

# ORIGINAL

## ORDINANCE NO. 640

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

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

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

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

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

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

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

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

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

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

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

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

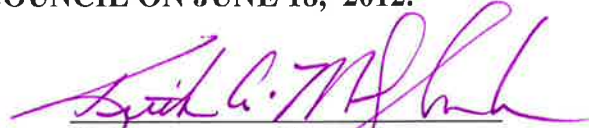
**Section 1. Amendment.** Shoreline Municipal Code section 20.50 and 20.80 are amended as set forth in Exhibit A, which is attached hereto and incorporated herein.

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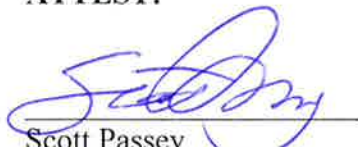
**Section 2. Severability.** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or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

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


**PASSED BY THE CITY COUNCIL ON JUNE 18, 2012.**

  
Keith A. McGlashan, Mayor

**ATTEST:**

  
Scott Passey  
City Clerk

**APPROVED AS TO FORM:**

  
Ian Sievers  
City Attorney

Date of publication: June 21, 2012

Effective date: June 26, 2012

## EXHIBIT A

### 20.50.300 General requirements.

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

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

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

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

~~H. G.~~ Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter 20.80 SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply.

### 20.50.310 Exemptions from permit.

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

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

- a. Statement of Purpose. Retention of significant trees and vegetation is necessary in order to utilize natural systems to control surface water runoff, reduce erosion and associated water quality impacts, reduce the risk of floods and landslides, maintain fish and wildlife habitat and preserve the City's natural, wooded character. Nevertheless, when certain trees become unstable or damaged, they may constitute a hazard requiring cutting in whole or part. Therefore, it is the purpose of this section to provide a reasonable and effective mechanism to minimize the risk to human health and property while preventing needless loss of healthy, significant trees and vegetation, especially in critical areas and their buffers.

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- b. For purposes of this section, "Director" means the Director of the Department of Planning and Development Services and his or her designee.
- c. In addition to other exemptions of Subchapter 5 of the Development Code, SMC 20.50.290 through 20.50.370, a ~~permit exemption~~ request for the cutting of any tree that is an active and imminent hazard, ~~(i.e., an immediate threat to public health and safety)~~ shall be granted if it is ~~evaluated and authorized by the Director under the procedures and criteria set forth in this section.~~ such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines or structures, or are uprooted by flooding, heavy winds or storm events. After the tree removal, the City will need photographic proof or other documentation and the appropriate application approval, if any. The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.
- d. ~~For trees that pose an active and imminent hazard to life or property, such as tree limbs or trunks that are demonstrably cracked, leaning toward overhead utility lines, or are uprooted by flooding, heavy winds or storm events, the Director may verbally authorize immediate abatement by any means necessary.~~
- e. ~~For hazardous circumstances that are not active and imminent, such as suspected tree rot or diseased trees or less obvious structural wind damage to limbs or trunks, a permit exemption request form must be submitted by the property owner together with a risk assessment form. Both the permit exemption request form and risk assessment form shall be provided by the Director.~~
- f. ~~The permit exemption request form shall include a grant of permission for the Director and/or his qualified professionals to enter the subject property to evaluate the circumstances. Attached to the permit exemption request form shall be a risk assessment form that documents the hazard and which must be signed by a certified arborist or professional forester.~~
- g. ~~No permit exemption request shall be approved until the Director reviews the submitted forms and conducts a site visit. The Director may direct that a peer review of the request be performed at the applicant's cost, and may require that the subject tree(s) vegetation be cordoned off with yellow warning tape during the review of the request for exemption.~~
- h. ~~Approval to cut or clear trees may only be given upon recommendation of the City approved arborist that the condition constitutes an actual threat to life or property in homes, private yards, buildings, public or private streets and driveways, sidewalks, improved utility corridors, or access for emergency vehicles and any trail as proposed by the property owner and approved by the Director for purposes of this section.~~

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

2. Removal of trees and/or ground cover by the City and/or utility provider in situations involving immediate danger to life or property, substantial fire hazards, or interruption of services provided by a utility. The City retains the right to dispute the emergency and require that the party obtain a clearing permit and/or require that replacement trees be replanted as mitigation.
3. Installation and regular maintenance of public utilities, under direction of the Director, except substation construction and installation or construction of utilities in parks or environmentally sensitive areas.
4. Cemetery graves involving less than 50 cubic yards of excavation, and related fill per each cemetery plot.
5. Removal of trees from property zoned MUZ and I, CB and NCBD, and NB and O, unless within a critical area or critical area buffer.
6. Within City-owned property, removal of noxious weeds or invasive vegetation as identified by the King County Noxious Weed Control Board in a wetland buffer, stream buffer or the area within a three-foot radius of a tree on a steep slope is allowed when:
  - a. Undertaken with hand labor, including hand-held mechanical tools, unless the King County Noxious Weed Control Board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment, herbicides or biological control methods; and
  - b. Performed in accordance with SMC 20.80.085, Pesticides, herbicides and fertilizers on City-owned property, and King County Best Management Practices for Noxious Weed and Invasive Vegetation; and
  - c. The cleared area is revegetated with native vegetation and stabilized against erosion in accordance with the Department of Ecology 2005 Stormwater Management Manual for Western Washington; and
  - d. All work is performed above the ordinary high water mark and above the top of a stream bank; and
  - e. No more than a 3,000 square feet of soil may be exposed at any one time.

B. **Partial Exemptions.** With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those



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exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of up to a maximum of six significant trees (excluding trees greater than 30" d.b.h. per tree) in accordance with Table 20.50.310(B)(1) (see Chapter 20.20 SMC, Definitions) and associated removal of understory vegetation from any property.

**Table 20.50.310(B)(1) – Exempt Trees**

<u>Lot size in square feet</u>	<u>Number of trees</u>
<u>Up to 7,200</u>	<u>3</u>
<u>7,201 to 14,400</u>	<u>4</u>
<u>14,401 to 21,780</u>	<u>5</u>
<u>21,781 and above</u>	<u>6</u>

2. The removal of any tree greater than 30" DBH, or exceeding the numbers of trees specified in the table above shall require a clearing and grading permit (20.50.320 - 20.50.370).
3. Landscape maintenance and alterations on any property that involves the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded.

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

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

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

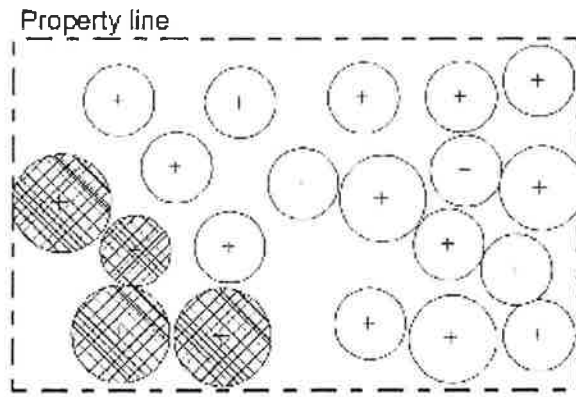
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- I. Development that creates new, replaced or a total of new plus replaced impervious surfaces over 1,500 square feet in size, or 500 square feet in size if located in a landslide hazard area or special drainage area.
- J. Any construction of public drainage facilities to be owned or operated by the City.
- K. Any construction involving installation of private storm drainage pipes 12-inch in diameter or larger.
- L. Any modification of, or construction which affects a stormwater quantity or quality control system. (Does not include maintenance or repair to the original condition).
- M. Applicants for forest practice permits (Class IV – general permit) issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested sites to developed sites are also required to obtain a clearing and grading permit. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no development permits will be issued for six years following tree removal.

## **20.50.350 Development standards for clearing activities.**

- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:
  - 1. At least 20 percent of the significant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
  - 2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.
  - 3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during development ~~construction~~ through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.
  - 4. The minimum amount of trees to be retained cannot be removed ~~Further preservation of retained trees following construction shall be required~~ for a period of 36 months and shall be guaranteed through an approved maintenance agreement.
  - ~~4~~ 5. The Director may require the retention of additional trees to meet the stated purpose and intent of this ordinance, as required by the critical areas standards, or as site-specific conditions demand using SEPA substantive authority.

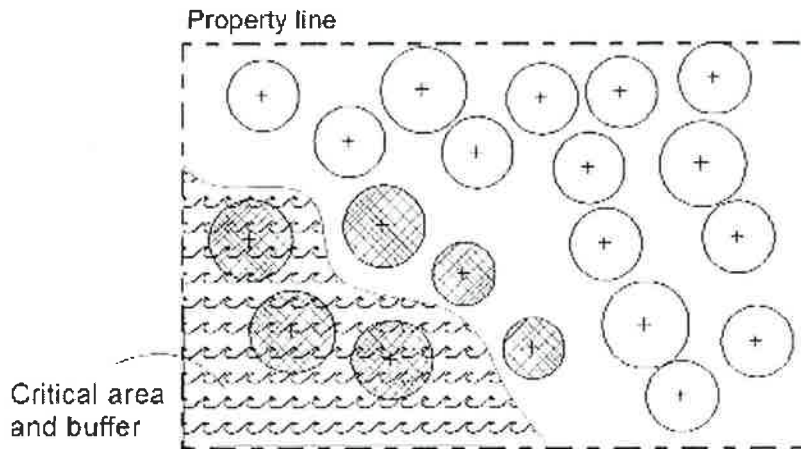
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## LEGEND

 Indicates trees to be retained

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



## LEGEND

 Indicates significant trees to be retained

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

### Exception 20.50.350(B):

1. The Director may allow a reduction in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation of an arborist certified by the



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International Society of Arboriculture and approved by the City that retention of the minimum percentage of trees is not advisable on an individual site.

2. In addition, the Director may allow a reduction in the minimum significant tree retention percentage if all of the following criteria are satisfied: The exception is necessary because:
  - There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.
  - Strict compliance with the provisions of this Code may jeopardize reasonable use of property.
  - Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.
  - The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.
3. If an exception is granted to this standard, the applicant shall still be required to meet the basic tree replacement standards identified in SMC 20.50.360 for all significant trees removed beyond the ~~six~~ maximum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).
4. In addition, the applicant shall be required to plant four trees for each significant tree removed that would otherwise count towards the minimum retention percentage. Trees replaced under this provision shall be at least 12 feet high for conifers and three inches in caliper if otherwise. This provision may be waived by the Director for restoration enhancement projects conducted under an approved vegetation management plan.

... [No changes to Section C]

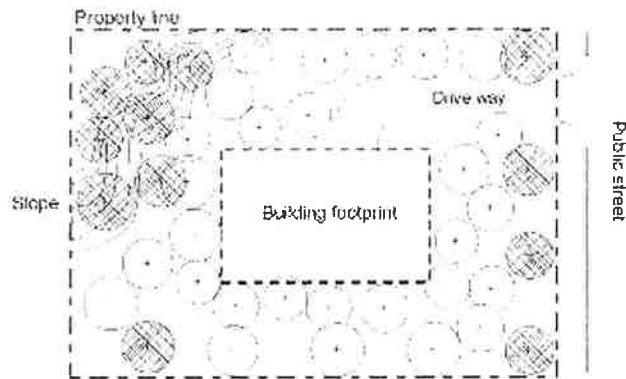
- D. Site Design. Site improvements shall be designed and constructed to meet the following:
  1. Trees should be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.
  2. Site improvements shall be designed to give priority to protection of trees with the following characteristics, functions, or location:
    - Existing stands of healthy trees that have a reasonable chance of survival once the site is developed, are well shaped to withstand the wind and maintain stability over the long term, and will not pose a threat to life or property.
    - Trees which exceed 50 feet in height.
    - Trees and tree clusters which form a continuous canopy.
    - Trees that create a distinctive skyline feature.
    - Trees that have a screening function or provide relief from glare, blight, commercial or industrial harshness.
    - Trees providing habitat value, particularly riparian habitat.
    - Trees within the required yard setbacks or around the perimeter of the proposed development.

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- Trees having a significant land stability function.
  - Trees adjacent to public parks, open space, and sensitive area buffers.
  - Trees having a significant water-retention function ~~such as cottonwoods.~~
3. Building footprints, parking areas, roadways, utility corridors and other structures shall be designed and located with a consideration of tree protection opportunities.
  4. The project grading plans shall accommodate existing trees and avoid alteration to grades around existing significant trees to be retained.
  5. Required open space and recreational space shall be designed and located to protect existing stands of trees.
  6. The site design and landscape plans shall provide suitable locations and adequate area for replacement trees as required in SMC 20.50.360.
  7. In considering trees for protection, the applicant shall avoid selecting trees that may become hazardous because of wind gusts, including trees adjacent to utility corridors where falling trees may cause power outages or other damage. Remaining trees may be susceptible to blow downs because of loss of a buffer from other trees, grade changes affecting the tree health and stability and/or the presence of buildings in close proximity.
  8. If significant trees have been removed from a closed, forested situation, an adequate buffer of smaller trees shall be retained or planted on the fringe of such significant trees as determined by a certified arborist.
  9. All trees located outside of identified building footprints and driveways and at least 10 feet from proposed structures shall be considered as eligible for preservation. However, all significant trees on a site shall be considered when calculating the minimum retention percentage.

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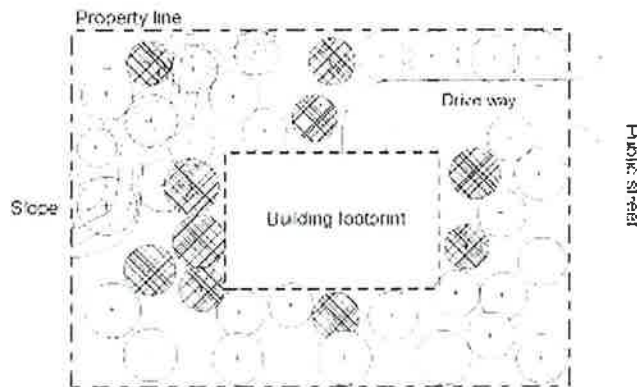
## DO THIS



### LEGEND

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

## DON'T DO THIS



### LEGEND



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

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

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

## 20.50.360 Tree replacement and site restoration.

- A. Plans Required. Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area protection and mitigation plan, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant's expense. Third party review of plans, if required, shall be at the applicant's expense.
- B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.
- C. Replacement Required. Trees removed under the partial exemption in SMC 20.50.310 (B)(1) (~~Up to six significant trees and associated vegetation~~) may be removed per parcel with no replacement of trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:
  - 1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
  - 2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
  - 3. Minimum size requirements for trees replaced under this provision: deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

Exception 20.50.360(C):

- 1. No tree replacement is required when the tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.
- 2. The Director may allow a reduction in the minimum replacement trees required or off-site planting of replacement trees if all of the following criteria are satisfied:
  - There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.
  - Strict compliance with the provisions of this Code may jeopardize reasonable use of property.
  - Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.
  - The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.
- 3. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

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

**K. Performance Assurance.**

- 1. The Director may require a performance bond for tree replacement and site restoration permits to ensure the installation of replacement trees, and/or

compliance with other landscaping requirements as identified on the approved site plans.

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

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

### **20.80.030 Exemptions.**

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

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

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

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

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

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

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

4. Approval to cut or clear trees may only be given upon recommendation of the City- approved arborist that the condition constitutes an actual threat to life or property in homes, private yards, buildings, public or private streets and driveways.



sidewalks, improved utility corridors, or access for emergency vehicles and any trail as proposed by the property owner and approved by the Director for purposes of this section.

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

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

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

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

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

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

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