

# Exhibit A: Tree Canopy Retention Permit Procedures and Shoreline Management Plan CAO Reference Date Change Amendments

---

*Proposed amendments to Whatcom County Code Titles 20 (Chapters 20.51 and 20.71) pertaining to tree retention and 23 (Chapter 23.10) adopting the February 12, 2019 into the Shoreline Master Program by reference*

## **1. Amend Title 20 (Zoning), Chapter 20.51 (Lake Whatcom Watershed Overlay District), as follows:**

### **20.51.430 Tree removal not associated with development activity.**

(1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Whatcom watershed, or any tree(s) in the public right-of-way, without first obtaining the appropriate tree removal permit as provided in this section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

(a) Removal of any hazard trees considered an emergency within the definition of “hazard tree” in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

~~(2)~~ Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3)~~ Tree Removal Permit Application. The department of planning and development services shall establish and maintain a tree removal permit application, which shall at At a minimum require the following to shall be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

(i) The approximate location of significant trees, indicating those to be removed;

(ii) The species and canopy area (as determined pursuant to WCC [20.51.440\(4\)](#));

(iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.51.440\(4\)](#) for calculating 20-year canopy coverage.

~~(c)(e)~~ Other information as required by the applicable permit application.

- (4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.
- (a) Applicable permit
- (i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).
- (ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).
- (iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.
- ~~(d)~~(b) \_\_\_\_\_ The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. ~~Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.~~
- (c) The removal shall be completed within one year from the date of permit approval.
- ~~(e)~~ The decision of the director is appealable pursuant to WCC [22.05.160](#) (Appeals).
- ~~(f)~~(d) \_\_\_\_\_ ~~Time Limit. The removal shall be completed within one year from the date of permit approval.~~
- ~~(3)~~(5) Tree Removal Allowances. With a tree removal an appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:
- (a) There is no active application for development activity for the site; and
- ~~(a)~~(b) \_\_\_\_\_ No other Whatcom County regulation is more restrictive; and
- ~~(b)~~(c) \_\_\_\_\_ The tree(s) were not required to be retained or planted as a condition of previous development activity.
- (4)(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.
- ~~(5)~~(7) Penalties and Enforcement. Removal of significant trees without obtaining ~~a tree removal~~the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

## **2. Amend Title 20 (Zoning), Chapter 20.71 (Water Resource Protection Overlay District), as follows:**

### **20.71.354 Tree removal not associated with development activity.**

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining the appropriate ~~a tree removal~~ permit as provided in this

section, unless the activity is exempted below; ~~provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:~~

- (a) Removal of any hazard trees considered an emergency within the definition of "hazard tree" in Chapter [20.97](#) WCC. Within 30 days after the emergency is abated the landowner shall submit photo documentation with a form provided by Whatcom County.
- (b) Pruning and maintenance of trees of up to 25 percent of the foliage.

(2) Removal of trees located within the shoreline jurisdiction or within a critical area or a critical area buffer may be subject to additional regulations pursuant to WCC Title 23 (Shoreline Master Program) or Chapter 16.16 (Critical Areas Ordinance). Where additional regulations conflict the more stringent regulation shall apply.

~~(2)(3) Tree Removal Permit Application. The Department of Planning and Development Services shall establish and maintain a tree removal permit application, which shall a~~ At a minimum require the following to shall be submitted by the applicant:

(a) A complete permit application.

~~(a)(b)~~ \_\_\_\_\_ A sketch for this purpose may be prepared by the homeowner or other lay person and shall depict:

- (i) The approximate location of significant trees, indicating those to be removed;
- (ii) The species and canopy area (as determined pursuant to WCC [20.51.440](#)(4));
- (iii) The location of structures, driveways, access ways, and known easements.

~~(b)(c)~~ \_\_\_\_\_ Canopy calculations (existing and proposed).

(d) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees in accordance to standards set forth in WCC [20.71.356](#)(4) for calculating 20-year canopy coverage.

~~(e)~~ (e) \_\_\_\_\_ Other information as required by the applicable permit application.

(4) Tree Removal Permit Application Procedure and Appeals. Applicants requesting to remove any significant trees must submit a completed permit application on a form provided by the county.

(a) Applicable permit

- (i) The permit application to remove trees within the shoreline jurisdiction is a shoreline permit (WCC Title 23).
- (ii) The permit application to remove trees within a critical area or a critical area buffer is a notification of activity (WCC 16.16.235).
- (iii) The permit application to remove trees in areas outside of (a) or (b) is a tree removal permit.

~~(d)~~ (b) \_\_\_\_\_ The county shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application, or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

(c) The removal shall be completed within one year from the date of permit approval.

~~(e)~~ (d) \_\_\_\_\_ The decision of the director is appealable pursuant to WCC [22.05.160](#).

~~(f)~~ Time Limit. The removal shall be completed within one year from the date of permit approval.

~~(3)~~(5) Tree Removal Allowances. With a ~~tree removal~~the appropriate permit, any property owner may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing canopy area of on-site significant trees on their property; provided, that:

(a) There is no active application for development activity for the site; and

~~(a)~~(b) No other Whatcom County regulation is more restrictive; and

~~(b)~~(c) The tree(s) were not required to be retained or planted as a condition of previous development activity.

(4)(6) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) of this section must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter [16.16](#) WCC.

~~(5)~~(7) Penalties and Enforcement. Removal of significant trees without obtaining a ~~tree removal~~the appropriate permit may be subject to replacement at a ratio of three trees for each tree removed without a valid permit. Failure to replace removed significant trees may be subject to a fine as determined under Chapter [20.94](#) WCC.

### **3. Amend the Shoreline Master Program (WCC Title 23) to adopt the February 12, 2019, CAO, as follows:**

#### **23.10.060 References to plans, regulations or information sources.**

A. The Whatcom County Critical Areas Ordinance, WCC Chapter 16.16 (as most recently amended by Ordinance No. ~~2017-077~~2019-013, dated ~~December 5~~February 12, 2019), is hereby adopted in whole as a part of this program, except that the ~~permit, nonconforming use, appeal and enforcement provisions of the critical areas ordinance, WCC 16.16.270 (Reasonable Use Exceptions), 16.16.273 (Variances), 16.16.275 (Nonconforming Uses/Buildings), 16.16.280 (Appeals), and through 16.16.285 (Penalties and Enforcement) WCC 16.16.270 through 16.16.285~~ shall not apply within shoreline jurisdiction. All references to the critical areas ordinance (CAO), Chapter 16.16.WCC, are for this specific version.