

16.50.040. - Exemptions, existing structures, trams, and limited exemptions.

- A. *Critical areas exemptions.* The following developments, activities and associated uses shall be exempt from the requirements of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:
1. Emergency actions necessary to prevent an immediate threat to public health, safety or welfare, or that pose an immediate risk of damage to private property and that require action in a time frame too short to allow compliance with this chapter, provided:
 - a. Immediately after the emergency action is completed, the owner shall notify the city of these actions within 14 days; and
 - b. The owner shall fully restore and/or mitigate any impacts to critical areas and buffers in accordance with an approved critical area report and mitigation plan.
 2. Operation, maintenance, remodel or repair of existing structures and facilities, provided there is no further intrusion into a critical area or its buffer and there is no significant increase in risk to life or property as a result of the action.
 3. Passive recreation, education, and scientific research activities that do not degrade critical areas or buffers, such as fishing, hiking and bird watching, not including trail building or clearing.
 4. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where:
 - a. Such activities do not require construction of new roads or significant amounts of excavation; and
 - b. The disruption to the critical areas and buffers shall be minimized and the disturbed areas immediately restored.
 5. Construction or modification of navigational aids and boundary markers.
- B. *Existing structures.*
1. Existing structures may be maintained, repaired and remodeled provided there is no further intrusion into a critical area or its buffer.
 2. All new construction must conform to the requirements of this chapter except as provided for single-family residences in subsection (C)(1) of this section.
 3. Structures damaged or destroyed due to disaster (including nonconforming structures) may be rebuilt in like kind.
- C.

Limited critical areas exemptions. The following developments, activities, and associated uses shall not be required to follow a critical areas review process; provided, that they are consistent with the requirements of this chapter. The city may condition approval of such to ensure adequate critical areas protection:

1. Existing single-family residences may be expanded, reconstructed, or replaced, provided all of the following are met:
 - a. Expansion within a critical area buffer is limited to 500 square feet of footprint beyond the existing footprint;
 - b. The expansion extends no closer to critical area than the existing setback;
 - c. The proposal preserves the functions and values of wetlands, fish and wildlife habitat conservation areas, and their buffers;
 - d. The proposal includes on-site mitigation to offset any impacts;
 - e. The proposal will not significantly affect drainage capabilities, flood potential, and steep slopes and landslide hazards on neighboring properties; and
 - f. The expansion would not cause a tree within a buffer to be labeled as a hazardous tree and thus require the removal of the hazardous tree;
2. Replacement, modification, installation or construction of streets and utilities in existing developed utility easements, improved city street rights-of-way, or developed private streets. Utilities include water, sewer lines, and stormwater and franchise (private) utilities such as natural gas lines, telecommunication lines, cable communication lines, electrical lines and other appurtenances associated with these utilities. The activity cannot further permanently alter or increase the impact to, or encroach further within, a critical area or buffer and must utilize best management practices;
3. Public and private nonmotorized trails. Public and private pedestrian trails, provided:
 - a. There is no practicable alternative that would allow placement of the trail outside of critical areas or their buffers;
 - b. The trail surface shall meet all other requirements including water quality standards;
 - c. Trails proposed in stream or wetland buffers shall be located in the outer 25 percent of the buffer area, except when bridges or access points are proposed;
 - d. Stream and wetland buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas;
 - e. Trail corridors in critical areas and buffers shall not exceed six feet in width; and
 - f.

Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report;

4. Select vegetation removal activities. The following limited vegetation removal activities are allowed in critical areas and buffers. Otherwise, removal of any vegetation or woody debris from a critical area shall be prohibited unless the action is part of an approved alteration.
 - a. The removal of the following vegetation with hand labor and/or light equipment; provided, that the appropriate erosion-control measures are used and the area is replanted with native vegetation:
 - i. Invasive weeds;
 - ii. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
 - iii. Evergreen blackberry (*R. laciniatus*);
 - iv. Ivy (*Hedera* spp.); and
 - v. Holly (*Ilex* spp.), laurel, Japanese knotweed (*Polygonum cuspidatum*), or any other species on the King County Noxious Weed List.
 - b. The cutting and removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, from critical areas and buffers; provided, that:
 - i. The applicant submits a report from a qualified professional (e.g., certified arborist or professional forester) that documents the hazard as specified in Chapter 16.52 MMC and provides a replanting schedule for replacement trees;
 - ii. Tree cutting shall be limited to limb and crown thinning, unless otherwise justified by a qualified professional. Where limb or crown thinning is not sufficient to address the hazard, trees should be topped to remove the hazard rather than cut at or near the base of the tree;
 - iii. All native vegetation cut (tree stems, branches, tops, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease transmittal to other healthy vegetation or the remaining material would threaten the survival of existing native vegetation. However, no cut material shall be left on a steep slope or landslide hazard area without the approval of a qualified professional;
 - iv. Trees shall be cut to leave standing snags when doing so allows the hazard of the tree to be eliminated;
 - v.

The landowner shall replace any native trees that are felled or topped with new trees at ratios specified in Chapter 16.52 MMC within one year in accordance with an approved restoration plan prepared by a qualified professional. Tree species that are native and indigenous to the site shall be used;

- vi. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods for removal that will minimize impacts; and
 - vii. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or topped by the landowner prior to receiving written approval from city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this title.
- c. Trimming of vegetation for purposes of providing view corridors will be allowed; provided:
- i. It is consistent with Chapters 14.08 and 16.52 MMC and that trimming shall be limited to view corridors of 20 feet in width or less;
 - ii. The limbs involved do not exceed three inches in diameter;
 - iii. Not more than 25 percent of the live crown is removed;
 - iv. Benefits to fish and wildlife habitat are not reduced;
 - v. Trimming is limited to hand pruning of branches and vegetation; and
 - vi. Trimming does not include felling, topping, stripping, excessive pruning or removal of trees.
- d. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan prepared by a qualified professional; and
5. Conservation, preservation, restoration and/or enhancement.
- a. Conservation and/or preservation of soil, water, vegetation, fish and/or other wildlife that does not entail alteration of the location, size, dimensions or functions of an existing critical area and/or buffer; and
 - b. Restoration and/or enhancement of critical areas or buffers; provided, that actions do not alter the location, dimensions or size of the critical area and/or buffer; that actions do not alter or disturb existing native vegetation or wildlife habitat attributes; that actions improve and do not reduce the existing functions of the critical areas or buffers; and that actions are

implemented according to a restoration and/or enhancement plan that has been approved by the city.

(Code 1988 § 20.50.040; Ord. No. 958 § 2, 2018; Ord. No. 924 § 3 (Att. B), 2015)