

CLEARING AND GRADING REGULATIONS

What are clearing and grading activities?

Clearing and grading activities include the clearing or removal of trees, shrubs, groundcover, and other vegetation, as well as all grading, excavation, and filling activities (refer to the definitions on page 2).

Clearing and grading activity associated with a development proposal:

Unless exempted under *Federal Way Revised Code* (FWRC) 19.120.030, clearing and grading activities require review and approval of a clearing and grading plan and/or a tree and vegetation retention plan in conjunction with a building or land development permit (e.g. subdivision, land use, or site plan) approval.

Clearing and grading activity not associated with a development proposal:

- When a proposed clearing and grading activity is not associated with a building or land development permit, and is not exempt per FWRC 19.120.030, then the proposed clearing and grading activity requires review and approval through Process III review.¹ A preapplication conference is required before submitting a Process III application for the clearing and grading activity (refer to the Preapplication Conference handout).
- The proposed clearing and grading activity must meet the criteria contained in FWRC 19.120.020(4)(b)(i-iii) that reads as follows:
 - “... (i) Except as allowed under this chapter, it will not alter or adversely affect streams, lakes, wetlands, or geologically hazardous areas, either on or off the subject property.
 - (ii) It will not violate any express policy of the city.
 - (iii) It meets at least one of the following criteria:
 - a. It is necessary to correct an erosion or drainage problem on an undeveloped site.
 - b. It is necessary to create new utility or access corridors.
 - c. Other unusual circumstances exist which make it reasonable to permit clearing, grading, and/or tree and vegetation removal in advance of the issuance of a development permit, subdivision, or short subdivision approval, or shoreline substantial development permit.”

Clearing and grading activity proposed within an environmentally critical area:

- In most cases, clearing and grading activities that involve work proposed within environmentally critical areas will require review and approval by the City of Federal Way. Some clearing and grading activities proposed within environmentally critical areas may also require permit application review and approval under Process III or Process IV review. As every proposal and associated site conditions are unique,

¹ Certain vegetation management activities (e.g. removal of hazard trees, invasive species, etc.) may not require Process III review. Consult with the Community Development Department staff for guidance.

applicants considering clearing and grading activities within designated environmentally critical areas should contact Planning Division staff to determine what review process applies and the information that must be submitted for review.

- Clearing and grading activities that involve work proposed within environmentally critical areas also often require that the city contract out for expert technical assistance with review of the proposed activity. Under FWRC 19.145.080, the city may require the applicant, at the applicant's expense, to provide any information, mapping, studies, materials, inspections, and/or reviews that are reasonably necessary to implement the critical areas article, and to require that such information, studies, mapping, materials, inspections, and/or reviews be provided or performed by a qualified professional acceptable to the city. You will be advised at the earliest possible point if your project will be subject to these types of expenses.

Tree and Vegetation Retention Requirements:

The City of Federal Way has established minimum tree and vegetation retention requirements for all new development and redevelopment activities (except for proposals on parcels zoned City Center-Core [CC-C] and City Center-Frame [CC-F]). Clearing and grading activities should be planned so as to retain as much of the existing natural vegetation as possible. A minimum number of tree units per acre must be retained on the project site, or trees must be planted to meet the minimum requirements. A Tree and Vegetation Retention Plan must be prepared and submitted along with the project application materials. Refer to the City of Federal Way Bulletins #069 and #070 for additional information.

When will I be allowed to begin clearing and grading my site?

No clearing or grading activities may commence until the project applicant has received **Approval** of the development permit application **and** an official **Notice to Proceed**. In determining readiness to proceed, the city will consider the following:

- Applicant shall have received engineering plan approval for erosion control and construction of required on-site infrastructure; and
- Applicant shall have received approval of a proposed project timeline for site development work and revegetation and landscaping plans.
- See FWRC 19.120.060 for complete listing of requirements.

What is the penalty for conducting clearing and grading activities without proper approval?

Clearing and grading without proper approval is subject to civil penalties and additional fees of up to \$1,000.00 for each tree removed, or up to the marketable value of each tree removed. In addition, restoration of any environmental and property damage is required. Refer to FWRC 19.120.270 for additional details.

Relevant Definitions from the FWRC:

Clearing means the destruction and removal of vegetation by manual, mechanical, or chemical methods.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation (also known as excavation).

Fill means deposition of earth materials by artificial means.

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.