

CLEARING AND GRADING ORDINANCE

City of Olympia

Department of Public Works

(360) 753 - 8087

16.48.000 - Chapter Contents

Chapter 16.48

GRADING AND CLEARING

Sections:

- 16.48.010 Short title.
- 16.48.020 Purposes.
- 16.48.030 Definitions.
- 16.48.040 Permit or approval required.
- 16.48.045 Tree removal.
- 16.48.050 Exemptions.
- 16.48.060 Permit application–Requirements–Processing–Conditions of issuance.
- 16.48.070 Performance bond may be required.
- 16.48.080 Standards.
- 16.48.090 Appeal procedure.
- 16.48.100 Relationship of chapter to Uniform Building Code.
- 16.48.115 Use of fees and penalties.
- 16.48.120 Violation–Penalty.

16.48.010 - Short title

16.48.010 Short title. The following sections are added to the Olympia Municipal Code and shall be known and may be cited as the “grading and clearing ordinance” of the city. (Ord. 5248 §1, 1991; Ord. 4231 §1, 1980).

16.48.020 - Purposes

16.48.020 Purposes. These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the citizens of Olympia without preventing the reasonable development of land;
- B. To encourage site development on public and private property, including cleaning, excavation, and filling in such a manner as to minimize hazards to life, health, and property;
- C. To preserve and enhance the city’s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees and ground cover;
- D. To minimize surface water runoff and diversion which may contribute to flooding;
- E. To reduce siltation in the city’s streams, lakes, storm sewer systems, and public roadside improvements;
- F. To reduce the risk of slides and the creation of unstable building sites;
- G. To promote building and site planning practices that are consistent with the city’s natural topography, soils, and vegetative features while at the same time recognizing that certain factors such as disease, danger of fallings, 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 insure prompt development, restoration and replanting and effective erosion control of property after land clearing and grading;
- I. To implement the goals and objectives of the Washington State Environmental Policy Act;
- J. To implement and further the City's Comprehensive Plan and Westside Task Force resolution. (Ord. 4231 §2, 1980).

16.48.030 - Definitions

16.48.030 Definitions. For the purpose of this chapter:

- A. "City" means the city of Olympia, Washington.
- B. "Clearing" means any activity which removes the vegetative ground cover and/or trees including, but not limited to, root mat removal and/or topsoil removal.
- C. "Contiguous land" means parcels adjoining and touching other land and having the same owner regardless of whether or not portions of the parcels have separate tax lot numbers, or were purchased at different times, lie in different sections, are different government lots or are separated from each other by private road or private rights-of-way.
- D. "Excavation" means any digging, scooping or other methods of removing earth materials.
- E. "Filling" means any depositing or stockpiling of earth materials.
- F. "Grading" means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- G. "Ground cover" means trees less than 6" in diameter measured at 4-1/2' above the ground level and other vegetation.
- H. "Parcel" means real property within the boundaries of an ad valorem tax lot description as found in the Thurston County ad valorem tax records.
- I. "Tree" means any self-supporting perennial woody plant characterized by one main stem or trunk of at least 6" d.b.h., or a multistemmed trunk system with a definite crown, maturing at a height of at least 6' above ground level. (Ord. 5248 §2, 1991; Ord. 4830 § 1, 1987; Ord. 4231 §3, 1980).

16.48.040 - Permit or approval required

16.48.040 Permit or approval required. No person, corporation, or other legal entity shall engage in land clearing or grading in the city without having complied with one of the following:

- A. Obtaining approval of a tree protection and replacement plan and obtaining a tree removal permit as provided for in this chapter;
- B. Received a grading permit from the building official;
- C. Having obtained approval of the proposed work under the processes described in subsection A of Section 16.48.050, subsequent to the adoption date of the ordinance codified in this chapter. (Ord. 5248 §3, 1991; Ord. 4231 §4, 1980).

16.48.045 - Tree removal

16.48.045 Tree removal. No trees, as defined by Section 16.48.030, shall be removed without first obtaining approval of a tree protection and replacement plan and a tree removal permit pursuant to this chapter. Development plans may be required to be modified or changed when necessary to preserve individual trees or groups of trees. (Ord. 5248 §4, 1991; Ord. 5026 § 1, 1989; Ord. 4830 §2, 1987).

16.48.050 - Exemptions

16.48.050 Exemptions. The following shall be exempt from the provisions of this chapter:

- A. Projects requiring approval of the city site plan review committee under the zoning ordinance, and/or by the hearings examiner and city council, provided that grading on such projects shall take place only after approval and shall be in accordance with such approval, and the criteria and information requirements of this chapter;
- B. Grading and clearing in emergency situations involving immediate danger to life or property or substantial fire hazards;
- C. Grading on a parcel or contiguous parcels in one ownership less than 20,000 square feet in size for the purpose of construction, landscaping and/or associated improvements for a single-family or duplex residence. Such exemption shall not be applicable when the above-mentioned grading activity would directly involve shoreline areas, creeks, and parcels where the predominant slope is in excess of 20 percent;
- D. Grading within a maximum of 30' (when required for construction and associated landscaping) of the perimeter of the building line, and any area proposed to be graded for driveway and septic purposes, of a single single-family or duplex dwelling to be constructed as indicated on the plot plan submitted to the building official within an application for a building permit on parcels consisting of 20,000 or more square feet;
- E. The removal of dead trees or of diseased or damaged trees which constitute a hazard to life or property;
- F. Clearing done under authority of a approval issued pursuant to RCW Chapter 76.09 when, in the opinion of the city building inspector, such work involves commercial Christmas tree harvesting pursuant to a continuing harvesting and reforestation program and the land shall not be converted to a use other than Christmas tree production;
- G. Grading and clearing practices associated with normal agricultural crop operations, excluding timber cutting not otherwise exempted;
- H. Stockpiling and handling of earth material associated with commercial quarry operations licensed under the authority of the State Department of Natural Resources and the State Open Mining Act of 1970. (Ord. 5258 §5, 1991; Ord. 4830 §3, 1987; Ord. 4231 §5, 1980).

16.48.060 - Permit application-Requirements-Processing-Conditions of issuance

16.48.060 Permit application-Requirements-Processing-Conditions of issuance.

- A. An application for a grading permit shall be submitted on a form provided by the city. Accompanying such form shall be a general plot plan which shall include the following information.

1. a. General vicinity map,
 - b. Property boundaries indicating extent and location of proposed grading activities, and major physical features of the property (i.e., streams, ravines, etc.),
 - c. Location and dimensions of buffer areas to be maintained or established, and location and description of proposed erosion-control devices or structures,
 - d. Identification and location of all trees that are to be retained and protected;
 2. As determined at the discretion of the building official, other information as deemed appropriate to this chapter may be required in instances related to geological hazard, shoreline protection, tree protection and replacement or project scope;
 3. An application fee of \$25.00 for the grading of one acre or less, plus \$10.00 for each additional acre or portion thereof.
- B. The building official upon receipt of an application shall confer with the city environmental review officer and other city personnel as may be appropriate, and make a decision within 20 working days from the date of submission of a completed application, unless an extension is authorized by the applicant.
- C. Any permit granted under this chapter 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 6 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 permit notice is posted by the city on the subject site and 2 other locations for a period of 10 days prior to commencement of grading activities.
- E. An application penalty fee triple that assessed by subsection (A)(3) of this section shall be assessed for any grading or clearing conducted prior to issuance of a grading permit required by this chapter. This application penalty fee shall be in addition to any penalty assessed under Section 16.48.120. (Ord. 5248 §6, 1991; Ord. 5093 §1, 1990; Ord. 4830 §4, 1987; Ord. 4231 §6, 1980).

16.48.070 - Performance bond may be required

16.48.070 Performance bond may be required. The building official 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. 4231 §8, 1980).

16.48.080 - Standards

16.48.080 Standards. All grading, including grading that is exempt from the requirements for a permit in Section 16.40.040 as well as grading authorized by the building official pursuant to this chapter shall conform to the following standards and provisions unless otherwise recommended in an approved soil engineering, engineering geology, hydrology, a tree protection and replacement plan or forest management plan where the alternate procedures will be equal or superior in achieving the policies of this chapter. In addition, the following standards and provisions shall be the governing criteria for the issuance or denial of grading permits under this chapter.

A. General Regulations.

1. The grading will not create or contribute to landslides, accelerated soil creep, settlement and subsidence or hazards associated with strong ground motion and soil liquefaction;
2. The proposal shall contain reasonable provisions for the preservation of natural land and water features, vegetation, drainage and other indigenous natural features of the site;
3. The grading will not create or contribute to flooding, erosion, or increased turbidity, siltation or other form of pollution in a watercourse;
4. No ground cover or trees which are within a minimum of 15' of the annual high water mark of creeks, streams, lakes, and other shoreline areas or within 10' 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, and where the owner can convincingly demonstrate such consistency to the building official and environmental review officer;
5. The grading 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 reestablished in a timely manner with approved plantings along public streets and adjoining property boundaries, or approved alternate clearing techniques consistent with the aims of this chapter as administered by the city building official. Development shall be initiated or a vegetative screen or buffer established within 12 months of the date of initiation of grading or clearing activities, except in the case of single-family and duplex residential development approved subsequent to the adoption date of this chapter;
6. Grading 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;
7. The grading activities shall be performed in accordance with all applicable laws rule and regulations pertaining to air and water pollution, and noise control;
8. Slash shall be removed from cleared site within 6 months from the completion of the operation.

B. Cuts and Fills. The provisions of this subsection may be waived by the building official for minor grading operations not intended to support structures or in instances where the literal interpretation of the underlying provisions would not serve the intent or purposes of this chapter.

1. Cut slopes shall be no steeper than is safe for the intended use. Cut slopes greater than five feet in height shall be no steeper than two horizontal to one vertical, except where approved retaining walls are engineered and installed and where trenches are refilled with material from the excavation-;
2. The ground surface shall be prepared to receive fill by removing vegetation, nonapproved fill, topsoil and other unsuitable materials as determined by the building official and, where the slopes are five to one or steeper, by the excavation of relatively level steps into the slope, on which fill is to be placed;

Title 16 BUILDINGS AND CONSTRUCTION 16.48 Grading and Clearing

3. Fill slopes shall not be constructed on natural slopes which are steeper than two to one;
4. The slopes of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes exceeding five feet in depth shall be no steeper than two horizontal to one vertical, except where approved retaining walls are engineered and installed;
5. When the owner of any parcel shall raise, lower or alter the level or existing grade of a site by a fill or excavation, he shall at his own expense protect all adjoining property from encroachment by such fill or from danger of collapse due to such excavation either by the erection of an engineered retaining wall or by sloping the sides of such fill or excavation entirely within the confines of the site in a manner approved by the building official;
6. Cut and fill slopes shall be provided with subsurface and surface drainage as necessary to retain slope stability;
7. The faces of slopes shall be prepared and maintained to control erosion. Check dams, riprap, plantings, terraces, diversion ditches, sedimentation ponds, straw bales or other devices or methods shall be employed where necessary to control erosion and provide safety. Devices or procedures for erosion protection shall be initiated or installed as soon as possible during grading operations and shall be maintained in operable condition by the owner. (Ord. 5248 §7, 1991; Ord. 4231 §7, 1980).

16.48.090 - Appeal procedure

16.48.090 Appeal procedure. Any person or persons aggrieved by any action of the building official may, within fourteen (14) calendar days of such action, file a notice of appeal with the Hearing Examiner setting forth the reasons for such an appeal. The Hearing Examiner shall hear and determine the matter and may affirm, modify or disaffirm the administrative decision within ninety (90) calendar days of the filing of notice of appeal. (Ord. 5570 § 11, 1995; Ord. 4830 §5, 1987; Ord. 4231 §9, 1980).

16.48.100 - Relationship of chapter to Uniform Building Code

16.48.100 Relationship of chapter to Uniform Building Code. The provisions of this chapter which relate to land excavation and grading shall be deemed to supplement corresponding provisions of Chapter 33, Appendix, Uniform Building Code. Where the provisions of Chapter 33, Appendix, Uniform Building Code and this chapter apply to the same subject matter, the provisions of this chapter shall apply, unless the provisions of Chapter 33, Appendix, Uniform Building Code are more stringent or more narrowly apply to the specific situation, in which case the specific provisions of Chapter 33, Appendix, Uniform Building Code shall apply. (Ord. 5799 §38, 1998; Ord. 4231 §13, 1980).

16.48.115 - Use of fees and penalties

16.48.115 Use of fees and penalties. Revenues raised from penalties, civil fees or fines shall be placed into the city tree account created pursuant to Section 16.60.045. (Ord. 5382 § 1, 1993; Ord. 5248 9, 1991; Ord. 4830 §8, 1987).

Title 16 BUILDINGS AND CONSTRUCTION 16.48 Grading and Clearing

16.48.120 - Violation-Penalty16.48.120 Violation-Penalty.

- B. Violation of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor and shall be punishable by a fine of not more than \$3 00. 00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Each day such violation continues shall be considered a separate, distinct offense.
- C. 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 of this section.
- D. In addition to the penalties set forth in subsections A and B of this section, any violation of the provision of this chapter is 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.
- E. Upon determination that a violation of the provisions of this chapter has occurred, the building official shall withhold issuance of the building permits for the affected property until corrective action is taken by the responsible party. However, if mitigating circumstances exist and reasonable commitments for corrective action are made, the building official may issue building permits. Such corrective action may include:
 - 1. Restoration of surface vegetation with plant material similar in character and extent as existed prior to the unauthorized clearing;
 - 2. Implementation of drainage and erosion control measures;
 - 3. Replanting of trees to replace those lost through unauthorized clearing pursuant to Chapter 16.60 of this title. (Ord. 5248 §10, 1991; Ord. 4830 §7, 1987; Ord. 4231 §10, 1980).

16.52.000 - Chapter Contents**Chapter 16.52****CIVIL PENALTY****Sections:**

- 16.52.010 Cumulative civil penalty incurred when.
- 16.52.020 Notice of violation—authority to issue.
- 16.52.030 Notice of violation—Contents.
- 16.52.040 Notice of violation—Service.
- 16.52.050 Appeal procedure.
- 16.52.060 Date for correction of violation may be extended.
- 16.52.070 Collection of civil penalty.
- 16.52.080 Compromise, settlement and disposition of suits.
- 16.52.090 Application of civil penalty—Use of criminal penalty.

16.52.010 - Cumulative civil penalty incurred when

16.52.010 Cumulative civil penalty incurred when. In addition to, or as an alternative to, any other penalty provided in the chapters or codes of this title, or by law, any person, firm, or corporation which violates the provision of Chapters 16.04, 16.08, 16.20, 16.24 or 16.28 of this title, or violates the provisions of the Uniform Building Code, Uniform Mechanical Code, National Electrical Code, Gas Installation Code, Uniform Plumbing Code, or Uniform Fire Code adopted by reference therein, shall incur a cumulative civil penalty in the amount of \$10.00 per day from the date set for correction thereof, pursuant to this chapter, until the violation is corrected. (Ord. 4202 § I (part), 1980).

16.52.020 - Notice of violation-Authority to issue

16.52.020 Notice of violation—Authority to issue. Whenever the building official determines that a continuing violation of the chapters mentioned in Section 16.52.010 is occurring, the building official is authorized to issue a notice of violation directed to the person(s) permitting, committing or causing such violation. (Ord. 4202 §1(part), 1980).

16.52.030 - Notice of violation-Contents

16.52.030 Notice of violation—Contents. The notice of violation shall contain:

- A. The name and address of the person(s) to whom the notice of violation is directed;
- B. The street address when available or a legal description sufficient for identification of the building, structure, premises or land upon or within which the violation is occurring;

Title 16 BUILDINGS AND CONSTRUCTION 16.52 Civil Penalty

- C. A concise description of the nature of the violation;
- D. A statement of the action required to be taken as determined by the building official and a date for correction which shall be not less than three weeks from the date of service of the notice of violation unless the building official has determined the violation to be immediately hazardous;
- E. A statement that a cumulative civil penalty in the amount of ten (\$10. 00) per day shall be assessed against the person to whom the notice of violation is directed for each and every day following the date set for correction on which the violation continues; and
- F. A statement that the building official's determination of violation may be appealed to the Hearing Examiner by filing with the building department written notice of appeal within fourteen (14) days of service of the notice of violation and that the per diem civil penalty shall not accrue during the pendency of such administrative appeal. (Ord. 5799 §39, 1998; Ord. 4202 § 1(A), 1980).

16.52.040 - Notice of violation-Service

16.52.040 Notice of violation-Service. The notice of violation shall be served upon person(s) to whom it is directed either personally in the manner provided for personal service of notices of complaint in justice court or by mailing a copy of the notice of violation by certified mail, postage prepaid, return receipt requested, to such person at his last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and the manner by which service was made. (Ord. 4202 §1 (B), 1980).

16.52.050 - Appeal procedure

16.52.050 Appeal procedure. A notice of violation issued pursuant to this section constitutes a determination from which an administrative appeal may be taken by the filing of a notice of appeal with the building department within fourteen (14) days of service of the notice of violation. Such appeals shall be heard by the Hearing Examiner. The scheduling of the procedure for the conduct of hearings for violations of Chapters 16.04, 16.08, 16.20, and 16.24 shall be governed by OMC Chapter 18.75. (Ord. 5 799 §40, 1998; Ord. 4202 §1 (C), 1980).

16.52.060 - Date for correction of violation may be extended

16.52.060 Date for correction of violation may be extended. For good cause shown the building official may extend the date for correction in the notice of violation; provided, that such an extension shall not affect or extend the time within which an administrative appeal must be commenced. (Ord. 4202 §1(D), 1980).

16.52.070 - Collection of civil penalty

16.52.070 Collection of civil penalty. The civil penalty constitutes a personal obligation of the person(s) to whom the notice of violation is directed. The city attorney on behalf of the city is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per them penalties so long as the violation continues. (Ord. 4202 §1(part), 1980).

16.52.080 - Compromise, settlement and disposition of suits

16.52.080 Compromise, settlement and disposition of suits. The Director of the Building Department and the city attorney are authorized to enter into negotiations with the parties or their legal representatives named in a lawsuit for the collection of civil penalties to negotiate a settlement, compromise or otherwise dispose of a lawsuit when to do so will be in the best interests of the city. (Ord. 4202 §1(part), 1980).

16.52.090 - Application of civil penalty-Use of criminal penalty

16.52.090 Application of civil penalty-Use of criminal penalty. It is intended by the city commission that the civil penalty provided for in this chapter shall generally be applied to first violations or other violations when deemed effective. The criminal penalty shall be used when, in the opinion of the building official or city attorney, the civil remedy will not be effective or when the violation is a second or subsequent violation. (Ord. 4202 §1(part), 1980).

