



**TO:** Whomever it May Concern  
**FROM:** Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer /KDK  
**SUBJECT:** Administrative Interpretation & Guidance – Chapter 9.20 TMC (Trees and Shrubs – View Blockage) – Chapter 13.11 TMC (Critical Areas Preservation) – Vegetation management within critical areas on City Open Space Property  
**DATE:** February 9, 2016

The provisions of Chapter 9.20 of the Tacoma Municipal Code (“TMC”) generally apply to requests to manage vegetation on property owned by the City to improve views. Such requests must be reviewed and approved or denied by the City Engineer. TMC 9.20.060.

City-owned open space properties are managed by the Environmental Services Department. Such open space properties are often located within critical areas such as wetlands and steep slopes. The City is required under state law<sup>1</sup> to use best available science in developing policies and development regulations to protect the functions and values of critical areas. Activities within critical areas, including vegetation management, are therefore subject to review under the Critical Areas Preservation Code (Ch. 13.11 TMC).

The Environmental Services Department is in the process of developing landscape management plans (“Management Plans”) to protect City-owned open spaces within critical areas. The Management Plans will be implemented pursuant to 20-year development permits issued by the Planning and Development Services Department under authority of the Critical Areas Preservation Code.

The Management Plans approved pursuant to the Critical Areas Preservation Code will establish a formal process for applications to be submitted to the City for vegetation management within critical areas to protect views; i.e., a vegetation modification application. The Management Plans include specific requirements that must be met to ensure protection of critical areas as required under the Critical Areas Preservation Code and state law.

TMC 9.20.060 establishes the conditions that will be considered by the City Engineer when making a determination to approve or deny a request to top, prune or remove trees located within a critical area. Although consideration of potential environmental impacts is one of the factors to be considered, TMC 9.20.060 also requires balancing and weighing of other factors such as view benefits, the extent of the view, view impairment, and aesthetic impacts.

The Critical Areas Preservation Code provides in pertinent part as follows:

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<sup>1</sup> See, RCW 36.70A.030(5) & (7); RCW 36.70A.040(3); RCW 36.70A.060(2); RCW 36.70A.130; RCW 36.70A.170; RCW 36.70A.172; RCW 36.70A.180; and, RCW 36.70A.345.

It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, provisions of this chapter shall prevail. (*Emphasis added*).

TMC 13.11.160(A). Accordingly, to the extent that the Critical Areas Preservation Code is more restrictive than the provisions of Chapter 9.20 TMC, the provisions of the Critical Areas Preservation Code shall prevail.

The Critical Areas Preservation Code does not require balancing and weighing of considerations such as view benefits, the extent of the view, view impairment or aesthetic impacts. Instead, the Critical Areas Preservation Code prohibits certain vegetation management activities altogether<sup>2</sup> and requires analysis of the functional impact of the proposed vegetation management activities upon the functions of the critical area and compliance with the protective standards of the Critical Areas Preservation Code. The purpose of this analysis is to determine whether or not the proposed vegetation management activities; i.e., topping, pruning or removal, have the potential to result in degradation of critical areas. These requirements and prohibitions are necessary to protect persons and property from hazards such as landslides, steep slope failures and flooding and to protect habitat and water quality. TMC 13.11.120

The Critical Areas Preservation Code mandates that if a request includes topping or removal of trees or the City determines that that pruning or removal has potential to impact critical areas or impact the health of the trees, the City must deny the request. Additionally, the proposed Management Plans may require, as a condition of approval, compliance with a vegetation management plan, including tree pruning, to further the goals of achieving a sustainable target ecosystem, improving slope stability, maximizing stormwater benefit and providing public safety and infrastructure protection.

The Public Works Director, as City Engineer, has responsibility for implementation and enforcement of Chapter 9.20 TMC. The City Engineer cannot approve a request to top, prune or remove a tree that does not comply with a determination made under the more restrictive provisions of the Critical Areas Code. The Critical Areas Preservation Code is more restrictive than Chapter 9.20 TMC to the extent that it would operate to deny, or approve with conditions, a request to top, prune, or remove vegetation upon city-owned property within a critical area. Accordingly, the City Engineer cannot approve a request to top, prune, or remove vegetation in a critical area in the absence of a decision made under the Critical Areas Preservation Code to approve, or approve with conditions, the same request. Furthermore, conditions made applicable to a request to top, prune or remove vegetation under the Critical Areas Preservation Code, shall control and attach to any subsequent approval by the City Engineer made pursuant to Chapter 9.20 TMC.

In accordance with the foregoing, the following process shall apply to all requests submitted to the City Engineer pursuant to Chapter 9.20 TMC to top, prune, remove or in any manner

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<sup>2</sup> The Critical Areas Preservation Code prohibits the topping or complete removal of a tree or pruning that impacts the health of a tree. TMC 13.11.210(12).

alter vegetation on City-owned property located in whole or in part within a critical area. The City Engineer, or designee, shall notify the applicant that the application is suspended until, (a) the request has been submitted to the Planning and Development Services Department for review and approval pursuant to the applicable provisions of the Critical Areas Preservation Code and any applicable Management Plans, and (b) a final decision has been made regarding that request and has been submitted to the City Engineer. An application that is suspended may be withdrawn by the applicant or deemed by the City Engineer to be abandoned in the event that the applicant does not timely pursue review and approval under the Critical Areas Code.

Approved this 11<sup>TH</sup> day of FEBRUARY, 2016.

Public Works Department



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Kurtis D. Kingsolver, P.E.  
Public Works Director/City Engineer