

# SDCI

# Director's Rule 13-2020

<b>Applicant:</b>  City of Seattle Department of Construction and Inspections	<b>Page</b> 1 of 9	<b>Supersedes:</b> DR 16-2008
	<b>Publication:</b>	<b>Effective:</b>
<b>Subject:</b>  Designation of Exceptional and Significant Trees, Tree Protection, Retention, and Tree Removal during land division, including tree service provider requirements	<b>Code and Section Reference:</b>  SMC 25.11 - Tree Protection Chapter 23.22 - Subdivisions Chapter 23.24 - Short Plats Chapter 23.53 - Requirements for Streets and Alleys SMC 25.05.675N - State Environmental Policy Act (SEPA)	
	<b>Type of Rule:</b>  Code Interpretation	
	<b>Ordinance Authority:</b>  SMC 3.06.040	
<b>Index:</b>  Land Use Code/Technical Standards and Procedural Requirements	<b>Approved</b>  Nathan Torgelson, Director, SDCI	<b>Date</b> _____

## PURPOSE AND BACKGROUND:

The purpose of this Rule is to provide further guidance for exceptional trees, to define significant trees and to clarify tree protection requirements on private property pursuant to Seattle Municipal Code (SMC) Title 23 and Chapter 25.11, Tree Protection (except for tree protection as required pursuant Title 23 provisions and Director's Rule xx-2020 related to the Green Factor).

SMC Chapter 25.11, Tree Protection, provides a means for protecting trees in Seattle. Under this chapter, exceptional trees are given particular protections and are broadly defined.

SMC Chapter 25.11 does not apply to tree removal approved as part of an Environmentally Critical Area tree and vegetation plan as provided for in SMC 25.09.070. Tree removal in Environmentally Critical Areas shall comply with the provisions of SMC 25.09.070.

Applicants shall protect and retain exceptional trees as required per Chapter 25.11 and as further clarified in this Rule. In addition, removal of any stem, root or other tree part of an existing exceptional tree is prohibited unless that action specifically responds to an adopted SMC requirement applicable only when new development is proposed.

The Rule provides examples of design changes that may be used by the applicant, such as the reconfiguration of the proposed location of structures, access, utilities and a consideration of the intensity and location of land disturbance activities on the site during land division, demolition and construction to maximize the protection of existing trees. If both the City and the applicant determine that tree protection is not possible by using all mechanisms available to the applicant per Titles 23 and 25, then the Rule provides for tree replacement requirements when tree removal is allowed.

This Rule also clarifies and defines diameter at standard height (DSH) for exceptional trees, significant trees and trees protected in groves. Specifically, tree groves are a group of trees protected as exceptional trees. Heritage trees and all trees that have a DSH of twenty-four inches or greater are also considered exceptional trees. Chapter 25.11 states that no more than three non-exceptional trees that have a DSH of six inches or greater (defined as significant trees – see Section 1), may be removed in a one-year period on lots not undergoing development.

This Rule clarifies the relationship between Chapter 25.11 and SEPA Plants and Animals Policy (SMC subsection 25.05.675.N.2.c).

Lastly, this Rule includes a requirement that all tree care providers that are conducting business on private property within the city limits of Seattle are required to complete and sign an acknowledgment form stating that the individual or the company owner as well as all site supervisors are knowledgeable of the City's tree protection code and associated rules and TIPs, including penalties for violation of these provisions.

## **RULE:**

### **SECTION 1: DEFINITIONS**

#### **Diameter at Standard Height (DSH):**

DSH is the diameter of a tree trunk measured at 4.5 feet above ground. This measurement is used in determining the diameter of existing trees.

Where a tree has a branch(es) or swelling that interferes with measurement at 4.5 feet above ground or where a tree tapers below this point, the diameter is measured at the narrowest point below 4.5 feet.

For trees located on a slope, diameter is established by measuring 4.5 feet above the lowest ground point and measuring 4.5 feet above the highest ground point, calculating the midpoint between the two heights and measuring diameter at that point or, on very steep slopes where this is not possible, the lowest practical point on the uphill side. Where a tree splits into several trunks close to ground level, the DSH for the tree is the square root of the sum of the DSH for each individual stem squared (i.e. - with 3 stems:  $DSH = \text{square root} [(stem1)^2 + (stem2)^2 + (stem3)^2]$ ).

**An exceptional tree is a tree that:**

- Is listed in Table 1 of this Rule; or
- Is designated as a heritage tree by the City of Seattle; or
- Is a tree that is part of a grove as described in this Rule; or
- Is any tree that has a DSH of twenty-four inches or greater.

**Trees not considered exceptional are as follows:**

- Trees otherwise categorized exceptional per the criteria above that are either: a high risk hazard per Chapter 25.11 and as clarified in this Rule, or have defects or damage that now or in the foreseeable future will result in increased poor health condition and/or limited life expectancy. Defects or damage mean extremely poor structure that is the result of an event or environmental condition, loss of substantial portions of the root area, canopy or trunk, or extreme and unsustainable lean for the location. These conditions must be clearly documented in an arborist's risk assessment report. The report shall include photographs that show biotic/abiotic conditions, insect/pest infestations and/or disease(s).
- Red alders, black cottonwoods and bitter cherries shall not be considered exceptional trees, regardless of the size measured at DSH, unless those tree species are part of a tree grove.
- Any tree that is listed on the adopted [King County Noxious Weed List](#) shall not be considered an exceptional tree regardless of the size measured at DSH.
- Generally, trees that have a DSH of six inches or greater but are less than twenty-four inches are not considered exceptional unless those trees are specifically listed in Table 1 of this Rule or are listed as heritage trees. (These trees are defined as significant trees, see below).

**A significant tree is a tree that:**

- Is any tree that has a DSH of six inches or greater; and
- Is not defined as an exceptional tree.

**A tree grove is:**

A group of eight or more trees where each individual tree has a DSH of twelve inches or greater. A tree grove may not contain a tree that is listed on the [King County Noxious Weed List](#). Generally, a tree grove is identified on a site plan or on a property by a visible or readily apparent stand of trees, which is a group of trees growing together where the majority of the trees are in close proximity to each other and have a canopy that is more or less continuous canopy and/or no more than 40 feet apart. Trees planted as a hedge row or clearly maintained as such shall not be considered a grove. Street trees shall not be included in determining whether a group of trees is a grove. A tree grove may be located across property lines on abutting and/or adjacent lots.

**SECTION 2: EXCEPTIONAL TREE PROTECTION**

**1. Exceptional Trees During Platting**

Applications for new Subdivisions or Short Subdivisions should demonstrate how the proposed plat maximizes retention of existing trees (SMC 23.22.054.A and 23.24.040.A.7). Retention of existing trees shall be considered in the plat design process as the applicant works with the City to determine the location of property boundaries for site design pursuant to the platting criteria in the Land Use Code. The Director may require changes to a proposed plat such as reconfigured lot lines, relocation and/or sharing of proposed access easements, above or below ground utility easements, pedestrian walkways, and anticipated location of yards (single family zones) or setbacks (all other zones) in order to maximize the retention of existing trees.

Any removal, retention, or preservation of individual trees in tree protection areas shall occur according to the provisions of Title 25 and Section 2 of this Rule at development permit approval.

Chapters 23.22 Subdivisions and 23.24 Short Plats of the Land Use Code support creative site design that considers multiple objectives, including the integration and preservation of existing trees. All trees shall be identified on both the SDCI Tree Tracker Worksheet and on the plans submitted to SDCI when applying for a permit.

All plats shall contain the following standard notation: Pruning and removal of trees as well as future development must comply with *City of Seattle tree retention regulations*

*including the Seattle Tree Protection Code and the Environmentally Critical Areas Ordinance.*

## **2. Allowable Encroachment in Exceptional Tree Protection Areas During Proposed Development**

Chapter 25.11 defines the drip line and resultant tree protection area of a generalized “model” tree with a trunk that is substantially perpendicular to the ground below and has a generally symmetrical circle form of canopy defined drip line centered on that trunk. Chapter 25.11 allows for limited reduction of the tree protection area under certain circumstances. Most exceptional trees do not grow in this “model” form therefore this Rule clarifies the tree protection requirements in these specific situations.

In addition, many exceptional trees do not have roots or canopy in portions of the “model” tree protection area due to constraints related to existing or previous site development thereby these trees might not be in danger of damage from continued or new development. Examples of existing or previous site development include buildings, retaining walls, driveways, above or below ground structures that prevented the growth of tree roots and/or tree canopy.

In the situations described above, the tree protection area of an exceptional tree shall be based on the observed location of roots and canopy. For asymmetrical trees, such as a tree with a pronounced lean that results in a canopy offset from the ground location of the trunk, the applicant shall be required to submit an arborist report to SDCI that includes a fact based analysis of the location of the majority of the root area (root plate) including the location of important structural roots in order to accurately determine the tree protection area.

For trees of a generally symmetrical form, but with existing or previous development in the “model” tree protection area, the tree protection area shall be based on the observed location of root and canopy as long as the development or disturbance within this existing or previously disturbed area will not significantly increase the existing disturbance or cause an increase in the detriment to the tree’s health. Limitations on encroachment or reduction of the non-disturbed portions of the tree protection area per Chapter 25.11 shall continue to be applicable.

## **3. Tree Groves**

Tree groves are protected as exceptional trees and unless authorized by the Director, trees in a tree grove may not be modified or removed. If a tree that is part of a grove is damaged or removed, then the remaining trees shall continue to be protected as a grove regardless of the number of trees within the original tree grove. Tree groves are

protected under the exceptional tree definition even if some of the trees that created a grove were removed from the property without first obtaining approval from the City.

### **SECTION 3: EXCEPTIONAL TREE REMOVAL**

#### **1. Tree Risk Assessment Required for Tree Removal**

Exceptional trees that are not approved for removal per Chapter 25.11 can only be removed if those trees are rated as a "high" risk hazard. The applicant must obtain approval from SDCI prior to tree removal. An exception to receiving advance approval would be an emergency situation as further described in this section.

SDCI reviews and approves Hazard Tree Removal applications for trees located on private property. In order to remove an exceptional tree, the applicant shall apply for and receive approval for a Hazard Tree Removal permit. This application will require the applicant to submit both an arborist report and a tree risk assessment. If the applicant does not complete the tree risk assessment and does not receive approval from SDCI prior to exceptional tree removal, the applicant will be subject to civil penalties for tree protection code violations per Director's Rule 17-2018, or successor rule, and Title 25.

The tree risk assessment shall include information on the overall health of the tree including identification and analysis of the structural defects, pest/insect infestation and/or disease that create the "high" risk hazard. The tree risk assessment must conclude that the exceptional tree is a "high" risk hazard using the tree risk assessment methodology and criteria established by the International Society of Arboriculture (ISA) due to one or more of the following:

- The tree or tree part has structural defects and/or other conditions that make the tree or tree part very likely to fail;
- There is an existing structure or an area of moderate-to-high use by people, such as walkways or trails that would be impacted if the tree failed;
- There is a utility or existing structure that is damaged and/or impacted by the tree and cannot be repaired or relocated; The danger cited cannot be mitigated by either pruning the problem portion of the crown or roots of the tree, repairing or moving the structure or relocating the activity, or repairing the utility; and
- When development is proposed and allowed per Chapter 25.11, the likelihood of survival after construction.

The tree risk assessment shall be prepared by a qualified professional. A qualified professional shall have a minimum of three years' experience in tree evaluation and hold a current Tree Risk Assessment Qualification (TRAQ), as established by the International Society of Arboriculture (ISA).

Qualified professionals shall maintain at least one of the following credentials:

- Society of American Foresters (SAF) Certified Forester; or
- American Society of Consulting Arborists (ASCA) Registered Consulting Arborist; or
- International Society of Arborists (ISA) Certified Arborist with an Associate Degree and/or a minimum of 2 years of college-level credits and/or 120 Continuing Education Units.

## **2. Documentation Required for Tree Removal in Emergency Situations**

A tree can be removed prior to SDCI approval if there is an emergency. An emergency is an immediate danger to life and/or property that requires preventative action in a timeframe too short to apply for and receive advanced approval from SDCI. In this situation, the applicant is still required to apply for Hazard Tree Removal with all of the required documented evidence, including photographs that clearly identify the defects and/or circumstances that created the emergency. The application and all documentation must be submitted to SDCI within ten business days of emergency tree removal otherwise the property owner may be subject to enforcement including fines and penalties per SMC 25.11.

## **SECTION 4: REQUIRED MITIGATION FOR ALLOWED TREE REMOVAL**

Mitigation is required for each exceptional tree that is not hazardous and is removed in association with development in all zones. Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not feasible as determined by the Director, preference for off-site replacement shall be on public property.

All evergreens that are removed must be replaced by another evergreen that achieves comparable size at maturity. If the tree that was removed is a deciduous, then the applicant shall have the option to replace the tree with either the same tree species or is required to select a similar substitute tree species within the same size thresholds from Table 1.

For all replacement tree(s), the applicant shall prepare and, if necessary, amend the existing soil conditions prior to the installation and planting of the new tree(s) to be in compliance with current ANSI best practices. The replacement tree(s) shall be planted with adequate spacing for the species and the location must be appropriate to both the species and site conditions.

The property owner of the site shall ensure that the trees planted remain healthy for at least five years after installation and shall allow inspection by the City. The property owner shall be responsible for replacing any trees that do not remain healthy after first allowing for inspection by the City. All replacement tree species shall meet the minimum

quality standards as per the current edition of the ANSI Z60.1 standard for plant nursery stock.

Table 1 below is a list of the size thresholds for selected specimen exceptional trees.

**Table 1: Size Thresholds for Selected Specimen Exceptional Trees\***

\*All trees that are not on this list are exceptional at 24" DSH. In addition, any named cultivars or subspecies of species on the following list have the same diameter threshold as the species on the list. For example, a Japanese maple cultivar (*Acer palmatum* "Burgundy Lace") has the same threshold diameter as Japanese maple (*Acer palmatum*).

<b>Exceptional Tree Species 6" DSH or greater up to 24" DSH</b>	
ALDER, Sitka – <i>Alnus sinuate</i>	6"
APPLE, Orchard (Common) – <i>Malus sp.</i>	20"
ASH, European – <i>Fraxinus excelsior</i>	22"
ASPEN, Quaking – <i>Populus tremuloides</i>	12"
BIRCH, Paper – <i>Betula papyrifera</i>	20"
CASCARA – <i>Rhamnus purshiana</i>	8"
CHERRY, Japanese Flowering – <i>Prunus sp. (kwanzan, serrula, serrulata, sargentii, subhirtella, yedoensis)</i>	23"
CRABAPPLE, Pacific – <i>Malus fusca</i>	12"
DOGWOOD, Eastern – <i>Cornus florida</i>	12"
DOGWOOD, Kousa – <i>Cornus kousa</i>	12"
DOGWOOD, Pacific – <i>Cornus nuttallii</i>	6"
HAWTHORN, Black – <i>Crataegus douglasii</i>	6"
HAWTHORN, Common <i>Crataegus monogyna Jacq.</i>	16"
HAWTHORN, Washington – <i>Crataegus phaenopyrum</i>	9"
HORNBEAM, European – <i>Carpinus betulus</i>	16"
LOCUST, Honey – <i>Gleditsia triacanthos</i>	20"
MADRONA – <i>Arbutus menziesii</i>	6"
MAGNOLIA, Southern – <i>Magnolia grandiflora</i>	16"
MAPLE, Dwarf or Rocky Mountain – <i>Acer glabrum var. Douglasii</i>	6"
MAPLE, Japanese – <i>Acer palmatum</i>	12"
MAPLE, Paperbark – <i>Acer griseum</i>	12"
MAPLE, Vine – <i>Acer circinatum</i>	8"
MONKEY PUZZLE TREE – <i>Araucaria araucana</i>	22"
OAK, Oregon White or Garry – <i>Quercus garryana</i>	6"
PEAR, Callery – <i>Pyrus calleryana</i>	13"
PINE, Lodgepole – <i>Pinus contorta</i>	6"
PINE, Shore – <i>Pinus contorta 'contorta'</i>	12"
PLUM, CHERRY – <i>Prunus cerasifera</i>	21"
SERVICEBERRY, Western – <i>Amelanchier alnifolia</i>	6"
SNOWBELL, Japanese – <i>Styrax japonica</i>	12"



SPRUCE, Sitka – <i>Picea sitchensis</i>	6”
WILLOW (All native species) – <i>Salix sp. (Geyeriana ver meleina, eriocephala ssp. mackenzieana, Hookeriana, Piperi, Scouleriana, sitchensis)</i>	8”
YEW, Pacific – <i>Taxus brevifolia</i>	6”

<sup>1</sup> Plants of the Pacific Northwest Coast, 2016, by Jim Pojar, Andy MacKinnon  
Trees and Shrubs of the Pacific Northwest, 2014, by Mark Turner, Ellen Kuhlmann  
Trees of Seattle, 2<sup>nd</sup> edition, 2006, by Arthur Lee Jacobson.  
Champion Trees of Washington State, 1996, by Robert Van Pelt.  
International Society of Arboriculture, <https://www.isa-arbor.com/>

## SECTION 5: USE OF THIS RULE IN THE APPLICATION OF SEPA

The policy provided in SMC 25.05.675.N.2.c calls for protecting specific special habitat:

- Rare, uncommon, unique or exceptional plant or wildlife habitat; or
- Wildlife travelways; or
- Habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value.

If determined through SEPA review that a proposed project would reduce or damage one or more of these special habitats, an exceptional tree that may otherwise be approved for removal per Chapter 25.11 may be required to be retained.

## SECTION 6: TREE CARE PROVIDER ACKNOWLEDGMENT

All tree care providers that are doing business on private property within the city limits of Seattle are required to complete and sign an **acknowledgment form** stating that the individual or the company owner as well as all site supervisors are knowledgeable of the City's tree protection code and associated rules and TIPs, including penalties for violation of the tree protection code. In addition, the company must have at least one certified arborist that is a full-time employee. It is the responsibility of the individual or company to re-sign and submit an acknowledgment form if changes have occurred pertaining to the validity of the signed form.

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