proposed legislation.

Sustainability Issues (related to grant awards): Not Applicable

Estimated Expenditure Impacts: See Attached

Fund	1998	1999	2000
Total			

One-time \$ _____

Ongoing \$ _____



Estimated Revenue Impacts: See Attached

Fund	1998	1999	2000
Total			

One-time \$ _____ Ongoing \$ _____

Estimated FTE Impacts: .25FTE or 400-500 hours of additional staff time as outlined below and in Attachment A.

Fund	1998	1999	2000
Total			

Full Time _____ # Part Time _____ # TES _____

Do positions sunset in the future? If so, when? No

Other Issues: A separate proposal for enhancing tree protection regulations has been proposed by Council to accompany the executive's recommendations. This proposal would require all proponents of new multifamily and single family structures to first identify trees on-site and either preserve or replace those trees according to a formula based on tree size.

The fiscal implications of this new proposal derives from the fact that most likely to be impacted will be single family structures in single family zones. Of the approximately 525 new single family structures and multifamily structures not otherwise subject to environmental review built per year in Seattle, DCLU anticipates that as many as 95% would choose the replacement option, or 499 projects. Additional staff time would run approximately ½ hour per project for a total of 250 additional hours of staff review annually. For the five percent of new single family dwellings and multifamily structures not otherwise subject to design review, or 26 projects, where tree preservation on-site is chosen, DCLU anticipates spending an additional 1.5 hours for plan review in these circumstances or 39 hours of additional staff time.

The proposed amendments under this additional regulatory amendment would result in 289 additional hours of staff review.

To the extent that we will be requiring more preservation of existing trees than may be currently possible, there will be an increased need to visit and inspect sites during construction to ensure that trees are protected as intended. Currently, SeaTran staff does this for street tree preservation and planting. They are interested in expanding their role to review trees on-site. DCLU is exploring this issue further with SeaTran.



Attachment A: Anticipated Fiscal Impact of Executive's Proposed Tree Legislation:

Amendments to Design Review -

The proposal should improve the protection of trees through Design Review. The requirement to identify trees as part of a site plan will result in additional costs to the project applicant or the City.

Additional review time for DCLU could be several hours. Assuming out of 140 design review projects that 1/4, or 35 projects, would raise concerns, then we can anticipate an addition of 3 hours to those reviews or a total impact of **an additional 105 hours of staff time**. DCLU would recover costs for any additional time caused by tree evaluation through hourly charges (over 16 hours). **This would likely increase the cost of design review to an applicant.**

As a pilot in 1999, DCLU and SeaTran agreed that a tree professional from SeaTran would assist in review of design review projects by doing a site inspection and review of trees, both on-site and in the right of way. The cost of this and the short written report and recommendations is \$200 per project (4 hrs. @ \$50/hr.). For 1999, this cost is being covered by zoning review for Master Use Permit fees. However, we anticipate that when this fee is changed from value-based to hourly in Y2K, a different funding mechanism will be needed. A tree report prepared independently by an applicant would cost two to three hundred dollars to produce and the department would still need to schedule a site visit. The analysis performed by SeaTran would eliminate the need for the applicant to contract for their own analysis and would not require an additional site visit for staff. We recommend that a charge to each design review application be assessed for SeaTran expert review. **If the Council wants to defray the cost to the applicant, it would be approximately \$28,000 assuming 140 projects.**

Amendments to SEPA (environmental) Review -

These recommendations will likely improve SEPA review with respect to identification of exceptional trees that could be retained. The number of multifamily projects that these changes would affect, that are not also required to be subject to design review, would number approximately 20 – 25 projects. Tree protection review, including a site visit to evaluate whether tree preservation is an issue and whether further analysis needs to be done and determining appropriate conditioning, would likely add approximately two hours to a project's review for a total **addition of 50 hours in staff review time**. Generally, additional administrative costs are passed on to applicant by way of hourly fees. However there may be some overall benefit from the current situation where tree protection has been a contentious issue and DCLU has had a difficult time dealing with this issue through SEPA.



Amendments to Short Plat and Subdivision Review -

The proposal should improve tree protection through subdivision and short plat review processes since trees are not currently considered in approval criteria. The requirement to identify trees as part of required survey should not result in substantial additional cost. If a tree report is required this could cost an applicant two to three hundred dollars. The review by DCLU should be approximately 1.5 hours, depending on size and complexity of the proposal. Assuming out of approximately 150 short plats per year, 2/3 would require additional consideration of tree issues, these amendments would result in **an additional 150 hours of staff time**. This cost at \$175 per hour, is passed on to the applicant. Given the number of applications for full subdivisions the department receives in a year, approximately one or two, there would not be substantial additional cost than that approximated for short plats.

Amendments to Yard and Setback Requirements -

There would need to be an additional permit fee assessed for review of the proposed administrative reduction of five feet or less (5' or less) in yard or setback requirements. Out of a total of 500 new single family construction permits per year and an additional 100 new multifamily projects, we anticipate that approximately 10% would raise issues around tree protection. In addition, if 1% of the permits for additions and alterations that number approximately 2200 per year, are included, then we can assume about 82 projects per year that may seek relief under this proposed yard or setback reduction. Given uncertainty in the number of requests for administrative yard or setback reductions DCLU is likely to receive, it is not entirely possible to quantify what amount of what amount of cost may result from the additional review time necessary to administer this provision. Staff time necessary to review plans and associated statements or reports of tree professionals would occur as part of building permit review for single family and small multifamily projects and **raises significant issues related to permit issuance turnaround times**. DCLU can assume, at \$175.00 per hour of staff time, that **the total cost to administer this administrative development standard waiver would be \$14,350 for a total of 82 hours of additional staff time** at one additional hour per project.

If a tree report or documentation is required, to determine the condition of the tree(s), this could cost an applicant up to two to three hundred dollars.

The special exception (over 5') for yard and setback reduction, would require a permit fee of approximately \$1,986 covers the first ten hours of review time. Any additional review beyond ten hours would be billed at \$175 per hour. DCLU's administrative review costs would be covered by the permit fee. Because of this fee and process implications (subject to appeal) applicants may only pursue this infrequently. However, this does present a degree of flexibility that does not now exist and would improve the possibility for tree retention for single family, lowrise developments, and midrise, especially if the reduction is 5' or less. Additionally, most projects otherwise subject to design review would likely use that route to gain the necessary flexibility to preserve trees on site. Therefore we don't anticipate substantial additional costs associated with this amendments. If two a year were applied for it would result in approximately **20 additional hours of staff time**, over present requirements for project review.



ORDINANCE

AN ORDINANCE relating to land use and zoning, amending Sections 23.22.020, 23.22.054, 23.24.020, 23.24.040, 23.41.014, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to provide for the added protection of trees during the development process. **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.22.020 of the Seattle Municipal Code, as last amended by Ordinance 118012, is further amended as follows:

23.22.020 Content of preliminary plat application.

A. Every preliminary plat application shall consist of one (1) or more maps together with written data including the following:

1. The name of the proposed subdivision;
2. North point and scale; the location of existing property lines; streets, building, if any; watercourses and all general features;
3. The legal description of the land contained within the subdivision;
4. The names and addresses of all persons, firms and corporations holding interest in the lands, including easement rights and interest;
5. The proposed names, locations, widths and other dimensions of proposed streets, alleys, easements, parks, lots, building lines, if any, and all other information necessary to interpret the plat, including the location of existing utility and access easements which are to remain;
6. The location of streets in adjoining plats and the approximate location of adjoining utilities and proposed extensions into the plat;
7. The names of adjoining plats;
8. The name, address and telephone number and seal of the registered land surveyor who made the survey or under whose supervision it was made;
9. The date of the survey;
10. All existing monuments and markers located by the survey;
11. The zoning classification applicable to the land within the subdivision;
12. The conditions of or the limitations on dedications, if any, including slope rights;
13. Contour intervals as required, based upon City datum;
14. Property information including, but not limited to, address, legal description, and Assessor's Parcel number;



- 1 15. Evidence of ownership or authorization from the property owner to
- 2 make the application;
- 3 16. A signed statement of financial responsibility by the applicant and
- 4 owner acknowledging financial responsibility for all applicable permit fees;
- 5 17. Drainage plan;
- 6 18. Landscape plan; ((and))
- 7 19. Identification of any adjacent property within three hundred (300) feet
- 8 of the proposed subdivision that is owned or controlled by the applicant; and
- 9 20. Specific location and description of all trees at least six (6) inches in
- 10 diameter measured four and one-half (4½) feet above the ground, with species indicated.
- 11
- 12
- 13
- 14

12 * * *

15 **Section 2.** Section 23.22.054 of the Seattle Municipal Code, as last amended by
16 Ordinance 118012, is further amended as follows:

17
18 **23.22.054 Public use and interest.**

19
20 The Hearing Examiner shall inquire into the public use and interest proposed to be
21 served by the establishment of the subdivision and dedication. The Hearing Examiner shall
22 consider all relevant facts to determine whether the public interest will be served by the
23 subdivision and dedication, and if it finds that the proposed plat makes appropriate provision
24 for the public health, safety and general welfare and for open spaces, drainage ways, streets,
25 alleys, other public ways, transit stops, potable water supplies, sanitary wastes, fire
26 protection facilities, parks, playgrounds, sites for school and school grounds, sidewalks and
27 other planning features that assure safe walking conditions for students who walk to and
28 from school, is designed to maximize the retention of existing trees, and that the public use
29 and interest will be served by the platting of subdivision, then it shall be approved. If the
30 Hearing Examiner finds that the proposed plat does not provide the appropriate elements or
31 that the public use and interest will not be served, then the Hearing Examiner may
32 disapprove the proposed plat. Dedication of land to any public body may be required as a
33 condition of subdivision approval and shall be clearly shown on the final plat. The Hearing
34 Examiner shall not as a condition to the approval of any plat require a release from damages
35 to be procured from other property owners.

36
37
38 **Section 3.** Section 23.24.020 of the Seattle Municipal Code, as adopted by
39 Ordinance 110570, is amended as follows:
40



1 d. When the nonconforming wall of the single-family structure is not
2 parallel or is otherwise irregular, relative to the lot line, then the Director shall determine the
3 limit of the wall extension, except that the wall extension shall not be located closer than
4 specified in subsections D3a-c above.

5 4. Uncovered Porches. Uncovered, unenclosed porches or steps may project
6 into any required yard, provided that they are no higher than four (4) feet on average above
7 existing grade, no closer than three (3) feet to any side lot line, no wider than six (6) feet and
8 project no more than six (6) feet into required front or rear yards.

9 5. Special Features of a Structure. Special features of a structure may extend
10 into required yards subject to the following standards only, unless permitted elsewhere in
11 this chapter:

12 a. External architectural details with no living area, such as
13 chimneys, eaves, cornices and columns, may project no more than eighteen (18) inches into
14 any required yard;

15 b. Bay windows shall be limited to eight (8) feet in width and may
16 project no more than two (2) feet into a required front, rear, and street side yard;

17 c. Other projections which include interior space, such as garden
18 windows, may extend no more than eighteen (18) inches into any required yard, starting a
19 minimum of thirty (30) inches above finished floor, and with maximum dimensions of six
20 (6) feet tall and eight (8) feet wide;

21 d. The combined area of features permitted in subsections D5b and c
22 above may comprise no more than thirty (30) percent of the area of the facade.

23 6. Private Garages, Covered Unenclosed Decks or Roofs Over Patios in Rear
24 Yards.

25 a. Any attached private garages or covered, unenclosed decks or
26 roofs over patios are portions of principal structures. They may extend into the required rear
27 yard, but shall not be within twelve (12) feet of the centerline of any alley, nor within twelve
28 (12) feet of any rear lot line which is not an alley lot line, nor closer than five (5) feet to any
29 accessory structure. The height of private garages shall meet the provisions of Section
30 23.44.016D2 and the height of the roof over unenclosed decks and patios may not exceed
31 twelve (12) feet. The roof over these decks, patios and garages shall not be used as a deck.
32 Any detached private garage meeting the requirements of Section 23.44.016, Parking
33 location and access, or detached permitted accessory structure meeting the requirements of
34 Section 23.44.040, General provisions, may be located in a rear yard. If a private garage has
35 its vehicular access facing the alley, the private garage shall not be within twelve (12) feet of
36 the centerline of the alley.

37 b. Garages meeting the standards of Section 23.44.016 and other
38 accessory structures meeting the standards of Section 23.44.040, shall be permitted in
39 required rear yards, subject to a maximum combined coverage of forty (40) percent of the
40 required rear yard. In the case of a rear yard abutting an alley, rear yard coverage shall be
41 calculated from the centerline of the alley.



1 7. Private Garages in Front Yards of Through Lots. On through lots less than
2 one hundred twenty-five (125) feet in depth, either an accessory garage structure or a portion
3 of the principal structure containing a garage shall be permitted to locate in one (1) of the
4 front yards. Private garages, either as accessory structures or as a portion of the principal
5 structure, shall be limited as set forth in Section 23.44.016. The front yard in which the
6 garage may be located shall be determined by the Director based on the location of other
7 accessory garages on the block. If no pattern of garage location can be determined, the
8 Director shall determine in which yard the accessory garage shall be located based on the
9 prevailing character and setback patterns of the block.

10 8. Access Bridges. Uncovered, unenclosed pedestrian bridges of any height,
11 necessary for access and five (5) feet or less in width, are permitted in required yards except
12 that in side yards an access bridge must be at least three (3) feet from any side lot line.

13 9. Barrier-free Access. Access facilities for the disabled and elderly meeting
14 Washington State Building Code, Chapter 11 are permitted in any required yards.

15 10. Freestanding Structures and Bulkheads.

16 a. Fences, freestanding walls, signs and similar structures six (6) feet
17 or less in height above existing or finished grade, whichever is lower, may be erected in any
18 required yard. The six (6) foot height may be averaged along sloping grade for each six (6)
19 foot long segment of the fence, but in no case may any portion of the fence exceed eight (8)
20 feet. Architectural features may be added to the top of the fence or freestanding wall above
21 the six (6) foot height when the following provisions are met: horizontal architectural
22 feature(s), no more than ten (10) inches high, and separated by a minimum of six (6) inches
23 of open area, measured vertically from the top of the fence, may be permitted when the
24 overall height of all parts of the structure, including post caps, are no more than eight (8)
25 feet high; averaging the eight (8) foot height is not permitted. Structural supports for the
26 horizontal architectural feature(s) may be spaced no closer than three (3) feet on center.

27 b. The Director may allow variation from the development standards
28 listed in subsection D10a above, according to the following:

29 ~~((#))~~(1) No part of the structure may exceed eight (8) feet;

30 and

31 ~~((#))~~(2) Any portion of the structure above six (6) feet shall
32 be predominately open, such that there is free circulation of light and air.

33 c. Bulkheads and retaining walls used to raise grade may be placed in
34 any required yard when limited to six (6) feet in height, measured above existing grade. A
35 guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or
36 retaining wall existing as of the date of the ordinance codified in this section. If a fence is
37 placed on top of a new bulkhead or retaining wall, the maximum combined height is limited
38 to nine and one-half (9-1/2) feet.

39 d. Bulkheads and retaining walls used to protect a cut into existing
40 grade may not exceed the minimum height necessary to support the cut or six (6) feet,
41 whichever is greater. When the bulkhead is measured from the low side and it exceeds six
42 (6) feet, an open guardrail of no more than forty-two (42) inches meeting Building Code



1 requirements may be placed on top of the bulkhead or retaining wall. A fence must be set
2 back a minimum of three (3) feet from such a bulkhead or retaining wall.

3 e. When located in the shoreline setbacks or in view corridors in the
4 Shoreline District as regulated in Chapter 23.60, these structures shall not obscure views
5 protected by Chapter 23.60 and the Director shall determine the permitted height.

6 11. Decks in Yards. Decks no greater than eighteen (18) inches above
7 existing or finished grade, whichever is lower, may extend into required yards.

8 12. Heat Pumps. Heat pumps and similar mechanical equipment, not
9 including incinerators, may be permitted in required yards if the requirements of the Noise
10 Control Ordinance, Chapter 25.08, are not violated. Any heat pump or similar equipment
11 shall not be located within three (3) feet of any lot line.

12 13. Solar Collectors. Solar collectors may be located in required yards,
13 subject to the provisions of Section 23.44.046.

14 14. Front Yard Projections for Structures on Lots Thirty (30) Feet or Less in
15 Width. For a structure on a lot which is thirty (30) feet or less in width, portions of the front
16 facade which begin eight (8) feet or more above finished grade may project up to four (4)
17 feet into the required front yard, provided that no portion of the facade, including eaves and
18 gutters, shall be closer than five (5) feet to the front line (Exhibit 23.44.014 B).

19 15. Front and rear yards may be reduced by twenty-five (25) percent, but no
20 more than five (5) feet, if the site contains a required environmentally critical area buffer or
21 other area of the property which can not be disturbed pursuant to subsection A of Section
22 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

23 16. Arbors. Arbors may be permitted in required yards under the following
24 conditions:

25 a. In any required yard, an arbor may be erected with no more than a
26 forty (40) square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a
27 maximum height of eight (8) feet. Both the sides and the roof of the arbor must be at least
28 fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two
29 (2) inches between crosspieces.

30 b. In each required yard abutting a street, an arbor over a private
31 pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the
32 horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight
33 (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or if latticework is
34 used, there must be a minimum opening of two (2) inches between crosspieces.

35 17. Protection of Trees. Front and rear yards may be reduced to protect
36 existing trees. To qualify for this exception, the tree(s) shall be at least six (6) inches in
37 diameter, measured four and one-half (4½) feet above the ground. The tree must also be in a
38 condition and location such that it will not present a hazard to life or property following site
39 development, and can be expected to remain healthy for at least twenty years as determined
40 by a qualified tree care professional.



1 (3) All elevated walkways shall meet the following standards:
2 i. The roof planes of elevated walkways shall be at
3 different levels than the roofs or parapets of connected structures.
4 ii. Walkways shall be set back from street lot lines and
5 the front facades of the structures they connect, and whenever possible shall be located or
6 landscaped so that they are not visible from a street.
7 iii. The design of the walkways and the materials used
8 shall seek to achieve a sense of openness and transparency.
9 iv. Elevated walkways shall add to the effect of
10 modulation rather than detract from it.

11 2. Structures in Required Setbacks.

12 a. Detached garages, carports or other accessory structures are
13 permitted in the required rear or side setbacks, provided that any accessory structure located
14 between a principal structure and the side lot line shall provide the setback required for the
15 principal structure (Exhibit 23.45.056 D). All such accessory structures shall be no greater
16 than twelve (12) feet in height, with open rails permitted above twelve (12) feet.

17 b. Ramps or other devices necessary for access for the disabled and
18 elderly, which meet Washington State Building Code, Chapter 11-Accessibility, are
19 permitted in required front, side or rear setbacks.

20 c. Uncovered, unenclosed pedestrian bridges, necessary for access
21 and less than five (5) feet in width, are permitted in required front, side and rear setbacks.

22 d. Permitted fences, freestanding walls, bulkheads, signs and other
23 similar structures, no greater than six (6) feet in height, are permitted in required front, side
24 or rear setbacks.

25 e. Decks which average no more than eighteen (18) inches above
26 existing grade may project into required setbacks. Such decks shall not be permitted within
27 five (5) feet of any lot line, unless they abut a permitted fence or freestanding wall, and are
28 at least three (3) feet below the top of the fence or wall. The fence or wall shall be no higher
29 than six (6) feet.

30 f. Underground structures are permitted in all setbacks.

31 g. Solar collectors are permitted in required setbacks, subject to the
32 provisions of Section 23.45.146, Solar collectors.

33 h. Fences, Freestanding Walls, Bulkheads, Signs and Other Similar
34 Structures.

35 (1) Fences, freestanding walls, signs and similar structures six
36 (6) feet or less in height above existing or finished grade whichever is lower, may be erected
37 in each required setback. The six (6) foot height may be averaged along sloping grade for
38 each six (6) foot long segment of the fence, but in no case may any portion of the fence
39 exceed eight (8) feet.

40 Architectural features may be added to the top of the fence or
41 freestanding wall above the six (6) foot height when the following provisions are met:
42 horizontal architectural feature(s), no more than ten (10) inches high, and separated by a



1 minimum of six (6) inches of open area, measured vertically from the top of the fence, may
2 be permitted when the overall height of all parts of the structure, including post caps, are not
3 more than eight (8) feet high; averaging the eight (8) foot height is not permitted. Structural
4 supports for the horizontal architectural feature(s) may be spaced no closer than three (3)
5 feet on center.

6 (2) The Director may allow variation from the development
7 standards listed in subsection D2h(1) above, according to the following:

8 i. No part of the structure may exceed eight (8) feet;
9 and

10 ii. Any portion of the structure above six (6) feet shall
11 be predominately open, such that there is free circulation of light and air.

12 (3) Bulkheads and retaining walls used to raise grade may be
13 placed in each required setback when limited to six (6) feet in height, measured above
14 existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a
15 bulkhead or retaining wall existing as of the effective date of the ordinance codified in this
16 section. If a fence is placed on top of a new bulkhead or retaining wall, the maximum
17 combined height is limited to nine and one-half (9 ½) feet.

18 (4) Bulkheads and retaining walls used to protect a cut into
19 existing grade may not exceed the minimum height necessary to support the cut or six (6)
20 feet whichever is greater. When the bulkhead is measured from the low side and it exceeds
21 six (6) feet, an open guardrail of no more than forty-two (42) inches meeting Building Code
22 requirements may be placed on top of the bulkhead or retaining wall. A fence must be set
23 back a minimum of three (3) feet from such a bulkhead or retaining wall.

24 i. Arbors. Arbors may be permitted in required setbacks under the
25 following conditions:

26 (1) In each required setback, an arbor may be erected with no
27 more than a forty (40) square foot footprint, measured on a horizontal roof plane inclusive of
28 eaves, to a maximum height of eight (8) feet. Both the sides and the roof of the arbor must
29 be at least fifty (50) percent open, or, if latticework is used, there must be a minimum
30 opening of two (2) inches between crosspieces.

31 (2) In each required setback abutting a street, an arbor over a
32 private pedestrian walkway with no more than a thirty (30) square foot footprint, measured
33 on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of
34 eight (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or, if
35 latticework is used, there must be a minimum opening of two (2) inches between
36 crosspieces.

37 3. Front and rear setbacks may be reduced by twenty-five (25) percent, but
38 no more than five (5) feet, if the site contains a required environmentally critical area buffer
39 or other area of the property which can not be disturbed pursuant to the provisions of
40 subsection A of Section 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally
41 Critical Areas.



1 4. Protection of Trees. Front and rear setbacks may be reduced protect
2 existing trees. To qualify for this exception, the tree(s) shall be at least six (6) inches in
3 diameter, measured four and one-half (4½) feet above the ground. The tree must also be in a
4 condition and location such that it will not present a hazard to life or property following site
5 development, and can be expected to remain healthy for at least twenty years as determined
6 by a qualified tree care professional.

7 a. Upon the request of the applicant, the Director shall permit a
8 five (5) foot reduction in front or rear setback requirements when necessary to protect an
9 existing tree.

10 b. Any setback reduction greater than five (5) feet that is
11 necessary to protect a tree shall require approval through a tree protection special exception.
12 Notice of application and review process and procedures for this special exception and of
13 the Director's decision on the application shall be provided in the manner prescribed for
14 Type II land use decisions as set forth in SMC Chapter 23.76. A tree protection special
15 exception shall be authorized only when all the following facts and conditions are found to
16 exist:

17 (1) The strict application of the applicable setback
18 requirements would make it impossible to protect existing tree(s) without causing undue
19 hardship; and

20 (2) The requested setback reduction does not go beyond
21 the minimum necessary to protect the tree(s); and



STATE OF WASHINGTON - KING COUNTY

113189
City of Seattle, City Clerk

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:119791 ORD IN FUL

was published on

12/23/99

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

H. Patterson
Subscribed and sworn to before me on
12/23/99 *McAlivanz*

Notary Public for the State of Washington,
residing in Seattle

TI. AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

_____ *Jan Page* _____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____



PRESIDENT'S SIGNATURE

City of Seattle

ORDINANCE 119781

AN ORDINANCE relating to land use and zoning, amending Sections 23.22.020, 23.22.054, 23.24.020, 23.24.040, 23.21.014, 23.44.014, 23.45.014 and 23.45.056 of the Seattle Municipal Code to provide for the added protection of trees during the development process. NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Subsection A of Section 23.22.020 of the Seattle Municipal Code, as last amended by Ordinance 118012, is further amended as follows:

23.22.020 CONTENT OF PRELIMINARY PLAT APPLICATION.

A. Every preliminary plat application shall consist of one (1) or more maps together with written data including the following:

1. The name of the proposed subdivision.
2. North point and scale, the location of existing property lines, streets, building, if any, watercourses and all general features.
3. The legal description of the land contained within the subdivision.
4. The names and addresses of all persons, firms and corporations holding interest in the lands, including easement rights and interest.
5. The proposed names, locations, widths and other dimensions of proposed streets, alleys, easements, parks, lots, building lines, if any, and all other information necessary to interpret the plat, including the location of existing utility and access easements which are to remain.
6. The location of streets in adjoining plats and the approximate location of adjoining utilities and proposed extensions into the plat.
7. The names of adjoining plats.
8. The name, address and telephone number and seal of the registered land surveyor who made the survey or under whose supervision it was made.
9. The date of the survey.
10. All existing monuments and markers located by the survey.
11. The zoning classification applicable to the land within the subdivision.
12. The conditions or the limitations or dedications, if any, including slope rights.
13. Counter intervals as required, based upon City datum.
14. Property information including but not limited to, address, legal description, and Assessor's Parcel number.
15. Evidence of ownership or authorization from the property owner to make the application.
16. A signed statement of financial responsibility by the applicant and owner acknowledging financial responsibility for all applicable permit fees.
17. Drainage plan.
18. Landscape plan. (amd)
19. Identification of any adjacent property within three hundred (300) feet of the proposed subdivision that is owned or controlled by the applicant, and
20. Specific location and description of all trees at least six (6) inches in diameter measured four and one-half (4 1/2) feet above the ground, with species indicated.

SECTION 2. Section 23.22.054 of the Seattle Municipal Code, as last amended by Ordinance 118012, is further amended as follows:

23.22.054 PUBLIC USE AND INTEREST.

The Hearing Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The Hearing Examiner shall consider all relevant facts to determine whether the public interest will be served by the subdivision and dedication, and if it finds that the proposed plat makes appropriate provision for the public health, safety and general welfare and for open space, drainage ways, streets, alleys, other public ways, transit stops, possible water supplies, sanitary ways, fire protection facilities, parks, playgrounds, sites for school and school grounds, sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, it is deemed to maximize the retention of existing public use and interest within the subdivision and that the public use and interest will be served by the platting of subdivision. It shall be approved if the Hearing Examiner finds that the proposed plat does not provide the appropriate elements or if the public use and interest will not be served, then the Hearing Examiner may disapprove the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval and

six inches (6 in.) or greater in diameter measured four and one-half (4 1/2 ft.) above the ground, with species indicated, and

- a. Photos showing the facades of adjacent development trees on the site, general streetscape character and territorial or other views from the site, if any, and
 - d. A zoning envelope study which includes a perspective drawing; and
 - e. A description of the proponent's objectives with regard to site development.
4. The proponent is encouraged, but not required, to bring one (1) or more development concepts or alternatives to indicate possible design options for the site.

SECTION 6. Subsection D of Section 23.44.014 of the Seattle Municipal Code, as last amended by Ordinance 119239, is further amended as follows:

23.44.014 YARDS.

D. Exceptions from Standard Yard Requirements. No structure shall be placed in a required yard except pursuant to the following subsections:

1. Certain Accessory Structures. Any accessory structure may be constructed in a side yard which abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner lot within five (5) feet of the key lot and not abutting the front yard of the key lot, upon recording with the King County Department of Records and Elections an agreement to this effect between the owners of record of the abutting properties. Any accessory structure which is a private garage may be located in that portion of a side yard which is either within thirty-five (35) feet of the centerline of an alley or within twenty-five (25) feet of any rear lot which is not an alley lot line, without providing an agreement as provided in Section 23.44.016.
2. A single-family structure may extend into one (1) side yard if an easement is provided along the side or rear lot line of the abutting lot, sufficient to leave a ten (10) foot separation between that structure and any principal or accessory structures on the abutting lot. Features and projections such as porches, eaves, and chimneys shall be permitted in the ten (10) foot separation area as if the property line were five (5) feet from the wall of the house on the dominant lot, provided that no portion of either principal structure including eaves shall cross the actual property line. The easement shall be recorded with the King County Department of Records and Elections. The easement shall provide access for normal maintenance activities to the principal structure on the lot with less than the required side yard.
3. Certain Additions. Certain additions may extend into a required yard when the existing single-family structure is already nonconforming with respect to that yard. The presently nonconforming portion must be at least sixty (60) percent of the total width of the respective facade of the structure prior to the addition. The line formed by the nonconforming wall of the structure shall be the limit to which any additions may be built, except as described below. They may extend up to the height limit and may include basement additions. New additions to the nonconforming wall or walls shall comply with the following requirements (Exhibit 23.44.014A):
 - a. Side Yard. When the addition is a side wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than three (3) feet to the side lot line.
 - b. Rear Yard. When the addition is a rear wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than twenty (20) feet to the rear lot line or centerline of an alley abutting the rear lot line.
 - c. Front Yard. When the addition is a front wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than fifteen (15) feet to the front lot line.
4. When the nonconforming wall of the single-family structure is not parallel or is otherwise irregular, relative to the lot line, then the Director shall determine the limit of the wall extension, except that the wall extension shall not be located closer than specified in subsections D3a-c above.
- Uncovered Porches. Uncovered, unenclosed porches or steps may project into any required yard, provided that they are no higher than four (4) feet on average above existing grade, no closer than three (3) feet to any side lot line, no wider than six (6) feet and project no more than ten (10) feet into required front or rear yards.
5. Special Features of a Structure. Special features of a structure may extend into required yards subject to the following standards only, unless permitted elsewhere in this chapter:
 - a. External architectural details with no living area, such as chimneys, eaves, cornices and columns, may project no more than eighteen (18) inches into any required yard.

(d)(1)(1) No part of the structure may exceed eight (8) feet; and

- (3)(1)(2) Any portion of the structure above six (6) feet shall be predominantly open, such that there is free circulation of light and air.
- c. Bulkheads and retaining walls used to raise grade may be placed in any required yard when limited to six (6) feet in height, measured above existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or retaining wall existing as of the date of the ordinance codified in this section. If a fence is placed on top of a new bulkhead or retaining wall, the maximum combined height is limited to nine and one-half (9 1/2) feet.
- d. Bulkheads and retaining walls used to protect a cut into existing grade may not exceed the minimum height necessary to support the cut or six (6) feet, whichever is greater. When the bulkhead is measured from the low side and it exceeds six (6) feet, an open guardrail of no more than forty-two (42) inches meeting Building Code requirements may be placed on top of the bulkhead or retaining wall. A fence must be set back a minimum of three (3) feet from such a bulkhead or retaining wall.
- e. When located in the shoreline setbacks or in view corridors in the Shoreline District as regulated in Chapter 23.60, these structures shall not obscure views protected by Chapter 23.60 and the Director shall determine the permitted height.
11. Decks in Yards. Decks no greater than eighteen (18) inches above existing or finished grade, whichever is lower, may extend into required yards.
12. Heat Pumps. Heat pumps and similar mechanical equipment, not including incinerators, may be permitted in required yards if the requirements of the Noise Control Ordinance, Chapter 23.08, are not violated. Any heat pump or similar equipment shall not be located within three (3) feet of any lot line.
13. Solar Collectors. Solar collectors may be located in required yards, subject to the provisions of Section 23.44.046.
14. Front Yard Projections for Structures on Lots Thirty (30) Feet or Less in Width. For a structure on a lot which is thirty (30) feet or less in width, portions of the front facade which begin eight (8) feet or more above finished grade may project up to four (4) feet into the required front yard, provided that no portion of the facade, including eaves and gutters, shall be closer than five (5) feet to the front line (Exhibit 23.44.014 B).
15. Front and rear yards may be reduced by twenty-five (25) percent, but no more than five (5) feet, if the site contains a required environmentally critical area buffer or other area of the property which can not be disturbed pursuant to subsection A of Section 23.05.290 of SMC Chapter 23.05, Regulations for Environmentally Critical Areas.
16. Arbors. Arbors may be permitted in required yards under the following conditions:
 - a. In any required yard, an arbor may be erected with no more than a forty (40) square foot footprint, measured on a horizontal roof plane inclusive of eaves to a maximum height of eight (8) feet. Both the sides and the roof of the arbor must be at least fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.
 - b. In each required yard abutting a street, an arbor over a private pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.
17. Protection of Trees. Front yards may be reduced to protect existing trees in rear yards and rear yards may be reduced to protect existing trees in front yards. To qualify for this exception, the trees shall be at least six (6) inches in diameter measured four and one-half (4 1/2) feet above the ground. The tree must also be in a non-dormant and healthy condition such that it will not present a hazard to life or property following the development, and can be expected to remain healthy for at least twenty years as determined by a qualified tree care professional.

move the proposed development activity and other land disturbance activity and obtain up to a five (5) foot reduction in front or rear yard requirements when this would be sufficient to protect an existing tree as determined by a qualified tree care professional.

b. Any yard reduction greater than five (5) feet to protect a tree shall require approval through a tree protection special exception. Notice of application and review process and procedures for this special exception and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized only when all the following facts and conditions are found to exist:

- (1) The applicable yard requirements would make it impossible to protect existing tree(s) without causing undue hardship; and
- (2) The requested yard reduction does not go beyond the minimum necessary to protect the trees, as determined by a qualified tree care professional; and
- (3) The yard reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining.

SECTION 7. New subsection I of Section 23.45.014 of the Seattle Municipal Code, as last amended by Ordinance 119242, is added as follows:

23.45.014 SETBACK REQUIREMENTS - LOWRISE ZONES.

1. Protection of Trees. Front setbacks may be reduced to protect existing trees in rear setbacks and rear setbacks may be reduced to protect existing trees in front setbacks. To qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured four and one-half (4 1/2) feet above the ground. The tree must also be in a condition and location such that it will not present a hazard to life or property following site development, and can be expected to remain healthy for at least twenty years as determined by a qualified tree care professional.

1. Upon the request of the applicant, the Director shall permit the applicant to move the proposed development activity and other land disturbance activity and obtain up to a five (5) foot reduction in front or rear setback requirements when this would be sufficient to protect an existing tree as determined by a qualified tree care professional.

2. Any setback reduction greater than five (5) feet to protect a tree shall require approval through a tree protection special exception. Notice of application and review process and procedures for this special exception and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized only when all the following facts and conditions are found to exist:

- a. The applicable setback requirements would make it impossible to protect existing tree(s) without causing undue hardship; and
- b. The requested setback reduction does not go beyond the minimum necessary to protect the trees as determined by a qualified tree care professional; and
- c. The setback reduction will not result in a development that is materially detrimental to the character, design, and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, setbacks, pedestrian environment, and amount of vegetation remaining.

SECTION 8. Subsection D of Section 23.45.056 of the Seattle Municipal Code, as last amended by Ordinance 118414, is further amended as follows:

23.45.056 MIDRISE - SETBACK REQUIREMENTS.

D. General Setback Exceptions.

1. Required Setbacks for Cluster Developments.
 - a. Where two (2) or more principal structures are located on a lot, the required setback between those portions of interior facades which face each other shall be as follows:

Length of Facing Portions of Facades (in feet)	Average Setback (in feet)	Minimum Setback (in 1)
40 or less	15	15
41-60	20	15
61-80	25	