

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 a tree removal permit as provided in this section, unless the activity is exempted below:

- (a) Removal of any hazard trees or as necessary to remedy an immediate threat to person or property, pursuant to the requirements in subsection (5) of this section;
- (b) Pruning and maintenance of trees of up to 25 percent of the foliage.

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

(a) 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) Canopy calculations (existing and proposed).

(c) 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.

(3) 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. 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.

(a) The decision of the director is appealable pursuant to WCC [20.84.240](#).

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

(4) Tree Removal Allowances. With a tree removal 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

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

(5) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees that are a hazard shall first obtain approval of a tree removal permit and meet the requirements of this subsection.

(a) Tree Risk Assessment. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required. Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.

(b) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter [16.16](#) WCC.

(6) Penalties and Enforcement. Removal of significant trees without obtaining a tree removal 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. (Ord. 2016-045 § 1 Att. A, 2016).

[20.51.440](#) Tree retention associated with development activity. 

(1) Tree Canopy Retention.

(a) Tree canopy retention shall be required for all development applications and building permits within the Lake Whatcom watershed, unless the activity is exempted below:

(i) Removal of any hazard trees, and as necessary to remedy an immediate threat to person or property, pursuant to the requirements of this subsection.

(A) Tree Risk Assessment. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required. Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.

(B) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or critical area buffers, tree removal shall be in accordance with the requirements of Chapter [16.16](#) WCC.

(ii) Construction or maintenance of public or private roads and public or private utilities including utility easements not related to development. Protection of trees shall be a major factor in the location, design, construction, and maintenance of streets and utilities. These improvements are subject to the purpose and intent of this section.

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

(2) Tree Retention Plan Required.

(a) An applicant for a development permit must submit a tree retention plan that complies with this section. A qualified professional may be required to prepare certain components of a tree retention plan at the applicant's expense. The tree retention plan shall contain the following information:

(i) A site plan with the following components:

(A) North arrow;

(B) Property boundaries;

(C) Existing structures;

(D) Site access;

(E) Tree canopy areas to be removed;

(F) The outer dripline of tree canopy areas to be retained;

(G) Critical areas including, but not limited to, slopes, wetlands, and habitat conservation areas;

(H) Protection measures to be used for areas that will be undisturbed; and

(I) Areas to be replanted pursuant to subsection (4) of this section;

(ii) For required replacement trees, a planting plan showing location, species, and 20-year canopy area of the new trees and calculations of 20-year canopy coverage in accordance with the standards set forth in subsection (4) of this section;

(iii) Provisions for maintenance and monitoring.

(3) Minimum Tree Canopy Retention. Development subject to the requirements of this section may remove up to 35 percent or 5,000 square feet, whichever is greater, and as measured cumulatively, of the existing tree canopy areas, as defined by the dripline of the tree(s), for the purposes of a building site, driveways, parking areas, and areas to be landscaped. Existing tree canopy areas shall be prioritized for retention as provided in subsection (5) of this section. In the event that tree canopy areas in excess of the applicable threshold must be removed to facilitate reasonable use of the site, or to eliminate hazard trees, new plantings shall be required to attain the removed tree canopy coverage, calculated according to projected growth at 20 years maturity consistent with Table 20.51.440(4).

(a) Tree canopy areas shall include all trees, excluding invasive species or noxious weeds, within the gross site area.

(b) Existing or planted tree canopy may include street trees and may be located within buffer landscaping, site landscaping, critical areas and their buffers, open space reserve areas, reserve areas, reserve tracts or easements where permanent restrictions are recorded on the face of the plat ensuring their retention in perpetuity.

(4) Measuring Tree Canopy. Site tree canopy shall be measured according to Table 20.51.440(4). Calculation of existing and new tree canopy shall be submitted in writing by a qualified landscape designer or a licensed land surveyor.

Table 20.51.440(4). Measuring Tree Canopy

Existing Canopy		New Canopy
Option 1 Tree Survey	Option 2 Aerial Estimation	20-Year Canopy Calculation
<ul style="list-style-type: none"> • Measure average canopy radius (r) for each tree to be retained • Calculate existing canopy area using the formula: Canopy Area (CA) = πr^2 	<ul style="list-style-type: none"> • Obtain aerial imagery of site • Measure site boundaries • Measure canopies of individual trees or stand area using leading edges as the forest boundary 	For each proposed species: <ul style="list-style-type: none"> • Calculate radius (r) of canopy at 20 years maturity • Calculate canopy coverage using the formula: CA = πr^2 • Multiply by the proposed quantity to be planted to obtain total species canopy area

Table 20.51.440(4). Measuring Tree Canopy

Existing Canopy		New Canopy
Option 1 Tree Survey	Option 2 Aerial Estimation	20-Year Canopy Calculation
<ul style="list-style-type: none"> Total the sum of tree canopy areas and divide by gross site area to obtain canopy coverage percentage 	<ul style="list-style-type: none"> Divide total canopy measurement by the gross site area to obtain canopy coverage percentage 	<ul style="list-style-type: none"> Total the sum of species canopy area for all proposed species and divide by gross site area to obtain 20-year canopy coverage percentage

(5) Tree Canopy Credits. To assist in the preservation and retention of significant trees and existing tree canopy outside of critical area protection areas and required buffers and buffer landscaping, the applicant may use the following credits:

- (a) Individual significant trees retained on site shall be counted at 125 percent of their actual canopy area.
- (b) For clusters or stands of five or more trees, each tree shall be counted at 150 percent of its actual canopy area.
- (c) For clusters or stands of five or more significant trees, each tree shall be counted at 200 percent of its actual canopy area.
- (d) The minimum required lot size in subdivisions or short subdivisions may be reduced by 20 percent when at least 20 percent of the site, not including any open space reserve areas, reserve areas, reserve tracts, or critical areas or their buffers, is put into a separate tract or tracts that have at least 20 significant trees per acre and where at least 60 percent of the significant trees within the tract or tracts are retained. This does not change the tree canopy requirements.

(6) Tree Replacement Requirements. In addition to the requirements of WCC [20.80.320](#) through [20.80.345](#), trees planted to meet tree canopy requirements in subsection (3) of this section shall meet the following criteria:

- (a) Sites must be planted or replanted with a minimum of 50 percent evergreen species, except:

(i) The evergreen portion of the required planting mix may be reduced by 25 percent when the deciduous mix contains exclusively indigenous species to the Puget Sound region, not including alder; and

(ii) Sites obtaining tree canopy requirements solely through street trees are exempt from the requirement to include evergreen species in the planting mix;

(b) Sites requiring replanting of tree canopy must plant no more than 30 percent of trees from the same species and no more than 60 percent of trees from the same taxonomic family;

(c) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements;

(d) When preparing the landscaping plan, applicants are encouraged to meet the requirements of subsection (3) of this section by conserving existing tree canopy, including significant trees and other vegetation located on the site, and by placing new plantings in protected areas, such as street trees, buffer landscaping, open spaces, and critical areas and their buffers at healthy spacing densities before placing trees within individual lots or yards; and

(e) Replacement trees shall be located in such a manner to minimize damage to trees or structures on the project site and on properties adjoining the project site.

(7) Tree Protection Measures. The following tree protection measures shall be taken during clearing or construction:

(a) Tree protective fencing shall be installed along the outer edge of the drip line surrounding the trees retained in order to protect the trees during any land disturbance activities, and fencing shall not be moved to facilitate grading or other construction activity within the protected area;

(b) Tree protective fencing shall be a minimum height of three feet, visible, and of durable construction; orange polyethylene laminar fencing is acceptable; and

(c) Signs must be posted on the fence reading "Tree Protection Area."

(8) Tree Canopy Retention Modifications. An applicant may reduce the tree canopy requirements of subsection (3) of this section by no more than five percent through a tree canopy retention modification when all of the following criteria and those in this section are met:

(a) The applicant demonstrates in writing that they have made a good faith effort to comply with the tree canopy requirements within the physical constraints of the site by:

(i) Retaining as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees; or

(ii) Replanting as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees;

(b) The applicant proposes to plant additional understory vegetation or ground cover area, excluding lawn cover, invasive species or noxious weeds, to fulfill the remaining canopy requirement in Table 20.51.440(4) not met by retention or replanting of tree canopy; and

(c) When critical areas and their buffers exist on site and those buffers are not highly functioning, the applicant proposes to enhance the buffers by removing invasive species and noxious weeds and/or planting vegetation indigenous to the Pacific Northwest, spaced for maximum survivability.

(9) Street Trees. The county engineer may modify required frontage improvements to retain significant trees as street trees.

(10) Retained Significant Trees as a Condition of Development Approval. Retained significant trees, trees planted as replacements for significant trees, and trees planted to meet requirements in subsection (3) of this section may not be removed except when determined in writing by a certified arborist to constitute a hazard. Any replacement or significant trees removed without proper documentation from a certified arborist shall be subject to a fine as determined under Chapter 20.94 WCC.

(11) Penalties and Enforcement. Any significant trees identified in a landscape plan to be retained, and subsequently damaged or removed during site development shall be replaced at a rate of three trees for each one damaged or removed. Failure to replace damaged or removed significant trees shall be subject to a fine as determined under Chapter 20.94 WCC. (Ord. 2016-045 § 1 Att. A, 2016).