

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Ordinance No. 955 - Amending Shoreline Municipal Code Chapters 20.20 and 20.50 Regarding the Tree Related 2021 Batch Development Code Amendments
DEPARTMENT:	Planning & Community Development
PRESENTED BY:	Steven Szafran, AICP, Senior Planner
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Amendments to the Development Code (Shoreline Municipal Code Title 20) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the review authority for these legislative decisions and is responsible for holding a public hearing on proposed Development Code amendments and making a recommendation to the City Council on each amendment.

The Planning Commission held study sessions to discuss the 2021 Batch Development Code Amendments and give staff direction on the amendments on July 15, August 5, October 7, November 18, December 2, 2021, and January 6, 2022. The Commission then held the required Public Hearing on these proposed amendments on February 3, 2022. The Planning Commission recommended that the City Council adopt certain tree related amendments as set forth Exhibit A to proposed Ordinance No. 955 (**Attachment A**).

The proposed tree related amendments in proposed Ordinance No. 955 are mostly proposed by individual members of the Tree Preservation Code Team, which is a group of residents committed to protecting and preserving trees in Shoreline. One amendment in this group of amendments was proposed by staff. The City Council discussed these proposed tree related amendments on February 28, 2022. Council had questions and comments on some of the proposed amendments that will be addressed later in this staff report. Staff has also provided amendatory motions in this staff report for Council's use, if needed. Tonight, Council is scheduled to take action on proposed Ordinance No. 955.

RESOURCE/FINANCIAL IMPACT:

The proposed Development Code amendments will not have a direct financial impact to the City.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments in Ordinance No. 955.

Approved By: City Manager ***DT*** City Attorney ***JA-T***

BACKGROUND

The City's Development Code is codified in Title 20 of the Shoreline Municipal Code (SMC). Amendments to SMC Title 20 are used to ensure consistency between the City's development regulations and the City's Comprehensive Plan, to reflect amendments to state rules and regulations, or to respond to changing conditions or needs of the City.

Pursuant to SMC Section 20.30.070, amendments to the Development Code are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the review authority for these types of decisions and is responsible for holding an open record Public Hearing on any proposed amendments and making a recommendation to the City Council on each amendment.

The 2021 Planning Commission-recommended Batch consists of 38 total Development Code amendments. The Group A Miscellaneous Amendments consist of 14 Director-initiated amendments; the Group B SEPA Amendments consist of 16 Director-initiated amendments; and the Group C Tree Amendments consist of 8 amendments (some amendments include multiple code sections); 7 of which were privately-initiated and one is Director-initiated.

The Planning Commission started discussing the Batch Development Code Amendments in July of 2021 on the following schedule:

- The Planning Commission held a meeting on [July 15, 2021](#) to discuss the Group A Miscellaneous Amendments.
- The Planning Commission held a subsequent meeting on [August 5, 2021](#) to discuss the Group B SEPA Amendments.
- The Planning Commission held meetings on [October 7, 2021](#), [November 18, 2021](#), and [December 2, 2021](#), to discuss the Group C Tree Amendments.
- The Planning Commission reviewed all three of the Groups of amendments on [January 6, 2022](#).

At the conclusion of the Planning Commission Public Hearing on the Batch Development Code Amendments, which was held on [February 3, 2022](#), the Planning Commission recommended approval of 41 amendments. A memo to the City Council from the Planning Commission regarding their recommendation is included as **Attachment B**.

Following the Planning Commission's review and recommendation of the Batch Development Code Amendments, the City Council discussed the proposed Code Amendments on February 28 and March 7, 2022. On February 28th, the City Council discussed the proposed tree related amendments (Group C Amendments), and on March 7th, the Council discussed the Miscellaneous and SEPA Amendments (Group A and B Amendments). The staff report for the February 28th Council discussion can be found at the following link:

Given the complexity of the proposed Batch Development Code Amendments, length of Council discussion and level of public comment on the amendments, staff has split the adoption of the proposed amendments into two actions. Tonight, Council is scheduled to take action on proposed Ordinance No. 955 (**Attachment A**), which would adopt the Group C tree related Batch Development Code Amendments. Staff has also provided amendatory motions in this staff report for Council's use, if needed, related to some of these proposed amendments.

DISCUSSION

All the tree related Development Code amendments are listed below (including tree amendments recommended for denial). Each amendment includes a description of the amendment, justification for the amendment and Planning Commission recommendations. Staff has also included the Council discussion and amendatory motions for those amendments that Council expressed interest in changing.

Amendment #C1 – Recommended for Approval

20.20.014 – C definitions

Critical Root Zone (CRZ) The area, as defined by the International Society of Arboriculture (ISA), equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter. This area is also called the Tree Protection Zone (TPZ). The CRZ area is not synonymous with the dripline.

Critical Root Zone, Inner (ICRZ) The area, as defined by the International Society of Arboriculture (ISA), encircling the base of a tree equal to one-half the diameter of the critical root zone. This area may also be referred to as the interior critical root zone. Disturbance of this area would cause significant impact to the tree, potentially life threatening, and would require maximum post-damage treatment to retain the tree.

Justification – Justification provided by the Tree Preservation Code Team (TPCT) – These new definitions are submitted for consideration to support other amendments by

the Tree Preservation Code Team (a private citizen group) are proposing to provide essential tree protection during grading, construction, and maintenance.

The Critical Root Zone (CRZ) is important to a tree because it is where the most critical tree roots are located beneath the ground. Tree roots may be crushed from heavy equipment during construction, they may be smothered, exposed, torn, or cut, or damaged by construction material. The tree trunk and canopy may also be damaged by equipment or construction material. It is necessary to protect the CRZ to prevent inadvertently damaging or killing trees that were to be protected. Because roots extend beyond this zone typically, this definition is already a compromise with development needs; the CRZ must be protected. Encroaching on the CRZ into the ICRZ could cause significant impact to the tree that would be potentially life-threatening and would require maximum post damage treatment to attempt to retain the tree.

Note: The dripline is not the CRZ; the dripline may define an area that is too small for protection of some trees with relatively smaller crowns and, sometimes, newer trees.

Recommendation – The Planning Commission recommends **approval** this proposed amendment so as to add definitions for CRZ and ICRZ into the Development Code. Staff currently requires an applicant to provide the CRZ and ICRZ on development plans and staff also verifies this information on a site visit. Staff uses current ISA standards and requires a tree protection zone (TPZ) during construction which provides protection of the CRZ. Currently, Staff requires the CRZ to be established as the area from the trunk to the edge of dripline and no work can occur in this area without the City’s written approval and onsite monitoring by an arborist. Staff does not typically see an area on plans that indicate CRZ and ICRZ, most areas are designated as TPZ on plans. Staff does not see this as being a change to current practices being applied by the city.

Amendment #C2 – Recommended for Approval in part, Denial in part

20.20.048 – T definitions

Tree The total area of the tree or trees where the leaves and outermost branches extend, also known as the “dripline.” uppermost layer of the tree or group of trees are formed by the leaves and branches of dominant tree crowns.

Tree,
Hazardous A tree that is either dead, permanently damaged and/or is continuing in declining health or is so affected by a significant structural defect or disease that falling or failure appears imminent, or a tree that impedes safe vision or traffic flow, or that otherwise currently poses a threat to life or property.

Tree,
Landmark Any healthy tree over 24 30-inches in diameter at breast height (dbh) that is worthy of long-term protection due to a unique combination of or any

tree that is particularly impressive or unusual due to its size, shape, age, location, aesthetic quality for its species, historical significant or any other trait that epitomizes the character of the species, and/or has cultural, historic or ecological importance or that is a regional erratic. Long term protection and recognition of any landmark tree may be obtained through the Landmark Tree Designation program as detailed in SMC 20.50.350(F).

Justification – Justification provided by the TPCT – This new size criteria is in keeping with other cities in our region which have adopted these measurements for their Significant and/or Landmark trees because they are rapidly disappearing due to development. The cities of Redmond, Issaquah, Lake Forest Park and Lynnwood have defined six inches at diameter breast height (dbh) for their significant trees. (It should be noted that at least two of these cities require a removal permit for these trees). Lake Forest Park and Maple Valley define Landmark trees at 24” dbh. These changes in size criteria reflect a growing acknowledgment of the vital work of trees (conifers, in particular) amidst regional concern about loss of suburban tall tree canopy.

There are urgent and compelling reasons to change the measurement criteria for Significant and Landmark trees. Most importantly, it brings more of Shoreline’s tall trees into protection. Per recommendations in the “Climate Impacts & Resiliency Study” commissioned by the City of Shoreline in June 2020, the retention of large, mature trees will increase climate resiliency. Mature trees do the work of supporting wildlife habitat, improving air and water quality, retaining carbon and mitigating stormwater runoff and urban heat island effects that are increasing in Shoreline.

Recommendation – The Planning Commission recommends **approval** of these proposed amendments modifying three existing definitions. In regard to lowering the diameter at breast height (dbh) of a Landmark Tree from 30” to 24,” research from other jurisdictions in the region highlights that there is not a standard dbh used for Landmark Trees. However, the Commission believes lowering the dbh of a Landmark Tree may protect additional trees throughout the city.

The Tree Preservation Code Team’s Amendment #C2 also presented another amendment to SMC 20.20’s definitions for Significant Tree. The Planning Commission recommended denial of this amendment as discussed below.

20.20.048 – T definitions

Tree, Any healthy tree six ~~eight~~ inches or greater in diameter at breast
Significant height (dbh) if it is a ~~conifer and 12 inches or greater in diameter at breast~~
~~height if it is a nonconifer~~ excluding those trees that qualify for complete
exemptions from Chapter 20.50. SMC, Subchapter 5, Tree Conservation,
Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).

Justification – Justification provided by the TPCT– This new size criteria is in keeping with other cities in our region which have adopted these measurements for their

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Recommendation - The Planning Commission recommends **denial** of this proposed amendment to more fully study the unintended consequences of lowering the dbh of a Significant Tree. The Planning Commission believes there are pros and cons in changing the definition of Significant Tree to any tree six (6) inches dbh or greater. The pros include more trees will be counted as Significant, which will make it easier for developers to meet minimum Significant Tree retention requirements. The cons however include if there are a mix of smaller and larger trees on a site, the owner or developer may remove the larger trees first and keep the smaller trees to meet minimum retention requirements. Also, since more trees will be counted as Significant, more replacement trees will be required and often, not all replacement trees may be able to fit on a site based on a qualified arborist recommendation. Staff supports the Planning Commission's recommendation of denial to allow additional study of the impacts of this amendment.

February 28th Council Discussion – During the February 28th Council discussion of the tree related Batch Development Code Amendments, Councilmember Roberts expressed support for the applicant's proposed amendment to lower the dbh for significant trees to six (6) inches for all trees. Lowering the dbh for significant trees aligns with many jurisdictions in the region and matches the definition the city's Public Works Department uses when evaluating trees in the right-of-way. Staff continues to support denial of this proposed amendment for the reason noted above.

Amendatory Motion – Following the February 28th Council discussion, Councilmember Roberts requested an amendment to this proposed amendment. If Council would like to reject the Planning Commission's recommendation to deny SMC 20.20.048 – Significant Tree definition, a Councilmember would need to move to modify the Planning Commission's recommendation as follows:

"I move to reject the Planning Commission's recommendation for Batch Amendment No. C2 related to the denial of the proposed definition of Significant Tree and approve the applicant's revision to the definition of Significant Tree, which reads: Tree, Significant – Any healthy tree six inches or greater in diameter at breast height (dbh) excluding those trees that qualify

for complete exemptions from Chapter 20.50. SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).”

Amendment #C3 – Recommended for Approval

20.20.050 – U definitions

Urban Forest All trees within the city limits and the various ecosystem components that accompany these trees (soils, understory flora, diverse species, and habitats) under any public or private ownership and land use type, developed or undeveloped.

This includes public parks, city streets, private yards and shared residential spaces, community spaces (such as libraries) and commercial and government property.

Urban Tree Canopy From an aerial view during summer, the percentage of ground that is obscured from view by trees.

Justification – Justification provided by the TPCT – With its commitment to environmental sustainability, the City of Shoreline began measuring and analyzing the city’s tree canopy in 2009 and created the Urban Forest Strategic Plan in 2014. This commitment needs to be strengthened, particularly regarding the trees. All the trees of the urban forest together make an essential contribution to environmental sustainability including clean air, stormwater management, comfortable temperatures, habitat biodiversity, social well-being and the trees’ intrinsic worth that cannot be figured into any cost-benefit analysis. Defining Urban Forest and present Urban Tree Canopy in the code will support other code to take care of the urban forest. Otherwise, the policies and codes address what will happen to trees only on a parcel-by-parcel basis or on a right-of-way or in a park. Citizens have commented repeatedly at City Council and Tree Board meetings that operating with only the current code is not sustainable, we need to protect the urban forest. These definitions will support code to further the commitment that Shoreline has made to the environment and specifically to the urban forest.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment so as to add definitions for Urban Forest and Urban Tree Canopy. The proposed definitions are consistent with Council’s adopted [2014 Urban Forest Strategic Plan](#) and the Citywide Tree Canopy Assessment.

Amendment #C4 – Recommended for Approval

20.50.290 – Purpose

The purpose of this subchapter is to reduce environmental impacts including impacts on existing significant and landmark trees ~~of~~ during site development while promoting the reasonable use of land in the City by addressing the following:

- A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;
- B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;
- C. Promotion of building and site planning practices that are consistent with the City's natural topography and vegetative cover;
- D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development; provide habitat for birds and other wildlife; protect biodiversity; lower ambient temperatures; and store carbon dioxide and releasing oxygen, thus helping reduce air pollution in the City and provide continuity and screening between developments. Preserving and protecting healthy significant existing trees and the urban tree canopy shall be encouraged instead of removal and replacement;
- E. Protection of critical areas from the impacts of clearing and grading activities;
- F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;
- G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;
- H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.
- I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;
- J. Providing measures to protect trees that may be impacted during construction;
- K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and
- L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the city over time.

Justification – Justification provided by the TPCT – The purpose of this amendment proposal is to broaden and strengthen language within Shoreline Municipal Code to better protect and preserve our community's tall trees and urban forest canopy.

Preserving Shoreline’s mature trees will help meet—and mitigate—challenges associated with a changing environment.

The City recognizes the importance of trees and its urban forest canopy, as referenced in its many policies, procedures and publications, including its ordinances and codes, the 2014 Urban Forest Strategic Plan, the 2019 Sustainability Report, the 2020 Climate Impacts and Resiliency Study, The Comprehensive Plan, and in its alliance with state and county initiatives (1990 State of Washington Growth Management Plan, King County-Cities Climate Collaboration—K4C—and the King County 2020 Climate Action Plan).

20.50.290 reflects the importance and necessity of maintaining, preserving, and protecting existing mature trees given our ever-warming climate. Climate change is real and is accelerating at a rapid pace (climate.nasa.gov). The City acknowledges as much in Element 6: Natural Environment of The Comprehensive Plan, Policy NE 39:

“Support and implement the Mayor’s Climate Protection Agreement, climate pledges and commitments undertaken by the City, and other multi-jurisdictional efforts to reduce greenhouse gases, address climate change (*italics are the City’s*), sea-level rise, ocean acidification, and other impacts of changing of global conditions.”

Additionally, in his letter “On the Mayor’s Mind: The Forest and the Trees,” Mayor Will Hall stated that “We love our trees in Shoreline. Trees provide all kinds of benefits for climate, air quality, and birds, and they make Shoreline a beautiful city. That’s why we have a goal to maintain and increase our tree canopy.” (His comments appeared in the October 29, 2020 Shoreline Area News.)

To support and strengthen City initiatives, goals and policies regarding trees and the environment, we propose amendments to SMC 20.50.290.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment. The Planning Commission believes that the amendment clarifies the purpose of the tree code and strengthens the language of trees and Shoreline’s commitment of protecting and maintaining trees.

Amendment #C5 – Recommended for Approval in Part, Denial in Part
20.50.300 – General Requirements

A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.

B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

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

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

E. 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.

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).

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.

H. In addition to Subsections A to G, for new development in the R-8, R-12, R-18, R-24, R-48, TC-4, MUR-35', and MUR-45' zoning districts, the following standards shall also apply:

1. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation required for retention at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation required for retention at the development site. Any damage to, or alteration of trees and vegetation required to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party's expense.

2. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, the City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.

3. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved permit or permit revision is issued by the City.

Such a plan shall be prepared by a qualified professional. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets performance standards for restoration in SMC 20.50.360 Tree replacement and site restoration.

4. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

Justification – Justification provided by the TPCT – These proposed new code amendments are submitted for consideration to ensure that trees and vegetation on development sites will be legally protected from sustaining injury or destruction during clearing and grading activity. If there is a lack of appropriate protection, causing injury or destruction to trees and vegetation on development sites, these proposed amendments will guarantee remedy and confirm who is liable for the negligence and/or destruction.

There is substantial protection of trees and vegetation on critical areas as stated in Shoreline Municipal Code Critical Areas 20.80, but a startling lack of enforcement for the protection of trees and vegetation on noncritical development sites. It is stated in the Comprehensive Plan, Element 6, Natural Environment, "Native vegetation, which in residential areas that may be subdivided or otherwise more intensely developed is at the greatest risk of being lost."

In principle, the omission of enforcement regarding injury or damage to trees and vegetation on non-critical site areas, is biased and exclusionary. Protective language should be added to Shoreline Municipal Code to protect all trees and vegetation, since trees and vegetation at development sites are "at the greatest risk of being lost".

In brief, when the city approves construction on a development site, the City is then responsible for the safety and protection of trees and vegetation on the development site. Either the City or the owner or the contractor, as responsible party, must be held accountable. It follows that the responsibility for the viability of trees and vegetation established for retention at the development site be passed from the City to the owner or contractor, as responsible party, while the City maintains the enforcement of regulations.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment (language underlined above) to provide additional protection for protected trees and vegetation, where applicable.

The Planning Commission recommended **denial** of the following portion of the applicant's amendment related to penalties and financial guarantee requirements which is shown underlined below. The justification for denial is due to the City already having a process in code enforcement that includes notice and orders that will stop work for any illegal activity, monetary penalties, and site restoration. In addition, the code proposed by the applicant is taken from existing critical areas regulation where disturbance to vegetation and nonsignificant trees are subject to penalties. Outside of

critical areas, the City does not regulate landscaping, vegetation, and nonsignificant trees.

Under the current Code (SMC 20.30.760), the City can issue a notice and order to correct a tree violation and failure to correct the Code violation in the manner prescribed by the notice and order subjects the person to civil penalties and costs:

- A. *Subject to the appeal provisions of SMC 20.30.790, a notice and order represents a determination that a Code Violation has occurred and that the cited person is a responsible party.*
- B. *Failure to correct the Code Violation in the manner prescribed by the notice and order subjects the person cited to any of the compliance remedies provided by this subchapter, including:*
 1. *Civil penalties and costs;*
 2. *Continued responsibility for abatement, remediation and/or mitigation;*
 3. *Permit suspension, revocation, modification and/or denial; and/or*
 4. *Costs of abatement by the City, according to the procedures described in this subchapter.*

A civil penalty for violation of the terms and conditions of a notice and order shall be imposed in the amount of \$500.00. Failure to comply with the notice and order after 14-days shall be 150 percent of the initial penalties, and the penalties for the next 14-day period and each such period or portion thereafter shall be double the amount of the initial penalties.

In addition, any responsible party who has committed a violation of the provisions of Chapter 20.50 SMC, General Development Standards (tree conservation, land clearing and site grading standards), or Chapter 20.80 SMC, Critical Areas, 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 for the redress of ecological, recreation, and economic values lost or damaged due to the violation.

Civil penalties for violations not located within critical areas and required buffers shall be an amount determined to be equivalent to the economic benefit that the responsible party derives from the violation measured as the total of the value received by the responsible party. This amount can be quite substantial as it calculates the economic value of the timber derived from the removed trees and also the economic value of placing additional structures on the site.

The Planning Commission agreed with staff that the current enforcement provisions of the Development Code adequately address monetary penalties and remediation of illegal removed trees.

5. Penalties. Any responsible party violating any of the provisions of this chapter may be subject to any applicable penalties per SMC 20.30.770 plus the following:

- a) A square footage cost of \$3.00 per square foot of impacted trees and vegetation at the development site; and a square footage cost of \$15.00 per square foot of impacted vegetation and trees at the development site in the MUR-35' and MUR-45' zones; and
- b) A per tree penalty in the amount of \$3,000 per non-Significant tree; \$9,000 per Significant tree; \$15,000 per Landmark tree; and, for trees removed at the development site without appropriate permitting as required and/or in violation of the provisions of this subchapter.

6. Financial guarantee requirements. Bonds and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects in the MUR-35' and MUR-45' zones with required mitigation or restoration of violation to trees and vegetation on a development site consistent with the following:

- a) A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
- b) A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation to trees and vegetation. The amount of the maintenance bond(s) shall equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

Amendment #C6 – Recommended for Denial

20.50.310 – Exemptions from permit

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 three Ssignificant trees on lots up to 7,200 square feet and one additional Ssignificant tree for every additional 7,200 square feet of lot area up to one acre and as follows:

<u>Maximum Number of Trees Exempted</u>	
<u>Less than 7,200 sq ft</u>	<u>3 trees</u>
<u>7,201 sq ft to 14,400 sq ft</u>	<u>4 trees</u>
<u>14,401 sq ft to 21,600 sq ft</u>	<u>5 trees</u>
<u>21,601 sq ft to 28,800 sq ft</u>	<u>6 trees</u>
<u>28,801 sq ft to 36,000 sq ft</u>	<u>7 trees</u>
<u>36,001 sq ft to 43,560 sq ft</u>	<u>8 trees</u>
<u>Maximum Number of Trees Exempted on One Acre to Twenty-Five Acres</u>	
<u>1 acre + 1 sq ft (43,561 sq ft) to 2 acres</u>	<u>9 trees</u>
<u>2 acres + 1 sq ft to 5 acres</u>	<u>10 trees</u>
<u>5 acres + 1 sq ft to 10 acres</u>	<u>20 trees</u>
<u>10 acres + 1 sq ft to 15 acres</u>	<u>30 trees</u>
<u>15 acres + 1 sq ft to 20 acres</u>	<u>40 trees</u>
<u>20 acres + 1 sq ft to 25 acres</u>	<u>50 trees</u>

Maximum removal of trees on all private properties more than 25 acres is 50 trees every 36 months.

2. The removal of any tree greater than 24 30 inches DBH or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).

3. Landscape maintenance and alterations on any property that involve 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.

Justification – Justification provided by the TPCT – This revision to the existing code is to preserve, protect and maintain Shoreline’s urban tree canopy on all private properties where the majority percentage of its urban tree canopy is found. Larger properties of over an acre have more trees than average-sized single-family lots. Some of these tracts of land have long, wide belts of contiguous tree canopy coverage which undoubtedly provide habitat for our urban wildlife and havens for biodiversity. These extensive tree canopies are effective wind blocks, have enormous storage capacity of stormwater runoff, stabilize slopes and soil, and according to the U.S. Dept. of Agriculture, one acre of forest absorbs six tons of carbon dioxide and produces four tons of oxygen per year.

Preservation of these tracts of treed land is part of the sustainability of the environment in general and specifically for Shoreline residents. Revising this section of the Shoreline Municipal Code will send this message that it values and protects our natural urban tree canopy.

Protection and preservation of these properties will help ensure that there is no net loss of our tree canopy. Despite plantings of new trees to counter the removal of mature trees, there remains the effectiveness of a new tree versus a mature tree. The City should not only be replacing removed or lost trees, but it should also be combining replacement with the preservation of its mature trees. The two goals combined will produce no net loss as well as guarantee that Shoreline’s beloved tall tree skyline and other natural blessings will continue for future generations.

Recommendation – The Planning Commission recommends **denial** of this proposed amendment. SMC Section 20.50.310(B) was previously amended in January 2019 under Ordinance No. 850. The Planning Commission and Council agreed with staff at that time that tree removal should be equitable among all properties in Shoreline by allowing the removal of one significant tree for every 7,200 square feet after the first 7,200 square feet of lot area. The current regulations are equitable for all property owners whereas the proposed regulations are more restrictive for property owners with larger lots.

February 28th Council Discussion – During the February 28th Council discussion, Deputy Mayor Robertson expressed the desire to discuss this amendment further and possibly change the Commission’s recommendation of denial. Councilmember Roberts subsequently requested that amendatory language be prepared that would state that the removal of any tree greater than 24 inches dbh shall require a clearing and grading permit, which is proposed by the applicant in SMC 20.50.310(B)(2) above.

Amendatory Motion - If Council would like to reject the Planning Commission’s recommendation to deny SMC 20.50.310(B)(2) only, a Councilmember would need to move to modify the Planning Commission’s recommendation as follows:

“I move to reject the Planning Commission’s recommendation for denial of Batch Amendment No. C6 only in regard to SMC 20.50.310(B)(2) and to amend SMC 20.50.310(B)(2) to read as follows: The removal of any tree greater than 24 inches DBH shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).”

Amendment #C7 – Recommended for Approval**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 ~~25~~ 20 percent of the ~~S~~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.

Justification – Justification provided by the TPCT – To meet the near future growth needs of the City, there must be a balance between development and the natural assets of the City through the thoughtful creation and implementation of balanced code regulations. Development is going to continue in Shoreline for decades. Therefore, it is imperative that a balance between the loss of existing citywide tree canopy and the proposed new developments in the city become a City priority. By using a graduated higher tree retention rate as proposed and providing optional incentives and adjustments, all Shoreline property owners can work with the City to achieve a necessary balance.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment.

Amendment #C8 – Recommended for Approval**Exception 20.50.350(B)(1) – Significant Tree Retention**

Exception 20.50.350(B):

1. The Director may ~~allow a~~ waive or 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 or by the American Society of Consulting Arborists as a registered consulting arborist that retention of the minimum percentage of trees is not advisable on an individual site; or
2. In addition, the Director may waive or reduce ~~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 minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).

Justification – This is a *staff proposed amendment* to allow the Director to waive or reduce the minimum significant tree retention percentage to facilitate several other priorities such as preservation of a greater number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals. Currently, the code allows the Director to reduce the minimum number of significant trees that must be retained but does not allow a full waiver. This lack of discretion by the Director has led to problems for certain homeowners that need to remove a tree that is causing structure and utility damage. If the tree is causing damage, and the tree is the only significant tree onsite, then the Director does not have the authority to approve the removal of that tree.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment to provide the Director the authority to allow a homeowner to remove a significant tree that is causing property damage and reasonable use of their property.

February 28th Council Discussion – During the February 28th Council discussion, Mayor Scully and Councilmember Roberts expressed concern with allowing the Director the authority to completely waive tree retention requirements. Councilmember Roberts also asked when the Planning Director uses the authority to reduce or waive the number of retained trees, does it remove trees from any requirement to replace those trees on or off site.

This provision is currently in the Development Code. Not only is tree replacement still required when an exception has been made by the Director, the replacement ratio and replacement tree size is also increased. See language below -

1 .SMC 20.50.350(B) Exception (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 minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC [20.50.350](#)(B).

2.SMC 20.50.350(B) Exception (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.

Amendatory Motion - If Council would like to reject the Planning Commission's recommendation to deny Batch Development Code Amendment No. C8, a Councilmember would need to move to modify the Planning Commission's recommendation as follows:

I move to reject the Planning Commission's recommendation for Batch Amendment No. C8 and deny the amendment.

Amendment #C9 – Recommended for Denial

Exception 20.50.360 – Tree replacement and site restoration

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 report, mitigation or restoration plans, 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) 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 replacement trees 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):

a. 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.

b. To the extent feasible, all replacement trees shall be replaced on-site. When an applicant demonstrates that the project site cannot feasibly accommodate all of the required replacement trees on-site, the Director may allow the payment of a fee in lieu of tree replacement at the rate set forth in SMC 3.01 Fee Schedule, ~~for replacement trees or a combination of reduction in the minimum number of replacement trees required and payment of the fee in lieu of replacement at the rate set forth in SMC 3.01 Fee Schedule if all of the following criteria are satisfied:~~

~~i. There are special circumstances related to the size, shape, topography, location or surroundings of the subject property~~

~~ii. Strict compliance with the provisions of this Code may jeopardize reasonable use of property.~~

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

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

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

d. Replacement of significant tree(s) approved for removal pursuant to Exception SMC 20.50.350(B)(5) is not required.

4. Replacement trees required for the Lynnwood Link Extension project shall be native conifer and deciduous trees proportional to the number and type of trees removed for construction, unless as part of the plan required in subsection A of this section the qualified professional demonstrates that a native conifer is not likely to survive in a specific location.

5. Tree replacement where tree removal is necessary on adjoining properties to meet requirements in SMC 20.50.350(D) or as a part of the development shall be at the same ratios in subsections (C)(1), (2), and (3) of this section with a minimum tree size of eight feet in height. Any tree for which replacement is required in connection with the construction of a light rail system/facility, regardless of its location, may be replaced on the project site.

6. Tree replacement related to development of a light rail transit system/facility must comply with this subsection C.

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

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

F. Replacement of removed trees with appropriate native trees at a ratio consistent with subsection C of this section, or as determined by the Director based on recommendations in a critical area report, will be required in critical areas.

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

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

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

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

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

K. Nonsignificant trees which are required to be retained as a condition of permit approval, but are unlawfully removed, damaged, or destroyed through some fault of the applicant, representatives of the applicant, or the property owner(s), shall be replaced at a ratio of three to one. Minimum size requirements for replacement trees are deciduous trees at least 1.5 inches in caliper and evergreen trees at least six feet in height.

Justification – Justification provided by the TPCT – The TPCT recommends Exception SMC 20.50.360(C)(b) be revised and simplified to state that the property owner or developer can replace the trees on-site or pay the fee-in-lieu of tree replacement to the dedicated tree fund if trees cannot be replaced on-site. This revision guarantees that

when there is a tree replacement decision to be made there is a fair basis for the property owner or the developer/owner.

The current code states that the Director may allow a “reduction in the minimum replacement trees required” which means tree replacement relies solely on the decision of the Director rather than a fair and equitable code regarding the replacement of trees. The public’s perception is that the Director has the discretionary option to waive the minimum number of trees to be replaced.

In addition, sub-items “i”, “ii”, “iii”, and “iv” of Exception 20.50.360(C)(b) are eliminated since these sub-items would be irrelevant and burdensome to the property owner or the developer/owner and are unnecessary to the proposed code amendment.

Furthermore, the current code, as revised on 12/7/20, does not guarantee replacement trees or fee-in-lieu to ensure “net zero loss” of Shoreline’s tree canopy, a stated goal by the City Council.

Recommendation – The Planning Commission recommends **denial** of this proposed amendment. As stated by the TPCT, Council recently amended this section to allow the Director the flexibility to reduce the number of replacement trees if the applicant pays the fee-in-lieu for the trees unable to be replanted on site. The reasons for the inability to replant trees vary across the city but usually is based on the arborists recommendation that the replacement trees will not survive based on building and site conditions. In these circumstances, the Director should have the flexibility to reduce the number of replacement trees and charge the applicant a fee-in-lieu for those trees so the city can replant or maintain trees at alternative locations adding and maintaining to the City’s urban tree canopy.

Amendment #C10 – Recommended for Approval

20.50.370 Tree protection standards.

The following protection ~~measures~~ guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

B. ~~Tree dripline areas or~~ Critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the Critical Root Zone ~~dripline areas~~ of trees that are to be retained.

C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

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

E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3" or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.

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

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

~~H. G.~~ Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

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

1. Pruning of visible deadwood on trees to be protected or relocated;
- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
1. 4. Mulching with a layer of 4" to 5" of wood chips in the ~~over tree~~ critical root zones of retained trees drip-line areas; and
2. 5. Ensuring 1" of irrigation or rainfall per week ~~proper watering~~ during and immediately after construction and from early May through September until reliable rainfall occurs in the fall ~~throughout the first growing season after construction.~~

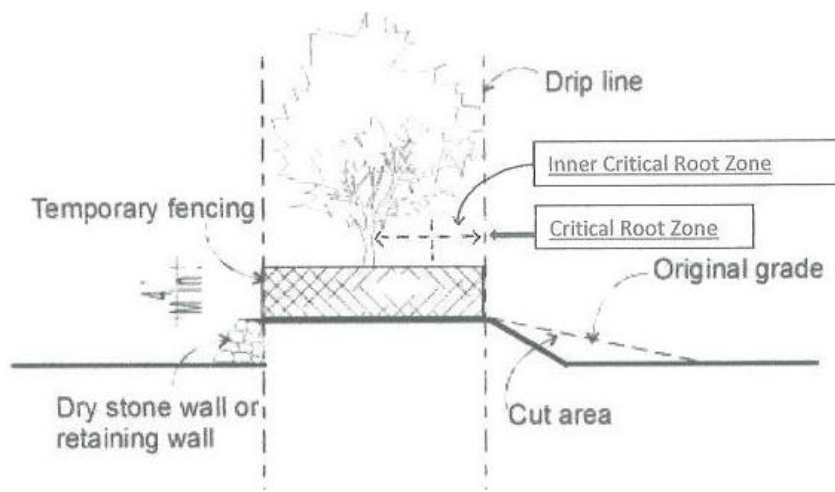


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

The Director may waive certain protection requirements, allow alternative methods, or require additional protection measures based on concurrence with the recommendation of a certified arborist deemed acceptable to the City.

Justification - Justification provided by the TPCT – Since trees serve many purposes and provide benefits to our community, saving and protecting them is part of good urban forestry management. As a retired tree care company owner and current consulting arborist, I have witnessed preventable incidents of lack of, mistreatment and misunderstanding about protecting trees. When the City approves the retention of certain trees on private land in a tree protection plan, it is essentially a contract between the property owner/developer and the City that should be observed as well as executed in a good workmanlike manner. Providing step-by-step measures as my proposed revisions do in the mitigation section gives all the parties clear and timely instructions in the event of an injury to a living tree. I believe my proposed revisions, additions, and expansion of SMC 20.50.370 Tree Protection Standards will clarify for the property owner/developer on a construction site the best management practice that need to be implemented to improve and safeguard the survival of the designated trees to be retained during such construction period.

Recommendation – The Planning Commission recommends **approval** of this proposed amendment.

RESOURCE/FINANCIAL IMPACT

The proposed Development Code amendments will not have a direct financial impact to the City.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments in Ordinance No. 955.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 955

Attachment A, Exhibit A – Planning Commission Recommended Chapter 20.20 and
20.50 Tree Related Batch Development Code Amendments

Attachment B – February 3, 2022 Memorandum to the City Council from the Shoreline
Planning Commission

ORDINANCE NO. 955

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CERTAIN SECTIONS OF THE SHORELINE MUNICIPAL CODE TITLE 20, THE UNIFIED DEVELOPMENT CODE, REPRESENTING GROUP C OF PART TWO OF THE 2021 DEVELOPMENT CODE BATCH AMENDMENTS IN RESPONSE TO CITIZEN PROPOSALS FOR AMENDMENTS TO THE CITY'S TREE REGULATIONS.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, Shoreline Municipal Code (SMC) Title 20, sets forth the City's Unified Development Code; and

WHEREAS, the 2021 Development Code Amendments are being processed in multiple batches with the first batch adopted by Ordinance No. 930 on May 3, 2021; and

WHEREAS, the second batch is comprised of three (3) groups: Group A are general administrative corrections, procedural changes, clarifying language, and codification of administrative orders; Group B are amendments to the administration and procedural aspect of SEPA; and Group C are primarily privately-initiated amendments to the City's tree regulations; and

WHEREAS, on July 15, 2021, August 5, 2021, October 7, 2021, November 18, 2021, December 2, 2021, and January 6, 2022, the City of Shoreline Planning Commission reviewed the proposed amendments; on February 3, 2022, the Planning Commission held a public hearing on the proposed amendments so as to receive public testimony; and

WHEREAS, at the conclusion of public hearing, the City of Shoreline Planning Commission voted that the proposed amendments, as presented by Staff and amended by the Planning Commission, be approved by the City Council; and

WHEREAS, on February 28, 2022, March 7, 2022, and March 21, 2022, the City Council held study sessions on the proposed amendments and determined to consider Group C, the proposed amendments to the tree regulations in isolation; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, the City has provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the environmental impacts of the amendments to the amendments resulted in the issuance of a Determination of Non-Significance (DNS) on September 30, 2021; and

WHEREAS, the City provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation and has determined that the amendments to Title 20 are consistent with and implement the Shoreline Comprehensive Plan and serves the purpose of the Unified Development Code as set forth in SMC 20.10.020;

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

Section 1. Amendments. Unified Development Code. Title 20 of the Shoreline Municipal Code, Unified Development Code, is amended as set forth in Exhibit A to this Ordinance.

Section 2. Transmittal of Amendments to Washington State Department of Commerce. Pursuant to RCW 36.70A.106, the Director of Planning and Community Development, or designee, is directed to transmit a complete and accurate copy of this Ordinance and Exhibit A to the Washington State Department of Commerce within ten (10) calendar days of the date of passage of this Ordinance.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

Section 5. Publication and Effective Dates. A summary of this Ordinance consisting of the title shall be published in the official newspaper and shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MARCH 21, 2022

Keith Scully, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Julie Ainsworth-Taylor
Assistant City Attorney
On behalf of Margaret King
City Attorney

Date of Publication: , 2022
Effective Date: , 2022

Shoreline Municipal Code Chapter 20.20 Amendments

20.20.014 – C definitions

Critical Root Zone (CRZ) The area, as defined by the International Society of Arboriculture (ISA), equal to one-foot radius from the base of the tree’s trunk for each one inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter. This area is also called the Tree Protection Zone (TPZ). The CRZ area is not synonymous with the dripline.

Critical Root Zone, Inner The area, as defined by the International Society of Arboriculture (ISA), encircling the base of a tree equal to one-half the diameter of the critical root zone. This area may also be referred to as the interior critical root zone. Disturbance of this area would cause significant impact to the tree, potentially life threatening, and would require maximum post-damage treatment to retain the tree.

20.20.048 – T definitions

Tree ~~The total area of the tree or trees where the leaves and outermost branches extend,~~
Canopy also known as the “dripline.” uppermost layer of the tree or group of trees are formed by the leaves and branches of dominant tree crowns.

Tree, Hazardous A tree that is either dead, permanently damaged and/or is continuing in declining health or is so affected by a significant structural defect or disease that falling or failure appears imminent, or a tree that impedes safe vision or traffic flow, or that otherwise currently poses a threat to life or property.

Tree, Any healthy tree over ~~24~~ 30 inches in diameter at breast height (dbh) that is
Landmark worthy of long-term protection due to a unique combination of ~~or any tree that is~~
~~particularly impressive or unusual due to its size, shape, age, location, aesthetic~~
quality for its species ~~historical significant~~ or any other trait that epitomizes the
character of the species, and/or has cultural, historic or ecological importance or
~~that~~ is a regional erratic. Long term protection and recognition of any landmark
tree may be obtained through the Landmark Tree Designation program as
detailed in SMC 20.50.350(F).

20.20.050 – U definitions

Urban Forest All trees within the city limits and the various ecosystem components that
accompany these trees (soils, understory flora, diverse species, and habitats) under
any public or private ownership and land use type, developed or undeveloped.
This includes public parks, city streets, private yards and shared residential spaces,
community spaces (such as libraries) and commercial and government property.

Urban Tree Canopy From an aerial view during summer, the percentage of ground that is
obscured from view by trees.

Shoreline Municipal Code Chapter 20.50 Amendments

20.50.290 – Purpose

The purpose of this subchapter is to reduce environmental impacts including impacts on existing
significant and landmark trees ~~of~~ during site development while promoting the reasonable use of
land in the City by addressing the following:

A. Prevention of damage to property, harm to persons, and environmental impacts caused by
excavations, fills, and the destabilization of soils;

B. Protection of water quality from the adverse impacts associated with erosion and
sedimentation;

C. Promotion of building and site planning practices that are consistent with the City's natural
topography and vegetative cover.

D. Preservation and enhancement of trees and vegetation which contribute to the visual quality
and economic value of development; provide habitat for birds and other wildlife; protect

biodiversity; lower ambient temperatures; and store carbon dioxide and releasing oxygen, thus helping reduce air pollution in the City and provide continuity and screening between developments. Preserving and protecting viable healthy significant existing trees and the urban mature tree canopy shall be encouraged instead of removal and replacement;

E. Protection of critical areas from the impacts of clearing and grading activities;

F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;

G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;

H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.

I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;

Staff recommends the language proposed by the applicant.

J. Providing measures to protect trees that may be impacted during construction;

K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and

L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time.

20.50.300 – General Requirements

A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.

B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

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

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

E. 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.

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).

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.

H. In addition to Subsections A to G, for new development in the R-8, R-12, R-18, R-24, R-48, TC-4, MUR-35', and MUR-45' zoning districts, the following standards shall also apply:

1. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation required for retention at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation required for retention at the development site. Any damage to, or alteration of trees and vegetation required to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party's expense.

2. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, the City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.

3. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved permit or permit revision is issued by the City. Such a plan shall be prepared by a qualified professional. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets performance standards for restoration in SMC 20.50.360 Tree replacement and site restoration.

4. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

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 ~~25~~ 20 percent of the ~~S~~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.

Exception 20.50.350(B)(1) – Significant Tree Retention

Exception 20.50.350(B):

1. The Director may ~~allow a waive or 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 or by the American Society of Consulting Arborists as a registered consulting arborist that retention of the minimum percentage of trees is not advisable on an individual site; or
2. In addition, the Director may ~~waive or reduce~~ 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 minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).

20.50.370 Tree protection standards.

The following protection ~~measures~~ guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

B. ~~Tree dripline areas or~~ Critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the Critical Root Zone dripline areas of trees that are to be retained.

C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.

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

E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3" or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.

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

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

~~H. G.~~ Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

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

1. Pruning of visible deadwood on trees to be protected or relocated;

- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
- 2. 4. Mulching with a layer of 4" to 5" of wood chips in the over tree critical root zones of retained trees drip line areas; and

- 3. 5. Ensuring 1" of irrigation or rainfall per week proper watering during and immediately after construction and from early May through September until reliable rainfall occurs in the fall throughout the first growing season after construction.

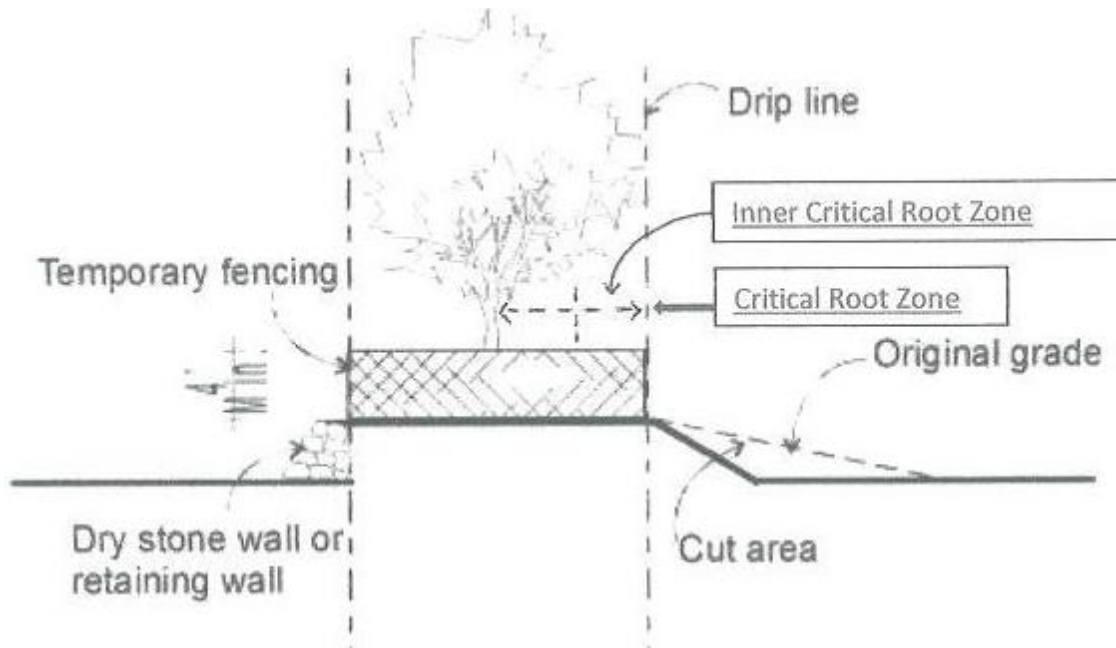


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

The Director may waive certain protection requirements, allow alternative methods, or require additional protection measures based on concurrence with the recommendation of a certified arborist deemed acceptable to the City.



TO: Honorable Members of the Shoreline City Council

FROM: Pam Sager, Chair
Shoreline Planning Commission

DATE: February 4, 2022

RE: 2021 Development Code Amendments – Batch #2

The Shoreline Planning Commission has completed its review of the proposed amendments to the Shoreline Municipal Code that are contained in Batch #2. These amendments were presented into three (3) sections: (1) miscellaneous amendments proposed by Planning Staff to provide clarity and efficient administration, (2) updates to the procedures and administration of SEPA proposed by Staff, and (3) modifications to regulations affecting the protection and preservation of trees proposed primarily by a citizen group named the Tree Preservation Code Team.

The Planning Commission started discussing the proposed amendments on July 15, 2021 and held subsequent study sessions on August 5, 2021, October 7, 2021, November 18, 2021, December 2, 2021, and January 6, 2022. A public hearing was held on February 3, 2022. As noted above, the Planning Commission considered these amendments in three (3) sections. For the Miscellaneous Amendments and for the SEPA Amendments, the Planning Commission recommended approval of those amendments as presented by Planning Staff with a vote of 5-0.

The amendments to the City's tree protection and preservation regulations were comprised of 11 privately-initiated amendments and one (1) proposed by Planning Staff. After one (1) private amendment was withdrawn, Planning Staff recommended approval or approval as modified by Planning Staff for eight (8) of the proposed amendments and recommended denial for three (3) proposed amendments. These amendments were subject to extensive public comment. The Planning Commission gave consideration to each of these proposed amendments, approved modifications to the amendments that Staff recommendation approval, and with a vote of 4-1, recommended approval of the amendments as modified by the Planning Commission. With these amendments, the Planning Commission believes that the City of Shoreline is aligning with a variety of cities that are utilizing tree protection and preservation as a method to fight climate change.

In consideration of the City Planning Staff's recommendations, extensive written and oral public testimony, the Planning Commission respectfully recommends that the City Council adopt the proposed amendments as attached to this recommendation. However, with this recommendation the Planning Commission encourages the City Council to direct Planning Staff to further refine these regulations by engaging in additional study of the issues surrounding protection and preservation of trees, including smaller trees and additional counterbalancing incentives, with a holistic approach that engages all stakeholder interests and balances those interests in the future.