

Filed 9/10/02

Submitted by: Assemblymember Shamberg
Prepared by: Department of Assembly
For reading: ~~May 14, 2002~~
May 21, 2002

Anchorage, Alaska
AO 2002- 84

1
2
3
4 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 21 BY
5 ADDING DEFINITIONS PERTAINING TO LAND CLEARING IN SUBSECTION
6 21.35.020B, DEFINITIONS AND RULES OF CONSTRUCTION; ADDING A NEW
7 SECTION TO ANCHORAGE MUNICIPAL CODE CHAPTER 21.45 TO REQUIRE PRE-
8 APPROVAL BEFORE CLEARING LAND OF VEGETATION; AND CREATING
9 EXCEPTIONS AND PENALTIES THEREFOR

10
11
12 THE ANCHORAGE ASSEMBLY ORDAINS:

13
14 Section 1. That subsection 21.35.020.B, Definitions and rules of construction, is amended to
15 add the following definitions: *(the remainder of the section is not affected and therefore is not*
16 *set out.)*

17
18 ***

19
20 "Critical root zone" means the area around a tree, which contains the majority of the
21 tree's root system as necessary to sustain adequate health. It is identified by one of the
22 following: 1) a circle, centered on the trunk, with a radius equal to 1 foot for every dbh
23 inch of the tree, or 2) if the tree has been transplanted, the critical root zone is equal to
24 a circle around the tree with a radius of 2 feet plus .5 feet for every year the tree has
25 been in the ground, or 3) as identified by a certified arborist or forester.

26
27 "Damage" or "Disturb" means any action undertaken which may cause death or
28 significant injury, or which places the tree in a hazardous condition or in an
29 irreversible state of decline. This includes but is not limited to cutting, topping,
30 girdling, or poisoning.

31
32 "dbh (diameter at breast height)" means the trunk diameter measured at four and one
33 half (4.5) feet above the ground (diameter = circumference/3.142).

34
35 "Developed lot" means any individual lot that is already occupied by a permitted
36 principal use.

37
38 "Field-collected" means the removal of native vegetation from its location with the
39 intent to sell or transplant at another location.
40

“Vegetation” means any living tree, shrub, plant, groundcover or combination thereof, including, but not limited to, mature vegetation, native vegetation, woodlands, wetlands, and landscaping.

“Development” means any existing or in-process improvements of raw land, including but not limited to clearing, grading and grade alteration, and construction of any structure.

“Land Clearing” means, typically, mechanized activities directly related to land preparation for development, including grubbing, hydro-axing, clearing, brushing, filling, grading, working soil and excavating.

Section 2. Anchorage Municipal Code chapter 21.45 is hereby amended by adding a new section to read as follows: *(the remainder of the section is not affected and therefore is not set out.)*

21.45. 300 Land Clearing

A. Intent. It is the intent of this subsection to:

- facilitate implementation of Title 21, the goals and policies of the Municipal Comprehensive Plan, and the goals and conditions of the National Pollution Discharge Elimination System (NPDES) permit #AKSO5255-8 issued to the Municipality by the Environmental Protection Agency for the purposes of regulating storm water discharges;
2. address issues of dust and noise control;
3. address issues of land clearing for fire hazard management;
4. protect and retain native vegetation and wildlife habitat;
5. maintain ground water quality and quantity by retaining as much pervious surface area as possible;
6. preserve wooded areas and trees, which increase property value and marketability and add beauty and character to neighborhoods;
7. tie land clearing and site preparation activities to an active and valid development process (ie., building permit), to limit the effects of erosion and the decline of water quality resulting from construction activities, and link land clearing, filling or grading to a formal site improvement project. For purposes of this section, development process includes, but is not limited to, building permits, Land Use Permits, subdivision agreements, Right-of-Way Permits.

C. *Definitions.* See 21.35.020 for definitions of terms applicable to this Section.

D. *Submittal requirements*

1. In addition to any other required submittals for the requested permit or agreement, a site plan, landscape plan, construction details, diagrams, photographs or other medium available to communicate the following information shall be submitted with the appropriate application that accompanies either a building permit, Land Use Permit, Right-of-Way Permit, conditional use permit, utility extension permit application, and that is not covered in the Exemptions Section (G).
 - a. Documentation of the existing condition for the entire site, to include location of existing and proposed buildings, paved areas, vegetation that is to be retained, and the location of creeks, water bodies, drainage areas and wetlands;
 - b. Information relating to any Title 21 landscaping or non-disturbance requirement on the parcel such as wetland permits, subdivision agreements, zoning regulations or special limitations, plat notes, etc.;
 - c. Details of land clearing techniques. Details and specifications for erosion control and restoration of land during and immediately following land clearing (per Development Services requirements);
 - d. Description of proposed action including the location of proposed buffers, open space, and other areas of the site where vegetation is to be saved and a written and/or visual rationale of the purpose and need for any clearing of land;
 - e. Site survey, which includes a tree survey performed by a natural resource professional, such as a biologist, forester or landscape architect.
 - f. Details and specifications for tree protection fencing, signage, or other means to protect any required vegetation or other vegetation, which is to remain.
 - g. On areas larger than ten (10) acres, an aerial photograph and a map of the project area depicting sensitive resource areas, such as wetlands, streams and stands of mature or unique vegetation. The map should also depict any previously altered areas either devoid of vegetation or in early stages of recovery in order to determine which areas should be cleared and which should be protected.

2. Performance Bond. The Director of Development Services may require a performance bond of the amount deemed necessary to assure that all land clearing or grading activities shall be completed in accordance with approved plans, the associated building permit, and Title 21. Bonds shall be submitted prior to receiving any permits. The Performance Bond may be released upon issuance of a certificate of occupancy. An additional bond is required to ensure compliance with subsections E. and F., below. This bond may only be released following completion of necessary site rehabilitation and assurance of a 66% success of the replacement vegetation installed on the site.

E. *Land Clearing and Grading Standards.* Unless specifically exempt under subsection G., all land clearing shall conform to applicable Municipal standards and requirements identified in the following, which may be amended from time to time:

1. This title,
2. Title 23,
3. *NPDES*—Storm Water Best Management Practices from the Storm Water Treatment Plan Review Manual,
4. Design Criteria Manual,
5. Erosion and Sediment Control Material Containment Manual.

F. In addition to the standards and requirements in subsection E., land clearing shall:

- . require that setbacks and buffers around sensitive areas, such as wetlands and the riparian zone adjacent to streams, be delineated;
2. not create or contribute to landslides, accelerated soil sloughing, settlement and subsidence or other hazards associated with ground motion and soil liquefaction;
3. include reasonable provisions for protection and/or preservation of natural slopes, grades, drainage features, and natural vegetation;
4. expose the smallest practical area of soil to erosion for the least possible time, consistent with the practicalities of the anticipated build-out schedule and the subject site's configuration;
5. be performed in accordance with all applicable laws, regulations and standards pertaining to water and air pollution and noise control;
6. limit the maximum gradient of fill slopes and debris piles to no steeper than 2: unless approved by the municipality;
7. prepare and maintain fill and cut slopes so as to control erosion. Devices and methods for erosion protection shall be initiated or installed prior to clearing and

grading and shall be actively maintained in operable condition throughout the project;

8. clearly mark and protect proposed areas of vegetation retention in the field with signage and/or fencing prior to initiation of work. Limits of construction or earthwork adjacent to retained vegetation shall not occur within the critical root zone of the retained vegetation;
9. mitigate elsewhere on the site areas of the site containing mature or unique vegetation that must be cleared. Mitigation should include replacement with an identical or closely similar mix of plants to include both species diversity and age structure.
10. employ Best Management Practices at all times during clearing and construction to ensure that wooded areas and individual trees are protected from mechanical injuries, soil contamination and soil compaction.

G. *Exemptions.* The exemptions in this chapter do not override the requirements of any other sections in this title, specifically AMC 21.67, storm water or other municipal, state, or federal regulations. The following activities are exempt from the requirements of this subsection:

Emergencies. Selective clearing or selective removal of dead, decaying or diseased trees or removal of vegetation upon order (which order may be by memorandum or telephone call, recorded in writing and dated) of the Development Services Director, Cultural and Recreational Services Director, or a member of the Police, Fire or Emergency Services Departments if it is determined the condition of a tree contributes to or presents an imminent safety or property threat. If the removed vegetation is required landscaping it must be replaced by the end of the next growing season.

2. *Commercial Nurseries, Sod Farms or Tree Farms.* Removal of vegetation, which is being grown for sale or distribution in commercial nurseries, sod or tree farms. Removal of vegetation required by some section of Title 21 is not permitted under this exemption. Field collection of native plants for restoration projects or other new required landscaping is exempt.
3. *Fire Safety Defensible Space.* Vegetation may be removed for fire management and for the purpose of providing fire safety defensible space on developed parcels, according to standards and/or upon approval by the Fire Marshall or the Fire Chief or designee. Removal of vegetation on such lots that is required by Title 21 requires appropriate approvals per AMC 21 or it must be replanted by the end of the next growing season.
4. *Developed Residential Lots.* Vegetation may be cleared and/or removed from developed multi-family or single family residential lots provided there is no required landscaping on site and the clearing and grading activity meets the standards of

Section E. On residential lots that contain areas of required vegetation, any new land clearing shall be tied to an active building or other appropriate permit. Ground cover and vegetation shall be maintained to control erosion and sedimentation. Areas denuded and not occupied by structures, walkways, drives, etc., shall be re-vegetated. Minor clearing for private gardens and/or for landscaping upgrades on lots without principal structures is also exempted.

5. *Maintenance of Parks, School Sites, Trails, Greenbelts, etc.* Removal or thinning of vegetation according to the requirements of relevant municipal departments for improving visibility and access into public areas for safety and maintenance purposes is not subject to the requirements of this subsection. Removal of vegetation required by other sections of Title 21 is not permitted under this exemption.

6. *Utilities.* Utility companies may remove trees or limbs of trees which threaten power lines. New utility corridors shall be created with care, making as narrow a swath as practicable and disturbing as little existing native vegetation as possible. Following installation of the utilities, re-vegetation with a seed mix of at least 50% native species is required.

H. *Standards for Issuance.* The Director of Development Services shall determine if the proposed clearing activity is related to a legitimate development activity, and that it conforms to this title, the regulations promulgated under this title, and the terms and conditions of the other entitlements issued under this title that apply to the property. The Director of Development Services shall report quarterly to the Assembly on decisions made under this ordinance.

I. *Transfer; expiration; revocation.* Land clearing approvals may not be re-assigned or transferred.

J. *Violations. Restoration. Enforcement. Penalties. Appeals.* If land clearing terms or intent are violated for any reason, penalties of \$1,00.00 per day shall be levied. Maximum penalty for lots of two acres or less is \$10,000.00 per lot. In the event that a site is cleared and /or graded and the construction of subsequent permitted buildings, roads or utilities has not begun within six months of issuance, the site shall be re-graded to original contours, if deemed necessary by the Director of Development Services. The property shall be re-vegetated with a seed mix of at least 50% native species and the perimeter of the property shall be planted with buffer landscaping per AMC 21.45.125 by the end of the nearest growing season. Temporary erosion control measures shall be employed if re-vegetation methods will not occur immediately. If deemed appropriate to address water quality or dust control concerns, the Director of Development Services may require additional woody species plantings. Re-vegetation must show 66% cover with viable growth after one year, or additional plantings will be required. No permits will be issued by the Municipality until any noted violations are corrected.

Section 3. Anchorage Municipal Code section 14.60.030 is hereby amended by adding a fine for violation of section 21.45 to read as follows: (the remainder of the section is not affected and therefore not set out)

14.60.30 Fine schedule.

The fine schedule under this chapter is as follows:

Code Section	Offense	Penalty/Fine
21.45.300	land clearing (identifying specific violation)	\$1,000

Section 4. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ____ day of ____, 2002.

Chair

ATTEST:

Municipal Clerk

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AO 2002-84

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT Amending Title 21 by Adding Definitions Pertaining to Land Clearing	DATE PREPARED 5/14/2002
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Greg Moyer
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Janice Shamberg	HIS/HER PHONE NUMBER 4750
4	COORDINATED WITH AND REVIEWED BY	INITIALS
	Mayor	
	Heritage Land Bank	
	Merrill Field Airport	
	Municipal Light & Power	
	Port of Anchorage	
	Solid Waste Services	
	Water & Wastewater Utility	
	Municipal Manager	
	Cultural & Recreational Services	
	Employee Relations	
	Finance, Chief Fiscal Officer	
	Fire	
	Health & Human Services	
	Office of Management and Budget	
	Management Information Services	
	Police	
	Planning, Development & Public Works	
	Development Services	
	Facility Management	
	Planning	
	Project Management & Engineering	
	Street Maintenance	
	Traffic	
	Public Transportation Department	
	Purchasing	
	Municipal Attorney	
	Municipal Clerk	
	Other	
5	Special Instructions/Comments <div style="text-align: center; font-style: italic;">Addendum - Interim</div> <div style="text-align: center; font-style: italic;">5/14 carried over to 5/21 coast agenda</div>	
6	ASSEMBLY HEARING DATE REQUESTED <i>5/14/02</i>	PUBLIC HEARING DATE REQUESTED <i>TO BE DETERMINED 9/10/02</i>

2002 MAY 14 AM 11:43
 CLERK'S OFFICE
 M.O.A.