

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Action on Ordinance No. 963 - Waiving Council Rule of Procedure 3.6 and Amending Shoreline Municipal Code Chapter 20.50.300 Regarding Tree Penalties and Financial Guarantees
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 City Council discussed the tree-related Development Code amendments on February 28, 2022 and adopted Ordinance No. 955 on March 21, 2022. Council requested that a portion of Amendment C5, SMC 20.30.300 – General Tree Requirements, come back to the Council for additional discussion and action. The amendment is related to civil penalties and financial guarantees for mitigation projects. Staff has provided additional analysis of the applicant’s proposed amendment and have suggested opening motions in this staff report for Council’s use, if needed.

Tonight, Council is scheduled to act on proposed Ordinance No. 963. While Council has discussed the tree-related Development Code amendments before, given that proposed Ordinance No. 963 is in front of the Council for the first time and is scheduled for action tonight, staff recommends that Council waive Council Rule of Procedure 3.6 requiring three readings of Ordinances if Council is interested in discussing and potentially adopting proposed Ordinance No. 963.

RESOURCE/FINANCIAL IMPACT:

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

RECOMMENDATION

The Planning Commission recommended denial of the applicant’s, Tree Preservation Code Team (TPCT), proposed amendment for civil penalties and financial guarantees

for mitigation projects. If Council desires to reject the Planning Commission's recommendation and amend the fines and penalties, then staff recommends adoption of Ordinance No. 963 with Exhibit A-2, as shown in this staff report, and that Council waive Council Rule of Procedure 3.6 requiring three readings of an ordinance.

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.

Following the Planning Commission's review and recommendation of the Batch Development Code Amendments, the City Council discussed the proposed Tree Code Amendments on February 28 and adopted Ordinance No. 955 on March 21. The staff report for the March 21st action on Ordinance No. 955 can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2022/staffreport032122-8c.pdf>.

The Planning Commission recommended denial of the applicant's, Tree Preservation Code Team (TPCT), proposed amendment for civil penalties and financial guarantees for mitigation projects. Council requested that a portion of Amendment C5, 20.30.300 – General Tree Requirements, come back to the Council for additional discussion and action.

During the Council discussion on March 21st, it became apparent that staff had erred in stating that the proposal by TPCT would lower fines and penalties. Staff had not recognized that the civil penalties proposed by TPCT were in **addition** to those already provided in SMC Section 20.30.070 as opposed to replacing those in SMC Section 20.30.070. Given this, Council asked staff to provide clarification and to provide any further recommendations regarding the amendment proposed by TPCT.

Tonight, Council is scheduled to discuss and potentially act on proposed Ordinance No. 963 (Attachment A), which would modify the penalty and financial guarantee requirements for illegal tree removal. Staff has provided opening motions in this staff report for Council's use, if needed, related to TPCT's proposed amendments and staff's revisions to TPCT's proposed amendments.

DISCUSSION

Batch Development Code Amendment C5 is related to the general requirements for tree removal and replacement. The City Council adopted the language shown in underline below (SMC 20.50.300(H)) as part of Ordinance No. 955 on March 21, 2022.

**Amendment #C5 –
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.

Portion of the Amendment for Discussion

The penalties proposed by the applicant, TPCT, are in addition to the penalties allowed under SMC Section 20.30.770. Initially, staff informed Council that the penalties proposed by the applicant would be in place of the penalties required in SMC 20.30.770 and that information was incorrect. The example of penalties imposed by the City for illegal tree removal in the right-of-way provided to Council on March 21st would still apply but under the proposed amendment, additional penalties described below would also apply.

Staff believes that the City's existing penalties required in SMC 20.30.770 are significant and result in substantial financial penalties for those who may violate the City's tree retention requirements. Therefore, staff would recommend that the Council support the Planning Commission's recommendation to deny the additional penalties suggested by the applicant. If the Council desires to reject the Planning Commission's recommendation however and adopt penalties suggested by the applicant, then staff is recommending some changes to the applicant's language.

Staff's Proposed Revision to the Applicant's Amendment

The applicant's proposed amendment for these additional penalties, if adopted by Council, would become Section #5 within SMC Section 20.50.300(H). The applicant's proposed amendment below has light underline, while staff's comments and analysis are in italics, with staff's suggested amendments to the applicant's language is shown in blue text (strikethrough/underlined). Exhibit A-1 to Attachment A provides the applicant's proposal and Exhibit A-2 to Attachment A provides staff's suggested language. Attachment B is a strikethrough/underline version of staff's suggested changes to the applicant's proposal.

**SMC 20.50.300 – General Requirements
Proposed Amendment to SMC 20.50.300 (H)**

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

Staff Comments/Analysis: These penalties will apply to the R-8, R-12, R-18, R-24, R-48, TC-4, MUR-35', and MUR-45' zoning districts.

- a) A square footage cost of \$3.00 per square foot of impacted trees and vegetation required for retention that are impacted 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

Staff Comments/Analysis: Development is defined in SMC 20.20.016 as: "The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, clearing, or grading; changes to surface or ground waters; or any use, change of use, or extension of the use of land." Based on the definition of development, gardening and yard maintenance could be included in the term development site and as such, using this term may have unintended consequences. Staff assumes that the intent of this penalty is not "development" but the area of impacted tree removal.

Additionally, staff does not recommend having two separate square-footage penalties for impacted areas based on specific zones. The applicant's language suggests a different square-footage penalty for MUR-35' and MUR-45'. The reason for two separate penalties in the critical areas code is because the \$3.00 per square-foot is for impacted critical area buffers and \$15.00 per square foot is for impacted critical areas. The higher penalty is to repair and mitigate the damage to a critical area.

- b) A per tree penalty in the amount of ~~\$3,000 per non-Significant tree;~~ \$9,000 per Significant tree; ~~and \$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.

Staff Comments/Analysis: Staff does not recommend having a tree penalty for non-significant trees. Non-significant trees are partially exempt under SMC 20.50.310(B) and do not require a permit to remove. If non-significant trees are not regulated in the Code, then a tree penalty for removal should not be imposed.

6. Financial guarantee requirements. ~~Bonds and other~~ A 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 when mitigation is required ~~mitigation to address the or restoration of violation~~ unpermitted removal of significant 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 is required as a result of violating the provisions of this Subchapter if the mitigation 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 to correct 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 three 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.

Staff Comments/Analysis: SMC Section 20.50.360 is the Code section that currently exists for Tree Replacement and Site Restoration. Performance assurance requirements for tree replacement, site restoration and monitoring already exists SMC Sections 20.50.360(L) and 20.50.360(M). SMC 20.50.360(L) and (M) apply to all zones where tree replacement and site restoration permits are required. Section L(1) uses the term "may" for a performance bond and "shall" for a maintenance bond. The applicant's language would require a performance bond for MUR-35' and MUR-45' zones. Given that performance assurance requirements and monitoring are already stated in the City's code for tree replacement and site restoration, staff recommends that Council not reverse the Planning Commission's recommendation of denial of this section of the applicant's amendments. SMC Section 20.50.360(L)and (M) currently reads as follows:

L. Performance Assurance.

- 1. The Director may require a performance bond for tree replacement and site restoration permits to ensure the installation of replacement trees, and/or compliance with other landscaping requirements as identified on the approved site plans.*
- 2. A maintenance bond shall be required after the installation of required site improvements and prior to the issuance of a certificate of occupancy or finalization of permit and following required landscape installation or tree replacement. The maintenance bond and associated agreement shall be in place to ensure adequate maintenance and protection of retained trees and site improvements. The maintenance bond shall be for an amount not to exceed the estimated costs of maintenance and protection measures for a minimum of 36 months or as determined by the Director.*
- 3. The Director shall exempt individual single-family lots from a maintenance bond, except where a clearing violation has occurred, or tree replacement is located within critical areas or critical area buffers.*

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

If Council decides to reject the Planning Commission's recommendation, then staff recommends removing the term "restoration" from the applicant's language, as that term is specific to the regulation of critical areas. Restoration is defined as: "Measures taken to restore an altered or damaged critical area or any associated buffer to a state in which its stability and functions approach its unaltered state as closely as possible, including:

- A. Active steps taken to restore damaged critical areas or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- B. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events."

The applicant has also proposed a monitoring period of five years which is required for critical area restoration. Staff would recommend changing the monitoring period to three years to be consistent with other mitigation plans outside of critical areas.

OPENING MOTION

The Planning Commission has recommended denial of the penalties and financial guarantees section of Batch Development Code Amendment C5. For Council to approve either the applicant's proposed language or staff's recommended changes to the applicant's proposal, Council will need to make one of the following motions to start discussion.

As well, while Council has discussed the tree-related Development Code amendments before, given that proposed Ordinance No. 963 is in front of the Council for the first time and is scheduled for action tonight, staff recommends that Council waive Council Rule of Procedure 3.6 requiring three readings of Ordinances if Council is interested in discussing and potentially adopting proposed Ordinance No. 963 with either Exhibit A-1 or Exhibit A-2.

1. If Council wants to approve the applicant's (TPCT's) proposed language as shown in Attachment A, Exhibit A-1, a Councilmember will need to move to modify the Planning Commission's recommendation as follows:

"I move to reject the Planning Commission's recommendation for denial of the portion of Batch Development Code Amendment No. C5 related to penalties and financial guarantees by adopting Ordinance No. 963 with Exhibit A-1 and waive Council Rule of Procedure 3.6 requiring three readings of an ordinance."

2. If Council wants to approve staff's revision to the applicant's proposed language as shown in Attachment A, Exhibit A-2, a Councilmember will need to move to modify the Planning Commission's recommendation as follows:

“I move to reject the Planning Commission’s recommendation for denial of the portion of Batch Development Code Amendment No. C5 related to penalties and financial guarantees by adopting Ordinance No. 963 with Exhibit A-2 and waive Council Rule of Procedure 3.6 requiring three readings of an ordinance.”

RESOURCE/FINANCIAL IMPACT

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

RECOMMENDATION

The Planning Commission recommended denial of the applicant’s, Tree Preservation Code Team (TPCT), proposed amendment for civil penalties and financial guarantees for mitigation projects. If Council desires to reject the Planning Commission’s recommendation and amend the fines and penalties, then staff recommends adoption of Ordinance No. 963 with Exhibit A-2, as shown in this staff report, and that Council waive Council Rule of Procedure 3.6 requiring three readings of an ordinance.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 963

Exhibit A-1: Applicant’s Proposed Development Code Amendment

Exhibit A-2: Staff’s Revision to the Applicant’s Proposed Development Code Amendment

Attachment B – Redline/Strike-Out Version of Staff’s Revisions to the Applicant’s Proposed Amendment

ORDINANCE NO. 963

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING SUBCHAPTER 5 OF SHORELINE MUNICIPAL CODE CHAPTER 20.50, REPRESENTING A COMPONENT OF GROUP C OF PART TWO OF THE 2021 DEVELOPMENT CODE BATCH AMENDMENTS IN RESPONSE TO A CITIZEN PROPOSAL FOR THE IMPOSITION OF PENALTIES AND FINANCIAL GUARANTEE REQUIREMENTS WITHIN 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 of the 2021 Development Code Amendments are 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 February 28, 2022 and March 7, 2022, the City Council discussed the proposed amendments, as recommended by the Planning Commission, and determined to consider proposed amendments to the tree regulations in isolation and, on March 21, 2022, the City Council further discussed the proposed amendments to the tree regulations; and

WHEREAS, on March 21, 2022, the City Council largely accepted, with amendments, the Planning Commission's recommendation with the adoption of Ordinance No. 955; however, the City Council rejected the Planning Commission's denial of a citizen-initiated proposed amendment to Chapter 20.50 SMC, Subchapter 5 that would impose penalties and financial guarantees beyond those currently set forth in Chapter 20.30 SMC, Subchapter 9 Code Enforcement, and further considered that proposed amendment at that meeting; and

WHEREAS, on March 28, 2022, the City Council further discussed the proposed amendment and waived Council Rule of Procedure 3.6 to take action on this Ordinance; 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 proposed 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 proposed amendments and the Planning Commission 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 proposed amendments to Chapter 20.50 SMC, Subchapter 5 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. Chapter 20.50, Subchapter 5 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 28, 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

**SMC 20.50.300 – General Requirements
Proposed Amendment to SMC 20.50.300 (H)**

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.

SMC 20.50.300 – General Requirements
Proposed Amendment to SMC 20.50.300 (H)

5. Penalties. Any responsible party violating any of the provisions of this Subchapter 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 trees and vegetation required for retention that are impacted; and
- b) A per tree penalty in the amount of \$9,000 per Significant tree and \$15,000 per Landmark tree for trees removed without appropriate permitting as required and/or in violation of the provisions of this subchapter.

6. Financial guarantee requirements. A financial guarantee, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects in the MUR-35' and MUR-45' zones when mitigation is required to address the unpermitted removal of significant 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 is required as a result of violating the provisions of this Subchapter if the mitigation 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 to correct 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 three 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.

Staff Proposed Changes to the Applicant's Proposal (blue underlined text is recommended for inclusion and blue strikethrough is recommended for removal)

SMC 20.50.300 (H)

5. Penalties. Any responsible party violating any of the provisions of this Subchapter 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 required for retention that are impacted 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; and \$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~~ A 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 when mitigation is required mitigation to address the or restoration of violation unpermitted removal of significant 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 is required as a result of violating the provisions of this Subchapter if the mitigation 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 to correct ~~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 three 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.