

April 20, 2023

MEMORANDUM

To: Land Use Committee
From: Yolanda Ho and Ketil Freeman, Analysts
Subject: Substitute Tree Protection Bill and Potential Future Amendments

On April 21, 2023, the Land Use Committee (Committee) will continue discussion of two Council Bills (CBs):

- [CB 120534](#) would expand protections for trees on private property, establish mitigation measures for tree removal, and establish a variety of provisions intended to slow the decrease, and possibly increase, Seattle’s tree canopy cover while also balancing the need for development; and
- [CB 120535](#) would add position authority and funding to implement the updated tree protection regulations.

This memorandum: (1) provides an overview of a substitute bill proposed by the Land Use Committee Chair and (2) describes potential amendments that may be offered by Committee members at meetings on April 26 and May 4.

Proposed Substitute

A draft substitute bill proposed by the Committee Chair is attached (Attachment 1). Amendatory language is show in ~~double cross through~~ and double underlined. This proposed substitute would be the base upon which future amendments would be made. Generally, amendments to the introduced bill in the substitute are technical or clarifying in nature. However, the substitute does contain some substantive amendments that the Chair considers non-controversial, and a new section recommended by the City Attorney’s office for modifications and waivers due to severe economic hardship. Amendments in the substitute are set out in the table below.

Amendment	Section
1. Clarify that hazardous tree abatement is not exempt from the regulations of Chapter 25.11.	Section 25.11.020 Exemptions (p.11, l. 20-22)
2. Clarify that exemptions related to tree work in the Master Planned Community – Yesler Terrace zone do not extend to tree service provider registry requirements.	Section 25.11.020 Exemptions (p.12, l.19-21)

Amendment	Section
3. Clarify that exempt tree removals approved by SDCI to address an insect infestation are subject to tree replacement requirements.	Section 25.11.020 Exemptions (p.13, l.5) 25.11.090 Tree replacement, maintenance, and site restoration (p.33, l.2-4)
4. Correct error identifying zones section prohibiting topping trees when no development is proposed and replace with “all zones.”	25.11.050 General provisions for regulated tree categories (p.19, l.17-18)
5. Clarify that limitations on removals of Tier 4 trees outside of development apply only to developed lots.	25.11.050 General provisions for regulated trees (p. 19, l.4 – 7)
6. Retitle section to <i>Requirements for trees when development is proposed</i>	25.11.060 Requirements for trees when development is proposed (p.21, l. 11-12)
7. Clarify that site plan requirement include identification of all Tier 4 trees on plan sets.	25.11.060 Requirements for trees when development is proposed (p.22, l.22)
8. Clarify that portions of a lot located in a biodiversity area or corridor, riparian corridor, priority habitat, wetland, wetland buffer, or steep slope erosion hazard area are excluded from development area calculations for the purposes Ch. 25.11, unless the applicant has a critical areas ordinance modification.	25.11.070 Tree protection on sites undergoing development in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones (p.28, l.13-17 and p.29, l.10-14)
9. Add a new section authorizing the director to modify mitigation requirements and limitations on removal when an applicant can demonstrate that mitigation requirements exceed the impact or when limitations on removal of Tier 1 trees would create a severe economic impact.	25.11.115 Modification of mitigation removal requirements (p.39 – 42)
10. Clarify that trees service providers can only be removed from the registry after being issued two notices of violation for the removal of Tier 1 or Tier 2 trees.	25.11.120 Enforcement and penalties (p.42, l.14-15)
11. Authorize a 50 percent increase in civil penalties for violations of Ch.25.11.	25.11.120 Enforcement and penalties (p.46, l.20)

Amendment	Section
12. Clarify that reportable work for registered tree service providers is limited to the removal of live branches and roots, which was included in Ordinance 126777 passed by the Council in February 2023 but mistakenly left out.	25.11.130 Definitions (p.50, l.1-3)
13. Revise section and subsection numbering. Correct punctuation errors and other errata. Replace DBH with DSH.	Throughout

Potential Amendments

Committee members have identified a suite of more than 50 potential amendments to the bill. To facilitate decision-making about related subjects, Central Staff has organized these amendments into nine categories. Those categories are amendments related to:

1. Development capacity and development standard modifications;
2. The City’s urban forestry programs and budget;
3. The permit review process;
4. Tree removals outside of development;
5. In-Lieu fees and tree replacement requirements;
6. Regulation of tree service providers;
7. Tree protections during development;
8. Other substantive amendments; and
9. Non-substantive technical amendments.

General descriptions of potential amendments that may be proposed by Committee members are tabulated in Attachment 2. Potential amendments do not yet include proposed language.

Next Steps

The Committee will hold the required public hearing for CB 120534 on April 24 at 10:30 AM. The Committee will begin considering amendments to CB 120534 and CB 120535 beginning on April 26 and will continue considering amendments on May 4.

Attachments:

1. Proposed Draft Substitute
2. Potential Amendments

cc: Esther Handy, Director
Aly Pennucci, Deputy Director

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to tree protection; balancing the need for housing production and increasing tree protections; and amending Sections 23.44.020, 23.47A.016, 23.48.055, 23.76.004, 23.76.006, and Chapter 25.11 of the Seattle Municipal Code.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.44.020 of the Seattle Municipal Code, last amended by Ordinance

126509, is amended as follows:

23.44.020 Tree requirements

* * *

C. Street tree requirements (~~in RSL zones~~)

1. Street trees are required (~~in RSL zones~~) for development that would add one or more principal dwelling units on a lot, except as provided in subsection (~~23.43.020.C.2~~) 23.44.020.C.2 and Section 23.53.015. Existing street trees shall be retained unless the Director of Transportation approves their removal. The Director, in consultation with the Director of Transportation, shall determine the number, type, and placement of additional street trees to be provided in order to:

- a. Improve public safety;
- b. Promote compatibility with existing street trees;
- c. Match trees to the available space in the planting strip;
- d. Maintain and expand the urban forest canopy;
- e. Encourage healthy growth through appropriate spacing;
- f. Protect utilities; and

1 g. Allow access to the street, buildings, and lot.

2 2. Exceptions to street tree requirements

3 a. If a lot borders an unopened right-of-way, the Director may reduce or
4 waive the street tree requirement along that right-of-way as a Type I decision if, after
5 consultation with the Director of Transportation, the Director determines that the right-of-way is
6 unlikely to be opened or improved.

7 b. If it is not feasible to plant street trees in a right-of-way planting strip, a
8 5-foot setback shall be planted with street trees along the street lot line that abuts the required
9 front yard, or landscaping other than trees shall be provided in the planting strip, subject to
10 approval by the Director of the Seattle Department of Transportation. If, according to the
11 Director of the Department of Transportation, a 5-foot setback or landscaped planting strip is not
12 feasible, the Director may reduce or waive this requirement as a Type I decision.

13 * * *

14 Section 2. Section 23.47A.016 of the Seattle Municipal Code, last amended by Ordinance
15 125603, is amended as follows:

16 **23.47A.016 Landscaping and screening standards**

17 * * *

18 B. Street tree requirements

19 1. Street trees are required when any development is proposed, except as provided
20 in subsection 23.47A.016.B.2 and Section 23.53.015. Existing street trees shall be retained
21 unless the Director of Transportation approves their removal. The Director, in consultation with
22 the Director of Transportation, will determine the number, type, and placement of street trees to
23 be provided to:

- 1 a. ~~((to improve))~~ Improve public safety;
- 2 b. ~~((to promote))~~ Promote compatibility with existing street trees;
- 3 c. ~~((to match))~~ Match trees to the available space in the planting strip;
- 4 d. ~~((to maintain))~~ Maintain and expand the urban forest canopy;
- 5 e. ~~((to encourage))~~ Encourage healthy growth through appropriate spacing;
- 6 f. ~~((to protect))~~ Protect utilities; and
- 7 g. ~~((to allow))~~ Allow access to the street, buildings, and lot.

8 2. Exceptions to street tree requirements

9 a. If a lot borders an unopened right-of-way, the Director may reduce or
10 waive the street tree requirement along that street if, after consultation with the Director of
11 Transportation, the Director determines that the street is unlikely to be opened or improved.

12 b. Street trees are not required for any of the following:

13 1) ~~((establishing, constructing or modifying))~~ Modifying principal
14 single-family dwelling units, except as provided in subsection 23.47A.016.B.3; or

15 2) ~~((changing))~~ Changing a use, or establishing a temporary use or
16 intermittent use; or

17 3) ~~((expanding))~~ Expanding a structure by 1,000 square feet or
18 less; or

19 4) ~~((expanding))~~ Expanding surface area parking by less than ten
20 percent in area and less than ten percent in number of spaces.

21 3. When an existing structure is proposed to be expanded by more than 1,000
22 square feet, one street tree is required for each 500 square feet over the first 1,000 square feet of

1 additional structure, up to the maximum number of trees that would be required for new
2 construction.

3 4. If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot
4 setback shall be planted with street trees along the street property line or landscaping other than
5 trees shall be provided in the planting strip, subject to approval by the Director of Transportation.
6 If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is
7 not feasible, the Director of the Seattle Department of Construction and Inspections may reduce
8 or waive this requirement.

9 * * *

10 Section 3. Section 23.48.055 of the Seattle Municipal Code, last amended by Ordinance
11 125792, is amended as follows:

12 **23.48.055 Landscaping and screening standards**

13 * * *

14 **D. Street trees requirements**

15 1. Street trees are required when any development is proposed, except as provided
16 in subsection 23.48.055.D.2 and Section 23.53.015. Existing street trees shall be retained unless
17 the Director of Transportation approves their removal. The Director, in consultation with the
18 Director of Transportation, will determine the number, type, and placement of street trees to be
19 provided to:

- 20 a. ~~((To improve))~~ Improve public safety;
- 21 b. ~~((To promote))~~ Promote compatibility with existing street trees;
- 22 c. ~~((To match))~~ Match trees to the available space in the planting strip;
- 23 d. ~~((To maintain))~~ Maintain and expand the urban forest canopy;

1 e. (~~To encourage~~) Encourage healthy growth through appropriate
2 spacing;

3 f. (~~To protect~~) Protect utilities; and

4 g. (~~To allow~~) Allow access to the street, buildings, and lot.

5 2. Exceptions to street tree requirements(=)

6 a. If a lot borders an unopened right-of-way, the Director may reduce or
7 waive the street tree requirement along that street if, after consultation with the Director of
8 Transportation, the Director determines that the street is unlikely to be opened or improved.

9 b. Street trees are not required for any of the following:

10 1) (~~Establishing, constructing, or modifying~~) Modifying principal
11 single-family dwelling units, except as provided in subsection 23.48.055.D.3;

12 2) Changing a use, or establishing a temporary use or intermittent
13 use;

14 3) Expanding a structure by 1,000 square feet or less; or

15 4) Expanding surface area parking by less than ten percent in area
16 and less than ten percent in number of spaces.

17 3. When an existing structure is proposed to be expanded by more than 1,000
18 square feet, one street tree is required for each 500 square feet over the first 1,000 square feet of
19 additional structure, up to the maximum number of trees that would be required for new
20 construction.

21 4. If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot
22 setback shall be planted with street trees along the street property line or landscaping other than
23 trees shall be provided in the planting strip, subject to approval by the Director of Transportation.

1 If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is
2 not feasible, the Director may reduce or waive this requirement.

3 Section 4. Section 23.76.004 of the Seattle Municipal Code, last amended by Ordinance
4 126685, is amended as follows:

5 **23.76.004 Land use decision framework**

6 A. Land use decisions are classified into five categories. Procedures for the five different
7 categories are distinguished according to who makes the decision, the type and amount of public
8 notice required, and whether appeal opportunities are provided. Land use decisions are generally
9 categorized by type in Table A for 23.76.004.

10 B. Type I and II decisions are made by the Director and are consolidated in Master Use
11 Permits. Type I decisions are decisions made by the Director that are not appealable to the
12 Hearing Examiner. Type II decisions are discretionary decisions made by the Director that are
13 subject to an administrative open record appeal hearing to the Hearing Examiner; provided that
14 Type II decisions enumerated in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f,
15 and 23.76.006.C.2.g, and SEPA decisions integrated with them as set forth in subsection
16 23.76.006.C.2.o, shall be made by the Council when associated with a Council land use decision
17 and are not subject to administrative appeal. Type III decisions are made by the Hearing
18 Examiner after conducting an open record hearing and not subject to administrative appeal. Type
19 I, II, or III decisions may be subject to land use interpretation pursuant to Section 23.88.020.

20 * * *

Table A for 23.76.004 LAND USE DECISION FRAMEWORK¹	
Director's and Hearing Examiner's Decisions Requiring Master Use Permits TYPE I Director's Decision (Administrative review through land use interpretation as allowed by Section 23.88.020²)	
* * *	
*	Building height increase for minor communication utilities in downtown zones
*	<u>Application of tree provisions pursuant to Chapter 25.11</u>
*	Other Type I decisions that are identified as such in the Land Use Code
* * *	
Footnotes for Table A for 23.76.004 ¹ Sections 23.76.006 and 23.76.036 establish the types of land use decisions in each category. This Table A for 23.76.004 is intended to provide only a general description of land use decision types. ² Type I decisions may be subject to administrative review through a land use interpretation pursuant to Section 23.88.020. ³ Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit, are appealable to the Shorelines Hearings Board along with all related environmental appeals.	

1 Section 5. Section 23.76.006 of the Seattle Municipal Code, last amended by Ordinance
2 126685, is amended as follows:

3 **23.76.006 Master Use Permits required**

4 A. Type I, II, and III decisions are components of Master Use Permits. Master Use
5 Permits are required for all projects requiring one or more of these decisions.

6 B. The following decisions are Type I:

- 7 1. Determination that a proposal complies with development standards;
- 8 2. Establishment or change of use for uses permitted outright, uses allowed under
9 Section 23.42.038, temporary relocation of police and fire stations for 24 months or less,
10 transitional encampment interim use, temporary uses for four weeks or less not otherwise
11 permitted in the zone, and renewals of temporary uses for up to six months, except temporary
12 uses and facilities for light rail transit facility construction;

1 3. The following street use approvals:

2 a. Curb cut for access to parking, whether associated with a development
3 proposal or not;

4 b. Concept approval of street improvements associated with a
5 development proposal, such as additional on-street parking, street landscaping, curbs and gutters,
6 street drainage, sidewalks, and paving;

7 c. Structural building overhangs associated with a development proposal;

8 d. Areaways associated with a development proposal;

9 4. Lot boundary adjustments;

10 5. Modification of the following features bonused under Title 24:

11 a. Plazas;

12 b. Shopping plazas;

13 c. Arcades;

14 d. Shopping arcades; and

15 e. Voluntary building setbacks;

16 6. Determinations of Significance (determination that an Environmental Impact
17 Statement is required) for Master Use Permits and for building, demolition, grading, and other
18 construction permits (supplemental procedures for environmental review are established in
19 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
20 Significance based solely on historic and cultural preservation;

21 7. Discretionary exceptions for certain business signs authorized by subsection
22 23.55.042.D;

23 8. Waiver or modification of required right-of-way improvements;

- 1 9. Reasonable accommodation;
- 2 10. Minor amendment to Major Phased Development Permit;
- 3 11. Streamlined design review decisions pursuant to Section 23.41.018 if no
- 4 development standard departures are requested pursuant to Section 23.41.012, and design review
- 5 decisions in an MPC zone if no development standard departures are requested pursuant to
- 6 Section 23.41.012;
- 7 12. Shoreline special use approvals that are not part of a shoreline substantial
- 8 development permit;
- 9 13. Determination that a project is consistent with a planned action ordinance,
- 10 except as provided in subsection 23.76.006.C;
- 11 14. Decision to approve, condition, or deny, based on SEPA policies, a permit for
- 12 a project determined to be consistent with a planned action ordinance;
- 13 15. Determination of requirements according to subsections 23.58B.025.A.3.a,
- 14 23.58B.025.A.3.b, 23.58B.025.A.3.c, 23.58C.030.A.2.a, 23.58C.030.A.2.b, and
- 15 23.58C.030.A.2.c;
- 16 16. Decision to increase the maximum height of a structure in the DOC2 500/300-
- 17 550 zone according to subsection 23.49.008.F;
- 18 17. Decision to increase the maximum FAR of a structure in the DOC2 500/300-
- 19 550 zone according to subsection 23.49.011.A.2.n;
- 20 18. Minor revisions to an issued and unexpired MUP that was subject to design
- 21 review, pursuant to subsection 23.41.008.G;
- 22 19. Building height departures for minor communication facilities in downtown
- 23 zones, pursuant to Section 23.57.013; ((and))

1 D. ~~((To reward))~~ Facilitate tree protection efforts by granting flexibility for certain
2 development standards, and ~~((to))~~ promote site planning and horticultural practices that are
3 consistent with the reasonable use of property;

4 E. ~~((To especially protect exceptional))~~ Protect Tier 2 trees and other trees that because of
5 their unique historical, ecological, or aesthetic value constitute an important community
6 resource~~((;to))~~ , and require flexibility in design to protect ~~((exceptional))~~ these trees;

7 F. ~~((To provide))~~ Provide the option of modifying development standards to protect
8 ~~((trees over two (2) feet in diameter in the same manner that modification of development~~
9 ~~standards is required for exceptional))~~ Tier 2 trees;

10 G. ~~((To encourage))~~ Encourage retention of trees ~~((over six (6) inches in diameter))~~
11 through the design review and other processes for larger projects, through education concerning
12 the value of retaining existing trees, and by not permitting their removal on undeveloped land
13 prior to development permit review~~((;))~~; and

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

17 **25.11.020 Exemptions**

18 The following trees and tree activities are exempt from the provisions of this Chapter 25.11:

19 A. Normal pruning and maintenance;

20 ~~B. Abatement of hazardous tree or tree part as approved by the Director prior to removal~~
21 ~~in accordance with Sections 25.11.040 and 25.11.100, except that commercial tree work on a~~
22 ~~hazardous tree must comply with the requirements of Section 25.11.100;~~

1 ~~€ B.~~ Emergency ((activities necessary to remedy an immediate threat to public health,
2 safety, or welfare)) actions pursuant to Section 25.11.030, except that tree service providers
3 conducting commercial tree work on these trees must comply with Section 25.11.100;

4 ~~€ C.~~ Tree removal undertaken as part of tree and vegetation management and
5 revegetation of public parkland and open spaces by responsible public agencies or departments;

6 ~~€ D.~~ ((Tree removal approved as part of an Environmentally Critical Area tree and
7 vegetation plan as provided in Section 25.09.070, except that commercial tree work must comply
8 with the requirements of Section 25.11.095;)) Trees located within an Environmentally Critical
9 Area, except that tree service providers conducting commercial tree work on these trees must
10 comply with the tree service provider registry requirements of Section 25.11.100;

11 ((F. Tree removal shown as part of an issued building or grading permit as provided in
12 Sections 25.11.060, 25.11.070, and 25.11.080, except that commercial tree work must comply
13 with the requirements of Section 25.11.095;

14 G.)) ((Removal of street trees as)) F. Trees regulated by Title 15; ((and

15 H. Additions to existing structures, shown as part of an issued building or grading permit
16 as provided in Sections 25.11.060, 25.11.070 and 25.11.080.))

17 ~~€ E.~~ Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and
18 payment in lieu of replanting undertaken as part of redevelopment that meets the planned action
19 ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section 23.75.160, ~~except~~
20 ~~that tree service providers conducting commercial tree work on these trees must comply with the~~
21 ~~tree service provider registry requirements of Section 25.11.100;~~

22 ~~€ F.~~ Replanting and payment in lieu of replanting undertaken as part of development by
23 permanent supportive housing providers meeting the definition in Section 23.84A.032;

1 ¶ G. Tree removal or commercial tree work as approved by the Director prior to removal
2 in accordance with a recommendation from a certified arborist for an insect and/or pest
3 infestation that does not meet a high risk hazard, except that tree service providers conducting
4 commercial tree work on these trees must comply with the tree service provider registry
5 requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090; and

6 ¶ H. Tree removal or commercial tree work to comply with the Americans with
7 Disabilities Act; except that tree service providers conducting commercial tree work on these
8 trees must comply with the tree service provider registry requirements of Section 25.11.100.

9 **25.11.030 Emergency actions**

10 Emergency actions may be undertaken without obtaining a permit in advance from the Seattle
11 Department of Construction and Inspections. Prior to an emergency action, a registered tree
12 service provider must determine if there is an extreme risk of imminent failure for the tree or tree
13 part using the TRAQ method in its most current form. Any person undertaking an emergency
14 action must complete the following:

15 A. Notify the Director via email or through the Seattle Department of Construction and
16 Inspections' website before beginning the emergency action;

17 B. Submit a hazardous tree removal application to the Seattle Department of Construction
18 and Inspections within ten calendar days of the emergency action; otherwise, the responsible
19 party may be subject to enforcement including fines and penalties in accordance with Section
20 25.11.120; and

21 C. Include all documentation of tree status, including the TRAQ report and photographs
22 as part of the retroactive permit submission.

23 ~~((25.11.040 Restrictions on tree removal~~

1 ~~A. Tree removal or topping is prohibited in the following cases, except as provided in~~
2 ~~Section 25.11.030, or where the tree removal is required for the construction of a new structure,~~
3 ~~retaining wall, rockery, or other similar improvement that is approved as part of an issued~~
4 ~~building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080:~~

5 ~~1. All trees 6 inches or greater in diameter, measured 4.5 feet above the ground,~~
6 ~~on undeveloped lots;~~

7 ~~2. Exceptional trees on undeveloped lots; and~~

8 ~~3. Exceptional trees on lots in Lowrise, Midrise, commercial, and neighborhood~~
9 ~~residential zones.~~

10 ~~B. Limits on Tree Removal. In addition to the prohibitions in subsection 25.11.040.A, no~~
11 ~~more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may~~
12 ~~be removed in any one year period on lots in Lowrise, Midrise, commercial, and neighborhood~~
13 ~~residential zones, except when the tree removal is required for the construction of a new~~
14 ~~structure, retaining wall, rockery, or other similar improvement that is approved as part of an~~
15 ~~issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080.~~

16 ~~C. Tree removal in Environmentally Critical Areas shall comply with the provisions of~~
17 ~~Section 25.09.070.))~~

18 **25.11.040 Hazardous tree removal**

19 A. For any tree regulated pursuant to this Section 25.11.040, approval from the Seattle
20 Department of Construction and Inspections is required in advance of hazardous tree removal
21 unless it is an emergency action pursuant to Section 25.11.030.

1 B. Trees subject to the provisions of this Chapter 25.11 may be removed as hazardous, if
2 those trees are rated by a registered tree service provider as an Extreme or High Risk hazard.
3 according to the following:

4 1. A tree risk assessment, prepared by a registered tree service provider, assesses
5 the risk of the tree(s) as one of the following:

6 a. Extreme Risk. This category applies to trees in which failure is
7 imminent and there is a high likelihood of impacting a target, and the consequences of the failure
8 are severe.

9 b. High Risk. This category applies to trees in which consequences are
10 significant and likelihood is very likely or likely, or when consequences are severe and
11 likelihood is likely.

12 c. Moderate Risk. This category applies to trees in which consequences
13 are minor and likelihood is very likely or likely, or when likelihood is somewhat likely and the
14 consequences are significant or severe.

15 d. Low Risk. This category applies to trees in which consequences are
16 negligible and likelihood is unlikely; or when consequences are minor and likelihood is
17 somewhat likely;

18 2. A potential target includes permanent structures or an area of moderate to high
19 use;

20 3. If a potential target does not exist, applicants may be limited to routine pruning
21 and maintenance to mitigate hazards;

1 4. Assessment of Extreme and High Risk trees:

2 a. If a tree is assessed as a High Risk, then the Director may authorize
3 hazard pruning to mitigate the risk rather than removing the entire tree; or

4 b. If the tree is assessed as an Extreme or High Risk and mitigation of the
5 risk through pruning or moving of potential targets is not feasible, then the Director may
6 designate the tree as a hazardous tree and allow complete removal; and

7 5. The assessment of other risk categories applicable to regulated trees shall be at
8 the discretion of the Director.

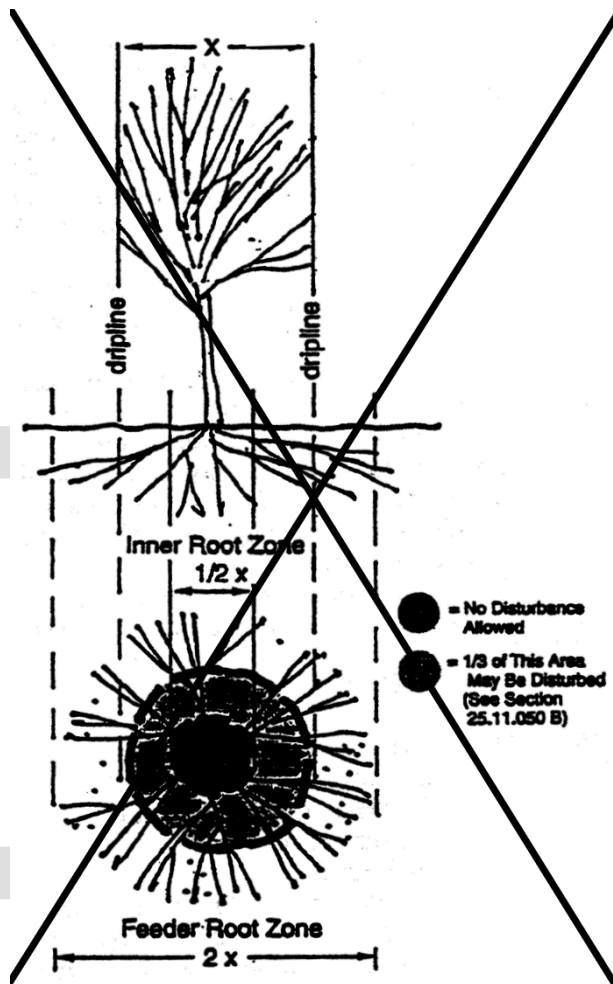
9 C. Tier 1, Tier 2, and Tier 3 trees must be replaced pursuant to Section 25.11.090 when
10 approved for removal as hazardous.

11 ~~((25.11.050 General Provisions for exceptional tree determination and tree protection area~~
12 ~~delineation in Neighborhood Residential, Lowrise, Midrise, and Commercial zones.~~

13 ~~A. Exceptional trees and potential exceptional trees shall be identified on site plans and~~
14 ~~exceptional tree status shall be determined by the Director according to standards promulgated~~
15 ~~by the Seattle Department of Construction and Inspections.~~

16 ~~B. Tree protection areas for exceptional trees shall be identified on site plans. Applicants~~
17 ~~seeking development standard waivers to protect other trees greater than 2 feet in diameter~~
18 ~~measured 4.5 feet above the ground shall also indicate tree protection areas on site plans. The~~
19 ~~basic tree protection area shall be the area within the drip line of the tree. The tree protection area~~
20 ~~may be reduced if approved by the Director according to a plan prepared by a registered tree~~
21 ~~service provider. Such reduction shall be limited to 1/3 of the area within the outer half of the~~
22 ~~area within the drip line. In no case shall the reduction occur within the inner root zone. In~~

1 addition, the Director may establish conditions for protecting the tree during construction within
2 the feeder root zone. (See Exhibit 25.11.050 B.)



4 **Exhibit 25.11.050B**

5 C. If development standards have been modified according to the provisions of this
6 Chapter 25.11 to avoid development within a designated tree protection area, that area shall
7 remain undeveloped for the remainder of the life of the building, and a permanent covenant
8 stating this requirement shall be recorded in the King County Recorder's Office.

9 D. The Director may require a tree protection report by a registered tree service provider
10 who provides the following information:

1 1. ~~Tree evaluation with respect to its general health, damage, danger of falling,~~
2 ~~proximity to existing or proposed structures, and/or utility services;~~

3 2. ~~Evaluation of the anticipated effects of proposed construction on the viability~~
4 ~~of the tree;~~

5 3. ~~A hazardous tree assessment, if applicable;~~

6 4. ~~Plans for supervising and/or monitoring implementation of any required tree~~
7 ~~protection or replacement measures; and~~

8 5. ~~Plans for conducting post-construction site inspection and evaluation.~~

9 E. ~~The Director may condition Master Use Permits or Building Permits to include~~
10 ~~measures to protect trees(s) during construction, including within the feeder root zone.))~~

11 **25.11.050 General provisions for regulated tree categories**

12 A. The removal or topping of the following trees is prohibited, except as provided in
13 Section 25.11.020 and as performed in accordance with Sections 25.11.030 and 25.11.040:

14 1. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on
15 undeveloped lots in all zones;

16 2. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on
17 developed lots in ~~Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed~~
18 all zones, except as allowed in subsection 25.11.050.B;

19 3. When development is proposed, in Neighborhood Residential, Lowrise,
20 Midrise, commercial, and Seattle Mixed zones:

21 a. Tier 1 trees may not be removed unless in emergency situations or
22 unless they are hazardous as provided in Sections 25.11.030 and 25.11.040;

1 b. Tier 2 trees may not be removed except as permitted under Sections
2 25.11.070 and 25.11.080; and

3 c. Tier 3 and Tier 4 trees may be removed as part of a development permit.

4 B. When no development is proposed, no more than two Tier 4 trees may be removed in
5 any three-year period on developed lots in Neighborhood Residential, Lowrise, Midrise,
6 commercial, and Seattle Mixed zones, and no more than three Tier 3 and Tier 4 trees may be
7 removed on developed lots in any one-year period in all other zones.

8 C. Relocated and required replacement trees included in an approved plan set may not be
9 removed, unless removal is approved by a future permit.

Table A for 25.11.050
Tree related activities on developed lots including but not limited to removal and topping
by tree category

<u>Tree category</u>	<u>Not part of a permit application¹</u>	<u>During development – Part of a permit application</u>
<u>Tier 1</u> <u>Includes trees designated as heritage trees</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>
<u>Tier 2</u> <u>Includes trees 24 inches at DSH or greater, tree groves, and specific tree species as provided by Director’s Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>

<u>Tier 3</u> <u>Includes trees 12 inches at DSH or greater but less than 24 inches at DSH that are not considered Tier 2 trees as provided by Director's Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as provided in subsections 25.11.050.B and 25.11.050.C</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 4</u> <u>Includes trees 6 inches at DSH but less than 12 inches at DSH</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as provided in subsections 25.11.050.B and 25.11.050.C</u>	<u>Approval for removal is part of overall development permit</u>
<u>Other trees (under 6 inches DSH)</u>	<u>Not regulated, except as provided in subsection 25.11.050.C</u>	<u>Not regulated, except as provided in subsection 25.11.050.C</u>
<u>Footnote to Table A for 25.11.050</u> ¹ <u>For standards related to undeveloped lots, see subsection 25.11.050.A.</u>		

1
2
3
4
5
6
7
8
9
10

~~((25.11.060 Tree protection on sites undergoing development in neighborhood residential zones~~

~~A. Exceptional trees~~

~~1. The Director may permit a tree to be removed only if:~~

~~a. The maximum lot coverage permitted on the site according to Title 23~~

~~cannot be achieved without extending into the tree protection area or into a required front and/or rear yard to an extent greater than provided for in subsection 25.11.060A.2; or~~

~~b. Avoiding development in the tree protection area would result in a~~

~~portion of the house being less than 15 feet in width.~~

1 2. ~~Permitted extension into front or rear yards shall be limited to an area equal to~~
2 ~~the amount of the tree protection area not located within required yards. The maximum~~
3 ~~projection into the required front or rear yard shall be 50 percent of the yard requirement.~~

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

7 B. ~~Trees over 2 feet in diameter measured 4.5 feet above the ground shall be identified on~~
8 ~~site plans. In order to protect such trees, an applicant may modify their development proposal to~~
9 ~~extend into front and/or rear yards in the same manner as provided for exceptional trees in~~
10 ~~subsection 25.11.060.A.)~~

11 ~~**25.11.060 Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area**~~
12 ~~**delineation Requirements for trees when development is proposed**~~

13 A. Tree protection area

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

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

20 3. The tree protection area may be modified from the basic tree protection area
21 based on species tolerance; expected impacts of construction activities; tree size, age, and health;
22 and soil conditions not to exceed the area of the feeder root zone. The Director may require

1 Master Use Permits or building permits to include measures to protect tree(s) during
2 construction, including within the feeder root zone.

3 4. The tree protection area may be reduced by the Director pursuant to the
4 provisions of Title 23 and this Chapter 25.11, as follows:

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

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

12 c. Existing encroachments do not count toward the reduction.

13 d. The tree protection area may be temporarily reduced in size during a
14 specific construction activity that is not likely to cause appreciable damage to the tree.

15 Appropriate mitigation measures shall be implemented per ANSI A300 standards or their
16 successor, and the tree protection area shall be returned to its permanent size after the specific
17 construction activity is complete.

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

21 B. Site plan requirements

22 1. Tier 1, Tier 2, ~~and~~ Tier 3, and Tier 4 trees are required to be documented on all
23 plan review sheets within a plan set submitted for a Master Use Permit or building permit.

1 2. Tree protection areas as determined by subsection 25.11.060.A for all Tier 1,
2 Tier 2, and Tier 3 trees are required to be identified on site plans. Tree protection fencing and
3 signage are required to be shown on all plan review sheets within a plan set submitted for a
4 Master Use Permit or building permit.

5 3. Any development standard modifications pursuant to the provisions of Title 23
6 and this Chapter 25.11 to avoid development within a designated tree protection area are
7 required to be identified on site plans.

8 4. Site plans that include modifications to development standards pursuant to the
9 provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree
10 protection area are required to be reviewed and approved by a certified arborist to determine that
11 the development shown would protect applicable trees.

12 5. Site plans are required to include any existing tree and its tree protection area,
13 if applicable, that is documented by the Seattle Department of Construction and Inspections to be
14 retained by a previous Master Use Permit or building permit.

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

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

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

3 3. A hazardous tree risk assessment, if applicable;

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

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

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

10 7. The life expectancy of regulated trees shall be determined by the Director
11 pursuant to this subsection 25.11.060.C and any rules promulgated by the Director. The Director
12 shall determine the likelihood that a tree will live to maturity due to factors including but not
13 limited to:

14 a. Health and physical condition;

15 b. Development site constraints such as proximity to existing or proposed
16 development, access and utilities, soil conditions, and exposure to sunlight; and

17 c. Environmental conditions external to the development site such as the
18 likely occurrence of a disease or an insect infestation, a landslide, or presence of a high water
19 table.

20 D. Trees protected by covenant

21 1. A covenant shall be required prior to the issuance of any permit or approval
22 that includes modification to development standards to avoid development within a designated
23 tree protection area for the following trees:

1 a. Tier 1 trees that are not determined to be hazardous or in need of
2 emergency action;

3 b. Tier 2 trees that are not removed pursuant to Sections 25.11.070 or
4 25.11.080; and

5 c. Tier 3 trees that are not proposed to be removed.

6 2. A covenant shall describe the required tree protection areas, include a survey, if
7 one has been prepared, and include documentation that acknowledges that development is
8 prohibited on and within any of the tree protection areas, including any disturbance of the tree
9 protection area that is inconsistent with the provisions of this Chapter 25.11.

10 3. Required covenants shall run with the land and shall be recorded in the King
11 County Recorder's Office for the remainder of the life of the building or for the remainder of the
12 life of the tree.

13 ~~((25.11.070 Tree protection on sites undergoing development in Lowrise zones~~

14 ~~The provisions in this Section 25.11.070 apply in Lowrise zones.~~

15 A. Exceptional trees

16 ~~1. If the Director determines that an exceptional tree is located on the lot of a~~
17 ~~proposed development, which is not a major institution use within a Major Institution Overlay~~
18 ~~zone, and the tree is not proposed to be preserved, the development shall go through streamlined~~
19 ~~design review as provided in Section 23.41.018 if the project falls below the thresholds for~~
20 ~~design review established in Section 23.41.004.~~

21 ~~2. The Director may permit the exceptional tree to be removed only if the total~~
22 ~~floor area that could be achieved within the maximum permitted FAR and height limits of the~~

1 applicable Lowrise zone according to Title 23 cannot be achieved while avoiding the tree
2 protection area through the following:

3 a. ~~Development standard adjustments permitted in Section 23.41.018 or~~
4 ~~the departures permitted in Section 23.41.012.~~

5 b. ~~An increase in the permitted height as follows under subsection~~
6 ~~25.11.070.A.3.~~

7 3. ~~In order to preserve an exceptional tree, the following code modifications are~~
8 ~~allowed:~~

9 a. ~~Permitted height. For a principal structure with a base height limit of 40~~
10 ~~feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may~~
11 ~~permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50~~
12 ~~feet if the increase is needed to accommodate, on an additional story, the amount of floor area~~
13 ~~lost by avoiding development within the tree protection area and the amount of floor area on the~~
14 ~~additional story is limited to the amount of floor area lost by avoiding development within the~~
15 ~~tree protection area.~~

16 b. ~~Parking reduction. A reduction in the parking quantity required by~~
17 ~~Section 23.54.015 and the standards of Section 23.54.030 may be permitted in order to protect an~~
18 ~~exceptional tree if the reduction would result in a project that would avoid the tree protection~~
19 ~~area.~~

20 4. ~~If the Director determines that an exceptional tree is located within a Major~~
21 ~~Institution Overlay zone, and the tree is not proposed to be preserved, the Director may allow~~
22 ~~removal of an exceptional tree only if:~~

1 a. ~~The proposed development is for a major institution use identified in an~~
2 ~~adopted Major Institution Master Plan; and~~

3 b. ~~The location of an exceptional tree is such that planned future physical~~
4 ~~development identified in an adopted Major Institution Master Plan cannot be sited while~~
5 ~~avoiding the tree protection area; and~~

6 e. ~~Mitigation for exceptional trees and trees over 2 feet in diameter,~~
7 ~~measured 4.5 feet above the ground, is provided pursuant to Section 25.11.090 for trees that are~~
8 ~~removed in association with development.~~

9 ~~B. Trees over 2 feet in diameter~~

10 ~~1. Trees over 2 feet in diameter, measured 4.5 feet above the ground shall be~~
11 ~~identified on site plans.~~

12 ~~2. In order to protect trees over 2 feet in diameter, an applicant may request and~~
13 ~~the Director may allow modification of development standards in the same manner and to the~~
14 ~~same extent as provided for exceptional trees in subsection 25.11.070.A.)~~

15 **25.11.070 Tree protection on sites undergoing development in Neighborhood Residential,**
16 **Lowrise, Midrise, commercial, and Seattle Mixed zones**

17 A. Neighborhood Residential zones

18 1. Tier 2 trees may be removed only if:

19 a. The maximum lot coverage permitted on the site pursuant to Title 23
20 cannot be achieved without extending into the basic tree protection area more than is allowed
21 pursuant to Section 25.11.060 or into a required front and/or rear yard to an extent greater than
22 provided for in subsection 25.11.070.A.2;

1 b. Avoiding development in the basic tree protection area including
2 reductions to the tree protection area allowed by subsection 25.11.060.A would result in a
3 portion of a dwelling unit being less than 15 feet in width; or

4 c. Tree removal is necessary for the construction of new structures, vehicle
5 and pedestrian access, utilities, retaining wall, or other similar improvements associated with
6 development.

7 2. Permitted extension into front or rear yards shall be limited to an area equal to
8 the amount of the basic tree protection area not located within required yards. The maximum
9 projection into the required front or rear yard shall be 50 percent of the yard requirement.

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

13 4. For the purposes of this subsection 25.11.070.A, a lot coverage calculation
14 shall not include any portion of a parcel containing a biodiversity area or corridor, riparian
15 corridor, priority habitat, priority area setback, wetland, wetland buffer, or steep slope erosion
16 hazard area, unless the Director has approved critical areas reduction, waiver, or modification
17 pursuant to Chapter 25.09.

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

19 1. Tier 2 trees may be removed if an otherwise allowable development area of 85
20 percent cannot be achieved without extending into the basic tree protection area more than
21 allowed pursuant to subsection 25.11.060.A, as follows:

22 a. Calculate the basic tree protection area on the lot.

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

5 c. When multiple Tier 2 trees are located on a lot, the minimum number of
6 trees needed to reach 85 percent may be removed ~~in accordance with~~ based on the evaluation
7 required by subsection 25.11.060.C.

8 d. When the tree protection area of an off-site Tier 2 tree is located on the
9 lot, this area may be included in accordance with subsection 25.11.070.B.

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

15 2. If an applicant chooses to retain Tier 2 trees that would otherwise be allowed to
16 be removed under subsection 25.11.070.B.1, modifications to development standards are allowed
17 as follows:

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

20 1) Setbacks and separation requirements, if applicable, may be
21 reduced by a maximum of 50 percent;

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

1 3) Landscaping and screening may be reduced by a maximum of
2 25 percent; and

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

5 b. For development subject to design review, the departures permitted in
6 Section 23.41.012.

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

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

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

22 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
23 ~~zones~~

1 ~~The provisions in this Section 25.11.080 apply in Midrise and Commercial zones.~~

2 ~~A. Exceptional trees~~

3 ~~1. If the Director determines that an exceptional tree is located on the lot of a~~
4 ~~proposed development, which is not a major institution use within a Major Institution Overlay~~
5 ~~zone, and the tree is not proposed to be preserved, the project shall go through streamlined~~
6 ~~design review as provided in Section 23.41.018 if the project falls below the thresholds for~~
7 ~~design review established in 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 protection~~
10 ~~area could not be achieved through the development standard adjustments permitted in Section~~
11 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
12 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
13 ~~in the standards of Section 23.54.030.~~

14 ~~3. If the Director determines that an exceptional tree is located within a Major~~
15 ~~Institution Overlay zone, and the tree is not proposed to be preserved, the Director may allow~~
16 ~~removal of an exceptional tree only if:~~

17 ~~a. The proposed development is for a major institution use identified in an~~
18 ~~adopted Major Institution Master Plan; and~~

19 ~~b. The location of an exceptional tree is such that planned future physical~~
20 ~~development identified in an adopted Major Institution Master Plan cannot be sited while~~
21 ~~avoiding the tree protection area; and~~

1 e. ~~Mitigation for exceptional trees and trees over 2 feet in diameter,~~
2 ~~measured 4.5 feet above the ground, is provided pursuant to Section 25.11.090 for trees that are~~
3 ~~removed in association with development.~~

4 ~~B. Trees over 2 feet in diameter measured~~

5 ~~1. Trees over 2 feet in diameter, measured 4.5 feet above the ground, shall be~~
6 ~~identified on site plans.~~

7 ~~2. In order to protect trees over 2 feet in diameter, an applicant may request and~~
8 ~~the Director may allow modification of development standards in the same manner and to the~~
9 ~~same extent as provided for exceptional trees in subsection 25.11.080.A.)~~

10 **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

11 A. Except as otherwise provided in subsection 25.11.080.B, if the Director determines
12 that a Tier 2 tree is located within a Major Institution Overlay District, and the tree is not
13 proposed to be preserved, the Director may allow removal of a Tier 2 tree only if:

14 1. The proposed development is for a major institution use identified in an
15 adopted Major Institution Master Plan; and

16 2. The location of a Tier 2 tree is such that planned future physical development
17 identified in an adopted Major Institution Master Plan cannot be sited while avoiding the tree
18 protection area; and

19 3. Mitigation for Tier 2 trees is provided pursuant to this Chapter 25.11.

20 B. To the extent a provision of a Major Institution Master Plan approved pursuant to
21 Chapter 23.69 is inconsistent with subsection 25.11.080.A, the Major Institution Master Plan
22 provision shall control application of this Chapter 25.11 within the Major Institution Overlay
23 District.

1 **25.11.090 Tree replacement, maintenance, and site restoration**

2 A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1,
3 Tier 2, and Tier 3 trees ~~including hazardous trees~~ removed in association with development or
4 ~~because they are hazardous or are infested by insects or pests in all zones~~ shall be replaced by
5 one or more new trees, the size and species of which shall be determined by the Director; the tree
6 replacement required shall be designed to result, upon maturity, in a canopy cover that is ((at
7 least equal)) roughly proportional to the canopy cover prior to tree removal. ~~((Preference shall be~~
8 ~~given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate~~
9 ~~as determined by the Director, preference for off-site replacement shall be on public property.))~~
10 When off-site replacement is proposed, preference for the location shall be on public property.

11 ~~((B. No tree replacement is required if the tree is (1) hazardous, dead, diseased, injured,~~
12 ~~or in a declining condition with no reasonable assurance of regaining vigor as determined by a~~
13 ~~registered tree service provider; or (2) proposed to be relocated to another suitable planting site~~
14 ~~as approved by the Director.))~~

15 B. For each relocated or required replacement tree, maintenance and monitoring is
16 required for a five-year period. The period begins when the replacement tree is planted.

17 Maintenance and monitoring shall include the following:

- 18 1. Sufficient maintenance actions to ensure survival of the replacement tree:
19 a. When more than one replacement tree is required, 80 percent survival of
20 new trees planted at the end of five years;
21 b. When one replacement tree is required, 100 percent survival of the new
22 tree planted at the end of five years;
23 2. Replacement and replanting of failed trees; and

1 3. Photographic documentation of planting success retained for the five-year
2 period. Submission of documentation to the Seattle Department of Construction and Inspections
3 is not required unless requested by the Department.

4 **25.11.100 Tree service provider registration**

5 A. Applicability

6 1. This Section 25.11.100 establishes a public registration system for tree service
7 providers operating within Seattle.

8 2. ~~((Within 120 days of May 5, 2022, the Director shall establish a tree service~~
9 ~~provider registration application process and public registry. Starting November 10, 2022, after~~
10 ~~the Director has established the application process and public registry, no)) No tree service~~
11 ~~provider may conduct commercial tree work unless ((it is listed)) registered on the City's tree~~
12 ~~service provider public registry. The Director may promulgate rules as needed to support~~
13 ~~administration of the application process and public registry.~~

14 3. Any commercial tree work must be done by a registered tree service provider.

15 4. This Section 25.11.100 does not regulate commercial tree work under the
16 jurisdiction and oversight of the Department of Transportation, the Seattle Parks and Recreation
17 Department, the Department of Finance and Administrative Services, Seattle Public Utilities, or
18 the City Light Department.

19 B. Tree service provider registration required. A tree service provider must be registered
20 by the Director before it may conduct commercial tree work unless otherwise provided in
21 subsection 25.11.100.A. A tree service provider registration shall be valid for one year from the
22 date of issuance. The Director shall publish a registry of registered tree service providers on a
23 City web page available to the public. Registered tree service providers are required to renew

1 their registration annually. Annual registration renewals shall require submittal to the Director of
2 documentation of continued compliance with this Chapter 25.11, provided that renewal may be
3 denied pursuant to any rules administering this Section 25.11.100 or as provided in Section
4 25.11.120. A tree service provider registration shall be issued by the Director to each applicant
5 meeting the following requirements:

- 6 1. Possesses a current and valid Seattle business license;
- 7 2. Has at least one employee or a person on retainer who is a currently
8 credentialed International Society of Arboriculture (ISA) certified arborist trained and
9 knowledgeable to conduct work in compliance with ~~((American National Standards Institute~~
10 ~~(ANSI) Standard A-300))~~ ANSI A300 standards or ~~((its))~~ their successor ~~((standard))~~;
- 11 3. Acknowledges in writing knowledge of City codes applicable to commercial
12 tree work;
- 13 4. Is not currently under suspension from registration under Section 25.11.120 and
14 does not have any outstanding fines or penalties related to commercial tree work activities owed
15 to The City of Seattle;
- 16 5. Possesses a current and valid Washington State contractor registration under
17 chapter 18.27 RCW; and
- 18 6. Possesses a current certificate of insurance with an amount of insurance
19 coverage determined by the Director.

20 C. Tree service provider activities

- 21 1. Unless it is an emergency action pursuant to Section ~~((25.11.020))~~ 25.11.030, a
22 registered tree service provider shall comply with the following public notice requirements prior

1 to conducting commercial tree work that involves reportable work or removal of any tree 6
2 inches or greater (~~(DBH)~~) DSH:

3 a. The registered tree service provider shall provide the Director with the
4 following information:

5 1) A brief description of the commercial tree work the registered
6 tree service provider will be conducting that identifies whether the tree meets the City's
7 definition of (~~(exceptional)~~) a Tier 2 tree;

8 2) The tree service provider's registration number; and

9 3) The permit number, if a permit is required. If no permit is
10 required, the tree service provider shall indicate that no permit is required.

11 b. The Director shall provide the public notice information required by
12 subsection 25.11.100.C.1.a to the public on a City web page at least three business days in
13 advance of reportable work and at least six business days in advance of removal of any tree 6
14 inches or greater ~~DBH~~ DSH. By March 31, 2024, the web page shall provide the information
15 through an online mapping tool.

16 c. While a registered tree service provider is conducting commercial tree
17 work subject to public notice required by subsection 25.11.100.C.1.a, the tree service provider
18 shall post the public notice in a safe location at or adjacent to the commercial tree work site in a
19 manner clearly visible from the public right-of-way. The posted public notice should remain in
20 place for five days after the work has been completed.

21 2. A registered tree service provider is responsible for complying with best
22 practices applicable to the particular commercial tree work for which they are retained,
23 including:

1 a. Determination of the commercial tree work needed to justify removal or
2 pruning outside ~~((of the routine pruning operations))~~ normal pruning and maintenance in order to
3 meet the objectives of the hiring entity; and

4 b. Maintaining adequate supervisory control over workers conducting
5 commercial tree work under their direct supervision.

6 3. If a registered tree service provider is proposing to remove a tree based on it
7 being a hazardous tree the following requirements apply:

8 a. The registered tree service provider applying or preparing the report
9 required by subsection 25.11.100.C.3.b for the hazardous tree removal permit must either have
10 an employee or a person on retainer who is currently credentialed with an ISA Tree Risk
11 Assessment Qualification;

12 b. The registered tree service provider must submit documents as required
13 by the Director, including a brief report that summarizes the factors contributing to the tree's risk
14 rating. This report should include information on the overall health of the tree, the dimensions
15 and structure of the tree, and analysis of potential targets should it or major parts of it fall. When
16 deemed necessary by the Director, the report should also include analysis of tissue samples to
17 confirm disease or other issues concerning whether the tree poses a hazard to property or human
18 safety;

19 c. If the tree does not meet the City's definition of ~~((exceptional))~~ a Tier 2
20 tree, the registered tree service provider that prepares the report required by subsection
21 25.11.100.C.3.b for the hazardous tree removal permit application may also perform the removal
22 of the tree; and

1 d. If the tree meets the City's definition of ~~((exceptional))~~ a Tier 2 tree, the
2 Director may require that the registered tree service provider or hiring entity shall engage another
3 registered tree service provider to independently assess the tree and prepare the report required
4 by subsection 25.11.100.C.3.b. The registered tree service provider that independently assesses
5 the tree and prepares the report must be different from the registered tree service provider that
6 will perform the removal of the tree.

7 4. Commercial vehicles used by the registered tree service provider shall (1)
8 clearly display the tree service provider's City-issued registration number and (2) have the name
9 of the business to which the vehicle is registered and the business's phone number or email
10 address permanently displayed on the left, right, and rear (where applicable) sides in letters no
11 less than 2 inches in height.

12 **25.11.110 Off-site planting and voluntary payment in lieu**

13 If tree removal is approved by the Director, the applicant may elect to make a voluntary payment
14 in lieu of tree replacement on-site as specified in this Section 25.11.110.

15 A. A combination of planting trees on site, planting trees off-site and/or payment in lieu
16 is allowed, provided that the combination is consistent with the provisions of this Chapter 25.11
17 and the results shall be equivalent to or greater than the minimum requirements for on-site tree
18 plantings.

19 B. All payments shall be paid to the Seattle Department of Construction and Inspections
20 before the issuance of a permit authorizing removal of trees pursuant to this Chapter 25.11.

21 C. Payments shall be calculated pursuant to a rule promulgated by the Director.

1 **25.11.115 Modification of tree removal, replacement, and voluntary in-lieu payment**
2 **requirements**

3 **A. General**

4 **1. An applicant may request a modification, according to this Section 25.11.115,**
5 **of the amount of mitigation calculated according to Section 25.11.110 or the limitation on Tier 1**
6 **tree removals according to Section 25.11.050.**

7 **2. An applicant requesting a modification according to Section 25.11.110 shall**
8 **have requested a modification to standards according to Section 25.11.070, if applicable.**

9 **3. The decision on any modification shall specify a mitigation amount.**

10 **B. Modification based on mitigation greater than impact. The Director shall, as a special**
11 **exception according to Chapter 23.76, modify the amount of mitigation required according to**
12 **Section 25.11.110 if the applicant demonstrates that the required amount of mitigation exceeds**
13 **the amount that would be needed to mitigate the actual loss of tree canopy.**

14 **C. Modification based on severe economic impact**

15 **1. The purpose of this subsection 25.11.115.C is to allow the Director, as a special**
16 **exception according to Chapter 23.76, to modify limitations on removals of Tier 1 trees**
17 **according to Section 25.11.050, if the applicant can demonstrate facts supporting a determination**
18 **of severe economic impact at such a level that a property owner's constitutional rights may be at**
19 **risk.**

20 **2. For the purposes of this subsection 25.11.115.C, the Director is not making a**
21 **determination of the constitutional rights of a property owner, but instead is reviewing the**
22 **credibility and strength of facts demonstrating severe economic impact.**

1 3. The Director may waive or modify limitations on removal of Tier 1 trees, if the
2 applicant shows that application of the requirements according to this Chapter 25.11 would:

3 a. Create severe economic impact by depriving a property owner of all
4 economically beneficial use of the property; or

5 b. Create severe economic impact, not reaching deprivation of all
6 economically beneficial use, but reaching the level of an undue burden that should not be borne
7 by the property owner.

8 4. In determining whether there is a severe economic impact reaching the level of
9 an undue burden that should not be borne by the property owner, the Director may weigh the
10 following factors:

11 a. The severity of the economic impact caused by the application of the
12 requirements according to this Chapter 25.11;

13 b. The degree to which the requirements according to this Chapter 25.11
14 were or could have been anticipated;

15 c. The extent to which alternative uses of the property or configurations of
16 the proposed development would alleviate the need for the requested waiver or modification;

17 d. The extent to which any economic impact was due to decisions by the
18 applicant and/or property owner; and

19 e. Other factors relevant to whether the burden should be borne by the
20 property owner.

21 5. The waiver or modification may be approved only to the extent necessary to
22 grant relief from the severe economic impact.

1 6. A request to the Director for a waiver or modification according to this
2 subsection 25.11.115.C shall include, at a minimum, all of the following:

3 a. A description of the requested waiver or modification, including any
4 proposed voluntary in lieu payment amount;

5 b. Documentation showing that any relief available according to
6 subsection 25.11.070 would not eliminate the need for the requested waiver or modification;

7 c. The identity of the property owner and the date of the owner's
8 acquisition of the property;

9 d. Documentation showing the use of the property at the time of the
10 request or, if the property is vacant at that time, the use of the property prior to commencement
11 of vacancy;

12 e. Documentation explaining and supporting the claim of economic
13 impact; and

14 f. Documentation showing that a different development configuration that
15 satisfied the requirements according to this Chapter 25.11 would not alleviate the need for the
16 requested waiver or modification.

17 7. The applicant shall provide any additional information as may be required by
18 the Director to make a determination on the request. The applicant shall have the burden of
19 proving by a preponderance of the evidence that a waiver or modification authorized according
20 to this subsection 25.11.115.C is justified.

21 8. The fact of a decrease in property value, standing alone and without
22 consideration of the full range of relevant factors including those according to subsection

1 25.11.115.C.4, shall not be a sufficient basis for the Director to grant a waiver or modification
2 authorized according to this subsection 25.11.115.C.

3 9. In any appeal to the Hearing Examiner, the parties will have an additional
4 opportunity to make a record on the factual issues, consistent with due process.

5 **25.11.120 Enforcement and penalties**

6 A. Authority

7 1. The Director (~~((shall have))~~) has authority to enforce the provisions of this
8 Chapter 25.11, (~~((to))~~) issue permits, impose conditions and establish penalties for violations of
9 applicable law or rules by (~~((registered tree service providers,))~~) the responsible party, establish
10 administrative procedures and guidelines, conduct inspections, and prepare the forms and publish
11 Director's Rules that may be necessary to carry out the purposes of this Chapter 25.11.

12 2. The Director shall remove a registered tree service provider from the public
13 registry for a period of one year after that registered tree service provider has been issued two
14 notices of violation for the removal of a Tier 1 or Tier 2 tree in violation of any provision of this
15 Chapter 25.11. Following the one-year removal period, the tree service provider may submit an
16 application to be added to the public registry.

17 B. Violation. It (~~((shall be))~~) is a violation of this (~~((chapter))~~) Chapter 25.11 for any person,
18 firm, or corporation to remove, clear, or take any action detrimental to trees contrary to or in
19 violation of any provision of this (~~((chapter))~~) Chapter 25.11. It (~~((shall be))~~) is a violation of this
20 (~~((chapter))~~) Chapter 25.11 for any person, firm, or corporation to knowingly aid and abet,
21 counsel, encourage, hire, commend, induce, or otherwise procure another to violate or fail to
22 comply with this (~~((chapter))~~) Chapter 25.11.

23 C. Notice of (~~((Violation))~~) violation

1 1. Issuance. The Director is authorized to issue a ~~((Notice of Violation))~~ notice of
2 violation to a responsible party, whenever the Director determines that a violation of this
3 ~~((subtitle))~~ Chapter 25.11 has occurred or is occurring. The ~~((Notice of Violation))~~ notice of
4 violation shall be considered an order of the Director.

5 2. Contents~~((:))~~

6 a. The ~~((Notice of Violation))~~ notice of violation shall include ~~((the~~
7 ~~following information))~~:

8 i. A description of the violation and the action necessary to correct
9 it;

10 ii. The date of the notice; and

11 iii. A deadline by which the action necessary to correct the
12 violation must be completed.

13 b. A ~~((Notice of Violation))~~ notice of violation may be amended at any
14 time to correct clerical errors, add citations of authority, or modify the description of the
15 violation(s) or the required corrective action.

16 3. Service. The Director shall serve the notice upon a responsible party either by
17 personal service or by first class mail to the party's last known address. ~~((If the address of the~~
18 ~~responsible party is unknown and cannot be found after a reasonable search, the notice may be~~
19 ~~served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if))~~
20 If the whereabouts of the responsible party ~~((is))~~ are unknown and cannot be ascertained in the
21 exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service
22 may be accomplished by publishing the notice once each week for two consecutive weeks in the

1 City official newspaper and by posting a copy of the notice at a conspicuous place on the
2 property.

3 4. Nothing in this ~~((subtitle))~~ Chapter 25.11 shall be deemed to obligate or require
4 the Director to issue a ~~((Notice of Violation))~~ notice of violation or order prior to the initiation of
5 enforcement action by the City Attorney's Office ~~((pursuant to SMC 22.808.030.E))~~ in
6 Municipal Court.

7 D. ~~((Stop work Order))~~ Stop work order. Whenever a continuing violation of this
8 ~~((chapter))~~ Chapter 25.11 will materially impair the Director's ability to secure compliance with
9 this ~~((chapter))~~ Chapter 25.11, when the continuing violation threatens the health or safety of the
10 public, or when the continuing violation threatens or harms the environment, the Director may
11 issue a ~~((stop work))~~ stop work order specifying the violation and prohibiting any work or other
12 activity at the site. The posting of the ~~((stop work))~~ stop work order on the site shall be deemed
13 adequate notice of the ~~((stop work))~~ stop work order. A failure to comply with a ~~((stop work))~~
14 stop work order shall constitute a violation of ~~((this chapter))~~ Chapter 25.11.

15 E. Review by Director and ~~((Judicial Appeal.))~~ judicial appeal

16 1. A ~~((Notice of Violation, Director's order, or invoice))~~ notice of violation issued
17 pursuant to this ~~((subtitle))~~ Chapter 25.11 shall be final and not subject to further appeal unless
18 an aggrieved party requests in writing a review by the Director within ten ~~((10))~~ days after
19 service of the ~~((Notice of Violation, order or invoice))~~ notice of violation. When the last day of
20 the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall
21 ~~((period shall))~~ run until ~~((five (5:00))~~ 5 p.m. on the next business day.

22 2. Following receipt of a request for review, the Director shall notify the
23 requesting party, any persons served the ~~((Notice of Violation, order or invoice,))~~ notice of

1 violation and any person who has requested notice of the review, that the request for review has
2 been received by the Director. Additional information for consideration as part of the review
3 shall be submitted to the Director no later than ~~((fifteen (15)))~~ 15 days after the ~~((written request~~
4 ~~for a review is mailed))~~ Director notifies the requester of timely receipt of the request for review.

5 3. The Director will review the basis for issuance of the ~~((Notice of Violation,~~
6 ~~order, or invoice))~~ notice of violation and all information received by the deadline for submission
7 of additional information for consideration as part of the review. The Director may request
8 clarification of information received and a site visit. After the review is completed, the Director
9 may(~~(:~~

10 a. ~~Sustain the Notice of Violation, order or invoice; or~~
11 b. ~~Withdraw the Notice of Violation, order or invoice; or~~
12 c. ~~Continue~~) sustain, withdraw, modify, or amend the notice of violation,
13 or continue the review to a date certain for receipt of additional information(~~(; or~~
14 d. ~~Modify or amend the Notice of Violation, order, or invoice)~~).

15 4. The Director's decision ~~((shall become final))~~ is final and is not subject to
16 further appeal unless an aggrieved party appeals ~~((the decision to the Municipal Court within ten~~
17 ~~(10) days after the Director issues the decision. Appeal hearings in Municipal Court shall be de~~
18 ~~novo))~~ as allowed under state law.

19 F. Referral to City Attorney for ~~((Enforcement))~~ enforcement. If a responsible party fails
20 to correct a violation or pay a penalty as required by a ~~((Notice of Violation))~~ notice of violation,
21 or fails to comply with a Director's order, the Director may refer the matter to the City
22 Attorney's Office for civil ~~((or criminal))~~ enforcement action. Judicial enforcement of a violation
23 of this ~~((subtitle))~~ Chapter 25.11 shall be by de novo review in Municipal Court.

1 G. Filing Notice or (~~Order~~) order. A (~~Notice of Violation~~) notice of violation,
2 voluntary compliance agreement, or (~~an~~) order issued by the Director or (~~court,~~) Municipal
3 Court may be filed with the King County (~~Department of Records and Elections~~) Recorder's
4 Office.

5 H. Change of (~~Ownership~~) ownership. When a (~~Notice of Violation~~) notice of
6 violation, voluntary compliance agreement, or (~~an~~) order issued by the Director or (~~court~~)
7 Municipal Court has been filed with the King County (~~Department of Records and Elections~~)
8 Recorder's Office, a (~~Notice of Violation~~) notice of violation or an order regarding the same
9 violations need not be served upon a new owner of the property where the violation occurred. If
10 no (~~Notice of Violation~~) notice of violation or order is served upon the new owner, the Director
11 may grant the new owner the same number of days to comply as was given the previous owner.
12 The compliance period for the new owner shall begin on the date that the conveyance of title to
13 the new owner is completed.

14 I. Civil (~~Penalties~~) penalties

15 1. Any person, firm, or corporation (~~who is~~) responsible for the removal,
16 topping, or other action detrimental to a tree in violation of this (~~chapter~~) Chapter 25.11 or any
17 notice, decision, or order issued by the Director pursuant to this (~~chapter~~) Chapter 25.11 shall
18 be subject to a civil penalty in (~~the~~) an amount (~~equal to the appraised value of the tree(s)~~
19 ~~affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor~~) as stated in
20 a Director's Rule **with a 50 percent increase above that amount**. If the violation is found to have
21 been willful or malicious, conducted purposefully to improve views, increase market value, or
22 expand development potential, or the result of negligence by a contractor or operator of
23 construction machinery, the amount of the penalty may be trebled as punitive damages.

1 2. Any person who fails to comply with (~~(Section)~~) subsection 25.11.120.D shall
2 be subject to a civil penalty in an amount not to exceed (~~(Five Hundred Dollars (\$500))~~) \$1,000 a
3 day.

4 3. The Director shall notify the City Attorney in writing of the name of any person
5 subject to the penalty(~~(s)~~) and shall assist the City Attorney in collecting the penalty.

6 J. Restoration. In addition to any other remedies available, violators of this (~~(chapter)~~)
7 Chapter 25.11 shall be responsible for restoring unlawfully damaged areas in conformance with a
8 plan, approved by the Director, which provides for:

9 (~~(repair)~~) 1. Repair of any environmental and property damage, and restoration of
10 the site; and

11 (~~(which results in a)~~) 2. Restored site condition that, to the greatest extent
12 practicable, equals the site condition at planting maturities that would have existed in the absence
13 of the violation(s).

14 K. Criminal (~~(Penalty-)~~) penalty

15 1. Anyone violating or failing to comply with any order issued by the Director
16 pursuant to this (~~(chapter)~~) Chapter 25.11 shall(~~(s)~~) upon conviction (~~(thereof,)~~) be punished by a
17 fine of not more than (~~(One Thousand Dollars (\$1,000))~~) \$1,000 or by imprisonment for not
18 more than (~~(ninety (90))~~) 90 days, or by both such fine and imprisonment. Each day's violation
19 or failure to comply shall constitute a separate offense.

20 2. Anyone violating or failing to comply with any of the provisions of this
21 (~~(chapter)~~) Chapter 25.11 and who within the past five (~~((5))~~) years has had a judgment against
22 them pursuant to subsection 25.11.120.B shall upon conviction (~~(thereof,)~~) be fined in a sum not
23 to exceed (~~(Five Thousand Dollars (\$5,000))~~) \$5,000 or by imprisonment for not more than

1 ((~~three hundred sixty-four (364)~~)) 364 days, or by both such fine and imprisonment. Each day's
2 violation or failure to comply shall constitute a separate offense.

3 **25.11.130 Definitions**

4 "Commercial tree work" means any of the following actions conducted within ~~((the City~~
5 ~~of))~~ Seattle in exchange for financial compensation: reportable work; removal of any tree 6
6 inches or greater ~~((DBH))~~ DSH; and the assessment of the health or hazard risk of trees larger
7 than 6 inches ~~((DBH))~~ DSH. Normal pruning and maintenance that does not meet the definition
8 of reportable work is not commercial tree work.

9 "Commercial vehicle" means: (1) a "motor truck" or "truck" except a passenger car; or
10 (2) a station wagon or van that has been permanently modified to carry no more than three seated
11 passengers. Such vehicles shall be properly licensed as a truck.

12 "Diameter at ~~((breast))~~ standard height" or ~~((DBH))~~ "DSH" means the diameter of a
13 tree trunk measured at 4.5 feet above ground. ~~((Diameter at breast height is equivalent to~~
14 ~~"diameter at standard height" or "DSH."))~~

15 "Director" means the Director of the Seattle Department of Construction and Inspections.

16 "Drip line" means an area encircling the base of a tree, the minimum extent of which is
17 delineated by a vertical line extending from the outer limit of a tree's branch tips down to the
18 ground. The drip line may be irregular in shape to reflect variation in branch outer limits.

19 "Emergency action" means any action taken to a Tier 1, Tier 2, or Tier 3 tree that has an
20 extreme risk of imminent failure risk rating using the International Society of Arboriculture
21 (ISA) Tree Risk Assessment Qualification (TRAQ) method, including but not limited to such
22 actions as trimming or removal that is necessary to remedy an immediate threat to people,
23 structures, or health and safety.

1 ~~((“Exceptional tree” means a tree or group of trees that because of its unique historical,~~
2 ~~ecological, or aesthetic value constitutes an important community resource, and is deemed as~~
3 ~~such by the Director according to standards promulgated by the Seattle Department of~~
4 ~~Construction and Inspections.))~~

5 “Feeder root zone” means an area encircling the base of a tree equal to twice the diameter
6 of the drip line.

7 “Hazardous tree” means any tree or tree part that poses a high risk of damage to persons
8 or property, and that is designated ~~((as such))~~ by the Director ~~((according to the tree hazard~~
9 ~~evaluation standards))~~ according to tree risk assessment evaluation standards established by the
10 International Society of Arboriculture.

11 “Hedge” means a line of closely-spaced trees and/or shrubs intentionally planted and/or
12 maintained along a property boundary or landscape border for privacy, screening, safety, or
13 similar function, which typically requires ongoing pruning or shearing to maintain its intended
14 function and/or reasonable use of nearby developed areas.

15 ~~((“Inner root zone” means an area encircling the base of a tree equal to one half the~~
16 ~~diameter of the drip line.))~~

17 “Invasive tree” means any tree species that is documented on the King County Noxious
18 Weed Board’s Class A, Class B, or Class C Noxious Weed Lists.

19 “Maturity” means the eventual size of a tree, both in height and trunk width, to be
20 expected in Seattle. Maturity does not mean the maximum possible size of a tree.

21 “Normal pruning and maintenance” means for trees, shrubs, and other woody plants
22 compliance with American National Standards Institute A300 pruning standards.

1 “Reportable work” means removal of live branches 2 inches in diameter or greater;
2 pruning or removal of live roots 2 inches in diameter or greater; or removal of live branches
3 constituting 15 percent or more of a tree’s foliage-bearing area.

4 “Responsible party” means, in cases of violations, a person in control of property in fee
5 ownership or tenancy where a tree or tree protection area is located and the person or entity that
6 damaged or removed the tree. The responsible party may include the owner or owners, lessees,
7 tenants, occupants, or other persons who direct or pay for the detrimental action. The responsible
8 party may also include the person, partnership, or corporation who violated the provisions of this
9 Chapter 25.11.

10 “Tier 1 tree” means a heritage tree. A heritage tree is a tree or group of trees as defined in
11 Title 15.

12 “Tier 2 tree” means any tree that is 24 inches in diameter at standard height or greater,
13 includes tree groves as well as specific tree species as deemed as such by the Director pursuant
14 to standards promulgated by the Seattle Department of Construction and Inspections.

15 “Tier 3 tree” means any tree that is 12 inches in diameter at standard height or greater but
16 less than 24 inches in diameter at standard height and is not defined as a Tier 1 or Tier 2 tree.

17 “Tier 4 tree” means any tree that is 6 inches or greater in diameter at standard height but
18 less than 12 inches in diameter at standard height and is not defined as a Tier 1 or Tier 2 tree.

19 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
20 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
21 branches to lateral branches that are less than ~~((one-half (1/2)))~~ half of the diameter of the limb
22 or branch that is cut. Topping does not include acceptable pruning practices as described in the
23 ANSI A300 standards or their successor such as crown reduction, utility pruning, or crown

1 cleaning to remove a safety hazard or dead or diseased material. Topping is a type of tree
2 removal.

3 “Tree grove” means a group of eight or more trees, over 12 inches in diameter at standard
4 height that has a continuous canopy. It excludes red alders, black cottonwoods, bitter cherries,
5 Lombardy poplars, invasive trees, and any tree, the entire trunk of which is in a public right-of-
6 way. Trees planted as a hedge or clearly maintained as such are not tree groves. A tree grove
7 may be located across property lines on abutting and/or adjacent lots.

8 “Tree protection area” means the area surrounding a tree defined by a specified distance,
9 in which excavation and other construction-related activities must be avoided unless approved by
10 the Director. The tree protection area is variable depending on species, age and health of the tree,
11 soil conditions, and proposed construction.

12 “Tree protection area, basic” means the area within the drip line of a tree, which may be
13 irregular in shape to reflect variation in branch outer limits.

14 “Tree removal” means removal of tree(s) or vegetation, through either direct or indirect
15 actions including, but not limited to, clearing, topping, or cutting, causing irreversible damage to
16 roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation,
17 grading, or trenching in the ((~~dripline~~)) drip line area of a tree which has the potential to cause
18 irreversible damage to the tree, or relocation of an existing tree to a new planting location.

19 “Tree service provider” means any person or entity engaged in commercial tree work.

20 “Undeveloped lot” means a lot on which no buildings are located.

21 Section ~~7~~ 8. New portions of Seattle Municipal Code Chapter 25.11 substantially
22 identical to struck provisions shall be construed as continuations of the struck portions rather
23 than new enactments.

1 Section ~~8~~ 9. The provisions of this ordinance are separate and severable. The invalidity of
2 any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the
3 invalidity of its application to any person or circumstance, does not affect the validity of the
4 remainder of this ordinance or the validity of its application to other persons or circumstances.
5

DRAFT

1 Section ~~9~~ 10. The Department of Construction and Inspections shall prepare a report 12
2 months after the effective date of this ordinance on the use by permit applicants of payment-in-
3 lieu of tree replacement. This report shall include the number of permit applicants that used the
4 payments, payment amounts, total payments collected, City costs related to tree planting and
5 establishment, and any recommendations for changes to the payment amounts to be included in a
6 revised Director’s Rule. Recommendations for changes to fee amounts shall include
7 consideration of adequacy of payment amount to replace removed trees, cover City planting and
8 establishment costs, and effects of payment amount on permit applicant decisions about usage of
9 the payment option. The report shall be provided to the Mayor and the Chair of the City Council
10 Land Use Committee, or successor committee.

DRAFT

1 Section ~~10~~ 11. This ordinance shall take effect and be in force 60 days after its approval
2 by the Mayor, but if not approved and returned by the Mayor within ten days after presentation,
3 it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2023,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2023.

7 _____
8 President _____ of the City Council
9 Approved / returned unsigned / vetoed this _____ day of _____, 2023.

10 _____
11 Bruce A. Harrell, Mayor

12 Filed by me this _____ day of _____, 2023.

13 _____
14 Elizabeth M. Adkisson, Interim City Clerk

15 (Seal)

Attachment 2. Potential Amendments

A. Development Capacity and Development Standard Modifications		
No.	Description	Sponsor(s)
A1	For the public interest in public health and safety, authorize SDCI to reduce allowed building size by: (1) up to 20 percent to retain existing Tier 1, Tier 2, and Tier 3 trees on-site and/or (2) up to 5 percent to allow for required setback to retain existing Tier 1 trees and trees located in the right-of-way (in consultation with SDOT Director).	Pedersen
A2	Allow for 100 percent lot coverage for development in MR, commercial, and SM zones. (25.11.070)	Strauss
A3	Increase modifications to standards in LR, MR, commercial, and SM zones for development that preserves Tier 2 trees (25.11.070.B.2.a) for setbacks and separations, amenity areas, landscaping and screening, and structure width, depth, and façade length limits. Affordable housing development (60% AMI rental and 80% AMI ownership) would have complete flexibility for these standards and market rate development would be provided with up to 75 percent reduction in setbacks, amenity areas, and landscaping and screening, and up to 30 percent increase in structure width, depth, and façade length limits. CB 120354 would allow reductions of up to 50 percent for setbacks, 10 percent for amenity areas, and 25 percent for landscaping and screening, and an increase of up to 10 percent for structure width, depth, and façade length limits.	Strauss
A4	Clarify that for the purposes of the 85 percent lot coverage calculation in 25.11.070.B.1, the basic tree protection area cannot be modified.	Strauss
A5	Clarify that a Tier 2 tree may be removed if its required tree protection area results in a portion of a structure containing a dwelling unit or accessory dwelling unit to be less than 15 feet wide in NR zones. CB 120354 includes reference to a "portion of a dwelling unit" and does not include accessory dwelling units. (25.11.070.A.1.b)	Strauss
A6	Remove 85 percent lot coverage standard in LR, MR, commercial and SM zones and continue use of current FAR standard.	Pedersen
A7	Require (1) a 20 percent allowance for a tree preservation and planting area in LR, MR, SM, and commercial zones and (2) a 40 percent allowance for a tree preservation and planting area in NR zones.	Pedersen

Attachment 2. Potential Amendments

B. Urban Forestry Programs and Budget		
No.	Description	Sponsor(s)
B1	Add to CB 120535 1.0 FTE Civil Engineering Specialist, Senior and \$100,000 Transportation Fund to SDOT for street tree review. This additional position was mistakenly left out of the transmitted bill.	Strauss
B2	Authorize SDCI to (1) reduce or waive fees associated tree removal outside of development for applicants who are at or below 80 percent AMI and (2) coordinate with Seattle Public Utilities to provide replacement trees to such applicants, if replacement is required.	Pedersen Strauss
B3	Expand access to the Heritage Tree program.	Strauss
B4	Add to reporting requirement and specify that reports be prepared in consultation with the Director of the Office of Sustainability and Environment, or their designee: (1) use of development modifications to preserve trees and related considerations; (2) detailed information on replacement trees; (3) role and responsibility of City Urban Forester position in regard to regulation of trees on private property and efforts to improve coordination of interdepartmental urban forest management; (4) unintended consequences associated with implementation of regulations, with a focus on racial equity impacts; (5) how regulations will support the strategies of the forthcoming tree canopy equity and resilience assessment and plan; (6) impacts of climate change on Seattle's urban forest, including pests, pathogens, and insects; and (7) analysis of available tree removal data (e.g., permits, tree work notices) for both public and private property.	Pedersen
B5	(1) Add recitals related to the key findings of the 2021 Tree Canopy Assessment, including the ongoing issue of inequitable tree canopy cover distribution throughout Seattle; (2) specify that revenues generated from the in-lieu fee for replacement trees be directed to planting new trees in neighborhoods with tree canopy cover of 25 percent or less; and (3) request that the Seattle Department of Construction and Inspections, Office of Sustainability and Environment, and Department of Neighborhoods develop a culturally- and linguistically-appropriate plan to inform residents of the updated tree regulations, particularly in regard to tree removal limits outside of development.	Morales
B6	Request that the Executive propose strategies, including cost estimates, to improve maintenance to prevent tree loss and increase tree canopy coverage on City-owned property in response to the findings of the 2021 Tree Canopy Assessment.	Nelson
B7	Request that the City Budget Office submit legislation with the 2024 Proposed Budget that would establish a fund to receive in-lieu fees, revenue from penalties issued for violations of Chapter 25.11, donations, and grants.	Pedersen
B8	Add funding to expand Seattle Public Utilities' Trees for Neighborhoods program.	Strauss
B9	Add funding to Seattle Department of Construction and Inspections for code enforcement staff.	Strauss

Attachment 2. Potential Amendments

C. Permit Review Process		
No.	Description	Sponsor(s)
C1	Add a new section to request that SDCI modify its practices to consider trees at the beginning of the permit review process.	Pedersen Strauss
C2	(1) Create a definition for Major Development Project (i.e., large-scale project with Tier 1 or Tier 2 trees or at least three Tier 3 trees); (2) tree retention and tree protection areas for Major Development Projects are Type I decisions with notice requirement; and (3) require a tree protection report for all Major Development Projects.	Pedersen
C3	Require that Seattle Department of Construction and Inspections approve tree protection areas prior to approving subdivision and lot line adjustments.	Pedersen
C4	Require permit applicants to engage a certified arborist throughout the development process when Tier 1, Tier 2 or Tier 3 trees are located on the property.	Pedersen
C5	Require Seattle Department of Construction and Inspections staff arborist to ensure that tree protection plan is implemented as proposed.	Strauss

D. Tree Removals Outside of Development		
No.	Description	Sponsor(s)
D1	Include "pathogens" as a cause for tree removal and require replacement.	Strauss
D2	Increase removal limit for Tier 4 trees from two to three in a three-year period in NR, LR, MR, commercial, and SM zones. Allow for removal of regulated trees for specific reasons, to be determined by Director's Rule.	Pedersen
D3	Allow removal of additional Tier 3 and Tier 4 trees outside of development in case of conflicts with infrastructure and building foundations and thinning necessary to ensure the health of remaining trees. CB 120354 would only allow removal of up to two Tier 4 trees in a three-year period in NR, LR, MR, commercial, and SM zones.	Strauss
D4	Authorize SDCI to promulgate rules related to specifying invasive tree species and pests, pathogens, and insects.	Pedersen
D5	Exempt dead trees from full hazard tree removal permit requirement.	Strauss
D6	Exempt removal of invasive or problematic tree species (as defined by the Director) from tree removal limits.	Strauss

Attachment 2. Potential Amendments

E. In-Lieu Fees and Tree Replacement Requirements		
No.	Description	Sponsor(s)
E1	Clarify that replacement trees planted to mitigate for removal of Tier 2 or Tier 3 trees for development count towards Green Factor. (25.11.090)	Strauss
E2	Establish the minimum in-lieu fee amount for any Tier 2 tree below 24 inches DSH to be equal to the fee for a 24 inch DSH tree. (25.11.110)	Strauss
E3	Authorize SDCI to promulgate rule to specify requirements for ensuring long-term health and survival of replacement trees and require that replacement trees be native and/or culturally significant and resilient to climate change.	Herbold Pedersen Strauss
E4	Change requirement for Tier 1, Tier 2, and Tier 3 tree removal to an inch-for-inch replacement (i.e., if a 30 inch DSH tree is removed, 30 inches of replacement trees must be planted).	Pedersen
E5	Require that if a replacement tree cannot be planted on-site or in the adjacent right-of-way, it should be planted on public land in Census tracts with 25 percent or less tree canopy cover, as determined by the 2021 Tree Canopy Assessment, or successor assessment.	Pedersen
E6	Codify minimum in-lieu fee to be \$2,833 per tree for Tier 3 trees and \$17.87 per square inch removed for Tier 1 and Tier 2 trees. For Tier 2 trees that are below 24 inches DSH, the fee will be equal to the fee for a 24 inch DSH tree. (25.11.110)	Pedersen
E7	Require that maintenance of relocated and replacement trees include "watering as needed"	Strauss
E8	Require replacement of failed replacement trees for the life of the project.	Pedersen
E9	Require that an active notice of violation for illegal tree removal associated with a property be resolved before the Seattle Department of Construction and Inspections will accept an application for development of that property.	Pedersen Strauss

F. Tree Service Providers		
No.	Description	Sponsor(s)
F1	Exempt fruit tree pruning for trees cultivated for fruit production from definition of "reportable work."	Strauss
F2	Establish additional penalties for unregistered tree service providers performing commercial tree work, such as loss of business license or significant fines.	Strauss

Attachment 2. Potential Amendments

G. Tree Protections During Development		
No.	Description	Sponsor(s)
G1	Change exception for street tree requirements for expansion of a structure by 1,000 square feet or less to 500 square feet or less in subsection 23.47A.016.B.2.b. This would require that street trees be planted when any expansion of 500 square feet or larger is planned for an existing structure (i.e., additions 500 square feet or more would not be exempt from street tree requirements).	Pedersen
G2	Require use of the ANSI A300 trunk diameter method (which accounts for irregular shapes) to determine tree protection areas instead of proposed drip line method.	Pedersen
G3	Remove ability for Seattle Department of Construction and Inspections to temporarily reduce the tree protection area for construction activities.	Pedersen
G4	Require consideration tree protection areas for trees located on abutting properties.	Strauss

H. Other Substantive Amendments		
No.	Description	Sponsor(s)
H1	Require removal of invasive vegetation during development and prohibit planting of invasive species with new development.	Pedersen Strauss
H2	Amend purpose and intent section to add to “address climate resiliency and reduce heat island impacts across the city,” as recommended by the Urban Forestry Commission. (25.11.010)	Strauss
H3	Add a new section to CB 120534 with findings to support tree regulations.	Pedersen

I. Non-Substantive Technical Amendments		
No.	Description	Sponsor(s)
I1	Amend the definition of "tree grove" to specify that each individual tree within a tree grove shall be regulated as a Tier 2 tree.	Pedersen Strauss
I2	Amend whole bill to use one term such as "Qualified Tree Professional"	Strauss
I3	Amend all references to hazard tree, tree risk assessment to reach consistent language and amend chapter definitions accordingly	Strauss