

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

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

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

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

7 2) (~~changing~~) Changing a use, or establishing a temporary use or
8 intermittent use; or

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

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

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

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

23 * * *

1 Section 3. Section 23.48.055 of the Seattle Municipal Code, last amended by Ordinance
2 125792, is amended as follows:

3 **23.48.055 Landscaping and screening standards**

4 * * *

5 D. Street trees requirements

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

- 11 a. ~~((To improve))~~ Improve public safety;
- 12 b. ~~((To promote))~~ Promote compatibility with existing street trees;
- 13 c. ~~((To match))~~ Match trees to the available space in the planting strip;
- 14 d. ~~((To maintain))~~ Maintain and expand the urban forest canopy;
- 15 e. ~~((To encourage))~~ Encourage healthy growth through appropriate
16 spacing;
- 17 f. ~~((To protect))~~ Protect utilities; and
- 18 g. ~~((To allow))~~ Allow access to the street, buildings, and lot.

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

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

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

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

3 2) Changing a use, or establishing a temporary use or intermittent
4 use;

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

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

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

12 4. If it is not feasible to plant street trees in a right-of-way planting strip, a 5-foot
13 setback shall be planted with street trees along the street property line or landscaping other than
14 trees shall be provided in the planting strip, subject to approval by the Director of Transportation.
15 If, according to the Director of Transportation, a 5-foot setback or landscaped planting strip is
16 not feasible, the Director may reduce or waive this requirement.

17 Section 4. Section 23.76.004 of the Seattle Municipal Code, last amended by Ordinance
18 126685, is amended as follows:

19 **23.76.004 Land use decision framework**

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

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;

13 3. The following street use approvals:

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

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

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

20 d. Areaways associated with a development proposal;

21 4. Lot boundary adjustments;

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

23 a. Plazas;

- 1 b. Shopping plazas;
- 2 c. Arcades;
- 3 d. Shopping arcades; and
- 4 e. Voluntary building setbacks;
- 5 6. Determinations of Significance (determination that an Environmental Impact
- 6 Statement is required) for Master Use Permits and for building, demolition, grading, and other
- 7 construction permits (supplemental procedures for environmental review are established in
- 8 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
- 9 Significance based solely on historic and cultural preservation;
- 10 7. Discretionary exceptions for certain business signs authorized by subsection
- 11 23.55.042.D;
- 12 8. Waiver or modification of required right-of-way improvements;
- 13 9. Reasonable accommodation;
- 14 10. Minor amendment to Major Phased Development Permit;
- 15 11. Streamlined design review decisions pursuant to Section 23.41.018 if no
- 16 development standard departures are requested pursuant to Section 23.41.012, and design review
- 17 decisions in an MPC zone if no development standard departures are requested pursuant to
- 18 Section 23.41.012;
- 19 12. Shoreline special use approvals that are not part of a shoreline substantial
- 20 development permit;
- 21 13. Determination that a project is consistent with a planned action ordinance,
- 22 except as provided in subsection 23.76.006.C;

1 Section 7. Chapter 25.11 of the Seattle Municipal Code, last amended by Ordinance
2 126777, is amended as follows:

3 **25.11.010 Purpose and intent ((;))**

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

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

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

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

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

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

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

22 G. ~~((To encourage))~~ Encourage retention of trees ~~((over six (6) inches in diameter))~~
23 through the design review and other processes for larger projects, through education concerning

1 the value of retaining existing trees, and by not permitting their removal on undeveloped land
2 prior to development permit review~~((-));~~ and

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

6 **25.11.020 Exemptions**

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

8 A. Normal pruning and maintenance;

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

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

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

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

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

4 ~~G.)) F. ((Removal of street trees)) Trees as regulated by Title 15; ~~((and~~
5 ~~H. Additions to existing structures, shown as part of an issued building or grading permit~~
6 ~~as provided in Sections 25.11.060, 25.11.070 and 25.11.080.))~~~~

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

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

12 I. Tree removal or commercial tree work as approved by the Director prior to removal in
13 accordance with a recommendation from a certified arborist for an insect and/or pest infestation
14 that does not meet a high risk hazard, except that tree service providers conducting commercial
15 tree work on these trees must comply with the tree service provider registry requirements of
16 Section 25.11.100; and

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

20 **25.11.030 Emergency actions**

21 Emergency actions may be undertaken without obtaining a permit in advance from the Seattle
22 Department of Construction and Inspections. Prior to an emergency action, a certified arborist
23 must determine if there is an extreme risk of imminent failure for the tree or tree part using the

1 TRAQ method in its most current form. Any person undertaking an emergency action must
2 complete the following:

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

5 B. Submit a hazardous tree removal application to the Seattle Department of Construction
6 and Inspections within ten calendar days of the emergency action; otherwise, the responsible
7 party may be subject to enforcement including fines and penalties in accordance with Section
8 25.11.120; and

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

11 ~~((25.11.040 Restrictions on tree removal~~

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

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

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

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

21 ~~B. Limits on Tree Removal. In addition to the prohibitions in subsection 25.11.040.A, no~~
22 ~~more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may~~
23 ~~be removed in any one year period on lots in Lowrise, Midrise, commercial, and neighborhood~~

1 ~~residential zones, except when the tree removal is required for the construction of a new~~
2 ~~structure, retaining wall, rockery, or other similar improvement that is approved as part of an~~
3 ~~issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080.~~

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

6 **25.11.040 Hazardous tree removal**

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

10 B. Trees subject to the provisions of this Chapter 25.11 may be removed as hazardous, if
11 those trees are rated by a TRAQ-qualified certified arborist as an Extreme or High Risk hazard.
12 according to the following:

13 1. A tree risk assessment, prepared by a TRAQ-qualified arborist, assesses the
14 risk of the tree(s) as one of the following:

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

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

21 c. Moderate Risk. This category applies to trees in which consequences
22 are minor and likelihood is very likely or likely, or when likelihood is somewhat likely and the
23 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

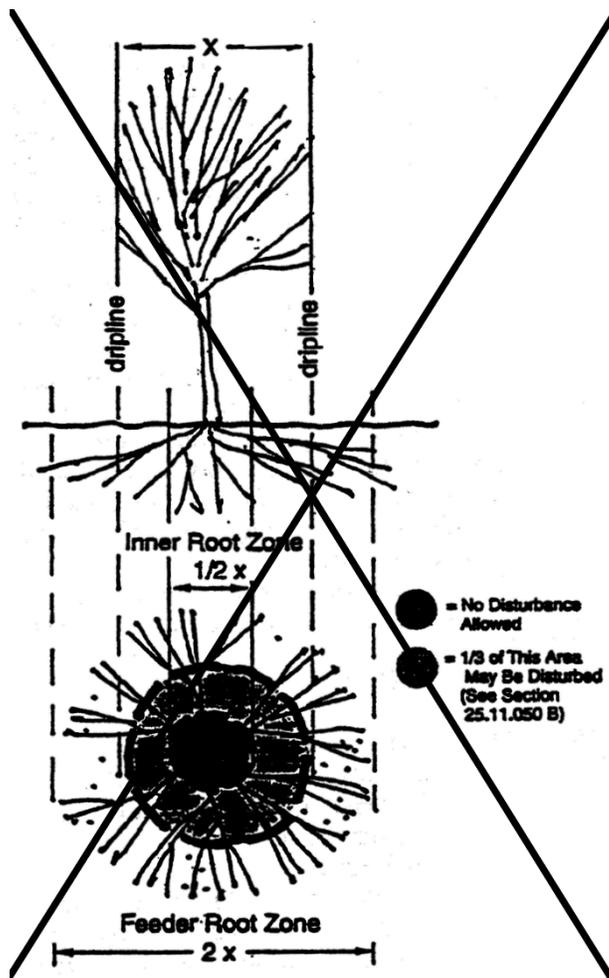
14 5. The assessment of other risk categories applicable to regulated trees shall be at
15 the discretion of the Director.

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.

18 ~~((25.11.050 General Provisions for exceptional tree determination and tree protection area~~
19 ~~delineation in Neighborhood Residential, Lowrise, Midrise, and Commercial zones.~~

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

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



10

11 **Exhibit 25.11.050B**

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

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

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

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

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

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

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

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

17 **25.11.050 General provisions for regulated tree categories**

18 A. The removal or topping of the following trees is prohibited, except as provided in
19 Section 25.11.020:

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

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

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

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

8 b. Tier 2 trees may not be removed except as permitted under Sections
 9 25.11.070 and 25.11.080; and

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

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

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</u> <u>designated as</u> <u>heritage trees</u>	<u>May not be removed unless</u> <u>deemed hazardous or in need of</u> <u>emergency action with</u> <u>documentation required</u>	<u>May not be removed unless</u> <u>deemed hazardous or in need of</u> <u>emergency action with</u> <u>documentation required</u>
<u>Tier 2</u> <u>Includes trees 24” at</u> <u>DSH or greater, tree</u> <u>groves, and specific</u>	<u>May not be removed unless</u> <u>deemed hazardous or in need of</u> <u>emergency action with</u> <u>documentation required</u>	<u>Approval for removal is part of</u> <u>overall development permit</u>

<u>tree species as provided by Director's Rule</u>		<u>Documentation required for hazardous and emergency actions</u>
<u>Tier 3 Includes trees 12'' at DSH or greater but less than 24'' 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 subsection 25.11.050.B</u>	<u>Approval for removal is part of overall development permit</u> <u>Documentation required for hazardous and emergency actions</u>
<u>Tier 4 Includes trees 6'' at DSH but less than 12'' at DSH</u>	<u>May not be removed unless deemed hazardous or in need of emergency action with documentation required, except as provided in subsection 25.11.050.B</u>	<u>Approval for removal is part of overall development permit</u>
<u>Other trees (under 6'' DSH)</u>	<u>Not regulated</u>	<u>Not regulated</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 Determination of Tier 1, Tier 2, and Tier 3 trees, including tree protection area**
12 **delineation**

13 A. Tree protection area

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

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

20 3. The basic tree protection area shall be determined by the area within the drip
21 line of the tree. The tree protection area shall be determined based on species tolerance; expected
22 impacts of construction activities; tree size, age, and health; and soil conditions not to exceed the

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

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

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

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

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

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

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

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

21 a. A chain link fence required around the perimeter of the tree protection
22 area during construction (no orange construction fence or plywood).

1 1) The fence must be a minimum of 6 feet high and shall be
2 supported by rigid posts driven into the ground at 8-foot maximum intervals.

3 2) The fence shall be installed prior to demolition or ground
4 disturbance and kept in place for the duration of construction.

5 b. No dumping of any materials is allowed in the tree protection area.

6 c. No soil disturbance or activity is allowed within fenced area including
7 material storage, stockpiling, parking, excavation, dumping, or washing.

8 d. Roots greater than 2 inches outside of fencing shall be protected by
9 hand excavation and, if necessary, the roots shall be cut cleanly and kept moist.

10 e. Use of at least three inches of wood chip mulch is required outside
11 fenced areas to protect feeder roots.

12 6. The Director has the authority to waive or modify the provisions of subsection
13 25.11.070.A.5.

14 B. Site plan requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

8 a. Health and physical condition; and

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

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

14 D. Trees protected by covenant

15 1. Trees protected by covenant are as follows:

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

18 b. Tier 2 trees that are not removed pursuant to Sections 25.11.070 or
19 25.11.080; and

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

21 2. Required covenants shall run with the land and shall be recorded in the King
22 County Recorder’s Office for the remainder of the life of the building or for the extent of the life
23 of the tree. Covenants are required as follows:

1 a. If development standards have been modified pursuant to the provisions
2 of Title 23 and this Chapter 25.11 to avoid development within a designated tree protection area,
3 the tree protection area shall remain undeveloped; and

4 b. To describe required tree protection areas, a survey if one has been
5 prepared, and documentation that shall acknowledge that development is prohibited on and
6 within any of the tree protection areas including any disturbance of the tree protection area that is
7 inconsistent with the provisions of this Chapter 25.11.

8 ~~((25.11.070 Tree protection on sites undergoing development in Lowrise zones~~

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

10 ~~A. Exceptional trees~~

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

16 ~~2. The Director may permit the exceptional tree to be removed only if the total~~
17 ~~floor area that could be achieved within the maximum permitted FAR and height limits of the~~
18 ~~applicable Lowrise zone according to Title 23 cannot be achieved while avoiding the tree~~
19 ~~protection area through the following:~~

20 ~~a. Development standard adjustments permitted in Section 23.41.018 or~~
21 ~~the departures permitted in Section 23.41.012.~~

22 ~~b. An increase in the permitted height as follows under subsection~~
23 ~~25.11.070.A.3.~~

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

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

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

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

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

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

1 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 4. If the applicant proposes development that disturbs less of the site than
8 permitted by subsections 25.11.070.A.1.a and 25.11.070.A.1.b, then allowed tree removal shall
9 be limited to that necessary to build the proposed development.

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

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

14 a. Calculate the tree protection area on the lot;

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

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

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

1 2. Tier 2 trees are to be removed only if the lot calculation in subsection

2 25.11.070.B.1 cannot be achieved while avoiding tree protection areas through the following:

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 50 percent;

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

8 3) Landscaping and screening may be reduced by a maximum of
9 25 percent; and

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

12 b. For development subject to design review, the departures permitted in
13 Section 23.41.012.

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

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

1 additional story is limited to the amount of floor area lost by avoiding development within the
2 tree protection area.

3 3. Tree removal required for development to achieve the lot calculation according
4 to subsection 25.11.070.B.1 or height limits of the applicable zone includes but is not limited to
5 the construction of new structures, vehicles and pedestrian access, utilities, retaining wall, or
6 other similar improvement.

7 ~~((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial~~
8 ~~zones~~

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

10 ~~A. Exceptional trees~~

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

16 ~~2. The Director may permit an exceptional tree to be removed only if the~~
17 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~
18 ~~area could not be achieved through the development standard adjustments permitted in Section~~
19 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
20 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
21 ~~in the standards of Section 23.54.030.~~

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

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

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

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

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

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

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

18 **25.11.080 Tree protection on sites in Major Institution Overlay Districts**

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

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

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

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

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

9 **25.11.090 Tree replacement, maintenance, and site restoration**

10 A. ~~((Each exceptional tree and tree over 2 feet in diameter that is))~~ Tier 1, Tier 2, and
11 Tier 3 trees including hazardous trees removed in association with development in all zones shall
12 be replaced by one or more new trees, the size and species of which shall be determined by the
13 Director; the tree replacement required shall be designed to result, upon maturity, in a canopy
14 cover that is ((at least equal)) roughly proportional to the canopy cover prior to tree removal.

15 ~~((Preference shall be given to on-site replacement. When on-site replacement cannot be~~
16 ~~achieved, or is not appropriate as determined by the Director, preference for off-site replacement~~
17 ~~shall be on public property.))~~ When off-site replacement is proposed, preference for the location
18 shall be on public property.

19 ~~((B. No tree replacement is required if the tree is (1) hazardous, dead, diseased, injured,~~
20 ~~or in a declining condition with no reasonable assurance of regaining vigor as determined by a~~
21 ~~registered tree service provider; or (2) proposed to be relocated to another suitable planting site~~
22 ~~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 **25.11.100 Tree service provider registration**

14 A. Applicability

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

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

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

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

5 B. Tree service provider registration required. A tree service provider must be registered
6 by the Director before it may conduct commercial tree work unless otherwise provided in
7 subsection 25.11.100.A. A tree service provider registration shall be valid for one year from the
8 date of issuance. The Director shall publish a registry of registered tree service providers on a
9 City web page available to the public. Registered tree service providers are required to renew
10 their registration annually. Annual registration renewals shall require submittal to the Director of
11 documentation of continued compliance with this Chapter 25.11, provided that renewal may be
12 denied pursuant to any rules administering this Section 25.11.100 or as provided in Section
13 25.11.120. A tree service provider registration shall be issued by the Director to each applicant
14 meeting the following requirements:

- 15 1. Possesses a current and valid Seattle business license;
- 16 2. Has at least one employee or a person on retainer who is a currently
17 credentialed International Society of Arboriculture (ISA) certified arborist trained and
18 knowledgeable to conduct work in compliance with ~~((American National Standards Institute~~
19 ~~(ANSI) Standard A-300)) ANSI A300 standards or ~~((its))~~ their successor ~~((standard))~~;~~
- 20 3. Acknowledges in writing knowledge of City codes applicable to commercial
21 tree work;

1 4. Is not currently under suspension from registration under Section 25.11.120 and
2 does not have any outstanding fines or penalties related to commercial tree work activities owed
3 to The City of Seattle;

4 5. Possesses a current and valid Washington State contractor registration under
5 chapter 18.27 RCW; and

6 6. Possesses a current certificate of insurance with an amount of insurance
7 coverage determined by the Director.

8 C. Tree service provider activities

9 1. Unless it is an emergency action pursuant to Section ~~((25.11.020))~~ 25.11.030, a
10 registered tree service provider shall comply with the following public notice requirements prior
11 to conducting commercial tree work that involves reportable work or removal of any tree 6
12 inches or greater ~~((DBH))~~ DSH:

13 a. ~~((The))~~ Unless it is an emergency action pursuant to Section 25.11.030,
14 the registered tree service provider shall provide the Director with the following information:

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

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

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

21 b. The Director shall provide the public notice information required by
22 subsection 25.11.100.C.1.a to the public on a City web page at least three business days in
23 advance of ~~((reportable work and at least six business days in advance of removal of any tree 6~~

1 ~~inches or greater DBH))~~ the commercial tree work. By March 31, 2024, the web page shall
2 provide the information through an online mapping tool.

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

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

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

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

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

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

22 b. The registered tree service provider must submit documents as required
23 by the Director, including a brief report that summarizes the factors contributing to the tree's risk

1 rating. This report should include information on the overall health of the tree, the dimensions
2 and structure of the tree, and analysis of potential targets should it or major parts of it fall. When
3 deemed necessary by the Director, the report should also include analysis of tissue samples to
4 confirm disease or other issues concerning whether the tree poses a hazard to property or human
5 safety;

6 c. If the tree does not meet the City's definition of (~~exceptional~~) a Tier 2
7 tree, the registered tree service provider that prepares the report required by subsection
8 25.11.100.C.3.b for the hazardous tree removal permit application may also perform the removal
9 of the tree; and

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

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

21 **25.11.110 Off-site planting and voluntary payment in lieu**

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

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

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

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

9 **25.11.120 Enforcement and penalties**

10 A. Authority

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

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

20 B. Violation. It (~~((shall be))~~) is a violation of this (~~((chapter))~~) Chapter 25.11 for any person,
21 firm, or corporation to remove, clear, or take any action detrimental to trees contrary to or in
22 violation of any provision of this (~~((chapter))~~) Chapter 25.11. It (~~((shall be))~~) is a violation of this
23 (~~((chapter))~~) Chapter 25.11 for any person, firm, or corporation to knowingly aid and abet,

1 counsel, encourage, hire, commend, induce, or otherwise procure another to violate or fail to
2 comply with this ~~((chapter))~~ Chapter 25.11.

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

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

8 2. Contents~~((:))~~

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

11 i. A description of the violation and the action necessary to correct
12 it;

13 ii. The date of the notice; and

14 iii. A deadline by which the action necessary to correct the
15 violation must be completed.

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

19 3. Service. The Director shall serve the notice upon a responsible party either by
20 personal service or by first class mail to the party's last known address. ~~((If the address of the~~
21 ~~responsible party is unknown and cannot be found after a reasonable search, the notice may be~~
22 ~~served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if))~~
23 If the whereabouts of the responsible party ~~((is))~~ are unknown and cannot be ascertained in the

1 exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service
2 may be accomplished by publishing the notice once each week for two consecutive weeks in the
3 City official newspaper and by posting a copy of the notice at a conspicuous place on the
4 property.

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

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

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

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

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

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

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

17 4. The Director's decision (~~shall become final~~) is final and is not subject to
18 further appeal unless an aggrieved party appeals (~~the decision to the Municipal Court within ten~~
19 ~~(10) days after the Director issues the decision. Appeal hearings in Municipal Court shall be de~~
20 ~~no~~) as allowed under state law.

21 F. Referral to City Attorney for (~~Enforcement~~) enforcement. If a responsible party fails
22 to correct a violation or pay a penalty as required by a (~~Notice of Violation~~) notice of violation,
23 or fails to comply with a Director's order, the Director may refer the matter to the City

1 Attorney's Office for civil (~~or criminal~~) enforcement action. Judicial enforcement of a violation
2 of this (~~subtitle~~) Chapter 25.11 shall be by de novo review in Municipal Court.

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

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

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

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

1 value, or expand development potential, or the result of negligence by a contractor or operator of
2 construction machinery, the amount of the penalty may be trebled as punitive damages.

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

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

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

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

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

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

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

22 2. Anyone violating or failing to comply with any of the provisions of this
23 (~~(chapter)~~) Chapter 25.11 and who within the past five (~~((5))~~) years has had a judgment against

1 them pursuant to subsection 25.11.120.B shall upon conviction (~~((thereof,))~~) be fined in a sum not
2 to exceed (~~((Five Thousand Dollars (\$5,000)))~~) \$5,000 or by imprisonment for not more than
3 (~~((three hundred sixty four (364)))~~) 364 days, or by both such fine and imprisonment. Each day's
4 violation or failure to comply shall constitute a separate offense.

5 **25.11.130 Definitions**

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

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

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

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

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

21 "Emergency action" means any action taken to a Tier 1, Tier 2, or Tier 3 tree that has an
22 extreme risk of imminent failure risk rating using the International Society of Arboriculture
23 (ISA) Tree Risk Assessment Qualification (TRAQ) method, including but not limited to such

1 actions as trimming or removal that is necessary to remedy an immediate threat to people,
2 structures, or health and safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
22 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
23 branches to lateral branches that are less than ~~((one-half (1/2)))~~ half of the diameter of the limb

1 or branch that is cut. Topping does not include acceptable pruning practices as described in the
2 ANSI A300 standards or their successor such as crown reduction, utility pruning, or crown
3 cleaning to remove a safety hazard or dead or diseased material. Topping is a type of tree
4 removal.

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

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

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

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

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

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

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

5

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.

