

Ordinance No. 120410

EW

The City of Seattle  
Council Bill/Ordinance

Council Bill No. 113661

AN ORDINANCE relating to land use, zoning, and environmental protection; creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process.

DP as amended

CF No.

Date Introduced: <u>MAY 7 2001</u>		
Date 1st Referred: <u>MAY 7 2001</u>	To: (committee) <u>Finance, Budget &amp; Economic Development Committee</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
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Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready

*Law Department*

Law Dept. Review

Council Bill/Ordinance sponsored by: \_\_\_\_\_

*Lee Ferguson*

Councilmember

### Committee Action:

*DP as amended 3-D, JD, R, NC*

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

Committee: \_\_\_\_\_

(initial/date)

*Law Department*

*Staff  
included  
update  
approved by  
staff  
NC*

*Approved  
for committee  
Paul T. H. Lumb*

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ORDINANCE 120410

AN ORDINANCE relating to land use, zoning, and environmental protection; creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and 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. The City Council finds that:

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

B. Trees have the following benefits:

1. Preserve and enhance the City's natural beauty;
2. Provide varied and rich habitats for wildlife;
3. Moderate the effects of wind and temperature and have a positive impact on global climate change;
4. Slow runoff from precipitation, reduce soil erosion and sedimentation and pollution of natural waterways; and thus minimize the public and private costs for storm water control and treatment and utility maintenance;
5. Improve air quality, through the absorption of pollutants and contamination;
6. Mask unwanted sound and reduce noise pollution; and
7. Enhance the economic value of both new and existing development.

C. Tree removal to accommodate urban development has resulted in the loss to the public of these beneficial functions of trees and has also resulted in environmental degradation.

Section 2. A new Chapter 25.11 is hereby added to Title 25, of the Seattle Municipal Code (SMC), as follows:

CHAPTER 25.11 TREE PROTECTION

25.11.010 Purpose and Intent.

It is the purpose and intent of this Chapter to:





1 A. Implement the goals and policies of Seattle's Comprehensive Plan especially  
2 those in the Environment Element dealing with protection of the urban forest.

3 B. To preserve and enhance the city's physical and aesthetic character by preventing  
4 untimely and indiscriminate removal or destruction of trees.

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

8 D. To reward tree protection efforts by granting flexibility for certain development  
9 standards, and to promote site planning and horticultural practices that are consistent with  
10 the reasonable use of property.

11 E. To especially protect exceptional trees that because of their unique historical,  
12 ecological, or aesthetic value constitute an important community resource; to require  
13 flexibility in design to protect exceptional trees.

14 F. To provide the option of modifying development standards to protect trees over  
15 two feet in diameter in the same manner that modification of development standards is  
16 required for exceptional trees.

17 G. To encourage retention of trees over six inches in diameter through the design  
18 review and other processes for larger projects, through education concerning the value of  
19 retaining trees, and by not permitting their removal on undeveloped land prior to  
20 development permit review.

21 **25.11.020 Definitions.**

22 "Director" means the Director of the Department of Design, Construction and Land Use.

23 "Drip line" means an area encircling the base of a tree, the minimum extent of which is  
24 delineated by a vertical line extending from the outer limit of a tree's branch tips down to  
25 the ground.

26 "Exceptional tree" means a tree that because of its unique historical, ecological, or aesthetic  
27 value constitutes an important community resource, and is designated as such by the  
28 Director according to standards and procedures promulgated by the Department of Design,  
29 Construction and Land Use.

30 "Feeder root zone" means an area encircling the base of a tree equal to twice the diameter of  
31 the drip line.

32 "Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or  
33 property, and that is designated as such by the Director according to the tree hazard  
34 evaluation standards established by the International Society of Arboriculture.



1 "Inner root zone" means an area encircling the base of a tree equal to one-half the diameter  
2 of the drip line.

3 "Topping" means the cutting back of limbs to stubs within the tree's crown, to such a degree  
4 as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or  
5 branches to lateral branches that are less than one-half of the diameter of the limb or branch  
6 that is cut.

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

13 "Undeveloped lot" means a lot on which no buildings are located.

14 **25.11.030 Exemptions.**

15 The following activities are exempt from the provisions of this chapter:

- 16 A. Normal and routine pruning operations and maintenance;
- 17 B. Abatement of hazardous tree or tree part as approved by the Director;
- 18 C. Emergency activities necessary to remedy an immediate threat to public health,  
19 safety, or welfare;
- 20 D. Tree removal undertaken as part of tree and vegetation management and  
21 revegetation of public parkland and open spaces by responsible public agencies or  
22 departments;
- 23 E. Tree removal approved as part of an Environmentally Critical Area revegetation  
24 plan as provided in Section 25.09.320;
- 25 F. Tree removal shown as part of an issued building or grading permit as provided in  
26 Sections 25.11.060, 25.11.070, and 25.11.080; and
- 27 G. Removal of street trees as regulated by Title 15 of the SMC.
- 28 H. Additions to existing structures.

29  
30 **25.11.040 Restrictions on tree removal.**

31 A. Tree removal or topping is prohibited in the following cases, except as provided  
32 in Section 25.11.030:

- 33 1. All trees six (6) inches or greater in diameter, measured four and one-half  
34 (4.5) feet above the ground, on undeveloped land; and
- 35 2. Exceptional trees on undeveloped land or on a lot developed with a single  
36 family house located in a zone other than Single Family.



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1 B. Tree removal in Environmentally Critical Areas shall follow the provisions of  
2 Section 25.09.320.

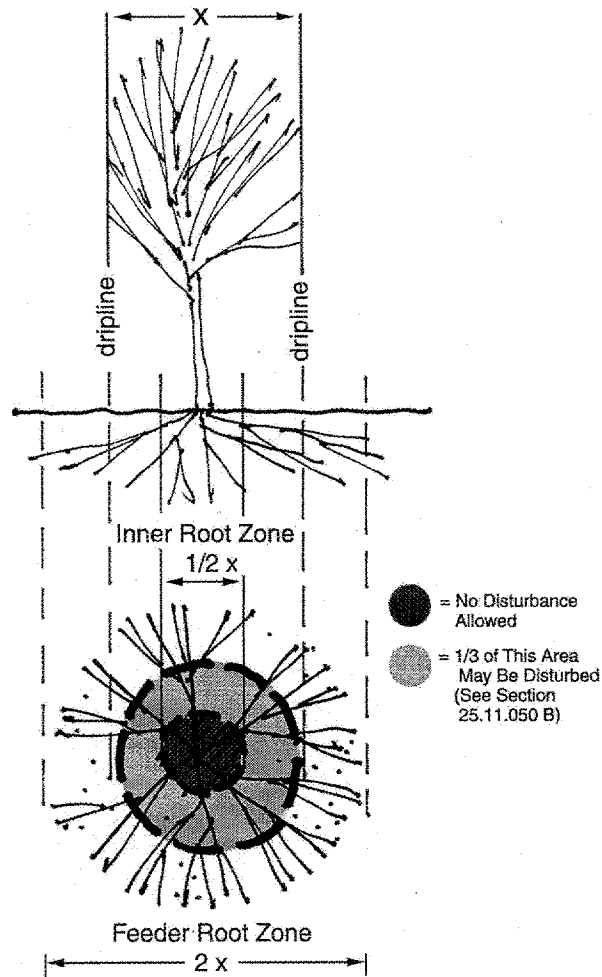
3 **25.11.050 General Provisions for exceptional tree determination and tree**  
4 **protection area delineation in Single Family, Residential Small Lot, Lowrise, Midrise,**  
5 **and Commercial zones.**

6 A. Exceptional trees and potential exceptional trees shall be identified on site plans  
7 and exceptional tree status shall be determined by the Director according to standards  
8 promulgated by the Department of Design, Construction and Land Use.

9 B. Tree protection areas for exceptional trees shall be identified on sites plans.  
10 Applicants seeking development standard waivers to protect other trees greater than two (2)  
11 feet in diameter measured four and one-half (4.5) feet above the ground shall also indicate  
12 tree protection areas on site plans. The basic tree protection area shall be the area within the  
13 drip line of the tree. The tree protection area may be reduced if approved by the Director  
14 according to a plan prepared by a tree care professional. Such reduction shall be limited to  
15 one-third of the area within the outer half of the area within the drip line. In no case shall  
16 the reduction occur within the inner root zone. In addition, the Director may establish  
17 conditions for protecting the tree during construction within the feeder root zone. (See  
18 Exhibit 25.11.050 B.)



Exhibit 25.11.050 B



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3  
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5

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



1 D. The Director may require a tree protection report by a tree care professional that  
2 provides the following information:

- 3 1. Tree evaluation with respect to its general health, damage, danger of  
4 falling, proximity to existing or proposed structures and or utility services;  
5 2. Evaluation of the anticipated effects of proposed construction on the  
6 viability of the tree;  
7 3. A hazardous tree assessment; if applicable;  
8 4. Plans for supervising, and/or monitoring implementation of any required  
9 tree protection or replacement measures; and  
10 5. Plans for conducting post-construction site inspection and evaluation.

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

13 **25.11.060 Tree Protection on sites undergoing development in Single Family and**  
14 **Residential Small Lot zones.**

15 A. Exceptional trees

16 1. The Director may permit the tree to be removed only if:  
17 a. the maximum lot coverage permitted on the site according to SMC  
18 Title 23, the Land Use Code, cannot be achieved without extending into the tree protection  
19 area or into a required front and/or rear yard to an extent greater than provided for in  
20 subsection A2 of this Section; or

21 b. avoiding development in the tree protection area would result in a  
22 portion of the house being less than fifteen (15) feet in width.

23 2. Permitted extension into front or rear yards shall be limited to an area  
24 equal to the amount of the tree protection area not located within required yards. The  
25 maximum projection into the required front or rear yard shall be fifty percent (50%) of the  
26 yard requirement.

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

30 B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
31 the ground.

32 1. Trees over two feet in diameter shall be identified on site plans.

33 2. In order to protect trees over two (2) feet in diameter an applicant may  
34 modify their development proposal to extend into front and/or rear yards in the same manner  
35 as provided for exceptional trees in subsection A of this Section, above.

36 C. The development shall meet the tree requirements of Section 23.44.008.I.

37 **25.11.070 Tree Protection on sites undergoing development in Lowrise**  
38 **Duplex/Triplex, Lowrise 1, Lowrise 2, and Lowrise 3 Zones.**





1 A. Exceptional trees

2 1. If it is determined that there is an exceptional tree located on the site the  
3 project shall go through administrative design review as provided in Section 23.41.016 even  
4 if the project would normally fall below the threshold for design review as contained in  
5 Section 23.41.004.

6 2. The Director may permit the tree to be removed only if the total floor area  
7 that could be achieved within the maximum permitted development coverage and the height  
8 limit of the applicable lowrise zone according to SMC Title 23, the Land Use Code, cannot  
9 be achieved while avoiding the tree protection area through the following:

10 a. Development standard departures permitted in Section 23.41.012.

11 b. An increase in the permitted height as follows:

12 i. In Lowrise Duplex/Triplex, Lowrise 1, and Lowrise 2  
13 zones, the basic height limit of twenty five (25) provided for in Section 23.45.009A may be  
14 increased up to thirty (30) feet; the pitch roof provisions of Section 23.45.009C1 may be  
15 modified to permit the ridge of pitched roofs on principal structures with a minimum slope  
16 of six to twelve (6:12) to extend up to forty (40) feet, and the ridge of pitched roofs on  
17 principal structures with a minimum slope of four to twelve (4:12) may extend up to thirty-  
18 five (35) feet.

19 ii. In Lowrise 3 zones the height of the pitched roof provided  
20 for in Section 23.45.009C3 may extend up to ten (10) feet above the maximum height limit.

21 iii. The increase in height permitted in this Section shall only  
22 be approved if it can be demonstrated that it is needed to accommodate, on an additional  
23 floor, the amount of floor area lost by avoiding development within the tree protection area.  
24 The maximum amount of floor area on an additional floor shall be limited to the amount of  
25 floor area lost by avoiding development within the tree protection area. This provision for  
26 increased height shall not be permitted if the development is granted a departure from the  
27 development standards for setbacks.

28 c. Parking Reduction. A reduction in the parking quantity of Section  
29 23.54.015 and standards of Section 23.54.030 may be permitted in order to protect an  
30 exceptional tree if the reduction would result in a project that would avoid the tree protection  
31 area. The reduction shall be limited to a maximum of ten percent (10%) of the number of  
32 required parking spaces.

33 B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
34 the ground.

35 1. Trees over two (2) feet in diameter shall be identified on site plans.

36 2. In order to protect trees over two (2) feet in diameter an applicant may  
37 request modification of development standards in the same manner as provided for  
38 exceptional trees in subsection A of this Section, above.

39 C. The development shall meet the tree requirements in landscaped areas of Section  
40 23.45.015.C.



1       **25.11.080     Tree Protection on sites undergoing development in Lowrise 4, Midrise,**  
2       **and Commercial Zones.**

3           A. Exceptional trees

4                 1. If it is determined that there is an exceptional tree located on the site the  
5       project shall go through administrative design review as provided in Section 23.41.016 even  
6       if the project would normally fall below the threshold for design review as contained in  
7       Section 23.41.004.

8                 2. The Director may permit an exceptional tree to be removed only if the  
9       applicant demonstrates that protecting the tree by avoiding development in the tree  
10       protection area could not be achieved through the development standard departures  
11       permitted in Section 23.41.012, and/or a reduction in the parking requirements of Section  
12       23.54.015 up to a maximum reduction of ten percent (10%) of the number of required  
13       parking spaces.

14            B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
15       the ground.

16                 1. Trees over two (2) feet in diameter shall be identified on site plans.

17                 2. In order to protect trees over two (2) feet in diameter an applicant may  
18       request modification of development standards in the same manner as provided for  
19       exceptional trees in subsection A of this Section, above.

20       **25.11.090     Tree replacement and site restoration.**

21            A. Each exceptional tree and tree over two (2) feet in diameter that is removed in  
22       association with development in all zones shall be replaced by one or more new trees, the  
23       size and species of which shall be determined by the Director; the tree replacement required  
24       shall be designed to result, upon maturity, in a canopy cover that is at least equal to the  
25       canopy cover prior to tree removal. Preference shall be given to on-site replacement. When  
26       on-site replacement cannot be achieved, or is not appropriate as determined by the Director,  
27       preference for off-site replacement shall be on public property.

28            B. No tree replacement is required if the 1) tree is hazardous, dead, diseased, injured  
29       or in a declining condition with no reasonable assurance of regaining vigor as determined by  
30       a tree care professional, or 2) the tree is proposed to be relocated to another suitable planting  
31       site as approved by the Director.

32       **25.11.100     Enforcement and penalties.**

33            A. Authority. The Director shall have authority to enforce the provisions of this  
34       chapter, to issue permits, impose conditions, and establish administrative procedures and  
35       guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of  
36       this chapter.

37            B. It shall be a violation of this chapter for any person, firm or corporation to  
38       remove, clear or take any action detrimental to trees contrary to or in violation of any



1 provision of this chapter. It shall be a violation of this chapter for any person, firm or  
2 corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or  
3 otherwise procure another to violate or fail to comply with this chapter.

4 C. Stop-work Order. Whenever a continuing violation of this chapter will materially  
5 impair the Director's ability to secure compliance with this chapter, when the continuing  
6 violation threatens the health or safety of the public, or when the continuing violation  
7 threatens or harms the environment, the Director may issue a stop-work order specifying the  
8 violation and prohibiting any work or other activity at the site. The posting of the stop-work  
9 order on the site shall be deemed adequate notice of the stop-work order. A failure to  
10 comply with a stop-work order shall constitute a violation of this chapter.

11 D. Civil Penalties.

12 1. Any person, firm or corporation who removes a tree in violation of this  
13 chapter or any notice, decision or order issued by the Director pursuant to this chapter shall  
14 be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected  
15 in accordance with the Guide for Plant Appraisal, 9<sup>th</sup> Edition, or successor.

16 2. Any person who fails to comply with Section 23.11.100 C shall be subject  
17 to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500.00) a day.

18 3. The Director shall notify the City Attorney in writing of the name of any  
19 person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

20 E. Restoration. In addition to any other remedies available, violators of this chapter  
21 shall be responsible for restoring unlawfully damaged areas in conformance with a plan,  
22 approved by the Director, which provides for repair of any environmental and property  
23 damage, and restoration of the site; and which results in a site condition that, to the greatest  
24 extent practicable, equals the site condition that would have existed in the absence of the  
25 violation(s).

26 F. Criminal Penalty.

27 1. Anyone violating or failing to comply with any order issued by the  
28 Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not  
29 more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than three  
30 hundred sixty (360) days, or by both such fine and imprisonment. Each day's violation or  
31 failure to comply shall constitute a separate offense.

32 2. Anyone violating or failing to comply with any of the provisions of this  
33 chapter and who within the past five (5) years has had a judgement against them pursuant to  
34 subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Hundred  
35 Dollars (\$500.00) or by imprisonment for not more than one hundred and eighty (180) days,  
36 or by both such fine and imprisonment. Each day's violation or failure to comply shall  
37 constitute a separate offense.

38 **Section 3.** Subsection B of Seattle Municipal Code Section 23.41.012 of the Land  
39 Use Code, which was last amended by Ordinance 120081, is amended as follows:



1 **SMC 23.41.012 Development standard departures.**

2 \*\*\*

3 B. Departures may be granted from the following requirements:

- 4 1. Structure width and depth limits;  
5 2. Setback requirements;  
6 3. Modulation requirements;  
7 4. SCM zone facade requirements, including transparency and blank façade  
8 provisions;  
9 5. Design, location and access to parking requirements;  
10 6. Open space or common recreation area requirements;  
11 7. Lot coverage limits;  
12 8. Screening and landscaping requirements;  
13 9. Standards for the location and design of nonresidential uses in mixed use  
14 buildings;  
15 10. Within Urban Centers, in L3 zones only, the pitched roof of a structure,  
16 as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20)  
17 percent of the maximum height permitted, as provided in Section 23.45.009, subject to the  
18 following limitations:  
19 a. A pitched roof may not incorporate the additional height if the  
20 structure is on a site abutting or across a street or alley from a single-family residential zone,  
21 b. The proposed structure must be compatible with the general  
22 development potential anticipated within the zone,  
23 c. The additional height must not substantially interfere with views  
24 from up-slope properties, and  
25 d. No more than one (1) project on one (1) site within each Urban  
26 Center may incorporate additional height in the pitched roofs of its structures pursuant to  
27 this subsection unless development regulations enacted pursuant to a neighborhood planning  
28 process allow other projects to incorporate such additional height;  
29 11. Building height within the Roosevelt Commercial Core (up to an  
30 additional three (3) feet) for properties zoned NC3-65', (Exhibit 23.41.012 A, Roosevelt  
31 Commercial Core);  
32 12. Downtown or Stadium Transition Overlay District street façade  
33 requirements;  
34 13. Downtown upper-level development standards;  
35 14. Downtown coverage and floor size limits;  
36 15. Downtown maximum wall dimensions;  
37 16. Downtown street level use requirements; ~~(and)~~  
38 17. Combined coverage of all rooftop features in downtown zones subject to  
39 the limitations in Section 23.49.008 C2((-)); and



1                                    18. Building height in Lowrise zones, and parking standards of Section  
2                                    23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in  
3                                    Chapter 25.11.

4                                    \*\*\*

5                                    **Section 4.** Subsection B of Seattle Municipal Code Section 23.41.016 of the Land  
6                                    Use Code, which was last amended by Ordinance 118980, is amended as follows:

7                                    **SMC 23.41.016 Administrative design review process.**

8                                    \*\*\*

9                                    B. Early Design Guidance Process.

10                                   1. Following a preapplication conference, a proponent may apply to begin the  
11                                   early design guidance process. Application for the early design guidance process shall  
12                                   include the following:

13                                   a. An initial site analysis addressing site opportunities and constraints,  
14                                   the use of all adjacent buildings, and the zoning of the site and adjacent properties; and

15                                   b. A drawing of existing site conditions, indicating topography of the  
16                                   site and the location of structures and prominent landscape elements on or abutting the site  
17                                   (including but not limited to all trees six (6) inches or greater in diameter measured four and  
18                                   one half (4 1/2) feet above the ground, with species indicated), if any; and

19                                   c. Photos showing the facades of adjacent development, general  
20                                   streetscape character and territorial or other views from the site, if any; and

21                                   d. A zoning envelope study which includes a perspective drawing;  
22                                   and

23                                   e. A description of the proponent's objectives with regard to site  
24                                   development, including any preliminary design concepts or options.

25                                   2. Notice of application shall be provided pursuant to Chapter 23.76,  
26                                   Procedures for Master Use Permits and Council Land Use Decisions.

27                                   3. The purpose of the early design guidance process shall be to identify  
28                                   concerns about the site and development program, receive comments from the public,  
29                                   identify those citywide design guidelines of highest priority to the site, and/or explore  
30                                   conceptual design or siting alternatives. As a result of this process, the Director shall  
31                                   identify and prepare a written summary of any guidelines which may not be applicable to the  
32                                   project and site and identify those guidelines of highest priority to the neighborhood. The  
33                                   Director shall incorporate any community consensus regarding the design, as expressed in  
34                                   written comments received, into the guideline priorities, to the extent the consensus is  
35                                   consistent with the design guidelines and reasonable in light of the facts of the proposed  
36                                   development.







1 basement additions. New additions to the nonconforming wall or walls shall comply with  
2 the following requirements (Exhibit 23.44.014 A):

3 a. Side Yard. When the addition is a side wall, the existing wall line  
4 may be continued by the addition except that in no case shall the addition be closer than  
5 three (3) feet to the side lot line;

6 b. Rear Yard. When the addition is a rear wall, the existing wall line  
7 may be continued by the addition except that in no case shall the addition be closer than  
8 twenty (20) feet to the rear lot line or centerline of an alley abutting the rear lot line;

9 c. Front Yard. When the addition is a front wall, the existing wall  
10 line may be continued by the addition except that in no case shall the addition be closer than  
11 fifteen (15) feet to the front lot line;

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

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

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

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

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

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

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

34 6. Private Garages, Covered Unenclosed Decks or Roofs Over Patios in Rear  
35 Yards.

36 a. Any attached private garages or covered, unenclosed decks or  
37 roofs over patios are portions of principal structures. They may extend into the required rear  
38 yard, but shall not be within twelve (12) feet of the centerline of any alley, nor within twelve  
39 (12) feet of any rear lot line which is not an alley lot line, nor closer than five (5) feet to any  
40 accessory structure. The height of private garages shall meet the provisions of Section  
41 23.44.016 D2 and the height of the roof over unenclosed decks and patios may not exceed

1 twelve (12) feet. The roof over these decks, patios and garages shall not be used as a deck.  
2 Any detached private garage meeting the requirements of Section 23.44.016, Parking  
3 location and access, or detached permitted accessory structure meeting the requirements of  
4 Section 23.44.040, General provisions, may be located in a rear yard. If a private garage has  
5 its vehicular access facing the alley, the private garage shall not be within twelve (12) feet of  
6 the centerline of the alley.

7 b. Garages meeting the standards of Section 23.44.016, shall be  
8 permitted in required rear yards, subject to a maximum combined coverage of forty (40)  
9 percent of the required rear yard. In the case of a rear yard abutting an alley, rear yard  
10 coverage shall be calculated from the centerline of the alley.

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

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

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

25 10. Freestanding Structures and Bulkheads.

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

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

- 39 (1) No part of the structure may exceed eight (8) feet; and  
40 (2) Any portion of the structure above six (6) feet shall be  
41 predominately open, such that there is free circulation of light and air.



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

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

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

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

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

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

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

29 15. Front and rear yards may be reduced by twenty-five (25) percent, but no  
30 more than five (5) feet, if the site contains a required environmentally critical area buffer or  
31 other area of the property which can not be disturbed pursuant to subsection A of Section  
32 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

33 16. Arbors. Arbors may be permitted in required yards under the following  
34 conditions:

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

40 b. In each required yard abutting a street, an arbor over a private  
41 pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the



1 horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight  
2 (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or if latticework is  
3 used, there must be a minimum opening of two (2) inches between crosspieces.

4 ~~((17. Protection of Trees. Front yards may be reduced to protect existing  
5 trees in rear yards and rear yards may be reduced to protect existing trees in front yards. To  
6 qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured  
7 four and one half (4 1/2) feet above the ground. The tree must also be in a condition and  
8 location such that it will not present a hazard to life or property following site development,  
9 and can be expected to remain healthy for at least twenty (20) years as determined by a  
10 qualified tree care professional.~~

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

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

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

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

26 ~~(3) The yard reduction will not result in a development that is  
27 materially detrimental to the character, design and streetscape of the surrounding  
28 neighborhood, considering such factors as height, bulk, scale, yards, pedestrian  
29 environment, and amount of vegetation remaining.))~~

30 **Section 6.** Subsection I of Seattle Municipal Code Section 23.45.014 of the Land  
31 Use Code, which was last amended by Ordinance 120117, is hereby deleted.

32 **Section 7.** Subsection B of Seattle Municipal Code Section 23.45.056 of the Land  
33 Use Code, which was last amended by Ordinance 119791, is amended as follows:

34 **SMC 23.45.056 Midrise -- Setback requirements.**

35 **D. General Setback Exceptions.**

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





1 a. Where two (2) or more principal structures are located on a lot, the  
2 required setback between those portions of interior facades which face each other shall be as  
3 follows:  
4

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

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

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

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

12 (3) All elevated walkways shall meet the following standards:  
13 i. The roof planes of elevated walkways shall be at  
14 different levels than the roofs or parapets of connected structures.

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

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

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

22 2. Structures in Required Setbacks.

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

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



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

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

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

11 f. Underground structures are permitted in all setbacks.

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

14 h. Fences, Freestanding Walls, Bulkheads, Signs and Other Similar  
15 Structures.

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

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

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

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

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

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



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

7 i. Arbors. Arbors may be permitted in required setbacks under the  
8 following conditions:

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

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

20 3. Front and rear setbacks may be reduced by twenty-five (25) percent, but  
21 no more than five (5) feet, if the site contains a required environ- mentally critical area  
22 buffer or other area of the property which can not be disturbed pursuant to the provisions of  
23 subsection A Exhibit 23.45.056 D Accessory Structures in Required Setbacks of Section  
24 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

25 ~~4. Protection of Trees. Front setbacks may be reduced to protect existing~~  
26 ~~trees in rear setbacks and rear setbacks may be reduced to protect existing trees in front~~  
27 ~~setbacks. To qualify for this exception, the tree(s) shall be at least six (6) inches in diameter,~~  
28 ~~measured four and one half (4 1/2) feet above the ground. The tree must also be in a~~  
29 ~~condition and location such that it will not present a hazard to life or property following site~~  
30 ~~development, and can be expected to remain healthy for at least twenty (20) years as~~  
31 ~~determined by a qualified tree care professional.~~

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

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



- ~~(1) The applicant setback requirements would make it impossible to protect existing tree(s) without causing undue hardship; and~~
- ~~(2) The requested setback reduction does not go beyond the minimum necessary to protect the tree(s) as determined by a qualified tree care professional; and~~
- ~~(3) 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, yards, pedestrian environment, and amount of vegetation remaining.~~

**Section 8.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person, owner, or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons, owners or circumstances.

**Section 9.** This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 25<sup>th</sup> day of June, 2001, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

Margaret Rogers  
President of the City Council

Approved by me this 2<sup>nd</sup> day of July, 2001.

Paul Schell  
Paul Schell, Mayor

Filed by me this 3 day of July, 2001.

Janet E. Pappas  
City Clerk

(SEAL)






# City of Seattle

Paul Schell, Mayor

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

## MEMORANDUM

**TO:** City Council President Margaret Pageler  
via Law Department

**FROM:**   
Rick Krochalis, Director

**DATE:** April 30, 2001

**SUBJECT:** Tree Protection

### TRANSMITTAL

With this memorandum we are transmitting for City Council consideration a proposed ordinance to amend the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process.

### BACKGROUND AND SUMMARY OF RECOMMENDATIONS

The City has been working on the issue of protecting trees on private property, especially on sites undergoing development, for several years now. The focus of the current proposal is to protect really important trees: "heritage trees" that are important community resources because of their unique historical, ecological, or aesthetic value.

There are two main aspects of the proposed amendments to the Seattle Municipal Code: 1) to restrict the removal of trees on undeveloped land, and 2) to promote additional tree protection on sites undergoing development. As noted, the proposal focuses on really important trees, what we propose to label as "heritage trees." A more detailed description of the proposed legislation is included in the attached Director's Report.

#### Citywide Restrictions on Tree Cutting

The main purpose of these new restrictions on removing trees (all trees 6 inches or greater in diameter) on undeveloped land is to ensure that the trees are not removed before development review even begins. Even though the 1999 amendments to the Land Use Code added provisions to protect trees during development (in short plat/subdivisions and design review, for example) there is nothing in the code currently

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preventing the cutting down of trees on a property before this development review takes place.

### **Regulations to Protect Heritage Trees on Sites Undergoing Development**

The basic approach is to establish a tree protection area within which no development should occur in order to protect the heritage tree. By staying outside of this area a development might lose some development potential. The basic approach is to allow this lost development potential to be regained by modifying some of the development standards that apply in various zones.

In Single Family zones, the lost development potential could be regained by extending into required front and/or rear yards. If the development cannot be accommodated in this way, then the tree can be removed.

In lowrise (LDT, L-1, L-2, and L-3) zones the lost development potential could be regained by:

- Development standard departures through design review including extensions into required setbacks.
- Increase in permitted height of five feet if needed to accommodate additional development on an additional floor. (Not allowed in combination with extension into required setbacks.)
- Reduction in number of required parking spaces (maximum 10% reduction).

In Lowrise-4, Midrise, and Commercial zones a heritage tree can be removed only if avoiding development in the tree protection area could not be achieved by the usual development standard departures through design review and/or up to a 10% reduction in required parking spaces.

### **Trees Over 2 Feet In Diameter**

In all residential and commercial zones, an applicant has the option to modify their development proposal to protect these trees in the same manner as provided for heritage trees.

### **Tree Replacement**

Replacement by one or more trees is required for each heritage tree and tree over two feet in diameter that is removed in association with development.

### **Deletion of Sections of Existing Land Use Code**

Three sections in the Seattle Municipal Code that were adopted in 1999 would be deleted. These sections established a procedure where an applicant could choose to request a reduction in yard or setback requirements to protect trees over 6 inches in diameter in single family, lowrise, and midrise zones. These sections are proposed to be deleted



because no project has taken advantage of this option; and it would be confusing to have these sections remain along with the new approach recommended by the proposal.

### **SEPA REVIEW AND ADMINISTRATIVE/FINANCIAL IMPLICATIONS**

DCLU is in the process of conducting an environmental review on this proposal. It is anticipated that this review will be completed by May 7, 2001. The proposal would result in some additional administrative burden on the part of DCLU. The extent of this burden and any financial implications will be discussed in a Fiscal Note. The Fiscal Note is also currently in the process of being prepared and will be completed prior to the Public Hearing on May 31, 2001.

If you have any questions about the proposed legislation, please contact Cliff Marks by email at [cliff.marks@ci.seattle.wa.us](mailto:cliff.marks@ci.seattle.wa.us) or by phone at (206) 684-8372.

Attachments:

Proposed legislation

Director's Report





# City of Seattle

Paul Schell, Mayor

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

## MEMORANDUM

**TO:** City Council President Margaret Pageler and Council Members  
**FROM:** Rick Krochalis, Director *RK*  
**DATE:** May 25, 2001  
**SUBJECT:** Fiscal Note for Proposed Tree Protection Regulations

Attached is the Fiscal Note for Council Bill 113661 which would protect trees on undeveloped land and provide for the added protection of trees during the development process. There are a few points that I would like to highlight from the Fiscal Note.

We estimate that the incremental annual resource requirement for DCLU would be approximately 500-525 hours. This represents a direct cost to us of about \$26,150, of which we estimate that approximately \$16,050 would be paid for by current permit fees and \$10,100 would be paid from our current allocation of General Fund. While this increment in itself is not large, we would like to point out that it should be seen in context with other programs that have recently also added to the burden on our general fund allocation.

From the standpoint of the applicant there is a range of cost impacts. On one end of the spectrum no additional costs would be incurred, either because the incremental costs (for site plan review and site visits, for example) are very small, or because some projects (single family, small multifamily or commercial) currently only pay a value based development fee and are not charged by the hour. At the other end of the spectrum, for larger projects currently subject to SEPA and design review they may have to pay for extra hours of staff time if the staff hours are above that which is associated with the specific type of permit. Also, the proposed ordinance would require that some small projects would have to go through administrative design review if there is a heritage tree on their site. This would result in an additional fee of \$1,520 and extra time for a land use permit where previously only a building permit was required. Also, in some instances where the tree does not qualify as a "heritage" tree the applicant could opt to undergo administrative design review to try to modify the development to protect the tree if it is over two feet in diameter; this applicant would also be subject to the additional fee. We believe that the Council should consider whether this fee should be subsidized by the General Fund since tree protection benefits the entire neighborhood and city as well.

If you have any questions about this Fiscal Note please contact Cliff Marks (4-8372) or Warren Cheney (5-1332) of DCLU or Stephen Land (4-7920) of CBO.

June 21, 2001

## FISCAL NOTE ADDENDUM

On May 25, 2001 the Director of the Design Construction and Land Use Department, Rick Krochalis submitted a cover letter and fiscal note to the City Council to address the following legislation:

### Legislation Title:

**AN ORDINANCE** relating to land use, zoning, and environmental protection; creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process.

### Council Action:

This Fiscal Note Addendum supercedes the May 25, 2001 fiscal note and reflects the following actions of the City Council's June 20, 2001 Finance, Budget and Economic Development Committee:

1. The term "exceptional tree" is substituted for "heritage tree."
2. For applicants that will now be required to go through administrative design review to protect an exceptional tree the Council directed that DCLU charge a smaller fee (as compared to the regular fee for administrative design review) and to report back to Council with options on how it could be implemented, e.g. by amendment to DCLU's fee ordinance.
3. For applicants that now would voluntarily choose to go through administrative design review to protect a tree over 2 feet in diameter the Council Directed that DCLU not charge a fee for this process. Council directed DCLU to propose as part of their 2002 budget request an increase in general fund allocation to cover these costs; DCLU would absorb the costs for the second half of 2001.

## FISCAL NOTE

<b>Department:</b> Design, Construction and Land Use	<b>Contact Person/Phone:</b> Cliff Marks, 4-8372 Warren Cheney, 5-1332	<b>CBO Analyst/Phone:</b> Stephen Land, 4-7920
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### Legislation Title:

AN ORDINANCE relating to land use, zoning, and environmental protection; creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process.

### Summary of the legislation:

There are two main aspects of the proposed amendments to the Seattle Municipal Code: 1) to restrict the removal of trees on undeveloped land, and 2) to promote additional tree protection on sites undergoing development. The focus of the proposal is to protect really important trees: "heritage trees" that are important community resources because of their unique historical, ecological, or aesthetic value.

**Citywide Restrictions on Tree Cutting on Undeveloped Land.** The main purpose of these new restrictions on removing trees (all trees 6 inches or greater in diameter) on undeveloped land is to ensure that the trees are not removed before development review even begins. Even though the 1999 amendments to the Land Use Code added provisions to protect trees during development (in short plat/subdivisions and design review, for example) there is nothing in the code currently preventing the cutting down of trees on a property before this development review takes place.

**Regulations to Protect Heritage Trees on Sites Undergoing Development.** A process will be established by which heritage tree status is to be determined. A draft director's rule has been prepared in this regard (see Attachment A.) Trees over a certain threshold diameter will be subject to review. Lost development potential due to determination of a Heritage Tree could be mitigated by modifying certain development standards that apply in various zones.

**Non-Heritage Trees Over 2 Feet In Diameter.** In all residential and commercial zones, an applicant has the option to modify their development proposal to protect these trees in the same manner as provided for heritage trees.

**Tree Replacement.** Replacement by one or more trees is required for each heritage tree and tree over two feet in diameter that is removed in association with development.

**Deletion of Sections of Existing Land Use Code.** Three sections in the Seattle Municipal Code that were adopted in 1999 would be deleted. These sections established a procedure where an applicant could chose to request a reduction in yard or setback requirements to protect trees over 6 inches in diameter in single family, lowrise, and midrise zones. These sections are proposed to be deleted because no project has taken advantage of this option; and it would be confusing to have these sections remain along with the new approach recommended by the proposal.

**Background:**

The City has been working on the issue of protecting trees on private property, especially on sites undergoing development, for several years now.

In 1999 the City Council adopted new Land Use Code regulations that included the following:

- New landscaping (tree planting and/or retention) requirements for Single Family, LDT, L1, and L2 zones
- Subdivision and short plat applications required to include the specific location and description of all trees at least 6" inches or more in diameter; criteria for approval now include a determination that the short plat or subdivision is designed to maximize the retention of existing trees
- Flexibility in location of single family, lowrise, and midrise structures to protect trees
- Design review requirement to identify trees 6" or more in diameter on the drawing of existing site conditions.

The City Council asked that the following issues be looked at in the year 2000:

- Provide greater flexibility in Design Review to protect trees
- Protect important trees on projects that don't go through SEPA
- Evaluate options for including remodeling projects under the new (1999) landscaping requirements.

The Council asked that a Work Group, first convened in 1998, be reconvened to look at these issues. DCLU prepared a proposal, with options noted, that was discussed at a public meeting held on August 15, 2000. A focus group was created to help refine a revised proposal. A joint meeting was also held between the original Work Group and the new focus group. Following these meetings, DCLU formulated a new proposal that was the subject of four February 2001 public meetings. These meetings provided additional public comment prior to submitting the final recommendation to the City Council.

**Public Private Partnership Review Status:** Not applicable.

**Is the legislation subject to public hearing requirements?** Yes. A public hearing will be held on May 31, 2001.

**Fiscal Sustainability Issues (related to grant awards):** Not Applicable

**Estimated Expenditure Impacts:** The cost of additional review functions required under the proposed ordinance will be absorbed in the base budget. Assuming no additional expenditures will be incurred, the ordinance will instead impact service delivery. See Appendix B for estimates of the workload impact of the ordinance.

FUND	2000	2001	2002
DCLU Operating Fund	No Impact	No Impact	No Impact

One-time \$ \_\_\_\_ NA \_\_\_\_      On-going \$ \_\_\_\_ NA \_\_\_\_

**Estimated Revenue Impacts:** Additional General Fund resources will not be requested at this time. The current allocation of General Fund will be reallocated to support additional enforcement and design review processes. Under the current fee schedule, some applicants may pay for additional plan review associated with the ordinance, but the impact on total permit fee revenues will be negligible. No new fees are proposed to pay for the functions mandated by the ordinance. See Appendix B for detailed estimates of the possible impact on individual bills.

FUND	2000	2001	2002
DCLU Operating Fund	No Impact	No Impact	No Impact

One-time \$ \_\_\_\_ NA \_\_\_\_      On-going \$ \_\_\_\_ NA \_\_\_\_

**Estimated FTE Impacts:** No additional FTEs will be added specifically for this purpose at this time. The additional review functions mandated by the ordinance will be performed within current resources levels. See Appendix B for estimates of the workload impact of the ordinance.

FUND	2000	2001	2002
DCLU Operating Fund	No Impact	No Impact	No Impact

# Full Time \_\_\_\_ # Part Time \_\_\_\_ # TES \_\_\_\_

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

**Other Issues (including long-term implications of the legislation):**

Since the expenditure of time will be paid for out of our base budget, this would result in staff time being spread a bit thinner given ongoing responsibilities, especially in the enforcement area.



## Attachment A

<b>DCLU</b>		Director's Rule x-01
<b>Applicant:</b> CITY OF SEATTLE DEPARTMENT OF CONSTRUCTION AND LAND USE	<b>Publication:</b> <b>Effective:</b>	<b>Supersedes:</b> None
<b>Subject:</b> Clarification of State Environmental Policy Act (SEPA) Plants and Animals Policy concerning exceptional trees; and designation of Heritage Trees under the Tree Protection Chapter (25.11) of the Seattle Municipal Code	Code and Section Reference Chapter 25.05.675 N, SMC Chapter 25.11, SMC	
<b>Approved Date</b>	<b>Type of Rule:</b> Code Interpretation	
<b>Index:</b>	<b>Ordinance Authority:</b> SMC	

### PURPOSE

The purpose of this rule is to clarify the SEPA Plants and Animals Policy (Seattle Municipal Code Section 25.05.675 N 2c.) for the purpose of determining the value of exceptional trees on sites undergoing environmental review in order to establish appropriate tree protection mitigating measures. This rule also establishes a procedure for identifying Heritage Trees pursuant to SMC Chapter 25.11.

### BACKGROUND

The Seattle Ordinance which implements the State Environmental Policy Act (SEPA), Chapter 25.05, Seattle Municipal Code (SMC) authorizes the Department of Design, Construction and Land Use (DCLU) to grant, condition or deny construction and use permit applications for public or private proposals which are subject to environmental review. This authority must be exercised based on adopted City policies, plans, rules or regulations set forth in Chapter 25.05, SMC.

The SEPA language addressing vegetation and tree protection under Plants and Animals reads:

**SMC25.05.675 N.2a.**

*It is the City's policy to minimize or prevent the loss of wildlife habitat and other vegetation which have substantial aesthetic, educational, ecological, and/or economic value.*

**SMC25.05.675 N.2c.**

*When the decisionmaker finds that a proposed project would reduce or damage rare, uncommon, unique or exceptional plant or wildlife habitat, wildlife travelways, or habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value, the decision maker may condition or deny the project to mitigate its adverse impacts. Such conditioning or denial is permitted whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665; provided, that for any project subject to the City's Shoreline Master Program, the Overview Policy set forth in SMC Section 25.05.665 shall apply.*

**SMC25.05.675 N.2d.**

*Mitigating measures may include but are not limited to:*

- i. Relocation of the project on the site;*
- ii. Reducing the size or scale of the project;*
- iii. Preservation of specific on-site habitats, such as trees or vegetated areas;*
- iv. Limitations on the uses allowed on the site;*
- v. Limitations on times of operation during periods significant to the affected species (i.e., spawning season, mating season, etc.); and*
- vi. Landscaping and/or retention of existing vegetation.*

Chapter 25.11 provides means for protecting exceptional trees in Seattle, especially on sites undergoing development. These trees are designated as Heritage Trees and this rule defines these trees and provides a standards and procedures for their determination.

**RULE**

The policy (SMC25.05.675 N.2c.) calls for protecting three categories of trees and/or vegetation where development would reduced or damage:

1. Rare, uncommon, unique or exceptional plant or wildlife habitat; or
2. Wildlife travelways; or

3. Habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value

This rule identifies trees that should be considered under the first and third categories, listed above, during environmental assessment of development applications.

The following criteria shall be used to establish the importance of individual trees in the urban environment:

- Tree condition and/or location is not injurious to the public health, safety and welfare; and
- Tree can be expected to remain alive and healthy for a minimum of 20 additional years; and
- Tree qualifies as a Heritage Tree as described below.

#### **HERITAGE TREE DESIGNATION:**

A Heritage Tree is a tree that:

1. Is designated by PlantAmnesty in partnership with the City of Seattle as a Class AAA-1 Heritage Tree; or
2. Is rare or exceptional by virtue of its size, species, condition, cultural/historic importance, and/or age as determined by one of the following two methods depending upon whether it is a non-native or native tree:

#### Non-native Trees

Non-native trees that are 75% of percent of the American Forestry Association (AFA) rating for the largest trees of each species in the state, as noted in Champion Trees of Washington, by Robert Van Pelt. AFA ratings are based on a tree's circumference (or diameter), height, and crown spread.

#### Native Trees

Native species are grouped in three categories: 1) trees that never need be saved, 2) trees that should always be saved, and 3) trees that should be saved depending on several factors discussed below.

Common, short-lived "weedy" species not worth saving (4):

Red ALDER  
Bitter CHERRY  
Black COTTONWOOD  
Pacific Black WILLOW

Rare species worth saving in all cases (12):

Sitka ALDER  
Quaking ASPEN  
Paper BIRCH  
Black HAWTHORN  
Dwarf or Rocky Mountain MAPLE  
Oregon White or Garry OAK  
Lodgepole / Shore PINE  
Sitka SPRUCE  
Geyer WILLOW  
Mackenzie WILLOW  
Hooker Pussy-WILLOW  
Pacific YEW

Species sometimes worth saving (16):

Species	Threshold Diameter
Pacific Crab-APPLE	1'0"
Oregon ASH	3'0"
CASCARA	10"
Western Red CEDAR	4'0"
Pacific DOGWOOD	6"
Douglas FIR	3'0"
Grand FIR	2'0"
Western HEMLOCK	2'0"
MADRONA	*
Bigleaf MAPLE	4'6"
Vine MAPLE	5"
Western White PINE	2'0"
Western SERVICEBERRY	5"
Piper Pussy-WILLOW	8"
Scouler Pussy-WILLOW	1'8"
Sitka Pussy-WILLOW	5"

\* Healthy young specimens on construction sites are more worth saving than are old, large ones. As many specimens as possible in very good condition—regardless of size—should be preserved on construction sites, but they should not be watered or are more likely to decline and die. Requiring large specimens of average or poor health to be preserved is likely to result in a short lifespan because of damage during construction and to post-construction practices such as irrigation—harmful to this species.

## PROCEDURE FOR DETERMINATION OF "HERITAGE TREE"

### Non-native Trees

For projects that do not require Design Review, SEPA, subdivisions or short plats, applicants are only required to indicate those trees that have a diameter of 75% of the diameter of the Champion Tree of Washington\*\*. Then a report by a tree professional would be required to determine it's height and crown spread to see if it meets the overall requirement of 75% of the Champion Tree's AFA points. The tree professional would also need to determine whether or not the tree presents a hazard and whether or not it would be able to survive after construction occurs.

### Native Trees

For projects that do not require Design Review, SEPA, subdivisions or short plats, applicants are only required to indicate those trees that are in the "Always to be saved" category or have a diameter equal to or greater than the "Threshold Diameter" noted above for the "Sometimes to be saved" category\*\*. Then the tree's significance would be determined by a tree professional based on the following factors: the tree's height and crown spread, tree condition, precise location, and likelihood of surviving construction damage and remaining a save healthy specimen for years.

-----  
\*\*Projects that require Design Review, SEPA, subdivisions or short plats, must indicate on site plans all trees greater than six (6) inches in diameter measured four and one-half feet above the ground.

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### Sources:

Native Seattle Trees and their Status, January 2001, by Arthur Lee Jacobson.  
Champion Trees of Washington, 1996, by Robert Van Pelt

## ATTACHMENT B: ANTICIPATED FISCAL IMPACT OF DCLU PROPOSAL

Currently DCLU addresses tree protection issues through design review, SEPA evaluations, short plat/subdivision application review, and administration of the Environmentally Critical Area regulations. Following is a listing of the changes to DCLU's current permit review process and administration that would be brought about by the proposed legislation and their respective fiscal impacts.

### **1. Respond to complaints to enforce prohibition of tree removal on undeveloped land**

Currently DCLU responds to complaints concerning tree removal only in Environmentally Critical Areas. With this new legislation it is expected that additional work will be entailed. People are bound to try to remove trees that are over 6" in diameter and neighbors are likely to call DCLU. The work will entail trying to stop the tree removal, and issuing fines if trees are removed illegally. It is difficult to predict exactly how much work this will entail. **It is likely to entail probably a few hours per week, perhaps 150 hours per year. In addition we estimate that approximately \$1,000 to \$1,500 would be required to pay for SeaTran staff arborists to determine the value of trees that were cut down in order to establish fine amounts.** (SeaTran expenditure based on two hours at \$50 per hour for 10-15 evaluations.) While probably not a sufficient impact on its own to require additional staff, this does represent an additional burden on existing staff.

### **2. Ensure that potential heritage trees and trees over 2 feet in diameter are noted on all plans; preliminary evaluation**

To implement the proposed legislation DCLU would likely require that the following be indicated on site plans: 1) native trees above the threshold diameter for the purpose of determining whether or not the tree would be defined as a heritage tree; 2) all non-native trees indicating their size and species (note, the draft Director's Rule calls for only identifying those non-native trees over 75% of the diameter of the state champion tree, but this would be too complex for the applicant); and 3) all trees over two feet in diameter. Currently projects undergoing design review and subdivision/short plat applications are required to indicate all trees over 6 inches in diameter on their site plans. Therefore, the impacts of this legislation with respect to new requirements for indicating trees would fall mainly on single family projects (estimated at 525 per year – the average from 1995 through 1999) and multifamily/commercial projects that do not go through design review (estimated at 100 projects - - about half of the total annual multifamily and commercial projects).

**It is estimated that only about 5 additional minutes of staff time per project would be involved checking to see whether such trees are indicated on site plans. This is a little more than 50 hours per year. Some additional time will be required of project reviewers concerning non-native trees since DCLU will likely take the responsibility for determining whether or not they should be evaluated. This could entail another 25 hours per year** (based on 10 minutes per project for 150 projects where non-native trees have been identified – these projects are not going to be very common; we assume

about one-fourth of all projects). If there are trees over two feet in diameter (but which are not over the heritage tree threshold) the project reviewer will need to tell the applicant about the option for modifying the development in order to protect the tree. This will also entail additional staff time. It is difficult to estimate exactly how much time this would take but is not likely to involve more than a few hours per year.

### **3. Make heritage tree determination and prepare report on tree protection**

There are probably not many more than a couple hundred potential heritage trees in the city. There are probably less than one hundred native trees that would qualify. It is difficult to estimate how many would be encountered in any year, but probably less than 10 and maybe less than 5. In any case, when such a tree is encountered it will take additional staff time to evaluate whether or not it is, in fact, a heritage tree and to determine the tree protection area and any other conditions that would need to be applied during construction in order to save the tree. Most of this evaluation would be carried out by SeaTran personnel whose cost to DCLU is approximately \$50 per hour. It is likely that a heritage tree determination would take approximately 2-3 hours. If the project would normally be reviewed by SeaTran (subject to design review, for example) it is likely that the additional time spent would be only 1-2 hours. **Assuming ten projects a year at \$100 a project, this would total approximately \$1,000 (for 20 hours). Some additional DCLU staff time would also be involved to oversee the process, say one hour per project, totaling 10 hours.**

### **4. Tree evaluation for optional tree protection for trees over 2 feet in diameter.**

There is no way of accurately predicting how many applicants would choose to take advantage of this option. **It could be assumed that the number would be similar to the number of heritage trees and the resultant cost as noted in #3, above.**

### **5. Additional staff review for projects that would be redesigned to protect trees**

Although it is very difficult to predict the number of projects that would be subject to redesign (both where required for heritage trees, and where the applicant chooses to do this for trees over 2 feet in diameter), for analysis purposes we could assume that this would affect 20 projects per year. There are two types of projects that would be affected:

- projects that would go through design review now
- projects that don't go through design review now (smaller lowrise and midrise)



Project Is Not Currently Subject To Design Review		Project Is Currently Subject To Design Review
Single Family	Multifamily or Commercial	Multifamily or Commercial
Relatively simple requirement as to redesign of project to intrude into front and/or rear yards. Probably 2 additional hours of staff review.	This is relatively more complex than for single family and may involve a height waiver. Administrative design review would be required. It is estimated that this additional time could take 5-10 hours. Some projects could take longer.	This is relatively more complex than for single family and may involve a height waiver, but this effort would only be an incremental increase to normal design review. It is estimated that this additional time could take 3-6 hours.

For analysis purposes we could assume that one third of the projects that would go through this process would be in each of the three categories, or approximately seven projects in each category. Assuming an average of six hours per multifamily or commercial project this would **total approximately 98 hours**.

*According to the existing Fee Ordinance the impacts on individual applicants would be as follows:*

- *No fee increase for single family projects since they only pay a value-based development fee.*
- *Multifamily or Commercial projects not currently subject to design review would have to pay the design review fee of \$1,520 for 20 hours of review.*
- *Multifamily or Commercial projects currently subject to design review would have to pay an hourly rate (currently \$175) for any hours over twenty; although it would depend on the complexity of the basic nontree-related design review it is likely that the 20 hour limit would be exceeded.*

#### **6. Site Development Team site visits**

It is current practice for members of DCLU's Site Development Team to conduct site visits for all new development projects. It is anticipated that this team's role in implementing the new legislation would be a quick evaluation to see whether or not the site plan is accurate in representing potential heritage trees and trees over two feet in diameter. They will not be able to catch all omissions, and will not be expected to know the heritage tree size threshold for all species of trees, but would be expected to determine that a very large tree that is likely to be a heritage trees has been left off of the site plan. It is estimated that this additional time would be 5 minutes per project. At approximately 1,300 site visits per year **this would entail approximately 110 hours**.

There will also be a need for training Site Development Team personnel, probably involving the training of 10 people for 2 hours.

Tree Protection Regulations Fiscal Impact Chart

Activity	Program	Incremental Resource Requirement (Annual)	Revenue Sources	Cost to Applicant	
Site visit to identify potential heritage trees	Site Review & Inspection	110 hours (5 minutes per site visit for 1,300 site visits)	No additional revenue	No additional cost: 5 minutes would not show up as incremental cost to basic site visit fee	
Ensure notation on plans: Heritage trees	Land Use	50 hours (5 minutes per project for 525 SFR and 100 MFR or commercial projects)	90% land use permit fees, 10% General Fund	Additional review effort would not trigger extra charges for most permit applications.	
Ensure notation on plans: Non-native trees		25 hours (10 minutes per project for 150 projects)			
Heritage and 2' diameter tree evaluation	SEATRAN	40 hours (2 hours per tree for 20 trees)			Land Use hourly fee may apply: Most applicants would pay no additional fees; a few could pay up to \$750 more
	Land Use	20 hours (1 hour per tree for 20 trees)			
Design Review: MFR & Commercial	Land Use	84 hours (6 hours per project for 14 affected projects)		Land Use hourly fee may apply: Affected projects would pay \$1,500 more on average	
Project redesign: Single Family Residential	Construction Plan Review	14 hours (2 hours per project for 7 affected projects)	Building permit fees	No additional cost	
Undeveloped site enforcement	Compliance Inspection	150 hours	General Fund	Not applicable	
	SEATRAN	30 hours			
Total		523 hours @ \$50/hour total: \$26,150	\$15,350 from current land use fees \$10,100 from current General Fund \$700 from current building permit fees		

PUBLIC HEARING SIGN-UP SHEET

Thursday, May 31, 2001

TREES

INFORMATION ON THIS SIGN-UP SHEET IS PUBLIC RECORD

#	(PLEASE PRINT) NAME	ORGANIZATION	(OPTIONAL) ADDRESS	ZIP	(OPTIONAL) PHONE/FAX
1.	RANDALL SPAN		3112 E PIKE SEATTLE	98112	(206) 720-0966
2.	LIVAN BORDAN	Seattle Audubon Society	8050 35th Ave NE Seattle WA 98115	98115	206 523-8243 x14
3.	Nolan Ross	Seattle Audubon Society	9050 35th Ave NE Seattle WA 98115		206-523-8243 x13
4.	MAMIE JACKSON	CITIZEN			
5.	ELISE GRUBER	CITIZEN	1810 E. Republican, #7 Seattle WA 98112	98112	206-324-3466
6.	Rich Ellison	Save Seattle's Trees	1938-1072 Ave E, Seattle	98102	
7.	RANDY WHITE	CITIZEN	2411 NW 58th St / 534 WA	98107	(206) 345-7803
8.	Marla Myrty	CITIZEN	8922 12th Ave NE	98115	(206) 505-1230
9.	Deborah Ferber	Pinehurst Comm Council	11508 20th NE	98125	440-82229
10.	LOREN CANNON	Sound entities inc	500 W. Republican St	98119	817-10972
11.	Tamet Way	The Cr Leg Def. Fund	940 NE 14th St, Seattle	98155	365-4477
12.	Jihyun Kim	Student			
13.					

PUBLIC HEARING SIGN-UP SHEET

Thursday, May 31, 2001

TREES

INFORMATION ON THIS SIGN-UP SHEET IS PUBLIC RECORD

#	(PLEASE PRINT) NAME	ORGANIZATION	(OPTIONAL) ADDRESS	ZIP	(OPTIONAL) PHONE/FAX
14.	Terry Goodwin	Seattle Native Council	2627 E. Ward. St	98112	324-1700
15.	Mark Head	Seattle Parks			
16.	Gregory Hill				
17.					
18.					
19.					
20.					
21.					
22.					
23.					
24.					
25.					
26.					

**ORDINANCE**

**AN ORDINANCE** relating to land use, zoning, and environmental protection, creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and 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.** The City Council finds that:

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

B. Trees have the following benefits:

1. Preserve and enhance the City's natural beauty;
2. Provide varied and rich habitats for wildlife;
3. Moderate the effects of wind and temperature and have a positive impact on global climate change;
4. Slow runoff from precipitation, reduce soil erosion and sedimentation and pollution of natural waterways; and thus minimize the public and private costs for storm water control and treatment and utility maintenance;
5. Improve air quality, through the absorption of pollutants and contamination;
6. Mask unwanted sound and reduce noise pollution; and
7. Enhance the economic value of both new and existing development.

C. Tree removal to accommodate urban development has resulted in the loss to the public of these beneficial functions of trees and has also resulted in environmental degradation.

**Section 2.** A new Chapter 25.11 is hereby added to Title 25, of the Seattle Municipal Code (SMC), as follows:

**CHAPTER 25.11 TREE PROTECTION**

**25.11.010 Purpose and Intent.**

It is the purpose and intent of this Chapter to:



1           A. Implement the goals and policies of Seattle's Comprehensive Plan especially  
2 those in the Environment Element dealing with protection of the urban forest.

3           B. To preserve and enhance the city's physical and aesthetic character by preventing  
4 untimely and indiscriminate removal or destruction of trees.

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

8           D. To reward tree protection efforts by granting flexibility for certain development  
9 standards, and to promote site planning and horticultural practices that are consistent with  
10 the reasonable use of property.

11           E. To especially protect heritage trees that because of their unique historical,  
12 ecological, or aesthetic value constitute an important community resource; to require  
13 flexibility in design to protect heritage trees.

14           F. To provide the option of modifying development standards to protect trees over  
15 two feet in diameter in the same manner that modification of development standards is  
16 required for heritage trees.

17           G. To encourage retention of trees over six inches in diameter through the design  
18 review and other processes for larger projects, through education concerning the value of  
19 retaining trees, and by not permitting their removal on undeveloped land prior to  
20 development permit review.

21           **25.11.020    Definitions.**

22           "Director" means the Director of the Department of Design, Construction and Land Use.

23           "Drip line" means an area encircling the base of a tree, the minimum extent of which is  
24 delineated by a vertical line extending from the outer limit of a tree's branch tips down to  
25 the ground.

26           "Feeder root zone" means an area encircling the base of a tree equal to twice the diameter of  
27 the drip line.

28           "Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or  
29 property, and that is designated as such by the Director according to the tree hazard  
30 evaluation standards established by the International Society of Arboriculture.

31           "Heritage tree" means a tree that because of its unique historical, ecological, or aesthetic  
32 value constitutes an important community resource, and is designated as such by the  
33 Director according to standards and procedures promulgated by the Department of Design,  
34 Construction and Land Use.



1 "Inner root zone" means an area encircling the base of a tree equal to one-half the diameter  
2 of the drip line.

3 "Topping" means the cutting back of limbs to stubs within the tree's crown, to such a degree  
4 as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or  
5 branches to lateral branches that are less than one-half of the diameter of the limb or branch  
6 that is cut.

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

13 "Undeveloped lot" means a lot on which no buildings or structures are located.

14 **25.11.030 Exemptions.**

15 The following activities are exempt from the provisions of this chapter:

- 16 A. Normal and routine pruning operations and maintenance;
- 17 B. Abatement of hazardous tree or tree part as approved by the Director;
- 18 C. Emergency activities necessary to remedy an immediate threat to public health,  
19 safety, or welfare;
- 20 D. Tree removal undertaken as part of tree and vegetation management and  
21 revegetation of public parkland and open spaces by responsible public agencies or  
22 departments;
- 23 E. Tree removal approved as part of an Environmentally Critical Area revegetation  
24 plan as provided in Section 25.09.320;
- 25 F. Tree removal shown as part of an issued building or grading permit as provided in  
26 Sections 25.11.060, 25.11.070, and 25.11.080; and
- 27 G. Removal of street trees as regulated by Title 15 of the SMC.

28 **25.11.040 Restrictions on tree removal.**

29 A. Tree removal or topping is prohibited in the following cases, except as provided  
30 in Section 25.11.030:

- 31 1. All trees six (6) inches or greater in diameter, measured four and one-half  
32 (4.5) feet above the ground, on undeveloped land; and
- 33 2. Heritage trees on undeveloped land or on a lot developed with a single  
34 family house located in a zone other than single family.





1           B. Tree removal in Environmentally Critical Areas shall follow the provisions of  
2 Section 25.09.320.

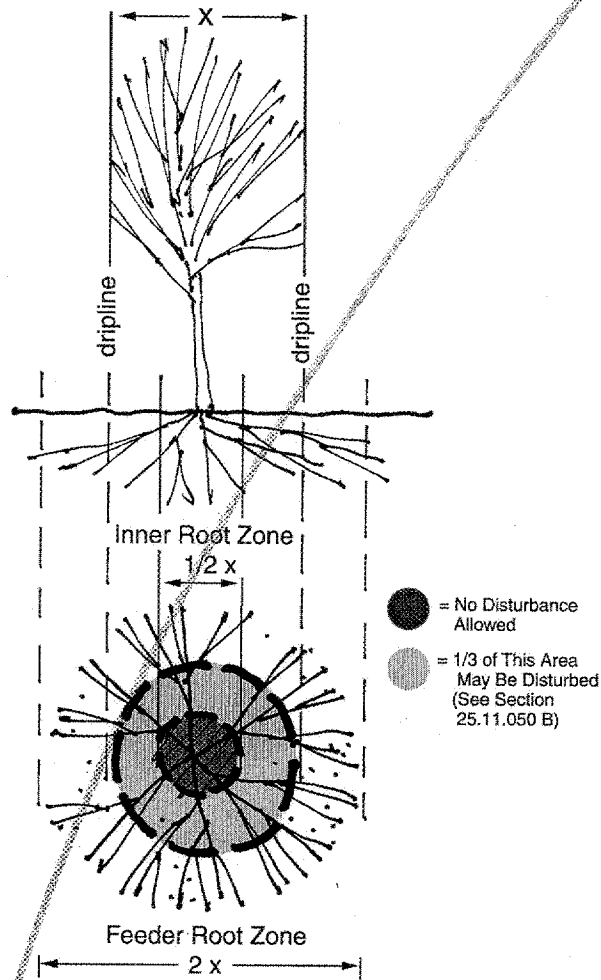
3           **25.11.050    General Provisions for Heritage tree determination and tree protection**  
4           **area delineation in Single Family, Residential Small Lot, Lowrise, Midrise, and**  
5           **Commercial zones.**

6           A. Heritage trees and potential heritage trees shall be identified on site plans and  
7 heritage tree status shall be determined by the Director according to standards promulgated  
8 by the Department of Design, Construction and Land Use.

9           B. Tree protection areas for heritage trees shall be identified on sites plans.  
10 Applicants seeking development standard waivers to protect other trees greater than two (2)  
11 feet in diameter measured four and one-half (4.5) feet above the ground shall also indicate  
12 tree protection areas on site plans. The basic tree protection area shall be the area within the  
13 drip line of the tree. The tree protection area may be reduced if approved by the Director  
14 according to a plan prepared by a tree care professional. Such reduction shall be limited to  
15 one-third of the area within the outer half of the area within the drip line. In no case shall  
16 the reduction occur within the inner root zone. In addition, the Director may establish  
17 conditions for protecting the tree during construction within the feeder root zone. (See  
18 Exhibit 25.11.050 B.)



Exhibit 25.11.050 B



1  
2  
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C. If development standards have been modified according to the provisions of this Chapter to avoid development within a designated tree protection area, that area shall remain undeveloped for the remainder of the life of the building, and a permanent covenant stating this requirement shall be recorded in the King County Office of Records and Elections.



1 D. The Director may require a tree protection report by a tree care professional that  
2 provides the following information:

- 3 1. Tree evaluation with respect to its general health, damage, danger of  
4 falling, proximity to existing or proposed structures and or utility services;  
5 2. Evaluation of the anticipated effects of proposed construction on the  
6 viability of the tree;  
7 3. A hazardous tree assessment; if applicable;  
8 4. Plans for supervising, and/or monitoring implementation of any required  
9 tree protection or replacement measures; and  
10 5. Plans for conducting post-construction site inspection and evaluation.

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

13 **25.11.060 Tree Protection on sites undergoing development in Single Family and**  
14 **Residential Small Lot zones.**

15 A. Heritage trees

- 16 1. The Director may permit the tree to be removed only if:  
17 a. the maximum lot coverage permitted on the site according to SMC  
18 Title 23, the Land Use Code, cannot be achieved without extending into the tree protection  
19 area or into a required front and/or rear yard to an extent greater than provided for in  
20 subsection A2 of this Section; or  
21 b. avoiding development in the tree protection area would result in a  
22 portion of the house being less than fifteen (15) feet in width.  
23 2. Permitted extension into front or rear yards shall be limited to an area  
24 equal to the amount of the tree protection area not located within required yards. The  
25 maximum yard reduction shall be fifty percent (50%).  
26 3. If the maximum lot coverage permitted on the site can be achieved  
27 without extending into either the tree protection area or required front and/or rear yards then  
28 no such extension into required yards shall be permitted.

29 B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
30 the ground.

- 31 1. Trees over two feet in diameter shall be identified on site plans.  
32 2. In order to protect trees over two (2) feet in diameter an applicant may  
33 modify their development proposal to extend into front and/or rear yards in the same manner  
34 as provided for heritage trees in subsection A of this Section, above.

35 C. The development shall meet the tree requirements of Section 23.44.008.I.

36 **25.11.070 Tree Protection on sites undergoing development in Lowrise**  
37 **Duplex/Triplex, Lowrise 1, Lowrise 2, and Lowrise 3 Zones.**

38 A. Heritage trees



1                   1. If it is determined that there is a heritage tree located on the site the  
2 project shall go through design review as provided in Section 23.41.016 even if the project  
3 would normally fall below the threshold for design review as contained in Section  
4 23.41.004.

5                   2. The Director may permit the tree to be removed only if the total floor area  
6 that could be achieved within the maximum permitted development coverage and the height  
7 limit of the applicable lowrise zone according to SMC Title 23, the Land Use Code, cannot  
8 be achieved while avoiding the tree protection area through the following:

9                   a. Development standard departures permitted in Section 23.41.012.

10                   b. An increase in the permitted height as follows:

11                   i. In Lowrise Duplex/Triplex, Lowrise 1, and Lowrise 2  
12 zones, the basic height limit of twenty five (25) provided for in Section 23.45.090A may be  
13 increased up to thirty (30) feet; the pitch roof provisions of Section 23.45.090C1 may be  
14 modified to permit the ridge of pitched roofs on principal structures with a minimum slope  
15 of six to twelve (6:12) to extend up to forty (40) feet, and the ridge of pitched roofs on  
16 principal structures with a minimum slope of four to twelve (4:12) may extend up to thirty-  
17 five (35) feet.

18                   ii. In Lowrise 3 zones the height of the pitched roof provided  
19 for in Section 23.45.090C3 may extend up to ten (10) feet above the maximum height limit.

20                   iii. The increase in height permitted in this Section shall only  
21 be approved if it can be demonstrated that it is needed to accommodate, on an additional  
22 floor, the amount of floor area lost by avoiding development within the tree protection area.  
23 The maximum amount of floor area on an additional floor shall be limited to the amount of  
24 floor area lost by avoiding development within the tree protection area. This provision for  
25 increased height shall not be permitted if the development is granted a departure from the  
26 development standards for setbacks.

27                   c. Parking Reduction. A reduction in the parking standards of  
28 Section 23.54.015 may be permitted in order to protect a heritage tree if the reduction would  
29 result in a project that would avoid the tree protection area. The reduction shall be limited to  
30 a maximum of ten percent (10%) of the number of required parking spaces.

31                   B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
32 the ground.

33                   1. Trees over two (2) feet in diameter shall be identified on site plans.

34                   2. In order to protect trees over two (2) feet in diameter an applicant may  
35 request modification of development standards in the same manner as provided for heritage  
36 trees in subsection A of this Section, above.

37                   C. The development shall meet the tree requirements in landscaped areas of Section  
38 23.45.015.C.

39                   **25.11.080 Tree Protection on sites undergoing development in Lowrise 4, Midrise,**  
40 **and Commercial Zones.**



1           A. The Director may permit a heritage tree to be removed only if the applicant  
2 demonstrates that protecting the tree by avoiding development in the tree protection area  
3 could not be achieved through the development standard departures permitted in Section  
4 23.41.012, and/or a reduction in the parking requirements of Section 23.54.015 up to a  
5 maximum reduction of ten percent (10%) of the number of required parking spaces.

6           B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above  
7 the ground.

8                 1. Trees over two (2) feet in diameter shall be identified on site plans.

9                 2. In order to protect trees over two (2) feet in diameter an applicant may  
10 request modification of development standards in the same manner as provided for Heritage  
11 Trees in subsection A of this Section, above.

12           **25.11.090     Tree replacement and site restoration.**

13           A. Each heritage tree and tree over two (2) feet in diameter that is removed in  
14 association with development in all zones shall be replaced by one or more new trees, the  
15 size and species of which shall be determined by the Director; the tree replacement required  
16 shall be designed to result, upon maturity, in a canopy cover that is at least equal to the  
17 canopy cover prior to tree removal. Preference shall be given to on-site replacement. When  
18 on-site replacement cannot be achieved, or is not appropriate as determined by the Director,  
19 preference for off-site replacement shall be on public property.

20           B. No tree replacement is required if the 1) tree is hazardous, dead, diseased, injured  
21 or in a declining condition with no reasonable assurance of regaining vigor as determined by  
22 a tree care professional, or 2) the tree is proposed to be relocated to another suitable planting  
23 site as approved by the Director.

24           **25.11.100     Enforcement and penalties.**

25           A. Authority. The Director shall have authority to enforce the provisions of this  
26 chapter, to issue permits, impose conditions, and establish administrative procedures and  
27 guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of  
28 this chapter.

29           B. It shall be a violation of this chapter for any person, firm or corporation to  
30 remove, clear or take any action detrimental to trees contrary to or in violation of any  
31 provision of this chapter. It shall be a violation of this chapter for any person, firm or  
32 corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or  
33 otherwise procure another to violate or fail to comply with this chapter.

34           C. Stop-work Order. Whenever a continuing violation of this chapter will materially  
35 impair the Director's ability to secure compliance with this chapter, when the continuing  
36 violation threatens the health or safety of the public, or when the continuing violation  
37 threatens or harms the environment, the Director may issue a stop-work order specifying the  
38 violation and prohibiting any work or other activity at the site. The posting of the stop-work



1 order on the site shall be deemed adequate notice of the stop-work order. A failure to  
2 comply with a stop-work order shall constitute a violation of this chapter.

3 D. Civil Penalties.

4 1. Any person, firm or corporation who removes a tree in violation of this  
5 chapter or any notice, decision or order issued by the Director pursuant to this chapter shall  
6 be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected  
7 in accordance with the Guide for Plant Appraisal, 9<sup>th</sup> Edition, or successor.

8 2. Any person who fails to comply with Section 23.11.100 C shall be subject  
9 to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500.00) a day.

10 3. The Director shall notify the City Attorney in writing of the name of any  
11 person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

12 E. Restoration. In addition to any other remedies available, violators of this chapter  
13 shall be responsible for restoring unlawfully damaged areas in conformance with a plan,  
14 approved by the Director, which provides for repair of any environmental and property  
15 damage, and restoration of the site; and which results in a site condition that, to the greatest  
16 extent practicable, equals the site condition that would have existed in the absence of the  
17 violation(s).

18 F. Criminal Penalty.

19 1. Anyone violating or failing to comply with any order issued by the  
20 Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not  
21 more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than three  
22 hundred sixty (360) days, or by both such fine and imprisonment. Each day's violation or  
23 failure to comply shall constitute a separate offense.

24 2. Anyone violating or failing to comply with any of the provisions of this  
25 chapter and who within the past five (5) years has had a judgement against them pursuant to  
26 subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Hundred  
27 Dollars (\$500.00) or by imprisonment for not more than one hundred and eighty (180) days,  
28 or by both such fine and imprisonment. Each day's violation or failure to comply shall  
29 constitute a separate offense.

30 **Section 3.** Subsection B of Seattle Municipal Code Section 23.41.012 of the Land  
31 Use Code, which was last amended by Ordinance 120081, is amended as follows:

32 **SMC 23.41.012 Development standard departures.**

33 \*\*\*

34 B. Departures may be granted from the following requirements:

- 35 1. Structure width and depth limits;  
36 2. Setback requirements;  
37 3. Modulation requirements;



CM  
3/1/01  
Tree protect v1

- 1 4. SCM zone facade requirements, including transparency and blank façade  
2 provisions;  
3 5. Design, location and access to parking requirements;  
4 6. Open space or common recreation area requirements;  
5 7. Lot coverage limits;  
6 8. Screening and landscaping requirements;  
7 9. Standards for the location and design of nonresidential uses in mixed use  
8 buildings;  
9 10. Within Urban Centers, in L3 zones only, the pitched roof of a structure,  
10 as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20)  
11 percent of the maximum height permitted, as provided in Section 23.45.009, subject to the  
12 following limitations:  
13 a. A pitched roof may not incorporate the additional height if the  
14 structure is on a site abutting or across a street or alley from a single-family residential zone,  
15 b. The proposed structure must be compatible with the general  
16 development potential anticipated within the zone,  
17 c. The additional height must not substantially interfere with views  
18 from up-slope properties, and  
19 d. No more than one (1) project on one (1) site within each Urban  
20 Center may incorporate additional height in the pitched roofs of its structures pursuant to  
21 this subsection unless development regulations enacted pursuant to a neighborhood planning  
22 process allow other projects to incorporate such additional height;  
23 11. Building height within the Roosevelt Commercial Core (up to an  
24 additional three (3) feet) for properties zoned NC3-65', (Exhibit 23.41.012 A, Roosevelt  
25 Commercial Core);  
26 12. Downtown or Stadium Transition Overlay District street façade  
27 requirements;  
28 13. Downtown upper-level development standards;  
29 14. Downtown coverage and floor size limits;  
30 15. Downtown maximum wall dimensions;  
31 16. Downtown street level use requirements; ((and))  
32 17. Combined coverage of all rooftop features in downtown zones subject to  
33 the limitations in Section 23.49.008 C2((-)); and  
34 18. Building height in Lowrise zones, and parking standards of Section  
35 23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in  
36 Chapter 25.11.

37 \*\*\*

38 **Section 4.** Subsection B of Seattle Municipal Code Section 23.41.016 of the Land  
39 Use Code, which was last amended by Ordinance 118980, is amended as follows:



1 **SMC 23.41.016 Administrative design review process.**

2 \*\*\*

3 B. Early Design Guidance Process.

4 1. Following a preapplication conference, a proponent may apply to begin the  
5 early design guidance process. Application for the early design guidance process shall  
6 include the following:

7 a. An initial site analysis addressing site opportunities and constraints,  
8 the use of all adjacent buildings, and the zoning of the site and adjacent properties; and

9 b. A drawing of existing site conditions, indicating topography of the  
10 site and the location of structures and prominent landscape elements on or abutting the site  
11 (including but not limited to all trees six (6) inches or greater in diameter measured four and  
12 one half (4 1/2) feet above the ground, with species indicated), if any; and

13 c. Photos showing the facades of adjacent development, general  
14 streetscape character and territorial or other views from the site, if any; and

15 d. A zoning envelope study which includes a perspective drawing;  
16 and

17 e. A description of the proponent's objectives with regard to site  
18 development, including any preliminary design concepts or options.

19 2. Notice of application shall be provided pursuant to Chapter 23.76,  
20 Procedures for Master Use Permits and Council Land Use Decisions.

21 3. The purpose of the early design guidance process shall be to identify  
22 concerns about the site and development program, receive comments from the public,  
23 identify those citywide design guidelines of highest priority to the site, and/or explore  
24 conceptual design or siting alternatives. As a result of this process, the Director shall  
25 identify and prepare a written summary of any guidelines which may not be applicable to the  
26 project and site and identify those guidelines of highest priority to the neighborhood. The  
27 Director shall incorporate any community consensus regarding the design, as expressed in  
28 written comments received, into the guideline priorities, to the extent the consensus is  
29 consistent with the design guidelines and reasonable in light of the facts of the proposed  
30 development.

31 4. The Director shall distribute a copy of the priority-guidelines summary to  
32 all who sent in comments or otherwise requested notification and to the project proponent.

33 \*\*\*







1                   b. Rear Yard. When the addition is a rear wall, the existing wall line  
2 may be continued by the addition except that in no case shall the addition be closer than  
3 twenty (20) feet to the rear lot line or centerline of an alley abutting the rear lot line;

4                   c. Front Yard. When the addition is a front wall, the existing wall  
5 line may be continued by the addition except that in no case shall the addition be closer than  
6 fifteen (15) feet to the front lot line;

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

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

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

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

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

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

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

29                  6. Private Garages, Covered Unenclosed Decks or Roofs Over Patios in Rear  
30 Yards.

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



1 its vehicular access facing the alley, the private garage shall not be within twelve (12) feet of  
2 the centerline of the alley.

3 b. Garages meeting the standards of Section 23.44.016, shall be  
4 permitted in required rear yards, subject to a maximum combined coverage of forty (40)  
5 percent of the required rear yard. In the case of a rear yard abutting an alley, rear yard  
6 coverage shall be calculated from the centerline of the alley.

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

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

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

21 10. Freestanding Structures and Bulkheads.

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

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

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

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

38 c. Bulkheads and retaining walls used to raise grade may be placed in  
39 any required yard when limited to six (6) feet in height, measured above existing grade. A  
40 guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or  
41 retaining wall existing as of the date of the ordinance codified in this section. If a fence is



1 placed on top of a new bulkhead or retaining wall, the maximum combined height is limited  
2 to nine and one-half (9-1/2) feet.

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

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

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

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

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

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

25 15. Front and rear yards may be reduced by twenty-five (25) percent, but no  
26 more than five (5) feet, if the site contains a required environmentally critical area buffer or  
27 other area of the property which can not be disturbed pursuant to subsection A of Section  
28 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

29 16. Arbors. Arbors may be permitted in required yards under the following  
30 conditions:

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

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



1                   ~~((17. Protection of Trees. Front yards may be reduced to protect existing~~  
2 ~~trees in rear yards and rear yards may be reduced to protect existing trees in front yards. To~~  
3 ~~qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured~~  
4 ~~four and one half (4 1/2) feet above the ground. The tree must also be in a condition and~~  
5 ~~location such that it will not present a hazard to life or property following site development,~~  
6 ~~and can be expected to remain healthy for at least twenty (20) years as determined by a~~  
7 ~~qualified tree care professional.~~

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

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

18                   ~~(1) The applicable yard requirements would make it~~  
19 ~~impossible to protect existing tree(s) without causing undue hardship; and~~

20                   ~~(2) The requested yard reduction does not go beyond the~~  
21 ~~minimum necessary to protect the tree(s) as determined by a qualified tree care professional;~~  
22 ~~and~~

23                   ~~(3) The yard reduction will not result in a development that is~~  
24 ~~materially detrimental to the character, design and streetscape of the surrounding~~  
25 ~~neighborhood, considering such factors as height, bulk, scale, yards, pedestrian~~  
26 ~~environment, and amount of vegetation remaining.))~~

27                   **Section 6.** Subsection I of Seattle Municipal Code Section 23.45.014 of the Land  
28 Use Code, which was last amended by Ordinance 120117, is hereby deleted.

29                   **Section 7.** Subsection B of Seattle Municipal Code Section 23.45.056 of the Land  
30 Use Code, which was last amended by Ordinance 119791, is amended as follows:

31                   **SMC 23.45.056           Midrise -- Setback requirements.**

32                   D. General Setback Exceptions.

33                   I. Required Setbacks for Cluster Developments.

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



1

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

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

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

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

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

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

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

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

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

2. Structures in Required Setbacks.

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

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

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



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

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

9 f. Underground structures are permitted in all setbacks.

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

12 h. Fences, Freestanding Walls, Bulkheads, Signs and Other Similar  
13 Structures.

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

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

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

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

31 ii. 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 (3) Bulkheads and retaining walls used to raise grade may be  
34 placed in each required setback when limited to six (6) feet in height, measured above  
35 existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a  
36 bulkhead or retaining wall existing as of the effective date of the ordinance codified in this  
37 section. If a fence is placed on top of a new bulkhead or retaining wall, the maximum  
38 combined height is limited to nine and one-half (9 1/2) feet.

39 (4) Bulkheads and retaining walls used to protect a cut into  
40 existing grade may not exceed the minimum height necessary to support the cut or six (6)  
41 feet whichever is greater. When the bulkhead is measured from the low side and it exceeds



1 six (6) feet, an open guardrail of no more than forty- two (42) inches meeting Building Code  
2 requirements may be placed on top of the bulkhead or retaining wall. A fence must be set  
3 back a minimum of three (3) feet from such a bulkhead or retaining wall.

4 i. Arbors. Arbors may be permitted in required setbacks under the  
5 following conditions:

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

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

17 3. Front and rear setbacks may be reduced by twenty-five (25) percent, but  
18 no more than five (5) feet, if the site contains a required environ- mentally critical area  
19 buffer or other area of the property which can not be disturbed pursuant to the provisions of  
20 subsection A Exhibit 23.45.056 D Accessory Structures in Required Setbacks of Section  
21 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

22 ~~4. Protection of Trees. Front setbacks may be reduced to protect existing~~  
23 ~~trees in rear setbacks and rear setbacks may be reduced to protect existing trees in front~~  
24 ~~setbacks. To qualify for this exception, the tree(s) shall be at least six (6) inches in diameter,~~  
25 ~~measured four and one-half (4 1/2) feet above the ground. The tree must also be in a~~  
26 ~~condition and location such that it will not present a hazard to life or property following site~~  
27 ~~development, and can be expected to remain healthy for at least twenty (20) years as~~  
28 ~~determined by a qualified tree care professional.~~

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

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

39 (1) ~~The applicant setback requirements would make it~~  
40 ~~impossible to protect existing tree(s) without causing undue hardship; and~~

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STATE OF WASHINGTON - KING COUNTY

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133380  
City of Seattle, Clerk's Office

No. ORD.IN FULL

**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 12<sup>th</sup> 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:120410 ORDINANCE;FULL

was published on

07/13/01

*J. Sedman*

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Subscribed and sworn to before me on

07/16/01

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*Melissa M. Pasqua*  
Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

