

ORDINANCE 743

CITY OF LACEY

AN ORDINANCE READOPTING CHAPTER 14.32 OF THE LACEY MUNICIPAL CODE RELATING TO LAND CLEARING WITHIN THE CITY AND PROVIDING PENALTIES FOR THE VIOLATION OF THE TERMS OF SAID CHAPTER

WHEREAS, the City Council duly considered, passed, and published an ordinance or ordinances enacting the chapter of the Lacey Municipal Code identified in the title to this ordinance relating to the subject matter so identified, and

WHEREAS, it has been asserted that ordinances of the City should have been posted in three public places in the City rather than published in the City's official newspaper, and if said assertion is upheld, the validity of that portion of the Lacey Municipal Code identified in the title to this ordinance may be in jeopardy and the Council takes this action in readopting the substantive provisions of said chapter solely for the purpose of protecting the City and its citizens against such a contingency; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Chapter 14.32 of the Lacey Municipal Code is hereby readopted to read as follows:

Section 2. It is the intent of the City Council in passing this ordinance to readopt the provisions set forth herein only if said readoption is ruled necessary. It is further the intent of the City Council to reaffirm all of the provisions of Chapter 14.32 of the Lacey Municipal Code as originally adopted and further amended by ordinances of this Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON this 28th day of March, 1985.

CITY COUNCIL

By



Mayor

Attest:



City Clerk

Approved as to form:



City Attorney

Posted:

March 29, 1985

Chapter 14.32

LAND CLEARING CODE

Sections:

- 14.32.010 Short title.
- 14.32.020 Purposes and permit criteria.
- 14.32.030 Definitions.
- 14.32.040 Permits.
- 14.32.045 Waiver.
- 14.32.050 Exemptions.
- 14.32.060 Application for permits.
- 14.32.062 Application fees.
- 14.32.065 Conformance to standards.
- 14.32.070 Performance bond.
- 14.32.080 Appeals.
- 14.32.090 Violations.
- 14.32.100 Severability.

14.32.010 Short title. This chapter shall be known and may be cited as the "Land Clearing Code" of the city of Lacey. (Ord. 399 §1(part), 1975).

14.32.020 Purposes and permit criteria. These regulations are adopted for the following purposes and these purposes are to be used as criteria for the issuance of land clearing permits under Section 14.32.040 of this chapter:

- A. To promote the public health, safety, and general welfare of the citizens of Lacey without preventing the reasonable development of land;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover;
- C. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- D. To retain trees to assist in the abatement of noise and in protection from wind;
- E. To acknowledge that trees and ground cover produce pure oxygen from carbon dioxide;

F. To promote building and site planning practices that are consistent with the city's natural topographical, soils and vegetational features while at the same time recognizing that certain factors such as disease, danger of falling, proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

G. To insure prompt development, restoration and re-planting and effective erosion control of property after land clearing;

H. To reduce siltation and water pollution from siltation in the city's streams and lakes;

I. To implement the goals and objectives of the Washington State Environmental Policy Act;

J. To implement and further the city's comprehensive plan;

K. To encourage protection of wildlife and/or wildlife habitat whenever possible. (Ord. 650 §1, 1982: Ord. 399 §1 (part), 1975).

14.32.030 Definitions. A. "City" means the city of Lacey, Washington.

B. "Ground cover" means types of vegetation which are normally terrestrial and shall include trees less than four inches in diameter measured at twenty-four inches above the ground level.

C. "Land clearing" means the direct and indirect removal of trees and/or ground cover from any undeveloped or partially developed lot, public lands or public right-of-way.

D. "Tree" means any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at twenty-four inches above the ground level.

E. A "hazard tree" means any tree with any structural defect, disease, extreme size or combinations of these which make it subject to failure.

F. "Drip line" of a tree means an imaginary line on the ground created by the vertical projection of the foliage at its circumference. (Ord. 650 §2, 1982: Ord. 399 §1(part), 1975).

14.32.040 Permits. No person, corporation, or other legal entity shall engage in timber harvesting or cause land clearing in the city without having complied with one of the following:

A. Received a land clearing permit from the building official;

B. Having obtained approval of the proposed work under the processes described in Section 14.32.050-A;

C. Having received a waiver by the building official under the provisions of Section 14.32.045. (Ord. 545 §1, 1979: Ord. 517 §1, 1979: Ord. 399 §1(part), 1975).

14.32.045 Waiver. The building official shall issue a waiver of the land clearing permit provisions of this chapter for proposed work which consists of commercial timber harvesting or commercial Christmas tree harvesting which represents a continuous harvesting and reforestation program on lands which are unplatted or, if platted, were platted prior to January 1, 1960, pursuant to the requirements and regulations of RCW Chapter 76.09. The waiver shall only be issued after the receipt of a written statement by the applicant that the harvesting is being done pursuant to a continuous harvesting and reforestation program, that the land upon which the harvesting is to take place shall not be converted to a use other than commercial timber or Christmas tree production and an acknowledgment that the city, pursuant to RCW Chapter 76.09, has the statutory power to withhold any project permit approvals for a period of six years on the parcel in question. Such waiver shall also be contingent upon the city receiving a copy of the duly filed and approved forest practices permit for the proposed land clearing indicating that such clearing is not associated with a land conversion. The provisions of Section 14.32.070 must be adhered to whenever a waiver is granted. (Ord. 650 §3, 1982: Ord. 545 §2, 1979).

14.32.050 Exemptions. The following shall be exempt from all provisions of this chapter except Section 14.32.065:

A. Projects requiring approval of the city of Lacey site plan review committee under Chapter 16.84 of this code, hearings examiner or city council, provided that land clearing on such projects shall take place only after approval and shall be in accordance with such approval and the standards of this chapter;

B. Removal of hazard trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

C. Removal of obviously dead or diseased ground cover or trees;

D. Removal of less than six trees in any twelve consecutive months or ground cover for the purposes of general property and utility maintenance, landscaping or gardening;

E. Removal of trees and ground cover within a maximum of ten feet (when required for construction) of the perimeter of the building line and any area proposed to be cleared for driveway and septic purposes, of a single-family or duplex dwelling to be constructed as indicated on the plot plan submitted to the building official with an application for a building permit;

F. Removal of obstructions required by the vision clearance at intersection regulations of Chapter 12.24 of this code. (Ord. 650 §4, 1982: Ord. 399 §1(part), 1975).

14.32.060 Application for permits. A. An application for a land clearing permit shall be submitted on a form provided by the city and shall be accompanied by such of the following documents and information as are determined to be necessary by the building official:

1. Three prints of the plot plan which shall include the following information:

a. Name, address, and telephone number of the applicant and owner of property,

b. Legal description of property,

c. Date, north arrow, and adequate scale as determined by the building official, on the map or plot plan,

d. Topography map showing contours at not greater than ten-foot intervals of proposed clearing projects within areas of steep slopes, creeks and shorelines,

e. Location of proposed improvements, including, but not limited to, structures, driveways, utilities, and storm drainage facilities,

f. Approximate and general location, type, size and condition of trees and ground cover and a general identification of trees and ground cover which are to be removed;

2. A proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements;

3. A statement indicating the method to be followed in erosion control and restoration of land during and immediately following land clearing;

4. Proposed general landscape plan or written or graphic description of proposed action;

5. The names and addresses of all adjacent landowners;

6. Other information as deemed appropriate to this chapter and necessary by the site plan review committee.

B. The building official shall refer the application to the site plan review committee who shall review the application and make a decision within ten working days from the date of submission of a completed application, unless an extension is authorized by the applicant. The site plan review committee shall return the application to the building official for issuance or denial of a permit.

C. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended by the building official for one six-month period. Approved plans shall not be amended without authorization of the building official. The permit may be suspended or revoked by the building official because of

incorrect information supplied or any violation of the provisions of this chapter.

D. No work shall commence until a permit notice has been posted on the subject site in a conspicuous location. The notice shall remain posted until the project has been completed. (Ord. 650 §5, 1982: Ord. 399 §1(part), 1975).

14.32.062 Application fees. Application fees for land clearing permits shall be as established by resolution of the city council. (Ord. 666 §39, 1982).

14.32.065 Conformance to standards. All land clearing shall conform to the following standards and provisions unless otherwise recommended in a forest management plan, approved by the city, where the alternate procedures will be equal or superior in achieving the policies of this code. In addition, the following minimum standards and provisions shall be the governing criteria for the issuance or denial of land clearing permits under this chapter:

A. The clearing will not create or contribute to landslides, accelerated soil creep, settlement and subsidence or hazards associated with strong ground motion and soil liquefaction.

B. The proposal shall contain reasonable provisions for the preservation of natural land and water features, vegetation, drainage and other indigenous natural features on the site.

C. The clearing will not create or contribute to flooding, erosion or increased turbidity, siltation or other forms of pollution in a watercourse.

D. No ground cover or trees which are within fifteen feet of the ordinary high water mark of creeks, streams, lakes and other shoreline areas or within ten feet of the top of the bank of same shall be removed, nor shall any mechanical equipment operate in such areas; provided, that conditions deemed by the building official to constitute a public nuisance may be removed; and provided, that a property owner shall not be prohibited from making landscaping improvements where such improvements are consistent with the aims of this chapter.

E. The clearing will be undertaken in such a manner as to preserve and enhance the city's aesthetic character. Vegetative screens or buffer strips shall be maintained or be re-established in a timely manner with approved plantings along public rights-of-way and adjoining property boundaries.

F. Clearing operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with an anticipated build-out schedule.

G. The clearing activities shall be performed in accordance with all applicable laws, rules and regulations pertaining to air and water pollution, the State Forest Practices Act, and the Shoreline Master Program.

H. Except for the use of roads and constructed pathways, land clearing machinery shall be kept outside of the drip line of any remaining trees and the damaging of roots, trunks or

ground cover of any remaining trees shall be avoided.

I. The remaining trees shall not be backfilled with heavy clay soils. (Ord. 650 §6, 1982).

14.32.070 Performance bond. The site plan review committee may require bonds in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with the permit. Bonds, if required, shall be furnished by the property owner, or other person or agent in control of the property.

In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the building official in an amount equal to that which would be required in the surety bond. The amount of such bond shall not exceed the estimated cost of the total restoration work planned. (Ord. 399 §1(part), 1975).

14.32.080 Appeals. Any person or persons aggrieved by any action of the site plan review committee may within ten days of such action file a notice of appeal with the city council setting forth the reasons for such an appeal.

The city council shall hear and determine the matter and may affirm, modify or disaffirm the administrative decision within twenty days of the filing of notice of appeal. (Ord. 399 §1(part), 1975).

14.32.090 Violations. A. Violation of the provisions of this chapter or failure to comply with any of the requirements shall constitute a gross misdemeanor and such violation shall be punished as provided by Title 9 of this code for the commission of a gross misdemeanor. Each day such violation continues shall be considered a separate, distinct offense.

B. Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A hereof.

C. In addition to the penalties set forth in subsections A and B hereof, any violation of the provisions of this chapter is hereby declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction. (Ord. 545 §3, 1979: Ord. 399 §1(part), 1975).

14.32.100 Severability. If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of the chapter. (Ord. 399 §1(part), 1975).