

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to tree protection; amending Sections 23.76.004, 23.76.006, 25.11.010, 25.11.020, 25.11.030, 25.11.040, 25.11.050, 25.11.060, 25.11.090, 25.11.100 of the Seattle Municipal Code (SMC); repealing Sections 25.11.070 and 25.11.080 of the SMC; and adding new Sections 25.11.035, 25.11.037, 25.11.085, and 25.11.095 to the SMC.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.76.004 of the Seattle Municipal Code, last amended by Ordinance 126421, is amended as follows:

23.76.004 Land use decision framework

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

B. Type I and II decisions are made by the Director and are consolidated in Master Use Permits. Type I decisions are decisions made by the Director that are not appealable to the Hearing Examiner. Type II decisions are discretionary decisions made by the Director that are subject to an administrative open record appeal hearing to the Hearing Examiner; provided that Type II decisions enumerated in subsections 23.76.006.C.2.c, 23.76.006.C.2.d, 23.76.006.C.2.f, and 23.76.006.C.2.g, and SEPA decisions integrated with them as set forth in subsection 23.76.006.C.2.o, shall be made by the Council when associated with a Council land use decision and are not subject to administrative appeal. Type III decisions are made by the Hearing

1 Examiner after conducting an open record hearing and not subject to administrative appeal. Type
2 I, II, or III decisions may be subject to land use interpretation pursuant to Section 23.88.020.

3 * * *

Table A for 23.76.004	
LAND USE DECISION FRAMEWORK¹	
Director’s and Hearing Examiner’s Decisions Requiring Master Use Permits	
TYPE I	
Director’s Decision	
(Administrative review through land use interpretation as allowed by Section 23.88.020²)	
* * *	
*	Building height increase for minor communication utilities in downtown zones
*	<u>Application of tree provisions pursuant to Chapter 25.11</u>
*	Other Type I decisions that are identified as such in the Land Use Code
* * *	
Footnotes for Table A for 23.76.004	
¹ Sections 23.76.006 and 23.76.036 establish the types of land use decisions in each category. This Table A for 23.76.004 is intended to provide only a general description of land use decision types.	
² Type I decisions may be subject to administrative review through a land use interpretation pursuant to Section 23.88.020.	
³ Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit, are appealable to the Shorelines Hearings Board along with all related environmental appeals.	

4 Section 2. Section 23.76.006 of the Seattle Municipal Code, last amended by Ordinance
5 126421, is amended as follows:

6 **23.76.006 Master Use Permits required**

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

9 B. The following decisions are Type I:

- 10 1. Determination that a proposal complies with development standards;
- 11 2. Establishment or change of use for uses permitted outright, uses allowed under

12 Section 23.42.038, temporary relocation of police and fire stations for 24 months or less,

1 transitional encampment interim use, temporary uses for four weeks or less not otherwise
2 permitted in the zone, and renewals of temporary uses for up to six months, except temporary
3 uses and facilities for light rail transit facility construction;

4 3. The following street use approvals:

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

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

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

11 d. Areaways associated with a development proposal;

12 4. Lot boundary adjustments;

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

14 a. Plazas;

15 b. Shopping plazas;

16 c. Arcades;

17 d. Shopping arcades; and

18 e. Voluntary building setbacks;

19 6. Determinations of Significance (determination that an Environmental Impact
20 Statement is required) for Master Use Permits and for building, demolition, grading, and other
21 construction permits (supplemental procedures for environmental review are established in
22 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
23 Significance based solely on historic and cultural preservation;

- 1 7. Discretionary exceptions for certain business signs authorized by subsection
- 2 23.55.042.D;
- 3 8. Waiver or modification of required right-of-way improvements;
- 4 9. Special accommodation pursuant to Section 23.44.015;
- 5 10. Reasonable accommodation;
- 6 11. Minor amendment to Major Phased Development Permit;
- 7 12. Streamlined design review decisions pursuant to Section 23.41.018 if no
- 8 development standard departures are requested pursuant to Section 23.41.012, and design review
- 9 decisions in an MPC zone if no development standard departures are requested pursuant to
- 10 Section 23.41.012;
- 11 13. Shoreline special use approvals that are not part of a shoreline substantial
- 12 development permit;
- 13 14. Determination that a project is consistent with a planned action ordinance,
- 14 except as provided in subsection 23.76.006.C;
- 15 15. Decision to approve, condition, or deny, based on SEPA policies, a permit for
- 16 a project determined to be consistent with a planned action ordinance;
- 17 16. Determination of requirements according to subsections 23.58B.025.A.3.a,
- 18 23.58B.025.A.3.b, 23.58B.025.A.3.c, 23.58C.030.A.2.a, 23.58C.030.A.2.b, and
- 19 23.58C.030.A.2.c;
- 20 17. Decision to increase the maximum height of a structure in the DOC2 500/300-
- 21 550 zone according to subsection 23.49.008.F;
- 22 18. Decision to increase the maximum FAR of a structure in the DOC2 500/300-
- 23 550 zone according to subsection 23.49.011.A.2.n;

1 19. Minor revisions to an issued and unexpired MUP that was subject to design
2 review, pursuant to subsection 23.41.008.G;

3 20. Building height departures for minor communication facilities in downtown
4 zones, pursuant to Section 23.57.013;

5 21. Additional interim street-level uses pursuant to Section 23.42.041 (~~(; and)~~)

6 22. Application of tree provisions pursuant to Chapter 25.11; and

7 ~~((22))~~ 23. Other Type I decisions.

8 * * *

9 Section 3. Section 25.11.010 of the Seattle Municipal Code, last amended by Ordinance
10 120410, is amended as follows:

11 **25.11.010 Purpose and intent ((;))**

12 It is the purpose and intent of this chapter to:

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

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

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

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

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

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

7 G. ~~((To encourage))~~ Encourage retention of trees during development ~~((over six (6)
8 inches in diameter))~~ through permit review, and the design review process as an option, ~~((and
9 other processes for larger projects,))~~ through education concerning the value of retaining these
10 trees, and by not permitting their removal on undeveloped land prior to development permit
11 review.

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

15 Section 4. Section 25.11.020 of the Seattle Municipal Code, last amended by Ordinance
16 124919, is amended as follows:

17 **25.11.020 Definitions** ~~((:))~~

18 “Caliper” means the measurement of trunk size of woody nursery stock, such as trees.
19 Caliper of the tree trunk shall be measured at 6 inches above the ground surface for trees up to
20 and including 4 inches caliper and at 12 inches above the ground surface for larger sizes.

21 “Canopy cover” means tree canopy cover.

22 “Commercial tree work” means any of the following actions conducted within Seattle in
23 exchange for financial or other remuneration or personal benefit: major pruning as defined in

1 Section 15.02.046, removal, and the tree risk assessment of trees regulated by this Chapter 25.11.

2 Normal and routine pruning operations that do not meet the definition of major pruning are not
3 commercial tree work.

4 “Diameter at standard height (DSH)” means the diameter of a tree trunk measured at 4-
5 1/2 feet above ground.

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

7 “Drip line” means an area encircling the base of a tree, the minimum extent of which is
8 delineated by a vertical line extending from the outer limit of a tree’s branch tips down to the
9 ground.

10 “Emergency action” means any action taken to a significant tree(s) that has an extreme
11 risk of imminent failure risk rating using the International Society of Arboriculture (ISA) Tree
12 Risk Assessment Qualification (TRAQ) method, including but not limited to such actions as
13 trimming or removal that is necessary to remedy an immediate threat to people, structures, or
14 health and safety.

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

20 “Excessive pruning” means removing one-fourth (25 percent) or more of the functioning
21 leaf, stem, or root area of a tree in a single growing season. Exceptions are when clearance from
22 overhead utilities or public improvements is required to abate a hazardous condition or other
23 public nuisance. Excessive pruning does not include normal pruning that follows American

1 National Standards Institute (ANSI) “A-300 Pruning Standards” and companion “Best
2 Management Practices for Tree Pruning” published by the International Society of Arboriculture.

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

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

9 “Inner root zone” means an area encircling the base of a tree equal to one-half ~~((1/2))~~ the
10 diameter of the drip line.

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

13 “Responsible party” means, in cases of violations, a person in control of property in fee
14 ownership or tenancy where a tree is located or property adjacent to a tree. The responsible party
15 may include the owner or owners, lessees, tenants, occupants, or other persons in charge. The
16 responsible party may also include the person, partnership, or corporation who violated the
17 provisions of this Chapter 25.11.

18 “Significant tree” means any tree that is 6 inches or greater in diameter at standard height
19 (DSH) and is not defined as an exceptional tree.

20 “Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a
21 degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or
22 branches to lateral branches that are less than one-half ~~((1/2))~~ of the diameter of the limb or
23 branch that is cut. Topping does not include acceptable pruning practices as described in the

1 American National Standards Institute (ANSI) “A-300 Pruning Standards” and companion “Best
2 Management Practices for Tree Pruning” published by the International Society of Arboriculture,
3 such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard or dead or
4 diseased material. Topping is considered “removal.”

5 “TRAQ” means the International Society of Arboriculture Tree Risk Assessment
6 Qualification method, as described in the current version of “Qualitative Tree Risk Assessment”
7 by E. Thomas Smiley, Nelda Matheny, and Sharon Lilly on file with the Seattle Department of
8 Construction and Inspections.

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

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 a person or entity engaged in tree evaluation, tree removal
20 and replacement, or tree pruning, including clearing and grading operations impacting trees
21 regulated by this Chapter 25.11.

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

23 * * *

1 Section 5. Section 25.11.030 of the Seattle Municipal Code, last amended by Ordinance
2 125292, is amended as follows:

3 **25.11.030 Exemptions ((-))**

4 The following activities are exempt from the provisions of this ~~((chapter))~~ Chapter 25.11:

5 A. Normal and routine pruning operations and maintenance;

6 B. Abatement of hazardous tree or tree part as approved prior to removal by the Director;

7 C. Emergency ~~((activities necessary to remedy an immediate threat to public health,
8 safety, or welfare))~~ actions, pursuant to Section 25.11.035;

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

11 E. Tree removal approved as part of an Environmentally Critical Area tree and vegetation
12 plan as provided in Section 25.09.070;

13 F. Tree removal shown as part of an issued building or grading permit as provided in
14 ~~((Sections 25.11.060, 25.11.070, and 25.11.080))~~ this Chapter 25.11;

15 G. Removal of street trees as regulated by Title 15 of the SMC; and

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

18 H. Tree removal, off-site replanting outside the boundaries of the MPC-YT zone, and
19 voluntary payment in lieu of replanting undertaken as part of redevelopment that meets the
20 planned action ordinance within the MPC-YT zone for Yesler Terrace pursuant to Section
21 23.75.160.

22 I. Replanting and voluntary payment in-lieu of replanting undertaken as part of
23 development by permanent supportive housing providers as regulated by Title 23 of the SMC.

1 Section 6. A new Section 25.11.035 is added to the Seattle Municipal Code as follows:

2 **25.11.035 Emergency actions**

3 Emergency actions may be undertaken without obtaining a permit in advance from the Seattle
4 Department of Construction and Inspections. Prior to an emergency action, a certified arborist
5 must determine there is an extreme risk of imminent failure for the tree or tree part using the
6 International Society of Arborists Tree Risk Assessment Qualification (TRAQ) method in its
7 most current form. Any person undertaking an emergency action must complete the following:

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

10 B. Submit a hazardous tree removal application to the Seattle Department of Construction
11 and Inspections within ten calendar days of the emergency action; otherwise, the responsible
12 party may be subject to enforcement including fines and penalties in accordance with Section
13 25.11.100; and

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

16 Section 7. A new Section 25.11.037 is added to the Seattle Municipal Code as follows:

17 **25.11.037 Hazardous tree removal**

18 A. Approval from the Seattle Department of Constructions and Inspections is required in
19 advance of hazardous tree removal unless it is an emergency action pursuant to Section
20 25.11.035.

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

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

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

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

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

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

15 2. Potential targets are present that include permanent structures or an area of
16 moderate to high use;

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

19 4. Disposition of Extreme and High Risk trees:

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

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

4 5. Disposition of other risk category trees shall be at the discretion of the Director.

5 Section 8. Section 25.11.040 of the Seattle Municipal Code, last amended by Ordinance
6 125791, is amended as follows:

7 **25.11.040 Restrictions on tree removal ((-))**

8 A. Tree removal or topping is prohibited in the following cases, except as provided in
9 Section 25.11.030, or where the tree removal is required for demolition permits, or the
10 construction of a new structure, retaining wall, rockery, or other similar improvement that is
11 approved as part of an issued building or grading permit as provided in ~~((Sections 25.11.060,~~
12 ~~25.11.070, and 25.11.080))~~ Sections 25.11.060 and 25.11.085:

- 13 1. All significant trees ~~((6 inches or greater in diameter, measured 4.5 feet above~~
14 ~~the ground,))~~ on undeveloped lots;
- 15 2. Exceptional trees on undeveloped lots; and
- 16 3. Exceptional trees on lots in Lowrise, Midrise, commercial, and single-family
17 zones.

18 B. Limits on ~~((Tree Removal))~~ tree removal when no development is proposed. ~~((In~~
19 ~~addition to the prohibitions in subsection 25.11.040.A, no))~~ No more than three significant trees
20 ~~((6 inches or greater))~~ less than 12 inches in diameter at standard height, measured 4.5 feet above
21 the ground, may be removed in any one-year period on lots in Lowrise, Midrise, commercial,
22 and single-family zones. ~~((, except when the tree removal is required for the construction of a~~
23 ~~new structure, retaining wall, rockery, or other similar improvement that is approved as part of~~

1 ~~an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and~~
2 ~~25.11.080.)~~

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

5 Section 9. Section 25.11.050 of the Seattle Municipal Code, last amended by Ordinance
6 124919, is amended as follows:

7 **25.11.050 General ((Provisions)) provisions for exceptional tree determination and tree**
8 **protection area delineation ((in Single-family, Residential Small Lot, Lowrise, Midrise, and**
9 **Commercial zones.))**

10 A. ((Exceptional)) Significant trees 12 inches or greater in diameter at standard height
11 and all exceptional trees and potential exceptional trees shall be identified on site plans. ((and

12 exceptional)) Exceptional tree status and ecological function shall be determined by the Director
13 ((according)) pursuant to ((standards)) this subsection 25.11.050.A and any rules promulgated by
14 the ((Seattle Department of Construction and Inspections.)) Director of the likelihood that a tree
15 will live to maturity due to factors including but not limited to:

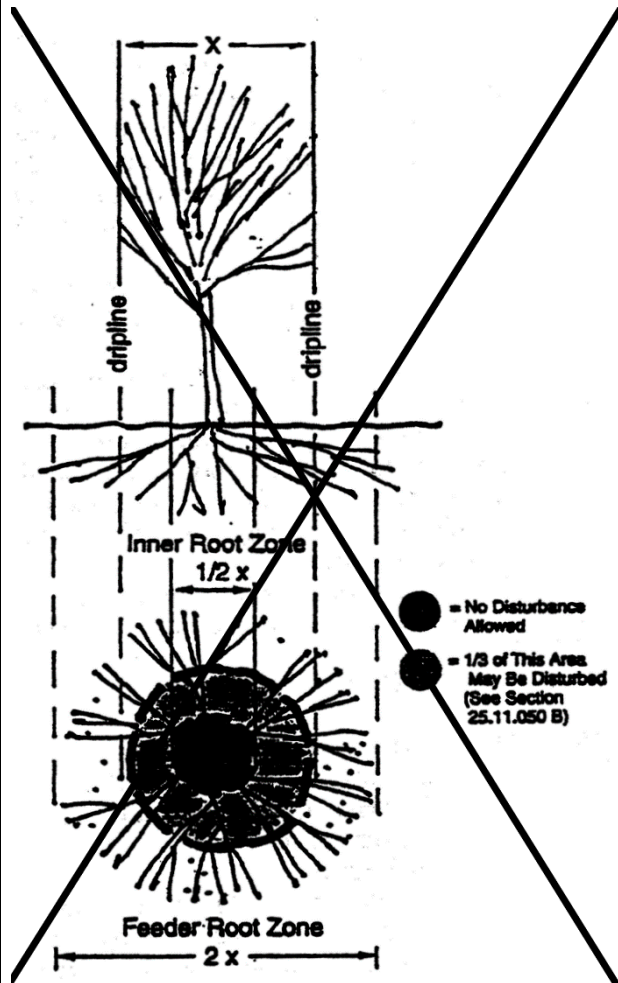
16 1. Health and physical condition;

17 2. Development site constraints such as proximity to existing or proposed
18 development, access and utilities, soil conditions, and solar access;

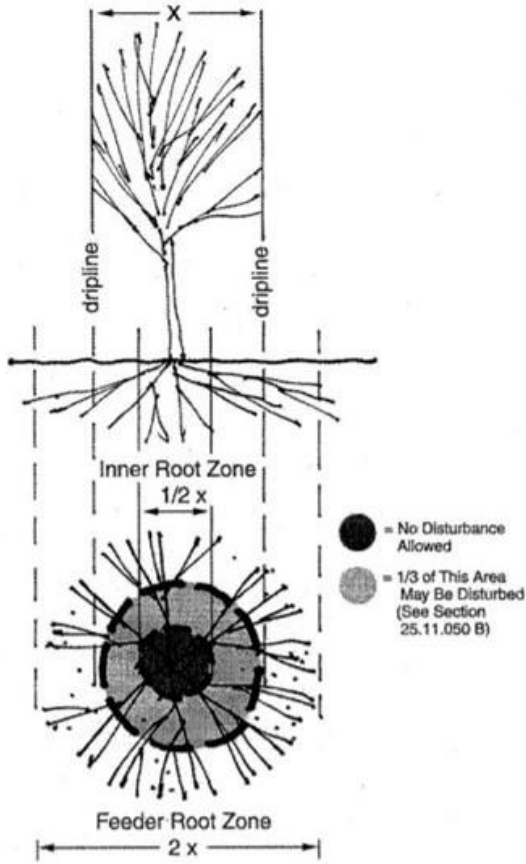
19 3. Environmental conditions external to the development site such as the likely
20 occurrence of disease or insect infestation, landslide, or high water table.

21 B. Tree protection areas for significant trees over 12 inches in diameter at standard height
22 and exceptional trees shall be identified on ((sites)) site plans. Applicants seeking development
23 standard waivers to protect ((other trees greater than two (2) feet in diameter measured four and

1 ~~one-half (4.5) feet above the ground~~) significant trees over 12 inches in diameter at standard
2 height and exceptional trees shall also indicate tree protection areas on site plans. The basic tree
3 protection area shall be the area within the drip line of the tree, or as otherwise determined by the
4 Director. The tree protection area may be reduced (~~((if approved))~~) by the Director, ~~((according to~~
5 ~~a plan prepared by a tree care professional.))~~ All site plans that include a request for a
6 development standard waiver shall be prepared by a tree service provider and/or certified
7 arborist. ~~((Such))~~ The reduction shall be limited to one-third of the area within the outer half of
8 the area within the drip line. In no case shall the reduction occur within the inner root zone. In
9 addition, the Director may establish conditions for protecting ~~((the))~~ an exceptional tree during
10 construction within the feeder root zone. (See Exhibit A for 25.11.050.B.)



11



1

2 **Exhibit A for 25.11.050.B**

3 C. If development standards have been modified (~~(according)~~) pursuant to the provisions
4 of Title 23 and this (~~(chapter)~~) Chapter 25.11 to avoid development within a designated tree
5 protection area, (~~(that)~~) the tree protection area shall remain undeveloped for the remainder of
6 the life of the building, and a permanent covenant stating this requirement shall be recorded in
7 the King County (~~(Office of Records and Elections)~~) Recorder's Office. A condition shall be
8 added to the permit and a site plan showing the undevelopable area shall be a permanent and
9 publicly viewable SDCI record for the life of the project.

10 D. The Director may require a tree protection report prepared by a (~~(tree care~~
11 ~~professional)~~) tree service provider and/or certified arborist that provides the following
12 information:

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

3 2. Evaluation of the anticipated effects of proposed construction on the viability
4 of the tree;

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

6 4. Plans for supervising, and/or monitoring implementation of any required tree
7 protection or tree replacement measures including payment in-lieu pursuant to Section
8 25.11.095; and

9 5. Plans for conducting post-construction site inspection and evaluation.

10 E. Required tree protection

11 1. Significant trees over 12 inches in diameter at standard height and exceptional
12 trees that are not allowed to be removed pursuant to Section 25.11.060 or 25.11.085 and that do
13 not preclude access to development or provision of utility services shall be protected.

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

16 3. The Director shall require that a permanent covenant, and a survey if one has
17 been prepared, be recorded in the King County Recorder’s Office that describes and delineates
18 all required tree protection areas for preserved or replanted trees, that prohibits development on
19 and within any of the tree protection areas and any disturbance of them inconsistent with the
20 provisions of this Chapter 25.11. For any Master Use Permit or Building Permit with preserved
21 or replanted trees and protected undisturbed areas, the permit with a specific permit condition
22 and a site plan showing the trees and undisturbed areas shall be a permanent and publicly
23 viewable SDCI document.

1 Section 10. Section 25.11.060 of the Seattle Municipal Code, last amended by Ordinance
2 125791, is amended as follows:

3 **25.11.060 Tree protection on sites undergoing development (~~(in single-family zones)~~)**

4 A. (~~Exceptional trees~~) Single-family zones

5 1. The Director may permit an exceptional tree to be removed only if:

6 a. The maximum lot coverage permitted on the site (~~(according)~~) pursuant
7 to Title 23 cannot be achieved without extending into the tree protection area or into a required
8 front and/or rear yard to an extent greater than provided for in subsection 25.11.060.A.2; or

9 b. Avoiding development in the tree protection area would result in a
10 portion of the house being less than 15 feet in width.

11 c. If the applicant proposes development that disturbs less of the site than
12 permitted by subsections 25.11.060.A.1.a and 25.11.060.A.1.b, then allowed tree removal shall
13 be limited to that necessary to build the proposed development.

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

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

20 (~~(B. Trees over 2 feet in diameter measured 4.5 feet above the ground shall be identified~~
21 ~~on site plans. In order to protect such trees, an applicant may modify their development proposal~~
22 ~~to extend into front and/or rear yards in the same manner as provided for exceptional trees in~~
23 ~~subsection 25.11.060.A.)~~)

1 B. Lowrise, Midrise, and Commercial zones

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

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

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

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

12 3) Landscaping and screening may be reduced by a
13 maximum of 25 percent; and

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

16 b. For development subject to design review, the departures
17 permitted in Section 23.41.012.

18 c. Parking reduction. A reduction in the parking quantity required
19 by Section 23.54.015 and the modification of standards for safe access of any required parking of
20 Section 23.54.030 may be permitted in order to protect an exceptional tree if the reduction would
21 result in a project that would avoid the tree protection area.

22 d. In Lowrise zones, for a principal structure with a base height
23 limit of 40 feet that is subject to the pitched roof provisions of subsection 23.45.514.D, the

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

6 Section 11. Section 25.11.070 of the Seattle Municipal Code, last amended by Ordinance
7 125603, is repealed:

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

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

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

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

10 * * *

11 Section 12. Section 25.11.080 of the Seattle Municipal Code, last amended by Ordinance
12 125603, is repealed:

13 ~~**((25.11.080 Tree protection on sites undergoing development in Midrise and Commercial**~~
14 ~~**zones.**~~

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

16 ~~A. Exceptional trees~~

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

22 2. ~~The Director may permit an exceptional tree to be removed only if the~~
23 ~~applicant demonstrates that protecting the tree by avoiding development in the tree protection~~

1 ~~area could not be achieved through the development standard adjustments permitted in Section~~
2 ~~23.41.018 or the departures permitted in Section 23.41.012, the modifications allowed by this~~
3 ~~Section 25.11.080, a reduction in the parking requirements of Section 23.54.015, or a reduction~~
4 ~~in the standards of Section 23.54.030.~~

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

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

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

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

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

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

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

1 Section 13. A new Section 25.11.085 is hereby added to the Seattle Municipal Code.

2 **25.11.085 Tree protection on sites in Major Institution Overlay Districts**

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

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

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

11 C. Mitigation for exceptional trees is provided pursuant to this Chapter 25.11.

12 Section 14. Section 25.11.090 of the Seattle Municipal Code, enacted by Ordinance
13 120410, is amended as follows:

14 **25.11.090 Tree replacement and site restoration ((:))**

15 A. Each significant tree over 12 inches in diameter at standard height and
16 exceptional tree ((and tree over two (2) feet in diameter)) that is removed in association with
17 development, and trees that are hazardous due to activity conducted by the owner or owner's
18 representative, including but not limited to construction or demolition activity, poisoning, or
19 topping in all zones shall be replaced by one or more new trees, the size and species of which
20 shall be determined by the Director; the tree replacement required shall be designed to result,
21 upon maturity, in a canopy cover that is ((at least equal)) roughly proportional to the canopy
22 cover prior to tree removal. Preference shall be given to on-site replacement. When on-site

1 replacement cannot be achieved, or is not appropriate as determined by the Director, preference
2 for off-site replacement shall be on public property.

3 B. No tree replacement is required if:

4 1. ~~((the (1)))~~ The tree is hazardous, except as provided in subsection 25.11.090.A,
5 dead, diseased, injured, or in a declining condition with no reasonable assurance of regaining
6 vigor as determined by a ~~((tree care professional,))~~ tree service provider and/or certified arborist,
7 except as required by subsection 25.11.090.B.3; ~~((or))~~

8 ~~((2))~~ 2. ~~((the))~~ The tree is proposed to be relocated to another suitable planting
9 site as approved by the Director;

10 * * *

11 Section 15. A new Section 25.11.095 is added to the Seattle Municipal Code as follows:

12 **25.11.095 Off-site planting and voluntary payment in lieu**

13 A payment to be used by the City for tree planting may be made for trees that are allowed to be
14 removed by SDCI in lieu of planting on site. Payment may be made at the applicant's option as
15 specified in this Section 25.11.095.

16 A. Where a tree's removal was approved by the Director, the applicant at their election
17 may make a payment in lieu of planting.

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

1 C. All payments shall be paid to the Seattle Department of Construction and Inspections
2 before the issuance of a permit authorizing removal of trees to be replanted pursuant to this
3 Chapter 25.11.

4 D. Payments shall be calculated pursuant to a rule promulgated by the Director.

5 Section 16. Section 25.11.100 of the Seattle Municipal Code, last amended by Ordinance
6 123633, is amended as follows:

7 **25.11.100 Enforcement and penalties ((-))**

8 A. Authority. The Director shall have authority to enforce the provisions of ((~~this~~
9 ~~chapter~~)) Chapter 25.11, to issue permits, impose conditions, establish penalties for violations of
10 applicable law or rules by the responsible party, ((~~and~~)) establish administrative procedures and
11 guidelines, conduct inspections, ((~~and~~)) prepare the forms, and publish Director’s Rules that may
12 be necessary to carry out the purposes of ((~~this chapter~~)) Chapter 25.11.

13 B. It shall be a violation of this ((~~chapter~~)) Chapter 25.11 for any person, firm, or
14 corporation to remove, clear, or take any action detrimental to trees contrary to or in violation of
15 any provision of this ((~~chapter~~)) Chapter 25.11. It shall be a violation of this ((~~chapter~~)) Chapter
16 25.11 for any person, firm, or corporation to knowingly aid and abet, counsel, encourage, hire,
17 commend, induce, or otherwise procure another to violate or fail to comply with this ((~~chapter~~))
18 Chapter 25.11.

19 C. Notice of Violation ((-))

20 1. Issuance. The Director is authorized to issue a Notice of Violation to a
21 responsible party whenever the Director determines that a violation of this subtitle has occurred
22 or is occurring. The Notice of Violation shall be considered an order of the Director unless
23 review is requested as provided in SMC 25.11.100.E.

1 2. Contents ((-))

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

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

4 it;

5 ii. The date of the notice; and

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

8 b. A Notice of Violation may be amended at any time to correct clerical
9 errors, add citations of authority, or modify the description of the violation(s) or the required
10 corrective action.

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

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

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

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

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

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

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

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

- 20 a. Sustain the Notice of Violation; or
21 b. Withdraw the Notice of Violation; or
22 c. Continue the review to a date certain for receipt of additional
23 information; or

1 d. Modify or amend the Notice of Violation.

2 4. The Director’s decision shall become the final order of the Director and is not
3 subject to further appeal unless an aggrieved party appeals as may allowed under state law.

4 F. Referral to City Attorney for Enforcement. If a responsible party fails to correct
5 a violation or pay a penalty as required by a Notice of Violation, or fails to comply with a
6 Director’s order, the Director may refer the matter to the City Attorney’s Office for civil
7 enforcement action. Judicial enforcement of a violation of this ~~((subtittle))~~ Chapter 25.11 shall be
8 by de novo review in Municipal Court.

9 G. Filing Notice or Order. A Notice of Violation, voluntary compliance agreement, or
10 ~~((an))~~ order issued by the Director or court ~~((,))~~ may be filed with the King County ~~((Department~~
11 ~~of Records and Elections))~~ Recorder’s Office.

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

20 I. Civil ~~((Penalties-))~~ penalties

21 1. Any person, firm, or corporation who is responsible for the removal, topping,
22 or other action detrimental to a tree in violation of this ~~((chapter))~~ Chapter 25.11 or any notice,
23 decision, or order issued by the Director pursuant to this ~~((chapter))~~ Chapter 25.11 shall be

1 subject to a civil penalty in ~~((the))~~ an amount ~~((equal to the appraised value of the tree(s) affected~~
2 ~~in accordance with the Guide for Plant Appraisal, 9th Edition, or successor))~~ as stated in a
3 Director’s Rule together with a 50 percent increase above that amount. If the violation is found
4 to have been conducted purposefully to improve views, increase market value, expand
5 development potential or was the result of negligence by a contractor or operator of construction
6 machinery, the amount of the penalty may be trebled as punitive damages.

7 2. Any person who fails to comply with ~~((Section))~~ subsection 25.11.100.D shall
8 be subject to a civil penalty in an amount not to exceed ~~((Five Hundred Dollars (\$500))~~ \$1,000 a
9 day.

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

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

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

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

20 K. Alternate criminal ~~((Penalty-))~~ penalty

21 1. As an alternative to the civil penalties described in this Chapter 25.11, anyone
22 violating or failing to comply with any order issued by the Director pursuant to this ~~((chapter))~~
23 Chapter 25.11 shall, upon conviction thereof, be punished by a fine of not more than ~~((One~~

1 ~~Thousand Dollars (\$1,000))~~ treble the penalty amount as stated in a Director’s Rule together
2 with a 50 percent increase above that amount or by imprisonment for not more than ~~((ninety~~
3 ~~(90))~~ 90 days, or by both such fine and imprisonment. Each day’s violation or failure to comply
4 shall constitute a separate offense.

5 2. As an alternative to the civil penalties described in this Chapter 25.11, anyone
6 violating or failing to comply with any of the provisions of this ~~((chapter))~~ Chapter 25.11 and
7 who within the past five ~~((5))~~ years has had a judgment against them pursuant to subsection
8 25.11.100.B shall, upon conviction thereof, be fined in a sum not to exceed ~~((Five Thousand~~
9 ~~Dollars (\$5,000))~~ treble the penalty amount as stated in a Director’s Rule together with a 50
10 percent increase above that amount or by imprisonment for not more than ~~((three hundred sixty-~~
11 ~~four (364))~~ 364 days, or by both such fine and imprisonment. Each day’s violation or failure to
12 comply shall constitute a separate offense.

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

1 Section 18. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2022,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2022.

7 _____
8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this _____ day of _____, 2022.

10 _____
11 Bruce A. Harrell, Mayor

12 Filed by me this _____ day of _____, 2022.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)