

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

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

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.44.020 of the Seattle Municipal Code, last amended by Ordinance 126509, is amended as follows:

23.44.020 Tree requirements

* * *

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

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

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

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

2 2. Exceptions to street tree requirements

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

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

13 * * *

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

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

17 * * *

18 B. Street tree requirements

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

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

8 2. Exceptions to street tree requirements

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

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

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

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

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

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

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

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

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

9 * * *

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

12 **23.48.055 Landscaping and screening standards**

13 * * *

14 **D. Street trees requirements**

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

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

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

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

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

5 2. Exceptions to street tree requirements((:))

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

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

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

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

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

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

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

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

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

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

5 **23.76.004 Land use decision framework**

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

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

20 * * *

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

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

3 **23.76.006 Master Use Permits required**

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

6 B. The following decisions are Type I:

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

- 1 3. The following street use approvals:
 - 2 a. Curb cut for access to parking, whether associated with a development
 - 3 proposal or not;
 - 4 b. Concept approval of street improvements associated with a
 - 5 development proposal, such as additional on-street parking, street landscaping, curbs and gutters,
 - 6 street drainage, sidewalks, and paving;
 - 7 c. Structural building overhangs associated with a development proposal;
 - 8 d. Areaways associated with a development proposal;
 - 9 4. Lot boundary adjustments;
 - 10 5. Modification of the following features bonused under Title 24:
 - 11 a. Plazas;
 - 12 b. Shopping plazas;
 - 13 c. Arcades;
 - 14 d. Shopping arcades; and
 - 15 e. Voluntary building setbacks;
 - 16 6. Determinations of Significance (determination that an Environmental Impact
 - 17 Statement is required) for Master Use Permits and for building, demolition, grading, and other
 - 18 construction permits (supplemental procedures for environmental review are established in
 - 19 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
 - 20 Significance based solely on historic and cultural preservation;
 - 21 7. Discretionary exceptions for certain business signs authorized by subsection
 - 22 23.55.042.D;
 - 23 8. Waiver or modification of required right-of-way improvements;

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

1 20. Application of tree provisions pursuant to Chapter 25.11; and

2 21. Other Type I decisions.

3 * * *

4 Section 6. The following sections of Chapter 25.11 of the Seattle Municipal Code are
5 recodified:

6 25.11.020 (Definitions) to 25.11.130

7 25.11.030 (Exemptions) to 25.11.020

8 25.11.100 (Enforcement and penalties) to 25.11.120

9 25.11.095 (Tree service provider registration) to 25.11.100

10 Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance
11 126777, is amended as follows:

12 **25.11.010 Purpose and intent ((-))**

13 ((~~It is the~~)) The purpose and intent of this ((~~chapter~~)) Chapter 25.11 is to:

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

17 B. ((~~To preserve~~)) Preserve and enhance the City’s physical and aesthetic character by
18 preventing untimely and indiscriminate removal or destruction of trees;

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

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

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

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

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

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

17 **25.11.020 Exemptions**

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

19 A. Normal pruning and maintenance;

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

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

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

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

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

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

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

17 G. Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and
18 payment in lieu of replanting undertaken as part of redevelopment that meets the planned action
19 ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section 23.75.160;

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

22 I. Tree removal or commercial tree work as approved by the Director prior to removal in
23 accordance with a recommendation from a certified arborist for an insect and/or pest infestation

1 that does not meet a high risk hazard, except that tree service providers conducting commercial
2 tree work on these trees must comply with the tree service provider registry requirements of
3 Section 25.11.100; and

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

7 **25.11.030 Emergency actions**

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

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

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

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

21 ~~**(25.11.040 Restrictions on tree removal**~~

22 ~~A. Tree removal or topping is prohibited in the following cases, except as provided in~~
23 ~~Section 25.11.030, or where the tree removal is required for the construction of a new structure,~~

1 ~~retaining wall, rockery, or other similar improvement that is approved as part of an issued~~
2 ~~building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080:~~

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

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

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

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

14 ~~C. Tree removal in Environmentally Critical Areas shall comply with the provisions of~~
15 ~~Section 25.09.070:))~~

16 **25.11.040 Hazardous tree removal**

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

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

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

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

6 b. High Risk. This category applies to trees in which consequences are
7 significant and likelihood is very likely or likely, or when consequences are severe and
8 likelihood is likely.

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

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

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

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

19 4. Assessment of Extreme and High Risk trees:

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

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

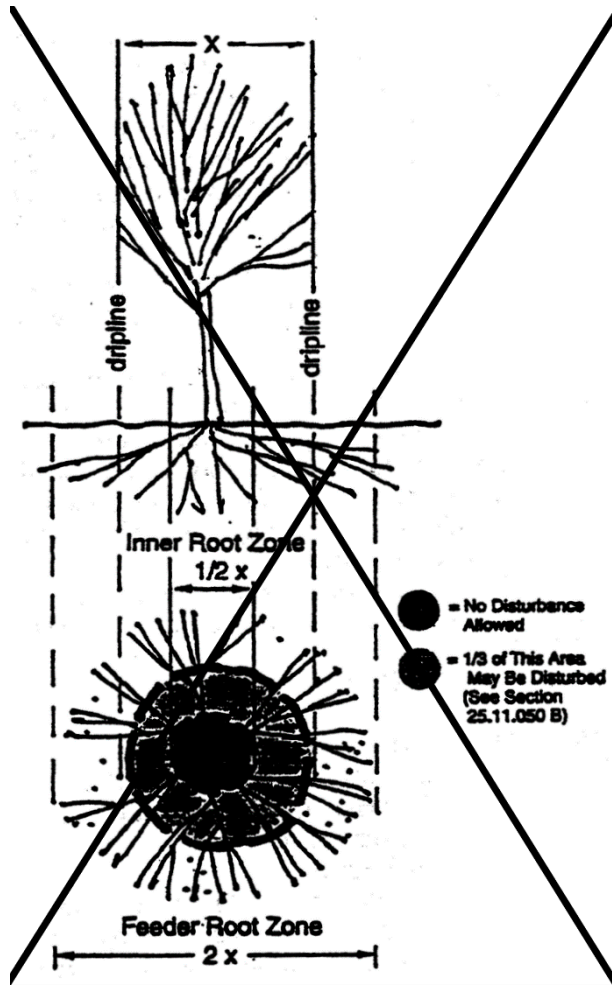
4 5. The assessment of other risk categories applicable to regulated trees shall be at
5 the discretion of the Director.

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

8 ~~((25.11.050 General Provisions for exceptional tree determination and tree protection area~~
9 ~~delineation in Neighborhood Residential, Lowrise, Midrise, and Commercial zones.~~

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

13 ~~B. Tree protection areas for exceptional trees shall be identified on site plans. Applicants~~
14 ~~seeking development standard waivers to protect other trees greater than 2 feet in diameter~~
15 ~~measured 4.5 feet above the ground shall also indicate tree protection areas on site plans. The~~
16 ~~basic tree protection area shall be the area within the drip line of the tree. The tree protection area~~
17 ~~may be reduced if approved by the Director according to a plan prepared by a registered tree~~
18 ~~service provider. Such reduction shall be limited to 1/3 of the area within the outer half of the~~
19 ~~area within the drip line. In no case shall the reduction occur within the inner root zone. In~~
20 ~~addition, the Director may establish conditions for protecting the tree during construction within~~
21 ~~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 Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle Mixed
16 zones, except as allowed in subsection 25.11.050.B;

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

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

21 b. Tier 2 trees may not be removed except as permitted under Sections
22 25.11.070 and 25.11.080; and

23 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 in Neighborhood Residential, Lowrise, Midrise, commercial, and Seattle
 3 Mixed zones, and no more than three Tier 3 and Tier 4 trees may be removed in any one-year
 4 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.

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

<u>Tree category</u>	<u>Not part of a permit application¹</u>	<u>During development – Part of a permit application</u>
<u>Tier 1</u> <u>Includes trees designated as heritage trees</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>
<u>Tier 2</u> <u>Includes trees 24 inches at DSH or greater, tree groves, and specific tree species as provided by Director’s Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 3</u> <u>Includes trees 12 inches at DSH or greater but less than 24 inches at DSH that are not considered Tier 2 trees as provided by Director’s Rule</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as provided in subsections 25.11.050.B and 25.11.050.C</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 4</u> <u>Includes trees 6 inches at DSH but</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as</u>	<u>Approval for removal is part of overall development permit</u>

<u>less than 12 inches at DSH</u>	<u>provided in subsections 25.11.050.B and 25.11.050.C</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.~~

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

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

~~B. Trees over 2 feet in diameter measured 4.5 feet above the ground shall be identified on site plans. In order to protect such trees, an applicant may modify their development proposal to~~

1 ~~extend into front and/or rear yards in the same manner as provided for exceptional trees in~~
2 ~~subsection 25.11.060.A.))~~

3 **25.11.060 Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area**
4 **delineation**

5 A. Tree protection area

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

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

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

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

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

22 b. The tree protection area shall not be reduced more than 35 percent
23 unless an alternative tree protection area or construction method will provide equal or greater

1 tree protection and result in long-term retention and viability of the tree as determined by a
2 certified arborist.

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

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

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

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

12 B. Site plan requirements

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

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

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

22 4. Site plans that include modifications to development standards pursuant to the
23 provisions of Title 23 and this Chapter 25.11 to avoid development within a designated tree

1 protection area are required to be reviewed and approved by a certified arborist to determine that
2 the development shown would protect applicable trees.

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

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

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

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

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

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

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

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

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

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

11 D. Trees protected by covenant

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

- 15 a. Tier 1 trees that are not determined to be hazardous or in need of
16 emergency action;
- 17 b. Tier 2 trees that are not removed pursuant to Sections 25.11.070 or
18 25.11.080; and
- 19 c. Tier 3 trees that are not proposed to be removed.

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

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

4 ~~((25.11.070 Tree protection on sites undergoing development in Lowrise zones~~

5 ~~The provisions in this Section 25.11.070 apply in Lowrise 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 development 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 the exceptional tree to be removed only if the total~~
13 ~~floor area that could be achieved within the maximum permitted FAR and height limits of the~~
14 ~~applicable Lowrise zone according to Title 23 cannot be achieved while avoiding the tree~~
15 ~~protection area through the following:~~

16 a. ~~Development standard adjustments permitted in Section 23.41.018 or~~
17 ~~the departures permitted in Section 23.41.012.~~

18 b. ~~An increase in the permitted height as follows under subsection~~
19 ~~25.11.070.A.3.~~

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

22 a. ~~Permitted height. For a principal structure with a base height limit of 40~~
23 ~~feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the Director may~~

1 ~~permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50~~
2 ~~feet if the increase is needed to accommodate, on an additional story, the amount of floor area~~
3 ~~lost by avoiding development within the tree protection area and the amount of floor area on the~~
4 ~~additional story is limited to the amount of floor area lost by avoiding development within the~~
5 ~~tree protection area.~~

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

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

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

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

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

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

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

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

4 **25.11.070 Tree protection on sites undergoing development in Neighborhood Residential,**
5 **Lowrise, Midrise, commercial, and Seattle Mixed zones**

6 A. Neighborhood Residential zones

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

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

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

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

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

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

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

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

5 a. Calculate the basic tree protection area on the lot;

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

10 c. When multiple Tier 2 trees are located on a lot, the minimum number of
11 trees needed to reach 85 percent may be removed in accordance with subsection 25.11.060.C.

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

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

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

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

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

22 3) Landscaping and screening may be reduced by a maximum of
23 25 percent; and

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

3 b. For development subject to design review, the departures permitted in
4 Section 23.41.012.

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

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

20 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
21 ~~zones~~

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

23 A. Exceptional trees

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

6 2. ~~The Director may permit an exceptional tree to be removed only if the~~
7 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~
8 ~~area could not be achieved through the development standard adjustments permitted in Section~~
9 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
10 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
11 ~~in the standards of Section 23.54.030.~~

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

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

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

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

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

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

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

6 **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

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

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

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

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

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

20 **25.11.090 Tree replacement, maintenance, and site restoration**

21 A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ Tier 1, Tier 2, and
22 Tier 3 trees including hazardous trees removed in association with development in all zones shall
23 be replaced by one or more new trees, the size and species of which shall be determined by the

1 Director; the tree replacement required shall be designed to result, upon maturity, in a canopy
2 cover that is ~~((at least equal))~~ roughly proportional to the canopy cover prior to tree removal.
3 ~~((Preference shall be given to on-site replacement. When on-site replacement cannot be
4 achieved, or is not appropriate as determined by the Director, preference for off-site replacement
5 shall be on public property.))~~ When off-site replacement is proposed, preference for the location
6 shall be on public property.

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

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

13 Maintenance and monitoring shall include the following:

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

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

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

19 2. Replacement and replanting of failed trees; and

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

23 **25.11.100 Tree service provider registration**

1 A. Applicability

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

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

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

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

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

1 25.11.120. A tree service provider registration shall be issued by the Director to each applicant
2 meeting the following requirements:

3 1. Possesses a current and valid Seattle business license;

4 2. Has at least one employee or a person on retainer who is a currently

5 credentialed International Society of Arboriculture (ISA) certified arborist trained and

6 knowledgeable to conduct work in compliance with (~~American National Standards Institute~~

7 ~~(ANSI) Standard A-300~~) ANSI A300 standards or (~~its~~) their successor (~~standard~~);

8 3. Acknowledges in writing knowledge of City codes applicable to commercial

9 tree work;

10 4. Is not currently under suspension from registration under Section 25.11.120 and

11 does not have any outstanding fines or penalties related to commercial tree work activities owed

12 to The City of Seattle;

13 5. Possesses a current and valid Washington State contractor registration under

14 chapter 18.27 RCW; and

15 6. Possesses a current certificate of insurance with an amount of insurance

16 coverage determined by the Director.

17 C. Tree service provider activities

18 1. Unless it is an emergency action pursuant to Section (~~25.11.020~~) 25.11.030, a

19 registered tree service provider shall comply with the following public notice requirements prior

20 to conducting commercial tree work that involves reportable work or removal of any tree 6

21 inches or greater (~~DBH~~) DSH:

22 a. The registered tree service provider shall provide the Director with the

23 following information:

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

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

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

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

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

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

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

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.

18 **25.11.120 Enforcement and penalties**

19 A. Authority

20 1. The Director (~~((shall have))~~) has authority to enforce the provisions of this
21 Chapter 25.11, (~~((to))~~) issue permits, impose conditions and establish penalties for violations of
22 applicable law or rules by (~~((registered tree service providers,))~~) the responsible party, establish

1 administrative procedures and guidelines, conduct inspections, and prepare the forms and publish
2 Director's Rules that may be necessary to carry out the purposes of this Chapter 25.11.

3 2. The Director shall remove a registered tree service provider from the public
4 registry for a period of one year after that registered tree service provider has been issued two
5 notices of violation. Following the one-year removal period, the tree service provider may
6 submit an application to be added to the public registry.

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

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

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

18 2. Contents~~((:))~~

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

- 21 i. A description of the violation and the action necessary to correct
22 it;
- 23 ii. The date of the notice; and

1 iii. A deadline by which the action necessary to correct the
2 violation must be completed.

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

6 3. Service. The Director shall serve the notice upon a responsible party either by
7 personal service or by first class mail to the party's last known address. (~~If the address of the~~
8 ~~responsible party is unknown and cannot be found after a reasonable search, the notice may be~~
9 ~~served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if~~)
10 If the whereabouts of the responsible party (~~is~~) are unknown and cannot be ascertained in the
11 exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service
12 may be accomplished by publishing the notice once each week for two consecutive weeks in the
13 City official newspaper and by posting a copy of the notice at a conspicuous place on the
14 property.

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

19 D. (~~Stop work Order~~) Stop work order. Whenever a continuing violation of this
20 (~~chapter~~) Chapter 25.11 will materially impair the Director's ability to secure compliance with
21 this (~~chapter~~) Chapter 25.11, when the continuing violation threatens the health or safety of the
22 public, or when the continuing violation threatens or harms the environment, the Director may
23 issue a (~~stop work~~) stop work order specifying the violation and prohibiting any work or other

1 activity at the site. The posting of the (~~(stop work)~~) stop work order on the site shall be deemed
2 adequate notice of the (~~(stop work)~~) stop work order. A failure to comply with a (~~(stop work)~~)
3 stop work order shall constitute a violation of (~~(this chapter)~~) Chapter 25.11.

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

5 1. A (~~(Notice of Violation, Director's order, or invoice)~~) notice of violation issued
6 pursuant to this (~~(subtitle)~~) Chapter 25.11 shall be final and not subject to further appeal unless
7 an aggrieved party requests in writing a review by the Director within ten (~~((40))~~) days after
8 service of the (~~(Notice of Violation, order or invoice)~~) notice of violation. When the last day of
9 the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall
10 (~~(period shall)~~) run until (~~(five (5:00))~~) 5 p.m. on the next business day.

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

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

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

23 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. If the violation is found to have been willful or malicious, conducted
10 purposefully to improve views, increase market value, or expand development potential, or the
11 result of negligence by a contractor or operator of construction machinery, the amount of the
12 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(~~;~~) 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; removal of any tree 6
19 inches or greater ~~((DBH))~~ DSH; and the assessment of the health or hazard risk of trees larger
20 than 6 inches ~~((DBH))~~ DSH. Normal pruning and maintenance that does not meet the definition
21 of reportable work is not 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 using the International Society of Arboriculture
13 (ISA) Tree Risk Assessment Qualification (TRAQ) method, including but not limited to such
14 actions as trimming or removal that is necessary to remedy an immediate threat to people,
15 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” means any tree species that is documented on the King County Noxious
10 Weed Board’s Class A, Class B, or Class C Noxious Weed Lists.

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

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

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

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

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

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

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

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

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

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

22 “Tree protection area” means the area surrounding a tree defined by a specified distance,
23 in which excavation and other construction-related activities must be avoided unless approved by

1 the Director. The tree protection area is variable depending on species, age and health of the tree,
2 soil conditions, and proposed construction.

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

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

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

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

12 Section 7. New portions of Seattle Municipal Code Chapter 25.11 substantially identical
13 to struck provisions shall be construed as continuations of the struck portions rather than new
14 enactments.

15 Section 8. The provisions of this ordinance are separate and severable. The invalidity of
16 any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the
17 invalidity of its application to any person or circumstance, does not affect the validity of the
18 remainder of this ordinance or the validity of its application to other persons or circumstances.

19

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

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

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

7 _____
8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this _____ day of _____, 2023.

10 _____
11 Bruce A. Harrell, Mayor

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

13 _____
14 Elizabeth M. Adkisson, Interim City Clerk

15 (Seal)