

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6796

AN ORDINANCE, relating to tree preservation, retention, replacement, and protection during construction; Repealing and replacing section 20.20.900 of the City of Bellevue Land Use Code (LUC) and amending LUC sections 20.25A.020, 20.25B.040, 20.25F.040, 20.25Q.020, 20.50.014, 20.50.016, 20.50.032, 20.50.042, 20.50.046, 20.50.048, and 20.50.052 to revise the City's regulations in response to Bellevue's Environmental Stewardship Plan Action N.1.1, calling for a comprehensive review and update of provisions in the Land Use Code and City Code for tree preservation, retention, replacement, and protection during construction; providing for severability; and establishing an effective date.

WHEREAS, in December 2020, the City Council adopted the Bellevue Environmental Stewardship Plan (ESP), including a strategy to increase tree canopy Citywide; and

WHEREAS, ESP Action N.1.1 recommends a comprehensive review of City Codes and requirements related to tree preservation, retention, replacement, and protection during construction, including considerations for significant or exceptional trees; and

WHEREAS, ahead of and during the pendency of the City's review of any potential amendments to the Bellevue City Code (BCC) or Land Use Code (LUC), and consistent with ESP Action N.1.1, the City Council has expressed an interest in implementing permit requirements for the removal of any Landmark Tree, as interim regulations, while allowing adequate time to develop and process permanent and comprehensive code amendments; and

WHEREAS, on June 21, 2022, the City Council adopted Ordinance No. 6665 to implement interim Landmark Tree permit requirements, with an expiration date of December 31, 2023, or on the effective date of an ordinance establishing permanent amendments to the City of Bellevue's tree regulations, whichever is earlier; and

WHEREAS, the City Council directed staff to initiate work on potential amendments to the BCC and LUC, consistent with ESP Action N.1.1, on November 21, 2022; and

WHEREAS, on December 4, 2023, the City Council adopted Ordinance No. 6767, which extended the duration of interim Landmark Tree permit requirements by an additional year, expiring December 31, 2024 or on the effective date of an ordinance establishing permanent amendments to the City of Bellevue's tree regulations, whichever is earlier; and

WHEREAS, the definition of "Significant Tree" in LUC 20.50.046 establishes a minimum diameter of eight inches or greater, while a minimum diameter of six inches or greater has become more common among jurisdictions in the Puget Sound region; and

WHEREAS, the City's existing tree retention requirements do not include provisions to discourage excessive tree removal before applying for a development permit or to require planting trees on sites with few or no existing trees; and

WHEREAS, the City's existing tree retention requirements do not include provisions to prevent applicants from receiving credit for retaining Significant Trees which are also invasive or noxious species; and

WHEREAS, larger diameter trees and groves of Significant and Landmark Trees provide greater ecological benefits to the urban forest compared to individual, smaller trees; and

WHEREAS, BCC 3.64.070, LUC 20.35.410, and LUC 20.30J.130 establish the powers and duties of the Planning Commission to act in an advisory capacity to the City Council by holding public hearings, advising, and making recommendations to the City Council on land use ordinances and regulations to implement the comprehensive plan; and

WHEREAS, the Planning Commission held study sessions on December 13, 2023, January 24, 2024, and March 27, 2024, to discuss this LUC amendment to update tree preservation, retention, and protection provisions to better support citywide tree canopy goals; and

WHEREAS, the Environmental Coordinator for the City of Bellevue determined that this text amendment to the LUC will not result in any probable, significant, adverse impact and issued a final threshold determination of non-significance on April 4, 2024; and

WHEREAS, after providing legally-required public notice, the Planning Commission held a public hearing for this LUC amendment on April 24, 2024, and considered the LUC amendment under LUC 20.35.410.B and the decision criteria in LUC 20.30J.135; and

WHEREAS, the City is required to plan under the Growth Management Act, Chapter 36.70A RCW, (GMA); and

WHEREAS, RCW 36.70A.020 currently lists 15 goals to guide the development and adoption of comprehensive plans and development regulations in counties and cities planning under the GMA; and

WHEREAS, the goals enumerated in RCW 36.70A.020 are not listed in order of priority and, as recognized by Washington State courts, may be mutually competitive at times; and

WHEREAS, the weighing of competing goals and policies under the GMA is a fundamental responsibility of the City Council in adopting a comprehensive plan and development regulations; and

WHEREAS, the City's Comprehensive Plan contains many goals and policies relating to the protection and retention of trees; and

WHEREAS, the express goal of the Land Use Element of the City's Comprehensive Plan includes the development and maintenance of a land use pattern that "protects natural systems and retains trees and open space"; and

WHEREAS, policy LU-2 of the Land Use Element of the City's Comprehensive Plan calls for the retention of "the city's park-like character through the preservation and enhancement of parks, open space, and tree canopy throughout the city"; and

WHEREAS, the express goal of the Environment Element of the City's Comprehensive Plan is to "[e]nsure that planning efforts, infrastructure investments, and municipal operations proactively manage natural resources to meet the needs of current and future generations while maintaining the integrity, stability and beauty of natural systems"; and

WHEREAS, policy EN-12 of Environment Element of the City's Comprehensive Plan calls for the City to "[w]ork toward a citywide tree canopy target of at least 40% canopy coverage that reflects our 'City in a Park' character and maintain an action plan for meeting the target across multiple land use types including right-of-way, public lands, and residential and commercial uses"; and

WHEREAS, policy EN-13 of the Environment Element of the City's Comprehensive Plan calls for the City to "[m]inimize the loss of tree canopy and natural areas due to transportation and infrastructure projects and mitigate for losses, where impacts are unavoidable"; and

WHEREAS, policy EN-72 of the Environment Element of the City's Comprehensive Plan calls for the City to "[e]ncourage residents and professional landscaping firms to utilize native plants in residential and commercial landscapes"; and

WHEREAS, the Environment Element of the City's Comprehensive Plan specifies that one method of implementing the policies contained in the element is through the City's Environmental Stewardship Program; and

WHEREAS, through the work of the City's Environmental Stewardship Program, the ESP was adopted in December 2020; and

WHEREAS, the express goal of the Parks, Recreation & Open Space Element of the City's Comprehensive Plan is to "build a health community through an integrated system of exceptional parks, open space, recreation, cultural arts and human services; and

WHEREAS, policy PA-30 of the Parks, Recreation & Open Space Element of the City's Comprehensive Plan calls for the City to "[p]rotect and retain, in a natural state, significant trees and vegetation in publicly and privately-dedicated greenbelt areas"; and

WHEREAS, policy PA-31 of the Parks, Recreation & Open Space Element of the City's Comprehensive Plan calls for the City to "[m]anage Bellevue's forest resources, including street trees, formal plantings, and self-sustaining natural stands, to ensure their long term vitality"; and

WHEREAS, the express goal of the Housing Element of the City's Comprehensive Plan is to "maintain the vitality and stability of single family, multifamily and mixed use neighborhoods, and promote a variety of housing opportunities to meet the needs of all members of the community; and

WHEREAS, policy HO-2 of the Housing Element of the City's Comprehensive Plan calls for the City to "[p]romote quality, community-friendly single family, multifamily and mixed use development, through features such as enhanced open space and pedestrian connectivity"; and

WHEREAS, policy HO-3 of the Housing Element of the City's Comprehensive Plan calls for the City to "[m]aintain the character of established single family neighborhoods, through adoption and enforcement of appropriate regulations"; and

WHEREAS, the Housing Element of the City's Comprehensive Plan states that as "the city's supply of developable land diminishes, the city must explore creative and innovative methods to increase housing opportunities while protecting existing neighborhoods and the environment"; and

WHEREAS, the City Council finds that the proposed tree credit system implemented by this ordinance is one such creative and innovative method through which existing neighborhoods and the environment are protected while still providing for needed flexibility to allow for the development of additional housing; and

WHEREAS, the City Council finds that the dimensional flexibility provided for by this ordinance that applicants can voluntarily choose to take advantage of in exchange for the protection and retention of significant trees or landmark trees, through the recording of a covenant, is also another such creative and innovative method; and

WHEREAS, policy HO-17 of the Housing Element of the City's Comprehensive Plan calls for the city to "[e]valuate the housing cost and supply implications of proposed regulations and procedures"; and

WHEREAS, the City followed a public engagement plan with six modes of outreach to ensure the public, stakeholders, and interested parties have had the opportunity to be informed and provide comments; and

WHEREAS, the six modes of outreach consisted of: (1) all Process IV requirements under Chapter 20.35 LUC; (2) public information sessions on June 8, 2023, and January 11, 2024; (3) multiple focused listening sessions with community members, tree service providers, developers, environmental advocacy organizations, neighborhood associations, and City departments; (4) an online questionnaire translated into multiple languages was available from May 19-June 12, 2023; (5) Presentations to the Bellevue Development Committee on January 10, 2024, and March 13, 2024; and (6) the maintenance of an online presence to provide information on the project, to answer questions, and to provide guidance on how to submit public comments; and

WHEREAS, public comment was accepted at all meetings of the Planning Commission and the City Council during which the proposed tree canopy regulations were discussed; and

WHEREAS, during the foregoing outreach, the City received public comment relating to the impact of the proposed tree canopy code amendments on housing cost and supply within the City; and

WHEREAS, the City Council considered and evaluated such comments during its review of this ordinance; and

WHEREAS, the City Council hereby finds that this ordinance is consistent with the foregoing goals, policies, and provisions of the City's Comprehensive Plan and the City's goals of maintaining at least 40% canopy coverage and ensuring the long term vitality of Bellevue's forest resources; and

WHEREAS, HB 1110 and HB 1337 were adopted by the Washington State Legislature in 2023; and

WHEREAS, HB 1110 requires the City to adopt development regulations allowing for certain forms of middle housing no later than six months after the date that the City's next periodic comprehensive plan update is required under RCW 36.70A.130; and

WHEREAS, HB 1337 requires the City to adopt development regulations allowing for certain forms of accessory dwelling units no later than six months after the date that the City's next periodic comprehensive plan update is required under RCW 36.70A.130; and

WHEREAS, under RCW 36.70A.130, the City's next periodic comprehensive plan update is not due until December 31, 2024; and

WHEREAS, the City has adopted a Land Use Planning Initiative (LUPI) Workplan for 2024-2025 that includes, among other projects, the adoption of development regulations to implement the requirements of HB 1110 and HB 1337 within the statutorily required time periods; and

WHEREAS, during the review of any development regulations relating to the implementation of HB 1110 and HB 1337, the City will consider if any modifications to the City's tree protection and retention requirements are needed to conform to the requirements of these new state laws; and

WHEREAS, the City Council held a study session on May 21, 2024, and June 18, 2024, to discuss the proposed LUC amendment; and

WHEREAS, in reviewing this ordinance, the City Council has considered and weighed the goals outlined in the GMA; and

WHEREAS, the City Council finds that the proposed LUC amendments meet the decision criteria of LUC 20.30J.135, are consistent with the Comprehensive Plan, enhance the public health, safety and welfare, and are not contrary to the best interests of the citizens and property owners of the City of Bellevue; now, therefore:

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.20.900 of the Land Use Code is hereby repealed and then replaced in its entirety to read as follows. The City Clerk or the Codifiers of this Ordinance are hereby authorized to replace any reference in this section to “[insert effective date of ordinance]” with the actual month, day, and year that this ordinance takes effect as calculated pursuant to Section 15 of this ordinance.

20.20.900 Tree retention and replacement.

A. Purpose.

The purpose of this section is to:

1. Prevent Citywide net loss of tree canopy and address local canopy gaps;
2. Reduce the impacts of development on the storm and surface water systems and water resources;
3. Provide guidance and flexibility to support “the right tree in the right place”; and
4. Preserve other public benefits of Bellevue’s urban forest, including minimizing heat impacts, enhancing ecosystem resilience, and storing carbon.

B. Applicability.

1. The requirements of this section shall be imposed any time a permit, approval, or review for Development Activity is required by the Bellevue City Code or Land Use Code.
2. The requirements of this section alone shall not reduce maximum allowed density, number of allowed lots, or preclude required access and utility connections.
3. Tree removal that is not associated with development activity is regulated by the Clearing and Grading Code (Chapter 23.76 BCC).
4. Trees growing within or overhanging any public right-of-way are also subject to the requirements of Chapter 14.06 BCC.
5. Exceptions.
 - a. Trees located in the Shoreline Overlay District are regulated by Part 20.25E LUC Shoreline Overlay District.
 - b. Trees located in critical areas or their associated buffers are regulated by Part 20.25H LUC Critical Areas Overlay District.
 - c. The portions of this section which require retention of Significant Trees or the planting of new trees are not applicable in any Downtown Land Use District or in the East Main Transit Oriented Development Land Use District.

C. Definitions

The following definitions are specific to this section. Where a term defined below is used in this section its meaning shall be as defined below.

1. "Development Activity" means any alteration or development regulated by the Bellevue City Code or Land Use Code, including subdivisions, short subdivisions, planned unit developments, changes in lot coverage, changes in the area devoted to parking and circulation, and additions to impervious surface areas that exceed 20 percent.
2. "Grove" means a group of three or more Significant Trees with overlapping or touching crowns.
3. "Hazardous Tree" means a tree that, in the written opinion of a Qualified Tree Professional who also has the International Society of Arboriculture (ISA) Tree Risk Assessment Qualification (TRAQ), meets all of the following criteria:
 - a. The tree has a combination of structural defects, disease, or both structural defects and disease that makes it subject to a high probability of failure;
 - b. The location of the tree is in proximity to areas where, with moderate to high frequency, persons or property are likely to be located that could be injured or damaged by tree failure;
 - c. The assessed tree has a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification method in its most current form; and
 - d. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices.
4. "Invasive or Noxious Species" means any species identified in the invasive or noxious weed lists established by Washington State or King County, as amended, or any species listed by the Director, who is hereby authorized to formulate and maintain a list of Invasive and Noxious Species likely to cause economic or environmental harm or harm to human health or infrastructure.
5. "Tree Canopy Site Area" means, for the purpose of determining the minimum tree density required for a site, the area of a site remaining after subtracting the following areas from the gross site area:
 - a. Critical areas and their buffers (As modified pursuant to 20.25H LUC, if applicable); and

- b. Shoreline vegetation conservation areas; and
 - c. Public rights-of-way; and
 - d. Private roads in separate tracts; and
 - e. Submerged lands (lands waterward of the ordinary high water mark).
6. "Tree Protection Zone (TPZ)" means the circular area around a tree calculated as one foot of radius for every inch of d.b.h., or at least six feet, whichever is greater. The TPZ may instead be determined by a Qualified Tree Professional.
7. "Viable Tree" means a tree rated by a Qualified Tree Professional as fair, good, or excellent condition based on the criteria in Table 20.20.900.C.1 or the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers.

Table 20.20.900.C.1 Tree Condition Rating Table

Rating Category	Condition Components			Percent Rating
	Health	Structure	Form	
Excellent - 1	High vigor and nearly perfect health with little or no twig dieback, discoloration, or defoliation.	Nearly ideal and free of defects.	Nearly ideal for the species. Generally symmetric. Consistent with the intended use.	81% to 100%
Good - 2	Vigor is normal for species. No significant damage due to diseases or pests. Any twig dieback, defoliation, or discoloration is minor.	Well-developed structure. Defects are minor and can be corrected.	Minor asymmetries/deviations from species norm. Mostly consistent with the intended use. Function and aesthetics are not compromised.	61% to 80%
Fair - 3	Reduced vigor. Damage due to insects or diseases may be significant and associated with defoliation but is not likely to be fatal. Twig dieback, defoliation, discoloration, and/or dead branches may compromise up to 50% of the crown.	A single defect of a significant nature or multiple moderate defects. Defects are not practical to correct or would require multiple treatments over several years.	Major asymmetries/deviations from species norm and/or intended use. Function and/or aesthetics are compromised.	41% to 60%

Poor - 4	Unhealthy and declining in appearance. Poor vigor. Low foliage density and poor foliage color are present. Potentially fatal pest infestation. Extensive twig and/or branch dieback.	A single serious defect or multiple significant defects. Recent change in tree orientation. Observed structural problems cannot be corrected. Failure may occur at any time.	Largely asymmetric/abnormal. Detracts from intended use and/or aesthetics to a significant degree.	21% to 40%
Very Poor - 5	Poor vigor. Appears dying and in the last stages of life. Little live foliage.	Single or multiple severe defects. Failure is probable or imminent.	Visually unappealing. Provides little or no function in the landscape.	6% to 20%
Dead - 6				0% to 5%

D. Required Review.

The Development Services Department shall review the proposed removal of any Significant Trees or Landmark Trees with each permit, approval, or review for Development Activity within the applicability of this section.

E. Minimum Tree Density.

1. The applicant shall maintain in the Tree Canopy Site Area at least the minimum tree density, measured in tree credits, as provided in this subsection. Tree credits may be provided by retained Significant Trees, retained Landmark Trees, planted trees, or a combination of the foregoing.
2. Minimum Tree Credits by Land Use District. Minimum tree credits are determined based on the Land Use District, Land Use, and Tree Canopy Site Area. The minimum tree credits required are calculated by dividing the Tree Canopy Site Area, measured in square feet, by 1,000 then multiplying by the applicable rate identified in Table 20.20.900.E.1.

Table 20.20.900.E.1. Minimum Tree Credits per 1,000 Square Feet of Tree Canopy Site Area

Land Use District	One Dwelling Unit per Lot	Two or More Dwelling Units per Lot	Commercial, Office, Light Industrial, and All Other Nonresidential Land Uses
R-1 R-1.8 R-2.5	5	4	1
R-3.5	2	1.5	0.75

R-4 R-5			
All Other Land Use Districts	1	0.75	0.5

3. Conditions for Tree Removal on Low Tree Density Sites. On sites with insufficient existing tree density, existing Significant Trees or Landmark Trees may be removed if:

- a. The maximum density of development allowed on the site cannot be achieved without extending into the TPZ, a required front yard, a required rear yard, or a combination of the foregoing to an extent greater than provided for in LUC 20.20.900.E.5;
- b. Retaining the trees would preclude required access and utility connections;
- c. The trees are hazardous trees or, in the written opinion of a Qualified Tree Professional, inappropriate for retention;
- d. The site is located in a wildland-urban interface area and additional tree removal is required to maintain applicable defensible space requirements, in accordance with BCC 23.11.100; or
- e. Removal is required to fulfill the terms of an easement or covenant recorded prior to [insert effective date of ordinance].

4. Retained Trees.

- a. Priorities for Retention. In selecting Significant Trees or Landmark Trees for retention, the Director encourages the preservation of the following types of Significant Trees in the following order of priority:
 - i. Landmark Trees.
 - ii. Trees located in Groves.
 - iii. Significant Trees located in the required perimeter landscaping area, as set forth in LUC 20.20.520.F.1. For properties located in BelRed, refer to LUC 20.25D.110.
 - iv. Other Significant Trees.

- b. Tree Credits for Retained Trees. Each retained Significant Tree provides a tree credit value determined by its d.b.h. or Landmark Tree classification, as identified in Table 20.20.900.E.2. When determining tree credits for a Significant Tree that is an alder or cottonwood, the applicable tree credit value identified in Table 20.20.900.E.2 shall be reduced by 50%.

Table 20.20.900.E.2. Tree Credits for Retained Trees

DBH	6"-10"	Larger than 10" and up to 12"	Larger than 12" and up to 14"	Larger than 14" and up to 16"	Larger than 16" and up to 18"	Larger than 18" and up to 20"	Larger than 20" and up to 22"	Larger than 22" and less than 24"	24" or greater and all Landmark Trees
Tree Credits	2	3	4	5	6	7	8	9	10

- c. Exceptions. The following shall not provide any tree credits if retained:
 - i. Invasive or Noxious Species.
 - ii. Trees located outside the Tree Canopy Site Area.
 - iii. Trees in areas devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC).

5. Dimensional Standard Modification for Tree Retention.

- a. Reduced Parking. Where the provision of required parking would impact the TPZ of Landmark Trees or of trees constituting Groves, the Director may approve a reduction of required parking in order to avoid a Grove or Landmark Trees, if the reduction would result in a project that would avoid the TPZ and that would exceed the required minimum tree density.
- b. Front and Rear Yards. Subject to street intersection sight obstruction requirements, BCC 14.60.240, development may extend into up to 50% of the required front yard or five feet into the rear yard in the following circumstances:
 - i. The maximum density of development allowed on the site cannot be achieved without extending into the TPZ of existing significant or Landmark Trees required to achieve the minimum tree density; or
 - ii. The modification will enable the applicant to retain a grove, additional Landmark Trees, or both a Grove and additional Landmark Trees beyond the required minimum tree density; or
 - iii. The proposal is for affordable housing development provided under LUC 20.20.128 and will exceed the required minimum tree density.

- c. Building Height. Except in transition areas and for proposals of one dwelling unit per lot, the maximum building height may be increased by up to 12 feet for those portions of the building(s) at least 20 feet from any property line in the following circumstances:
 - i. The maximum density of development allowed on the site cannot be achieved without extending into the TPZ of existing Significant Trees or of existing Landmark Trees required to achieve the minimum tree density; or
 - ii. The modification will enable the applicant to retain a Grove, additional Landmark Trees, or both a Grove and additional Landmark Trees beyond the required minimum tree density; or
 - iii. The proposal is for affordable housing development provided under LUC 20.20.128 and will exceed the required minimum tree density.
6. Planted Trees.
- a. Tree Credits for Planted Trees. Each planted tree that is a minimum of two inches Caliper (for deciduous trees) or six feet in height (for conifer trees) provides 1 tree credit, except Alders and Cottonwoods, which provide no tree credits when planted. Planted trees below these minimum sizes provide no tree credits.
 - b. The applicant shall utilize plant materials which complement the natural character of the Pacific Northwest, and which are, in the written opinion of a Qualified Tree Professional, adaptable to the climatic, topographic, and hydrologic characteristics of the site.
 - c. Planting Invasive or Noxious Species is prohibited.
 - d. Tree Removal Before Development Activity. If a site has insufficient existing tree density, any trees removed from the Tree Canopy Site Area within the three years preceding the date of the City's final decision on the underlying permit, approval, or review shall be replaced, unless replacement was previously required as a condition of their removal. For each Significant Tree requiring replacement, the applicant shall plant one replacement tree. For each Landmark Tree requiring replacement, the applicant shall plant either three replacement trees, or two large conifer species trees approved by the Director.

- e. Relationship to Other Requirements. Any trees planted or retained to meet other Bellevue City Code or Land Use Code requirements within the Tree Canopy Site Area, including LUC 20.20.520, shall count towards the minimum required tree credits. The number of trees required to be planted or retained to meet other requirements shall not be reduced if exceeding the required minimum tree credits.
- f. All plantings required by this section are subject to the street intersection sight obstruction requirements contained in BCC 14.60.240.
- g. Trees planted to form a clipped or sheared hedge shall not provide any tree credits if planted.
- h. Locations. Planted trees providing credit toward the required minimum tree density shall be planted within the Tree Canopy Site Area in locations suitable for the planted trees to reach maturity, in the following order of priority:
 - i. Within required setbacks and transition areas.
 - ii. Adjacent to existing Groves.
 - iii. Other locations within the Tree Canopy Site Area.
 - iv. In-Lieu Fee. If the applicant demonstrates that all planting options have been considered and are infeasible, for each additional tree credit required, the applicant shall pay a fee-in-lieu equivalent to the cost of a tree meeting the requirements of this section for planted trees, installation (labor and equipment), maintenance for three years, and fund administration.
 - (1) As of [insert effective date of ordinance], the in-lieu fee rate shall be \$1,300 per tree credit. This rate shall be published in the City's fee rate schedule, shall be reviewed annually, and, effective January 1 of each year, the Director may administratively increase or decrease the rate by an adjustment to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain accurate costs for the region.
 - (2) In-lieu fee monies shall be used to support Bellevue's tree canopy and related initiatives including, but not limited to, one or more of the following: planting and maintaining individual trees (including supporting infrastructure), restoration activities, urban forestry education, or the purchase of land for reforestation or preservation.

7. Alternative Tree Density Option.

- a. An applicant may request a modification of the minimum tree density requirement when the proposed Land Use is classified within transportation or utilities in the land use charts contained in LUC 20.10.440.
- b. The Director may administratively approve a modification of the on-site tree planting requirements if:
 - i. The modification is consistent with the stated purpose of this section; and
 - ii. The modification proposal either:
 - (1) Incorporates retained and planted trees equal or greater in tree credits required for the Tree Canopy Site Area, with the option to plant or protect trees in locations outside the Tree Canopy Site Area but within the City of Bellevue; or
 - (2) Incorporates the retention or replacement of other natural vegetation in consolidated locations which promote the natural vegetated character of the site and neighborhood including use as pasture land or for agricultural uses; or
 - (3) Incorporates an innovative mitigation plan acceptable to the Director. The plan shall be based on science endorsed by a Qualified Tree Professional and applicable to the natural characteristics of the location(s) where the mitigation will occur.
 - iii. Where a modification proposal includes newly planted trees, the applicant shall utilize plant materials which, in the written opinion of a Qualified Tree Professional, complement the natural character of the Pacific Northwest, and which are adaptable to the climatic, topographic, and hydrologic characteristics of the site.

F. Tree Protection.

1. Tree Protection Techniques. The applicant shall utilize tree protection techniques identified in the tree protection plan approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained Significant Trees and Landmark Trees, as provided in BCC 23.76.060.

2. **Tree Protection Covenant.** When a modification to development standards is granted under subsection E.5 of this section to avoid development within a TPZ, the applicant shall record with the King County Division of Records and Elections a covenant, in a form approved by the City Attorney's Office, prohibiting development on or within any portion of a TPZ located on the site that was avoided through the modification to development standards. The covenant shall include a site plan, prepared by a qualified professional, clearly delineating the TPZ(s) located wholly or partially on the site that were avoided through the modification to development standards. To the extent that any Significant Tree or Landmark Tree protected by the covenant becomes a Hazardous Tree, the covenant shall allow for the removal of Hazardous Trees and the planting of replacement trees within the Tree Canopy Site Area in a manner consistent with the ratios established in subsection E.6.d of this section.

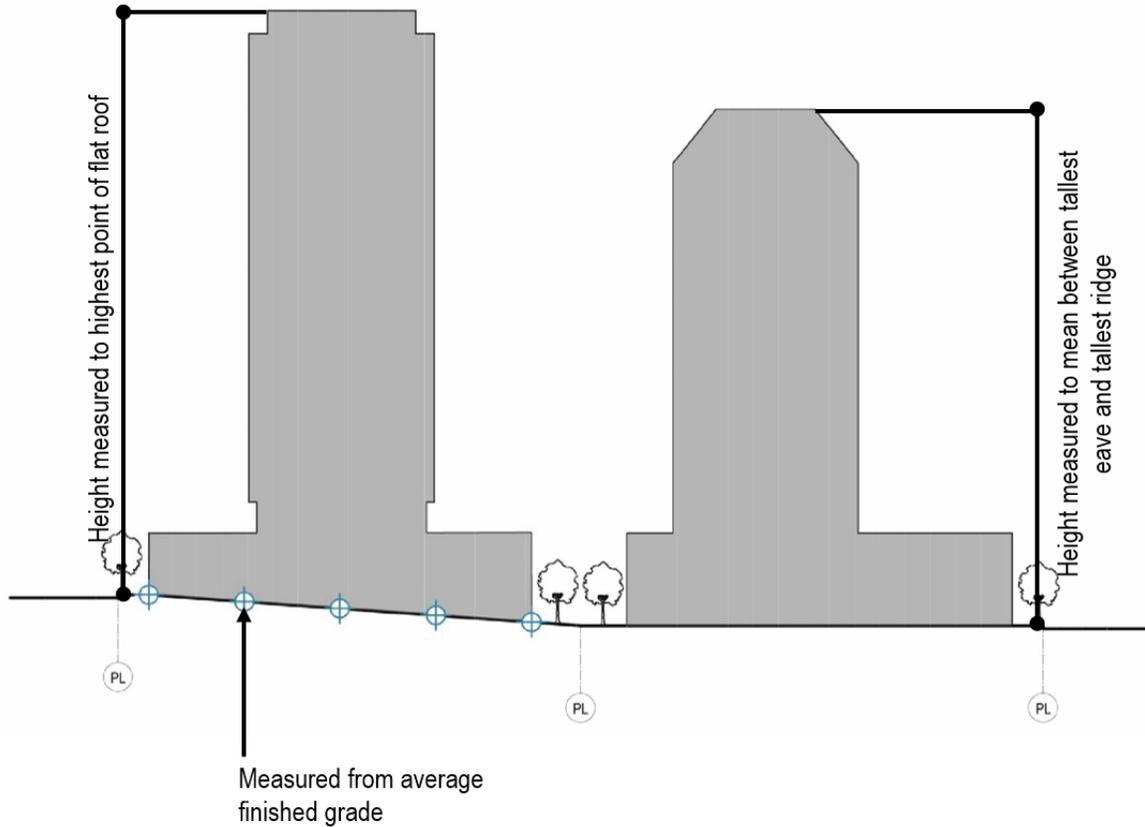
3. **Maintenance Assurance.** If planted trees are necessary to achieve the minimum required tree density, the Director may require a maintenance assurance device for a period of three years from the completion of planting or construction in conformance with LUC 20.40.490. The Director may require a longer period depending on the plant materials used and site conditions.

Section 2. Subsection 20.25A.020.A of the Land Use Code is hereby amended to delete the definitions of "DT – Caliper" and "DT – Diameter at Breast Height (D.B.H.)" such that Subsection 20.25A.020.A will read as follows, with all definitions contained in Subsection 20.25A.020.A that are omitted below, as indicated by an ellipsis, remaining unchanged.

A. Definitions Specific to Downtown.

...

DT – Building Height: The vertical distance measured from average of finished ground level adjoining the building at exterior walls to the highest point of a flat roof, or to the mean height between the tallest eave and tallest ridge of a pitched roof. Where finished ground level slopes away from the exterior walls, reference planes shall be established by the lowest points within the area between the building and the lot line, or back of sidewalk where back of sidewalk is the setback line. If the lot line or back of sidewalk is more than six feet from the building, the reference line shall be established by using the lowest points between the building and a point six feet from the building.



DT – Downtown Core: Describes the area bounded by the extension of the centerlines of 102nd Avenue NE on the west, NE 9th Street on the north, 112th Avenue NE on the east and NE 3rd Street on the south plus any area within the DT-O-2 District not described above.

...

Section 3. Subsection 20.25A.020.B of the Land Use Code is hereby amended to delete reference to “Caliper” and “Tree – Large Diameter” and “Tree – Small Diameter” such that Subsection 20.25A.020.B will read as follows, with all definitions contained in Subsection 20.25A.020.B that are omitted below, as indicated by an ellipsis, remaining unchanged.

B. General Definitions Not Applicable to Downtown.

The general definitions contained in Chapter 20.50 LUC apply unless specifically listed below as inapplicable to Downtown.

...

Building Height – Transition Area Design Districts. LUC 20.50.012.

Floor Area Ratio (FAR). LUC 20.50.020.

...

Stepback. LUC 20.50.046.

Section 4. Section 20.25B.040 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.25B.040 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.25B.040 Development Standards.

...

C. Landscaping, Open Space and Buffers.

...

2. Buffer.

...

b. All Significant Trees within 15 feet of the property line shall be retained.

...

Section 5. Section 20.25F.040 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.25F.040 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.25F.040 Site and design requirements.

...

C. Design Requirements.

...

2. Landscaping and Vegetation Preservation.

...

- e. A significant number of trees at least 12 feet to 14 feet in height or two and one-half inches to three inches in Caliper, and predominantly evergreen, must be included in each planted area. Shrubs at least three and one-half feet in height along a parking area or site perimeter and at least two feet in height at any other location must be interspersed among the trees, and the majority of the remaining area planted with living ground cover so that the ground will be covered in three years.
- f. Wherever practical and consistent with proposed site design, tree line and existing trees at least six inches in Diameter at Breast Height must be retained. Tree protection techniques, approved by the Technical Committee must be utilized during construction. Where changes in grade have occurred, permanent tree preservation methods, approved by the Technical Committee must be utilized.
- g. The applicant must install street trees at least three inches in Caliper along the street frontage. The location and species installed are subject to approval of the Technical Committee.

...

Section 6. Subsection 20.25Q.020.B of the Land Use Code is hereby amended to read as follows,:

B. General Definitions Not Applicable to East Main.

The general definitions contained in Chapter 20.50 LUC apply unless specifically listed below as inapplicable to East Main.

Active Recreation Area. LUC 20.50.010.

Alley. LUC 20.50.010.

Building Height. LUC 20.50.012.

Building Height – Transition Area Design Districts. LUC 20.50.012.

Open Space. LUC 20.50.038.

Site. LUC 20.50.046.

Stepback. LUC 20.50.046.

Section 7. Section 20.50.014 of the Land Use Code is hereby amended to modify the definition of “Caliper” and to delete the definition of “Continuous Tree Canopy” to read as follows, with all other provisions contained in Section 20.50.014 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.50.014 C definitions.

Caliper. The diameter measurement of the stem or trunk of nursery stock. Caliper measurement should be taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch Caliper size interval. If the Caliper measured at six inches is four and one-half inches or more, the Caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate.

...

Congregate Care Senior Housing. A complex of dwellings, exclusively designed for and occupied by households having at least one person 62 years of age or older, which provides common facilities such as but not limited to dining, recreation, and practical nursing care. Some of the dwellings may contain kitchens; some may not. For purposes of this definition, a kitchen is defined as an area containing a refrigerator, range, 220 volt oven and a sink which are permanent to the unit.

Contract Construction Services. A use which combines administrative offices with on-site storage of equipment or materials.

...

Section 8. Section 20.50.016 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.50.016 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.50.016 D definitions.

...

Development Services Department. The Development Services Department is an administrative department of the City as described in Chapter 3.44 BCC.

Diameter at Breast Height (D.B.H.). The diameter of a tree trunk measured at 4.5 feet above the highest point of the natural or existing topography touching the trunk of the tree. Where a tree splits into several trunks close to ground level, the d.b.h. for the tree is the square root of the sum of the d.b.h. of each individual trunk squared. If a different method of measurement is recommended in the current Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers, a Qualified Tree Professional may use that method.

Director. The Director of the Development Services Department for the City of Bellevue, the Director's authorized representative, or any representative authorized by the City Manager, unless otherwise specified.

District. A land use district established under LUC 20.10.020.

...

Section 9. Section 20.50.032 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.50.032 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.50.032 L definitions.

...

Land Use. The use to which an area of land, or building thereon, is put; human activity taking place thereon. Categories of land uses in this Code are found in Chart 20.10.440 and district-specific land use charts contained in Chapter 20.25 LUC.

Landmark Tree. A viable tree at least 24 inches in diameter at breast height, or a viable tree meeting or exceeding the alternate diameter criteria for its species listed in Table 20.50.032.1.

Table 20.50.032.1. Landmark Tree Threshold Exceptions by Species and Diameter

Common Name	Scientific Name	Diameter at Breast Height (D.B.H.)
Red alder	<i>Alnus rubra</i>	Not Landmark Trees
Pacific madrone	<i>Arbutus menziesii</i>	8 inches
Cascara	<i>Frangula purshiana</i>	8 inches
Lodgepole or shore pine	<i>Pinus contorta</i>	12 inches
Black cottonwood	<i>Populus trichocarpa</i>	Not Landmark Trees
Oak	<i>Quercus spp.</i>	12 inches
Pacific yew	<i>Taxus brevifolia</i>	8 inches

Landscape Area. An outdoor landscaped area providing visually or physically accessible space for tenants of the development of which it is a part.

...

Section 10. Section 20.50.042 of the Land Use Code is hereby amended to read as follows:

20.50.042 Q definitions.

Qualified Professional. A “Qualified Professional” is one who, by meeting certain defined educational, licensing or other qualifications established by the director, has the knowledge to provide expert design, engineering, habitat, or other evaluations necessary to allow the City to make a decision on a specific proposal. Where the applicant for a proposal is a City, county, state or federal agency, a Qualified Professional may include trained staff whose job functions include providing the expertise required by this code.

Qualified Tree Professional. A “Qualified Tree Professional” is one with relevant education and training in arboriculture or urban forestry and one or more of the following credentials:

1. ISA certified arborist;
2. ISA certified arborist municipal specialist;
3. ISA board certified master arborist;
4. American Society of Consulting Arborists (ASCA) registered consulting arborist (RCA); or
5. Society of American Foresters (SAF) certified forester for forest management plans.

Section 11. Section 20.50.046 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.50.046 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.50.046 S definitions.

...

Significant Tree. A viable tree at least six inches in diameter at breast height.

...

Section 12. Section 20.50.048 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.50.048 that are omitted below, as indicated by an ellipsis, remaining unchanged:

20.50.048 T Definitions

...

Transition Area. An area of a higher-intensity use district which is close to a lower-intensity use district, in which special design and other criteria are applied in order to protect the lower-intensity uses from effects of the higher-intensity uses.

Section 13. Section 20.50.052 of the Land Use Code is hereby amended to read as follows, with all other provisions contained in Section 20.50.052 that are omitted below, as indicated by an ellipsis, remaining unchanged.

...

Viable Tree. Shall have the same meaning as set forth in LUC 20.20.900.

Section 14. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 15. Effective Date. This Ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Passed by the City Council this _____ day of _____, 2024 and signed in authentication of its passage this _____ day of _____, 2024.

(SEAL)

Lynne Robinson, Mayor

Approved as to form:
Trisna Tanus, Acting City Attorney

Robert Sepler, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk

Published _____