

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to land use and tree protection regulations; amending Sections, 22.900C.010 and 23.44.008 and repealing and replacing Chapter 25.11.

..body

WHEREAS, A healthy urban forest growing on public and private land promotes a clean, healthy, resilient, and safe environment in the places where people live, learn, work, and play, and reinforces Seattle’s identity and legacy as a forested, livable city; and

WHEREAS, The Equity and Environment Initiative is a call to action for the City to develop more inclusive environmental programs, including place-based and culturally-based strategies, to not only increase the canopy cover but also more equitably distribute the benefits that trees bring; and

WHEREAS, The City values the important services the urban forest provides to all in Seattle including but not limited to increasing resiliency to climate change, mitigating stormwater runoff, enhancing public health, cooling riparian corridors, improving our shoreline and other wildlife habitat, enhancing beauty and culture; and

WHEREAS, the City seeks to balance their stated goals of protecting, maintaining and enhancing the urban forest as stated in the Seattle Urban Forest Management Plan while supporting future growth and density as provided in the City’s Comprehensive Plan and by other City actions taken in support of the Growth Management Act; NOW,

THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

1 Section 1. Section 22.900C.010 of the Seattle Municipal Code, which section was last
 2 amended by Ordinance 125451, is amended as follows:

3 **22.900C.010 Land use fees**

4 ***

Table C-1 for 22.900C.010—LAND USE FEES	
A. MASTER USE PERMIT, ENVIRONMENTAL CRITICAL AREAS, CITY COUNCIL, and HEARING EXAMINER APPROVALS	
Hours worked beyond those covered by minimum will be charged the Land Use hourly rate, unless otherwise noted, and are payable at time of invoice.	
Type of Land Use Review	Minimum Fee
General—first 10 hours of review	Land Use Hourly × 10
Low-Income Housing—first 24 hours of review ¹	Land Use Hourly × 10
1. Administrative conditional uses (ACUs) ACUs for community centers, child care centers, adult care centers, private schools, religious facilities, and public and private libraries in single-family and multi-family zones shall be charged a minimum fee of \$1,840 for the first 20 hours. Additional hours shall be charged at the rate of \$324 an hour. This exception applies if the application is for an ACU only, or an ACU combined with a variance application.	
2. Design Review The minimum fee for Administrative Design Review, Master Planned Community Design Review and Streamlined Design Review is \$3,240. The minimum fee for full Design Review is \$6,480, which covers the first 20 hours of review. Refer to subsection 15 of this Table C-1 for 22.900C.010 for fees related to Design Review for Tree Protection.	
3. Environmental reviews (SEPA), including projects with more than one addressed site.	
4. Environmentally critical areas (ECA)	
a. Environmentally Critical Areas variance ²	
b. ECA Exception	

c. Environmentally Critical Areas Administrative Conditional Use
5. Shoreline permits
a. Substantial development permits
b. Variances ² and conditional uses
6. Short subdivisions ³ ; refer to subsection 10 of Table D-2 for 22.900D.010 for additional fees that may apply to this permit type
7. Special exceptions
8. Variances ² Variances for community centers, child care centers, adult care centers, private schools, religious facilities, and public and private libraries in single-family and multi-family zones shall be charged a minimum fee of \$1,840 for the first 20 hours. Additional hours shall be charged at the rate of \$324 an hour. This exception applies if the application is for a variance only, or a variance combined only with an ACU application.
9. Type II land use approvals such as, but not limited to, planned community/residential development, major phased developments and other Type II approvals that are not categorized otherwise in this Table C-1 for 22.900C.010.
10. The minimum fee for Council conditional uses, Rezones, Public Projects, and all other Type IV and Type V land use approvals shall be \$6,480, which covers the first 20 hours of review.
11. Full subdivisions ⁴ ; refer to subsection 10 of Table D-2 for 22.900D.010 for additional fees that may apply to this permit type
12. Reserved
13. Reserved
B. MISCELLANEOUS HOURLY LAND USE REVIEWS, RESEARCH, AND OTHER SERVICES
Hours worked beyond those covered by minimum will be charged the Land Use hourly rate, unless otherwise noted, and payable at time of invoice.

Type of Land Use Review	Minimum Land Use Review Fee
14. Concurrency	Reserved
15. Design Review for Tree Protection ⁵	
a. Design review required by Section 25.11.070 or Section 25.11.080 to protect exceptional tree if no other land use reviews are required	Land Use Hourly × 10
b. Design review elected by applicant for tree protection	Land Use Hourly × 10
16. Other Environmentally Critical Area (ECA) Review, inspection, and site visit under Chapter 25.09 or Chapter 23.60A, including but not limited to:	Land Use Hourly × 1
a. ECA review for Wetlands, Fish, & Wildlife Habitat Conservation Areas on land use or construction permits shall be charged on an hourly basis	
b. Review to determine Environmentally Critical Area exemption for Wetlands and Riparian Corridor and Shoreline ECAs shall be charged on an hourly basis	
c. Other miscellaneous ECA reviews, inspections, or site visits as required by code or as a condition of approval shall be charged on an hourly basis	
17. Early design guidance	Land Use Hourly × 10
18. Establishing use for the record: Refer to subsection 9 of Table D-2 for 22.900D.010 for additional fees that may apply to this permit type	Land Use Hourly × 2
19. Extensions of Type IV Council Land Use Decisions	Land Use Hourly × 2
20. Land Use Code Interpretations ⁶	Land Use Hourly × 10
21. Letters for detailed zoning analysis or permit research	Land Use Hourly × 4

22. Lot Boundary Adjustment, Temporary Use > 4 weeks; refer to subsection 10 of Table D-2 for 22.900D.010 for additional fees that may apply to this permit type	Land Use Hourly × 5
23. Major Institution - review of annual plan	Land Use Hourly × 6
24. Major phased development permit - minor amendment	Land Use Hourly × 2
25. Neighborhood planning	Reserved
26. Noise survey review and variance	See Table F-2 for 22.900F.020 Noise Fees
27. Open space remainder lots and surplus state property	Land Use Hourly × 4
28. Pre-application conference ⁷	Land Use Hourly × 2
29. Property Use and Development Agreement (PUDA) - minor amendment	Land Use Hourly × 2
30. Public benefit feature review	Land Use Hourly × 2
31. Renewals	Land Use Hourly × 2
32. Revisions other than shoreline revisions	Land Use Hourly × 1
33. School use and school development advisory committee reviews	Land Use Hourly × 10
34. Shoreline exemptions	Land Use Hourly × 1
35. Shoreline permit revisions not due to required conditions	Land Use Hourly × 2
36. Special accommodation	Land Use Hourly × 2
37. Structural building overhangs and areaways as a separate component	Land Use Hourly × 2
38. Tree and Vegetation Restoration Review in ECA above minimum threshold where SEPA is not required other than for the restoration (subsection 25.09.070.E.1.b)	Land Use Hourly × 2
39. Street Improvement Exceptions on a Land Use permit	Land Use Hourly × 2
40. Hazardous Tree Removal	Land Use Hourly × 1

C. NON-HOURLY LAND USE FEES	
Type of Land Use Review	Fee
41. Curb cuts as a separate component	
a. Single-family residential	\$88.35 each
b. Other than single-family residential	\$174.70 each
42. File Management	SDCI Base Fee × 1
a. Placing projects on hold at applicant request	
b. Splitting or combining projects	
43. Intake appointments for land use reviews; fee is charged for each occurrence	SDCI Base Fee × 1
44. Notice. All notice is charged based upon type for each occurrence. ⁸	
a. Land use information bulletin (GMR notice)	SDCI Base Fee × 1
b. Posting large sign or placards	\$133.60
c. Mailed notice	SDCI Base Fee per 500 pieces of mail or portions thereof
d. DJC decision publication	\$209.60
e. Neighborhood newspaper publication	Rate charged by newspaper
f. Public meeting room rental	\$134.60
45. Rebuild Letters	
a. With Research	SDCI Base Fee × 1
b. Without Research	\$45.20
46. Records research by the Public Resource Center	SDCI Base Fee × 1
47. Recording Fees, for LBA, Short Subdivision	Rate charged by King County ⁹
48. Shoreline Extensions	SDCI Base Fee × 1

<u>49. Tree permit review outside ECA</u>	<u>Minor tree removal permit</u> <u>\$XXX</u> <u>Major tree removal permit</u> <u>\$XXX</u>
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Footnotes to Table C-1 for 22.900C.010:

¹ For purposes of these land use fees, low-income housing is housing that both (1) satisfies the definition of "housing, low income" in Section 23.84A.016; and (2) where at least 50 percent of the total gross floor area of each structure on the site is committed to low-income housing use for at least 20 years.

² The single variance fee shall be applicable whether the project requires one or multiple variances.

³ Includes short subdivisions in environmentally critical areas.

⁴ Includes unit-lot subdivisions and full subdivisions in environmentally critical areas.

⁵ This fee applies if design review is initiated only for tree protection and the application has no other review under Items 1—14.

⁶ The fees for interpretations of Chapters 25.12, 25.16, 25.20, 25.21, 25.22, 25.24, and 25.30 shall be collected by the Director of the Department of Neighborhoods.

⁷ The pre-application conference fee covers a one-hour conference and one hour of research and/or follow-up review time that normally occurs, for a total of two hours. Additional pre-application review time will be charged at the Land Use hourly rate. See also subsection 22.900C.010.E.

⁸ Additional notice may be given in circumstances including but not limited to the following: reinstallation of environmental review signs; reposting of the land use review or environmental signs; new component reviews added subsequent to the original notice; revised decisions; and changes to the scope of the project.

⁹ Recording fees will be charged the current rate as established and charged by King County at the time of document recording.

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Section 2. Section 23.48.008 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

23.44.008 Development standards for uses permitted outright

A. The development standards set out in this subchapter apply to principal and accessory uses permitted outright in single-family zones.

B. All structures or uses shall be built or established on a lot or lots.

C. Floating homes are subject to the provisions of Chapter 23.60A, Shoreline District, and are also subject to the parking provisions of this Section 23.44.008.

D. An exception from one specific standard does not relieve the applicant from compliance with any other standard.

E. Methods for measurements are provided in Chapter 23.86. Standards for parking access and design are provided in Chapter 23.54.

F. Except for a detached accessory dwelling unit, any structure occupied by a permitted use other than single-family residential use may be converted to single-family residential use even if the structure does not conform to the development standards for single-family structures. Expansions of converted nonconforming structures are regulated by Section 23.42.108. Conversion of structures occupied by nonconforming uses are regulated by Sections 23.42.108 and 23.42.110.

G. Development standards governing lots containing an environmentally critical area or buffer may be modified according to the provisions of Chapter 25.09.

H. Exterior lighting shall be shielded and directed away from residentially zoned lots.

The Director may require that the intensity of illumination be limited and that the location of the lighting be changed.

~~((I. Tree Requirements.~~

1 Section 4. A new Chapter 25.11, Tree Protection, is added to Title 25 of the Seattle
2 Municipal Code, as follows:

3 **25.11.010 Purpose and intent**

4 It is the purpose and intent of this chapter to avoid the removal of trees, to protect trees from
5 impacts of development, and to mitigate the removal of trees consistent with the purpose of
6 protecting and enhancing the health, safety, environment, and general welfare of the people of
7 the city of Seattle and to help meet the City of Seattle’s canopy cover goals as established in the
8 City’s Comprehensive Plan and Urban Forest Management Plan because trees provide
9 substantial economic, social, and environmental benefits including enhanced public health,
10 stormwater retention, wildlife habitat, pollution reduction, climate change mitigation, erosion
11 control, shading, wind protection, and aesthetic beauty.

12 **25.11.020 Definitions**

13 “Critical root zone” (CRZ) means the area of soil extending from the tree trunk where
14 roots required for future tree health and survival are located. This area is defined as a circle with
15 a minimum radius of 12 inches for every 1 inch in trunk diameter at DSH.

16 "CRZ" see "Critical root zone".

17 "Director" means the Director of the Seattle Department of Construction and Inspections
18 (SDCI).

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

22 “DSH” means diameter of a tree at standard height - 54 inches above ground.

23 “Fee-in-lieu” – a fee paid into the Tree Replacement and Canopy Maintenance Fund to
24 replace tree canopy lost on site and not replaced on site or off site either during development or
25 on private property

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

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

4 "Healthy tree" means a tree that is not a high risk or an extreme high risk according to
5 ISA standards.

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

8 "ICRZ" see "Inner critical root zone".

9 "Major tree removal" means tree removal that does not cause a site to fall below the
10 canopy cover requirements listed in Table C of Section 25.11.050 and no mitigation is required.

11 "Minor tree removal" means tree removal that causes a site to fall below the canopy cover
12 requirements listed in Table C of Section 25.11.050 and mitigation is required.

13 "Seattle Comprehensive Plan" – 20-year plan adopted by the Seattle City Council and
14 mayor to guide future growth in Seattle.

15 "Seattle Urban Forestry Management Plan" – Plan adopted every 5 years to guide
16 protection and enhancement of Seattle's urban forest

17 "Significant tree" – any tree on a property that is over six inches or more in diameter at
18 DSH.

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

23 "Tree" - woody vegetation which is 6 inches or greater diameter at standard height (DSH),
24 measured 4.5 feet above the ground mid-slope. Multi-stem trees like vine maple use the following
25 formula to determine their DSH = square root of the sum of each stem DSH squared. A Tree does
26 not include any species which appears on the King County Noxious Weeds or Weeds of Concern
27 list. A Tree may be alive or dead.

1 “Tree canopy cover” means the layer of leaves, branches, and stems of trees that cover the
2 ground when viewed from above.

3 “Tree protection area” – area denoted on site plan for protection of significant trees
4 during development

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

10 **25.11.030 Approval required**

11 Approval Required. Except as provided in Section 25.11.060 any person, or
12 business/company/contractor/firm/corporation who desires to cut down or remove any
13 significant tree or who desires to conduct development on a site that will result in the removal of
14 any significant tree, must first obtain approval as required in this chapter. Approval may take the
15 form of a tree removal permit or it may be included with another SDCI approval.

16 **25.11.040 Calculations – rounding and measurements**

17 A. When calculations result in a fraction, the fraction shall be rounded to the nearest
18 whole number as follows:

- 19 1. Fractions of 0.50 or above shall be rounded up; and
- 20 2. Fractions below 0.50 shall be rounded down.

21 B. Diameter at Standard Height (DSH) of a tree is measured at 4.5 feet above the ground.

22 **25.11.050 Application Requirements**

23 A. Minor tree removal permit applications shall include the completed permit application
24 supplemented by a general site plan showing:

- 25 1. The name, address, email, and phone number of the applicant and owner of the
26 property;
- 27 2. Nearby structures and streets;

- 1 3. Location(s) of tree(s) to be removed;
- 2 4. Locations of other significant trees on site that are to be preserved;
- 3 5. Locations of critical areas or buffers;
- 4 6. As required, a tree replacement plan meeting the standards of Section
- 5 25.11.XXX; and
- 6 7. Authorization for SDCI's arborist to access the site to evaluate the viability of
- 7 tree replacement plan.

8 B. Major tree removal permit applications shall include the following:

- 9 1. A site map (to scale) with a north arrow depicting accurate location of site
- 10 features including buildings, driveways, environmentally critical areas and buffers, forest stands
- 11 or open-grown single or clusters of significant trees; the CRZ of the stand, cluster, or individual
- 12 tree, along with any off-site trees that may be impacted by tree removal, excavation, grading, or
- 13 other development activity proposed; and
- 14 2. A tree inventory and assessment report prepared by a qualified arborist that
- 15 includes:
 - 16 a. Location and species of trees to be removed;
 - 17 b. Location and species of trees to be protected including the protection of
 - 18 the CRZ;
 - 19 c. Location of trees adjacent to the proposed construction or trees that
 - 20 could be impacted by the proposed development activity;
 - 21 d. Location of tree protection fence located to protect trees to be
 - 22 preserved;
 - 23 e. Timeline for tree protection activities and list of protection measures
 - 24 and conditions to be taken during all development activities to ensure code compliance during
 - 25 development activities; and
- 26 3. A report including:
 - 27 a. Identified tree species and DSH for each significant tree;

- 1 b. Condition/health of tree and ISA risk level;
- 2 c. Existing and proposed canopy coverage;
- 3 d. Design of a land use proposal that prioritizes preserving:
 - 4 i. Healthy significant trees that are adjacent to other significant
 - 5 trees on site that will be preserved;
 - 6 ii. Healthy significant trees that are adjacent to other significant
 - 7 trees off-site located in environmentally critical areas;
 - 8 iii. Healthy significant trees that are adjacent to other significant
 - 9 trees off-site that will be preserved;

10 C. Application Posting Requirements – Notice of Application. Notice of application for
11 all permits identified above shall be posted on site, in a place where it can be read from the
12 nearest public street. If the property is located on a private street, notices shall be posted on site,
13 in a place where it can be read from the private street, as well in a place where it can be read
14 from the nearest public street.

15 1. For minor tree removal permits, the notice of application shall be posted for a
16 minimum of two full business days prior to permit decision and shall remain posted until a
17 decision is issued.

18 2. For major tree removal permits, the notice of application shall be posted for a
19 minimum of 14 full calendar days prior to permit decision and shall remain posted until a
20 decision is issued.

21 3. When the number of trees proposed for removal increases after the notice of
22 application has been posted or the permit has been approved, all tree removal activity must stop
23 and the applicable notice of application procedure shall be repeated in full for the revised
24 application.

25 **25.11.060 Exemptions**

26 The following actions are exempt from obtaining approval as required in this chapter:

1 A. Emergency activities necessary to remedy an immediate threat to people, structures, or
2 public health or safety as defined in Section 25.11.070;

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

5 C. Tree removal approved as part of an Environmentally Critical Area revegetation plan
6 as provided in Section 25.09.070;

7 D. Removal of street trees as regulated by Title 15 of the SMC;

8 E. Tree maintenance and removal conducted by Seattle City Light to maintain power
9 lines; and

10 E. Normal and routine pruning operations and maintenance using the ANSI A300
11 standards and ISA best management practices for proper pruning.

12 **25.11.070 Emergency actions**

13 Emergency actions necessary to remedy an immediate threat to people, structures, or public
14 health or safety may be undertaken without obtaining a permit or other SDCI approval if a tree
15 has an extreme risk rating using the International Society of Arborists Tree Risk Assessment
16 Qualification (TRAQ) method (see Section 25.11.160). Any person or
17 business/company/contractor/firm/corporation undertaking such an action shall take the
18 following actions:

19 A. Notify the administrator within one business day following commencement of the
20 emergency action;

21 B. Complete the applicable tree removal application under Section 25.11.050 within one
22 week of the emergency action and post the application in accord with subsection 25.11.050.C;

23 C. Tree replacement shall be required in accordance with Section 25.11.XX.

24 **25.11.080 Requirements for tree services and others doing land clearing and tree removal**

25 A. To assure compliance with the standards and requirements of this chapter, any person
26 or business/company/contractor/firm/corporation involved in tree maintenance, tree removal,
27 development activity, or land clearing operations in the city of Seattle shall be required to sign

1 and submit to SDCI on a form approved by SDCI, a statement acknowledging the City's tree
2 regulations and the required permitting for tree removal.

3 B. Any person or business/company/contractor/firm/corporation involved in tree
4 maintenance, tree removal, development activity, or land clearing operations who do not provide
5 the above statement shall be prohibited from performing tree maintenance, tree removal or land
6 clearing services in the city of Seattle, shall be in violation of this Chapter 25.11 and may be
7 prosecuted under Section 25.11.180, or as otherwise provided by law.

8 **25.11.090 Tree species requirements**

9 A. A list of suitable tree species consisting of coniferous and deciduous trees is set forth
10 in the document entitled "City of Seattle List of Suitable Tree Species," are eligible for credits in
11 this chapter.

12 B. The Director shall establish and may modify the list consistent with the following
13 criteria:

14 1. The designation of coniferous trees should include all species excluding tree
15 species known to have invasive root structures and to be fast growing such as Leyland cypress
16 and should also exclude trees planted, clipped or sheared to be used as a hedge;

17 2. The designation of deciduous trees should include those suitable to United
18 States Department of Agriculture Plant Hardiness Zones 8 and 9, excluding those trees with
19 crown diameter of 10 feet or less at maturity;

20 **25.11.100 Tree removal prohibited**

21 Tree removal permits shall not be granted for the following:

22 A. Tree removal likely to cause injury or damage. Removal of significant trees is
23 prohibited if the removal is substantially likely to cause injury or damage to persons or property,
24 as determined by the SDCI qualified arborist.

25 B. Five-year major development activity restriction. Removal of a healthy significant
26 tree(s) is prohibited on properties that have undergone development activity within the last five
27 years and for which no new development activity is proposed.

1 **25.11.110 Tree permit approval criteria and conditions**

2 The criteria by which minor tree permits and major tree permits are approved, conditioned, or
3 denied.

4 A. The tree canopy coverage goal for the lot sizes and land use types is set forth in Table
5 A for this Section 25.11.110.

6 Table A for Section 25.11.110: Canopy Coverage Goal

7

Land Use Type	Canopy coverage requirement
Single-family lots	33%
Multifamily	20%
Commercial/Mixed Use	15%
Downtown	12%
Industrial	10%
Institutional	20%
Rights-of-Way	24%

8 B. A lot's canopy coverage shall be calculated using the latest canopy cover assessment
9 approved by the City and made available by SDCI.

10 C. Minor Tree Permits. A minor tree permit shall be granted if the resulting canopy cover
11 at the site is equal to or greater than the canopy coverage requirements in Table A for Section
12 25.11.110.

13 D. Major Tree Permits. A major tree permit shall be granted if the application satisfies or
14 approval is conditioned to satisfy the following:

15 1. When the proposed tree removal is not associated with development activity,
16 trees may be removed if a tree replacement plan is approved maintains the canopy coverage at or
17 above the applicable canopy coverage goal through on-site planting.

1 2. When the proposed tree removal is associated development activity, the trees
2 may be removed if a tree replacement plan is approved that, at a minimum, brings canopy
3 coverage to the applicable canopy coverage goal through on-site planting for single family land
4 use as provided in Section 25.11.140 or through on-site planting, off-site planting or through the
5 fee-in-lieu program for the land use types other than single family land as provided in Section
6 25.11.140;

7 3. Development proposals associated with a tree permit shall:

8 a. Consider tree protection opportunities in the design and location of
9 building footprints, parking areas, roadways, utility corridors and other structures

10 b. Incorporate trees as a site amenity and to reflect a strong emphasis on
11 tree protection.

12 c. Demonstrate the following factors for retention as applicable and to the
13 most reasonable extent practicable:

14 i. Existing healthy significant trees in groups of two or more trees;
15 ii. Existing healthy native trees with a DSH of 8 inches or greater;
16 iii. Significant trees that are adjacent to environmentally critical
17 areas (ECA) or ECA buffers;

18 iv. Significant trees that are adjacent to healthy significant trees
19 off-site;

20 vi. Significant trees within required yard setbacks; and

21 vii. Trees next to parks or other open space areas.

22 d. Provide grading plans that accommodate existing significant trees and
23 avoid alteration to grades around existing significant trees.

24 4. Conditions necessary to safeguard significant trees identified for protection.

25 5. A notice on title, in the form required by SMC (need correct citation) shall be
26 recorded by the applicant disclosing the permit and associated tree retention conditions as
27 required by this Chapter 25.11. A notice on title is required for all major permits associated with

1 development activity, and for major permits which would cause the property's canopy coverage
2 to fall below the canopy coverage goal.

3 6. Conditions required by SDCI's arborist to safeguard protected trees throughout
4 the development process.

5 7. Conditions that require sidewalks, structures, utilities, and roadways to be set
6 back at least five feet from the CRZ, except where such structure is cantilevered or otherwise
7 raised above the ground's surface so as not to disrupt the tree's roots, and the proposed
8 construction is not likely to result in conflicts between the tree and the sidewalk, driveway,
9 structure, or utility that would necessitate the tree's removal during its normal lifespan.

10 8. Conditions to allow trenching, construction, or an alteration of grades between
11 the five-foot setback from the CRZ and the ICRZ of a protected tree; provided, that the tree
12 protection plan approved by the SDCI's arborist demonstrates that the proposed activity will not
13 adversely affect the long-term viability of the tree.

14 G. Notice of Decision. Tree removal may commence immediately upon posting of an
15 approved tree permit on the subject site in the same manner described in subsection 25.11.050.C.

16 H. Appeals. Appeals of tree permit decisions shall be processed under Chapter (need
17 correct citation) as appeals of ministerial administrative decisions.

18 I. A minor amendment to an approved tree removal permit or other SDCI approval that
19 does not increase the number of trees to be removed or increase impacts on trees to be protected
20 may be made with written approval of SDCI's arborist. A major amendment to an approved tree
21 removal permit or other SDCI approval that amends the number of trees to be removed or
22 increases impacts on trees to be protected must be noticed pursuant to this section prior to written
23 approval of the major amendment by SDCI's arborist.

24 J. Tree removal permits expire six months (180 days) after the permit issue date. SDCI's ,
25 arborist can grant one extension of up to six months when the applicant provides a written
26 request prior to expiration that includes a reasonable justification for the extension, such as a

1 financial hardship, hardship in obtaining replacement trees, or weather-related factors that
2 prevent the applicant from completing the requirements of the permit.

3 **25.11.120 Tree performance standards**

4 The drafting of this section is still in progress.

5 **25.11.130 Development standard reductions for tree preservation**

6 A. If the Director determines that a significant tree is located on the lot of a proposed
7 development, the Director may adjust development standards as follows:

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

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

19 3. Front, rear, and side setbacks may be reduced to the minimum necessary to protect
20 a significant tree and by no more than X% for front setbacks, X% for rear setbacks, and X% for
21 side setbacks.

22 **25.11.140 Major institutions**

23 If the Director determines that a significant tree is located within a Major Institution Overlay
24 zone, and the tree is not proposed to be retained, the Director may allow removal of significant
25 trees if:

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

1 B. The location of a significant tree(s) 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 C. Mitigation for significant trees is provided pursuant to Section 25.11.xxx for trees that
5 are removed in association with development and the canopy cover at the Major institution does
6 not fall below the canopy cover requirement in Table A for Section 25.11.110

7 **25.11.150 Off-site and in-lieu tree planting**

8 A. Where this chapter authorizes off-site tree or in-lieu tree plantings, an owner may use
9 the provisions of this Section 25.11.150 to satisfy on site tree planting requirements.

10 B. An owner may plant required trees at on off-site location provided all of the following
11 are satisfied:

12 1. The off-site location is within the boundaries of the city including:

13 a. Private property with the written consent of the owner of the off-site
14 location;

15 b. City property with the written approval of the director;

16 c. Other public property with the written consent of the entity with
17 jurisdiction over the off-site location;

18 2. Existing trees at the off-site location shall not be included as satisfying tree
19 planting requirements;

20 3. Trees planted off-site shall not be counted as an existing tree on the property
21 where the off-site tree is located;

22 4. Trees planted off-site shall meet development standards including:

23 a. Having a minimum caliper of two inches or, if the tree is coniferous,
24 having a minimum height of six feet at the time of final inspection by the City;

25 b. Having at least one tree of the same plant division (coniferous or
26 deciduous) as the significant tree that is to be removed;

1 c. The owner of the off-site property shall take necessary measures to
2 make certain that the trees planted to satisfy the requirements of this chapter remain healthy for
3 at least five years after inspection by the City, and the owner shall be responsible for replacing
4 any subject trees that do not remain healthy for the five years after inspection by the City.

5 D. In-lieu of required tree planting, an owner may contribute to the SDCI tree fund
6 provided the following are satisfied:

7 1. When the contribution is for replacing an existing significant tree, payment is at
8 a rate of:

9 a. Two hundred dollars per DSH inch of the significant tree where the tree
10 removed has less than a 20-inch diameter breast height size;

11 b. Two hundred fifty dollars per DSH inch of the significant tree where the
12 tree removed has at least a 20-inch DSH, but less than 36-inch DSH size;

13 c. Four hundred dollars per DSH inch of the significant tree where the tree
14 removed has at least a 36-inch DSH or larger size;

15 2. When the contribution is for required tree plantings used to satisfy the pre-
16 existing tree unit gap determined in Section 25.11.110.D.1, payment shall be at a rate of \$2,500
17 per required tree not planted.

18 E. An owner may select to apply a combination of planting trees on-site, off-site and/or
19 contributing to the SDCI tree fund provided:

20 1. The combination is consistent with the provisions of this Chapter 25.11; and

21 2. The combination results shall be equivalent to or greater than the minimum
22 requirements for on-site plantings.

23 F. The Director may establish additional administrative rules as necessary relating to the
24 care and maintenance of off-site trees and tree planted using the in-lieu fees.

25
26
27

1 **25.11.160 Hazard tree risk assessment.**

2 A. Hazard trees are trees assessed by an arborist as having a high to extreme risk rating
3 using the International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method
4 in its most current form.

5 B. Steps in the TRAQ method in developing a tree risk rating include the following:

6 1. Identify possible targets and estimate occupancy rate;
7 2. Inspect tree and identify tree parts that could fail and strike targets (referred to
8 as failure mode);

9 3. For each significant failure mode identified:

- 10 a. The likelihood of failure is assessed;
- 11 b. The likelihood of a tree part impacting a target is assessed;
- 12 c. The likelihood of a tree failure impacting a target is assessed;
- 13 d. Consequences of failure are estimated;
- 14 e. The risk is designated pursuant to the matrix in Table A for Section

15 25.11.150;

16 f. Possible mitigation treatments to reduce the risk are identified;

17 g. The risk is again designated pursuant to the matrix in Table A for

18 Section 25.11.150 after mitigation treatment is completed.

19 4. When assessing the risk of a tree, the city arborist shall evaluate the tree based
20 on existing conditions and shall exclude possible impacts caused by new development, any land
21 alteration activity, or other similar such activities that might otherwise unnaturally cause the risk
22 rating to increase.

23 C. The following table is from the International Society of Arborists TRAQ method and
24 denotes the risk rating matrix used to assess levels of tree risk as a combination of likelihood of a
25 tree failing and impacting a specified target, and the severity of the associated consequences
26 should the tree or any part of the tree fail:

Table A for Section 25.11.150 Tree Risk Rating Matrix

Likelihood of Failure or Impact	Consequences			
	Negligible	Minor	Significant	Severe
Very Likely	Low Risk	Moderate Risk	High Risk	Extreme Risk
Likely	Low Risk	Moderate Risk	High Risk	High Risk
Somewhat likely	Low Risk	Low Risk	Moderate Risk	Moderate Risk
Unlikely	Low Risk	Low Risk	Low Risk	Low Risk

1
 2 1. The consequences listed in Table A for Section 25.11.150 have meanings as
 3 follows:

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

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

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

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

16 2. Definitions of TRAQ method terminology that are not set forth in this Chapter
 17 25.11 or Section 23.84A. can be found in the article “Qualitative Tree Risk Assessment” by E.
 18 Thomas Smiley, Nelda Matheny, and Sharon Lilly on file at SDCI.

1 3. Potential targets are permanent structures or an area of moderate to high use.
2 Where a target does not exist, applicants should consider routine pruning and maintenance to
3 mitigate hazards.

4 D. Where a tree is found to have a high or extreme risk, the city arborist may authorize
5 hazard pruning to mitigate the risk rather than removing the entire tree.

6 E. If the city arborist assesses a tree to have a high or extreme risk and mitigation of the
7 risk through pruning or moving of potential targets is not feasible, the city arborist shall
8 designate the tree a hazard tree.

9 **25.11.150 Tree replacement.**

10 The following apply to tree replacement required under the chapter:

11 A. All applicants or their successors in interest are required to maintain replacement trees
12 until they are independently viable. Replacement trees that die prior to meeting the definition of
13 significant tree must be replaced by a tree that meets the criteria of this section and any canopy
14 coverage requirements that the expired tree was intended to provide. Changes to the approved
15 tree replacement plan may only be made with approval of SDCI's arborist.

16 B. Replacement tree species should be selected from the approved City of Seattle Tree
17 List. Selection of a species not on the list shall require approval by the SDCI's arborist. Invasive
18 trees, as defined by this Chapter 25.11, shall not be used as replacement trees.

19 C. All replacement trees shall meet the minimum standards for size and quality according
20 to the current edition of the ANSI Z60.1 standard for nursery stock.

21 D. Major Tree Permits.

22 1. For lots on which development activity is proposed, that are legally
23 nonconforming with respect to the lot coverage and lot area requirements (XXX) and are below
24 the canopy coverage goal prior to tree removal, off-site replanting may be approved for any
25 portion of the required canopy coverage that the SDCI's arborist finds would be infeasible to
26 locate on-site. Conditions of the permit shall be recorded in the form of a notice on title as
27 described in (XXX) for the property on which off-site trees are planted.

1 2. For tree removals that cause a property’s canopy coverage to drop below the
2 canopy coverage required in Table A for Section 25.11.120, and for tree removals associated
3 with development activity, the SDCI’s arborist shall undertake annual site visits at the expense of
4 the applicant and submit annual progress reports to the administrator for five years following tree
5 permit issuance. Changes to the approved replanting plan may only be made with approval of the
6 Director and SDCI’s arborist.

7 3. Subdivisions or short subdivisions approval shall condition final approval with
8 placement on the face of the subdivision or short subdivision plat a note stating the trees to be
9 protected on site, and the minimum tree canopy that must be achieved and maintained on each
10 lot.

11 **25.11.160 Tree maintenance.**

12 A. All protected trees and required replacement trees, so designated on an approved
13 permit and replanting plan, shall be maintained in healthy condition by the property owner unless
14 otherwise approved by the City in a subsequent permit. If the canopy coverage falls below the
15 approved coverage granted by latest tree removal permit, the property owner will be required to
16 plant replacement trees to achieve the approved canopy requirements.

17 B. Pruning.

18 1. Significant and protected trees, as defined in this chapter, shall not be topped.

19 2. Pruning and maintenance of protected trees shall be consistent with the ANSI
20 A300 standards and ISA best management practices for proper pruning.

21 **25.11.170 Tree, vegetation, and soil protection**

22 During construction. Prior to initiating tree removal on the site, soils, vegetated areas, and
23 individual trees to be preserved shall be protected from potentially damaging activities pursuant
24 to the following standards.

25 A. Placing Materials Near Trees. No person or
26 business/company/contractor/firm/corporation may conduct any activity within the protected
27 area of any tree designated to remain, including, but not limited to, parking equipment, placing

1 solvents, storing building material and soil deposits, dumping concrete washout and locating
2 burn holes.

3 1. During construction, no person or
4 business/company/contractor/firm/corporation shall attach any object to any tree designated for
5 protection.

6 B. Protective Barrier. Before development, land clearing, filling or any land alteration for
7 which a Tree Removal Permit is required, the applicant:

8 1. Shall erect and maintain readily visible protective tree fencing along the outer
9 edge and completely surrounding the protected area of all protected trees or groups of trees that
10 are to remain undisturbed. Fences shall be constructed of chain link and at least four feet high,
11 unless other type of fencing is authorized by the planning official.

12 2. Shall prohibit excavation or compaction of earth or other potentially damaging
13 activities within the barriers.

14 3. Shall maintain the protective barriers in place until the planning official
15 authorizes their removal or a final certificate of occupancy is issued, whichever occurs first

16 4. Shall ensure that any landscaping done in the protected zone subsequent to the
17 removal of the barriers shall be accomplished with light machinery or hand labor. No turf or
18 lawn areas are to be installed within protected area.

19 5. In addition to the above, the Director may require the following:

20 a. Cover with mulch to a depth of at least six (6) inches or with plywood
21 or similar material the areas adjoining the critical root zone of a tree in order to protect roots
22 from damage caused by heavy equipment.

23 b. Minimize root damage by excavating a two (2) foot deep trench, at edge
24 of critical root zone, to cleanly sever the roots of trees to be retained.

25 c. Have corrective pruning performed on protected trees in order to avoid
26 damage from machinery or building activity.

1 d. Maintain trees throughout construction period by watering and
2 fertilizing.

3 C. Grade.

4 1. The grade shall not be elevated or reduced within the critical root zone of trees
5 to be preserved without the planning official's authorization. The Director may allow coverage
6 of up to one half of the area of the tree's critical root zone with light soils (no clay) to the
7 minimum depth necessary to carry out grading or landscaping plans, if it will not imperil the
8 survival of the tree. Aeration devices may be required to ensure the tree's survival.

9 2. If the grade adjacent to a preserved tree is raised such that it could slough or
10 erode into the tree's critical root zone, it shall be permanently stabilized to prevent suffocation of
11 the roots.

12 3. The applicant shall not install an impervious surface within the critical root
13 zone of any tree to be retained without the authorization of the planning official. The planning
14 official may require specific construction methods and/or use of aeration devices to ensure the
15 tree's survival and to minimize the potential for root induced damage to the impervious surface.

16 4. To the greatest extent practical, utility trenches shall be located outside of the
17 critical root zone of trees to be retained. The planning official may require that utilities be
18 tunneled under the roots of trees to be retained if the planning official determines that trenching
19 would significantly reduce the chances of the tree's survival.

20 5. Trees and other vegetation to be retained shall be protected from erosion and
21 sedimentation. Clearing operations shall be conducted so as to expose the smallest practical area
22 of soil to erosion for the least possible time. To control erosion, shrubs, ground cover and stumps
23 shall be maintained on the individual lots, where feasible. Where not feasible appropriate erosion
24 control practices shall be implemented pursuant to Chapter (Stormwater Code).

25 D. Tree removal. Tree removal shall be done to avoid damage to trees designated for
26 retention and shall be conducted so as to expose the smallest practical area of soil to erosion for
27 the least possible time. To control erosion, shrubs, ground cover and stumps shall be retained

1 where feasible. Where not feasible, appropriate erosion control practices shall be implemented
2 pursuant to Chapter (Stormwater Code, Erosion Control).

3 E. Additional requirements. The Director may require additional tree protection measures
4 which are consistent with accepted best management practices.

5 **25.11.180 Enforcement and penalties**

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

9 B. It shall be a violation of this chapter for any person or
10 business/company/contractor/firm/corporation to remove, clear or take any action detrimental to
11 trees contrary to or in violation of any provision of this chapter. It shall be a violation of this
12 chapter for any person or business/company/contractor/firm/corporation to knowingly aid and
13 abet, counsel, encourage, hire, commend, induce or otherwise procure another to violate or fail to
14 comply with this chapter.

15 C. Notice of Violation.

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

19 2. Contents.

20 a. The Notice of Violation shall include the following information:
21 i. A description of the violation and the action necessary to correct
22 it;
23 ii. The date of the notice; and
24 iii. A deadline by which the action necessary to correct the
25 violation must be completed.

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

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

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

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

19 E. Review by Director and Judicial Appeal.

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

25 2. Following receipt of a request for review, the Director shall notify the
26 requesting party, any persons served the Notice of Violation, order or invoice, and any person
27 who has requested notice of the review, that the request for review has been received by the

1 Director. Additional information for consideration as part of the review shall be submitted to the
2 Director no later than 15 days after the written request for a review is mailed.

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

7 a. Sustain the Notice of Violation, order or invoice; or
8 b. Withdraw the Notice of Violation, order or invoice; or
9 c. Continue the review to a date certain for receipt of additional
10 information; or

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

12 F. Order of the Director. Because civil actions to enforce Chapter 25.11 are brought in
13 Seattle Municipal Court pursuant to Section 25.11.100.G, orders of the Director issued under this
14 chapter are not subject to judicial review pursuant to Chapter 36.70C RCW.

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

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

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

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

3 J. Civil Penalties.

4 1. Any person, or business/company/contractor/firm/corporation who is
5 responsible for the removal, topping, or other action detrimental to a tree in violation of this
6 chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be
7 subject to a civil penalty in the amount of \$1,500 per inch of diameter at standard height of tree
8 removed, topped or other action detrimental to a tree. If the tree has been removed and is no
9 longer on the property, such as a tree stump grinding and removal during non-business hours,
10 then the person, or business/company/contractor/firm/corporation who is responsible for the tree
11 removal shall be subject to a civil penalty in the amount of \$45,000 per tree unless the violator
12 can prove otherwise. If the violation is found to have been willful or malicious, the amount of the
13 penalty may be trebled as punitive damages.

14 2. Any person who fails to comply with Section 25.11.100.D shall be subject to a
15 civil penalty in an amount not to exceed \$500 a day.

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

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

21 1. Repair of any environmental and property damage, and restoration of the site;

22 2. Restored site condition that, to the greatest extent practicable, equals the site
23 condition that would have existed in the absence of the violation(s); and

24 3. Replacement of removed or damaged trees in compliance with the tree
25 replacement or payment in lieu standards specified in Section 25.11.057, except that the number
26 of replacement trees and corresponding payment in lieu for significant trees removed or damaged
27 shall be trebled.

1 L. Criminal Penalty.

2 1. Anyone violating or failing to comply with any order issued by the Director
3 pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than
4 \$1,000 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.
5 Each day's violation or failure to comply shall constitute a separate offense.

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

11 Section 5. Section __, Section __, and Section __ of this ordinance shall take effect on
12 Month, Day, 2019.

13 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
14 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
15 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

16 Passed by the City Council the _____ day of _____, 2018,
17 and signed by me in open session in authentication of its passage this _____ day of
18 _____, 2018.

19 _____
20 President _____ of the City Council

21 Approved by me this _____ day of _____, 2018.

22 _____
23 _____
24 Jenny A. Durkan, Mayor

25
26 Filed by me this _____ day of _____, 2018.
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Monica Martinez Simmons, City Clerk

(Seal)

Exhibits:

Exhibit A: Chapter 25.11 of the Seattle Municipal Code

WORKING DRAFT