

**CITY OF SAMMAMISH
WASHINGTON**

ORDINANCE NO. O2015 - 395

**AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON,
AMENDING CHAPTERS 21A.15, 21A.35 AND 23.100, AS WELL AS
ESTABLISHING A NEW CHAPTER 21A.37 OF THE SAMMAMISH
MUNICIPAL CODE PERTAINING TO TREE REGULATIONS AND
CIVIL CODE COMPLIANCE; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and Chapter 36.70A RCW, the Sammamish City Council has adopted the Sammamish Municipal Code (SMC), including Title 21A, Development, which regulates land use and Title 23, Civil Code Compliance, which regulates procedures and mechanisms for land use related code enforcement matters; and

WHEREAS, the City Council adopted the City of Sammamish Comprehensive Plan which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

WHEREAS, it is the intent of the City Council to ensure the development of fair and reasonable regulations; and

WHEREAS, the City of Sammamish Planning Commission, pursuant to SMC 2.60.040(2), “shall review and make recommendations to the City Council relating to the City’s land use ordinances and regulations”; and

WHEREAS, the Planning Commission considered proposed amendments to Chapters 15 and 35 of Title 21A and Chapter 100 of Title 23, as well as establishing a new Chapter 37 of Title 21A of the SMC, concerning tree regulations and enforcement requirements, during its March 19, 2015, April 2, 2015, April 16, 2015, May 7, 2015, May 21, 2015, and June 4, 2015 meetings; and

WHEREAS, the Planning Commission held a public hearing on June 18, 2015 to consider the proposed amendments to the SMC; and

WHEREAS, the 2005 Comprehensive Plan contains the following goals and policies:

GOAL LUG-10: Preserve trees and other natural resources as integral components of the community’s overall design.

LUP-10.1 Clustering of existing trees and native vegetation should be incorporated into site and building designs when appropriate. This policy should be implemented during design review and other land use reviews.

GOAL EC-10 Maintain and improve the City's forested character.

GOAL EC-6 Protect natural and environmentally sensitive areas, open space, trees, vegetation, natural terrain, and drainage.

ECP-6.5 City regulations and programs should support forest retention and impervious surface restrictions to maintain hydrologic function.

ECP-6.7 Clearing and grading shall be limited on all short plats, plats, commercial projects, and all non-residential projects to protect water quality, maintain hydrologic functions or wetlands, attenuate surface water runoff, limit erosion, and maintain fish and wildlife habitat and visual buffers. Seasonal limits shall restrict clearing and grading to the driest months. Tree retention shall be required for soil stability, significant trees, and buffering of development.

ECP-6.12 The City shall prepare regulations to preserve and protect trees in easements, rights-of way, parks, and potentially, under certain circumstances, private property. These regulations shall include, but shall not be limited to, guidelines for utility providers, private firms, City contractors and staff, as well as private individuals and neighborhood associations regarding appropriate practices for the pruning, maintenance, and/or removal of trees.

WHEREAS, the Planning Commission, after due consideration, recommended amendments to Chapters 15 and 35 of Title 21A and Chapter 100 of Title 23, as well as establishing a new Chapter 37 of Title 21A of the SMC to the City Council; and

WHEREAS, in accordance with WAC 365-195-620, a Notice of Intent to adopt the proposed amendments was sent to the State of Washington Department of Commerce on July 9, 2015, to allow for a 60-day review and comment period; and

WHEREAS, after providing 30 days public notice, the City Council held a public hearing on the proposed amendments on July 21, 2015 and continued the hearing to September 1, 2015, September 15, 2015, and October 6, 2015; and

WHEREAS, an environmental review of the proposed amendments has been conducted in accordance with the requirements of the State Environmental Policy Act ("SEPA"), and a SEPA threshold determination of non-significance and notice of adoption was issued on August 25, 2015, and sent to state agencies and interested parties; and

WHEREAS, the City Council considered proposed amendments to Chapters 15 and 35 of Title 21A and Chapter 100 of Title 23, as well as establishing a new Chapter 37 of Title 21A of the SMC, concerning tree regulations and enforcement requirements, during its July 21, 2015 September 1, 2015, September 8, 2015, September 15, 2015, and October 6, 2015 meetings; and

WHEREAS, the City Council has considered the proposed amendments to the SMC, the Planning Commission recommendation, and public comments received, and finds the amendments to be in the public interest;

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

Section 1. SMC Chapter 21A.15, Amended. Sammamish Municipal Code Chapter 21A.15 (“Technical Terms and Land Use Definitions”) is amended to add the following definitions:

21A.15.181 Certified Arborist.

“Certified Arborist” means an individual that has successfully passed the certified arborist examination administered by the International Society of Arboriculture (ISA) and possesses a minimum of three years full-time experience working in the professional tree care industry.

21A.15.333 Drip Line.

“Drip line” means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree’s branch tips down to the ground.

21A.15.1332 Tree, landmark.

“Tree, landmark” means a tree that is equal to or greater than thirty-two (32) inches DBH.

21A.15.1333 Tree, significant.

“Tree, significant” means a tree that is in a healthy condition and is a non-invasive species, including those trees defined as a heritage tree and landmark tree, that is:

- (1) A coniferous tree with a diameter of eight (8) inches or more DBH; or
- (2) A deciduous tree with a diameter of twelve (12) inches or more DBH.

Section 2. SMC Chapter 21A.35 Sections Repealed. Sammamish Municipal Code Sections 21A.35.210, 21A.35.220, 21A.35.230 and 21A.35.240 are hereby repealed in their entirety.

Section 3. New SMC Chapter 21A.37 Established. A new Sammamish Municipal Code Chapter 21A.37 (“Development Standards - Trees”) is hereby established and adopted to read as set forth in Attachment A.

Section 4. SMC Chapter 23.100 Amended. Chapter 23.100 is hereby amended as set forth in Attachment B.

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 pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 6th DAY OF OCTOBER, 2015.

CITY OF SAMMAMISH



Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Michael R. Kenyon, City Attorney

Filed with the City Clerk:	July 16, 2015
Public Hearing:	July 21, 2015
First Reading:	July 21, 2015
Public Hearing:	September 1, 2015
Public Hearing:	September 15, 2015
Public Hearing:	October 6, 2015
Passed by the City Council:	October 6, 2015
Date of Publication:	October 9, 2015
Effective Date:	October 14, 2015

ATTACHMENT A

Chapter 21A.37 DEVELOPMENT STANDARDS – TREES

21A.37.200 Purpose.

- (1) The purpose of this chapter is to:
- (a) Avoid the removal of significant trees, including heritage trees and landmark trees, in order to maintain the quality of Sammamish's urban environment;
 - (b) Protect significant trees, heritage trees and landmark trees to the maximum extent possible in the design of new development proposals including, but not limited to, buildings, roadways, and utilities;
 - (c) Mitigate the environmental and aesthetic consequences of tree removal through on-site and off-site tree replacement to achieve a goal of no net loss of canopy throughout Sammamish;
 - (d) Provide measures to protect trees that may be impacted during construction;
 - (e) Maintain and protect the public health, safety, and general welfare; and
 - (f) Preserve the aesthetic, ecological, and economic benefits of forests and tree-covered areas in Sammamish, which include:
 - (i) Providing varied and rich habitats for wildlife;
 - (ii) Absorbing greenhouse gas emissions;
 - (iii) Moderating the effects of winds and temperatures;
 - (iv) Stabilizing and enriching the soil;
 - (v) Slowing runoff from precipitation and reducing soil erosion;
 - (vi) Improving air quality;
 - (vii) Improving water quality;
 - (viii) Masking unwanted sound;
 - (ix) Providing visual relief and screening buffers;
 - (x) Providing recreational benefits;
 - (xi) Enhancing the economic value of developments; and
 - (xii) Providing a valuable asset to the community as a whole.

21A.37.210 Approval Required.

- (1) **Approval Required.** Except as provided in SMC 21A.37.230, *Exemptions*, any person who desires to cut down or remove any significant tree or who desires to conduct grading activities on a site that will result in the removal of any significant tree, must first obtain approval as required in this chapter. Approval may take the form of a tree removal permit or it may be included in conjunction with another land use approval such as a preliminary plat grading permit.
- (2) **Forest Practices Permittees.** Permittees under Class IV - General forest practice permits issued by the Washington State Department of Natural Resources (DNR) for the conversion of forested lots to developed lots are also required to obtain approval under (1) above. For all other forest practice permits (Class II, III, IV – special permit) issued by DNR for the purpose of commercial timber operations, no approval is required but no land use permits will be issued for six years following tree removal.

21A.37.215 Calculations - Rounding

- (1) When calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:
 - (a) Fractions of 0.50 or above shall be rounded up; and
 - (b) Fractions below 0.50 shall be rounded down.

21A.37.220 Evaluation Required.

- (1) **Professional Evaluation.** In determining whether an approval shall be granted, the submittal of a professional evaluation and/or a tree protection plan prepared by a Certified Arborist may be required when the City deems such services are necessary to demonstrate compliance with the standards of this chapter. Such professional evaluation(s) and services may include:
 - (a) Providing a written evaluation of the anticipated effects of proposed construction on the viability of trees on a site;
 - (b) Providing a hazardous tree assessment;
 - (c) Providing a written evaluation of heritage trees and/or landmark trees, as well as significant trees, near environmentally critical areas and associated buffers;
 - (d) Developing plans for tree protection or replacement, including supervising and/or monitoring implementation of any such plans; and/or
 - (e) Conducting a post-construction site inspection and evaluation.

21A.37.230 Exemptions.

- (1) **Removal Exemptions.** The following actions are exempt from obtaining approval as required in this chapter:
 - (a) Emergency removal of any significant tree necessary to remedy an imminent danger as defined in SMC 16.25.190;
 - (b) Removal of any significant tree in public easements and public rights-of-way; and

Documentation of significant tree removal under this section shall be provided to the City within twenty-one (21) days of removal.

- (2) **Retention Exemptions.** The following conditions are exempt from retention calculation as required in this chapter:
 - (a) Significant trees determined to present an imminent danger; or
 - (b) Significant trees located in public utility easements and public rights-of-way.

21A.37.240 Removal Standards.

- (1) **R-1, R-4 and R-6 Zoned Lots.** A lot as defined in SMC 21A.15.725 zoned R-1, R-4 or R-6 as of the effective date of this chapter must obtain a tree removal permit prior to removing any significant tree located on the lot. This requirement does not apply to rights vested to prior land use regulations.
 - (a) A permit shall be granted for the removal of significant trees as shown in the following table. The number of significant trees allowed for removal shall be limited by the lesser of the percentage column or cumulative number column:

Lot Size	Percent of significant trees allowed to be removed per 10 years	Number of significant trees allowed to be removed per year	Cumulative number of significant trees allowed to be removed per rolling 10 year period
< 1/4 ac	50	2	6
1/4 ac - 1/2 ac	40	4	12
1/2 ac - 1 ac	30	6	18
1ac - 2 ac	20	8	24
> 2 ac	10	10	30

- (b) Within environmentally critical areas and associated buffers, significant trees and other vegetation shall be retained subject to the requirements of Chapter 21A.50 SMC.
- (c) Replacement trees shall be planted as provided in SMC 21A.37.280, *Tree Replacement Standards*.
- (d) An application that seeks to remove trees in excess of the limits specified in SMC 21A.37.240(1)(a) may be granted at the discretion of the Director subject to double the tree replacement requirements in SMC 21A.37.280. Director approval may be granted for one of the following reasons:
 - (i) Thinning a heavily wooded area where remaining trees may benefit from the thinning and the lot's forested look, value, or function is maintained;
 - (ii) Maintaining the lot's landscaped areas;
 - (iii) Building a new structure, excluding a new primary residence, or adding onto an additional structure such as an existing residence, ADU, garage or shed; or
 - (iv) Installing or maintaining utilities or sources of renewable energy, such as solar panels.

(2) **R-8, R-12, R-18, O, NB and CB Zoned Lots.** A lot as defined in SMC 21A.15.725 zoned R-8, R-12, R-18, O, NB or CB as of the effective date of this chapter must obtain a tree removal permit prior to removing any significant tree located on the lot. This requirement does not apply to rights vested to prior land use regulations. Permit approval will be based on the following criteria:

- (a) A permit shall be granted for the removal of not more than 4 significant trees per year with a limit of 8 significant trees every 5 years.
- (b) Within environmentally critical areas and associated buffers, significant trees and other vegetation shall be retained subject to the requirements of Chapter 21A.50 SMC.
- (c) Replacement trees shall be planted as provided in SMC 21A.37.280, *Tree Replacement Standards*.
- (d) An application that seeks to remove trees in excess of the limits specified in SMC 21A.37.240(2)(a) may be authorized at the discretion of the Director. Director approval may be granted for one of the following reasons:
 - (i) Thinning a heavily wooded area where remaining trees may benefit from the thinning and the lot's forested look, value, or function is maintained;
 - (ii) Maintaining the lot's landscaped areas; or
 - (iii) Installing or maintaining utilities or sources of renewable energy, such as solar panels.

21A.37.250 Retention Standards.

- (1) **Development Proposals on R-1, R-4 and R-6 Zoned Lots.** A new primary residence or a type 2, 3 or 4 development proposal on R-1, R-4 and R-6 zoned lots must obtain a land use permit or approval prior to removing any significant tree located on the lot.
 - (a) Regardless of the zoning designation, erosion hazard areas and areas within the erosion hazards near sensitive water bodies overlay that drain to the no-disturbance area, as well as Pine Lake and Beaver Lake drainage sub-basins as depicted on maps created and maintained by the City shall retain 50% of the significant trees within areas unconstrained by wetlands, streams, landslide hazard areas, and associated buffers.
 - (b) R-1 zoned lots: A minimum of 50% of the significant trees shall be retained within areas unconstrained by wetlands, streams, landslide hazard areas, and associated buffers.
 - (c) R-4 and R-6 zoned lots: A minimum of 35% of the significant trees shall be retained within areas unconstrained by environmentally critical areas and associated buffers.
 - (d) Replacement trees shall be planted as provided in SMC 21A.37.280, *Tree Replacement Standards*.
 - (e) Trees previously designated for protection or located within a designated open space tract or environmentally critical area tract may not be removed unless they are determined to be hazardous. Any trees qualifying for an exemption under SMC 21A.37.230 are not included in the limits established by this section.

- (2) **Development Proposals on R-8, R-12, R-18, O, NB and CB Zoned Lots.** A new primary residence or a type 2, 3 or 4 development proposal on R-8, R-12, R-18, O, NB and CB zoned lots must obtain a land use permit or approval prior to removing any significant tree located on the lot.
 - (a) Regardless of the zoning designation, erosion hazard areas and areas within the erosion hazards near sensitive water bodies overlay that drain to the no-disturbance area, as well as Pine Lake and Beaver Lake drainage sub-basins as depicted on maps created and maintained by the City shall retain 50% of the significant trees within areas unconstrained by wetlands, streams, landslide hazard areas, and associated buffers.
 - (b) A minimum of 25% of the significant trees shall be retained within R-8, R-12 and R-18 zoned lots in areas unconstrained by environmentally critical areas and associated buffers.
 - (c) There is no minimum retention requirement for significant trees located within O, NB, and CB zoned lots in areas unconstrained by environmentally sensitive areas and associated buffers.
 - (d) Replacement trees shall be planted as provided in SMC 21A.37.280, *Tree Replacement Standards*, except the replanting requirement shall be doubled for development proposals in the O, NB, and CB zones where tree retention is less than 25%.
 - (e) Trees previously designated for protection or located within a designated open space tract or environmentally critical area tract may not be removed unless they are determined to be hazardous. Any trees qualifying for an exemption under SMC 21A.37.230 are not included in the limits established by this section.

21A.37.260 Variances.

- (1) **Variances.** Where conditions exist that prevent full compliance with Chapter 21A.37 SMC, the applicant may request a variance pursuant to SMC 20.05.020 and the decision criteria as described for such in SMC 21A.110.030.

21A.37.270 Tree Protection Standards.

- (1) **Priority.** Significant trees identified for retention pursuant to SMC 21A.37.250 shall be selected, to the extent feasible, subject to the following order of priority from most important to least important:
 - (a) Significant trees part of a continuous canopy adjacent to an environmentally critical area and associated buffer;
 - (b) Significant trees part of a continuous canopy adjacent to a public park and/or other protected open space;
 - (c) Significant trees part of any other on-site and/or off-site continuous canopy;
 - (d) Significant trees providing relief from identified environmental impacts;
 - (e) Significant trees providing perimeter connectivity and/or off-site screening;
 - (f) Significant trees able to be incorporated into required landscaping;
 - (g) An isolated cluster of significant trees;
 - (h) Individual significant trees.

- (2) **Designation.** Any applicable application and/or plan required for new development shall show all significant trees designated for protection. These areas may be shown by labeling them as "Protected Significant Trees" or such other designation as approved by the Director. Protected vegetation, including protected trees, shall not be modified, harmed, or removed except as provided in this section.

- (3) **Preservation.** An approval for new development may require the significant trees to be retained are permanently preserved within a tract, easement or other permanent protective mechanism. When required, the location, purpose, and restrictions of these protected areas shall be shown on the face of the deed, plat, binding site plan, covenant or similar document, and shall be recorded with the King County Department of Records and Elections or its successor. The recorded document shall include the requirement that the protected areas shall not be removed, amended, or modified without the written approval of the City of Sammamish.

- (4) **Incentives.** The following incentives are available for higher levels of landmark, heritage and significant tree preservation:
 - (a) **Landmark Trees:** The permanent preservation of a landmark tree in conjunction with SMC 21A.37.270(1) shall receive retention credit as follows:
 - (i) 200% credit in conjunction with SMC 21A.37.270(1)(a) through (c).
 - (ii) 150% credit in conjunction with SMC 21A.37.270(1)(d) through (f).To qualify for this incentive, all landmark trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.
 - (b) **Heritage Trees:** The permanent preservation of a heritage tree in conjunction with SMC 21A.37.270(1) shall receive retention credit as follows:
 - (i) 175% credit in conjunction with SMC 21A.37.270(1)(a) through (c).
 - (ii) 125% credit in conjunction with SMC 21A.37.270(1)(d) through (f).To qualify for this incentive, all heritage trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.
 - (c) **New subdivisions and short plats** proposing a minimum 45% permanent preservation of significant trees in conjunction with SMC 21A.37.270(1)(a) through (c) shall receive a 50% reduction of required on site recreation space. To qualify for this incentive, all significant trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.

- (d) New subdivisions and short plats proposing a minimum 40% permanent preservation of significant trees in conjunction with SMC 21A.37.270(1)(a) through (c) shall receive a 25% reduction of required on site recreation space. To qualify for this incentive, all significant trees proposed for permanent preservation shall be outside of any environmentally critical area and associated buffer.
- (5) **Protection Measures.** To ensure long-term viability of trees identified for protection, permit plans and construction activities shall comply with the following minimum required tree protection:
- (a) All minimum required tree protection measures shall be shown on the tree protection and replacement plan.
 - (b) Tree protection barriers shall be installed five feet beyond the drip line of significant trees to be protected prior to any land disturbance.
 - (c) Tree protection barriers shall be a minimum of four feet high, constructed of chain link, or polyethylene laminar safety fencing or other material, subject to approval by the Director. 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.
 - (d) Where tree protection areas 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 Save Area – Keep Out” signs.
 - (e) Native understory trees, shrubs and other vegetation shall be protected within the designated tree protection area.
- (6) **Preventative Measures.** In addition to the above minimum protection measures, the applicant shall support the protection measures by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:
- (a) Significant trees shall not be topped;
 - (b) Excessive pruning shall not be allowed unless necessary to protect life and property;
 - (c) Visible deadwood on trees to be protected or relocated shall be pruned;
 - (d) Fertilizer shall be applied to enhance the vigor of stressed trees;
 - (e) Use soil amendments and soil aeration in planting areas;
 - (f) Apply mulch over tree drip line areas; and
 - (g) Ensuring proper water availability before, during and after construction.
- (7) **Alternative Methods.** The Director may approve the use of alternative tree protection and/or preventative techniques if a protected tree will be protected to an equal or greater degree than through the techniques listed above.

21A.37.280 Tree Replacement Standards.

- (1) **Replacement Required.** Any significant tree lawfully removed pursuant to SMC 21A.37.240, *Tree Removal Standards* or SMC 21A.37.250, *Tree Retention Standards*, shall be subject to the following replacement requirements:
- (a) Each landmark tree shall be replaced by three (3) new trees;
 - (b) Each heritage tree shall be replaced by two (2) new trees;
 - (c) Each significant tree shall be replaced by one (1) new tree;
 - (d) Replacement coniferous trees shall be at least eight (8) feet in height;

- (e) Replacement deciduous trees shall be at least two and one-half (2.5) inches in diameter (DBH);
- (f) Replacement trees shall be primarily native species to Washington in order to restore and enhance a site as nearly as practicable to its pre-removal character and function;
- (g) Non-native replacement trees shall be recommended by a Certified Arborist as having characteristics suitable to the proposed location of planting, or as otherwise approved by the City;
- (h) The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock;
- (i) Financial guarantees for replacement trees may be required consistent with the provisions of Title 27A SMC;
- (j) Installation of required replacement trees shall be in accordance with the International Society of Arboriculture's best management practices for arboriculture including, but not limited to, soil assessment, sampling, amendments and conservation, which ensure the tree's long-term health and survival; and
- (k) The Director may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, and the purposes of this section, and that such trees will be planted in sufficient quantities to meet the intent of this section.

(2) **Location for Tree Replacement – On-Site.** Unless approved for one or more of the alternatives set forth in SMC 21A.37.280(3), replacement trees shall be planted on the site from which significant trees are removed and may be approved for the following areas on site:

- (a) On-site replacement trees approved to be located in environmentally critical areas and associated buffers shall receive a 125% credit toward the tree replacement requirement.
- (b) Each required street tree planted on-site shall receive a 50% credit and each street tree planted on-site in excess of the minimum requirement shall receive a 100% credit toward the tree replacement requirement, subject to Director approval.
- (c) On-site replacement trees approved to be located within the perimeter of a stormwater facility shall receive a 100% credit toward the tree replacement requirement.
- (d) On-site replacement trees approved to be located in places other than (a) – (c) above shall receive a 100% credit toward the tree replacement requirement.

(3) **Location for Tree Replacement – Alternatives.** When on-site replacement cannot be completely achieved, the following alternatives may be considered:

- (a) **Off-Site Tree Replacement.**
 - (i) The number of replacement trees shall be the same as described in SMC 21A.37.280(1). Replacement costs (material plus labor) shall be at the applicant's expense.
 - (ii) Allowable sites for receiving off-site replacement plantings may include public lands, open space areas, open space tracts, delineated environmentally critical areas and associated buffers. A receiving site shall be within the Sammamish city limits or within land owned by the City.
- (b) **Landscape Restoration.** Where appropriate, other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits may be considered. Measures, as determined by the Director, may include, but are not limited to:
 - (i) Creation of wildlife snags from trees which would otherwise be removed;
 - (ii) Replacement of certain ornamental trees with native shrubs and groundcover;
 - (iii) Replacement of hazardous or short-lived trees with healthy new trees that have a greater chance of long-term survival;

- (iv) Daylighting and restoration of stream corridors with native vegetation; and
- (v) Protection of non-significant trees to provide for the successional stages of forest development.

(4) **Tree Replacement Guidelines and Requirements.** The following provisions shall be considered for tree replacement:

- (a) Replacement trees should be planted to reestablish or enhance tree clusters where they previously existed;
- (b) Where possible, replacement trees should be planted within environmentally critical areas and associated buffers. Replacement trees may be planted within a designated open space tract or environmentally critical area tract, where it is determined that such planting enhances and complements existing vegetation and environmental functions;
- (c) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements;
- (d) Replacement trees shall be located away from areas where damage is likely;
- (e) Replacement trees shall be located to provide screening of the development from adjacent properties, where appropriate;
- (f) Replacement trees shall be planted in areas that connect or are adjacent to a designated open space tract or environmentally critical area tract or other open space, where appropriate;
- (g) Replacement trees shall be integrated into the required landscape plans, if any, for a development; and
- (h) Replacement trees to be planted next to or under power lines shall be selected with consideration of the trees' maturation and maintenance requirements.

(5) **Tree Maintenance.** All required replacement trees and relocated trees shown on an approved permit whether located on-site or off-site, shall be maintained in healthy condition by the applicant throughout the life of the project, unless otherwise approved by the Director in a subsequent permit or approval. Healthy condition can be achieved by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

- (a) Trees shall not be topped;
- (b) Excessive pruning shall not be allowed unless necessary to protect life and property;
- (c) Visible deadwood on trees to be protected or relocated shall be pruned;
- (d) Fertilizer shall be applied to enhance the vigor of stressed trees;
- (e) Use soil amendments and soil aeration in tree protection and planting areas;
- (f) Apply mulch over tree drip line areas; and
- (g) Ensuring proper water availability during and immediately after construction.

21A.37.290 Violation – Criminal Penalties.

(1) **Criminal Conduct.** Any person who violates the provisions of this chapter or fails to comply with any of the requirements shall be guilty of a gross misdemeanor and subject to the penalties set forth in SMC 1.10.010. In keeping with the city's concern regarding protection of the environment, the court should consider the imposition of a maximum fine of no more than \$5000 per occurrence and imprisonment not to exceed one year. Each day such violation continues shall be considered a separate, distinct offense.

As a supplement or alternative to the remedies set forth in subsection (a), the code administrator shall have the authority to seek civil penalties for violation of the provisions of this chapter as provided for in SMC 23.100.010.

ATTACHMENT B

Chapter 23.100
CIVIL PENALTIES

23.100.010 Assessment schedule.

Code Enforcement Penalties:	
Infraction	up to \$500
Stop Work Order	up to \$500
Noncompliance:	
1 – 15 days	\$100 per day
16 – 31 days	\$250 per day
31+ days	\$500 per day (up to \$50,000 maximum)
Environmental Damage/Critical Areas Violations:	
Up to \$25,000 plus the cost of restoration	
Unlawful Tree Removal or Damage:	
\$1,500 per inch of diameter at breast height of tree removed or damaged	

(1) Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each type of violation identified in a notice and order, VCA, stop work order, or infraction pursuant to this chapter.

(2) The penalties assessed pursuant to this chapter for failure to comply with the terms of a VCA are based on the number of days of noncompliance, dating back to the date of the initial violation.

(3) Penalties based on violation of a stop work order shall be assessed, according to this chapter, for each day the director determines that work or activity was done in violation of the stop work order.

(4) Infractions shall be subject to a one-time civil penalty as set forth in this chapter.

(5) Payment of a monetary penalty does not relieve the person responsible to whom the notice was issued of the duty to correct the violation.

(6) In addition to the other penalties provided for in this chapter, any person responsible for a violation of Chapter 21A.50 SMC may be jointly and severally liable for site restoration for the redress of ecological, recreation, and economic values lost or damaged and shall pay a civil penalty up to \$25,000 plus restoration, based upon the severity of the violation as documented in the City's file.

For the purposes of this subsection, a violation of the critical areas ordinance means: the violation of any provision of Chapter 21A.50 SMC; or the failure to obtain a permit required for work in a critical area; or the failure to comply with the conditions of any permit, approval, terms, and conditions of any critical area tract or setback area, easement or other covenant, plat restriction, or binding assurance or any notice and order, stop work order, mitigation plan, contract or other agreement.

(7) Any person responsible for damage to or removal of a tree in violation of Chapter 21A.37 SMC shall be jointly and severally liable for mitigation as described in SMC 23.100.015 and shall pay a civil penalty of \$1,500 per inch of diameter at breast height of tree removed or damaged.

(8) The civil penalties in this chapter are in addition to, and not in lieu of, any other penalties, sanctions, restitution, or fines provided for in any other provisions of law.

23.100.015 Mitigation for Unlawful Tree Removal

(1) In addition to the monetary penalty outlined in SMC 23.100.010, any tree damaged or removed in violation of Chapter [21A.37](#) SMC shall be subject to replacement. For the purpose of code enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump. Mitigation measures must comply with the standards specified in SMC 21A.37.280, *Tree Replacement Standards*, except that the number of replacement trees for significant trees removed or damaged shall be as follows:

- (a) Removed or damaged coniferous trees with a DBH equal to or greater than eight (8) inches up to twelve (12) inches shall be replaced by four (4) trees;
- (b) Removed or damaged trees with a DBH equal to or greater than twelve (12) inches up to sixteen (16) inches shall be replaced by six (6) trees; and
- (c) Removed or damaged trees with a DBH of sixteen (16) inches or more shall be replaced by eight (8) trees.

23.100.020 Waivers.

(1) Civil fines and civil penalties, in whole or in part, may be waived or reimbursed to the payer by the director, with the concurrence of the finance director, under the following circumstances:

- (a) The notice and order, stop work order, or infraction was issued in error;
- (b) The civil fines or civil penalties were assessed in error;
- (c) Notice failed to reach the person responsible due to unusual circumstances;
- (d) The code violations have been corrected under a VCA;
- (e) The code violations which formed the basis for the civil penalties have been corrected, and the director finds that compelling reasons justify waiver of all or part of the outstanding civil penalties; or
- (f) Other extraordinary information warranting waiver has been presented to the director since the notice and order, stop work order or infraction was issued.

(2) The director shall document the circumstances under which a decision was made to waive penalties.