



PLANNING AND ECONOMIC DEVELOPMENT

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MEMO

To: Mayor Erickson and City Council
From: Nikole Coleman, Associate Planner
Subject: 2019 Clearing and Grading Ordinance Update – Workshop Follow-Up
Date: June 27, 2019

On March 8, 2019, the Planning and Economic Development (PED) Department released the proposed 2019 Grading and Clearing Ordinance Update. The project involves updating the City of Poulsbo Clearing and Grading Ordinance. The ordinance is currently found in Poulsbo Municipal Code (PMC) Chapter 15.35. As part of the update, the grading ordinance would be moved to a new Chapter 15.40, *Grading*. Chapter 15.35 will be repealed and replaced with the *Tree Cutting and Clearing Ordinance*.

The Planning Commission, in its role as the City's primary land use advisory committee, reviewed the initial release and held five workshops on the Update (3/12/19, 3/26/19, 4/9/19, 5/14/19), and identified several additional modifications. The Planning Commission held a public hearing on May 28, 2019 and offered a recommendation of approval with modifications.

At its June 12, 2019 workshop, the City Council raised several questions regarding the Tree Cutting and Clearing Ordinance. This memo was prepared to assist the City Council July 10, 2019 public hearing.

A. FOREST PRACTICES.

At the June 12, 2019 workshops, a City Council member requested additional information on sections related to forest practices.

1. *Forest Practices Background:*

"Forest practices" means activities conducted on or directly pertaining to forestlands, regulated in Chapter 222-16 WAC or Chapter 76.09 RCW, relating to growing, harvesting, or processing timber. This includes but is not limited to road and trail construction; harvesting, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

The four classifications of forest practices activities are described in WAC 222-16-050 and RCW 76.09.050. The class of forest practice is determined by considering several factors including but not limited to the type of activity proposed (e.g., harvesting, thinning), its scale, the affected environment, and future use of the site.

- "Class I" are those forest practices that have been determined to have no direct potential for damaging a public resource. Examples of Class I forest practices include the culture and harvest of Christmas trees and seedlings; tree planting and seeding; and cutting and/or removal of less than 5,000 board feet of timber for personal use (e.g., firewood, fence post) in any consecutive twelve-month period.
- "Class II" are those forest practices which have less than an ordinary potential for damaging a public resource. Examples of Class II forest practices include, with certain exclusions, the construction of advance fire trails; salvage of logging residue; partial cutting of 5,000 board feet per acre or less; and timber harvests of less than 40 acres. Class II forest practices require notification to the DNR prior to being conducted. Property logged pursuant to a Class II permit must be reforested and is intended to remain in timber production.



- “Class III” are those forest practices not listed under Class I, II, and IV. Class III forest practices require permit approval by the DNR. Property logged pursuant to a Class III permit must be reforested and is intended to remain in timber production.
- “Class IV” forest practices are divided into two categories as follows:
 - “Class IV – General” are those forest practices, unless listed as Class IV – Special, occurring on lands within UGAs; and forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands which are being converted to a use other than commercial timber production. Examples of Class IV – General forest practices include harvest of timber and conversion of land to agricultural, residential or commercial uses. Reforestation is not required under a Class IV – General forest practices permit as the property subject to the permit is being converted to a nonforestry use.
 - “Class IV – Special” are those forest practices which have the potential to result in a substantial impact to the environment and require an environmental checklist in compliance with the State Environmental Policy Act (SEPA). Examples of Class IV – Special forest practices include forest practices conducted on lands designated as critical wildlife habitat for threatened or endangered wildlife species; timber harvest, road construction, aerial application of pesticides and site preparation in national, state, or local parks; and forest practices involving the filling or draining of more than 0.5 acres of wetland.

2. Class IV General Overview:

Under the current Department of Natural Resources (DNR)-managed Class IV permits, review is limited to the proposed forestry activity and not subsequent non-forestry actions (eg, land clearing). However, there are permit requirements that are imposed by both DNR and City—double permitting for Class IV applications. Under the proposed amendments, the City would conduct the same review, but also be able to apply a holistic review lens to a proposed project, beginning to end. This includes the State Environmental Policy Act (SEPA) checklist review to inform of project impact on the natural and built environment.

The Department of Natural Resources (DNR) and Poulsbo have proposed that Poulsbo assume permit management of ‘Class IV–General’ forest activities. As stated above, Class IV forest activities are limited to land proposed for conversion to a use other than commercial timber production—when land is proposed for conversion to a use other than commercial timber production a City permit is required. An example of Class IV permit activity is a landowner clearing larger forested land to prepare for subdivision or development. In the future, a property owner must obtain a Poulsbo Tree Cutting and Clearing and/or Grading Permit, with a SEPA Determination.

The proposed code does not further regulate forest lands not being converted from commercial timber production. All forest practices within the City that involve forest land not being converted (to a non-forest use) will still use the normal DNR Forest Practices Application process and the public may continue to track these through DNR’s reporting system. An example of forest practices that will be managed by DNR includes a timber producer who is actively managing forestlands for sustainable harvest.

3. Questions:

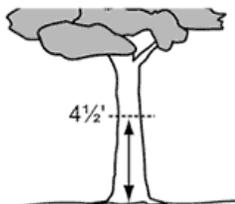
- ***Following the adoption of the proposed amendments, who regulates Forest Practices in Poulsbo?*** In general, the DNR regulate the harvest of merchantable timber for commercial purposes, whereas, Poulsbo regulates the harvest of merchantable timber when associated with the development (conversion) of property to a use other than forestry (i.e., home site, commercial use, etc.).
- ***Does the City of Poulsbo currently have a Class IV designation?*** Yes. This is currently managed by DNR. However, The DNR and Poulsbo have proposed that Poulsbo assume permit management of ‘Class IV–General’ forest activities. Staff will begin the process to transfer responsibility of this process. DNR recommends that local jurisdictions assume responsibility of Class IV General, since local Critical Area regulations are more stringent.
- ***Do we anticipate timber harvesting as a long-term use?*** No. Lands within the city limits and/or UGA are reasonably expected to develop within a 20-year timeframe. Long term timber harvesting is on a 40-year turnaround timeframe.

B. DIAMETER AT BREAST HEIGHT (DBH).

At the June 12, 2019 workshops, a City Council member expressed concern with the measurement of DBH in relation to multi-trunk trees.

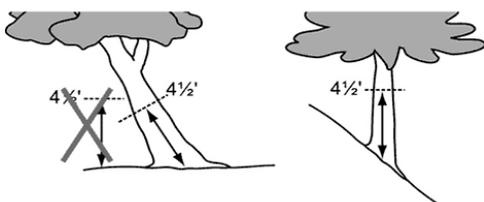
The definition for DBH in PMC 15.35.040 is “a tree’s diameter in inches at 4 1/2 feet above the ground. On multi-stemmed or -trunk trees, the diameter shall be the diameter equivalent to the sum of trunk areas measured at 4 1/2 foot above the ground.” The images below illustrate how this definition will be administered. These are based on best management practices for arborists. The images will be included in a “Tree Cutting and Clearing” handout that will be available for the public (see attached).

Measuring Tree Size for Existing Trees



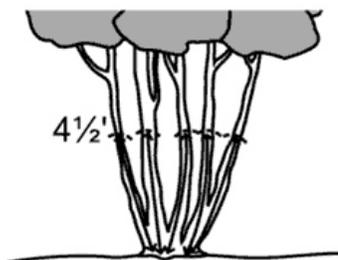
DBH can be measured quickly with a specially calibrated diameter tape, often referred to as a d-tape, that displays the diameter measurement when wrapped around the circumference of a tree. If you don't have access to a d-tape, you can find the diameter of the tree using a string, a measuring tape, a thumb tack, and a calculator.

Measuring Existing Trees with an Angle or on Slope



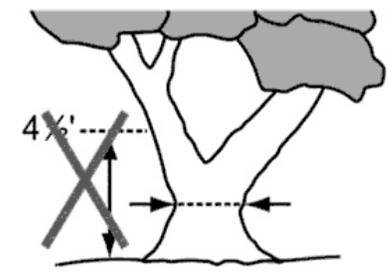
When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4.5 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk..

Measuring Multi-stemmed Trees



For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to one-half the diameter of each additional trunk. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

Measuring Split Trunk Tree



When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch. If the tree has a branch or a bump at 4.5 feet, it is better to measure the diameter slightly below or above the branch/bump.

Staff does not recommend altering the definition for “DBH.” The images above are included in a handout regarding tree cutting and clearing (see attached).

C. PROCESS TABLE

At the June 12, 2019 workshops, a City Council member requested a process flow chart for when a tree cutting and clearing permit will be required. The following table is provided in lieu of a flow chart, for ease of reading.

TREE CUTTING AND CLEARING PERMIT		
Clearing and/or Cutting Activity	Required (yes/no)	Notes
7,000 square feet or less of disturbed area per year	NO	Unless located within an open space tract, tree retention tract, required landscaping, designated critical area or shoreline.
Located in a critical area or associated buffer	YES	See 15.35.100
Located in a shoreline area or associated buffer	YES	See 15.35.100
Located in a required tree retention or landscape area	YES	See 15.35.110
Removal or maintenance of a street tree	YES	See Chapter 16.24 and Street Tree Maintenance, Removal, and Replacement Manual
Selective thinning once per calendar year	YES	The thinning plan shall comply with the requirements of Chapter 16.20 Critical Areas Ordinance
Class IV General Forest Practice permittees for conversion, thinning or maintenance	YES	See 15.35.090
Cutting/clearing associated with an approved permit for development	NO	Grading permit required prior to commencing work
Pruning of trees on private property	NO	Unless located within an open space tract, tree retention tract, required landscaping, designated critical area or shoreline.
Installation and maintenance of fire hydrants, water meters, and pumping stations by the City	NO	
Normal maintenance of existing landscaping (lawn mowing, rototilling, composting, gardening and pruning)	NO	
Minimal blazing for line-of-site surveying and foot access and limited clearing and grading as required to perform geotechnical exploration to characterize geologic formations and soils.	NO	
Removal of noxious weeds by government agencies.	NO	
Trees damaged during a weather event, such as windstorm.	NO	
Removal of trees in emergency situations involving immediate danger to life, property, substantial fire hazards.	NO	If the removal is 7,001 square feet or more of disturbed area, or is located within an open space tract, tree retention tract, required landscaping, designated critical area or shoreline (including buffers) and other protective areas, the City shall be notified within 7 days of the removal and shall be provided additional information, as needed to verify the emergency. An after-the-fact permit may be required.
Removal of dead, dying or dangerous trees.	NO	If the removal is 7,001 square feet or more of disturbed area, or is located within an open space tract, tree retention tract, required landscaping, designated critical area (including buffers) and other

		protective areas, a tree cutting and clearing permit shall be required.
Non-conversion forest practice on property equal to or greater than 20 acres; harvesting from a recognized timber growing operator or small forest landowner, that is enrolled as forest land of long term commercial significance under Chapter 84.33 RCW or has filed an accepted forest management plan with DNR; and has provided statement to the City and DNR that the forest landowner does not intend to convert the use to a non-forest operation for a period of at least ten years.	NO	



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TREE CUTTING AND CLEARING

Poulsbo Municipal Code (PMC) [Chapter 15.35](#) sets forth rules and regulations for tree removal, pruning, cutting and clearing, establishes the procedures for issuance of permits, and provides for approval of plans, inspections, enforcement and penalties.

The Planning and Economic Development (PED) Director is responsible for the interpretation and administration of Chapter 15.35. When required or determined necessary, the PED Director will consult with the City Arborist. All costs associated with review by the City Arborist shall be the responsibility of the property owner or applicant.

Except as otherwise specifically exempted in [Chapter 15.35](#), a Tree Cutting and Clearing Permit shall be obtained from the City before commencing any activity for which a permit is required.

WHAT IS THE PURPOSE OF THE TREE CUTTING AND CLEARING ORDINANCE?

- Regulate the cutting of trees in order to help preserve the wooded character of the City of Poulsbo and to protect its urban forest.
- Promote, protect and preserve the public interest by regulating land alteration, particularly the clearing of land in the City.
- Enhance the City's physical character by managing the removal of vegetation, trees and ground cover.
- Recognize there will be circumstances, such as land development, disease or danger of falling, that may require the removal of trees and ground cover.

WHEN IS A TREE CUTTING AND CLEARING PERMIT REQUIRED?

A permit is not required in the following situations:

- Normal and routine maintenance of existing landscaping, such as lawn mowing, rototilling, composting, gardening and pruning of vegetation.
- Any removal or cutting when the total area to be disturbed is 7,000 square feet (SF) or less per calendar year.
- The installation and maintenance of fire hydrants, water meters, and pumping stations by the City.
- Minimal blazing for line-of-site surveying and foot access and limited clearing and grading as required to perform geotechnical exploration to characterize geologic formations and soils.
- The removal of plants designated as noxious weeds by government agencies.

- Trees that are damaged during a weather event, such as windstorm.
- Removal of trees in emergency situations involving immediate danger to life or property or substantial fire hazards. If the removal is 7,001 SF or more of disturbed area, or is located within an open space tract, tree retention tract, required landscaping, designated critical area (including buffers) and other protective areas, the City shall be notified within seven days of the removal and shall be provided additional information, as needed to verify the emergency. An after-the-fact permit may be required.
- Removal of dead, dying or dangerous trees ([15.35.120](#)).

An exemption from a Tree Cutting or Clearing Permit does not necessarily exempt a property owner from complying with other requirements. These may include final plat requirements, HOA rules, or other applicable local, state, or federal regulations or permit requirements.

A permit is required in the following situations:

- Any removal or cutting when the total area to be disturbed is 7,001 SF or more per calendar year.
- Full site tree clearing, allowed only when a land use development permit has been obtained; except for any tree retention or vegetation protection required by the land use development permit.
- Tree cutting and clearing in order to develop property with substantial permanent improvements, such as streets, utilities, buildings, parking, driveways, etc.
- Selective thinning limited to once a calendar year and subject to provisions.
- Any proposed tree removal that is not specifically exempt in [PMC 15.35.070](#).
- Class IV General Forest Practice permittees for conversion, thinning or maintenance. (No harvesting is allowed without a land use development permit approval.)
- Tree removal in Open Space Tracts, Tree Retention Tracts, Critical Areas and Buffers and other protective areas. See [PMC 15.35.100 and 110](#).
- Removal of street trees within the City right-of-way shall be as set forth in Chapter 16.24.
- Removal and replacement of trees within an approved and required landscape area shall be as set forth in [Chapter 18.130](#).

Disclaimer: this handout should not be used as a substitute for codes and regulations. The applicant/property owner is responsible for compliance with all code and rule requirements, whether or not described here. Please see the City of Poulsbo Municipal Code for complete text and requirements.

CRITICAL AREAS AND SHORELINES

Consultation with the PED Department is required for any tree cutting, tree topping, tree trimming, pruning, thinning and/or vegetation clearing within a critical area, critical area buffer, shoreline and shoreline buffer. A critical areas or shoreline permit may be required for such activities under certain circumstances. Consultation requirements and special critical area permits are provided for in [Chapter 16.20](#), Critical Areas, and [16.08](#), Shoreline Master Program.

OPEN SPACE AND TREE RETENTION TRACTS

- A. Trees located in open space tracts, tree retention tracts, or other protected areas may only be removed if the tree is dead, dying, or dangerous and pose potential hazard to persons or property. See [PMC 15.35.120](#) for provisions to dead, dying or dangerous trees.
- B. A tree cutting and clearing permit is required for tree removal in these protective areas.
- C. Replacement trees shall conform to the original planting installation or as approved by the PED Director.

DEAD, DYING, OR DANGEROUS TREES

- A. "Dead" means the tree is lifeless.
- B. "Dying" means the tree is in an advance state of decline because it is diseased, infested by insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of the infestation or disease to other trees.
- C. "Dangerous" means the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
- D. Removal of dead, dying or dangerous trees is allowed. If the removal is 7,001 SF or more of disturbed area, or is located within an open space tract, tree retention tract, required landscaping, designated critical area and other protective areas, a tree cutting and clearing permit shall be required.
- E. When a permit is required, a qualified arborist or landscape architect shall provide written verification which states the removal is essential for the protection of life, limb or property. The PED Director may consult with the City Arborist to assist in the review of the submitted written verification when deemed necessary.
- F. The PED Director, upon consultation with the City Arborist, may determine that dead or dying trees be retained in order to provide for wildlife habitat and natural processes, unless the tree presents a potential hazard to person or properties.

CLASS IV FOREST PRACTICES

- A. As established in RCW 76.09.070, lands within the city limits and Poulsbo Urban Growth Area are not considered appropriate for long term timber production and harvesting, which takes a full 40-year cycle.
- B. Conversion of properties within the UGA can reasonably be expected, therefore, significant land clearing of such properties shall only take place at the time of a valid land use application. Tree tracts, open spaces and buffers can

then be properly coordinated with the actual development plans. Conversion of the land to non-timber production shall occur when the City has approved a land use development permit for the site.

- C. For Class IV General Forest Practices, maintenance and thinning of existing timber stands is allowed to promote the overall health and growth of the stand until the area is converted. A tree cutting and clearing permit shall be required for any maintenance and thinning and shall be reviewed by the City Arborist.
- D. Conversion of properties within the UGA can reasonably be expected, therefore, significant land clearing of such properties shall only take place at the time of a valid land use application. Tree tracts, open spaces and buffers can then be properly coordinated with the actual development plans.

PERFORMANCE STANDARDS

Clearing, cutting or removal of trees shall not occur on any lot or parcel without the consent of the property owner.

Clearing, cutting or removal of trees shall not result in any damage to abutting lots or parcels, public property or water resources, including but not limited to, trunk, bark, limb or leaf damage, damage to roads, trails or utilities, water or soil contamination, alteration of drainage courses, transport and disposition of dirt, mud or sediment or the creation of a fire hazard or other unsafe condition.

BEST PRUNING PRACTICES

When a tree cutting and/or clearing permit is required per [PMC 15.35.050](#) or for trees within an open space tract, tree retention tract, required landscaping, designated critical area (including buffers) and other protective areas:

- A. Tree pruning shall not exceed more than 25% of a tree's total leaf area. Tree pruning best practices shall conform to the International Society of Arboriculture standards or other accepted standards.
- B. Tree topping is prohibited.

ENFORCEMENT AND VIOLATIONS

Removal of a tree (or its stump) that is subject to a tree cutting and clearing permit, without obtaining a tree removal permit prior to its removal, constitutes a violation of [Chapter 15.35](#). Mitigation is required if a tree is cut in violation of this Chapter.

REVIEW AUTHORITY/PERMITTING PROCESS

Tree Cutting and Clearing applications are an administrative Type I permit application according to the provisions of Title [19](#). The PED Director is the Review Authority.

APPLICATION REQUIREMENTS

In order to apply, you must submit a Tree Cutting and Clearing Application Form and pay the application fee. Submittal requirements are listed on the application form.

HOMEOWNERS ASSOCIATION (HOA)

Some HOAs have additional regulations regarding tree removal. It is the responsibility of the property owner to contact the homeowners' association and get permission to remove trees, if applicable.

HELPFUL DEFINITIONS

Blazing. Minor non-vehicular cutting or removal of vegetation, including trees, shrubs or groundcover, sufficient for line-of-site surveying and foot access trails to the extent that the site is not otherwise significantly disturbed.

Clearing. Any tree cutting, clearing or removal of vegetation in any manner exceeding the extent of blazing as defined above.

City Arborist. The City of Poulsbo designated contract arborist. When required or determined necessary, the PED Director shall consult with the City Arborist. All costs associated with review by the City Arborist shall be the responsibility of the applicant of the tree cutting or clearing permit.

Cutting. The felling or removal of a tree, or any procedure in which the natural result will lead to the death or substantial destruction of a tree. Such acts include but are not limited to the severe cutting back of limbs, and damage inflicted upon the root system of the tree. Cutting does not include normal pruning within the bounds of accepted arboricultural practices.

Diameter at Breast Height (DBH). A tree's diameter in inches at 4 1/2 feet above the ground. On multi-stemmed or -trunk trees, the diameter shall be the diameter equivalent to the sum of trunk areas measured at 4 1/2 foot above the ground.

Land Disturbing Activity. Any activity resulting in a movement of earth, or a change in the existing soil cover, both vegetative and nonvegetative, or the existing topography. Land disturbing activities include, but are not limited to, tree removal, grading, filling, excavation, or addition of new or the replacement of impervious surface. Vegetative maintenance practices are not considered land disturbing activities.

Limbing. Removal of branches and leaving at least two-thirds of the existing tree branch structure. Limbing does not include topping of trees.

Pruning. Cutting back of limbs larger than one and one-half inches in diameter. Pruning shall conform to the International Society of Arboriculture standards, or other standards approved by the Department of Natural Resources (DNR) and/or the Department of Ecology (DOE), to maintain trees within environmentally critical areas and shoreline areas in a healthy and safe condition.

Thinning. The removal of trees less than 18 inches DBH where removal will improve the growth of remaining trees or removal of diseased trees that might otherwise die.

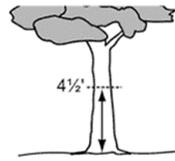
Tree. A living woody plant characterized by one main stem or trunk and many branches and having a diameter of six inches or more measured at DBH or is generally referred to in the nursery and landscape industry as a tree.

Topping. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

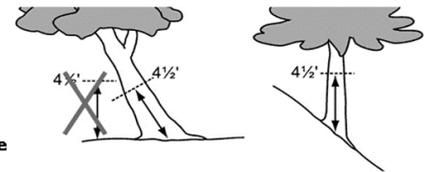
Vegetation Removal. The act of removing vegetation by digging up, cutting down or any act which is likely to cause vegetation to die within a period of five years, including but not limited to, damage inflicted to the root system by machinery, storage of materials, or soil compaction, change to the ground level in the area of the root system; damage inflicted on vegetation permitting infection or infestation, excessive pruning or any other action which is deemed harmful to vegetation.

Measuring DBH

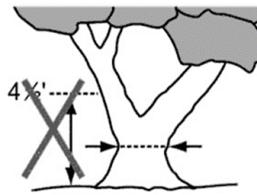
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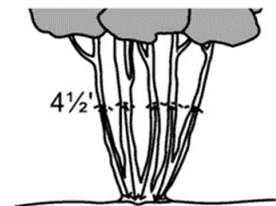
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Measuring Split Trunk Tree

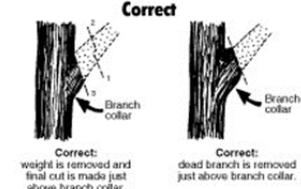
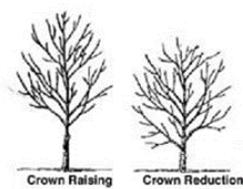
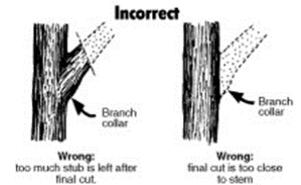
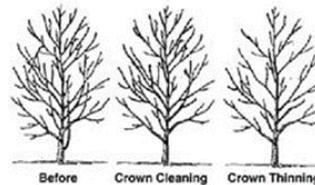


Measuring Multi-stemmed Trees



When the trunk branches or splits less than 4.5' from the ground, measure the smallest circumference below the lowest branch.

Pruning



Tree Topping

