



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 29, 2004

Ordinance 15053

Proposed No. 2004-0124.3

Sponsors Constantine

1 AN ORDINANCE relating to clearing and grading;
2 amending Ordinance 1488, Section 5, as amended, and
3 K.C.C. 16.82.020, Ordinance 1488, Section 6, as amended,
4 and K.C.C. 16.82.050, Ordinance 1488, Section 7, as
5 amended, and K.C.C. 16.82.060, Ordinance 1488, Section
6 11, as amended, and K.C.C. 16.82.100, Ordinance 1488
7 (part), as amended, and K.C.C. 16.82.130, Ordinance 9614,
8 Section 102, as amended, and K.C.C. 16.82.140, Ordinance
9 9614, Section 103, as amended, and K.C.C. 16.82.150,
10 Ordinance 11618, Section 8, and K.C.C. 16.82.160 and
11 Ordinance 12823, Section 18, and K.C.C. 21A.38.230 and
12 adding new sections to K.C.C. chapter 16.82.

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15 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

16 SECTION 1. Ordinance 1488, Section 5, as amended, and K.C.C. 16.82.020 are

17 each hereby amended to read as follows:

18 **Definitions.** Certain words and phrases used in this chapter, unless otherwise
19 clearly indicated by their context, mean as follows:

20 A. "Applicant" ~~((is))~~ means a property owner or a public agency or public or
21 private utility ~~((which))~~ that owns a right-of-way or other easement or has been
22 adjudicated the right to such an easement ~~((pursuant to))~~ in accordance with RCW
23 8.12.090, or any person or entity designated or named in writing by the property or
24 easement owner to be the applicant, in an application for a development proposal, permit
25 or approval.

26 B. "Bench" ~~((is))~~ means a relatively level step excavated or constructed on the
27 face of a graded slope surface for drainage and maintenance purposes.

28 C. ~~("Berm" is a mound or raised area used for the purpose of screening a site or~~
29 ~~operation.~~

30 ~~D.))~~ "Civil engineer" means ~~((a professional))~~ an engineer ~~((registered in))~~ who is
31 licensed as a professional engineer in the branch of civil engineering by the state of
32 Washington ~~((to practice in the field of civil works)).~~

33 ~~((E.))~~ D. "Clearing" means the cutting, killing, grubbing or ~~((removal))~~ removing
34 of vegetation or other organic ~~((plant))~~ material by physical, mechanical, chemical or any
35 other similar means.

36 ~~((F.))~~ E. "Compaction" ~~((is))~~ means the densification of a fill by mechanical
37 means.

38 ~~((G.))~~ F. "Cutting" ~~((is))~~ means the severing of the main trunk or stem~~((s from~~
39 ~~close to or at the soil surface or at a point up to 25% of the total vegetation height))~~ of
40 woody vegetation at any point.

41 G. "Department" means the department of development and environmental
42 services.

43 H. "Director" means the director ~~((or the authorized agent))~~ of the department of
44 development and environmental services or the director's designee.

45 I. "Earth material" ~~((is))~~ means any rock, natural soil or any combination thereof.

46 J. "Erosion" ~~((is))~~ means the wearing away of the ground surface as the result of
47 the movement of wind, water ~~((and/))~~ or ice.

48 K. "Excavation" ~~((is))~~ means the removal of earth material.

49 L. "Fill" ~~((is))~~ means a deposit of earth material or recycled or reprocessed waste
50 material consisting primarily of organic or earthen materials, or any combination thereof,
51 placed by mechanical means.

52 M. "Geotechnical engineer" means an engineer who is licensed as a professional
53 engineer by the state of Washington and who has at least four years of relevant
54 professional employment.

55 N. "Grade" means the elevation of the ground surface.

56 1. "Existing grade" ~~((is))~~ means the grade ~~((prior to))~~ before grading.

57 2. "Finish grade" means the final grade of the site that conforms to the approved
58 plan as required in K.C.C. 16.82.060.

59 3. "Rough grade" ~~((is))~~ means the stage at which the grade approximately
60 conforms to the approved plan as required in ~~((Section))~~ K.C.C. 16.82.060.

61 ~~((3. "Finish grade" is the final grade of the site which conforms to the approved~~
62 ~~plan as required in Section 16.82.060.))~~

63 ~~((N-))~~ O. "Grading" ~~((is))~~ means any excavating, filling~~((;))~~ or removing of the
64 duff layer, or combination thereof.

65 ~~((O-))~~ P. "Grading and clearing permit" means the permit required by this chapter
66 for grading and clearing activities, including temporary permits.

67 ~~((P-))~~ Q. "Reclamation" means the final grading and ~~((land))~~ restoration of a site
68 to establish the vegetative cover, soil, surface water and groundwater conditions
69 appropriate to accommodate and sustain all permitted uses of the proposed zone
70 appropriate for the site.

71 ~~((Q-))~~ R. "Shorelines" means those lands defined as shorelines in the state
72 Shorelines Management Act of 1971.

73 ~~((R-))~~ S. "Site" ~~((is any))~~ means a single lot or ((parcel of land)) two or more
74 contiguous ((combination thereof where projects covered by this chapter are performed
75 or permitted where a public street or way may intervene)) lots that are under common
76 ownership or documented legal control, used as a single parcel for a development
77 proposal in order to calculate compliance with the standards and regulations of this
78 chapter. For purposes of this definition:

79 1. "Documented legal control" includes fee simple or leasehold rights, or an
80 easement retained at the time of transfer over lands previously owned by the holder of the
81 easement, or any combination thereof, which allows uses associated with the overall
82 development proposal; and

83 2. Lots that are separated only by a public road right-of-way shall be considered
84 to be contiguous.

85 ~~((S.))~~ T. "Slope" ~~((is))~~ means an inclined ground surface, the inclination of which
86 is expressed as a ratio of ~~((vertical distance to))~~ horizontal distance to vertical distance.

87 ~~((T. "Soil engineer" means a person who has earned a degree in geology from an
88 accredited college or university, or a person who has equivalent educational training and
89 has experience as a practicing geologist.))~~

90 U. "Structural engineer" means an engineer who is licensed as a professional
91 engineer in the branch of structural engineering by the state of Washington.

92 V. "Structure" ~~((is))~~ means that which is built or constructed, an edifice or
93 building of any kind~~((;))~~ or any piece of work artificially built up or composed of parts
94 jointed together in some definite manner.

95 ~~((V. "Terrace" is a relatively level step excavated or constructed on the face of a
96 graded slope surface for drainage and maintenance purposes.~~

97 ~~W. "Tidelands" means that portion of the land which is covered and uncovered
98 by the ebb and flood tide.))~~

99 ~~((X.))~~ W. "Tree" ~~((is))~~ means a large woody perennial plant usually with a single
100 main stem or trunk and generally over twelve feet tall at maturity.

101 ~~((Y.))~~ X. "Understory" ~~((is))~~ means the vegetation layer of a forest that includes
102 shrubs, herbs, grasses~~((;))~~ and grasslike plants, but excludes native trees.

103 ~~((Z.))~~ Y. "Vegetation" means any ~~((and all))~~ organic plant life growing at,
104 below~~((;))~~ or above the soil surface.

105 SECTION 2. Ordinance 1488, Section 6, as amended, and K.C.C. 16.82.050 are
106 each amended as follows:

107 **Clearing and grading permit required - exceptions.** ~~((No person shall))~~

108 A. An activity physically altering a site, including clearing or grading activities
109 and forest practices, shall be consistent with and meet the standards in this chapter unless
110 preempted under chapter 76.09 RCW.

111 B. Unless specifically excepted under section 3 of this ordinance, a person shall
112 not do any clearing or grading without first having obtained a clearing and grading permit
113 ((from)) issued by the ((director except for the following:

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

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

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

124 ~~D. Any grading within a publicly owned road right of way;~~

125 ~~E. Clearing or grading by a public agency for the following routine maintenance~~
126 ~~activities:~~

127 ~~1. Roadside ditch cleaning provided the ditch does not contain salmonids;~~

128 ~~2. Pavement maintenance;~~

129 ~~3. Normal grading of gravel shoulders;~~

130 ~~4. Maintenance of culverts;~~

131 5. Maintenance of flood control or other approved surface water management
132 facilities;

133 6. Routine clearing within road right of way;

134 F. Any clearing or grading for roads within a preliminary or finally approved
135 residential plat which has been approved by the director and for which a financial
136 guarantee has been posted;

137 G. Maintenance or reconstruction of the facilities of a common carrier by a rail in
138 interstate commerce within its existing right of way; provided restoration is consistent
139 with K.C.C. 16.82.110; provided that this exception does not apply if the clearing or
140 grading is within a sensitive area as regulated in K.C.C. chapter 21A.24;

141 H. Cemetery graves; provided that this exception does not apply except for
142 routine maintenance if the clearing or grading is within a sensitive area as regulated in
143 K.C.C. chapter 21A.24;

144 I. Clearing or grading within a preliminarily or finally approved residential plat
145 not involving any excavation exceeding five feet in vertical depth or any fill exceeding
146 three feet in vertical depth, regardless of the amount of material to be removed; provided
147 that this exception does not apply if the clearing or grading is within a sensitive area as
148 regulated in K.C.C. chapter 21A.24 or an area placed into tracts or easements pursuant to
149 K.C.C. 21A.12.030. This exception does not apply within an area placed into tracts or
150 easements for a wildlife habitat corridor pursuant to K.C.C. chapter 21A.14 unless the
151 proposed activity is otherwise exempt under K.C.C. chapter 21A.24;

152 J. Excavation less than five feet in vertical depth not involving more than one
153 hundred cubic yards of earth or other material on a single site; provided that the

154 exception does not apply if the clearing or grading is within a sensitive area as regulated
155 in K.C.C. chapter 21A.24 or an area placed into tracts or easements pursuant to K.C.C.
156 21A.12.030. This exception does not apply within an area placed into tracts or easements
157 for a wildlife habitat corridor pursuant to K.C.C. chapter 21A.14 unless the proposed
158 activity is otherwise exempt under K.C.C. chapter 21A.24;

159 K. Fill less than three feet in vertical depth not involving more than one hundred
160 cubic yards of earth or other material on a single site; provided that the exception does
161 not apply if the clearing or grading is within a sensitive area as regulated in K.C.C.
162 chapter 21A.24 or an area placed into tracts or easements pursuant to K.C.C. 21A.12.030.
163 This exception does not apply within an area placed into tracts or easements for a wildlife
164 habitat corridor pursuant to K.C.C. chapter 21A.14 unless the proposed activity is
165 otherwise exempt under K.C.C. chapter 21A.24;

166 L. Minor stream restoration projects for fish habitat enhancement by a public
167 agency, utility or tribe as set out in K.C.C. chapter 21A.24.

168 M. Clearing or grading for construction of livestock manure storage facilities or
169 associated nonpoint source pollution facilities designed to the standards of and approved
170 in a conservation plan by the King County conservation district, and constructed and
171 maintained to those standards or livestock flood sanctuaries constructed and maintained
172 to the standards approved by the Soil Conservation Service and conservation district and
173 the best management practices approved by King County;

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

177 ~~O. Any clearing or grading which has been approved by the director as part of a~~
178 ~~Commercial Site Development permit and for which a financial guarantee has been~~
179 ~~posted;~~

180 ~~P. Clearing outside of sensitive areas and buffers as regulated in K.C.C. chapter~~
181 ~~21A.24 unless the development proposal site is within an area subject to clearing~~
182 ~~restrictions contained in: K.C.C. 16.82.150, wildlife habitat corridors pursuant to K.C.C.~~
183 ~~chapter 21A.14, critical drainage areas established by administrative rule or property-~~
184 ~~specific development standards pursuant to K.C.C. chapter 21A.38;~~

185 ~~Q. Within sensitive areas, as regulated in K.C.C. chapter 21A.24, the following~~
186 ~~activities are exempt from the clearing requirements of this chapter and no permit shall be~~
187 ~~required:~~

188 ~~1. Normal and routine maintenance of existing lawns and landscaping subject to~~
189 ~~the limitations on the use of pesticides in sensitive areas as set out in K.C.C. chapter~~
190 ~~21A.24.~~

191 ~~2. Permitted agricultural uses; provided the clearing is consistent with the~~
192 ~~agricultural exemptions in sensitive areas as regulated in K.C.C. chapter 21A.24.~~

193 ~~3. Emergency tree removal to prevent imminent danger or hazard to persons or~~
194 ~~property.~~

195 ~~4. Normal and routine horticultural activities associated with commercial~~
196 ~~orchards, nurseries, or Christmas tree farms in existence on November 27, 1990, subject~~
197 ~~to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. chapter~~
198 ~~21A.24. This does not include clearing or grading in order to develop or expand such~~
199 ~~activities.~~

200 5. ~~Normal and routine maintenance of existing public parks trail easements~~
201 ~~dedicated in accordance with K.C.C. 21A.14.360 through 21A.14.390, and private and~~
202 ~~public golf courses. This does not include clearing or grading in order to develop or~~
203 ~~expand such activities in sensitive areas. For the purpose of this subsection, a park is~~
204 ~~defined as: any real property managed for public use which has been previously~~
205 ~~maintained as a park or has been developed as a park pursuant to a properly issued~~
206 ~~permit.~~

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

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

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

216 a. ~~The parcel is enrolled under the current use taxation program as timber land~~
217 ~~pursuant to chapter 84.34 RCW or as forest land pursuant to chapter 84.33 RCW;~~

218 b. ~~A long term management plan is approved for the parcel by the Washington~~
219 ~~Department of Natural Resources;~~

220 c. ~~The parcel is located within areas designated rural or agricultural by the~~
221 ~~King County Comprehensive Plan or applicable community plan;~~

222 d. ~~The parcel is located outside of expansion areas for incorporated rural cities~~

223 or rural towns and neighborhoods as designated in King County Comprehensive Plan or
224 applicable community plans;

225 e. ~~The parcel equals or exceeds five acres in size;~~

226 R. ~~Clearing within seismic hazard area, except on slopes greater than fifteen~~
227 ~~percent and subject to clearing restrictions contained in: K.C.C. 16.82.150, wildlife~~
228 ~~habitat corridors pursuant to K.C.C. chapter 21A.14, critical drainage areas established by~~
229 ~~administrative rule or property specific development standards pursuant to K.C.C.~~
230 ~~chapter 21A.38; and provided the site contains no other sensitive area features; and~~

231 S. ~~Clearing within coal mine hazard area, subject to clearing restrictions~~
232 ~~contained in: K.C.C. 16.82.150, wildlife habitat corridors pursuant to K.C.C. chapter~~
233 ~~21A.14, critical drainage areas established by administrative rule or property specific~~
234 ~~development standards pursuant to K.C.C. chapter 21A.38; and provided the site contains~~
235 ~~no other sensitive areas features.~~

236 T. ~~Normal and routine maintenance of trail easements dedicated in accordance~~
237 ~~with K.C.C. 21A.14.360 through 21A.14.390)) department or having all clearing and~~
238 ~~grading reviewed and approved by the department as part of another development~~
239 ~~proposal. A separate permit shall be required for each site unless the activity is approved~~
240 ~~to occur on multiple sites under a programmatic permit issued in accordance with section~~
241 ~~4 of this ordinance.~~

242 C. The permits or approvals issued under this chapter shall be required regardless
243 of permits or approvals issued by the county or any other governmental agency and do not
244 preclude the requirement to obtain all other permits or approvals or to comply with the
245 operating standards in sections 9 through 12 of this ordinance. Exceptions from permits

246 under this chapter do not preclude the requirement to obtain other permits or approvals or
 247 to comply with the operating standards in sections 9 through 12 of this ordinance.

248 NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 16.82 a
 249 new section to read as follows:

250 **Clearing and grading permit exceptions.**

251 A. For the purposes of this section, the definitions in K.C.C. chapter 21A.06
 252 apply to the activities described in this section.

253 B. The following activities are excepted from the requirement of obtaining a
 254 clearing or grading permit before undertaking forest practices or clearing or grading
 255 activities, as long as those activities conducted in critical areas are in compliance with the
 256 standards in this section and in Ordinance 15051, Section 132 (allowed alterations). In
 257 cases where an activity may be included in more than one activity category, the most-
 258 specific description of the activity shall govern whether a permit is required. For
 259 activities involving more than one critical area, compliance with the conditions applicable
 260 to each area is required. Clearing and grading permits are required when a cell in this
 261 table is empty and for activities not listed on the table.

| KEY | O | C | E | F | C | L | S | V | S | C | W | A | W | | | | | | | | | |
|------------------------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| "NP" in a cell means | U | A | O | R | L | H | M | A | A | E | O | T | H | R | R | E | B | Q | A | I | A | |
| no permit required | T | R | A | O | O | A | I | N | N | I | L | E | A | I | E | T | U | U | N | L | N | |
| if conditions are met. | E | L | S | O | N | G | D | D | S | C | E | Z | T | C | L | F | A | D | D | D | | |
| A number in a cell | O | A | | I | D | N | R | S | | M | A | P | A | I | H | A | F | T | | L | | |
| means the | F | M | O | | E | A | L | B | I | N | | R | C | A | N | E | I | B | I | N | | |
| numbered condition | A | I | N | H | L | T | I | U | C | I | S | D | A | R | D | R | C | U | F | E | | |
| in subsection C. | C | N | N | A | | I | D | F | | C | L | L | G | S | | | | | F | E | T | |
| applies. | R | D | E | H | Z | | O | E | F | H | | O | & | E | | | | | A | F | W | |
| "Wildlife area | I | | A | A | | N | E | A | | H | P | A | A | | | | | | R | E | A | O |
| and network" column | | | | | | | | | | | | | | | | | | | | | | |

Ordinance 15053

| | | | | | | | | | | | | | | |
|--|----------------------------|---------------------------------|-----------------------|------------------|----------|----------|----------------------------|---------------------------------|-----------------------|---------------------------------|----------------------------|------------------|------------------|------------------|
| applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network | T I C A L R | B U F F E R D | H A Z A D | Z A R D | R D | | H A Z A R D | R A Z A D R D | A Z A R D | E U F F E R R | Q U I F F A | A U R D | N E R R | R E K A |
| ACTIVITY | | | | | | | | | | | | | | |
| Grading and Clearing | | | | | | | | | | | | | | |
| Grading | NP 1, 2 | NP 1, 2 | NP 1, 2 | | | | NP 1, 2 | NP 1, 2 | | NP 1, 2 | | | | |
| Clearing | NP 3 NP 24 | NP 3 | NP 3 | NP 3 | | | NP 3 | NP 3 | | NP 3 | NP 4 NP 23 | NP 4 NP 23 | | |
| Covering of garbage | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 | NP 5 |
| Emergency tree removal | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 | NP 6 |
| Removal of noxious weeds | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP |
| Removal of invasive vegetation | NP 7 | NP 7 | NP 7 | NP 7 | NP 7 | | NP 7 | NP 7 | | NP 7 | NP 8 | NP 8 | NP 8 | NP 8 |
| Non conversion Class I, II, III, IV-S forest practice | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 | NP 9 |
| Emergency action | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 | NP 10 |
| Roads | | | | | | | | | | | | | | |
| Grading within the roadway | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | | | | NP 11 |
| Clearing within the roadway | NP | NP 12 | NP 12 | NP 12 | NP 12 | NP 12 | NP 12 | NP 12 | NP 12 | NP 12 | | NP 12 | NP 12 | NP 12 |
| Maintenance of driveway or private access road | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 |

