September 6, 1995 Introduced By: LARRY PHILLIPS, PAUL BARDEN, LOUISE MILLER

dabsitw3/tk Proposed No.: 92-614

ORDINANCE NO. 12015

AN ORDINANCE adopting regulations implementing the Bear Creek Basin Plan; amending the Bear Creek Basin Plan; repealing P-suffix conditions in the Bear Creek Community Plan area zoning; and adopting clearing restrictions and enhanced stream buffers for the Bear Creek Basin; amending Ordinance 1018, Section 1 and K.C.C. 20.12.170; amending Ordinance 9614, Sections 100 and 103 and K.C.C. 16.82.050 and 16.82.150; amending Ordinance 10870, Section 483 and K.C.C. 21A.24.360, and amending Ordinance 10513, Section 1 and K.C.C. 20.14.030.

PREAMBLE:

The Bear Creek Basin Plan, as adopted by the council on August 17, 1992, called for a number of new standards for clearing and development of land which require further action for their implementation. Specifically, the plan calls for:

a. Strict clearing restrictions throughout the rural parts of the Basin.
b. Increasing the required buffers for streams above the minimums generally established in the sensitive areas ordinance.
c. Applying more rigorous storm water retention and detention standards throughout the basin.

BE IT ORDAINED BY THE COUNCIL OF METROPOLITAN KING COUNTY:

SECTION 1. Ordinance 1018, Section 1, as amended and K.C.C. 20.12.170 are each hereby amended to read as follows:

Bear Creek Community Plan. A. The Bear Creek Community Plan, attached to Ordinance 8846 as Appendix A, is adopted as an amplification and augmentation of the comprehensive plan for King County and as such constitutes official county policy for the geographic area defined therein.

B. The Bear Creek Community Plan Area Zoning, attached to Ordinance 8846 as Appendix B, is adopted as the official zoning control for that portion of unincorporated King County defined therein.

C. Ordinance 4035, previously adopting the King County sewerage general plan, is hereby amended in accordance with 20.12.170 A.

D. The Bear Creek Community Plan Area Zoning, attached to Ordinance 8846 as Appendix B is hereby amended by Ordinance 11653 and Ordinance 12015 (proposed Ordinance 92-614) as follows: Existing zoning and potential zoning are replaced by the zoning and potential zoning contained in Appendices A and O of Ordinance 11653. Existing P-suffix conditions are retained except as amended by Appendix B of Ordinance 11653 and Appendix A of Ordinance 12015 (proposed Ordinance 92-614).

SECTION 2. Ordinance 9614, Section 100, and K.C.C. 16.82.050 are hereby amended to read as follows:

Clearing and grading permit required - Exceptions. A. No person shall do any clearing or grading without first having obtained a clearing and grading permit from the director except for the following:

1. An on site excavation or fill for basements and footings of a building, retaining wall, parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation; nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure;

2. The depositing or covering of any garbage, rubbish or other material at any solid waste facility operated by King County;

3. Maintenance of existing driveways or private access roads within their existing road prisms, provided that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality.

4. Any grading within a publicly owned road right-of-way;

5. Clearing or grading by a public agency for the following routine maintenance activities:

a. Roadside ditch cleaning provided the ditch does not contain salmonids;

b. Pavement maintenance;

c. Normal grading of gravel shoulders;

d. Maintenance of culverts;

e. Maintenance of flood control or other approved surface water management facilities;

f. Routine clearing within road right-of-way.

6. Any clearing or grading for roads within a preliminary or finally approved residential plat which has been approved by the director and for which a bond has been posted;

7. Maintenance or reconstruction of the facilities of a common carrier by a rail in interstate commerce within its existing right-of-way; provided restoration is consistent with the requirements of Section 16.82.110; provided that this exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter ((~~21.54~~))21A.24.

8. Cemetery graves; provided that this exception does not apply except for routine maintenance if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter ((~~21.54~~))21A.24;

9. Clearing or grading within a preliminarily or finally approved residential plat not involving any excavation exceeding five feet in vertical depth or any fill exceeding three feet in vertical depth, regardless of the amount of material to be removed; provided that this exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter ((~~21.54~~))21A.24;

10. Excavation less than five feet in vertical depth not involving more than one hundred cubic yards of earth or other material on a single site; provided that the exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter ((~~21.54~~))21A.24;

11. Fill less than three feet in vertical depth not involving more than one hundred cubic yards of earth or other material on a single site; provided that the exception does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter ((~~21.54~~))21A.24;

12. Minor stream restoration projects for fish habitat enhancement by a public agency, utility or tribe as set out in K.C.C. ((~~21.54~~))21A.24.

13. Clearing or grading for construction of livestock manure storage facilities or associated nonpoint source pollution facilities designed to the standards of and approved in a conservation plan by the King County conservation district, and constructed and

maintained to those standards or livestock flood sanctuaries constructed and maintained to the standards approved by the Soil Conservation Service and conservation district and the best management practices approved by King County.

14. Clearing and grading, performed as Class I, II, III or IV Special forest practice in the F (Forestry) zone, that is conducted in accordance with RCW 76.09 and WAC 222.

15. Any clearing or grading for construction which has been approved by the director as part of a Commercial Site Development permit and for which a bond has been posted.

16. The following activities are exempt from the clearing requirements of this chapter and no permit shall be required:

a. Clearing outside of sensitive areas and buffers as regulated in K.C.C. Chapter ((~~21.54~~))21A.24 unless the development proposal site is in a basin with an adopted basin plan and clearing standards identified in 16.82.150 or is within an area subject to clearing restrictions contained in a critical drainage area administrative rule or in p-suffix conditions in an adopted community plan.

b. Within sensitive areas, as regulated in K.C.C. Chapter ((~~21.54~~))21A.24, the following activities are exempt from the clearing requirements of this chapter and no permit shall be required.

(1) Normal and routine maintenance of existing lawns and landscaping subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter ((~~21.54~~))21A.24.

(2) Permitted agricultural uses; provided the clearing is consistent with the agricultural exemptions in sensitive areas as regulated in K.C.C. Chapter ((~~21.54~~))21A.24.

(3) Emergency tree removal to prevent imminent danger or hazard to persons or property.

(4) Normal and routine horticultural activities associated with commercial orchards, nurseries, or Christmas tree farms in existence on the effective date of Ordinance 9614 (November 27, 1990) subject to the limitations on the use of pesticides

in sensitive areas as set out in K.C.C. Chapter ((~~21.54~~))21A.24. This does not include clearing or grading in order to develop or expand such activities.

(5) Normal and routine maintenance of existing public parks and private and public golf courses. This does not include clearing or grading in order to develop or expand such activities in sensitive areas.

(6) Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter ((~~21.54~~))21A.24.

(7) Pruning and limbing of vegetation for maintenance of above ground electrical and telecommunication facilities; provided that the clearing is consistent with the electric, natural gas, cable communication and telephone utility exemption in sensitive areas as regulated in K.C.C. Chapter ((~~21.54~~))21A.24.

(8) Class I, II, III and IV Special forest practices outside of areas zoned F provided they occur on parcels that meet all of the following criteria for long term forestry:

(a) The parcel is enrolled under the current use taxation program as timber land pursuant to RCW 84.34 or as forest land pursuant to RCW 84.33;

(b) A long term management plan is approved for the parcel by the Washington Department of Natural Resources;

(c) The parcel is located within areas designated rural or agricultural by the King county comprehensive plan or applicable community plan;

(d) The parcel is located outside of expansion areas for incorporated cities or rural activity centers as designated in community plans, and;

(e) The parcel equals or exceeds 5 acres in size.

B. TEMPORARY PERMITS. The director shall have the authority to issue temporary permits for excavations, processing, quarrying and mining, and removal of sand, gravel, rock and other natural deposits, together with the necessary buildings, apparatus or appurtenances incident thereto for specific jobs on application for highway, road, street, airport construction, flood control and other public works projects. In conjunction with such operations, allied uses such as, but not limited to, rock crushers, concrete-batching plants and asphalt-batching plants may be authorized by this temporary permit.

The department of development and environmental services shall consider the effect of the proposed operation on the county road system and any effect it may have on surface or groundwater drainage and flood control, and shall make such recommendations as are necessary to protect the public interest in this regard.

The department of development and environmental services shall also consider the effect of the proposed operation on the current and future land use in the area affected by the proposed operation and shall condition permits as necessary to protect the public interest in this regard. Temporary permits are good for the life of the contract of the specific job but must be reviewed annually. Each temporary permit site shall be fully restored during the term of the temporary permit, unless the site is subsequently designated with a QM zone classification or included in an unclassified use permit.

SECTION 3. Ordinance 9614, Section 103, and K.C.C. 16.82.150 are hereby amended to read as follows:

Clearing standards. For clearing and grading permits issued under this chapter, the following standards shall apply:

A. Within sensitive areas as defined in K.C.C. Title 21, the current clearing standards contained in:

1. The Sensitive Areas Code, K.C.C. ((~~21.54~~))21A.24, and its adopted administrative rules;

2. P-suffix conditions within adopted community plans.

B. On land outside of sensitive areas, the current clearing standards contained in:

1. P-suffix conditions within adopted community plans:

2. Critical drainage area designations identified by adopted administrative rules.

C. In the RA (Rural Area) zoned areas in the Bear Creek Basin:

1. Clearing shall be limited to a maximum of 35% of lot or plat area or the amount cleared prior to the effective date of this ordinance whichever is greater, except under conditions specified in paragraph C5 below.

2. For subdivisions and short subdivisions, portions of the plat that are not designated for clearing shall be retained in one or more open space tracts, with all developable lots sited on the portions of the plat that may be cleared. For purposes of this subsection, the portion of the plat that may be cleared is identified as 35% of plat area or the amount that was cleared prior to the effective date of this ordinance, whichever is greater. Sensitive areas designated under K.C.C. Title 21 shall be recorded separately from tracts mandated by this regulation, but may be counted towards meeting these requirements. Tracts mandated by this regulation may be retained by the subdivider, conveyed to residents of the subdivision, or conveyed to a third party. Open space tracts shall be shown on all property maps and shall be protected by covenants, approved by the County, that restrict their uses to the following:

a. Passive recreation uses and related facilities, including pedestrian and bicycle trails, nature viewing areas, fishing and camping areas, and other similar uses that do not require permanent structures, provided that cleared areas and/or areas of compacted soils associated with these uses and facilities do not exceed eight percent of the area of the open space tract.

b. Utilities and utility easements, including surface water facilities, provided that, whenever possible, such uses are within or adjacent to existing road or utility easements.

c. Timber harvest, provided that it is accomplished in accordance with a timber harvest management plan and clearing permit that have been approved by the Department of Development and Environmental Services. That Department shall prepare administrative rules regarding the review and approval of timber harvest management plans in consultation with the Surface Water Management Division of the Department of Public Works before approving any permits for timber harvest after the effective date of this ordinance.

d. For sensitive areas designated under K.C.C. Title 21A that are not within areas designated for clearing in the plat, uses shall be limited to those specified in K.C.C. 21A.24. Aside from approved timber harvest activities and removal of dangerous and/or diseased trees, all trees within open space tracts at the time of subdivision application shall

be retained. All open space tracts established pursuant to this regulation shall be clearly marked with at least one sign per buildable lot adjoining the tract indicating that the tract is permanent, dedicated open space.

3. For individual lots, the clearing limits shall be applied at the time of building permit application unless the lot is within a subdivision that has been approved with other conditions to meet the standard established in paragraph C2. In cases where conditions are applied to the subdivision, individual lots shall be exempt from the clearing restrictions in paragraph C1. The uses and restrictions on the uncleared portions of individual lots shall be those specified in paragraph C2. Sensitive areas designated under K.C.C. Title 21A may be counted towards meeting requirements on individual lots. On lots greater than or equal to 20,000 square feet, the restrictions in paragraph C1 shall apply. On lots smaller than 20,000 square feet, up to 7,000 square feet may be cleared.

4. Clearing required for the construction of infrastructure to serve any lots 1.25 acres or smaller in size shall not be counted towards the 35% maximum clearing standard established in paragraph C1.

5. Clearing shall be limited to a maximum of 60% of the lot or plat area if the permit applicant commits to constructing on-site retention/detention facilities in accordance with the On-Site Detention Standards set forth in Recommendation BW-2 of the adopted Bear Creek Basin Plan or superseding standards that may be contained in an update of the King County Surface Water Design Manual.

6. The subdivision or permitting of building on parcels that are cleared after the effective date of this ordinance shall be subject to conditions requiring the restoration of trees and understory vegetation on at least 65% of the plat or lot, or at least 40% if the applicant chooses the conditions of paragraph C5. A restoration plan shall be required of permit applicants, and shall be subject to the approval of the Department of Development and Environmental Services. That Department shall prepare administrative rules regarding the review and approval of restoration plans in consultation with the Surface Water Management Division of the Department of Public Works before approving subdivision or building permits for parcels cleared after the effective date of this ordinance. The

administrative rules shall also specify when a restoration plan will be deemed sufficient to forego the six (6) year moratorium on permitting authorized in K.C.C. 16.82.140.

7. Clearing standards for Urban Planned Developments and Mineral zoned properties will be determined through their own designated review processes.

8. The requirements of paragraphs C1 through C6 shall be waived by the director for proposed projects that meet the following conditions:

a. The project shall consist of one or more of the following uses:

1. Government services listed in K.C.C. 21A.08.060.

2. Educational services listed in K.C.C. 21A.08.050.

3. Parks as listed in K.C.C. 21A.08.040 when located adjacent to an existing or proposed school.

4. Libraries listed in K.C.C. 21A.08.040, and

5. Road projects;

b. The project site shall not be located in a designated Regionally Significant Resource Area except for utility corridors that can demonstrate no feasible alternative;

c. The project shall clear the minimum necessary to accomodate the proposed use;

d. The project shall meet the on-site detention standard provisions in paragraph C5; and

e. The modification or waiver shall not exempt the project from any other code provisions which may apply.

The director's decision may be appealed to the zoning and subdivision examiner pursuant to K.C.C. 20.24, provided that any such appeal must be consolidated with an appeal, if any, heard by the examiner on the merits of the proposed project.

9. Construction projects can be a significant contributor of pollution to streams and wetlands. Therefore, from October 1 through March 31:

a. The director may restrict or prohibit clearing, grading and construction during this period in Regionally Significant Resource Areas to protect sensitive habitat from damage caused by sedimentation.

b. Clearing and grading other than maintenance and repair of erosion and sediment control facilities will be allowed only if there is installation and maintenance of a temporary erosion and sedimentation control plan approved by the director. Alternate best management practices may be approved or required on-site by the inspector.

c. If, during the course of construction, silt-laden runoff exceeding standards in the King County Surface Water Design Manual leaves the construction site or if erosion and sediment control measures shown in the approved plan are not maintained, a notice of violation shall be issued.

d. If the erosion and sediment control problem defined in the violation is not adequately repaired within 24 hours of the notice of violation, then a notice and order may be issued by the inspector to install adequate erosion and sediment control measures to stop silt-laden runoff from leaving the site. The notice and order may also require the contractor to discontinue any further clearing or grading, except for erosion and sediment control maintenance and repair, until the following March 31.

D. Where conflicts exist between standards, the most restrictive shall apply.

SECTION 4. Ordinance 10870, Section 483, and K.C.C. 21A.24.360 are hereby amended to read as follows:

Streams: development standards. A development proposal on a site containing a stream shall meet the following requirements:

A. The following minimum buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

1. a class 1 stream shall have a 100-foot buffer;
2. a class 2 stream used by salmonids shall have a 100-foot buffer;
3. a class 2 stream shall have a 50-foot buffer;
4. a class 3 stream shall have a 25-foot buffer;
5. in the Bear Creek Basin, class 1 and 2 streams used by salmonids, shall have a 150-foot buffer;
6. in the Bear Creek Basin, a class 2 stream not used by salmonids, shall have a 100-foot buffer.

7. in the Bear Creek Basin, a class 3 stream shall have a 50-foot buffer except in designated regionally significant resource areas where a class 3 stream shall have a 100-foot buffer;

8((~~5~~)). any stream restored, relocated, replaced or enhanced because of a stream alteration shall have the minimum buffer required for the stream class involved;

9((~~6~~)). any stream with an ordinary high water mark within 25 feet of the toe of a slope 30% or steeper, but less than 40%, shall have:

a. the minimum buffer required for the stream class involved or a 25-foot buffer beyond the top of the slope, whichever is greater, if the horizontal length of the slope including small benches and terraces is within the buffer for that stream class; or

b. a 25-foot buffer beyond the minimum buffer required for the stream class involved if the horizontal length of the slope including small benches and terraces extends beyond the buffer for that stream class; and

10((~~7~~)). any stream adjoined by a riparian wetland or other contiguous sensitive area shall have the buffer required for the stream class involved or the buffer which applies to the wetland or other sensitive area, whichever is greater;

B. Buffer width averaging may be allowed by King County if it will provide additional natural resource protection, as long as the total area contained in the buffer on the development proposal site does not decrease;

C. Increased buffer widths shall be required by King County when necessary to protect streams. Provisions for additional buffer widths shall be contained in administrative rules promulgated pursuant to this chapter including, but not limited to, critical drainage areas, location of hazardous substances, critical fish and wildlife habitat, landslide or erosion hazard areas contiguous to streams, groundwater recharge and discharge and the location of trail or utility corridors;

D. The use of hazardous substances, pesticides and fertilizers in the stream corridor and its buffer may be prohibited by King County; and

E. The livestock restrictions in K.C.C. 21A.24.320 shall also apply to class 1 and 2 streams and their buffers except that barrier fencing shall not be required in the floodplain of the Snoqualmie River.

SECTION 5. The requirements for drainage facilities in the Bear Creek Basin Plan shall supersede requirements in the King County Surface Water Management Design Manual unless specifically superseded in an update of the manual. References in the Bear Creek Basin Plan and documents and tables included therein to "steep slope" or "community plan" standards are to be governed by the "stream protection" standards.

SECTION 6. Ordinance 10513, Section 1, and K.C.C. 20.14.030 are each hereby amended to read as follows:

Bear Creek Basin Plan. The Bear Creek Basin Plan, dated July 1990 as amended by the Utilities Committee on July 2, 1992 as shown in Attachment A to Ordinance 10513* and as further amended by the Growth Management, Housing and Environment Committee on September 6, 1995 as shown in Appendix B to Ordinance 12015 (Proposed Ordinance 92-614) is adopted as a functional plan that implements the surface water management and environmental policies of the King County Comprehensive Plan. ((~~As an amplification and augmentation of the King County Comprehensive~~)) The Bear Creek Basin Plan, ((~~it~~)) constitutes official county policy with regard to surface water management in the Bear Creek Basin((~~.~~)) and designates Regionally Significant Resource Areas and Locally Significant Resource Areas depicted in the Bear Creek Basin Plan. Pursuant to policy NE-307 of the 1994 King County Comprehensive Plan the King County Executive shall study the standards of protection needed for Regionally Significant Resource Areas and Locally Significant Resource Areas and report the findings and recommendations to the Council in 1995. Based on the report, the Metropolitan King County Council will review and may revise the Regionally Significant Resource Areas and Locally Significant Resource Areas designated in the Bear Creek Basin Plan.

SECTION 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

INTRODUCED AND READ for the first time this 17th day of August, 1992.

PASSED by a vote of 10 to 3 this 30th day of October, 1995.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

APPROVED this 9th day of November, 1995

King County Executive

Attachments:

Appendix A: Amendments to Bear Creek Community Plan P-Suffix Conditions
Appendix B: Amendments to Bear Creek Basin Plan

Appendix A to Ordinance 9_____
AMENDMENTS TO BEAR CREEK COMMUNITY PLAN P-SUFFIX CONDITIONS

The following Bear Creek Community Plan Area Zoning P-suffix conditions* are hereby repealed:

*Note: more than one P-suffix may apply to a single parcel; only those P-suffixes listed here are repealed. Conditions are listed first by page number(s) of the published version of the adopted Bear Creek area zoning document containing text describing the conditions, and then by map facing-page number(s), if applicable (areawide P-suffix conditions were not shown on the Bear Creek zoning maps, but were coded into the SITUS file at DDES). The second column also lists the Title 21A zones in which the conditions are applied; for large groups of properties, not all zones will be found on all of the listed pages.

I. Steep Slope Areas

Page(s)	**Subject/Zone**
103-104	Text and map/All Zones in mapped areas within Bear-Evans basin

II. Vegetative Coverage and Impervious Surface

Page(s)	**Subject/Zone**
121-122	Text/All Zones within Bear-Evans basin

DRAFT

TABLE OF PROPOSED REGULATIONS

The requested table of the proposed regulations in ordinance 92-614 is listed below.

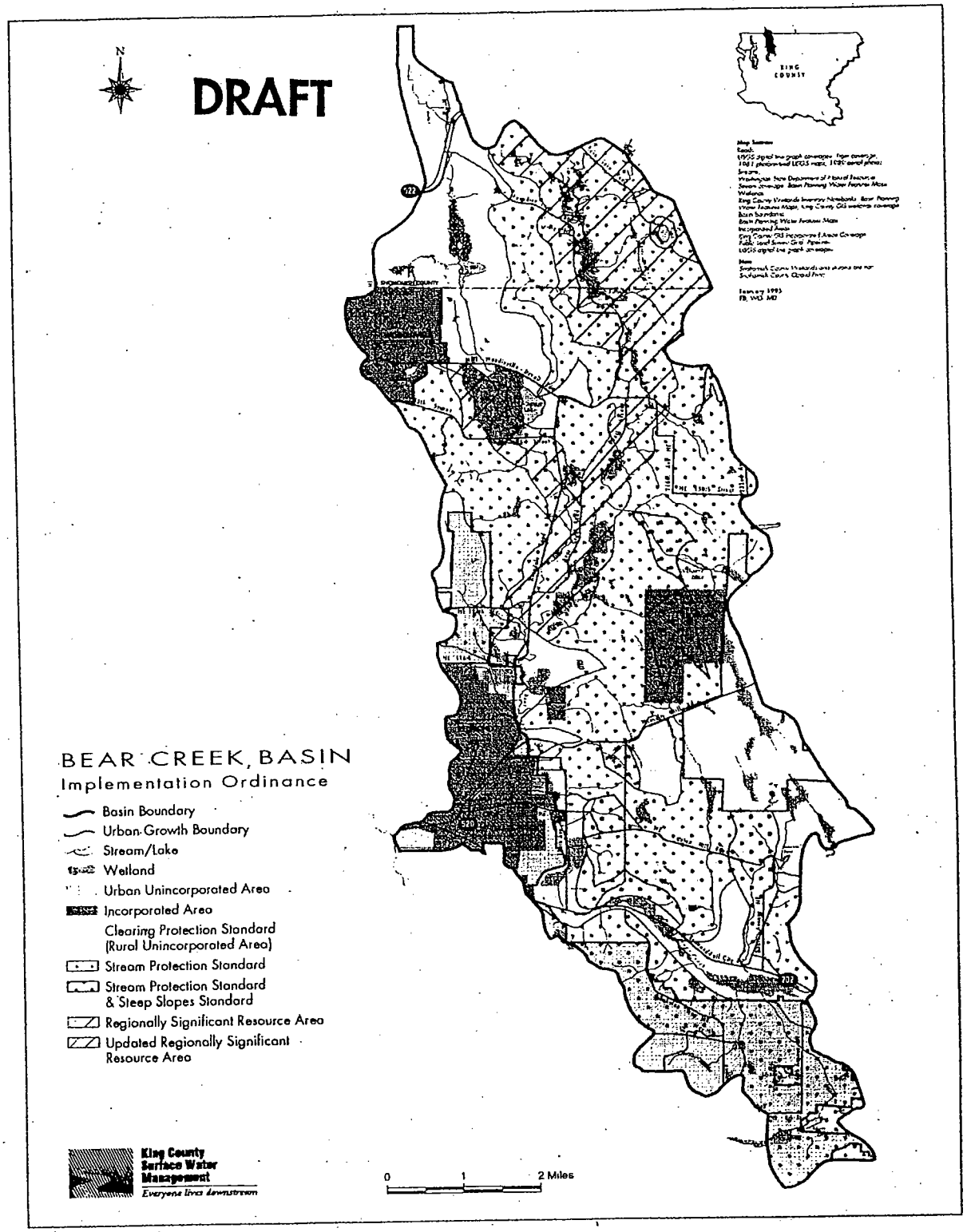
REGULATORY RECOMMENDATIONS IN THE BEAR CREEK BASIN PLAN IMPLEMENTATION ORDINANCE (92-614)				
Regulation	Application	Requirement	Reference*	Contact**
Clearing Restrictions, discretional public use waiver and discretional seasonal clearing limits in RSRA's (1)	Applies only in rural (RA) zoned areas in the basin, as shown on attached map	Designation of 40% to 65% of lots or plats in uncleared tracts or easements	Basinwide Rec'ds 3 & 4 pages 5 and 5-1	Ray Heller SWM, 296-8391 or Randy Sandin, DDES, 296-6778
Enhanced stream buffers	All activities were SAO is currently applied	Designating larger minimum stream buffers	Countywide Rec'd 1, page 11	Ray Heller SWM, 296-8391 or Randy Sandin, DDES, 296-6778

* References are to Ordinance 10513 adopting the Bear Creek Basin Plan

** Use SWM contacts prior to regulation adoption and DDES contacts thereafter

(1) Regionally Significant Resource Area

12015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DRAFT
KING COUNTY
BEAR CREEK, BASIN
Implementation Ordinance
Basin Boundary
Urban Growth Boundary
Stream/Lake
Wetland
Urban Unincorporated Area
Incorporated Area
Clearing Protection Standard (Rural Unincorporated Area)
Stream Protection Standard
Stream Protection Standard & Steep Slopes Standard
Regionally Significant Resource Area
Updated Regionally Significant Resource Area
King County Surface Water Management
Everyone lives downstream
0
1
2 Miles