
Council Meeting Date: July 12, 2010

Agenda Item: 8(a)

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

AGENDA TITLE:	Proposed Amendments to the Development Code, Application #301606, Study Session
DEPARTMENT:	Planning and Development Services
PRESENTED BY:	Joseph W. Tovar, FAICP, PADS Director; Steven Szafran, AICP, Associate Planner

PROBLEM/ISSUE STATEMENT:

Several times a year, the Planning Commission reviews amendments to the Development Code and forwards a recommendation to the City Council. This group of amendments was discussed by Council at its July 6 study session and is placed on this week's agenda for action.

ALTERNATIVES ANALYZED: The following options are within Council's discretion:

1. The Council could choose to adopt the amendments as recommended by the Planning Commission.
2. The Council could choose to not adopt the amendments to the Development Code.
3. The Council could choose to remand some of the amendments to the Planning Commission with direction for additional review and public hearing.
4. The Council could choose to amend the proposed amendments previously considered by the Planning Commission.

FINANCIAL IMPACTS:

There are no direct financial impacts to the City of the amendments proposed by Planning Commission and Staff.

RECOMMENDATION

Motion to adopt Ordinance 581, amendments to the Development Code.

Approved By: City Manager  City Attorney 

INTRODUCTION AND BACKGROUND

PROCESS

An amendment to the Development Code may be used to bring the City's land use and development regulations into conformity with the Comprehensive Plan, or to respond to changing conditions or needs of the City.

The Planning Commission held a study session to discuss the amendments on April 15, 2010 followed by a public hearing on May 6. The Commission's recommendations were presented to the Council on July 6 for discussion.

PUBLIC COMMENT

A notice of Public Hearing, request for public comment, and preliminary SEPA threshold determination was published on April 12, 2010. Three comments were received; however they address an issue the Commission deferred for more study (20.30.680—Appeals) so these comments are not included in this packet. Seven people spoke at the Public Hearing. Of the seven, three spoke on the proposed changes to the Home Occupation regulations, two on modifying the setback standards for stairs within a front yard setback, and two on the proposed amendment to 20.30.680. (The Commission is scheduled to hold a public hearing on this amendment and others in August or September.)

AMENDMENTS AND ISSUES

Amendments Recommended by the Planning Commission

The following is a summary of the Planning Commission's recommendation and a short explanation of each amendment. Attachment 1 shows the proposed amending language shown in legislative format which uses strikethroughs for proposed deletions and underlines for proposed additions. The minutes from the public hearing and the Commission's subsequent deliberations are included as Attachment 2.

20.20.016 D definitions

"Detached" is a new definition to assist in the application of certain criteria for accessory structures and detached dwellings. It corrects an oversight that occurred with the adoption of Ordinance 406.

20.20.046 S Definitions

These new definitions incorporate into the Development Code a previous Administrative Order signed by the Planning and Development Services Director.

Table 20.30.060

This amendment removes the Street Vacation process from the Development Code and references Chapter 12.17 of the Shoreline Municipal Code; Chapter 12.17 is an existing chapter entitled "Street Vacation" that sets forth all requirements, timelines and approvals required by state law. The process set forth in the Development Code was redundant and did not reflect changes to the Street Vacation process that had been incorporated into Chapter 12.17 over the years.

20.30.070 Legislative Decisions

This amendment removes the words "open record" before public hearing; legislative hearings are public hearings, but they are not considered "open record" public hearings. The term "open record public hearings" is defined by state law and only applies to quasi-judicial hearings, not legislative hearings.

20.30.150 Public notice of decision

This is a cleanup amendment to clarify that a Notice of Decision will be posted for all Type B and C actions. All those actions are site specific proposals.

20.30.160 Expiration of vested status of land use permits and approvals

Master Development Plan Permits have different vesting timelines which are addressed in this code section.

20.30.180 Public notice of public hearing

This corrects the public notice time period for open record hearings from 14 days to 15 days. RCW 36.70B.110(3) requires 15 day notice. In practice, Planning and Development Services provides 15 day notice; this is a clean-up amendment to ensure our code reflects state law.

20.30.200 General description of appeals

The Shoreline Municipal Code does not address the appeal process for Type A decisions. The changes here clarify that Type A decisions have no administrative appeal, so appeals are made to the Superior Court.

20.30.353 G. Master Plan Vesting Expiration

There is no mechanism in place to charge a fee for the 10 year review. Since the applicant has expended significant resources for the Master Development Plan development and approval, and since the update will only be triggered by changes the City makes to its vision, goals, strategies, Comprehensive Plan and Development Code, the City should review for consistency and absorb this cost, not the applicant, as it would for any City initiated zoning amendment to reflect these changes.

As worded, this amendment leaves it to the Commission to decide whether the 10 year review will take place ("After ten years, the Planning Commission may review the master development plan for consistency..."). It is intended that staff will track this review and bring it to the Commission's attention. If there are no inconsistencies, staff will propose "no review" to the Planning Commission.

20.30.410 Preliminary subdivision review procedures and criteria

This amendment will clean-up and consolidate current language. The amendment will modify the current expiration for plats to align with State law. Also, the amendment explicitly states the Council may require dedication for parks and open space. Questions were raised about whether the amendment would remove the ability to require dedications for public purpose in the future.

This amendment does not remove that option; it still exists under the City's SEPA authority and can be invoked if a nexus is established. RCW 58.17.095 identifies all of

the items to be considered for dedication including parks and open space. This amendment clarifies who may accept the dedication (i.e. The Director cannot accept park dedications on a short plat).

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final plats/zones

The title of this section has been modified to clarify the intent of the section.

20.30.740 Declaration of public nuisance, enforcement

This amendment adds cross references in the Shoreline Municipal Code.

20.30.760 Notice and orders

This amendment removes restriction on rescinding Notice and Orders.

PDS will rescind Notice and Orders for various reasons, such as discovering a procedural error (such as failure to properly mail the Notice and Order) or substantive violations (failure to accurately state the legal description, failure to include all violations, mistakenly citing a violation). In most cases, the Notice and Order will be reissued after its rescission.

20.30.770 Enforcement provision

Staff experience has shown that that a fine of 1,000 dollars does not change behavior in some offenders, that is to say, even with the existing fine, there are some repeat offenders. Staff believes by doubling the fine, offenders may be more willing to comply with the City's regulations.

20.40.210 Accessory Dwelling Units

This amendment would modify the current requirement of a minimum 10,000 square foot lot for a detached accessory dwelling unit. All development standards such as setbacks, building coverage, hardscape, height and density are unchanged.

20.40.400 Home occupation

This amendment would relax the home occupation rules and allow a home based business to have two employees and a vehicle and a trailer as long as the vehicle and trailer do not exceed the thresholds listed.

20.40.600 Wireless telecommunication facilities/satellite dish and antennas

The intent of the change is to allow a modification to an existing pole and the replacement of a shorter pole with a taller pole (as long as height limits are not exceeded). The existing language would not allow modification to current poles and would result in more telecommunication poles throughout the city.

20.50.030 Lot width and lot area – Measurements

The amendment clarifies that all easements, including access easements, need to fit within the required lot width.

20.50.040 Setbacks – Designation and measurement

The intent of the amendment is to allow stairs in the front yard setback as long as the distance between the ground and the surface of the stair is 30 inches or less. Thirty

inches in height is a number used in other places in the code; for example, a deck that is less than 30 inches above the ground does not require a building permit.

20.50.110 Fences and walls – Standards

Sections removed from Development Code with revisions to 20.70.

20.50.125, .225, .385, .455, and .535

Deletes the reference to SMC 20.70.030 because Section 20.70 is being revised so reference no longer makes sense.

20.50.310 Exemptions from permit

The purpose of this amendment is to allow the removal of noxious weeds and invasive vegetation, especially blackberries in critical areas without a clearing and grading permit. The main impetus for this amendment is to accommodate ongoing volunteer blackberry removal projects in Shoreline's parks.

Table 20.50.390D – Special Nonresidential Standards (Continued)

Experience has shown that current parking requirements for warehouse and storage uses are too high, creating unnecessary parking stalls that are unused and creating greater areas of impervious surface. This amendment reduces the parking requirement to a realistic standard.

20.50.430 Nonmotorized access and circulation – Pedestrian access and circulation – Standards

This amendment refers to pedestrian access on private property. The 44 inch and 36 inch requirements are required by ADA accessibility in the City's building codes.

20.50.470 Street frontage landscaping – Standards

This amendment will require landscaping between the building and the sidewalk even if street trees are provided. Currently, the code allows a property owner to eliminate landscaping between the building and the sidewalk if the property owner plants street trees.

20.50.480 Street trees and landscaping within the right-of-way– Standards

The Development Code governs development (including landscape standards) outside of the city's right of way, and the Engineering Development Guide governs development and landscape standards within the right of way. This change removes street tree standards from the Development Code and refers the applicant to the Engineering Development Guide for the most current standards.

20.50.520 General standards for landscape installation and maintenance – Standards

These amendments rewrite the sections to add clarity and to generally read better.

20.60.140 Adequate streets

This amendment is self-explanatory. Any development that generates 20 or more "new" pm peak hour trips must submit a traffic study.

20.80.110 Critical areas reports required

Critical area reports should be required for non-designated critical areas as not all critical areas have been identified within the City limits.

20.80.350 Mitigation performance standards and requirements

When an applicant is required to mitigate a project, the applicant should be required to pay for the cost of monitoring said project.

NEXT STEPS

The Council is asked to take action on the Commission recommendation at its July 12 meeting. If you have questions about the recommendation that were not answered at the study session, please contact Steven Szafran at 206-801-2512 or sszafran@shorelinewa.gov.

RECOMMENDATION

Motion to adopt Ordinance 581, amendments to the Development Code.

ATTACHMENTS

1. Proposed Amendments in legislative format
2. Planning Commission minutes for Study Session, Public Hearing and Deliberations
3. Ordinance No. 581

ORDINANCE NO. 581

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING THE MUNICIPAL CODE TITLE 20, INCLUDING CHAPTERS 20.20 DEFINITIONS; 20.30 PROCEDURES AND ADMINISTRATION; 20.40 ZONING AND USE PROVISIONS; 20.50 GENERAL DEVELOPMENT STANDARDS; 20.60 ADEQUACY OF PUBLIC FACILITIES; AND 20.80 CRITICAL AREAS

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 from April 14, 2010 to May 6, 2010; and
- The Planning Commission held a Public Hearing and formulated its recommendation to Council on the proposed amendments on May 6, 2010;

WHEREAS, a SEPA Determination of Nonsignificance was issued on April 12, 2010 in reference to the proposed amendments to the Development Code; and

WHEREAS, the proposed amendments were submitted to the State Department of Community Development on March 17, 2010 for comment pursuant 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;

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

Section 1. Amendment. Shoreline Municipal Code Chapters 20.20, 20.30, 20.40, 20.50, 20.60 and 20.80 are amended as set forth in Exhibit 1, 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 3. Effective Date and Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON JULY 12, 2010.

Keith McGlashan, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

20.20.016 D definitions.

Detached Buildings with exterior walls separated by a distance of 5 feet. To be consistent with this definition projections between buildings must be separated by a minimum of 3 feet.

Director Planning and Development Services Director or designee.
(Ord. 406 § 1, 2006).

20.20.046 S Definitions

1. Secure Community Transitional Facility (SCTF) - A residential facility for persons civilly committed and conditionally released to a less restrictive community-based alternative under Chapter 71.09 RCW operated by or under contract with the Washington State Department of Social and Health Services. A secure community transitional facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. SCTFs shall not be considered Community Residential Facilities.

2. Senior Citizen Affordable Housing

Households with:

- A. Income no greater than 60% of the King County median gross income, adjusted for household size; and
- B. At least one occupant is 55 years of age or older; and
- C. A maximum of 3 occupants per dwelling unit.

3. Senior Citizen Assisted Housing - Housing in a building consisting of two or more dwelling units restricted to occupancy by at least one occupant 55 years of age or older per unit, and must include at least two of the following support services:

- A. Common dining facilities or food preparation service
- B. Group activity areas separate from dining facilities
- C. A vehicle exclusively dedicated to providing transportation services to housing occupants
- D. Have a boarding home (assisting living) license from Washington State Department of Social and Health Services.

Table 20.30.060.

8. Street Vacation	<u>PC (3) See Chapter 12.17 SMC</u>	<u>PC (3) See Chapter 12.17 SMC</u>	<u>City Council See Chapter 12.17 SMC</u>	<u>120 days See Chapter 12.17 SMC</u>	<u>See Chapter 12.17 SMC</u>
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20.30.070 Legislative Decisions

Table 20.30.070 – Summary of Legislative Decisions

Decision	Review Authority, Open Record Public Hearing	Decision Making Authority (in accordance with State law)	Section
1. Amendments and Review of the Comprehensive Plan	PC(1)	City Council	20.30.340
2. Amendments to the Development Code	PC(1)	City Council	20.30.350

(1) PC = Planning Commission

Legislative decisions usually include a hearing and recommendation by the Planning Commission and the action by the City Council.

The City Council shall take legislative action on the proposal in accordance with State law.

There is no administrative appeal of legislative actions of the City Council but they may be appealed together with any SEPA threshold determination according to State law.

20.30.150 Public notice of decision.

For Type B and C actions, the Director shall issue and mail a notice of decision to the parties of record and to any person who, prior to the rendering of the decision, requested notice of the decision. The notice of decision may be a copy

of the final report, and must include the threshold determination, if the project was not categorically exempt from SEPA. The notice of decision will be posted and published in the newspaper of general circulation for the general area in which the proposal is located and ~~posted for site-specific proposals.~~

20.30.160 Expiration of vested status of land use permits and approvals.

Except for subdivisions and master development plans or where a different ~~shorter~~ duration of approval is indicated in this Code, vested status of an approved land use permit under Type A, B, and C actions shall expire two years from the date of the City's final decision, unless a complete building permit application is filed before the end of the two-year term. In the event of an administrative or judicial appeal, the two-year term shall not expire. Continuance of the two-year period may be reinstated upon resolution of the appeal.

20.30.180 Public notice of public hearing.

Notice of the time and place of an open record hearing shall be made available to the public by the Department no less than 44 15 days prior to the hearing, through use of these methods:

20.30.200 General description of appeals.

A. Administrative decisions (Type B) are appealable to the Hearing Examiner who conducts an open record appeal hearing.

B. Appeals of City Council decisions, ministerial decisions (Type A) without an administrative appeal, and appeals of an appeal authority's decisions shall be made to the Superior Court.

20.30.353 G. Master Development Plan ~~Expiration.~~ Vesting.

A master development plan shall vest development identified in the plan for ten years after issuance of the plan or ten years after a major amendment, unless extended vesting for phased development is approved in the master development plan. ~~After Every ten~~ 40-years, the Planning Commission may ~~shall~~ review the master development plan for consistency an update every five years. ~~Revisions are required if it has become inconsistent with current City's Vision, Goals, Strategies (such as the Economic Development Strategy, Housing Strategy, Environmental Sustainability Strategy), Comprehensive Plan and other sections of the Development Code. If changes are recommended, staff shall initiate a major amendment under this section to achieve consistency unless the changes are approved by the owner.~~

20.30.410 Preliminary subdivision review procedures and criteria.

The preliminary short subdivision may be referred to as a short plat – Type B action.

The preliminary formal subdivision may be referred to as long plat – Type C action.

Time limit: A final short plat or final long plat meeting all of the requirements of this chapter and RCW 58.17 shall be submitted for approval within the timeframe specified in RCW 58.17.140.

Review criteria: The following criteria shall be used to review proposed subdivisions:

C. Dedications and improvements.

1. The City Council may require dedication of land in the proposed subdivision for public use.

2. Only the City Council may approve a dedication of park land. The council may request a review and written recommendation from the Planning Commission.

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right-of-way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

~~D. Improvements.~~

3. 2. In addition, the City Council may require dedication of land and improvements in the proposed subdivision for public use under the standards of Chapter 20.60 SMC, Adequacy of Public Facilities and Chapter 20.70 SMC, Engineering and Utilities Development Standards necessary to mitigate project impacts to utilities, right-of-way, stormwater systems.

a. Required improvements which may include be required, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.

~~2. Improvements shall comply with the development standards of Chapter 20.60 SMC, Adequacy of Public Facilities.~~

~~Time limit: Approval of a preliminary formal subdivision or preliminary short subdivision shall expire and have no further validity at the end of three years of preliminary approval.~~

~~3. Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.~~

~~4. Dedications to the City of Shoreline for the required right of way, stormwater facilities, open space, and easements and tracts may be required as a condition of approval.~~

20.30.460 Effect of changes in statutes, ordinances, and regulations on vesting of final platsrezones.

~~The owner of any lot in a final plat filed for record shall be entitled to use the lot for the purposes allowed under the zoning in effect at the time of filing of a complete application for five years from the date of filing the final plat for record, even if the property zoning designation and/or the Code has been changed. (Ord. 352 § 1, 2004; Ord. 238 Ch. III § 8(k), 2000).~~

All lots in a final short plat or final plat shall be a valid land use notwithstanding any change in zoning laws for the period specified in RCW 58.17.170 from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for the period specified in RCW 58.17.170 after final plat approval unless the Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

20.30.740 Declaration of public nuisance, enforcement.

A. A Code Violation, as used in this subchapter, is declared to be a public nuisance and includes violations of the following:

1. Any City land use and development ordinances or public health ordinances;
2. Any public nuisance as set forth in Chapters 7.48 and 9.66 RCW;
3. Violation of any of the Codes adopted in Chapter 15.05 SMC;
4. Violation of provisions of Chapter 12.15 SMC, Use of Right of Way;

- 54. Any accumulation of refuse, except as provided in Chapter 13.14 SMC, Solid Waste Code;
- 65. Nuisance vegetation;
- 76. Discarding or dumping of any material onto the public right-of-way, waterway, or other public property; and
- 87. Violation of any of the provisions of Chapter 13.10 SMC, Surface Water Management Code.

20.30.760 Notice and orders.

F. Service of a notice and order shall be made on any responsible party by one or more of the following methods:

- 1. Personal service may be made on the person identified as being a responsible party.
- 2. Service directed to the landowner and/or occupant of the property may be made by posting the notice and order in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available.
- 3. Service by mail may be made for a notice and order by mailing ~~two copies, postage prepaid, one by ordinary first class mail and the other~~ by certified mail, to the responsible party at his or her last known address, at the address of the violation, or at the address of their place of business. The taxpayer's address as shown on the tax records of the county shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. The City may mail a copy, postage prepaid, by ordinary first class mail. Service by mail shall be presumed effective upon the third business day following the day the notice and order was mailed.

The failure of the Director to make or attempt service on any person named in the notice and order shall not invalidate any proceedings as to any other person duly served.

- G. Whenever a notice and order is served on a responsible party, the Director may file a copy of the same with the King County Office of Records and Elections. When all violations specified in the notice and order have been corrected or abated, the Director shall issue a certificate of compliance to the parties listed on the notice and order. The responsible party is responsible for filing the certificate of compliance with the King County Office of Records and Elections, if the notice and order was recorded. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil penalties, for which liens have been filed, are still outstanding and continue as liens on the property.
- H. The Director may revoke or modify a notice and order issued under this section ~~if the original notice and order was issued in error or if a party to~~

~~an order was incorrectly named.~~ Such revocation or modification shall identify the reasons and underlying facts for revocation. ~~Whenever there is new information or a change in circumstances, t~~The Director may add to, rescind in whole or part or otherwise modify or revoke a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notice and orders contained in this section.

I. Failure to correct a Code Violation in the manner and within the time frame specified by the notice and order subjects the responsible party to civil penalties as set forth in SMC 20.30.770.

1. Civil penalties assessed create a joint and several personal obligation in all responsible parties. The City Attorney may collect the civil penalties assessed by any appropriate legal means.
2. Civil penalties assessed also authorize the City to take a lien for the value of civil penalties imposed against the real property of the responsible party.
3. The payment of penalties does not relieve a responsible party of any obligation to cure, abate or stop a violation.

(Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 466 §§ 2, 3, 2007; Ord. 406 § 1, 2006; Ord. 391 § 4, 2005; Ord. 238 Ch. III § 10(f), 2000. Formerly 20.30.770).

20.30.770 Enforcement provisions.

2. Any responsible party who has committed a violation of the provisions of Chapter 20.80 SMC, Critical Areas, or Chapter 20.50 SMC, General Development Standards (tree conservation, land clearing and site grading standards), will not only be required to restore unlawfully removed trees or damaged critical areas, insofar as that is possible and beneficial, as determined by the Director, but will also be required to pay civil penalties in addition to penalties under subsection (D)(1) of this section, for the redress of ecological, recreation, and economic values lost or damaged due to the violation. Civil penalties will be assessed according to the following factors:

a. An amount determined to be equivalent to the economic benefit that the responsible party derives from the violation measured as the total of:

i. The resulting increase in market value of the property; and

ii. The value received by the responsible party; and

iii. The savings of construction costs realized by the responsible party as a result of performing any act in violation of the chapter; and

~~b. A penalty of \$1,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their~~

~~contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate; and~~

~~b. e.~~ A penalty of \$2,000 if the violation has severe ecological impacts, including temporary or permanent loss of resource values or functions.

3. An additional penalty of \$1,000 \$2,000 if the violation was deliberate, the result of knowingly false information submitted by the property owner, agent, or contractor, or the result of reckless disregard on the part of the property owner, agent, or their contractor. The property owner shall assume the burden of proof for demonstrating that the violation was not deliberate; and

4. ~~3.~~ A repeat violation means a violation of the same regulation in any location within the City by the same responsible party, for which voluntary compliance previously has been sought or any enforcement action taken, within the immediate preceding 24-consecutive-month period, and will incur double the civil penalties set forth above.

5. ~~4.~~ Under RCW 59.18.085, if, after 60 days from the date that the City first advanced relocation assistance funds to displaced tenants, the landlord does not repay the amount of relocation assistance advanced by the City, the City shall assess civil penalties in the amount of \$50.00 per day for each tenant to whom the City has advanced a relocation assistance payment.

6. ~~5.~~ The responsible parties have a duty to notify the Director of any actions taken to achieve compliance with the notice and order. For purposes of assessing civil penalties, a violation shall be considered ongoing until the responsible party has come into compliance with the notice and order and has notified the Director of this compliance, and an official inspection has verified compliance.

7. ~~6.~~ Civil penalties may be waived or reimbursed to the payer by the Director, with the concurrence of the Finance Director, under the following circumstances:

- a. The notice and order was issued in error; or
- b. The civil penalties were assessed in error; or
- c. Notice failed to reach the property owner due to unusual circumstances; or
- d. Compelling new information warranting waiver has been presented to the Director since the notice and order was issued and documented with the waiver decision.

20.40.210 Accessory dwelling units.

- B. Accessory dwelling unit may be located in the principal residence, or in a detached structure. ~~on a lot that is at least 10,000 square feet in area.~~

20.40.400 Home occupation.

Residents of a dwelling unit may conduct one or more home occupations as an accessory use(s), provided:

- A. The total area devoted to all home occupation(s) shall not exceed 25 percent of the floor area of the dwelling unit. Areas with garages and storage buildings shall not be considered in these calculations, but may be used for storage of goods associated with the home occupation.
- B. In residential zones, all the activities of the home occupation(s) (including storage of goods associated with the home occupation) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s).
- C. No more than ~~one~~ two nonresident FTEs working on-site shall be employed by the home occupation(s).
- D. The following activities shall be prohibited in residential zones:
1. Automobile, truck and heavy equipment repair;
 2. Auto body work or painting; and
 3. Parking and storage of heavy equipment.
- E. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:
1. One stall for a each nonresident FTE employed by the home occupation(s); and
 2. One stall for patrons when services are rendered on-site.
- F. Sales shall be limited to:
1. Mail order sales; and

2. Telephone or electronic sales with off-site delivery.
- G. Services to patrons shall be arranged by appointment or provided off-site.
- H. The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:
 1. No more than ~~one~~ two such vehicles shall be allowed;
 2. ~~Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and~~
 2. 3. Such vehicles shall not exceed a weight capacity of one ton gross weight of 14,000 pounds, a height of nine feet and a length of 22 feet.
- I. The home occupation(s) shall not use electrical or mechanical equipment that results in:
 1. A change to the fire rating of the structure(s) used for the home occupation(s), unless appropriate changes are made under a valid building permit; or
 2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
 3. Fluctuations in line voltage off-premises; or
 4. Emissions such as dust, odor, fumes, bright lighting or noises greater than what is typically found in a neighborhood setting.
- J. Home occupations that are entirely internal to the home; have no employees in addition to the resident(s); have no deliveries associated with the occupation; have no on-site clients; create no noise or odors; do not have a sign, and meet all other requirements as outlined in this section may not require a home occupation permit.

Note: Daycares, community residential facilities such as group homes, bed and breakfasts and boarding houses are regulated elsewhere in the Code. (Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. IV § 3(B), 2000).

20.40.600 Wireless telecommunication facilities/satellite dish and antennas.

- F. Structure-Mounted Wireless Telecommunication Facilities Standards.

1. Wireless telecommunication facilities located on structures other than buildings, such as light poles, flag poles, transformers, existing monopoles, towers and/or tanks shall be designed to blend with these structures and be mounted on them in an inconspicuous manner. (Figures 9 and 10.)
2. The maximum height of structure-mounted facilities shall not exceed the base height limits specified for each zoning designation in this title regardless of exceptions for the particular mounting structure; provided the facility may extend up to 15 feet above the top of the structure on which the facility is installed, including those built at or above the maximum height allowed in a specific zone. ~~, so long as the diameter of any portion of a facility in excess of the allowed zoning height does not exceed the shortest widest diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless facilities shall be utilized to determine compliance with this subsection. Only one extension is permitted per structure.~~
3. Wireless telecommunication facilities located on structures other than buildings shall be painted with nonreflective colors in a color scheme that blends with the background against which the facility will be viewed.
4. Wireless telecommunication facilities located on structures within the City of Shoreline rights-of-way shall satisfy the following requirements and procedures:
 - a. Only wireless telecommunication providers holding a valid franchise in accordance with SMC 12.25.030 shall be eligible to apply for a right-of-way permit, which shall be required prior to installation in addition to other permits specified in this chapter. Obtaining a right-of-way site permit in accordance with this title may be an alternative to obtaining both a franchise and a right-of-way permit for a single facility at a specific location.
 - b. All supporting ground equipment locating within a public right-of-way shall be placed underground, or if located on private property shall comply with all development standards of the applicable zone.
 - c. ~~Right of way permit applications are subject to public notice by mailing to property owners and occupants within 500 feet of the proposed facility, posting the site and publication of a notice of application, except permits for those facilities that operate at one watt or less and are less than 1.5 cubic feet in size proposed by a holder of a franchise that includes the installation of such wireless facilities as part of providing the services authorized thereby.~~

c. d. To determine allowed height under subsection (F)(2) of this section, the zoning height of the zone adjacent to the right-of-way shall extend to the centerline except where the right-of-way is classified by the zoning map. An applicant shall have no right to appeal an administrative decision denying a variance from height limitations for wireless facilities to be located within the right-of-way.

d. e. A notice of decision issued for a right-of-way permit shall be distributed using procedures for an application. Parties of record may appeal the approval to the Hearing Examiner but not the denial of a permit.

20.50.030 Lot width and lot area – Measurements.

- A. Lot width shall be measured by scaling a circle within the boundaries of the lot; provided, that any access easement shall not be included within the circle.

20.50.040 Setbacks – Designation and measurement.

I. Projections into Setback.

6. ~~Building stairs less than three feet and six inches in height, Entrances and covered but unenclosed porches that are at least 60 square feet in footprint area may project up to five feet into the front yard setback.~~
7. Uncovered building stairs or ramps no more less than 30 inches from grade to stair tread and 44 inches wide may project to the property line subject to sight distance requirements.
8. ~~7.~~ Arbors are allowed in required yard setbacks if they meet the following provisions:

~~In any required yard setback, an arbor may be erected:~~

- a. No more than a 40-square-foot footprint, including eaves;
- b. A maximum height of eight feet;
- c. Both sides and roof shall be at least 50 percent open, or, if latticework is used, there shall be a minimum opening of two inches between crosspieces.

9. ~~8.~~ No projections are allowed into a regional utility corridor.

10. ~~9.~~ No projections are allowed into an access easement. (Ord. 515 § 1, 2008; Ord. 469 § 1, 2007; Ord. 352 § 1, 2004; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 1(B-3), 2000).

20.50.110 Fences and walls – Standards.

- A. The maximum height of fences located along a property line shall be six feet, subject to the sight clearance provisions of in the Engineering Development Guide SMC 20.70.170-20.70.180, and 20.70.190(C). (Note: The recommended maximum height of fences and walls located between the front yard building setback line and the front property line is three feet, six inches high).
- B. All electric, razor wire, and barbed wire fences are prohibited.
- C. The height of a fence located on a retaining wall shall be measured from the finished grade at the top of the wall to the top of the fence. The overall height of the fence located on the wall shall be a maximum of six feet. (Ord. 406 § 1, 2006; Ord. 299 § 1, 2002; Ord. 238 Ch. V § 2(B-5), 2000).

20.50.125 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.225 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.385 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.455 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.535 Thresholds – Required site improvements.

Note: For thresholds related to off-site improvements, see SMC 20.70.030. Chapter 20.70 SMC (Ord. 515 § 1, 2008; Ord. 299 § 1, 2002).

20.50.310 Exemptions from permit.

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

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 sq. ft. of soil may be exposed at any one time.

Table 20.50.390D – Special Nonresidential Standards (Continued)

Warehousing and storage: 1 per 300 square feet of office, plus 0.5 ~~0.9~~ per 1,000 square feet of storage area

20.50.430 Nonmotorized access and circulation – Pedestrian access and circulation – Standards.

- C. The pedestrian path from the street front sidewalk to the building entry shall be at least ~~44~~ 60 inches (~~or five feet~~) wide for commercial and multifamily residential structures, and at least 36 inches (~~or three feet~~) for single-family and duplex developments.

20.50.470 Street frontage landscaping – Standards.

- A. A 10-foot width of Type II landscaping located on site along the front property line is required for all development including parking structures, surface parking areas, service areas, gas station islands, and similar paved surfaces. See 20.50.470(DE) for street frontage screening landscaping standards in the MUZ zone.
- B. A 20-foot width of Type II landscaping located on site along the property line is required for nonresidential development including institutional and public facilities in residential zones areas.
- C. For buildings located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1) the width of frontage landscaping between the building and the property line may can be substituted reduced in multifamily, commercial, office, and industrial zones if with two-inch caliper street trees are provided. The maximum spacing shall be 40 feet on center if they are placed in tree pits with iron grates or in planting strips along the backside of curbs. Institutional and public facilities may substitute 10 feet of the required 20 feet with street trees, if the building is located consistent with the provisions of SMC 20.50.230, Exceptions to Table 20.50.230(1).
- D. ~~Trees spacing may be adjusted to accommodate sight distance requirements for driveways and intersections. See SMC 20.50.520(O) for landscaping standards. (Ord. 238 Ch. V § 7(B-2), 2000).~~
- DE. Any new development in the MUZ shall require All surface parking areas, outdoor storage areas, and equipment storage areas serving new development in the MUZ to shall be screened from the public right-of-way and adjacent residential land uses. These uses shall be located behind buildings, within underground or structured parking, or behind a 4-foot masonry wall with a 10-foot Type II landscape buffer between the wall and the property line. Street frontage screening shall consist of locating the above areas behind buildings, in underground or structured parking, or behind a 4 foot masonry wall with a 10 foot width of Type II landscaping between the wall and property line, behind buildings, within underground or structured parking back of sidewalk. When adjacent to single family residential, a 20-foot width of Type I landscaping is required.

20.50.480 Street trees and landscaping within the right-of-way– Standards.

- A. ~~Street trees must be two-inch caliper and planted no more than 40 feet on center and selected from the City approved street tree list. Placement of~~

~~street trees can be adjusted to avoid conflict with driveways, utilities, and other functional needs while including the required number of trees. When frontage improvements are required by SMC 20.70 S~~street trees are required ~~for in~~ all commercial, office, industrial, multifamily zones, and ~~for~~ on single-family subdivisions ~~for on~~ all arterial streets.

- B. ~~Frontage~~ Street-landscaping may be placed within City street rights-of-way subject to review and approval by the Director. Adequate space should be maintained along the street line to replant the required landscaping should subsequent street improvements require the removal of landscaping within the rights-of-way.
- C. ~~Trees must be:~~
 - 1. ~~Planted in a minimum four foot wide continuous planting strip along the curb; or~~
 - 2. ~~Planted in tree pits minimally four feet by four feet where sidewalk is no less than eight feet wide. If the sidewalk is less than eight feet wide, a tree grate may be used if approved by the Director; or~~
 - 3. ~~Where an existing or planned sidewalk abuts the curb, trees may be planted four feet behind that sidewalk on the side opposite the curb~~
- D. ~~Street trees will require five foot staking and root barriers between the tree and the sidewalk and curb.~~
- E. ~~Tree pits require an ADA compliant iron grate flush with the sidewalk surface.~~
- CF. Street trees and landscaping must meet the standards for the specific street classification abutting the property as depicted requirements in the Engineering Development Guide including but not limited to size, spacing, and site distance. All street trees must be selected from the City approved street tree list.

20.50.520 General standards for landscape installation and maintenance – Standards.

- O. Landscape plans and utility plans shall be coordinated. ~~In general~~ The placement of trees and large shrubs shall ~~should adjust to accommodate~~ the location of required utilities utility routes both above and below ground. Location of plants and trees shall be based on the plant's mature canopy and root zone ~~mat width~~. Root zone shall be determined using the

International Society of Arboriculture's recommended calculation for identifying tree protection area. ~~mat width is assumed to be the same width as the canopy, unless otherwise documented in a credible print source.~~ Mature tree and shrub canopies may not reach an above ground utility such as street lights and power-lines. Mature tree and shrub root zones ~~mats~~ may overlap utility trenches as long as approximately 80 percent of the root zone ~~mat~~ area is unaffected.

P. Adjustment of plant location does not reduce the number of plants required for landscaping.

Q. ~~Sight distance triangle shall be established for~~ and visual clearances consistent with ~~SMC 20.70.170 the Engineering Development Guide~~ driveway exits and entrances and street corners shall be maintained.

20.60.140 Adequate streets.

A. Development Proposal Requirements. All new proposals for development that would generate 20 or more new trips during the p.m. peak hour must submit a traffic study at the time of application. The estimate of the number of trips a development shall be consistent with the most recent edition of the Trip Generation Manual, published by the Institute of Traffic Engineers. The traffic study shall include at a minimum...

20.80.110 Critical areas reports required.

If uses, activities or developments are proposed within designated critical areas or their buffers, an applicant shall provide site-specific information and analysis as determined by the City. The site-specific information must be obtained by expert investigation and analysis. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100. Such site-specific reviews shall be performed by qualified professionals, as defined by SMC 20.20.042, who are approved by the City or under contract to the City. (Ord. 515 § 1, 2008; Ord. 406 § 1, 2006; Ord. 398 § 1, 2006).

20.80.350 Mitigation performance standards and requirements.

Monitoring Program and Contingency Plan.

1. A monitoring program shall be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives are being met.
2. A contingency plan shall be established for indemnity in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable financial guarantee is required to ensure the applicant's

compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project in addition to ~~and include the cost for monitoring~~ for a minimum of five years. The bond may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.