

**PLANNING COMMISSION AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	<b>Study Session on Draft Amendments to Regulations Regarding Trees</b>		
<b>DEPARTMENT:</b>	<b>Planning &amp; Community Development</b>		
<b>PRESENTED BY:</b>	<b>Paul Cohen, Senior Planner</b>		
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Only	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

**INTRODUCTION**

The purpose of this study session item is to provide the Commission with the City Council's May 9, 2011 new direction for the amendments related only to the regulation of trees within the Tree Conservation, Land Clearing and Site Grading Standards SMC 20.50.290 (Attachment A) and in response to discuss new staff proposed amendments (Attachment B).

Among the original reasons for undertaking amendments to the City's tree regulations were: (1) the perception that at the citywide scale, the City is losing tree canopy at a significant rate; (2) the ongoing debate at the project scale about the proper balance between retention of existing trees and the accommodation of new development; and (3) the fact that parts of the current regulations are unclear and cumbersome for staff to administer.

**BACKGROUND**

In early 2009, the City Council directed the Planning Commission and staff to prepare updated development regulations for trees. The scope was described in nine decision modules. Up until October 2010, staff and the Planning Commission had studied various draft amendments to address the direction given in these nine decision modules. Staff held several community meetings on the topic. Over six study meetings, the Planning Commission discussed and struggled with a consensus about what language to pursue. During the "public comment" part of these study meeting agendas, the Commission heard from various stakeholders who expressed disagreement with different aspects of the approaches and language under consideration. On November 8, 2010 the City Council and Planning Commission jointly met to discuss the tree code.

In early 2011, the staff secured a \$10,000 grant from the Department of Natural Resources to prepare an Urban Tree Canopy (UTC) Assessment to establish a baseline of how much tree canopy the City now has. The Council heard a presentation on the baseline Urban Tree Canopy (UTC) assessment on April 18, 2011. One of the central

Approved By: Project Manager *PLC* Planning Director *RM*

conclusions of the assessment was that the City has not lost significant tree canopy over the past two decades, remaining at approximately a 31% canopy. Staff presented the study's findings and analysis to the Commission in May 2011.

The tree code update remains one of the major objectives in the 2011-2012 Council Goal 1: "Implement the adopted Community Vision by updating the Comprehensive Plan and key development regulations in partnership with residents, neighborhoods, and businesses."

Objective: "Adopt amendments to the tree regulations, adopt a policy of increasing tree canopy through voluntary programs, and become a Tree City USA."

Current Code Purpose: "No net loss of tree cover throughout the City over time."

The Planning Commission is authorized by the City Council to review, discuss, and hear proposed amendments to the Development Code. Legislative amendments to the Development Code must meet criteria under SMC 20.30.350.

## **PROPOSAL & ANALYSIS**

One of the major premises of the Council's direction was that the City is experiencing a rapid loss of urban tree canopy (UTC), a premise that the UTC Report dispels. In view of this finding, Council directed staff to narrow the scope of the tree code amendments to the following five areas.

1. Modify the exemption for 6 significant trees removal in a three (3) year period. Currently, the City does not require tracking of these exempt trees. To remove this exemption would mean the City would require approval of all significant trees – even if the request is for one tree. The problem has not been the excessive use of this provision but the lack of ability to track the tree removal so that we can monitor the three (3) year cycle limit.

*Staff recommends that the regulation remain unchanged because the incidence of violations has not been excessive and that the City should survey the tree canopy periodically to determine the effectiveness of the tree code in maintaining or increasing the canopy.*

2. Remove non-active or non-imminent, hazardous trees as a category of the code because they would be part of tree removal. Non-active or non-imminent hazardous trees can easily be applied to the many, perhaps majority of, trees that are not perfect specimens. This recommendation removes the professional opinion of a tree's potential health or hazardousness. Non-imminent or active hazardous trees can still be removed under the six tree exemption provision or a clearing and grading permit to remove up to 80% of significant trees. However, the provision will still be needed in the Critical Area code because there are no alternative provisions to remove significant trees unless hazardous.

*Staff recommends the removal of these provisions in the tree code and their replacement in the Critical Areas code.*

3. Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a tree removal permit after. The intent is to quickly remove hazards followed by a permit for the City to track changes.

*Staff recommends that an actively hazardous tree can be photographed and cut immediately and then after cutting provide the Director with photographic proof and, if needed, the appropriate application.*

4. Remove the provision that does not allow tree removal without a development proposal. We currently allow developed properties with no future proposals to remove trees. In addition, the current code defines "development" as any permitted activity which includes land clearing and tree removal. Technically, a property owner applying for a permit to remove trees on land with no development proposal can but is contradicted by the more apparent provision that says they cannot.

*Staff recommends removal of the current provision because of its circular reasoning, "preparing the site for future sale" cannot be determined, and because the permitted clearing and removal of trees has regulations to protect and replant site.*

5. Allow the Director the option to require tree maintenance bonds based on the scope of the project. Maintenance bonds for tree replacement are burdensome to homeowners in contrast with large, redevelopment projects. In addition, the current code says both maintenance bonds shall be required and the Director may require maintenance bonds.

*Staff recommends clarification of these provisions so that the Director has the option whether to require maintenance bonds.*

## **TIMING AND SCHEDULE**

This project had been presented at Commission study sessions between February 2009 and October 2010 with an Urban Tree Canopy update in April 2011. The project to amend the tree code has provided notice to the public and the State Department of Commerce. No SEPA notice or determination has been made. Staff will begin the SEPA notice process in January 2012. The Planning Commission has not held a public hearing. Staff has tentatively scheduled a Planning Commission public hearing for their March 15, 2012 meeting.

## **RECOMMENDATION**

Staff recommends that the Planning Commission discuss the Council's direction and the resulting staff proposed amendments.

## **ATTACHMENTS**

Attachment A – City Council's May 9, 2011 Direction  
Attachment B – Staff Proposed Amendments

This page intentionally blank

---

**Council Meeting Date:** May 9, 2011

**Agenda Item:**

---

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<p><b>AGENDA TITLE:</b> Discussion of Tree Code Scope of Work and Other Actions to Address Tree Canopy</p> <p><b>DEPARTMENT:</b> Planning &amp; Development Services</p> <p><b>PRESENTED BY:</b> Joseph W. Tovar, FAICP, Director Paul Cohen, Senior Planner</p>
--

**PROBLEM/ISSUE STATEMENT:**

The purpose of this study session item is to provide the Council with the opportunity to discuss the City’s long-term tree canopy goal, alternative ways to achieve the goal, and, with that context in mind, provide direction to the staff and Planning Commission about potential revisions to the scope of the tree code amendments that have been in process for almost two years.

In early 2009, the City Council directed the Planning Commission and staff to prepare updated development regulations for trees.

The scope was described in nine decision modules (see Attachment A).

Up until October 2010, staff and the Planning Commission had studied various draft amendments to address the scope expressed in these nine decision modules.

Over six study meetings, the Planning Commission discussed and struggled with a consensus about what language to pursue.

During the “public comment” part of these study meeting agendas, the Commission heard from various stakeholders who expressed disagreement with different aspects of the approaches and language under consideration.

Meanwhile, per Decision Module #9, the staff secured a \$10,000 grant from the Department of Natural Resources to prepare an Urban Tree Canopy (UTC) Assessment to establish a baseline of how much tree canopy the City now has.

The Council heard a presentation on the baseline Urban Tree Canopy (UTC) assessment on April 18, 2011. One of the central conclusions of the assessment was that the City has not lost significant tree canopy over the past two decades, remaining at approximately a 31% canopy.

With this assessment in mind, the staff would like the Council to consider what, if any, adjustments to make to the scope of the City’s development regulations regarding tree retention and removal.

**FINANCIAL IMPACT:**

The UTC assessment identified in general terms the financial benefits provided by the City's urban tree canopy. The \$10,000 for the consultant work creating the UTC Assessment has been expended. There are no additional financial implications for the City at this time.

**RECOMMENDATION**

Staff recommends that the Council adopt motions to direct the following staff actions:

1. Narrow the scope of the amendments to the City's tree regulations consistent with the Council's detailed discussion at the May 9 meeting.
2. Refer the question of the appropriate percentage for a citywide tree canopy goal to the update process for the Comprehensive Plan.
3. Return to the Council with a report on the process, costs and merits of becoming a "Tree City USA" and initiating a voluntary tree planting program in Shoreline's neighborhoods.

Approved By:            City Manager \_\_\_\_\_ City Attorney \_\_\_\_\_

### INTRODUCTION

Among the main reasons for undertaking amendments to the City's tree regulations were: (1) the perception that at the citywide scale, the City is losing tree canopy at a significant rate; (2) the ongoing debate at the project scale about the proper balance between retention of existing trees and the accommodation of new development; and (3) the fact that parts of the current regulations are unclear and cumbersome for staff to administer.

### BACKGROUND

City Council was last updated on the tree code amendment process in May 2010. No decisions or direction were provided at that time as it was an information only presentation. On November 8, 2010 the City Council and Planning Commission jointly met to discuss the tree code (Attachment B).

The tree code update is one of the major objectives for 2010-2011 Council Goal 1:

“Implement the adopted Community Vision by updating the Comprehensive Plan and key development regulations in partnership with residents, neighborhoods, and businesses.”

Objective: “Adopt updated tree regulations, including citywide goals for urban forest canopy.”

Current Code Purpose: “No net loss of tree cover throughout the City over time.”

The results of the Urban Tree Canopy (UTC) assessment indicate that Shoreline has 31% tree canopy coverage as of July 2009. This is a slight increase in canopy from 1992, estimated at 30%, and essentially the same as in 2001, estimated at 31%. No discernable loss of citywide tree canopy has occurred over the past 17 years.

Overall, Shoreline has 56% vegetative cover comprised of grass, shrubs, and trees. Approximately 71% of the current tree canopy is located in the low density residential zones, an area that represents approximately two thirds of the total land area in the City. Approximately 46% of the City is impervious surface, which includes roads, parking lots and roofs.

The UTC Assessment report does provide insight into which areas of the City may provide the biggest opportunities to increase tree canopy. The land area with the greatest opportunity for new tree canopy is the land mass that is designated for single family neighborhoods.

The City's Sustainability Strategy adopted in 2009 listed 40% tree canopy citywide as a possible long-term goal. The source of that goal was a report prepared by an organization, *American Forests*, which was cited in the UTC Assessment. Whether the City wishes to adopt the 40% total tree canopy as our long-term goal is a major policy question for Council to consider. Depending on the answer to that policy

question, the Council may wish to consider what additional strategies or programs, apart from regulation, would be most effective in increasing the City's canopy.

The UTC Assessment states that to achieve a 40% canopy would require maintaining the existing tree canopy *and* adding approximately 46,000 trees at an average 30-foot crown diameter. Based on the City's 2003 Urban Forest Plan, the average planting cost per tree was \$264 per tree. At that rate, planting 46,000 trees would cost over \$12 million, plus the additional maintenance costs for those trees.

### DISCUSSION

An Urban Tree Canopy goal combined with regular (5-10 year) assessment of the UTC is a common management tool to determine if programs, policies, and regulations are achieving the desired outcome. Shoreline's current tree regulations set a goal in the purpose statement of "No net loss of tree cover throughout the City over time." Based on the results of this UTC Assessment, the current regulations appear to be achieving this goal. The staff, therefore, suggests that at its May 9 meeting, the Council discuss the following issues.

- If greater tree canopy is a goal, perhaps the City should develop programs for public education and planting of trees. One symbolic way to initiate such a program would be to seek designation of Shoreline as a "Tree City USA". Shoreline already satisfies most of the criteria for such a designation, but would need to assign a "Tree Board" responsibility to, for example, our Parks Board. The City Manager's office has already begun evaluating the pros and cons of such an action.
- Because the park and other public spaces have a limited capacity for adding trees, the most likely candidate area for significant tree planting would be in the City's residential neighborhoods. The City could support volunteer tree planting programs, perhaps similar to the recent successes of the Backyard Wildlife Program. The City may be able to secure funding for such a program from the King Conservation District.
- Some have argued that the citywide tree canopy assessment is too broad a scale to address the actual rate of tree loss and does not differentiate between the relative value of different species and sizes of trees. Should the City strive for a more "fine-grain" inventory of the rate of tree loss and/or health by undertaking a more detailed inventory and/or require a permit for the cutting of any trees? This would have a budget impact for the City which would have to be evaluated before a decision to undertake more detailed inventory.
- The Planning Commission's work on the 9 "Decision Modules" has consumed a half dozen study meetings over the past two years and resulted in very little agreement among those members of the public who have regularly attended and commented on this subject. The appropriate degree and type of regulation continues to be a contentious issue.



- One of the major premises of the prior Council direction seemed to be that the City is experiencing a rapid loss of urban tree canopy, a premise that the UTC Report appears to dispel. In view of this conclusion, the staff believes that it is appropriate to revisit the scope of the amendments that the City should consider to the tree regulations, specifically narrowing the scope to the following five areas:
  1. Modify the exemption for 6 significant trees removal in a 3 year period. Currently, the City doesn't require tracking of these exempt trees. To remove this exemption would mean the City would require approval of all significant trees – even if the request is for one tree. The problem hasn't been the excessive use of this provision but the lack of ability to track the tree removal so that we can monitor the 3 year cycle limit. Requiring a Tree Evaluation and Permit Exemption form for the removal of any significant tree will make this provision more enforceable and better to monitor the rate of tree removal.
  2. Remove non-active or non-imminent, hazardous trees as a category of the code because they would be part of tree removal. Non-active or non-imminent hazardous trees could be applied to the many, perhaps majority of, trees that are not perfect specimens. This recommendation removes the professional opinion of a tree's potential health or hazardousness. It also allows the City to gain permit revenues for processing tree removal in excess of the 6 trees per 3 year provision.
  3. Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a tree removal permit after. The intent is quickly remove hazards followed by a permit for the city to track changes.
  4. Remove the provision that does not allow tree removal without a development proposal. We currently allow developed properties (with no future proposals) to remove trees. Current code language defines "development" as any permitted activity including land clearing, which includes tree removal.
  5. Allow the Director the option for tree maintenance bonds based on the scope of the project. Maintenance bonds for small tree replacement are burdensome to homeowners in contrast with large, redevelopment projects.

### **RECOMMENDATION**

Staff recommends that the Council adopt motions to direct the following staff actions:

1. Narrow the scope of the amendments to the City's tree regulations consistent with the Council's detailed discussion at the May 9 meeting.
2. Refer the question of the appropriate percentage for a citywide tree canopy goal to the update process for the Comprehensive Plan.
3. Return to the Council with a report on the process, costs and merits of becoming a "Tree City USA" and initiating a voluntary tree planting program in Shoreline's neighborhoods.

**ATTACHMENTS**

- Attachment A 2009 Decision Modules
- Attachment B 11-8-10 Joint Meeting Minutes

**Proposed Tree Code Amendments Per Council May 9, 2011 Direction**

**20.50.290 Purpose.**

The purpose of this subchapter is to reduce the environmental impacts of site development while promoting the reasonable use of land in the City by addressing the following:

- A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;
- B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;
- C. Promotion of building and site planning practices that are consistent with the City's natural topography and vegetative cover;
- D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development in the City and provide continuity and screening between developments;
- E. Protection of critical areas from the impacts of clearing and grading activities;
- F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;
- G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;
- H. Retention of tree clusters for the abatement of noise, wind protection, and mitigation of air pollution;
- I. Rewarding significant tree protection efforts by granting flexibility for certain other development requirements;
- J. Providing measures to protect trees that may be impacted during construction;
- K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and
- L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time. (Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(A), 2000).

**20.50.300 General requirements.**

- A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.
- B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision

that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

C. Permit Required. No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC [20.50.310](#).

D. When clearing or grading is planned in conjunction with development that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.

~~E. No clearing and grading shall be allowed on a site for the sake of preparing that site for sale or future development where no specific plan for future development has been submitted. The Director may issue a clearing and grading permit as part of a phased development plan where a conceptual plan for development of the property has been submitted to the City and the owner or developer agrees to submit an application for a building permit or other site development permit in less than 12 months.~~

Comment [p1]: In response to Council Direction #4.

F. A clearing and grading permit may be issued for developed land if the regulated activity is not associated with another development application on the site that requires a permit.

G. Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC [20.50.330\(D\)](#).

H. Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter [20.80](#) SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply. (Ord. 406 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(B), 2000).

**20.50.310 Exemptions from permit.**

A. **Complete Exemptions.** The following activities are exempt from the provisions of this subchapter and do not require a permit:

1. Emergency situation on private property involving danger to life or property or substantial fire hazards.

a. Statement of Purpose. Retention of significant trees and vegetation is necessary in order to utilize natural systems to control surface water runoff, reduce erosion and associated water quality impacts, reduce the risk of floods and landslides, maintain fish and wildlife habitat and preserve the City's natural, wooded character. Nevertheless, when certain trees become unstable or damaged, they may constitute a hazard requiring cutting in whole or part. Therefore, it is the purpose of this section to provide a reasonable and

effective mechanism to minimize the risk to human health and property while preventing needless loss of healthy, significant trees and vegetation, especially in critical areas and their buffers.

b. For purposes of this section, "Director" means the Director of the Department of Planning and Development Services and his or her designee.

c. In addition to other exemptions of Subchapter 5 of the Development Code, SMC [20.50.290](#) through [20.50.370](#), a permit exemption request for the cutting of any tree that is an active and imminent hazard (i.e., an immediate threat to public health and safety) shall be granted if it is evaluated and authorized by the Director under the procedures and criteria set forth in this section.

Comment [p2]: Combined with d. below Overlapping with d. below. In response to Council Direction #3.

d. For trees that pose an active and imminent hazard to life or property, such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines, or are uprooted by flooding, heavy winds or storm events, After the tree removal, the City will need photographic proof and the appropriate application approval, if any permit would have been required to remove the tree prior to its active and imminent hazardous state. Director may verbally authorize immediate abatement by any means necessary.

e. For hazardous circumstances that are not active and imminent, such as suspected tree rot or diseased trees or less obvious structural wind damage to limbs or trunks, a permit exemption request form must be submitted by the property owner together with a risk assessment form. Both the permit exemption request form and risk assessment form shall be provided by the Director.

Comment [p3]: In response to Council Direction # 2. Will need to keep these provisions in the Critical Area code because without clearing and grading permit hazardous trees couldn't be removed.

f. The permit exemption request form shall include a grant of permission for the Director and/or his qualified professionals to enter the subject property to evaluate the circumstances. Attached to the permit exemption request form shall be a risk assessment form that documents the hazard and which must be signed by a certified arborist or professional forester.

g. No permit exemption request shall be approved until the Director reviews the submitted forms and conducts a site visit. The Director may direct that a peer review of the request be performed at the applicant's cost, and may require that the subject tree(s) vegetation be cordoned off with yellow warning tape during the review of the request for exemption.

h. Approval to cut or clear trees may only be given upon recommendation of the City-approved arborist that the condition constitutes an actual threat to life or property in homes, private yards, buildings, public or private streets and driveways, sidewalks, improved utility corridors, or access for emergency vehicles and any trail as proposed by the property owner and approved by the Director for purposes of this section.

~~i. The Director shall authorize only such alteration to existing trees and vegetation as may be necessary to eliminate the hazard and shall condition authorization on means and methods of removal necessary to minimize environmental impacts, including replacement of any significant trees. The arborist shall include an assessment of whether a portion of the tree suitable for a snag for wildlife habitat may safely be retained. All work shall be done utilizing hand-held implements only, unless the property owner requests and the Director approves otherwise in writing. The Director may require that all or a portion of cut materials be left on site.~~

2. Removal of trees and/or ground cover by the City and/or utility provider in situations involving immediate danger to life or property, substantial fire hazards, or interruption of services provided by a utility. The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.
3. Installation and regular maintenance of public utilities, under direction of the Director, except substation construction and installation or construction of utilities in parks or environmentally sensitive areas.
4. Cemetery graves involving less than 50 cubic yards of excavation, and related fill per each cemetery plot.
5. Removal of trees from property zoned MUZ and I, CB and NCB, and NB and O, unless within a critical area or critical area buffer.
6. Within City-owned property, removal of noxious weeds or invasive vegetation as identified by the King County Noxious Weed Control Board in a wetland buffer, stream buffer or the area within a three-foot radius of a tree on a steep slope is allowed when:
  - a. Undertaken with hand labor, including hand-held mechanical tools, unless the King County Noxious Weed Control Board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment, herbicides or biological control methods; and
  - b. Performed in accordance with SMC [20.80.085](#), Pesticides, herbicides and fertilizers on City-owned property, and King County Best Management Practices for Noxious Weed and Invasive Vegetation; and
  - c. The cleared area is revegetated with native vegetation and stabilized against erosion in accordance with the Department of Ecology 2005 Stormwater Management Manual for Western Washington; and
  - d. All work is performed above the ordinary high water mark and above the top of a stream bank; and

e. No more than a 3,000 square feet of soil may be exposed at any one time.

B. **Partial Exemptions.** With the exception of the general requirements listed in SMC [20.50.300](#), the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- 1. The removal of up to six significant trees (see Chapter [20.20](#) SMC, Definitions) and associated removal of understory vegetation from any property.
- 2. Landscape maintenance and alterations on any property that involves the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded. (Ord. 581 § 1 (Exh. 1), 2010; Ord. 560 § 4 (Exh. A), 2009; Ord. 531 § 1 (Exh. 1), 2009; Ord. 434 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(C), 2000).

Comment [p4]: In response to Council Direction #1.

**20.50.320 Specific activities subject to the provisions of this subchapter.**

All activities listed below must comply with the provisions of this subchapter. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- A. The construction of new residential, commercial, institutional, or industrial structures or additions.
- B. Earthwork of 50 cubic yards or more. This means any activity which moves 50 cubic yards of earth, whether the material is excavated or filled and whether the material is brought into the site, removed from the site, or moved around on the site.
- C. Clearing of 3,000 square feet of land area or more or 1,500 square feet or more if located in a special drainage area.
- D. Removal of more than six significant trees from any property.
- E. Any clearing or grading within a critical area or buffer of a critical area.
- F. Any change of the existing grade by four feet or more.
- G. ~~Any work that occurs within or requires the use of a public easement, City-owned tract or City right-of-way.~~
- H. Any land surface modification not specifically exempted from the provisions of this subchapter.
- I. Development that creates new, replaced or a total of new plus replaced impervious surfaces over 1,500 square feet in size, or 500 square feet in size if located in a landslide hazard area or special drainage area.

Comment [p5]: Conflicts with the authority of R-o-W chapter of the municipal code.

- J. Any construction of public drainage facilities to be owned or operated by the City.
- K. Any construction involving installation of private storm drainage pipes 12-inch in diameter or larger.
- L. Any modification of, or construction which affects a stormwater quantity or quality control system. (Does not include maintenance or repair to the original condition).
- M. Applicants for forest practice permits (Class IV – general permit) issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested sites to developed sites are also required to obtain a clearing and grading permit. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no development permits will be issued for six years following tree removal. (Ord. 531 § 1 (Exh. 1), 2009; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(D), 2000).

**20.50.330 Project review and approval.**

A. Review Criteria. The Director shall review the application and approve the permit, or approve the permit with conditions; provided, that the application demonstrates compliance with the criteria below.

- 1. The proposal complies with SMC [20.50.340](#) through [20.50.370](#), or has been granted a deviation from the engineering standards.
- 2. The proposal complies with all standards and requirements for the underlying permit.
- 3. If the project is located in a critical area or buffer or has the potential to impact a critical area, the project must comply with the critical areas standards.
- 4. The project complies with all requirements of the engineering standards and SMC [13.10.200](#), Surface Water Management Code and adopted standards.
- 5. All required financial guarantees or other assurance devices are posted with the City.

B. Professional Evaluation. In determining whether a tree removal and/or clearing is to be approved or conditioned, the Director may require the submittal of a professional evaluation and/or a tree protection plan prepared by a certified arborist at the applicant's expense, where the Director deems such services necessary to demonstrate compliance with the standards and guidelines of this subchapter. Third party review of plans, if required, shall also be at the applicant's expense. The Director shall have the sole authority to determine whether the professional evaluation submitted by the applicant is adequate, the evaluator is qualified and acceptable to the City, and whether third party review of plans is necessary. Required professional evaluation(s) and services may include:

- 1. Providing a written evaluation of the anticipated effects of proposed construction on the viability of trees on a site;



2. Providing a hazardous tree assessment;
3. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or
4. Conducting a post-construction site inspection and evaluation.

C. Conditions of Approval. The Director may specify conditions for work at any stage of the application or project as he/she deems necessary to ensure the proposal's compliance with requirements of this subchapter, critical area standards, engineering standards, the adopted stormwater management regulations, and any other section of the Shoreline Development Code, or to protect public or private property. These conditions may include, but are not limited to, hours or seasons within which work may be conducted, or specific work methods.

D. Designation of Protected Trees.

1. For the following areas, the retention and planting plan and any application and permit plans shall show all trees designated for protection: areas designated as "protected trees," "native growth protection areas," "sensitive areas," "sensitive area buffers," or such other designation as may be approved by the Director. Protected vegetation, including protected trees, shall not be modified, harmed or removed except as provided in this subchapter.
2. The Director may require that protected trees be permanently preserved within a tract, easement or other permanent protective mechanism. When required, the location, purpose, and limitation of these protected areas shall be shown on the face of the deed, plat, binding site plan, or similar document and shall be recorded with the King County Department of Records and Elections or its successor. The recorded document shall include the requirement that the protected areas shall not be removed, amended or modified without the written approval of the City.

E. Preconstruction Meeting Required. Prior to the commencement of any permitted clearing and grading activity, a preconstruction meeting shall be held on-site with the permittee and appropriate City staff. The project site shall be marked in the field as follows:

1. The extent of clearing and grading to occur;
2. Delineation of any critical areas and critical area buffers;
3. Trees to be removed and retained; and
4. Property lines. (Ord. 531 § 1 (Exh. 1), 2009; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(E), 2000).

**20.50.340 Basic operating conditions and standards of performance.**

A. Any activity that will clear, grade or otherwise disturb the site, whether requiring a clearing or grading permit or not, shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in SMC [13.10.200](#), Surface Water Management Code and adopted standards.

B. Cuts and fills shall conform to the following provisions unless otherwise approved by the Director:

1. Slope. No slope of cut and fill surfaces shall be steeper than is safe for the intended use and shall not exceed two horizontal to one vertical, unless otherwise approved by the Director.

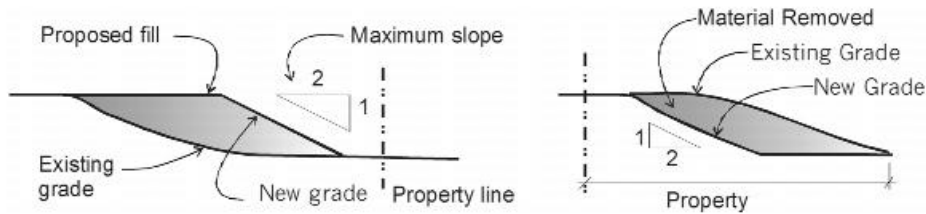


Figure 20.50.340(B): Illustration of fill and cut with maximum slope 2:1.

2. Erosion Control. All disturbed areas including faces of cuts and fill slopes shall be prepared and maintained to control erosion in compliance with the Surface Water Design Manual.

3. preparation of Ground. The ground surface shall be prepared to receive fill by removing unsuitable material such as concrete slabs, tree stumps, construction materials, brush and other debris.

4. Fill Material. Detrimental amounts of organic material shall not be permitted in fills. Only earth materials which have no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be used. In the absence of an approved soils engineering report, these provisions may be waved by the Director for minor fills not intended to support structures.

5. Drainage. Provisions shall be made to:

- a. Prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a fill;
- b. Carry any surface waters that are or might be concentrated as a result of a fill or excavation to a natural watercourse, or by other means approved by the department of public works;

6. Bench/Terrace. Benches, if required, at least 10 feet in width shall be back-sloped and shall be established at not more than 25 feet vertical intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of five percent.

7. Setbacks. The tops and the toes of cut and fill slopes shall be set back from property boundaries as far as necessary for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion of the slopes. The tops and the toes of cut and fill slopes shall be set back from structures as far as is necessary for adequacy of foundation support and to prevent damage as a result of water runoff or erosion of the slopes. Slopes and setbacks shall be determined by the Director.

C. Access Roads – Maintenance. Access roads to grading sites shall be maintained and located to the satisfaction of the Director to minimize problems of dust, mud and traffic circulation.

D. Access Roads – Gate. Access roads to grading sites shall be controlled by a gate when required by the Director.

E. Warning Signs. Signs warning of hazardous conditions, if such exist, shall be affixed at locations as required by the Director.

F. Temporary Fencing. Temporary fencing, where required by the Director, to protect life, limb and property, shall be installed. Specific fencing requirements shall be determined by the Director.

G. Hours of Operation. Hours of operation for tree cutting, clearing and grading, unless otherwise authorized by the Director, shall be between 7:00 a.m. and 7:00 p.m. weekdays and 9:00 a.m. to 9:00 p.m. on Saturdays and Sundays. Additionally, tree cutting (felling) shall further be limited to daylight hours.

H. Traffic Control and Haul Plan. The applicant shall be required to submit a plan detailing traffic control and proposed timing, volume, and routing of trucks and equipment as determined to be necessary by the Director. (Ord. 531 § 1 (Exh. 1), 2009; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(F), 2000).

**20.50.350 Development standards for clearing activities.**

A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.

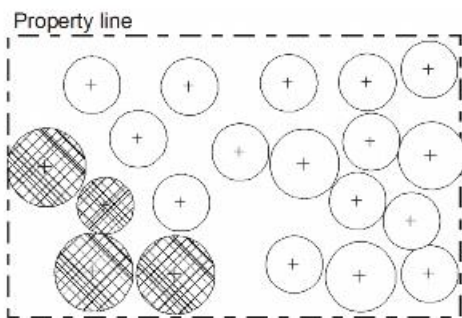
B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:

1. At least 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during construction development through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.

4. The minimum amount of trees to be retained cannot be removed Further preservation of retained trees following construction shall be required for a period of 36 months and shall be guaranteed through an approved maintenance agreement.

45. The Director may require the retention of additional trees to meet the stated purpose and intent of this ordinance, as required by the critical areas standards, or as site-specific conditions demand using SEPA substantive authority.



**LEGEND**

 Indicates trees to be retained

Figure 20.50.350(B)(1): Demonstration of the retention of 20 percent of the significant trees on a site containing no critical areas.

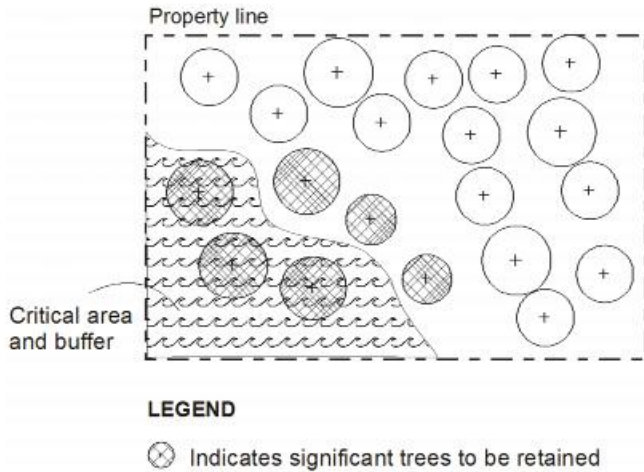


Figure 20.50.350(B)(2): Demonstration of the retention of 30 percent of the significant trees on a site containing a critical area.

Exception 20.50.350(B):

1. The Director may allow a reduction in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation of an arborist certified by the International Society of Arboriculture and approved by the City that retention of the minimum percentage of trees is not advisable on an individual site.
2. In addition, the Director may allow a reduction in the minimum significant tree retention percentage if all of the following criteria are satisfied: The exception is necessary because:
  - There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.
  - Strict compliance with the provisions of this Code may jeopardize reasonable use of property.
  - Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.
  - The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.
3. If an exception is granted to this standard, the applicant shall still be required to meet the basic tree replacement standards identified in SMC [20.50.360](#) for all significant trees removed beyond the six allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC [20.50.350\(B\)](#).

4. In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and three inches in caliper if otherwise. This provision may be waived by the Director for restoration enhancement projects conducted under an approved vegetation management plan.

C. **Incentives for Higher Levels of Tree Protection.** The Director may grant reductions or adjustments to other site development standards if the protection levels identified in subsection (B) of this section are exceeded. On a case-by-case review, the Director shall determine the balance between tree protection that exceeds the established minimum percentage and variations to site development requirements. If the Director grants adjustments or reductions to site development standards under this provision, then tree protection requirements shall be recorded on the face of the plat, as a notice to title, or on some other legal document that runs with the property. Adjustments that may be considered are:

1. Reductions or variations of the area, width, or composition of required open space and/or landscaping;
2. Variations in parking lot design and/or any access driveway requirements;
3. Variations in building setback requirements;
4. Variations of grading and stormwater requirements.

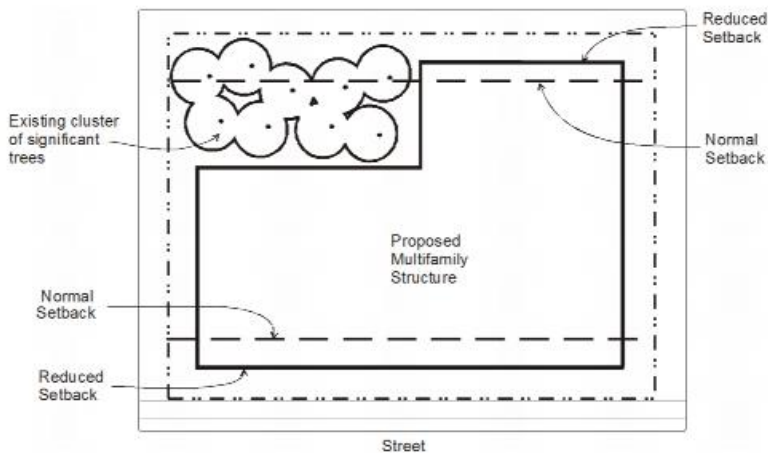


Figure 20.50.350(C): Example of aggregate setback to preserve a cluster of significant trees.

D. **Site Design.** Site improvements shall be designed and constructed to meet the following:

1. Trees should be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.

2. Site improvements shall be designed to give priority to protection of trees with the following characteristics, functions, or location:

Existing stands of healthy trees that have a reasonable chance of survival once the site is developed, are well shaped to withstand the wind and maintain stability over the long term, and will not pose a threat to life

- or property.
- Trees which exceed 50 feet in height.
- Trees and tree clusters which form a continuous canopy.
- Trees that create a distinctive skyline feature.
- Trees that have a screening function or provide relief from glare, blight, commercial or industrial harshness.
- Trees providing habitat value, particularly riparian habitat.
- Trees within the required yard setbacks or around the perimeter of the proposed development.
- Trees having a significant land stability function.
- Trees adjacent to public parks, open space, and sensitive area buffers.
- Trees having a significant water-retention function, such as cottonwoods.

3. Building footprints, parking areas, roadways, utility corridors and other structures shall be designed and located with a consideration of tree protection opportunities.

4. The project grading plans shall accommodate existing trees and avoid alteration to grades around existing significant trees to be retained.

5. Required open space and recreational space shall be designed and located to protect existing stands of trees.

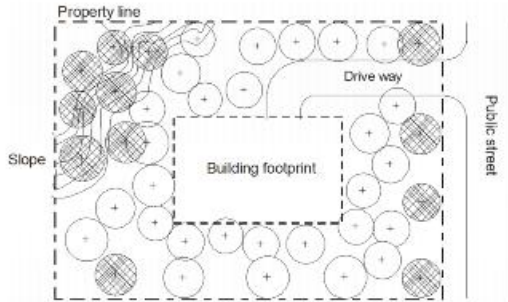
6. The site design and landscape plans shall provide suitable locations and adequate area for replacement trees as required in SMC [20.50.360](#).

7. In considering trees for protection, the applicant shall avoid selecting trees that may become hazardous because of wind gusts, including trees adjacent to utility corridors where falling trees may cause power outages or other damage. Remaining trees may be susceptible to blow downs because of loss of a buffer from other trees, grade changes affecting the tree health and stability and/or the presence of buildings in close proximity.

8. If significant trees have been removed from a closed, forested situation, an adequate buffer of smaller trees shall be retained or planted on the fringe of such significant trees as determined by a certified arborist.

9. All trees located outside of identified building footprints and driveways and at least 10 feet from proposed structures shall be considered as eligible for preservation. However, all significant trees on a site shall be considered when calculating the minimum retention percentage.

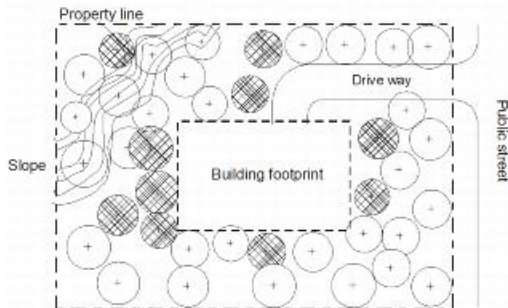
**DO THIS**



**LEGEND**

- ⊗ Appropriately retained trees - in clusters on a slope and along the street
- ⊕ Trees proposed for removal

**DON'T DO THIS**



**LEGEND**

- ⊗ Inappropriately retained trees - too close to the building and/or scattered single trees
- ⊕ Trees proposed for removal

Figure 20.50.350(D): Example of the application of tree retention site design standards. Appropriate retention of a cluster of trees on a slope and frontage trees are shown above. Inappropriate retention of scattered single trees and trees near structures are shown below.

E. Cutting and Pruning of Protected Trees. Trees protected under the provisions of this section shall not be topped. Pruning and maintenance of protected trees shall be consistent with best management practices in the field of arboriculture and further the long-term health of the tree. Excessive pruning,



including topping, stripping, or imbalances, shall not be allowed unless necessary to protect life and property.

F. **Landmark Trees.** Trees which have been designated as landmark trees by the City of Shoreline because they are 30 inches or larger in diameter or particularly impressive or unusual due to species, size, shape, age, historical significance and/or are an outstanding row or group of trees, have become a landmark to the City of Shoreline or are considered specimens of their species shall not be removed unless the applicant meets the exception requirements of subsection (B) of this section. The Director shall establish criteria and procedures for the designation of landmark trees. (Ord. 406 § 1, 2006; Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(G), 2000).

**20.50.360 Tree replacement and site restoration.**

A. **Plans Required.** Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area protection and mitigation plan, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant's expense. Third party review of plans, if required, shall be at the applicant's expense.

B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.

C. **Replacement Required.** Up to six significant trees and associated vegetation may be removed per parcel with no replacement of trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:

1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
3. Minimum size requirements for trees replaced under this provision: deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

Exception 20.50.360(C):

1. No tree replacement is required when:
  - The tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.
2. The Director may allow a reduction in the minimum replacement trees required or off-site planting of replacement trees if all of the following criteria are satisfied:

- There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.
- Strict compliance with the provisions of this Code may jeopardize reasonable use of property.

Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.

- The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

3. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

D. The Director may require that a portion of the replacement trees be native species in order to restore or enhance the site to predevelopment character.

E. The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock.

F. Replacement of removed trees with appropriate native trees at a ratio determined by the Director will be required in critical areas.

G. The Director may consider smaller-sized replacement plants if the applicant can demonstrate that smaller plants are more suited to the species, site conditions, and to the purposes of this subchapter, and are planted in sufficient quantities to meet the intent of this subchapter.

H. All required replacement trees and relocated trees shown on an approved permit shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent permit.

I. Where development activity has occurred that does not comply with the requirements of this subchapter, the requirements of any other section of the Shoreline Development Code, or approved permit conditions, the Director may require the site to be restored to as near preproject original condition as possible. Such restoration shall be determined by the Director and may include, but shall not be limited to, the following:

1. Filling, stabilizing and landscaping with vegetation similar to that which was removed, cut or filled;
2. Planting and maintenance of trees of a size and number that will reasonably assure survival and that replace functions and values of removed trees; and
3. Reseeding and landscaping with vegetation similar to that which was removed, in areas without significant trees where bare ground exists.

J. Significant trees which would otherwise be retained, but which were unlawfully removed or damaged or destroyed through some fault of the applicant or their representatives shall be replaced in a manner determined by the Director.

K. **Performance Assurance.**

1. The Director may require a performance bond for tree replacement and site restoration permits to ensure the installation of replacement trees, and/or compliance with other landscaping requirements as identified on the approved site plans.

2. A maintenance bond ~~may shall be~~ required after the installation of required site improvements and prior to the issuance of a certificate of occupancy or finalization of permit and following required landscape installation or tree replacement. The maintenance bond and associated agreement shall be in place to ensure adequate maintenance and protection of retained trees and site improvements. The maintenance bond shall be for an amount not to exceed the estimated cost of maintenance and protection measures for a minimum of 36 months or as determined by the Director.

Comment [p6]: Per Council Direction #5.

L. **Monitoring.** The Director may require submittal of periodic monitoring reports as necessary to ensure survival of replacement trees. The contents of the monitoring report shall be determined by the Director.

M. **Discovery of Undocumented Critical Areas.** The Director may stop work authorized by a clearing and grading permit if previously undocumented critical areas are discovered on the site. The Director has the authority to require additional studies, plans and mitigations should previously undocumented critical areas be found on a site. (Ord. 406 § 1, 2006; Ord. 398 § 1, 2006; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 5(H), 2000).

**20.50.370 Tree protection standards.**

The following protection measures shall be imposed for all trees to be retained on-site during the construction process.

A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter.

B. Tree dripline areas shall be protected. No fill, excavation, construction materials, or equipment staging or traffic shall be allowed in the dripline areas of trees that are to be retained.

C. Prior to any land disturbance, temporary construction fences must be placed around the dripline of trees to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained.

D. Tree protection barriers shall be a minimum of four feet high, constructed of chain link, or polyethylene laminar safety fencing or similar material, subject to approval by the Director. "Tree Protection Area" signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.

E. Where tree protection areas are remote from areas of land disturbance, and where approved by the Director, alternative forms of tree protection may be used in lieu of tree protection barriers; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by "Tree Leave Area – Keep Out" signs.

F. Rock walls shall be constructed around the tree, equal to the dripline, when existing grade levels are lowered or raised by the proposed grading.

G. Retain small trees, bushes and understory plants within the tree protection zone to the maximum extent practicable.

H. **Preventative Measures.** In addition to the above minimum tree protection measures, the applicant should support tree protection efforts by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

1. Pruning of visible deadwood on trees to be protected or relocated;
2. Application of fertilizer to enhance the vigor of stressed trees;
3. Use of soil amendments and soil aeration in tree protection and planting areas;
4. Mulching over tree drip line areas; and
5. Ensuring proper watering during and immediately after construction and throughout the first growing season after construction.

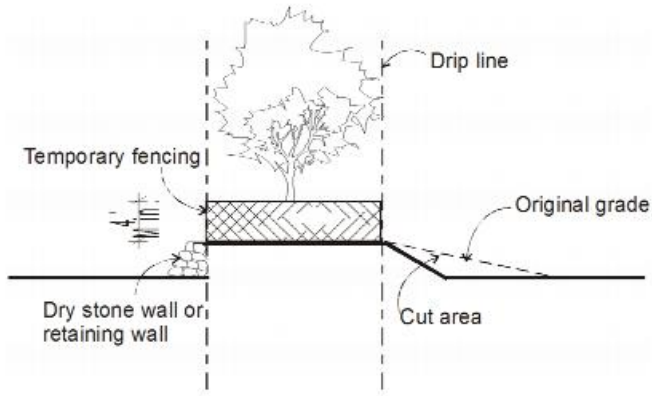


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

The Director may waive certain protection requirements, allow alternative methods, or require additional protection measures based on concurrence with the recommendation of a certified arborist deemed acceptable to the City. (Ord. 398 § 1, 2006; Ord. 238 Ch. V § 5(l), 2000).

