

AN ORDINANCE REGULATING THE REMOVAL OR DESTRUCTION OF TREES AND GROUND COVER ON UNDEVELOPED PROPERTY, PARTIALLY DEVELOPED PROPERTY, AND UNDEVELOPED PROPERTY AND ESTABLISHING A LAND CLEARING PERMIT PROCEDURE WITHIN THE TOWN OF GIG HARBOR.

WHEREAS, the Town Council of Gig Harbor having determined that these regulations will promote the public health, safety and general welfare of the community and are in the best interests of the citizens of the Town of Gig Harbor, now therefore,

BE IT ORDAINED BY THE MAYOR AND THE TOWN OF GIG HARBOR AS FOLLOWS:

Section 1. Short Title. This ordinance shall be known and may be cited as the "Land Clearing Code" of the Town of Gig Harbor.

Section 2. Purposes and Permit Criteria. These regulations are adopted for the following purposes and the code official shall consider such purposes as criteria or standards for the issuance of land clearing permits under Section 4 of this ordinance:

- (a) To promote the public health, safety, and general welfare of the citizens of the Town of Gig Harbor.
- (b) To preserve and enhance the town'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 town'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 town'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 ground cover.
- (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 town's Comprehensive Plan.
- (k) It is not the intent or purpose of this ordinance to prevent the reasonable development of land in the Town of Gig Harbor.

Section 3. Definitions.

- (a) "Town" shall mean the Town of Gig Harbor, Washington.
- (b) "Code Official" shall mean the Director of Planning and Building or his 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 (Title 16), as now or hereafter amended.

- (d) "Ground Cover" 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 (3) inches in diameter measured at fifty-four (54) inches above ground.
- (e) "Land Clearing" shall mean the act of removing or destroying trees or ground cover from any undeveloped or partially developed land, public lands, or public right-of-way, except for those Forest Practices covered under RCW 76.09.
- (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 (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 (3) inches or more measured at fifty-four (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 (Title 16), as now or hereafter amended.

Section 4. Permits. No person, corporation, or other legal entity shall engage in or cause land clearing in the town without having obtained a land clearing permit from the Code Official.

Section 5. Exemptions. The following shall be exempt from the provisions of this ordinance:

- (a) Projects requiring approval of the Town Council under the provisions of the Gig Harbor Subdivision or Short Subdivision Ordinances (Title 16), or the Zoning Ordinance of the Town of Gig Harbor (Title 17), as now or hereafter amended, provided that land clearing on such projects shall take place only after the Town Council approval 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 town or its contractors.
- (c) Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards.
- (d) Removal of diseased ground cover or trees upon written verification by Department of Natural Resources filed with the Code Official.
- (e) Selective removal of trees or ground covers 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 ground cover from 25% 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.

Section 6. Application for Permit.

- (a) An application for a land clearing permit shall be submitted on a form provided by the town, together with a plot plan and other information as described hereinafter:
 1. The applicant shall give the name, address and telephone number of the applicant and owner of the property.
 2. The applicant shall give the street address (if known) and legal description of the property, including assessor's parcel number.
 3. The applicant shall bear a proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements.

4. (a) A plot plan containing the following information:

- Date, north arrow and adequate scale as determined by the Code Official.
- Prominent physical features of the property including, but not limited to, topography and water courses.
- General location, type, range of size, and condition of trees and ground cover.
- Identification by areas of trees and ground cover which are to be removed.
- Any existing improvements on the property including, but not limited to: structures, driveways, ponds, and utilities.
- Information indicating the method of drainage and erosion control, and restoration of land during and following the clearing operation.

(b) The Code Official shall complete his review and make his decision within fourteen (14) calendar days from the date a complete application is submitted unless an extension is authorized by the town council.

(c) Any permit granted hereunder shall expire one (1) year from the date of issuance. Upon a showing of good cause, a permit may be extended for six (6) months by the Code Official. Approved plans shall not be amended without authorization of the Code Official. The permit may be suspended or revoked by the Code 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 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.

(e) Applications for land clearing permits shall be circulated to other departments or agencies of the town for review and approval as is deemed necessary by the Code Official.

(f) 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 (6) years, in accordance with RCW 76.09.060 (3.B.).

5. Other information as deemed necessary by the Code Official may be required.

Section 7. Performance Bond. The Code Official may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the town 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.

Section 8. Appeals. Any person or persons aggrieved by any action of the Code Official may, within ten (10) days of such action, file a notice of appeal with the Town Council setting forth the reasons for such an appeal. The Town Council shall hear and determine the matter and may affirm, modify, or disaffirm the administrative decision within forty-five (45) days of the filing of notice of appeal.

Section 9. Violation - Penalty. A violation of this ordinance shall be deemed a misdemeanor and nuisance and may be punished by either civil or criminal proceedings. In the event criminal proceedings are instituted against a violator, the maximum penalty upon conviction shall be a fine of \$500.00 or imprisonment in the town jail for not more than six months or both such fine and imprisonment. Each

separate day the violation continues shall be deemed a separate offense. If civil proceedings are commenced to stop a violation of this ordinance, such proceedings may be commenced in either the municipal court or the superior court as the town determines.

Section 10. Injunctive Enforcement. Any violation of the provisions of this ordinance 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 11. Severability. If any section, paragraph, subsection, clause or phrase of this ordinance, for any reason, is held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of the ordinance.

Section 12. Effective Date. This ordinance shall take effect and be in force immediately after its passage.

PASSED AND APPROVED by the Gig Harbor Town Council at a regular meeting held on the 25th day of February, 1980.

Ruth M. Bogue

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Mayor

ATTEST:

Donald J. Avery
Donald J. Avery Clerk