

CHAPTER 25.11 – TREE PROTECTION

25.11.010 Purpose and intent.

It is the purpose and intent of this chapter to:

A. Implement the goals and policies of Seattle's Comprehensive Plan especially those in the Environment Element dealing with protection of the urban forest;

B. To preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees;

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

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

E. To especially protect exceptional trees that because of their unique historical, ecological, or aesthetic value constitute an important community resource; to require flexibility in design to protect exceptional trees;

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

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

25.11.020 Definitions

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

"Drip line" means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

"Exceptional tree" means a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections.

"Feeder root zone" means an area encircling the base of a tree equal to twice the diameter of the drip line.

"Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or property, and that is designated as such by the Director according to the tree hazard evaluation standards established by the International Society of Arboriculture.

"Inner root zone" means an area encircling the base of a tree equal to one-half ($\frac{1}{2}$) the diameter of the drip line.

"Topping" means the cutting back of limbs to stubs within the tree's crown, to such a degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or branches to lateral branches that are less than one-half ($\frac{1}{2}$) of the diameter of the limb or branch that is cut.

"Tree removal" means removal of a tree(s) or vegetation, through either direct or indirect actions including, but not limited to, clearing, topping or cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation,

grading, or trenching in the dripline area of a tree which has the potential to cause irreversible damage to the tree, or relocation of an existing tree to a new planting location.

"Undeveloped lot" means a lot on which no buildings are located.

25.11.030 Exemptions

The following activities are exempt from the provisions of this chapter:

- A. Normal and routine pruning operations and maintenance;
- B. Abatement of hazardous tree or tree part as approved by the Director;
- C. Emergency activities necessary to remedy an immediate threat to public health, safety, or welfare;
- D. Tree removal undertaken as part of tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments;
- E. Tree removal approved as part of an Environmentally Critical Area tree and vegetation plan as provided in Section 25.09.070;
- F. Tree removal shown as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080;
- G. Removal of street trees as regulated by Title 15 of the SMC; and
- H. Additions to existing structures, shown as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070 and 25.11.080.

25.11.040 Restrictions on tree removal.

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

1. All trees 6 inches or greater in diameter, measured 4.5 feet above the ground, on undeveloped lots;
2. Exceptional trees on undeveloped lots; and
3. Exceptional trees on lots in Lowrise, Midrise and Commercial zones or on lots 5,000 square feet or greater in a Single-family or Residential Small Lot zone.

B. Limits on Tree Removal. In addition to the prohibitions in subsection 25.11.040.A, no more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may be removed in any one year period on lots in Lowrise, Midrise and Commercial zones or on lots 5,000 square feet or greater in a Single-family or Residential Small Lot zone, except when the tree removal is required for the construction of a new structure, retaining wall, rockery or other similar improvement that is approved as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080.

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

25.11.050 General Provisions for exceptional tree determination and tree protection area delineation in Single-family, Residential Small Lot, Lowrise, Midrise, and Commercial zones.

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

B. Tree protection areas for exceptional trees shall be identified on sites plans. Applicants seeking development standard waivers to protect other trees greater than two (2) feet in diameter measured four and one-half (4.5) feet above the ground shall also indicate tree protection areas

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on site plans. The basic tree protection area shall be the area within the drip line of the tree. The tree protection area may be reduced if approved by the Director according to a plan prepared by a tree care professional. Such reduction shall be limited to one-third of the area within the outer half of the area within the drip line. In no case shall the reduction occur within the inner root zone. In addition, the Director may establish conditions for protecting the tree during construction within the feeder root zone. (See Exhibit 25.11.050 B.)

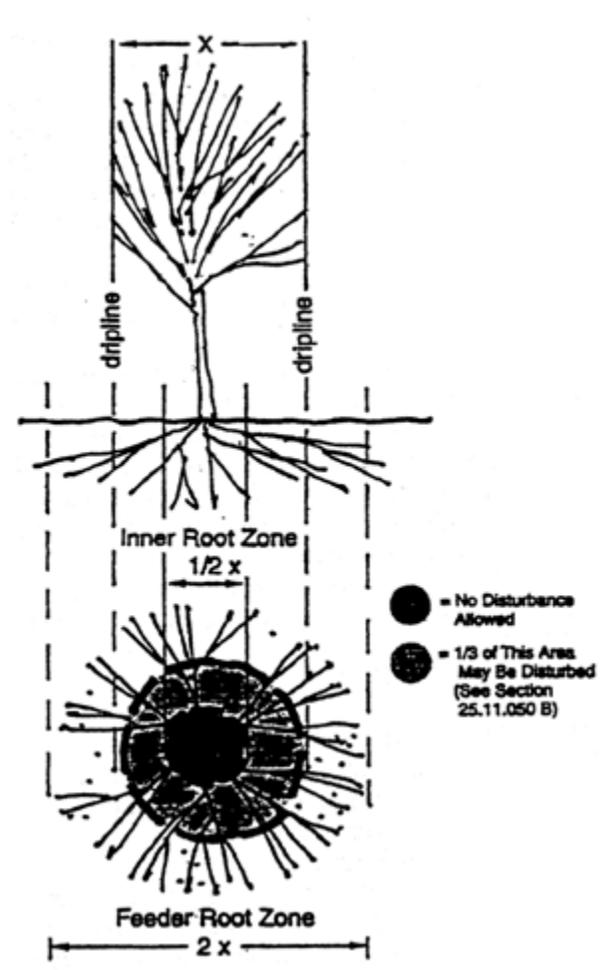


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C. If development standards have been modified according to the provisions of this chapter to avoid development within a designated tree protection area, that area shall remain

undeveloped for the remainder of the life of the building, and a permanent covenant stating this requirement shall be recorded in the King County Office of Records and Elections.

D. The Director may require a tree protection report by a tree care professional that provides the following information:

1. Tree evaluation with respect to its general health, damage, danger of falling, proximity to existing or proposed structures and or utility services;
2. Evaluation of the anticipated effects of proposed construction on the viability of the tree;
3. A hazardous tree assessment, if applicable;
4. Plans for supervising, and/or monitoring implementation of any required tree protection or replacement measures; and
5. Plans for conducting post-construction site inspection and evaluation.

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

25.11.060 Tree protection on sites undergoing development in Single-family and Residential Small Lot 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 SMC Title 23, the Land Use Code, 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 A2 of this section; or

b. avoiding development in the tree protection area would result in a portion of the house being less than fifteen (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 fifty (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 Two (2) Feet in Diameter Measured Four and One-half (4½) Feet Above the Ground.

1. Trees over two (2) feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may modify their development proposal to extend into front and/or rear yards in the same manner as provided for exceptional trees in subsection A of this section, above.

C. The development shall meet the tree requirements of Section 23.44.008 I.

25.11.070 Tree protection on sites undergoing development in Lowrise zones

The provisions in this Section 25.11.070 apply in Lowrise zones.

A. Exceptional trees

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

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

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

b. An increase in the permitted height or reduction in required parking as follows under subsection 25.11.070.A.3.

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

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

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

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

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

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

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

B. Trees over 2 feet in diameter

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

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

25.11.080 Tree protection on sites undergoing development in Midrise and Commercial zones

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

A. Exceptional trees

1. If the Director determines that an exceptional tree is located on the lot of a proposed development, which is not a major institution use within a Major Institution Overlay

zone, and the tree is not proposed to be preserved, the project shall go through streamlined design review as provided in Section 23.41.018 if the project falls below the thresholds for design review established in Section 23.41.004.

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

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

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

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

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

B. Trees over 2 feet in diameter measured

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

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

25.11.090 - Tree replacement and site restoration.

A. Each exceptional tree and tree over two (2) feet in diameter that is removed in association with development in all zones shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is at least equal to the canopy cover prior to tree removal. Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.

B. No tree replacement is required if the (1) tree is hazardous, dead, diseased, injured or in a declining condition with no reasonable assurance of regaining vigor as determined by a tree care professional, or (2) the tree is proposed to be relocated to another suitable planting site as approved by the Director.

25.11.100 Enforcement and penalties.

A. Authority. The Director shall have authority to enforce the provisions of this chapter, to issue permits, impose conditions, and establish administrative procedures and guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of this chapter.

B. It shall be a violation of this chapter for any person, firm or corporation to remove, clear or take any action detrimental to trees contrary to or in violation of any provision of this chapter. It shall be a violation of this chapter for any person, firm or corporation to knowingly

aid and abet, counsel, encourage, hire, commend, induce or otherwise procure another to violate or fail to comply with this chapter.

C. Notice of Violation.

1. Issuance. The Director is authorized to issue a Notice of Violation to a responsible party, whenever the Director determines that a violation of this subtitle has occurred or is occurring. The Notice of Violation shall be considered an order of the Director.

2. Contents.

a. The Notice of Violation shall include the following information:

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

ii. The date of the notice; and

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

b. A Notice of Violation may be amended at any time to correct clerical errors, add citations of authority, or modify required corrective action.

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

4. Nothing in this subtitle shall be deemed to obligate or require the Director to issue a Notice of Violation or order prior to the initiation of enforcement action by the City Attorney's Office pursuant to SMC 22.808.030.E.

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

E. Review by Director and Judicial Appeal.

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

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

3. The Director will review the basis for issuance of the Notice of Violation, order, or invoice and all information received by the deadline for submission of additional

information for consideration as part of the review. The Director may request clarification of information received and a site visit. After the review is completed, the Director may:

- a. Sustain the Notice of Violation, order or invoice; or
- b. Withdraw the Notice of Violation, order or invoice; or
- c. Continue the review to a date certain for receipt of additional

information; or

- d. Modify or amend the Notice of Violation, order, or invoice.

4. The Director's decision shall become final and not subject to further appeal unless an aggrieved party appeals the decision to the Municipal Court within ten (10) days after the Director issues the decision. Appeal hearings in Municipal Court shall be de novo.

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

G. Filing Notice or Order. A Notice of Violation, voluntary compliance agreement or an order issued by the Director or court, may be filed with the King County Department of Records and Elections.

H. Change of Ownership. When a Notice of Violation, voluntary compliance agreement or an order issued by the Director or court has been filed with the King County Department of Records and Elections, a Notice of Violation or an order regarding the same violations need not be served upon a new owner of the property where the violation occurred. If no Notice of Violation or order is served upon the new owner, the Director may grant the new owner the same

number of days to comply as was given the previous owner. The compliance period for the new owner shall begin on the date that the conveyance of title to the new owner is completed.

I. Civil Penalties.

1. Any person, firm or corporation who is responsible for the removal, topping, or other action detrimental to a tree in violation of this chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor. If the violation is found to have been willful or malicious, the amount of the penalty may be trebled as punitive damages.

2. Any person who fails to comply with Section 25.11.100 D shall be subject to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500) a day.

3. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

J. Restoration. In addition to any other remedies available, violators of this chapter shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practicable, equals the site condition that would have existed in the absence of the violation(s).

K. Criminal Penalty.

1. Anyone violating or failing to comply with any order issued by the Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment for not more than ninety (90) days, or by

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both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

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