

ORDINANCE NO. 407

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING A MORATORIUM AND INTERIM CONTROL PURSUANT TO RCW 35A.63.220 PROHIBITING THE CUTTING OF TREES IN CRITICAL AREAS AND PROHIBITING LAND CLEARING OR GRADING IN CRITICAL AREAS, AND DECLARING AN EMERGENCY

WHEREAS, under the provisions of the Growth Management Act the City is required to adopt development regulations to designate and protect critical areas; and

WHEREAS, SMC 20.50.310.A.1 effectively authorizes property owners to remove "hazardous trees" without a before-the-fact judgment by the City as to whether the circumstances constitute an actual and immediate threat to public health, safety or welfare; and

WHEREAS, SMC 20.50.310.A.1 does not require removal of hazardous trees from private property in a manner which will protect critical areas or the replanting of trees to prevent the loss of critical area functions and values after removal ;

WHEREAS, the continued operation of SMC 20.50.310.A.1 is likely to result in ongoing tree cutting, clearing and grading in critical areas of the City, contrary to the state's explicit public policy of protecting critical areas and the general public interest; and

WHEREAS, an interim control for four months will allow the City to preserve planning options and prevent substantial change to critical areas while the Planning Commission and city staff engage the public and various stakeholder groups in crafting permanent development regulations, including but not limited to such alternatives as a vegetation management plan; and

WHEREAS, the City Council has determined from recent public correspondence and comment that the City's ability to protect its critical areas will suffer irreparable harm unless interim controls are placed on the cutting of trees and the modification of land surfaces within such areas; and

WHEREAS, the potential adverse impacts upon the public safety, welfare, and peace, as outlined herein, justify the declaration of an emergency; and

WHEREAS, pursuant to SEPA regulations, SMC 20.30.550 adopting Washington Administrative Code Section 197-11-880, the City Council finds that an exemption under SEPA for this action is necessary to prevent an imminent threat to public health and safety and to prevent an imminent threat of serious environmental degradation through continued development under existing regulations. The City shall conduct SEPA review of any permanent regulations proposed to replace this moratorium; now, therefore,

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

Section 1. Finding of Fact. The recitals set forth above are hereby adopted as findings of the City Council.

Section 2. Moratorium. A moratorium is adopted upon the use or application of SMC 20.50.310.A.1 (hazardous vegetation exemption for clearing and grading permits for private property). No land clearing and grading shall be permitted on private property except as permitted under the interim control as adopted in Section 3 of this ordinance.

Section 3. Interim Controls adopted. The City adopts the following interim controls pursuant to the authority of RCW 35A.63.220:

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

In addition to other exemptions of Subchapter 5 of the Development Code, SMC 20.50.290-.370, the proposed cutting of any tree or clearing vegetation that is an immediate threat to public health and safety shall be allowed without a permit if it is evaluated and authorized by the City prior to such work being performed. The evaluation shall be done using the International Society of Arboriculture method, Hazard Tree Analysis for Urban Areas, in its most recent adopted form. Authorization to cut or clear vegetation under this exemption may only be given if the City concludes that the condition constitutes an actual and immediate threat to life or property in homes, private yards, buildings, public or private streets and driveways, improved utility corridors, or access for emergency vehicles. The party proposing cutting or clearing under this exemption shall contact the City regarding the emergency prior to taking the action and shall allow City access to assess the hazardous vegetation prior to, during and after removal and to assure compliance with conditions. If deemed by the City to be necessary, the City may retain, at the applicant's cost, an arborist/tree consultant to evaluate the request prior to any final determination. The City 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 replanting. Any authorized work shall be done utilizing hand implements only and the City may require that all or a portion of cut materials be left on-site.

Section 4. Public Hearing. Pursuant to RCW 35A.63.220 the City Clerk shall notice a public hearing before the City Council to take testimony concerning this moratorium within sixty days of passage of this ordinance.

Section 5. 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 pre-empted 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 6. Effective Date. The City Council declares that an emergency exists requiring passage of this ordinance for the protection of public health, safety, welfare and peace based on the Findings set forth in Section 1 of this ordinance. This ordinance shall take effect and be in full force immediately upon passage and shall expire four months from its effective date unless extended or repealed according to law.

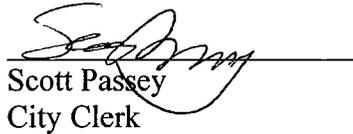
Section 7. Publication. A summary of this ordinance consisting of the title shall be published in the official newspaper of the City.

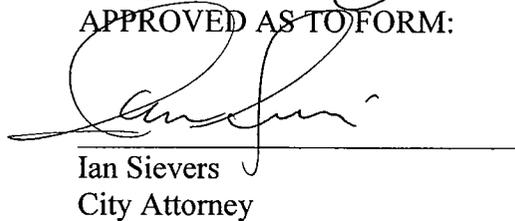
PASSED BY THE CITY COUNCIL ON JANUARY 3, 2006


Mayor Robert R. Rasgon

ATTEST:

APPROVED AS TO FORM:


Scott Passey
City Clerk


Ian Sievers
City Attorney

Date of Publication: January ⁶/₃, 2006
Effective Date: January 3, 2006