

ORDINANCE NO. 709

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND CLEARING, RENUMBERING CHAPTER 16.44 ON THE SUBJECT OF LAND CLEARING TO CHAPTER 17.94; ELIMINATING ALL PROVISIONS IN THE CHAPTER RELATING TO DEFINITIONS AND ADMINISTRATION, AND AMENDING SECTIONS 16.44.020, 16.44.050, 16.44.060, 16.44.080 AND REPEALING SECTIONS 16.44.080 AND 16.44.100 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City is updating its land development codes to provide continuity and consistency; and,

WHEREAS, Chapter 16.44 (Land Clearing) should be relocated from the subdivision code into the zoning code as land clearing applies to more land use functions than subdivision; and,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO
ORDAIN AS FOLLOWS:

Section 1. Chapter 16.44 of the Gig Harbor Municipal Code is hereby renumbered to Chapter 17.94, and shall read as follows:

Chapter 16.44 17.94

LAND CLEARING

Chapters:

- 16.4417.94.010** Short title.
- 16.4417.94.020** Purposes and permit criteria.
- 16.4417.94.030** Definitions.
- 16.4417.94.040** Permits.
- 16.4417.94.050** Exemptions.
- 16.4417.94.060** Complete application for permit.
- 16.4417.94.070** Performance bond.
- 17.94.080** Appeals.
- 16.4417.94.090080** Violation - Penalty.
- 17.94.100** Injunctive enforcement.

16.44.17.94.010 Short title.

This chapter shall be known and may be cited as the "land clearing code" of the city.

16.44.17.94.020 Purposes and permit criteria.

These regulations are adopted for the following purposes and the ~~code official~~ Planning Director shall consider such purposes as criteria or standards for the issuance of land clearing permits under GHMC ~~16.44.17.94.040~~:

- A. To promote the public health, safety, and general welfare of the citizens of the city;

- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
- C. To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;
- D. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and for wind protection;
- G. To promote building and site planning practices that are consistent with the city's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), 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 groundcover;
- H. To reduce siltation and water pollution in the harbor;
- 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. It is not the intent or purpose of this chapter to prevent the reasonable development of land in the city.

16.44.030 Definitions.

- A. "City" shall mean the city of Gig Harbor, Washington.
- B. "Code official" shall mean the Director of the Planning and Building Department or his/her designated representative.
- C. "Developed property" shall mean a lot or parcel of land upon which a building/buildings is/are located but which contains insufficient area to be capable of further subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.
- D. "Groundcover" shall mean small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and shall include trees less than three inches in diameter measured at 54 inches above ground.
- E. "Land clearing" shall mean the act of removing or destroying trees or groundcover from any undeveloped or partially developed land, public lands, or public right-of-way, except for those Forest Practices covered under Chapter 76.09 RCW.
- F. "Partially developed property" shall mean a lot or parcel of land upon which a building/buildings is/are located and which is of sufficient area so as to be capable of subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.
- G. "Tree" shall mean any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of three inches or more measured at 54 inches above ground.
- H. "Undeveloped property" shall mean a lot or parcel of land upon which no building exists, and which may or may not be of sufficient area so as

~~to be capable of subdivision in accordance with the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), as now or hereafter amended.~~

16.44.17.94.040 Permits.

No person, corporation, or other legal entity shall engage in or cause land clearing in the city without having obtained a land clearing permit from the ~~code~~ official Planning Director.

16.44.17.94.050 Exemptions.

The following activities shall be exempt from the provisions of this chapter:

- A. Type III project permit applications as defined in Title 19 of the GHMC ~~requiring approval of the city council under the provisions of the Gig Harbor subdivision or short subdivision ordinances (GHMC Title 16), or the zoning ordinance of the city (GHMC Title 17), as now or hereafter amended, provided that land clearing on such projects shall take place only after the city council approval by the City and shall be in accordance with such approval;~~
- B. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
- C. Removal of trees and groundcover in emergency situations involving immediate danger to life or property or substantial fire hazards;
- D. Removal of diseased groundcover or trees upon written verification by Department of Natural Resources filed with the ~~code~~ official;

E. Selective removal of trees or groundcovers for purposes of general property and utility maintenance, landscaping or gardening, provided that this exemption shall not apply to any land clearing which eliminates both trees and groundcover from 25 percent of the area of a lot or parcel of land or which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, parking, driveways, utilities, or buildings.

16.44.17.94.060 Requirements for a Complete Application for permit.

Land clearing permits are a Type I permit application. A complete application for a land clearing permit shall be submitted on ~~a~~ the application form provided by the city, together with ~~a plot plan and other information as described hereinafter~~ information required under Title 19 for a completed application, and including the following:

- A. ~~The applicant shall give the name, address and the telephone number of the applicant and owner of the property;~~
- B. ~~The applicant shall give the street address (if known) and legal description of the property, including assessor's parcel number;~~
- C. ~~The applicant shall bear a proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements;~~

D.1. A plot plan containing the following information:

- a. Date, north arrow and adequate scales as determined by the Planning Director ~~code official~~;

- b. Prominent physical features of the property including, but not limited to, topography and watercourses;
- c. General location, type, range of size, and condition of trees and groundcover;
- d. Identification by areas of trees and groundcover which are to be removed;
- e. Any existing improvements on the property including, but not limited to: structures, driveways, ponds, and utilities;
- f. Information indicating the method of drainage and erosion control, and restoration of land during and following the clearing operation.

2. ~~The code official shall complete his review and make his decision within 14 calendar days from the date the complete application is submitted unless an extension is authorized by the city council.~~

32. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended for six months by the ~~code official~~ Planning Director. Approved plans shall not be amended without authorization of the ~~code official~~ Planning Director. The permit may be suspended or revoked by the ~~code official~~ Planning Director because of incorrect information supplied or any violation of the provisions of this chapter.

43. No work shall commence until a permit notice has been posted by the applicant on the subject site at a conspicuous location. The notice shall remain posted in said location until the project has been completed.
5. ~~Applications for land clearing permits shall be circulated to other departments or agencies of the city for review and approval as is deemed necessary by the code official.~~
64. Failure to obtain a forest practice application, where applicable, with the stated intent of land conversion as defined in RCW 76.09.020(4) shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060(3)(b).

~~E. Other information as deemed necessary by the code official may be required.~~

16.44.17.94.070 Performance bond.

The ~~code official~~ Planning Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of his permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the code official.

16.44.17.94.080 Appeals.

~~Any person or persons aggrieved by any action of the code official may, within 10 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 45 days of the filing of notice of appeal. Appeals shall be in accordance with the administrative procedures established in Title 19 of the GHMC.~~

16.44.17.94.090080 Violation - Penalty.

~~Violations of this chapter, excepting unauthorized land clearing, are an infraction and subject to a penalty of \$500.00 as provided in GHMC 1.16.010D. If civil proceedings are commenced to stop a violation of this chapter, such proceedings may be commenced in either the municipal court or superior court as the city determines. Any person, firm, or corporation which has engaged in land clearing that has not been approved by the city's code official shall incur a civil penalty in an amount not to exceed \$5,000 based on the nature and severity of the violation as determined and assessed by the code enforcement officer and shall be enforced in accordance with the procedures established under Chapter 15.18 17.08 GHMC. Violations of this chapter shall be subject to the enforcement procedures and penalties established in Chapter 17.07 of the GHMC.~~

17.94.100 Injunctive enforcement.

~~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.~~

Section 2. Severability. If any section, sentence, clause or phrase of this

ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction,

such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other

section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of an approved summary consisting of the title.

APPROVED:

MAYOR GRETCHEN A. WILBERT

ATTEST/AUTHENTICATED:

CITY ADMINISTRATOR, MARK HOPPEN

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO. _____

SUMMARY OF ORDINANCE NO. 709

of the City of Gig Harbor, Washington

On the 22nd day of January, 1996, the City Council of the City of Gig Harbor, passed Ordinance No. 709. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO LAND CLEARING, RENUMBERING CHAPTER 16.44 ON THE SUBJECT OF LAND CLEARING TO CHAPTER 17.94; ELIMINATING ALL PROVISIONS IN THE CHAPTER RELATING TO DEFINITIONS AND ADMINISTRATION, AND AMENDING SECTIONS 16.44.020, 16.44.050, 16.44.060, 16.44.080 AND REPEALING SECTIONS 16.44.080 AND 16.44.100 OF THE GIG HARBOR MUNICIPAL CODE.

The full text of this Ordinance will be mailed upon request.

DATED this _____ day of _____, 1996.

CITY ADMINISTRATOR, MARK HOPPEN