

Amendment 102 Version #3 to CB 120993 OPCD Permanent State Zoning Compliance ORD

Sponsor: Councilmember Rivera

Tree Protections: SDCI alternative site plan authority and procedural discretion for development that encroaches on tree protection areas

Effect: This amendment would amend Council Bill 120993 to (1) expand the purpose and intent of Chapter 25.11, (2) expand the grounds for modifications of the tree protection area, (3) revise the definition of “tree protection area,” and (4) Allow expansion in front or rear yards to retain Tier 1, Tier 2, Tier 3 or Tier 4 trees.

Add a new section XX to CB 120993 to amend Section 25.11.010 of the Seattle Municipal Code, as follows:

Section XX: section 25.11.010 of the Seattle Municipal Code, last amended by Ordinance 126821, is amended as follows:

25.11.010 Purpose and intent

The purpose and intent of this Chapter 25.11 is to:

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

B. Preserve and enhance the City's physical and aesthetic character by preventing untimely unnecessary and indiscriminate removal or destruction of trees;

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

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

E. Protect Tier 2 and Tier 3 trees and other trees that because of their unique historical, ecological, public health or aesthetic value constitute an important community resource, and require flexibility in design to protect these trees;

F. Provide the option of modifying development standards to protect Tier 2 trees;

G. Encourage retention of trees through the design review and other processes for larger projects, through education concerning the value of retaining existing trees, and by not permitting their removal on undeveloped land prior to development permit review;

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

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

Add a new section XX to CB 120993, as follows:

Section XX. Section 25.11.060 of the Seattle Municipal Code, last amended by Ordinance 127099, is amended as follows:

25.11.060 Requirements for trees when development is proposed

A. Tree protection area

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

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

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

4. The tree protection area may be reduced by the Director pursuant to the provisions of Title 23 and this Chapter 25.11, as follows, provided that the Director may approve further modifications from those listed that are shown not to interfere with the overall health and stability of the retained tree:

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

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

c. Existing encroachments do not count toward the reduction.

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

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

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

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

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

3. A hazardous tree risk assessment, if applicable;

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

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

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

7. The life expectancy of regulated trees shall be determined by the Director pursuant to this subsection 25.11.060.C and any rules promulgated by the Director. The Director

shall determine the likelihood that a tree will live to maturity due to factors including but not limited to:

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

Add a new section XX to CB 120993, as follows:

Section XX. Section 25.11.070 of the Seattle Municipal Code, last amended by Ordinance 127099, is amended as follows:

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

A. Neighborhood Residential zones

1. Tier 2 trees may be removed only if:
 - a. The maximum lot coverage permitted on the site pursuant to Title 23 cannot be achieved without extending into the ~~basic~~ tree protection area as modified or reduced pursuant to 25.11.060. ~~or into a required front and/or rear yard to an extent greater than provided for in subsection 25.11.070.A.2~~

b. Avoiding development in the ~~basic~~ tree protection area would result in a portion of a principal dwelling unit, or an accessory dwelling unit, being less than ~~15~~ 10 feet in width; or

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

2. For purposes of retaining an existing on-site and off-site Tier 1, Tier 2, Tier 3, or Tier 4 tree, extension into front or rear ~~yards~~ setbacks is permitted but limited to an area equal to the amount of the tree protection area of those trees not located within required ~~yards~~ setbacks. The maximum projection into the required front or rear ~~yards~~ setback shall be 50 percent of the ~~yards~~ setback requirement.

3. ~~If the maximum lot coverage permitted on the site can be achieved or a structure will be less than 15 feet in width without extending into required front and/or rear yards, then no such extension into required yards shall be permitted. Reserved.~~

4. For the purposes of this subsection 25.11.070.A:

a. Lot coverage calculation shall not include any portion of a parcel containing a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion hazard area, unless the Director has approved critical areas reduction, waiver, or modification pursuant to Chapter 25.09; and

b. The ~~basic~~ tree protection area ~~may cannot~~ be modified or reduced by the Director pursuant to subsection 25.11.060.A.3 and subsection 25.11.060.A.4.

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

1. Tier 2 trees may be removed as follows:

a. If an otherwise allowable development area of 85 percent cannot be achieved without extending into the ~~basic~~ tree protection area, as follows:

1) Calculate the ~~basic~~ tree protection area on the lot. For the purposes of this subsection 25.11.070.B, the ~~basic~~ tree protection area may ~~cannot~~ be modified by the Director pursuant to subsection 25.11.060.A.3 and subsection 25.11.060.A.4.

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

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

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

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

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

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

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

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

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

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

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

b. The following Type I modifications to standards are permitted for development that: i) Receives public funding or an allocation of federal low-income housing tax credits; and ii) is subject to a regulatory agreement, covenant, or other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, or other similar entity as approved by the Director of Housing; and iii) either: restricts at least 40 percent of rental units to occupancy by households earning no greater than 60 percent of median income, and controls the rents that may be charged for a minimum period of 40 years: or restricts at least 40 percent of ownership dwelling units earning no greater than 80 percent of median income, and controls the sale price of the units for a minimum period of 50 years:

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

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

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

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

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

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

Add a new section XX to CB 120993, as follows:

Section XX. Section 25.11.130 of the Seattle Municipal Code, last amended by Ordinance 126281, is amended as follows:

25.11.130 Definitions

"Tree protection area" means the area surrounding a tree defined by a specified distance, in which excavation and other construction-related activities must be avoided unless approved by the Director. The tree protection area, delineated using a radius that is equal to one foot for every inch DSH of the tree, varies depending on species, age and health of the tree, soil conditions, and proposed construction.

~~"Tree protection area, basic" means the area surrounding a tree in which excavation and other construction-related activities must be avoided unless approved by the Director. This area is delineated using a radius that is equal to one foot for every inch DSH of the tree.~~

Note: Multiple amendments may amend the same sections or subsections. Following Committee action on all amendments, Central Staff will reconcile language and renumber and re-letter sections and subsections as needed in the amended bill.