

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption Ordinance No. 640, Amending the Tree Conservation, Land Clearing and Site Grading Standards and the Critical Area Regulations; and Amending Chapter 20.50, Subchapter 5, and 20.80, Subchapter 1, of the Shoreline Municipal Code
DEPARTMENT:	Planning and Community Development
PRESENTED BY:	Rachael Markle, Director Paul Cohen, Senior Planner
ACTION:	<u> X </u> Ordinance <u> </u> Resolution <u> </u> Motion <u> </u> Discussion <u> </u> Public Hearing

PROBLEM/ISSUE STATEMENT:

On May 21, 2012 the City Council reviewed their May 9, 2011 direction to the Planning Commission and discussed the Commission's March 15, 2012 recommendations regarding amendments to the City's tree regulations. Direction provided to the Planning Commission by the Council on May 9, 2011 included narrowing the scope of amendments to the tree regulations to the following items:

1. Modify the exemption for removal of six significant trees in a three year period.
2. Remove non-active or non-imminent, hazardous trees as a category of the code because they would be part of tree removal.
3. Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a tree removal permit after.
4. Remove the provision that does not allow tree removal without a development proposal.
5. Allow the Director the option for tree maintenance bonds based on the scope of the project.

Based on the Council's discussion on May 21, 2012, several issues and alternatives to the Planning Commission's March 15, 2012 recommendation are explored under the Discussion section of this staff report.

RESOURCE/FINANCIAL IMPACT:

There are no financial impacts anticipated from the amendments.

RECOMMENDATION

Staff recommends that the Council discuss related issues and alternatives and adopt tree code amendments Ordinance No. 640. Staff has provided two ordinances for Council's consideration. Ordinance No. 640, Attachment A-1 reflects the Planning

Commission recommendations. Ordinance No. 640, Attachment A-2 reflects the staff recommendations.

Approved By: City Manager **JU** City Attorney **IS**

INTRODUCTION

On May 21, 2012 the City Council reviewed their May 9, 2011 direction to the Planning Commission and discussed the Commission's March 15, 2012 recommendations regarding amendments to the City's tree regulations. The following is a link to the May 21, 2012 staff report and related materials: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Staffreports/2012/Staffreport052112-8a.pdf>. Direction provided to the Planning Commission by the Council on May 9, 2011 included narrowing the scope of amendments to the tree regulations to the following items:

1. Modify the exemption for removal of six significant trees in a three year period.
2. Remove non-active or non-imminent, hazardous trees as a category of the code because they would be part of tree removal.
3. Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a tree removal permit after.
4. Remove the provision that does not allow tree removal without a development proposal.
5. Allow the Director the option for tree maintenance bonds based on the scope of the project.

Based on the Council's discussion on May 21, several issues and alternatives to the Planning Commission's March 15, 2012 recommendation are explored under the "Discussion" section later in this staff report.

BACKGROUND

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.

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 meetings, 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 the current tree canopy baseline for the City. 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 had not lost significant tree canopy over the past two decades, with the canopy remaining at approximately 31%. Staff presented the study's findings and analysis to the Commission in May 2011.

The tree code update remained 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 held a study session on March 1, 2012 to discuss revised code amendments to the City's tree regulations. The Commission held a public hearing, deliberated, and made final recommendations to the City Council on March 15, 2012, which is available at:

<http://cityofshoreline.com/index.aspx?page=182&showpast=1> .

DISCUSSION

One of the major premises of the Council's original direction to the Planning Commission was that the City was experiencing a rapid loss of urban tree canopy (UTC), a premise that the UTC Report dispelled. In view of this finding, Council directed staff to narrow the scope of the tree code amendments to the following five issues. The following issues are organized by:

- 1.- 5. May 9, 2011 Council direction;
 - a. March 15, 2012 Planning Commission recommendation;
 - b. May 21, 2012 Council discussion;
 - c. additional considerations; and
 - d. staff recommendations.
1. Remove the provision that does not allow tree removal without a development proposal. (SMC 20.50.300) The City's current practice is to allow developed properties with no future development 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 do so, but is

contradicted by the more apparent provision in SMC 20.50.300 that says they cannot.

- a. The Planning Commission recommended that the provision not be removed because, in general, the tree regulations do not provide enough protection. They recommended that the City should first have a more comprehensive review of the tree code and a more in depth analysis of the urban tree canopy survey. The City Attorney's Office and the Planning and Community Development staff recommend that Council consider removing the provision, because of unintended consequences within the City's code. Additional information is provided in item 3 of the "Additional Consideration" discussion later in this staff report.
 - b. The Council raised the concern that retaining the existing prohibition of tree removal on land for the purpose of sale and without an active development permit was contradictory, difficult to administer, and legally indefensible.
 - c. The Development Code currently states that "[n]o clearing shall be allowed on a site for the sake of preparing that site for sale or future development where no plan for future development has been submitted." SMC 20.50.300(E). This section of the code is circular, as removal of trees (above and beyond the exemption number) requires a clearing and grading permit, and a clearing and grading permit is considered "development." (See Development definition, SMC 20.20.016.) Furthermore, allowing removal of trees only in conjunction with a larger construction project is contrary to the tree regulations in SMC 20.50, which, again, allows tree removal with a clearing and grading permit only. Application of SMC 20.50.300(E) to prohibit tree removal without a construction project would not allow removal of trees to allow for more sun, light, view, or other land uses which do not involve building permits. This is not the intent of the City's Code. The City Attorney's Office and Planning and Community Development staff recommend that Council consider removal of the requirement that tree removal can only occur in conjunction with a development proposal.
 - d. The staff recommends removal of the provision as directed originally by Council.
2. Allow active or imminent, hazardous trees to be removed quickly first with documentation and then require a removal permit after, if required. (SMC 20.50.310.A.1) The intent is to quickly remove hazards followed by a permit for the City to track changes.
- a. The Planning Commission recommendation agreed with streamlining the removal of hazardous trees which are active and imminent.
 - b. The Council discussed whether the Commission recommended documentation for emergency tree removal was minimally sufficient or too difficult a requirement and whether the City should be able to dispute the documentation.

- c. There is no additional information.
 - d. Staff recommends removal of the provision that allows the Director to dispute documentation because it is likely to be legally challenged and because the City has the ability to dispute the compliance to any provision in the code without stating so.
3. Remove non-active or non-imminent, hazardous trees as a category of the code. (SMC 20.50.310.A.1.i) Non-active or non-imminent hazardous trees can easily be applied to the many, perhaps majority of, trees that are not perfect specimens. Further, non-imminent or active hazardous trees can still be removed under the three to six tree exemption provision or a clearing and grading permit to remove up to 80% of significant trees. Removing this code provision eliminates the need for a professional opinion of a tree's potential health or hazardousness since they can be removed as part of standard tree removal.

Non-imminent, hazardous trees are referenced and still need to be addressed in the Critical Areas chapter because there would be no alternative provisions to remove significant trees in a critical area unless the trees are considered only an imminent hazard. This modification allows for removal of non-imminent hazardous trees in a critical area without a permit.

- a. The Planning Commission recommendation agreed that this section of the code be stricken from the tree regulations and incorporated into the Critical Areas chapter. They also suggested that the City consider requiring a clearing and grading permit for removal of hazardous trees in critical areas.
 - b. The Council discussed the recommended amendment but did not raise any issues or discuss alternatives.
 - c. The Planning Commission also suggested that the City require a Clearing and Grading Permit for hazardous tree removal in the critical areas. Currently, the hazardous tree provisions (20.50.310.1.i) does not require a permit but can require: mitigation of environmental impacts; tree replacement; snagging; use of only hand-tools; and that tree remains are to be left on-site. Staff recommends that the current requirement is adequate and that an added permit would not protect critical areas further.
 - d. Staff recommends adoption of the Planning Commission recommendation to retain the provisions in the Critical Area Ordinance but not the suggestion for a permit to remove hazardous trees - consistent with the City's current practice.
4. Modify the exemption for removal of six (6) significant trees in a three (3) year period. (SMC 20.50.310.B) Currently, the City does not require tracking of these exempt trees. Removing this exemption from the Development Code would mean the City would need to approve removal 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 staff can monitor the three (3) year cycle limit.

- a. The Planning Commission recommendation is to keep the exempt tree provision but adjust it to be more proportional to differently sized lots and limit the exemption to only trees under 30 inches in diameter. Since six exempt trees on a smaller residential lot can mean removal of all trees and on a large lot can mean little impact an exemption between three and six trees is more to scale and, therefore, more equitable. The Commission recommends that the City should continue to not require permits or notification to the City for this exemption. However, the Commission is recommending that any trees over 30 inches in diameter not be exempted; removal of these larger trees will require a Clearing and Grading permit.

In addition, the Commission suggested that the City consider adjusting permit fees depending on the number of trees to be removed rather than apply the standard three (3)-hour permit fee.

- b. The Council raised the issues of:
 - Whether changing the number of exempt trees based on lot size was necessary or equitable;
 - Whether 30+ inch diameter trees should be excluded from the exemption if they can be removed under a permit anyway;
 - Smaller fee amount for a permit for just tree removal;
 - Timely staff response to site visit for application review; and
 - Solar Access
- c. Currently, the City charges three (3) hours or \$448.50 for a Clearing and Grading Permit for a full range of site construction activity including tree removal. Sometimes this permit is used to remove more than a few trees and is easily justified by the staff time to verify information, site visits, write corrections, review for compliance, and condition an approval. Even a permit to remove one tree can become complicated with the same steps above, especially if coordination and cooperation with an applicant becomes difficult.

If the Council would like to consider a reduced permit fee for those projects that do not require three hours of staff time, staff recommends that the Council direct staff to prepare an amendment to the fee schedule for a Tree Only - Clearing and Grading Permit with a minimum one hour fee. However, like all permits staff review time is factored into the review and the ultimate cost of a permit.

- d. Staff recommends retaining the existing provision of six exempt trees per lot for three years because the alternative would mean changing the status quo for property rights without a compelling rationale. To adjust the amount of exempt trees based on lot size is an attempt to use the regulation more equitably. However, the chosen categories of lot sizes are not based on

research or analysis. To be more equitable it would have to be calibrated for all lot sizes and for the different number and sizes of trees. See Attachment B for the map of affected lot sizes based on the Planning Commission recommendation. Staff does not recommend that Council adopt the Planning Commission recommendation to exempt trees sized at 30+ inches from the allowed removal of significant trees in a three year period. Currently, 30+ inch trees are not exempt from the allowed removal of trees in a three year period nor are they exempt if an applicant obtains a clearing and grading permit for additional tree removal. This would not change with the creation of a minor clearing and grading permit, it would only add more permit processing.

Staff recommends that the City create a Tree Only Clearing and Grading Permit with a minimum one-hour fee that would allow for a lower fee for applicants that have a permit that requires a lower amount of processing and staff time to monitor.

On May 21 Council discussed adopting minimum site visit response times, such as within seven days. Staff does not recommend that a required site visit time limit be adopted because the City has target permit processing times in the Development Code and because review or site-visit times have not been a problem. Hazardous trees that are active and imminent can be removed quickly without a site visit.

On May 21 Council also discussed the ability of property owners to protect solar access. Staff recommends that the tree code be viewed as providing flexibility in the regulations so that the property owner can make their own choices regarding the need for solar access and tree retention. Solar access is important in Shoreline both for sustainability and property rights, and is an attribute favored by many property owners. It is difficult to define solar access when that can mean passive solar heating, active solar voltaic collection, gardening, human health, and whether that should include the impacts from trees on neighboring property. Determining the requirements for each of these solar related activities provides less flexibility, increases staff processing time, and may provide less certainty for property owners.

5. Allow the Director the option to require tree maintenance bonds based on the scope of the project (SMC 20.50.360.K). The current code says tree replacement and performance bonds *may* be required, however, maintenance bonds *shall* be required by the Director. Maintenance bonds for tree replacement are burdensome to homeowners in contrast with large, redevelopment projects and should be at the discretion of the Director.
 - a. The Planning Commission recommended to retain that the Director “shall” require maintenance bonds but added that the Director “may” exempt single family parcels to relieve the burden to small property owners.
 - b. The Council discussed the recommended amendment but did not raise any issues or discuss alternatives.

- c. The City Attorney recommends that criteria be developed for the discretion of that “may” allows or amend the provision to “shall.” Use of “shall” does not require criteria for a decision.
- d. Staff recommends retaining the existing code of “shall” for maintenance bonds in general with the adoption of the Commission’s recommendation of “shall” to exempt single family owners from maintenance bonds. The use of “may” is flexible but would require criteria to make that decision. If the intent is to exempt single family owners then it is more direct to exempt by using “shall”.

Errata

Staff recommends that the use of the term “sensitive areas” and “sensitive area buffer” in SMC 20.50.330.D.1 be amended to use the terms “critical area” and “critical area buffers.” “Sensitive areas” was a term adopted earlier from King County and not changed when the City adopted its own Critical Areas regulation.

SEPA Review

The SEPA checklist and notice were publicized on January 16, 2012 (Attachment C). Issuance of a SEPA Determination of Non-Significance occurred on February 27, 2012. No appeal was received by the March 13, 2012 deadline.

Development Code Amendment Criteria

SMC 20.30.350 establishes the following criteria for approval of a Development Code amendment:

1. *The amendment is in accordance with the Comprehensive Plan;*

The amendments meet this criterion and are specifically supported by the following Land Use Policies:

LU107: Develop educational materials, incentives, policies, and regulations to conserve native vegetation on public and private land for wildlife habitat and human enjoyment. The city shall establish regulations to protect mature trees and other native vegetation from the negative impacts of residential and commercial development, including short-plat development.

LU108: The removal of healthy trees should be minimized, particularly when they are located in environmentally critical areas.

LU109: The City shall encourage the replacement of removed trees on private land and require the replacement of removed trees on public land, wherever feasible. Trees which are removed should be replaced with a suitable number of native trees that are of a size and species which will survive over the long term and provide adequate screening in the short term.

The City may require tree replacement on private property as required project

mitigation or subject to terms and limitations in a vegetation conservation and management ordinance.

2. *The amendment will not adversely affect the public health, safety or general welfare;*

The amendment does not adversely affect the public health, safety or general welfare; the amendments include only limited changes to the standards for tree retention, removal, and replacement.

3. *The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.*

The provisions of the amendment are intended to clarify the code and the administration of the code to the best interest of the citizens and property owners of Shoreline by clarifying and simplifying:

- That the number of trees removed without a permit is based on the size of the property.
- Hazardous trees removal.
- Exempt tree removal.
- When the Director may waive the requirement for maintenance bonds.

STAKEHOLDER OUTREACH

Prior to the Council clarification in May 2011, there were two years of public involvement and community awareness of the project to amend the tree code. Aside from the number of community meetings, staff compiled a list of citizens who signed up to be notified of changes or meetings. This same list of people has been notified for the recent review of code amendments. The City has maintained a webpage on the project. The March 15, 2012 public hearing notice was publicized as well as public comments received. These were included with the May 21 staff report.

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Staffreports/2012/Staffreport052112-8a.pdf>

2012-2014 COUNCIL GOAL

Goal 2: Improve Shoreline's utility, transportation, and environmental infrastructure.

The proposal to amend the code regulating trees will update key development regulations in partnership with residents and neighborhoods.

RECOMMENDATION

Staff recommends that the Council discuss related issues and alternatives and adopt tree code amendments Ordinance No. 640. Staff has provided two ordinances for Council's consideration. Ordinance No. 640, Attachment A-1 reflects the Planning Commission recommendations. Ordinance No. 640, Attachment A-2 reflects the staff recommendations.

RESOURCE/FINANCIAL IMPACT

There are no financial impacts anticipated from the amendments.

ATTACHMENTS

- A-1. Proposed Ordinance No. 640 (Planning Commission Recommendations)
- A-2. Proposed Ordinance No. 640 (Staff Recommendations)
- B. Map of Properties with Tree Exemption Recommendation
- C. SEPA Determination

ORDINANCE NO. 640

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING THE TREE CONSERVATION, LAND CLEARING AND SITE GRADING STANDARDS AND THE CRITICAL AREA REGULATIONS; AND AMENDING CHAPTER 20.50, SUBCHAPTER 5, and 20.80, SUBCHAPTER 1, OF THE SHORELINE MUNICIPAL CODE

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000; and

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states “Any person may request that the City Council, Planning Commission or Director initiate amendments to the text of the Development Code”; and

WHEREAS, City staff drafted amendments to the Development Code; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A public comment period on the proposed amendments was advertised January 16, 2012 to January 31, 2012
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on March 15, 2012; and

WHEREAS, a SEPA Determination of Nonsignificance was issued on February 27, 2012 in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant to WAC 365-195-820; and

WHEREAS, no comments were received from the State Department of Community Development; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code.

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code section 20.50 and 20.80 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Publication and Effective Date.. This ordinance shall take effect five days after publication of the title of this ordinance as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON JUNE 18, 2012.

Mayor Keith A. McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of publication: , 2012
Effective date: , 2012

EXHIBIT A

20.50.300 General requirements.

. . . *[No changes to Sections A-D]*

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.

. . . *[No changes to Sections F-H]*

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.~~ such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures, or are

- uprooted by flooding, heavy winds or storm events. After the tree removal, the City will need photographic proof or other documentation and the appropriate application approval, if any. 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.
- ~~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, the 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.~~
- ~~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 NCBD, 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 a maximum of six significant trees (excluding trees greater than 30" d.b.h. per tree) in accordance with Table 20.50.310(B)(1) (see Chapter [20.20](#) SMC, Definitions) ~~and associated removal of understory vegetation from any property.~~

Table 20.50.310(B)(1) – Exempt Trees

<u>Lot size in square feet</u>	<u>Number of trees</u>

<u>Up to 7,200</u>	<u>3</u>
<u>7,201 to 14,400</u>	<u>4</u>
<u>14,401 to 21,780</u>	<u>5</u>
<u>21,781 and above</u>	<u>6</u>

2. The removal of any tree greater than 30" DBH, or exceeding the numbers of trees specified in the table above shall require a clearing and grading permit (20.50.320 - 20.50.370).
3. 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.

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.
- 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.

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 development ~~construction~~ 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.
 - 5. 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.

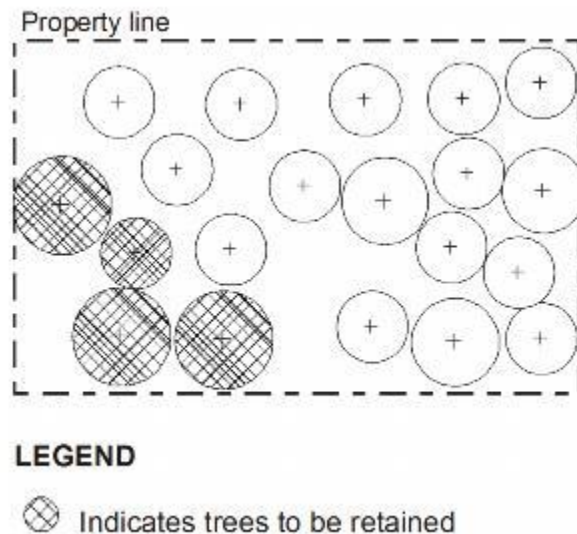


Figure 20.50.350(B)(1): Demonstration of the retention of 20 percent of the significant trees on a site containing no critical areas.

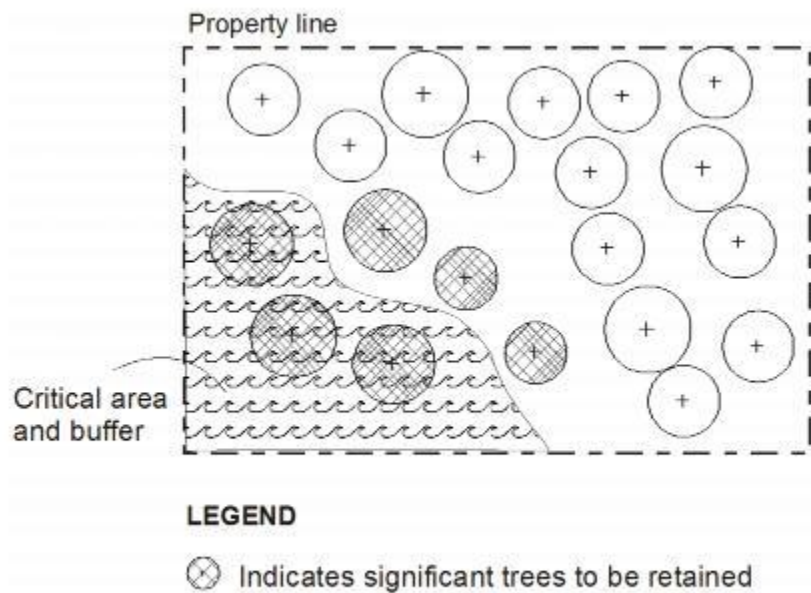


Figure 20.50.350(B)(2): Demonstration of the retention of 30 percent of the significant trees on a site containing a critical area.

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.

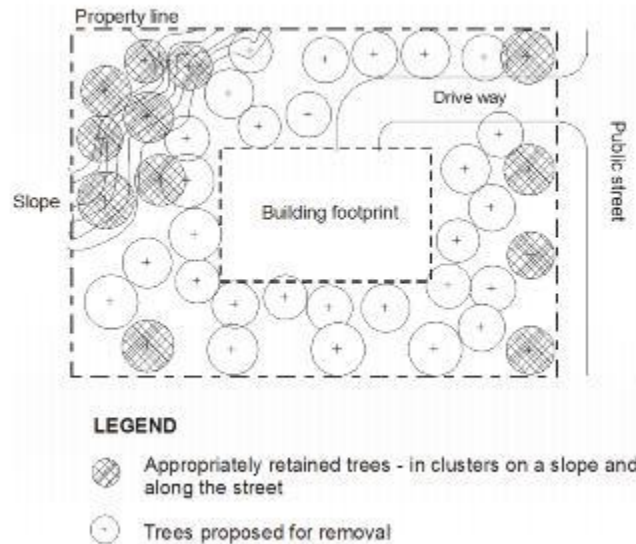
... [No changes to Section C]

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



DON'T DO THIS

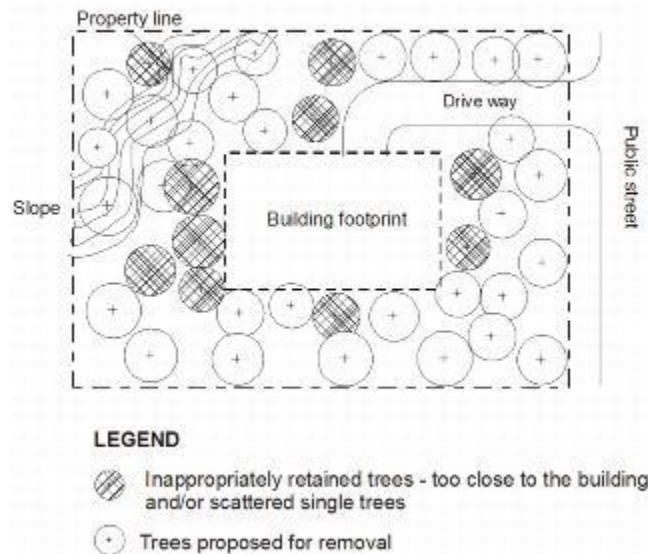


Figure 20.50.350(D): Example of the application of tree retention site design standards. Appropriate retention of a cluster of trees on a slope and frontage trees are shown above. Inappropriate retention of scattered single trees and trees near structures are shown below.

... [No changes to Sections E-F]

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. Trees removed under the partial exemption in SMC 20.50.310 (B)(1) (~~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.

... [No changes to Sections D-J]

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 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.
3. The Director may exempt individual single family lots from a maintenance bond.

... [No changes to Sections L-M]

20.80.030 Exemptions.

The following activities shall be exempt from the provisions of this chapter:

... [No changes to Sections A-G]

H. Removal of active or imminent hazardous trees in accordance with SMC [20.50.310\(A\)\(1\)\(c\)](#)

I. Removal of not active or imminent hazardous trees in accordance with the following:

1. For hazardous circumstances that are not active or 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.
2. 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.

3. 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.

4. 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.

5. 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.

~~I-J.~~ Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies;

~~J-K.~~ When it can be demonstrated that there will be no undue adverse effect, the following activities may be allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water recreation-related activities, bicycling and hiking, that will not have an undue adverse effect on the critical area;

~~K-L.~~ Normal and routine maintenance and operation of existing landscaping and gardens, provided they comply with all other regulations in this chapter;

~~L-M.~~ Minor activities not mentioned above and determined by the City to have minimal impacts to a critical area;

~~M-N.~~ Notwithstanding the exemptions provided by this section, any otherwise exempt activities occurring in or near a critical area should meet the purpose and intent of SMC [20.80.010](#) and should consider on-site alternatives that avoid or minimize impacts; and

~~N-O.~~ Mitigation projects related to utilities construction in critical areas or their buffers.

ORDINANCE NO. 640

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING THE TREE CONSERVATION, LAND CLEARING AND
SITE GRADING STANDARDS AND THE CRITICAL AREA
REGULATIONS; AND AMENDING CHAPTER 20.50, SUBCHAPTER 5,
and 20.80, SUBCHAPTER 1, OF THE SHORELINE MUNICIPAL CODE**

WHEREAS, the City adopted Shoreline Municipal Code Title 20, the Development Code, on June 12, 2000; and

WHEREAS, the Shoreline Municipal Code Chapter 20.30.100 states “Any person may request that the City Council, Planning Commission or Director initiate amendments to the text of the Development Code”; and

WHEREAS, City staff drafted amendments to the Development Code; and

WHEREAS, a public participation process was conducted to develop and review amendments to the Development Code including:

- A public comment period on the proposed amendments was advertised January 16, 2012 to January 31, 2012
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on March 15, 2012; and

WHEREAS, a SEPA Determination of Nonsignificance was issued on February 27, 2012 in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development for comment pursuant to WAC 365-195-820; and

WHEREAS, no comments were received from the State Department of Community Development; and

WHEREAS, the Council finds that the amendments adopted by this ordinance are consistent with and implement the Shoreline Comprehensive Plan and comply with the adoption requirements of the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, the Council finds that the amendments adopted by this ordinance meet the criteria in Title 20 for adoption of amendments to the Development Code.

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN
AS FOLLOWS:**

Section 1. Amendment. Shoreline Municipal Code section 20.50 and 20.80 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Publication and Effective Date.. This ordinance shall take effect five days after publication of the title of this ordinance as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON JUNE 18, 2012.

Mayor Keith A. McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of publication: , 2012
Effective date: , 2012

EXHIBIT A

20.50.300 General requirements.

. . . [No changes to Sections A-D]

~~E.~~ No clearing 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.

~~F.~~E. 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.~~F. 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.~~ G. 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.

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.~~ such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures, or are uprooted by flooding, heavy winds or storm events. After the tree removal, the City will need photographic proof or other documentation and the appropriate application approval, if any.
- 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, the 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.~~
- 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 NCBD, 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.

20.50.320 Specific activities subject to the provisions of this subchapter.

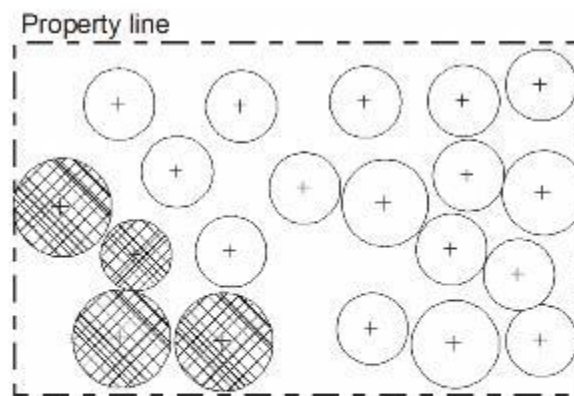
All activities listed below must comply with the provisions of this subchapter. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

- 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.
- 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.

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 development ~~construction~~ 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.
 - ~~4~~ 5. 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.

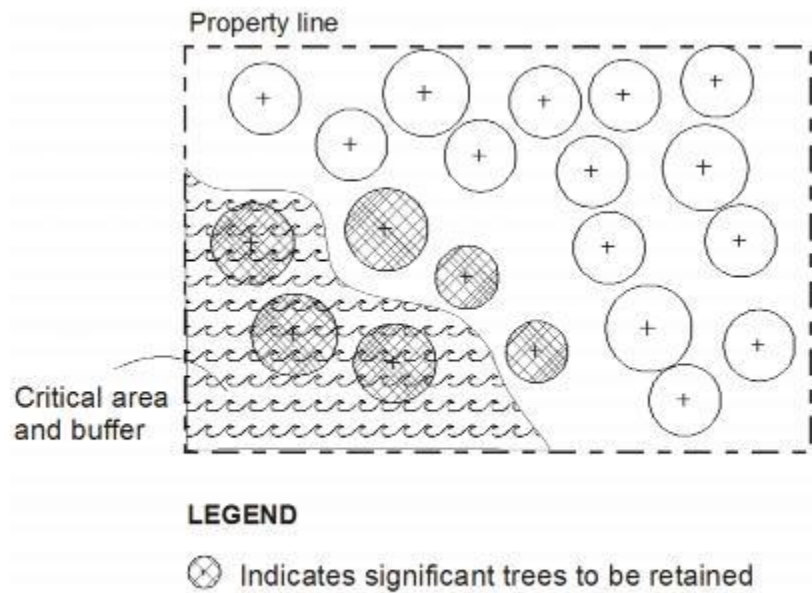


Figure 20.50.350(B)(2): Demonstration of the retention of 30 percent of the significant trees on a site containing a critical area.

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.

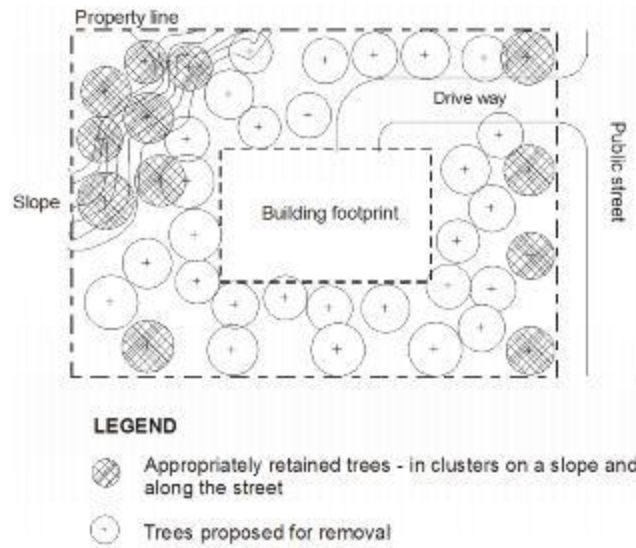
... [No changes to Section C]

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



DON'T DO THIS

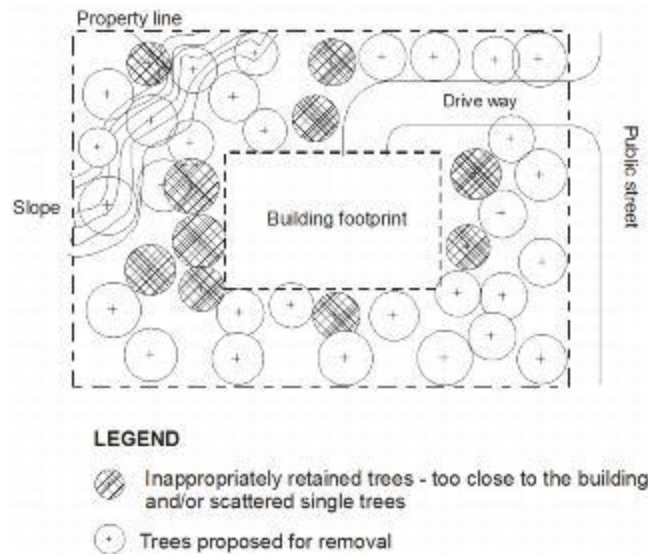


Figure 20.50.350(D): Example of the application of tree retention site design standards. Appropriate retention of a cluster of trees on a slope and frontage trees are shown above. Inappropriate retention of scattered single trees and trees near structures are shown below.

... [No changes to Sections E-F]

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.

... [No changes to Sections D-J]

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 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.
3. The Director shall exempt individual single family lots from a maintenance bond.

... [No changes to Sections L-M]

20.80.030 Exemptions.

The following activities shall be exempt from the provisions of this chapter:

... [No changes to Sections A-G]

- H. Removal of active or imminent hazardous trees in accordance with SMC [20.50.310](#)(A)(1)(c)
- I. Removal of not active or imminent hazardous trees in accordance with the following:

1. For hazardous circumstances that are not active or 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.
2. 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.
3. 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.

4. 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.

5. 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.

~~I-J.~~ Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of the critical area shall be the minimum necessary to carry out the work or studies;

~~J-K.~~ When it can be demonstrated that there will be no undue adverse effect, the following activities may be allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water recreation-related activities, bicycling and hiking, that will not have an undue adverse effect on the critical area;

~~K-L.~~ Normal and routine maintenance and operation of existing landscaping and gardens, provided they comply with all other regulations in this chapter;

~~L-M.~~ Minor activities not mentioned above and determined by the City to have minimal impacts to a critical area;

~~M-N.~~ Notwithstanding the exemptions provided by this section, any otherwise exempt activities occurring in or near a critical area should meet the purpose and intent of SMC [20.80.010](#) and should consider on-site alternatives that avoid or minimize impacts; and

~~N-O.~~ Mitigation projects related to utilities construction in critical areas or their buffers.

“The City of Shoreline” SEPA Determination of Non-Significance

Description of Proposal:

The City of Shoreline has issued a determination of non-significance for proposed amendments to the Development Code for tree removal and retention regulations

This may be your only opportunity to submit written comments, including comments on the environmental impacts of the proposal. Written comments must be received at the address listed below before **5:00 p.m. March 13, 2012**. Please mail, fax (206) 801-2788 or deliver comments to the City of Shoreline, Attn: Paul Cohen, 17500 Midvale Avenue North, Shoreline, WA 98133 or emailed to pcohen@shorelinewa.gov. Upon request, a copy of the threshold determination for this proposal may be obtained together with the City Council decision on the proposal.

Interested persons are encouraged to provide oral and/or written comments regarding the above project at the Shoreline Planning Commission Public Hearing, March 15, 2012 at 7 pm in the Council Chamber at City Hall, 17500 Midvale Avenue N, Shoreline, WA.

Copies of the proposal, SEPA Checklist and applicable codes are available for review at the City Hall, 17500 Midvale Avenue North or <http://cityofshoreline.com/index.aspx?page=273>. There is no administrative appeal of this determination. The SEPA Threshold Determination may be appealed with the decision on the underlying action to superior court. If there is not a statutory time limit in filing a judicial appeal, the appeal must be filed within 21 calendar days following the issuance of the underlying decision in accordance with State law.

Questions or More Information: Please contact Paul Cohen, Planning & Community Development at (206) 801-2551.

Any person requiring a disability accommodation should contact the City Clerk at (206) 801-2230 in advance for more information. For TTY telephone service call (206) 546-0457. Each request will be considered individually according to the type of request, the availability of resources, and the financial ability of the City to provide the requested services or equipment.