

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

WHEREAS, The City of Seattle (City) established a goal of achieving at least 30 percent tree canopy cover by 2037; and

WHEREAS, the City’s 2021 Tree Canopy Assessment determined that Seattle has experienced a net loss of 255 acres of tree canopy since 2016, representing a relative decrease of 1.7 percent; and

WHEREAS, tree canopy is inequitably distributed, with neighborhoods most impacted by racial and economic injustice starting with lower canopy and losing more canopy than the citywide average between 2016 and 2021; and

WHEREAS, these neighborhoods also tend to suffer from lower air quality and associated health impacts, and trees help to absorb air pollutants and increase air quality; and

WHEREAS, higher tree canopy cover helps to lower ambient temperatures and reduce heat island effects during the summer months, which are predicted to become increasingly hotter as the climate warms; and

WHEREAS, while all areas in Seattle suffered some amount of tree canopy cover loss, the Parks Natural Areas and Neighborhood Residential management units exhibited the greatest net losses, accounting for 78 percent of total canopy cover lost between 2016 and 2021; and

WHEREAS, the trends revealed by the 2021 Tree Canopy Assessment indicate that Seattle is further away from achieving its goal of 30 percent canopy cover; and

1 WHEREAS, to reverse this decline in canopy cover and realize the City’s goal of an equitably
2 distributed urban forest in Seattle, the City needs to consider innovative, equity-focused
3 strategies that promote housing development while also prioritizing tree planting,
4 preservation, and maintenance and community engagement; and

5 WHEREAS, the Office of Sustainability and Environment’s 2023 Adopted Budget includes
6 \$150,000 for a tree canopy equity and resilience assessment and plan that will identify
7 the best strategies and locations for planting, growing, and maintaining trees on private
8 and public land and in the right-of-way, with a focus on low-canopy neighborhoods in
9 environmental justice priority areas; and

10 WHEREAS, this legislation is intended to advance the City’s efforts to increase housing
11 production; reduce climate pollutants per the goals of the Green New Deal for Seattle;
12 increase community climate resiliency, particularly for vulnerable populations; and
13 address inequitable tree canopy cover so that all communities can enjoy the
14 environmental and aesthetic benefits of greater tree canopy cover in their neighborhoods;
15 and

16 WHEREAS, trees and urban forest provide necessary and substantial economic, social, health
17 and environmental benefits needed for a thriving, livable and resilient city. These benefits
18 include improved mental and physical public health, stormwater retention, wildlife
19 habitat preservation for birds and other species, pollution reduction, climate change
20 mitigation and adaptation, erosion control, urban heat island reduction, wind protection,
21 and aesthetic beauty; and

1 WHEREAS, the goals of this legislation are to protect and enhance the public health, safety,
2 environment, and general welfare of the people of the City by improving protections and
3 processes for Seattle’s trees and urban forest located on both public and private land;

4 NOW, THEREFORE,

5 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

6 Section 1. The City Council finds that:

7 A. The first comprehensive City of Seattle tree ordinance was unanimously adopted in
8 2001 by Ordinance 120410. The findings accompanying that ordinance remain valid today:

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

13 B. Trees have the following benefits:

- 14 1. Preserve and enhance the City's natural beauty;
- 15 2. Provide varied and rich habitats for wildlife;
- 16 3. Moderate the effects of wind and temperature and have a positive
17 impact on global climate change;
- 18 4. Slow runoff from precipitation, reduce soil erosion and sedimentation
19 and pollution of natural waterways; and thus minimize the public and private
20 costs for storm water control and treatment and utility maintenance;
- 21 5. Improve air quality, through the absorption of pollutants and
22 contamination;
- 23 6. Mask unwanted sound and reduce noise pollution; and

1 7. Enhance the economic value of both new and existing development.

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

5 B. An “interim” or “temporary” update to the City’s tree ordinance, Ordinance 122919,
6 was adopted in 2009, including the following recitals:

7 “WHEREAS, it is in the public interest to maximize the retention of large and
8 exceptional trees as these trees provide considerable benefit to the city in reducing storm
9 water runoff and pollution, absorbing air pollutants, providing wildlife habitat, absorbing
10 carbon dioxide, providing shade, stabilizing soil, and enhancing property value; and

11 WHEREAS, the City is aware of ongoing tree removal on sites that are not
12 undergoing development, which is inconsistent with Comprehensive Plan goals
13 concerning no-net loss of tree canopy, tree retention to enhance Seattle's historic, cultural,
14 environmental and aesthetic character, and general land use policies calling for the
15 retention and protection of trees; and

16 WHEREAS, the lack of sufficient regulations on sites not undergoing
17 development undermines the long-term goals for tree retention and preservation and
18 encourages tree removal prior to the application of a development permit; and

19 WHEREAS, it is necessary for the City to adopt interim regulations that
20 temporarily reduce or limit the removal of certain trees prior to the adoption of permanent
21 regulations that address existing tree removal practices that compromise the City's ability
22 to achieve its stated goals for tree protection.”

1 C. In 2017, a study prepared by the City’s Interdepartmental Tree Team concluded that
2 “Current code is not supporting tree protection.” Tree Regulations Research Project Phase II
3 Final Report, March 31, 2017.

4 D. The Fourth National Climate Assessment, published November 2018, concludes:
5 “Cities around the United States face a number of challenges to prosperity, such as social
6 inequality, aging and deteriorating infrastructure, and stressed ecosystems. Urban social
7 inequality is evident in disparities in per capita income, exposure to violence and environmental
8 hazards, and access to food, services, transportation, outdoor space, and walkable
9 neighborhoods...Urban forests, open space, and waterways provide multiple benefits, but many
10 are under stress because of land-use change, invasive species, and pollution. These social,
11 infrastructure, and environmental challenges affect urban exposure and susceptibility to climate
12 change effects” [references omitted].

13 E. The City’s latest Tree Canopy Assessment report, published in early 2023 based on
14 data through 2021, shows a continued reduction in tree canopy on both City-owned and private
15 lands. Tree canopy loss on private land occurs at a higher rate on land zoned for higher density
16 housing and other buildings.

17 F. Engrossed Substitute House Bill 1110, which passed the state legislature on April 20,
18 2023, requires the City to increase its development capacity by allowing more housing in
19 Seattle’s zones currently defined as Neighborhood Residential zones. Without mitigation,
20 implementing this requirement would likely decrease the City's existing ability to retain and
21 plant trees in residential zones, especially where the City’s latest Tree Canopy Assessment
22 Report indicates there is the most acreage of existing tree canopy coverage.

1 G. To maintain the public health, safety, and welfare benefits of trees, the City must
2 utilize a range of regulatory tools including: requiring property owner mitigation for tree
3 removals; maintaining incentives for tree preservation during development; providing adequate
4 ground-level area for tree planting and preservation; and allowing for construction design
5 adjustments or reasonable reductions in the size of development to accomplish preservation of
6 large trees.

7 Section 2. Section 23.44.020 of the Seattle Municipal Code, last amended by Ordinance
8 126509, is amended as follows:

9 **23.44.020 Tree requirements**

10 * * *

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

12 1. Street trees are required (~~in RSL zones~~) for development that would add one
13 or more principal dwelling units on a lot, except as provided in subsection (~~23.43.020.C.2~~)
14 23.44.020.C.2 and Section 23.53.015. Existing street trees shall be retained unless the Director of
15 Transportation approves their removal. The Director, in consultation with the Director of
16 Transportation, shall determine the number, type, and placement of additional street trees to be
17 provided in order to:

- 18 a. Improve public safety;
- 19 b. Promote compatibility with existing street trees;
- 20 c. Match trees to the available space in the planting strip;
- 21 d. Maintain and expand the urban forest canopy;
- 22 e. Encourage healthy growth through appropriate spacing;
- 23 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 3. 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 4. 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 5. 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 6. 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~~((;))~~;

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; and

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

18 **25.11.020 Exemptions**

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

20 A. Normal pruning and maintenance;

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

1 C. Tree removal undertaken as part of tree and vegetation management and revegetation
2 of public parkland and open spaces by responsible public agencies or departments;

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

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

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

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

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

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

21 ~~G. Tree removal or commercial tree work as approved by the Director prior to removal in~~
22 ~~accordance with a recommendation from a certified arborist for an insect, pest, and/or pathogen~~
23 ~~infestation that does not meet a high risk hazard, except that tree service providers conducting~~

1 commercial tree work on these trees must comply with the tree service provider registry
2 requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090;

3 H. Tree removal or commercial tree work to comply with the Americans with Disabilities
4 Act, or as necessary to improve access for the elderly or people with disabilities; except that tree
5 service providers conducting commercial tree work on these trees must comply with the tree
6 service provider registry requirements of Section 25.11.100;

7 I. Removal of invasive or nuisance trees, except that tree service providers conducting
8 commercial tree work on these trees must comply with the tree service provider registry
9 requirements of Section 25.11.100 and the replacement requirements of Section 25.11.090.

10 J. Removal of Tier 3 and Tier 4 trees to thin trees that were initially overplanted, as
11 approved by the Director prior to removal, on developed lots that, when taking the planned tree
12 removal into account, would have 40 percent canopy cover or higher; except that tree service
13 providers conducting commercial tree work on these trees must comply with the tree service
14 provider registry requirements of Section 25.11.100.

15 **25.11.030 Emergency actions**

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

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

1 B. Submit a hazardous tree removal application to the Seattle Department of Construction
2 and Inspections within ten calendar days of the emergency action; otherwise, the responsible
3 party may be subject to enforcement including fines and penalties in accordance with Section
4 25.11.120; and

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

7 ~~((25.11.040 Restrictions on tree removal~~

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

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

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

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

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

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

3 **25.11.040 Hazardous tree removal**

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

7 B. Trees subject to the provisions of this Chapter 25.11 may be removed as hazardous, if
8 those trees are rated by a registered tree service provider that has an employee or a person on
9 retainer who is currently credentialed with an ISA Tree Risk Assessment Qualification as an
10 Extreme or High Risk hazard, according to the following:

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

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

16 b. High Risk. This category applies to trees in which consequences are
17 significant and likelihood is very likely or likely, or when consequences are severe and
18 likelihood is likely.

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

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

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

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

8 4. Assessment of Extreme and High Risk trees:

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

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

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

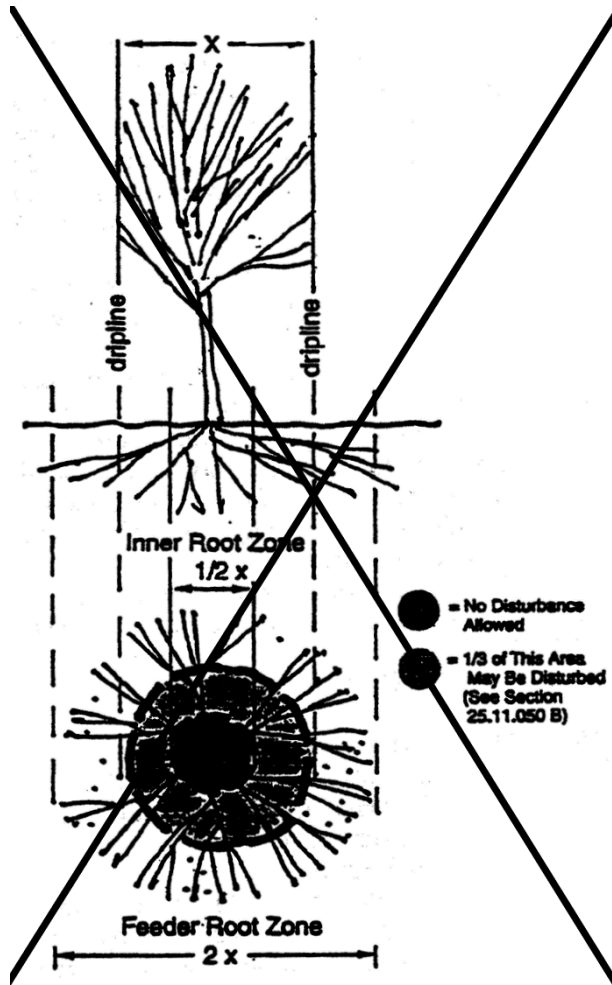
16 C. Tier 1, Tier 2, and Tier 3 trees must be replaced pursuant to Section 25.11.090 when
17 approved for removal as hazardous, except as provided in subsection 25.11.040.D.

18 D. Removal of dead trees is exempt from the risk assessment requirements of subsection
19 25.11.040.B and replacement requirements of subsection 25.11.040.C.

20 ~~**((25.11.050 General Provisions for exceptional tree determination and tree protection area**~~
21 ~~**delineation in Neighborhood Residential, Lowrise, Midrise, and Commercial zones.**~~

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

4 ~~B. Tree protection areas for exceptional trees shall be identified on site plans. Applicants~~
5 ~~seeking development standard waivers to protect other trees greater than 2 feet in diameter~~
6 ~~measured 4.5 feet above the ground shall also indicate tree protection areas on site plans. The~~
7 ~~basic tree protection area shall be the area within the drip line of the tree. The tree protection area~~
8 ~~may be reduced if approved by the Director according to a plan prepared by a registered tree~~
9 ~~service provider. Such reduction shall be limited to 1/3 of the area within the outer half of the~~
10 ~~area within the drip line. In no case shall the reduction occur within the inner root zone. In~~
11 ~~addition, the Director may establish conditions for protecting the tree during construction within~~
12 ~~the feeder root zone. (See Exhibit 25.11.050 B.)~~



1

2 **Exhibit 25.11.050B**

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

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

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

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

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

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

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

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

9 **25.11.050 General provisions for regulated tree categories**

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

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

14 2. When no development is proposed, Tier 1, Tier 2, Tier 3, and Tier 4 trees on
15 developed lots in all zones, except as allowed in subsection 25.11.050.B;

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

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

20 b. Tier 2 trees may not be removed except as permitted under Sections
21 25.11.070 and 25.11.080; and

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

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

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

7 D. In addition to the tree removal allowances in subsection 25.11.050.B, the Director may
 8 authorize removal and replacement of a Tier 3 tree, or removal of a Tier 4 tree, from developed
 9 lots in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed zones when
 10 removal is needed because the tree is causing obvious physical damage to building foundations
 11 or utility infrastructure, where continued or additional damage cannot be avoided through actions
 12 other than removal.

| <u>Table A for 25.11.050</u> | | |
|---|--|--|
| <u>Tree related activities on developed lots including but not limited to removal and topping by tree category</u> | | |
| <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 For standards related to undeveloped lots, see subsection 25.11.050.A. | | |

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~~((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 Requirements for trees when development is proposed**

12 A. Tree protection area

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

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

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

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

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

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

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

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

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

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

19 B. Site plan requirements

20 1. Tier 1, Tier 2, Tier 3, and Tier 4 trees, including off-site Tier 1, Tier 2, Tier 3,
21 and Tier 4 trees with canopies overhanging and/or roots extending onto the lot, are required to be
22 documented on all plan review sheets within a plan set submitted for a Master Use Permit or
23 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 that will be retained during development are required to be identified on
3 site plans. Tree protection fencing and signage are required to be shown on all plan review sheets
4 within a plan set submitted for a 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 c. ~~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 or into a required front
21 and/or rear yard to an extent greater than provided for in subsection 25.11.070.A.2;

1 b. Avoiding development in the basic tree protection area would result in a
2 portion of a principal dwelling unit, or an accessory dwelling unit, being less than 15 feet in
3 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 required front and/or rear yards, then no such extension into required yards shall
12 be permitted.

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

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

18 b. The basic tree protection area cannot be modified.

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

20 1. Tier 2 trees may be removed as follows:

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

1 1) Calculate the basic tree protection area on the lot. For the
2 purposes of this subsection 25.11.070.B, the basic tree protection area cannot be modified.

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

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

10 4) When the basic tree protection area of an off-site Tier 1, Tier 2,
11 or Tier 3 tree is located on the lot, this area shall be included in accordance with subsection
12 25.11.070.B.

13 b. In Midrise, Commercial, and Seattle Mixed zones Tier 2 trees may be
14 removed, if an otherwise allowable development area of 100 percent cannot be achieved without
15 extending into the basic tree protection area more than allowed pursuant to subsection
16 25.11.060.A.

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

22 2. If an applicant chooses to retain Tier 2 trees that would otherwise be allowed to
23 be removed under subsection 25.11.070.B.1 or if encroachment into the tree protection area of an

1 off-site Tier 1, Tier 2, or Tier 3 tree cannot otherwise be avoided, modifications to development
2 standards are allowed as follows:

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

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

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

8 3) Landscaping and screening may be reduced by a maximum of
9 75 percent; and

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

12 b. For development that:

13 1) Receives public funding or an allocation of federal low-income
14 housing tax credits; and

15 2) Is subject to a regulatory agreement, covenant, or other legal
16 instrument recorded on the property title and enforceable by The City of Seattle, Washington
17 State Housing Finance Commission, State of Washington, King County, U.S. Department of
18 Housing and Urban Development, or other similar entity as approved by the Director of
19 Housing; and

20 3) Either: restricts at least 40 percent of rental units to occupancy
21 by households earning no greater than 60 percent of median income, and controls the rents that
22 may be charged for a minimum period of 40 years: or restricts at least 40 percent of ownership

1 units to occupancy by households earning no greater than 80 percent of median income, and
2 controls the sale price of the units for a minimum period of 40 years

3 The following Type I modifications to standards are permitted:

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

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

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

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

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

21 3. Tree removal required for development to achieve the allowable development
22 area according to subsection 25.11.070.B.1 or height limits of the applicable zone includes, but is

1 not limited to, the construction of new structures, vehicles and pedestrian access, utilities,
2 retaining wall, or other similar improvement.

3 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
4 ~~zones~~

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

6 A. ~~Exceptional trees~~

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

12 2. ~~The Director may permit an exceptional tree to be removed only if the~~
13 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~
14 ~~area could not be achieved through the development standard adjustments permitted in Section~~
15 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
16 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
17 ~~in the standards of Section 23.54.030.~~

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

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

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

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

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

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

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

13 **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

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

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

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

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

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

5 **25.11.090 Tree replacement, maintenance, and site restoration**

6 A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ In all zones, Tier 1,
7 Tier 2, and Tier 3 trees removed in association with development or because they are hazardous,
8 infested by insects, pests, or pathogens, or an invasive or nuisance tree, or in accordance with the
9 removal criteria in subsection 25.11.050.D, ~~((in all zones))~~ shall be replaced by one or more new
10 trees, the size and species of which shall be determined by the Director; the tree replacement
11 required shall be designed to result, upon maturity, in a canopy cover that is ~~((at least equal))~~ at
12 least roughly proportional to the canopy cover prior to tree removal. Site restoration where there
13 is on-site tree replacement in association with development shall include the removal of all
14 invasive vegetation and shall prohibit replacement with invasive species. ~~((Preference shall be~~
15 ~~given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate~~
16 ~~as determined by the Director, preference for off-site replacement shall be on public property.))~~
17 When on-site replacement is proposed, such trees count toward the Green Factor under SMC
18 23.86.019. When off-site replacement is proposed, preference for the location shall be on public
19 property.

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

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

3 Maintenance and monitoring shall include the following:

4 1. Sufficient maintenance actions to ensure survival of the replacement tree:

5 a. When more than one replacement tree is required, 80 percent survival of
6 new trees planted at the end of five years;

7 b. When one replacement tree is required, 100 percent survival of the new
8 tree planted at the end of five years;

9 2. Replacement and replanting of failed trees; and

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

13 C. In addition to the maintenance actions for replacement trees described in subsection
14 25.11.090.B.1, the Director shall promulgate rules to maintain the long-term health and ensure
15 survival of replacement trees. This shall include rules that specify:

16 1. The watering of replacement trees necessary to ensure survival; and

17 2. Tree species that will fulfill the replacement requirement. Qualifying tree
18 species shall be limited to trees that are native and/or culturally significant, and resilient to
19 climate change.

20 D. The locations of replacement and relocated trees shall be available to the public on a
21 City web page through an online mapping tool by March 31, 2024.

22 **25.11.100 Tree service provider registration**

23 A. Applicability

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

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

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

10 4. This Section 25.11.100 does not regulate commercial tree work under the
11 jurisdiction and oversight of the Department of Transportation, the Seattle Parks and Recreation
12 Department, the Department of Finance and Administrative Services, Seattle Public Utilities, or
13 the City Light Department.

14 B. Tree service provider registration required. A tree service provider must be registered
15 by the Director before it may conduct commercial tree work unless otherwise provided in
16 subsection 25.11.100.A. A tree service provider registration shall be valid for one year from the
17 date of issuance. The Director shall publish a registry of registered tree service providers on a
18 City web page available to the public. Registered tree service providers are required to renew
19 their registration annually. Annual registration renewals shall require submittal to the Director of
20 documentation of continued compliance with this Chapter 25.11, provided that renewal may be
21 denied pursuant to any rules administering this Section 25.11.100 or as provided in Section
22 25.11.120. A tree service provider registration shall be issued by the Director to each applicant
23 meeting the following requirements:

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

15 C. Tree service provider activities

- 16 1. Unless it is an emergency action pursuant to Section (~~(25.11.020)~~) 25.11.030, a
- 17 registered tree service provider shall comply with the following public notice requirements prior
- 18 to conducting commercial tree work that involves reportable work or removal of any (~~(tree 6~~
- 19 ~~inches or greater DBH)~~) Tier 1, Tier 2, Tier 3, or Tier 4 tree:
- 20 a. The registered tree service provider shall provide the Director with the
- 21 following information:

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

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

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

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

16 c. If the tree does not meet the City's definition of (~~exceptional~~) a Tier 2
17 tree, the registered tree service provider that prepares the report required by subsection
18 25.11.100.C.3.b for the hazardous tree removal permit application may also perform the removal
19 of the tree; and

20 d. If the tree meets the City's definition of (~~exceptional~~) a Tier 2 tree, the
21 Director may require that the registered tree service provider or hiring entity shall engage another
22 registered tree service provider to independently assess the tree and prepare the report required
23 by subsection 25.11.100.C.3.b. The registered tree service provider that independently assesses

1 the tree and prepares the report must be different from the registered tree service provider that
2 will perform the removal of the tree.

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

8 **25.11.110 Off-site planting and voluntary payment in lieu**

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

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

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

17 C. Payments shall be calculated pursuant to a rule promulgated by the Director. For Tier
18 1 and Tier 2 trees that are below 24 inches DSH, the payment shall be equal to the amount for a
19 Tier 1 or Tier 2 tree that is 24 inches DSH.

20 D. Revenue generated from payment in lieu of planting shall be used to plant and
21 maintain new trees in census tracts with tree canopy cover of 25 percent or less, according to the
22 2021 Seattle Tree Canopy Assessment (or successor tree canopy assessment). Within these
23 census tracts, the City shall prioritize planting new trees in the public place.

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 subsections 25.11.115.B
5 and 25.11.115.C, of the amount of mitigation calculated according to Section 25.11.110 or the
6 limitation on Tier 1 tree removals according to Section 25.11.050, respectively.

7 2. An applicant requesting a modification under subsection 25.11.115.B regarding
8 the amount of mitigation calculated according to Section 25.11.110 shall have requested a
9 modification to standards according to Section 25.11.070, if applicable.

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

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

16 C. Modification based on severe economic impact

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

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

4 3. The Director may waive or modify regulations that limit the removal of Tier 1
5 trees, if the applicant shows that application of the requirements according to this Chapter 25.11
6 would:

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

9 b. Create severe economic impact, not reaching deprivation of all
10 economically beneficial use, but as applied on a case-by-case basis after weighing the economic
11 impact of the regulations on the property owner, the extent to which the regulations have
12 interfered with distinct investment-backed expectations, and the character of the City's tree
13 regulations.

14 4. In determining whether there is a severe economic impact under Section
15 25.11.115.C.3.b, the Director may weigh the following factors:

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

18 b. The degree to which the Tier 1 tree removal limitations under Section
19 25.11.050 were or could have been anticipated at the time the property owner purchased the
20 property or at the time the property owner voluntarily agreed to enter into the Heritage Tree
21 Program;

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

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

3 e. Other factors relevant to whether the burden should be borne by the
4 property owner.

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

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

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

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

13 c. The identity of the property owner and the date of the owner's
14 acquisition of the property and the date the property owner voluntarily entered into the Heritage
15 Tree Program;

16 d. Documentation showing the use of the property at the time of the
17 request or, if the property is vacant at that time, the use of the property prior to commencement
18 of vacancy;

19 e. Documentation explaining and supporting the claim of economic
20 impact; and

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

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

5 8. The fact of a decrease in property value, standing alone and without
6 consideration of the full range of relevant factors including those according to subsection
7 25.11.115.C.4, shall not be a sufficient basis for the Director to grant a waiver or modification
8 authorized according to this subsection 25.11.115.C.

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

11 **25.11.120 Enforcement and penalties**

12 A. Authority

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

18 2. The Director shall remove a registered tree service provider from the public
19 registry for a period of one year after that registered tree service provider has been issued two
20 notices of violation for the removal of a Tier 1, Tier 2, Tier 3, or Tier 4 tree in violation of this
21 Chapter 25.11 within a period of one year. Following the one-year removal period, the tree
22 service provider may submit an application to be added to the public registry. Beginning on
23 January 1, 2024, penalties shall be double the amount set by Director's rule for a violation of

1 Section 25.11.100 for tree service providers that conduct commercial tree work without first
2 registering with the City.

3 3. The Director shall not issue a permit for development on a site for which a
4 notice of violation has been issued until that notice of violation is resolved.

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

11 C. ~~Notice of ((Violation-))~~ violation

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

16 2. Contents~~((:-))~~

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

19 i. A description of the violation and the action necessary to correct
20 it;

21 ii. The date of the notice; and

22 iii. A deadline by which the action necessary to correct the
23 violation must be completed.

1 adequate notice of the ~~((stop work))~~ stop work order. A failure to comply with a ~~((stop work))~~
2 stop work order shall constitute a violation of ~~((this chapter))~~ Chapter 25.11.

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

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

10 2. Following receipt of a request for review, the Director shall notify the
11 requesting party, any persons served the ~~((Notice of Violation, order or invoice,))~~ notice of
12 violation and any person who has requested notice of the review, that the request for review has
13 been received by the Director. Additional information for consideration as part of the review
14 shall be submitted to the Director no later than ~~((fifteen (15))~~ 15 days after the ~~((written request~~
15 ~~for a review is mailed))~~ Director notifies the requester of timely receipt of the request for review.

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

21 a. ~~Sustain the Notice of Violation, order or invoice; or~~

22 b. ~~Withdraw the Notice of Violation, order or invoice; or~~

1 e. ~~Continue~~) sustain, withdraw, modify, or amend the notice of violation,
2 or continue the review to a date certain for receipt of additional information(~~;~~~~or~~

3 ~~d. Modify or amend the Notice of Violation, order, or invoice~~) .

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

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

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

17 H. Change of (~~Ownership~~) ownership. When a (~~Notice of Violation~~) notice of
18 violation, voluntary compliance agreement, or (~~an~~) order issued by the Director or (~~court~~)
19 Municipal Court has been filed with the King County (~~Department of Records and Elections~~)
20 Recorder's Office, a (~~Notice of Violation~~) notice of violation or an order regarding the same
21 violations need not be served upon a new owner of the property where the violation occurred. If
22 no (~~Notice of Violation~~) notice of violation or order is served upon the new owner, the Director
23 may grant the new owner the same number of days to comply as was given the previous owner.

1 The compliance period for the new owner shall begin on the date that the conveyance of title to
2 the new owner is completed.

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

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

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

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

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

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

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

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

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

10 2. Anyone violating or failing to comply with any of the provisions of this
11 ~~((chapter))~~ Chapter 25.11 and who within the past five ~~((5))~~ years has had a judgment against
12 them pursuant to subsection 25.11.120.B shall upon conviction ~~((thereof,))~~ be fined in a sum not
13 to exceed ~~((Five Thousand Dollars (\$5,000)))~~ \$5,000 or by imprisonment for not more than
14 ~~((three hundred sixty four (364)))~~ 364 days, or by both such fine and imprisonment. Each day's
15 violation or failure to comply shall constitute a separate offense.

16 **25.11.130 Definitions**

17 “Commercial tree work” means any of the following actions conducted within ~~((the City~~
18 ~~of))~~ Seattle in exchange for financial compensation: reportable work; and the removal ~~((of any~~
19 ~~tree 6 inches or greater DBH; and the assessment of the health or hazard risk of trees larger than~~
20 6 inches DBH)) or assessment of the health or hazard risk of any Tier 1, Tier 2, Tier 3, or Tier 4
21 tree. Normal pruning and maintenance that does not meet the definition of reportable work is not
22 commercial tree work.

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

4 “Diameter at ~~((breast))~~ standard height” or ~~((“DBH”))~~ “DSH” means the diameter of a
5 tree trunk measured at 4.5 feet above ground. ~~((Diameter at breast height is equivalent to
6 “diameter at standard height” or “DSH.”))~~

7 “Director” means the Director of the Seattle Department of Construction and Inspections.

8 “Drip line” means an area encircling the base of a tree, the minimum extent of which is
9 delineated by a vertical line extending from the outer limit of a tree’s branch tips down to the
10 ground. The drip line may be irregular in shape to reflect variation in branch outer limits.

11 “Emergency action” means any action taken to a Tier 1, Tier 2, or Tier 3 tree that has an
12 extreme risk of imminent failure risk rating according to tree risk assessment evaluation
13 standards established by the International Society of Arboriculture (ISA), including but not
14 limited to such actions as trimming or removal that is necessary to remedy an immediate threat to
15 people, structures, or health and safety.

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

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

22 “Hazardous tree” means any tree or tree part that poses a high risk of damage to persons
23 or property, and that is designated ~~((as such))~~ by the Director ~~((according to the tree hazard~~

1 ~~evaluation standards~~) according to tree risk assessment evaluation standards established by the
2 International Society of Arboriculture.

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

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

9 “Invasive tree” or “nuisance tree” means any tree species that is documented on the King
10 County Noxious Weed Board’s Class A, Class B, Class C Noxious Weed, or any Weeds of
11 Concern Lists, except that the following trees shall not be considered an invasive tree or nuisance
12 tree: Black locust - *Robinia pseudoacacia*; Harlequin (prev. Norway) maple - *Acer platanoides*;
13 and Horsechestnut - *Aesculus hippocastanum*.

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

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

18 “Reportable work” means removal of live branches ((2)) 4 inches in diameter or greater;
19 pruning or removal of live roots 2 inches in diameter or greater; or removal of live branches
20 constituting ((15)) 25 percent or more of a tree’s foliage-bearing area. Pruning of trees cultivated
21 for fruit production and maintenance of hedges is not reportable work.

22 “Responsible party” means, in cases of violations, a person in control of property in fee
23 ownership or tenancy where a tree or tree protection area is located and the person or entity that

1 damaged or removed the tree. The responsible party may include the owner or owners, lessees,
2 tenants, occupants, or other persons who direct or pay for the detrimental action. The responsible
3 party may also include the person, partnership, or corporation who violated the provisions of this
4 Chapter 25.11.

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

7 “Tier 2 tree” means any tree that is 24 inches in diameter at standard height or greater,
8 tree groves, each tree comprising a tree grove, and specific tree species below 24 inches in
9 diameter at standard height as provided by Director’s Rule.

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

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

14 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
15 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
16 branches to lateral branches that are less than ((one half (1/2))) half of the diameter of the limb
17 or branch that is cut. Topping does not include acceptable pruning practices as described in the
18 ANSI A300 standards or their successor such as crown reduction, utility pruning, or crown
19 cleaning to remove a safety hazard or dead or diseased material. Topping is a type of tree
20 removal.

21 “Tree grove” means a group of eight or more trees, 12 inches in diameter at standard
22 height or greater that has a continuous canopy. It excludes red alders, black cottonwoods, bitter
23 cherries, Lombardy poplars, invasive trees, and any tree, the entire trunk of which is in the public

1 place. Trees planted as a hedge or clearly maintained as such are not tree groves. A tree grove
2 may be located across property lines on abutting and/or adjacent lots. A tree grove shall be
3 regulated as a Tier 2 tree, and each tree comprising that grove shall also be regulated as a Tier 2
4 tree.

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

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

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

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

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

19 Section 9. New portions of Seattle Municipal Code Chapter 25.11 substantially identical
20 to struck provisions shall be construed as continuations of the struck portions rather than new
21 enactments.

22 Section 10. The provisions of this ordinance are separate and severable. The invalidity of
23 any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the

1 invalidity of its application to any person or circumstance, does not affect the validity of the
2 remainder of this ordinance or the validity of its application to other persons or circumstances.

3 Section 11. This section establishes the Council’s intent for the City to take additional
4 measures to support implementation of the tree protection regulations enacted by this ordinance
5 and enhance Seattle’s urban forest. Attachment 1 to this ordinance outlines specific requests to
6 the Executive for future work and additional actions the Council intends to implement related to
7 protecting trees and increasing tree canopy cover on both public and private property.

