1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

# KING COUNTY

## Signature Report

**October 29, 2004**

**Ordinance 15053**

**Proposed No.** 2004-0124.3 **Sponsors** Constantine

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 1488, Section 5, as amended, and K.C.C. 16.82.020 are each hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~A. 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;~~

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

~~C. 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.~~

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

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

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

~~2. Pavement maintenance;~~

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

~~4. Maintenance of culverts;~~

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

~~6. Routine clearing within road right-of-way;~~

~~F. 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 financial guarantee has been posted;~~

~~G. 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 K.C.C. 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 21A.24;~~

~~H. 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 21A.24;~~

~~I. 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 21A.24 or an area placed into tracts or easements pursuant to K.C.C. 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. chapter 21A.14 unless the proposed activity is otherwise exempt under K.C.C. chapter 21A.24;~~

~~J. 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 21A.24 or an area placed into tracts or easements pursuant to K.C.C. 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. chapter 21A.14 unless the proposed activity is otherwise exempt under K.C.C. chapter 21A.24;~~

~~K. 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 21A.24 or an area placed into tracts or easements pursuant to K.C.C. 21A.12.030. This exception does not apply within an area placed into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. chapter 21A.14 unless the proposed activity is otherwise exempt under K.C.C. chapter 21A.24;~~

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

~~M. 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;~~

~~N. 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 chapter 76.09 RCW and chapter 222 WAC;~~

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

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

~~Q. Within sensitive areas, as regulated in K.C.C. chapter 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 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 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 November 27, 1990, subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. chapter 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 trail easements dedicated in accordance with K.C.C. 21A.14.360 through 21A.14.390, and private and public golf courses. This does not include clearing or grading in order to develop or expand such activities in sensitive areas. For the purpose of this subsection, a park is defined as: any real property managed for public use which has been previously maintained as a park or has been developed as a park pursuant to a properly issued permit.~~

~~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 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 21A.24.~~

~~8. Class 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 chapter 84.34 RCW or as forest land pursuant to chapter 84.33 RCW;~~

~~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 rural cities~~

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

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

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

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

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

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

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

<u>NEW SECTION. SECTION 3.</u> There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Clearing and grading permit exceptions.**

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

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

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

| applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network | TBI CAL FER | HAZ ARD | ZAR D | RD | | HR AZ AR D | ZA RD | AZ AR D | EB UF FE R | QA UI FE R | ND | ER A | RR EK 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 |
| 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 |
| Removal of noxious weeds | 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 |
| 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 |
| 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 |
| | | | | | | | | | | | | | |
| **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 | 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 |

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| Maintenance of bridge or culvert | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 | NP 13, 14, 15 |
| Construction of farm field access drive | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 |
| Maintenance of farm field access drive | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 | NP 17 |
| | | | | | | | | | | | | | |
| **Utilities** | | | | | | | | | | | | | |
| Construction or maintenance of utility corridors or facility within the right-of-way | NP 18 | NP 19 | NP 19 | NP 19 | NP 19 | NP 19 | NP 19 | NP 19 | NP 19 | NP 18 | NP 19 | NP 19 | NP 19 |
| Construction or maintenance of utility corridors or facility outside of the right-of-way | NP 1, 2, 3 | | NP 1, 2, 3 | | | | NP 1, 2, 3 | NP 1, 2, 3 | | NP 1, 2, 3 | | | |
| Maintenance of existing surface water conveyance system | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 |
| Maintenance of existing surface water flow control and surface water quality treatment facility | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 | NP 11 |
| Maintenance or repair of flood protection facility | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 | NP 20 |
| Maintenance or repair of existing instream structure | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP 11 | NP 11 | NP |
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| **Recreation areas** | | | | | | | | | | | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Maintenance of outdoor public park facility, trail or publicly improved recreation area | 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 |
| | | | | | | | | | | | | | |
| **Habitat and science projects** | | | | | | | | | | | | | |
| Habitat restoration or enhancement project | NP | NP 21 | NP 21 | NP 21 | NP 21 | NP 21 | NP 21 | NP 21 | NP 21 | NP | NP 21 | NP 21 | NP 21 |
| Drilling and testing for critical areas report | NP 1, 2 | NP 1, 2 | NP 1, 2 | NP 22 | NP 22 | NP 22 | NP 1, 2 | NP 1, 2 | NP 22 | NP 1, 2 | NP 22 | NP 22 | NP 22 |
| | | | | | | | | | | | | | |
| **Agriculture** | | | | | | | | | | | | | |
| Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP |
| Grazing livestock | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP |
| Construction and maintence of livestock manure storage facility | NP 16 | NP 16 | NP 16 | NP 16 | NP 16 | | NP 16 | NP 16 | | NP 16 | NP 16 | NP 16 | |
| Maintenance of agricultural drainage | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 |
| Maintenance of farm pond, fish pond, livestock watering pond | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 | NP 15 |
| | | | | | | | | | | | | | |
| **Other** | | | | | | | | | | | | | |
| Excavation of cemetery grave in established and approved cemetery | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP | NP |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Maintenance of cemetery grave | NP | NP 13 | NP 13 | NP | NP 13 | NP 13 | NP | NP | NP 13 | NP | NP 13 | NP 13 | NP 13 |
| Maintenance of lawn, landscaping and gardening for personal consumption | NP | NP 13 | NP 13 | NP | NP 13 | NP 13 | NP | NP | NP 13 | NP | NP 13 | NP 13 | NP 13 |
| Maintenance of golf course | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 | NP | NP | NP 13 | NP 13 | NP 13 | NP 13 | NP 13 |

C. The following conditions apply:

1. Excavation less than five feet in vertical depth, or fill less than three feet in vertical depth that, cumulatively over time, does not involve more than one hundred cubic yards on a single site.

2. Grading that produces less than two thousand square feet of new impervious surface on a single site added after the effective date of this section. For purposes of this subsection C.2., "new impervious surface" is defined in K.C.C. 9.04.020.

3. Cumulative clearing of less than seven thousand square feet including, but not limited to, collection of firewood and removal of vegetation for fire safety. This exception shall not apply to development proposals:

a. regulated as a Class IV forest practice under chapter 76.09 RCW;

b. in a critical drainage areas established by administrative rules;

c. subject to clearing limits included in property-specific development standards and special district overlays under K.C.C. chapter 21A.38; or

d. subject to urban growth area significant tree retention standards under section 17 of this ordinance and K.C.C. 21A.38.230.

4. Cutting firewood for personal use in accordance with a forest management plan or rural stewardship plan approved under K.C.C. Title 21A. For the purpose of this condition, personal use shall not include the sale or other commercial use of the firewood.

5. Limited to material at any solid waste facility operated by King County.

6. Allowed to prevent imminent danger to persons or structures.

7. Cumulative clearing of less than seven thousand square feet annually or conducted in accordance with an approved farm management plan, forest management plan or rural stewardship plan.

8. Cumulative clearing of less than seven thousand square feet and either:

a. conducted in accordance with a farm management plan, forest management plan or a rural stewardship plan; or

b. limited to removal with hand labor.

9. Class I, II, III or IV forest practices as defined in chapter 76.09 RCW and Title 222 WAC.

10. If done in compliance with section 6 of this ordinance

11. Only when conducted by or at the direction of a government agency in accordance with the regional road maintenance guidelines and K.C.C. 9.04.050 and is not within or does not directly discharge to an aquatic area or wetland.

12. Limited to clearing conducted by or at the direction of a government agency or by a private utility that does not involve:

a. slope stabilization or vegetation removal on slopes; or

b. ditches that are used by salmonids.

13. In conjunction with normal and routine maintenance activities, if:

a. there is no alteration of a ditch or aquatic area that is used by salmonids:

b. the structure, condition or site maintained was constructed or created in accordance with law; and

c. the maintenance does not expand the roadway, lawn, landscaping, ditch, culvert or other improved area being maintained.

14. If a culvert is used by salmonids or conveys water used by salmonids and there is no adopted farm management plan, the maintenance is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the area within three feet of the culvert where the maintenance disturbed or damaged the bank or bed and does not involve the excavation of a new sediment trap adjacent to the inlet.

15. If used by salmonids, only in compliance with an adopted farm plan in accordance with K.C.C. Title 21A and only if the maintenance activity is inspected by:

a. The King Conservation District;

b. King County department of natural resources and parks;

c. King County department of development and environmental services; or

d. Washington state Department of Fish and Wildlife.

16. Only if consistent with an adopted farm plan in accordance with K.C.C. Title 21A.

17. Only if:

a. consistent with a farm plan in accordance with K.C.C. Title 21A; or

b. conducted in accordance with best management practices in the Natural Resource Conservation Service Field Office Technical Guide.

18. In accordance with a franchise permit.

19. Only within the roadway in accordance with a franchise permit.

20. Allowed if:

a. conducted by a public agency;

b. there is no linear extension of the facility from the existing conditions;

c. there is no waterward extension of the facility from the existing conditions;

d. done in accordance with the Regional Road Maintenance Guidelines;

e. done in accordance with the adopted King County Flood Hazard Reduction Plan and Washington state Integrated Stream Protection Guidelines; and

f. monitoring is conducted for three years following maintenance or repair and an annual report is submitted to the department.

21. Only if:

a. the activity is not part of a mitigation plan associated with another development proposal or is not corrective action associated with a violation; and

b. the activity is sponsored or co-sponsored by a public agency that has natural resource management as its primary function or a federally-recognized tribe, and the activity is limited to:

(1) revegetation of the critical area and its buffer with native vegetation or the removal of noxious weeds or invasive vegetation;

(2) placement of weirs, log controls, spawning gravel, woody debris and other specific salmonid habitat improvements;

(3) hand labor except:

(a) the use of riding mower or light mechanical cultivating equipment and herbicides or biological control methods when prescribed by the King County noxious weed control board for the removal of noxious weeds or invasive vegetation; or

(b) the use of helicopters or cranes if they have no contact with or otherwise disturb the critical area or its buffer.

22. If done with hand equipment and does not involve any clearing.

23. Limited to removal of vegetation for forest fire prevention purposes in accordance with best management practices approved by the King County fire marshal.

24. Limited to the removal of downed trees.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Programmatic permits.** The department may issue programmatic clearing and grading permits as follows:

A. For any clearing or grading, excluding mineral extraction:

1. That is repetitive and part of a maintenance program or other similar program;

2. That has the same or similar identifiable impacts, as determined by the department, each time the activity is repeated at all sites covered by the permit; and

3. For which standard permit conditions suitable to any and all sites can be developed and implemented;

B. For a forest practice conducted under a county-approved forest management plan;

C. The department shall uniformly apply conditions to each activity authorized under the programmatic permit at all locations covered by the permit. The department may require that the applicant develop and propose such uniformly applicable permit conditions as part of the permit application and may approve, modify or reject any of the applicant's proposed conditions. The department shall not issue a programmatic permit until applicable permit conditions are developed and approved;

D. Activities authorized under a programmatic clearing and grading permit shall be subject to inspection by the department. The applicant may be required to notify the department each time work subject to the permit is undertaken for the department to schedule inspections. In addition, the department may require the applicant to submit periodic status reports. The frequency, method and contents of the notifications and reports shall be specified as conditions to the programmatic permit; and

E. The department may require permit revision, impose new permit conditions or otherwise modify the programmatic permit or withdraw the permit and require that the applicant apply for a standard clearing and grading permit, if the department determines that the:

1. Programmatic clearing and grading permit or activities authorized under the permit no longer comply with law;

2. Programmatic clearing and grading permit does not provide adequate regulation of the activity;

3. Permit conditions or the manner in which the conditions are implemented are not adequate to protect against the impacts resulting from the activity; or

4. Site requires site-specific regulation.

SECTION 5. Ordinance 1488, Section 7, as amended, and K.C.C. 16.82.060 are each hereby amended to read as follows:

**Permit application requirements.** ((~~Except as exempted in K.C.C. 16.82.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.~~))

A. ((~~Application.~~)) To obtain a permit, the applicant shall first file an application ((~~therefor~~)) in writing on a form ((~~furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter and the permit process and procedures chapter of K.C.C. Title 20.~~) prescribed by the department that, ((~~I~~))in addition to the requirements of K.C.C. 20.20.040, ((~~every application~~)) shall include, at a minimum:

1. ((~~Identify and describe the work to be covered by the permit for which application is made;~~

~~2. Describe the land on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed site;~~

~~3. Identify and describe those sensitive areas as defined in K.C.C. 21A.24 on or adjacent to the site;~~

~~4. Indicate the estimated quantities of work involved;~~

~~5. Identify any clearing restrictions contained in K.C.C. 16.82.150 wildlife habitat corridors pursuant to K.C.C. chapter 21A.14, critical drainage areas established by~~

~~administrative rule or property-specific development standards pursuant to K.C.C. chapter 21A.38;~~

~~6. Be accompanied by~~)) Identification and description of the work to be covered by the permit for which application is made;

2. An estimate of the quantities of work involved by volume and the total area cleared or graded as a percentage of the total site area;

3. An identification and description of:

a. all critical areas on the site or visible from the boundaries of the site; and

b. all clearing restrictions applicable to the site in K.C.C. 16.82.150, critical drainage areas requirements established by administrative rules or property-specific development standards and special district overlays under K.C.C. chapter 21A.38;

4. Location of any open space tracts or conservation easements if required under:

a. section 15 of this ordinance;

b. K.C.C. chapter 21A.14;

c. K.C.C. chapter 21A.37;

d. critical drainage areas; or

e. property-specific development standards or special district overlays under K.C.C. chapter 21A.38;

5. ((~~p~~))Plans and specifications ((~~as required in subsections B. and C.~~

~~7. Designate who the applicant is, on a form prescribed by the department, except that the application may be accepted and reviewed without meeting this requirement when a public agency or public or private utility is applying for a permit for property on which~~

~~the agency or utility does not own an easement or right-of-way and the following three requirements are met:~~

~~a. the name of the agency or public or private utility is shown on the application as the applicant;~~

~~b. the agency or public or private utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and~~

~~c. the form designating the applicant is submitted to the department prior to permit issuance; and~~

~~8. Give such other information as may be required by the director.~~)) that, at a minimum, include:

a. property boundaries, easements and setbacks;

b. a 1:2000 scale vicinity map with a north arrow;

c. horizontal and vertical scale;

d. size and location of existing improvements on and within fifty feet of the project, indicating which will remain and which will be removed;

e. location of all proposed cleared areas;

f. existing and proposed contours at maximum five foot intervals, and extending for one hundred feet beyond the project edge;

g. at least two cross sections, one in each direction, showing existing and proposed contours and horizontal and vertical scales; and

h. a proposed erosion and sediment control plan as required by section 9 of this ordinance.

B. ((~~Plans and specifications. When required by the director, each application for a grading permit shall be accompanied by six sets of plans and specifications and other supporting data as may be required. The plans and specifications shall be prepared and signed by a civil engineer or landscape architect registered to practice in the state of Washington when required by the director; provided, the director may require additional studies prepared by a qualified soils specialist. If the plans and specifications are returned as a result of permit denial or any other reason, they shall be returned to the applicant.~~

~~C. Information on plans and specifications. Plans shall be drawn to an engineer's scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following minimum information:~~)) Materials in addition to those required in subsection A. of this section may be necessary for the department to complete the review. The following materials shall be submitted when required by the department:

1. ((~~General vicinity of the proposed site;~~

~~2. Property limits and accurate contours of existing ground and details of terrain and area drainage;~~

~~3. L~~)) Higher accuracy contours and more details of existing terrain and area drainage, ((~~L~~))limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction;

((~~4. Location of all proposed cleared areas;~~

~~5. Location of any open space tracts or conservation easements if required pursuant to:~~

~~a. K.C.C. 16.82.150,~~

~~b. K.C.C. chapter 21A.14,~~

~~c. critical drainage areas, or~~

~~d. property-specific development standards pursuant to K.C.C. chapter 21A.38;~~

~~6. Calculations of the total proposed area cleared on site as a percentage of the total site area;~~

~~7. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff of the area served by any drains;~~

~~8. A determination of whether drainage review applies to the project pursuant to K.C.C. chapter 9.04 and,~~)) 2. ((~~i~~))If applicable, all drainage plans and documentation consistent with the King County Surface Water Design Manual ((~~requirements~~));

((~~9. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within fifty feet of the property or which may be affected by the proposed grading operations;~~

~~10. Landscape and rehabilitation~~)) 3. Restoration plan ((~~as~~)) if required ((~~by~~)) under K.C.C. 16.82.110; and

((~~11. Other information as may be required by the director~~)) 4. Studies prepared by qualified specialists, as necessary to substantiate any submitted materials and compliance with this chapter or other law, particularly((~~; and~~

~~12. If the~~)) if clearing or grading is proposed to take place in or adjacent to a ((~~sensitive~~)) critical area((~~ as regulated in K.C.C. chapter 21A.24, provide information as required by that chapter~~)).

((~~D. Granting of permits.~~

~~1. The director shall determine if the proposed grading will adversely affect the character of the site for present lawful uses or with the future development of the site and adjacent properties for building or other purposes as indicated by the comprehensive plan, the shoreline master program, and the zoning code.~~

~~2. After an application has been filed and reviewed, the director shall also ascertain whether such grading work complies with the other provisions of this chapter. If the application and plans so comply, or if they are corrected or amended so as to comply, the director may issue to the applicant a grading permit. A grading permit shall be valid for the number of days stated in the permit but in no case shall the period be more than two years; provided, that when operating conditions have been met, the permit may be renewed every two years, or less if a shorter approval and/or renewal period is specified by the director.~~

~~3. No grading permit shall be issued until approved by federal, state and local agencies having jurisdiction by laws or regulations.~~

~~4. Upon approval of the application and issuance of the grading permit, no work shall be done that is not provided for in the permit. The director is authorized to inspect~~

~~the premises at any reasonable time to determine if the work is in accordance with the permit application and plans.~~

~~5. The permits from the director shall be required regardless of any permits issued by any other department of county government or any other governmental agency who may be interested in certain aspects of the proposed work. Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining the permit, the violator shall be subject to such civil penalties as provided in K.C.C. chapter 23.04. However, the payment of such civil penalties shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed thereon.~~))

C. Plans and specifications shall be prepared and signed by a civil engineer if they are prepared in conjunction with the proposed construction or placement of a structure, include permanent drainage facilities or, if required by the department, propose alterations in steep slope or landslide hazard areas.

D. The department shall determine the number of copies of the required plans, specifications and supporting materials necessary to expedite review and may require submittal of materials in alternative formats.

E. The director may waive specific submittal requirements if they are determined to be unnecessary for the acceptance and subsequent review of an application.

F. Any plans, specifications or supporting materials that are returned as a result of permit denial or any other reason shall be returned to the applicant.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Emergency actions.** Unless otherwise specifically provided in this chapter, an action that does not comply with this chapter and taken in response to an emergency will not be considered a violation if the following steps are taken:

A. The department is notified before the activity is undertaken, or, if prior notification is not possible, not later than forty-eight hours after the action. Within forty-eight hours of receiving the emergency notification, excluding weekends and holidays, the department shall schedule a preapplication meeting to occur within the following thirty days. Tribal notice, when required by K.C.C. 21A.01.025, shall also be provided;

B. The department shall confirms in a written decision, that the activity was an emergency action, including that:

1. There was imminent danger or risk to the public health, safety and welfare or to persons or property;

2. The emergency was unanticipated and not caused by the inaction or action of the applicant;

3. Immediate emergency action was necessary; and

4. The emergency action was in direct response to and did not exceed the dangers and risks posed by the emergency;

C. At the preapplication meeting, the department shall establish the date by which all required permit applications and other materials or information, including any critical area reports, shall be submitted;

D. Corrective action, as determined by the department, shall be completed in compliance with the corrective action requirements of K.C.C. chapter 21A.24 for any

alterations made during the emergency that are not in compliance with this chapter or other law; and

E. Mitigation, as determined by the department, shall be completed in compliance with the mitigation requirements of K.C.C. chapter 21A.24.

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Permit review and final decision.**

A. The department shall review permit applications and may impose conditions on permit approval as needed to mitigate identified project impacts and shall deny applications that are inconsistent with this chapter and any other applicable regulations. For permit applications that are within a shoreline of the state or require a shoreline management substantial development permit, the conditions necessary to comply with the King County shoreline management program, including but not limited to, the shoreline management substantial development permit conditions, shall be incorporated into the conditions of any permit issued under this chapter and shall be subject to the inspection and enforcement procedures authorized under this chapter and K.C.C. Title 23.

B. Consistent with permit process and procedures provisions of K.C.C. chapter 20.20, including public notice procedures, the department shall review and provide a final decision to approve, condition or deny permits based on compliance with this title and any other applicable regulations.

C. Any decision to approve, condition or deny a development proposal based on this title and any other applicable regulations may be appealed according to and as part of

the appeal procedure for the permit or approval involved as provided in K.C.C. 20.20.020.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Permit duration and renewal.**

A. A clearing and grading permit shall be valid for the number of days stated in the permit but the period shall not be more than two years, except in the case of a programmatic permit which may have a duration of up to five years. A permit shall not remain valid after the permitted activity has been completed, the site has been permanently stabilized and all required mitigation or restoration has been completed, monitored and accepted.

B. If the department determines that operating conditions and performance standards have been met and that the permit conditions are adequate to protect against the impacts resulting from the permitted activity, the permit may be renewed in two-year increments or five-year increments for a programmatic permit, or less if a shorter approval or renewal period is specified by the department. The additional requirements applicable to renewal of programmatic permits in section 4 of this ordinance also apply.

C. If the department determines that activities regulated under a permit issued for mineral extraction in accordance with K.C.C. chapter 21A.22 does not comply with permit conditions or operating standards during a renewal review, it may conduct a periodic review.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Erosion and sediment control standards – seasonal limitation period.**

A. A person who clears, grades or otherwise disturbs a site shall provide erosion and sediment control that prevents, to the maximum extent practicable, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual adopted in accordance with K.C.C. chapter 9.04.

B. From October 1 through April 30, which is the seasonal limitation period, clearing and grading shall only be permitted if shown to the satisfaction of the director that runoff leaving the construction site will comply with the erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual adopted in accordance with K.C.C. chapter 9.04 through a combination of the following:

1. Site conditions including vegetative coverage, slope, soil type and proximity to receiving waters;

2. Proposed limitations on activities and the extent of disturbed areas; and

3. Proposed erosion and sedimentation control measures.

C. Based on the information provided under subsection A. of this section, the director may expand or restrict the seasonal limitations on site disturbance. The director shall set forth in writing the basis for approval or denial of clearing or grading during the seasonal limitation period.

D. During the seasonal limitation period, clearing and grading will be allowed only if there is installation and maintenance of an erosion and sedimentation control plan approved by the department that defines any limits on clearing and grading or specific erosion and sediment control measures required during the seasonal limitation period. The department may require or approve alternate best management practices.

E. If, during the course of construction activity or soil disturbance during the seasonal limitation period, silt-laden runoff violating standards in the King County Surface Water Design Manual leaves the construction site or if clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained, a citation and stop work order shall be issued in accordance with K.C.C. chapters 23.20 and 23.28, respectively.

F. If the erosion and sediment control problem defined in the citation or stop work order is not adequately repaired within twenty-four hours of issuance, then a notice and order may be issued in accordance with K.C.C. chapter 23.24 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 property owner to discontinue any further clearing or grading, except for erosion and sediment control maintenance and repair, until the following April 30.

G. The following activities are exempt from the seasonal limitations of this section:

1. Routine maintenance and necessary repair of erosion and sediment control facilities;

2. Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in removal of the vegetative cover to the soil;

3. Activities where there is one hundred percent infiltration of surface water runoff within the site in approved and installed erosion and sedimentation control facilities;

4. Typical landscaping activities of existing single family residences that do not require a permit;

5. Class I, II III and IV special forest practices in accordance with chapter 76.09 RCW;

6. Mineral extraction activities on sites with approved permits; and

7. Response to emergencies that threaten the public health, safety or welfare, consistent with section 6 of this ordinance.

SECTION 10. Ordinance 1488, Section 11, as amended, and K.C.C. 16.82.100 are each hereby amended to read as follows:

**((~~Operating conditions and~~)) Grading standards ((~~of performance~~)).**

((~~A. Any~~)) A person conducting a grading activity ((~~that will clear, grade or otherwise disturb the site, whether requiring a clearing or grading permit or not,~~)) shall ((~~provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in the King County erosion and sediment control standards. Activities performed as Class I,~~

~~II, III or IV Special forest practices shall apply erosion and sediment controls in accordance with chapter 76.09 RCW and Title 222 WAC.~~

~~B.~~)) comply with the following standards:

A. Cuts and fills shall conform to the following provisions unless otherwise approved by the ((~~director.~~)) department:

1. ((~~Slope. No~~)) A slope of cut and fill surfaces shall not be steeper than is safe for both the intended use and soil type and shall not exceed two horizontal to one vertical((~~, unless otherwise approved by the director.~~));

2. ((~~Erosion control.~~)) All disturbed areas including faces of cuts and fill slopes shall be prepared and maintained to control erosion in compliance with ((~~subsection A.~~)) section 9 of this ordinance;

3. ((~~Preparation of ground.~~)) The ground surface shall be prepared to receive fill by removing unsuitable material such as concrete slabs, tree stumps, brush, ((~~and~~)) car bodies and other materials as determined by the department((~~.~~));

4. ((~~Fill material.~~)) Except in an approved sanitary landfill or as part of engineered fill, ((~~only earth materials which have no rock or similar irreducible material with a maximum dimension greater than eighteen inches shall be used.~~)) fill material shall meet the following standards:

a. Fill material shall consist of earthen material, organic material or recycled or reprocessed materials that are not categorized as dangerous waste under Title 173 WAC and that were produced originally from an earthen or organic material;

b. Fill material shall have a maximum dimension of less than twelve inches;

c. Recycled concrete shall be free of rebar and other materials that may pose a safety or health hazard;

d. Recycled asphalt shall not be used in areas subject to exposure to seasonal or continual perched ground water, in a critical aquifer recharge area or over a sole-source aquifer; and

e. Recycled materials that have not been reprocessed to meet the definition of common borrow shall be intermixed with well-graded, natural, earthen materials in sufficient quantities and of a suitable size to assure filling of all voids and to assure that the fill can be compacted to ninety percent of the maximum density;

5. ((~~Drainage.~~)) Provisions shall be made to:

a. prevent any surface water or seepage from damaging the cut face of any excavation((s)) or the sloping face of a fill; and

b. ((~~carry~~)) address any surface water((s)) that ((~~are~~)) is or might be concentrated as a result of a fill or excavation to a natural watercourse((~~, or by other means approved by the department of natural resources and parks~~)) in accordance with K.C.C. chapter 9.04 and the Surface Water Design Manual;

6. ((~~Bench/terrace.~~)) Benches((~~, if required, at least ten feet in width shall be back-sloped and shall be established at not more than twenty-five feet vertical intervals to control surface drainage and debris.~~)) and any ((~~S~~))swales or ditches on benches shall ((~~have a maximum gradient of five percent~~)) be designed in accordance with the King County Surface Water Design Manual((~~.~~));

7. ((~~Access roads—maintenance.~~)) The tops and the toes of cut and fill slopes shall be set back from property boundaries and structures as far as necessary:

a. for the safety of the adjacent properties;

b. for adequacy of foundation support;

c. to prevent damage resulting from water runoff or erosion of the slopes; and

d. to preserve the permitted uses on the adjacent properties; and

8. All fill shall meet the following:

a. fill greater than three feet in depth shall be engineered and compacted to accommodate the proposed use unless a notice on title documenting the location of the fill is recorded and the fill is sufficiently stable to not pose a hazard; and

b. any fill in the floodplain shall, from the face of the fill to a horizontal distance of six feet back from the face, meet the compaction requirements for pond embankments in the Surface Water Design Manual, unless determined by the department that inundation is not a threat to fill integrity or that other requirements necessary for compliance with the King County Guidelines for Bank Stabilization (Surface Water Management 1993) are met.

B. Access roads to grading sites shall be:

1. ((~~m~~))Maintained and located to the satisfaction of the King County department of transportation to minimize problems of dust, mud and traffic circulation((~~.~~));

((~~8. Access roads - gate. Access roads to grading sites shall be~~)) 2. Located where the permanent access to the site is proposed in the permit application to minimize site disturbance; and

3. ((~~e~~))Controlled by a gate when required by the ((~~director~~)) department.

((~~9. Warning signs.~~)) C. Signs warning of hazardous conditions, if ((~~such~~)) determined by the department to exist on a particular site, shall be affixed at locations as required by the ((~~director~~)) department.

((~~10. Fencing. Fencing,~~)) D. ((~~w~~))Where required by the ((~~director~~)) department, to protect life, limb and property, fencing shall be installed with lockable gates ((~~which~~)) that must be closed and locked when not working on the site. The fence ((~~must~~)) shall be no less than ((~~five~~)) six feet in height and the fence material shall have no ((~~horizontal~~)) opening larger than two inches.

((~~11. Setbacks. The tops and the toes of cut and fill slopes shall be set back from property boundaries as far as necessary for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion of the slopes.~~

~~The tops and the toes of cut and fill slopes shall be set back from structures as far as is necessary for adequacy of foundation support and to prevent damage as a result of water runoff or erosion of the slopes.~~

~~Slopes and setbacks shall be determined by the director.~~

~~12. Excavations to water-producing depth. All excavations must either be made to a water-producing depth or grade to permit natural drainage. The excavations made to a water-producing depth shall be reclaimed in the following manner:~~

~~a. the depth of the excavations must not be less than two feet measured below the low-water mark.~~

~~b. all banks shall be sloped to the water line no steeper than three feet horizontal to one foot vertical.~~

~~c. all banks shall be sloped from the low-water line into the pond or lake with a minimum slope of three feet horizontal to one foot vertical to a distance of at least twenty-five feet.~~

~~d. in no event shall the term water-producing depth as herein used be construed to allow stagnant or standing water to collect or remain in the excavation.~~

~~e. the intent of this provision is to allow reclamation of the land which will result in the establishment of a lake of sufficient area and depth of water to be useful for residential or recreational purposes.~~

~~13. Hours of operation. Hours of operation, unless otherwise authorized by the director, shall be between seven a.m. and seven p.m.~~))

E. Rocks, dirt, mud, vegetation and any other materials used or produced on-site in the course of permitted activities shall not be spilled onto or otherwise left on public roadways or any off-site property not specifically authorized as a receiving site under a valid permit.

F. The duff layer and native topsoil shall be retained in an undisturbed state to the maximum extent practicable. Any duff layer or topsoil removed during grading shall be stockpiled on-site in a designated, controlled area not adjacent to public resources and critical areas. The material shall be reapplied to other portions of the site where feasible.

G.1. Except as otherwise provided in subsection G.2. of this section, areas that have been cleared and graded shall have the soil moisture holding capacity restored to that of the original undisturbed soil native to the site to the maximum extent practicable. The soil in any area that has been compacted or that has had some or all of the duff layer or underlying topsoil removed shall be amended to mitigate for lost moisture-holding

capacity. The amendment shall take place between May 1 and October 1. Replaced topsoil shall be a minimum of eight inches thick, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture holding capacity native to the site. Replaced topsoil shall have an organic matter content of between eight to thirteen percent dry weight and a pH suitable for the proposed landscape plants.

2. This subsection does not apply to areas that:

a. Are subject to a state surface mine reclamation permit; or

b. At project completion are covered by an impervious surface, incorporated into a drainage facility or engineered as structural fill or slope.

NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Hours of operation.**

A. Hours of operation for clearing and grading activities, unless otherwise specified by the director, shall be between seven a.m. and seven p.m. Monday through Saturday and between ten a.m. and five p.m. Sunday.

B. Before approving any variation of the hours of operation, the department of development and environmental services, in consultation with the Seattle-King County department of public health, shall:

1. Determine whether the development proposal can comply with nighttime noise standards in accordance with K.C.C. chapter 12.88;

2. Determine whether the development proposal will cause significant adverse noise effects to the community; and

3. Require mitigation for any identified impacts before the department of development and environmental services approves a variation in the hours of operation.

C. The department of development and environmental services's decision to approve a variation in the hours of operation shall be in writing and shall include a specific finding of compliance with the noise standards, the facts and conclusions supporting that finding and any mitigation, conditions or limitations imposed. All decisions made under this section shall be compiled by the department of development and environmental services and made available for public inspection.

SECTION 12. Ordinance 1488 (part), as amended, and K.C.C. 16.82.130 are each hereby amended to read as follows:

((~~**Enforcement.** The director of the department of parks, planning and resources is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of Title 23.~~)) **Clearing and grading violations - corrective work required.**

A. If clearing or grading inconsistent with the purposes and requirements of this chapter in effect at the time of the action has occurred on a site, ((~~King County~~)) the department shall not grant any development permit((~~s~~)) or approval((~~s~~)) for the site ((~~unless~~)), except any permit or approval necessary for the correction of code violations, until the applicant ((~~adequately restores~~)):

1. Completes restoration of the site or the appropriate corrective actions to bring the site into compliance; or

2. Obtains department approval of a permit for the appropriate restoration or corrective action and posts any required financial guarantee.

B. The ((~~director~~)) department shall require appropriate restoration of the site under an approved restoration or corrective work plan ((~~which shall include~~)) that includes a time schedule for compliance ((~~if significant resource damage has or may occur~~)). If restoration has not been completed within the time established by the department, the director ((~~shall~~)) may order restoration using funds from ((~~building and land development division~~)) the department's contingency accounts and seek restitution from the property owner through liens or other available legal methods.

C. This section does not limit corrective action requirements or other remedies or penalties applicable to K.C.C. Title 23.

SECTION 13. Ordinance 9614, Section 102, as amended, and K.C.C. 16.82.140 are each hereby amended to read as follows:

**Class IV-G Forest Practices – Six-Year Moratorium.**

A. ((~~Class IV Forest Practice.~~)) Under a Class IV-G forest practice, all clearing not otherwise exempted under this chapter shall be subject to ((~~the requirements of~~)) this chapter. All such clearing ((~~shall be~~)) is subject to the ((~~S~~))state Environmental Policy Act, ((~~RCW~~)) chapter 43.21C RCW, and King County shall accept or assume lead agency status. The department shall consolidate its review of the Class IV-G application ((~~shall be consolidated~~)) with ((~~the~~)) its SEPA review and its review of ((~~the~~)) associated King County development permits or approvals. ((~~Clearing independent of permit or approval shall require a separate clearing and grading permit pursuant to this chapter which meets any applicable clearing standards as defined by K.C.C. 16.82.150. King~~

~~County will also combine its SEPA review of Class IV forest practices and county permits.~~))

B. Except as otherwise provided in subsections D. and E. of this section, for six years after the forest practice commenced, the department shall deny a ((~~D~~))development ((~~applications~~)) proposal on ((~~lands cleared or graded pursuant to~~)) a site when the activity was:

1. A Class II, III or IV special forest practice, as defined in ((~~RCW~~)) chapter 76.09 RCW;

2. A nonconversion Class IV-G forest practice, as defined in K.C.C. chapter 21A.06; or ((~~which are commenced~~))

3. Undertaken without forest practices or county authorization((~~, shall be denied for a period of six (6) years unless:~~)).

C. Subsection B. of this section applies to a development proposal for:

1. The subdivision of land;

2. The preparation or construction of a new residential or commercial structure; and

3. Any other development proposal that is not related to ongoing forestry.

D. The department may approve a development proposal on a site subject to subsection B. of this section if:

1. ((~~t~~))The applicant demonstrates that the clearing on the harvested portion of the site was consistent with the Conversion Option Harvest Plan reviewed and approved by King County ((~~pursuant to the Type I land use decision process~~)) and incorporated as a condition of the state's forest practice permit((~~,~~)); or

2. ((t))The director ((~~of the department of development and environmental services determines special circumstances exist which should allow the landowner to be released from the moratorium pursuant to notice, review and appeal process for Type 2 land use decisions~~)) determines that:

a. the applicant was the unknowing subject of criminal trespass, timber theft or fraud;

b. the applicant has demonstrated to the satisfaction of the department that:

(1) those portions of the clearing not in compliance with the applicable King County regulations can be fully restored to the extent that functions shall be improved over those existing before the clearing; and

(2) the unharvested portion of the property is not required to satisfy tree retention or other mitigation requirements; and

c. the applicant has an approved mitigation plan to restore the areas cleared without complying with applicable King County regulations.

E. The department may approve a development proposal on the unharvested portion of a site subject to subsection B. of this section if:

1. The applicant demonstrates that the clearing on the harvested portion of the site was conducted consistent with a forest management plan approved by King County and the forest management plan excluded the area proposed for development; and

2. The forest practice is conducted as a:

a. Class IV-G nonconversion forest practice, as defined in K.C.C. chapter 21A.06, that has been approved by the county;

b. Class II, III or IV-S forest practice pursuant to a Washington state

Department of Natural resources forest practices permit; or

c. Class I forest practice, as defined in chapter 76.09 RCW, only for purposes of precommercial thinning and pruning.

F. In all cases, lifting or waiving of the six-year moratorium is subject to compliance with all ((~~local~~)) county ordinances.

SECTION 14. Ordinance 9614, Section 103, as amended, and K.C.C. 16.82.150 are each hereby amended to read as follows:

**Clearing standards for individual lots in the rural zone.**

A. ((~~For clearing and grading permits issued under this chapter, the current clearing standards contained in this section and in the following regulations shall apply.~~)) Except as otherwise provided in this section, in the RA zone the following standards apply to clearing on individual lots:

1. For lots one and one-quarter acre or smaller:

a. clearing shall not exceed the greater of:

(1) the amount cleared before January 1, 2005, or cleared under a complete clearing permit application filed before October 25, 2004, in accordance with previous county regulations;

(2) fifty percent of the lot area; or

(3) seven thousand square feet.

b. any clearing required for the construction of access, utilities and septic systems shall not be counted towards the amount of clearing allowed under this subsection;

2. For lots greater than one and one-quarter acres and up to fives acres in area,

clearing shall not exceed the greater of:

a. the amount legally cleared before January 1, 2005, or cleared under a complete clearing permit application filed before October 25, 2004, in accordance with previous county regulations; or

b. fifty percent of lot area;

3. For lots greater than fives acres, clearing shall not exceed the greater of:

a. the amount legally cleared before January 1, 2005, or cleared under a complete clearing permit application filed before October 25, 2004, in accordance with previous county regulations;

b. two and one-half acres, or

c. thirty-five percent of lot area; and

4. For lots greater than one and one-quarter acre in either the Bear Creek basin, the Issaquah Creek basin and the May Creek basin, clearing shall not exceed the greater of:

a. the amount legally cleared before January 1, 2005, or cleared under a complete clearing permit application filed before October 25, 2004, in accordance with previous county regulations; or

b. thirty-five percent of lot area;.

B. The standards in subsection A. of this section shall not apply if more restrictive standards apply through:

1. The ((~~Sensitive~~)) Critical Areas Code, K.C.C. chapter 21A.24, or its adopted ((~~administrative~~)) public rules;

2. Property-specific development standards ((~~pursuant to~~)) or special district

overlays under K.C.C. chapter 21A.38; or

3. Critical drainage area designations identified by adopted ((~~administrative~~)) public rule((~~; and~~

~~4. Wildlife habitat corridors pursuant to K.C.C. chapter 21A.14~~)).

((~~B. Within sensitive areas designated pursuant to K.C.C. chapter 21A.24, uses shall be limited to those specified in that chapter. Within any other areas subject to clearing restrictions referenced or contained in this section, the following uses are allowed under a clearing permit:~~

~~1. Timber harvest in accordance with a timber harvest management plan and clearing permit approved by the department of development and environmental services or a successor agency. That department shall promulgate administrative rules specifying the contents of, and the submittal requirements and approval criteria for, timber harvest management plans in consultation with the department of natural resources prior to any permit approvals for timber harvest within these tracts or easements;~~

~~2. Passive recreation uses and related facilities, including pedestrian, equestrian community and bicycle trails, nature viewing areas, fishing and camping areas, and other similar uses that do not require permanent structures, if either cleared areas or areas of compacted soils, or both, associated with these uses and facilities do not exceed eight percent of the area of the tract or easement. Within wildlife habitat corridors, trail widths shall be the minimum allowed under adopted trail standards and no other recreation uses shall be permitted in the one hundred fifty foot minimum width of the corridor;~~

~~3. Utilities and utility easements, including surface water facilities, if the uses are within or adjacent to existing road or utility easements whenever possible. Within~~

~~wildlife habitat corridors, existing or multiple utility uses within established easements shall be allowed within the one hundred fifty foot minimum width of the corridor. Development of new utility corridors shall be allowed within wildlife habitat corridors only when multiple uses of existing easements are not feasible and the utility corridors are sited and developed using county-approved best management practices to minimize disturbance; and~~

~~4. Removal of either dangerous trees or damaged trees, or both.~~))

C. ((~~For the RA (Rural Area) zoned areas in either the Bear Creek basin, the Issaquah Creek basin, the Soos Creek basin, the May Creek basin, the East Sammamish Community Planning Area or the Bear Creek Community Planning Area~~))

~~1. Clearing shall be limited to a maximum of thirty-five percent of the lot or plat area or the amount legally cleared prior to the effective date of any clearing regulations in effect at the time of the clearing, whichever is greater, except under conditions specified in a. through f. of this subsection C.1:~~

~~a. clearing shall be limited to a maximum of sixty percent of the lot or plat area if the approved permit requires flow control and water quality facilities in accordance with standards set forth in the applicable adopted basin plan and the King County Surface Water Design Manual;~~

~~b. in the Soos Creek basin, clearing shall be limited to a maximum of eighty percent of the lot or plat area, except in designated Regionally Significant Resource Areas where clearing shall be limited to a maximum of sixty-five percent of the lot or plat area. Buffers for all sensitive areas designated under K.C.C. Title 21A and sensitive areas except for submerged lands may be counted towards meeting the requirement.~~

~~Building permits for single-family residential building on individual lots shall be exempt from the clearing limit in the Soos Creek basin;~~

~~e. clearing required for the construction of access, utilities and septic systems to serve any lots one and one-quarter acres or smaller in size shall not be counted towards the thirty-five percent maximum clearing standard;~~

~~d. on individual lots smaller than twenty thousand square feet, up to seven thousand square feet may be cleared;~~))

1. If there is an approved and current rural stewardship plan or farm management plan under K.C.C. chapter 21A.24, the maximum amount of clearing allowed under this section is established by the rural stewardship plan or the farm management plan ;

2. Subsection A. of this section does not apply to a lot within a subdivision or short subdivision:

a. Approved with clearing restrictions in accordance with section 15 of this ordinance; or

b. In the Bear Creek, Issaquah Creek or May Creek basins that was approved with clearing restrictions in accordance with this section as it existed prior to the effective date of this section;

3. On a lot within a subdivision or short subdivision that is not covered by subsection C.2. of this section, any land located in an open space tract created as part of the subdivision or short subdivision shall be credited to the individual lots in the subdivision or short subdivision on a prorated basis according to the size of each lot in relation the entire area of the subdivision or short subdivision;

4. The area within critical areas and critical area buffers, except for critical aquifer recharge areas, may be counted towards meeting the requirements of subsection A. of this section;

5. Clearing in areas encumbered by a utility corridor, or easement for a public road or trail rights-of-way or an access easement shall not be counted toward the cleared area limit;

((~~e.~~)) 6. ((e))Clearing standards for ((~~Urban Planned Developments and Mineral zoned properties will~~)) mining uses shall be determined through ((~~their own designated~~)) the clearing and grading permit review process((~~es~~)); and

((~~f.~~)) 7. ((e))Clearing that is the minimum necessary to provide for the relocation of equestrian community trails shall not be counted towards the cleared area limit.

((~~2. For subdivisions and short subdivisions, portions of the plat that are required to remain uncleared shall be retained in one or more open space tracts, with all developable lots sited on the portions of the plat approved to be cleared. Sensitive areas designated under K.C.C. Title 21A 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 those listed in subsection B of this section. 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 subsection C.2 of this section. In cases where conditions are applied to the subdivision, individual lots shall be exempt from the clearing restrictions in subsection C.1 of this section. The uses and restrictions on the uncleared portions of individual lots shall be those specified in subsection B of this section. Sensitive areas designated under K.C.C. Title 21A may be counted towards meeting requirements on individual lots.~~

~~4. The subdivision or permitting of building on parcels that are cleared in violation of the regulations in effect at the time of the clearing shall be subject to conditions requiring the restoration of trees and understory vegetation on at least sixty-five percent of the plat or lot, or, where applicable, on the percentage of the site that was to remain uncleared under subsection C.1 of this section. 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 department of natural resources and parks before approving subdivision or building permits for parcels cleared in violation of applicable clearing regulations. The administrative rules shall also specify when a restoration plan will be deemed sufficient to forego the six-year moratorium on permitting authorized in K.C.C. 16.82.140.~~

~~5. In the Bear Creek basin, the Bear Creek community planning area and the May Creek basin, the requirements of~~)) D. The director may modify or waive subsection ((~~C.1~~

~~through 4~~)) A. of this section ((~~shall be modified or waived by the director~~)) for ((~~proposed projects~~)) a development proposal that meets the following conditions:

((~~a.~~)) 1. ((~~t~~))The ((~~project shall~~)) development proposal consists of one or more of the following uses:

(((~~1~~))) a. government services listed in K.C.C. 21A.08.060((~~,~~));

(((~~2~~))) b. educational services listed in K.C.C. 21A.08.050((~~,~~));

(((~~3~~))) c. parks as listed in K.C.C. 21A.08.040 when located adjacent to an existing or proposed school((~~,~~));

(((~~4~~))) d. libraries listed in K.C.C. 21A.08.040((~~,~~)); and

(((~~5~~))) e. road projects that are not part of a larger development proposal;

((~~b.~~)) 2. ((~~t~~))The ((~~project~~)) development proposal site ((~~shall~~)) is not ((~~be~~)) located in a designated regionally significant resource area, except for utility or road corridors ((~~that can~~)) for which the applicant demonstrates that there is no feasible alternative or that the development proposal is within an existing maintained corridor. If only a portion of the project is located within a designated regionally significant resource area, this subsection applies to that portion of the project located outside of the designated regionally significant resource area; and

((~~c.~~)) 3. To the maximum extent practical, the project ((~~shall~~)) locates structures in already cleared areas of the site and clears the minimum necessary to accommodate the proposed use which includes all the allowed ballfields, playfields, other facilities, and spaces proposed by the public agency to carry out its public function((~~; and~~

~~d. the project shall meet the on-site flow control and water quality standards set forth in the applicable adopted basin plan and the Surface Water Design Manual.~~

~~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. chapter 20.24, but any such an appeal must be consolidated with an appeal, if any, heard by the examiner on the merits of the proposed project.~~

~~6. In the Issaquah Creek basin, the Soos Creek basin and the East Sammamish Community Planning Area, the following standards shall apply:~~

~~a. in the regionally significant resource areas, except for utility corridors that can demonstrate no feasible alternative, subsections C.1 through 4 of this section shall apply; and~~

~~b. in areas outside of the regionally significant resources areas, projects that consist of one or more of the uses identified in subsection C.5a.(1) to (4) of this section shall be exempt from subsections C.1 through 4 of this section.~~

~~D. Construction projects can be a significant contributor of pollution to streams and wetlands. Therefore, from October 1 through March 31, in the Bear Creek Community Planning Area, the Northshore Community Planning Area, the East Sammamish Community Planning Area and the Soos Creek, Hylebos Creek and May Creek basins:~~

~~1. Clearing and grading shall only be permitted if shown to the satisfaction of the director that silt-laden runoff exceeding standards in the King County Surface Water Design Manual will be prevented from leaving the construction site through a combination of the following:~~

~~a. site conditions including vegetative coverage, slope, soil type and proximity~~

~~to receiving waters;~~

~~b. limitations on activities and the extent of disturbed areas; and~~

~~c. proposed erosion and sedimentation control measures.~~

~~2. The director shall set forth in writing the basis for approval or denial of clearing or grading during this period.~~

~~3. Clearing and grading will be allowed only if there is installation and maintenance of an erosion and sedimentation control plan approved by the department which shall define any limits on clearing and grading or specific erosion and sediment control measures required during this period. Alternate best management practices may be approved or required on-site by the inspector.~~

~~4. 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 clearing and grading limits or erosion and sediment control measures shown in the approved plan are not maintained, a notice of violation shall be issued.~~

~~5. If the erosion and sediment control problem defined in the violation is not adequately repaired within twenty-four 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.~~

~~6. The following activities are exempt from the seasonal clearing and grading requirements of this subsection:~~

~~a. routine maintenance and necessary repair of erosion and sediment control~~

~~facilities;~~

~~b. routine maintenance of public facilities or existing utility structures as provided by K.C.C. 21A.24.050B;~~

~~c. activities where there is one hundred percent infiltration of surface water runoff within the site in approved and installed erosion and sedimentation control facilities;~~

~~d. typical landscaping activities of existing single family residences that do not require a permit;~~

~~e. class I, II III and IV Special forest practices;~~

~~f. mineral extraction activities on sites with approved permits; and~~

~~g. public agency response to emergencies that threaten the public health, safety and welfare~~)).

E. The standards of this section shall be established at the time of permit application. The area required to remain uncleared shall be designated on the site plan approved by the department.

F. Areas that are required to remain uncleared under this section shall be maintained by the property owner as a resource area. The uses permitted in the resource area shall not prevent the long-term purpose of the resource area to promote forest cover and shall include uses such as:

1. Except in areas regulated by a source described in subsection B.3. of this section, forest practices in accordance with a county-approved forest management plan;

2. Passive recreation uses and related facilities, including pedestrian, equestrian community and bicycle trails, nature viewing areas, fishing and camping areas, and other

similar uses that do not require permanent structures, if:

a. clearing and soil compaction associated with these uses and facilities does not exceed eight percent of the area of the resource area; and

b. within wildlife habitat corridors, trail widths shall be the minimum allowed under adopted trail standards and no other recreation uses shall be permitted in an area of the corridor at least one hundred fifty feet in width;

3. Utilities and utility easements, including surface water facilities, if the facilities are within or adjacent to existing road or utility easements to the maximum extent practical;

4. Pruning or removing hazard trees or removing downed trees;

5. Reducing the danger from wildfire by following best management practices approved by the King County fire marshal;

b. removal of limbs within ten feet of the ground to prevent movement of fire from ground level to treetops; and

c. removal of dead trees or branches overhanging a residence; and

6. Removal of noxious or invasive vegetation.

G. Before approving a development permit application for a parcel that has been cleared in violation of the clearing standards in effect at the time of the clearing, the department shall require the applicant submit to the department and implement a restoration plan to restore trees, understory vegetation and soil to support and maintain the native vegetative cover on the percentage of the site that was to remain uncleared under this section. If the clearing is in violation of the six-year moratorium on permitting established in K.C.C. 16.82.140, the department may determine whether the restoration

plan is sufficient to mitigate for the impacts resulting from the clearing violation.

NEW SECTION. SECTION 15. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Clearing standards for subdivisions and short subdivisions in the rural residential zone.**

A. Except as otherwise provided in this section, the following standards apply to clearing allowed in subdivisions and short subdivisions in the RA zone:

1. Clearing shall not exceed thirty-five percent of the area of the subdivision and short subdivision; and

2. The area remaining uncleared shall be:

a. shown on the face of the recorded plat map to delineate where the uncleared area is to remain on each lot; and

b. marked with at least one sign per buildable lot adjoining the area indicating that the area is a permanent resource management area.

B. The standards in subsection A. of this section shall not apply if more restrictive standards apply through:

1. Property-specific development standards pursuant to K.C.C. chapter 21A.38; or

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

C. If sixty-five percent or more of the site is in critical areas and critical area buffers, this section does not apply.

D. Clearing to provide for the relocation of equestrian community trails shall not be counted towards the cleared area limit.

E. The department may allow an increase in the amount of clearing up to fifty percent of the site area of a subdivision or short subdivision if the area to remain uncleared:

1. Is placed in a separate resource tract that is:

a. separately identified from critical area tracts on the face of the recorded plat map; and

b. retained by the subdivider, conveyed to residents of the subdivision, or conveyed to a third party;

2. Is situated in a manner that minimizes fragmentation of wildlife habitat or that maximizes protection of critical areas and prevention of flooding, erosion, and groundwater impacts based on site characteristics, including topography and soils; and

3. Complies with either of the following:

a. A reforestation plan for the tract is approved and implemented, if the tract has been legally harvested, or

b. One or more of the following habitats is preserved that is not contained within another critical area or critical area buffer:

(1) cave;

(2) old-growth forest;

(3) mature forest;

(4) area that has an abundance of snags;

(5) talus slope;

(6) breeding habitat for a species that the county should protect under the King County Comprehensive Plan;

(7) foraging habitat for any species that the county shall protect or should protect under the King County Comprehensive Plan; or

(8) a vegetated corridor that connects critical areas, priority habitat areas, designated regionally or locally significant resource areas, and other areas of high wildlife value.

F. The approval of a subdivision or short subdivision application for a parcel that has been cleared in violation of the regulations in effect at the time of the clearing shall require the restoration of trees, understory vegetation and soil to support and maintain native vegetation cover on the percentage of the site that was to remain uncleared under this section. The applicant shall submit to the department a restoration plan. If the clearing is in violation of the six-year moratorium on permitting authorized in K.C.C. 16.82.140, the department may determine whether the restoration plan is sufficient to mitigate for the impacts resulting from the clearing violation.

G. The uses permitted within a resource land tract shall be limited as provided in K.C.C. 16.82.150.F.

NEW SECTION. SECTION 16. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Clearing – modification of limits through farm management and rural stewardship plans.** The clearing limits of K.C.C. 16.82.150 and section 15 of this ordinance may be modified through a farm management plan or rural stewardship plan approved in accordance with Ordinance 15051, Sections 138 and 139, respectively.

NEW SECTION. SECTION 17. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Significant trees.** Within the urban growth area:

A. Except when replacement trees are used as provided in subsection E. of this section, significant trees, as defined in K.C.C. chapter 21A.06, shall be at a minimum retained as follows:

1. Exclusive of the area required for site access by vehicles, pedestrians, or utility infrastructure, significant trees shall be retained within required perimeter landscape areas at the following rates:

a. one hundred percent for the interior perimeters.

b. seventy-five percent for the street perimeter, though this standard may be reduced to fifty percent for retail commercial developments if:

(1) the combined landscaping and tree retention requirement is shown by the applicant to result in:

(a) the loss of the line-of-sight necessary for identification of the retail commercial development; and

(b) a vegetative buffer exceeding the screening characteristics of a Type III landscape screen; or

(2) The average width of the street perimeter landscape area is increased by fifty percent, only if, within the additional landscape area, significant trees are retained at the rate consistent with subsection A.2. of this section;

2. Significant trees located in the interior of the development proposal, including critical areas or their buffers, shall be retained in a residential subdivision in UR or R-1 zones at the rate of twenty trees per acre or ten percent of the trees, whichever is greater;

3. Significant trees located in the interior of the development proposal, excluding critical areas or their buffers, shall be retained in an apartment or townhouse development at the rate of ten trees per acre or five percent of the trees, whichever is greater;

4. Significant trees located in the interior of the development proposal, excluding critical areas or their buffers, shall be retained in commercial or industrial development or a residential subdivision in the R-4 through R-48 zones at a rate of ten trees per acre or five percent of the trees, whichever is greater;

5. Significant trees located in the interior of the development proposal, excluding critical areas or their buffers and areas designated for sport fields, playfields or other recreational facilities, shall be retained in institutional developments at a rate of ten trees per acre or five percent of the trees, whichever is greater;

6. Utility developments and mineral extraction operations are exempt from the significant tree retention requirements of this section; and

7. Project sites with twenty-five percent or greater of the total gross site area in critical areas, critical area buffers and other areas to be left undisturbed, such as wildlife corridors, shall be exempt from the significant tree retention requirements of this chapter;

B. The applicant shall submit tree retention plans as follows:

1. A significant tree inventory shall be submitted for review before or with submittal of development permit applications. The tree inventory may be conducted by any method that reflects general locations, numbers and grouping of significant trees on-site; and

2. A detailed tree retention plan shall be submitted for review before or with submittal of grading permit applications or other permit applications incorporating grading plans. This plan shall identify the exact location, size, species and condition of the significant trees proposed to be retained, transplanted or replaced to comply with this chapter;

C. The retention requirements shall be met as follows:

1. Except as provided in subsection C.2. of this section, the applicant shall determine that the final tree retention plan does not include significant trees unable to survive more than ten years after the date of project completion due to:

a. damage or disease;

b. safety hazards due to potential root, trunk or primary limb failure;

c. windfall; or

d. age in relation to the normal lifespan of the tree species;

2. At the discretion of the county, damaged or diseased or standing dead trees, not classified as a danger tree, may be counted toward the significant tree requirement if the applicant demonstrates that such trees will provide important wildlife habitat; and

3. A significant tree may be credited as two trees when it meets one or more of the following characteristics:

a. the tree is eighteen inches or greater in diameter;

b. the tree is located in a grouping of at least five trees with canopies that touch or overlap;

c. the tree provides energy savings through winter wind protection or summer shading as a result of its location relative to buildings;

d. the tree belongs to a unique or unusual species;

e. the tree is located within twenty-five feet of any critical area or required critical area buffers; or

f. the tree is listed on a historical register;

D. To provide the best protection for significant trees designated for retention, the development shall comply with the following:

1. Tree removal for a project action shall not be allowed before county approval;

2. Before clearing for a project action, trees to be retained shall be flagged;

3. Before grading for a project action and throughout construction, a temporary chain link or plastic net fence shall be used to identify the protected area of any significant tree designated for retention. The height of the fencing shall be adjusted according to the topographic and vegetative conditions of the site to provide clear visual delineation of the protected area. The size of protected area around the tree shall be equal to one foot diameter for each inch of tree trunk diameter measured four feet above the ground; and

4. At any time during and after construction, the following shall not be permitted within the area described in subsection D.3. of this section:

a. impervious surfaces, fill, excavation or storage of construction materials; or

b. grade level changes, except in limited circumstances where proposed improvements using permeable materials are determined by an arborist to be nondetrimental to the trees root system; and

5. Alternative or additional protection methods may be proposed and be used if determined by the director to provide equal or greater protection for trees designated for retention;

E. Plan modifications and tree replacement are permitted as follows:

1. Any significant tree in the interior may be replaced by another significant tree in the interior;

2. If the required number of significant trees cannot be retained, then nonsignificant-sized trees may be retained or new trees may be planted to meet significant tree requirements. A significant tree to be replaced by the new or existing replacement tree shall be assigned a diameter of twelve inches. In addition:

a. when using replacement trees measuring three inches in diameter or greater, as measured by caliper, one-half inch diameter of replacement tree shall be provided for every one inch diameter of significant tree to be replaced; and

b. when using replacement trees measuring less than three inches in diameter, as measured by caliper, one inch diameter of replacement tree shall be provided for every one inch diameter of significant tree to be replaced;

3. An approved tree retention plan shall be modified to reflect any changes made in accordance with subsection E.1 and 2. of this section; and

4. If the department determines that retaining or replacing significant trees on site is impractical or contrary to the overall objectives of the underlying zone classification, alternative off-site locations may be used in accordance with the following:

a. within the same subbasin in a location that also affords wildlife habitat protection or enhancement at a ratio of one-to-one;

b. within the same subbasin but without wildlife habitat protection or enhancement, at a ratio of one-and-one half-to-one;

c. within the same basin in a location that also affords wildlife habitat protection or enhancement at a ratio of two-to-one;

d. within the same basin but without wildlife habitat protection or enhancement, at a ratio of three-to-one;

e. within the same drainage in a location that also affords wildlife habitat protection or enhancement at a ratio of three-to-one; and

f. within the same drainage but without wildlife habitat protection or enhancement, at a ratio of four-to-one;

F. The following provisions apply to significant trees where applicable:

1. All significant trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. This requirement shall not be interpreted to allow:

a. topping of primary stems;

b. pruning that results in the loss of twenty percent of vegetative mass; and

c. cutting of major roots, except in preparation for transplantation or as deemed necessary or acceptable by a certified arborist; and

2. With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and

G. The development standards in this section do not apply to institutional development proposals that 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; or

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

NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 16.82 a new section to read as follows:

**Hazard and damage.** A person conducting clearing or grading shall protect adjacent property, public resources including surface and groundwaters, set-aside areas, rights-of-way and drainage systems from hazards and damage resulting from activities allowed under this chapter.

SECTION 19. Ordinance 11618, Section 8, and K.C.C. 16.82.160 are each hereby amended to read as follows:

**Agricultural ((~~P~~))production ((~~D~~))district((s)) (((~~APDs~~))) standards.** ((~~For any clearing and grading permits issued under this chapter for u~~))Utilities or other public facilities crossing a portion of an (((~~APD, the following conditions~~)) agricultural production district shall be required to demonstrate to the satisfaction of the department that:

A. ((~~Demonstration that a~~))Alternatives to crossing ((~~APDs are~~)) the agricultural production district are not feasible((~~;~~)):

B. Timing of installation of facilities will minimize impacts to seasonal agricultural practices((,)); and

C. ((~~Placement of f~~))Facilities are sized, constructed and placed in ((~~APD are built and located~~)) the agricultural product district to minimize disruption of agricultural activity and to take the least amount of area out of agricultural production.

SECTION 20. Ordinance 12823, Section 19 and K.C.C. 21A.38.230 are each hereby amended to read as follows:

**Special district overlay – ((~~S~~))significant ((~~T~~))trees.**

A. The purpose of the significant trees special district overlay is to provide a means to designate areas losing their natural vegetation that characterizes their community and receiving the accompanying impacts from increased stormwater runoff and decreased wildlife habitat. This district overlay limits removal of significant trees in these urbanizing areas to reduce visual impacts of development and maintain a portion of the natural vegetation and soils characteristic of the Pacific Northwest.

B. The following development standards shall be applied to all residential, commercial ((~~(~~))including golf courses((~~)~~)), industrial or institutional development proposals located within a significant tree district overlay:

1. ((~~Significant tree retention rates.~~)) Except when replacement trees are used as provided in subsection B.5. of this section, significant trees defined ((~~pursuant to~~)) under K.C.C. chapter 21A.06 shall be at a minimum retained as follows:

a. Exclusive of the area required for site access by vehicles, pedestrians, or utility infrastructure, significant trees shall be retained within required perimeter landscape areas at the following rates:

(1) ((~~O~~))one hundred percent for the interior perimeters.

(2) ((~~S~~))seventy-five percent for the street perimeter, provided that this standard may be reduced to ((~~50~~)) fifty percent for retail commercial developments if:

(a) the combined landscaping and tree retention requirement is shown by the applicant to result in:

i. the loss of the line-of-sight necessary for identification of the retail commercial development; and

ii. a vegetative buffer exceeding the screening characteristics of a Type III landscape screen; or

(b) The average width of the street perimeter landscape area is increased by ((~~50~~)) fifty percent, ((~~provided that~~)) only if, within the additional landscape area, significant trees are retained at the rate consistent with subsection ((~~e~~)) B.1.b. of this section;

b. ((~~If any portion of the lot contains erosion hazards, significant trees located in the interior of separate lots, including sensitive areas or their buffers, shall be retained in single detached dwelling development at the rate of 20 trees per acre or ten percent of such trees, whichever is greater;~~

~~c.~~)) Significant trees located in the interior of the development proposal, including sensitive areas or their buffers, shall be retained in a residential subdivision in the UR or R-1 zones at the rate of 20 trees per acre or ten percent of such trees, whichever is greater;

((~~d.~~)) c. Significant trees located in the interior of the development proposal, excluding ((~~sensitive~~)) critical areas or their buffers, shall be retained in an apartment or

townhouse development at the rate of ((~~20~~)) ten trees per acre or ((~~ten~~)) five percent of such trees, whichever is greater;

((~~e.~~)) d. Significant trees located in the interior of the development proposal, excluding ((~~sensitive~~)) critical areas or their buffers, shall be retained in commercial or industrial development or a residential subdivision in the R-4 through R-48 zones at a rate of ten trees per acre or five percent of such trees, whichever is greater;

((~~f.~~)) e. Significant trees located in the interior of the development proposal, excluding ((~~sensitive~~)) critical areas or their buffers and areas designated for sport fields, playfields or other recreational facilities, shall be retained in institutional developments at a rate of ten trees per acre or five percent of such trees, whichever is greater;

((~~g.~~)) f. Utility developments and mineral extraction operations shall be exempt from the significant tree retention requirements of this section; and

((~~h.~~)) g. Project sites with ((~~25~~)) twenty-five percent or greater of the total gross site area in ((~~sensitive~~)) critical areas, ((~~sensitive~~)) critical area buffers and other areas to be left undisturbed such as wildlife corridors, shall be exempt from the significant tree retention requirements of this chapter;

2. ((~~Retention plan.~~)) The applicant shall submit tree retention plans as follows:

a. A significant tree inventory shall be submitted for review prior to or with submittal of development permit applications. The tree inventory may be conducted by any method that reflects general locations, numbers and grouping of significant trees on-site; and

b. A detailed tree retention plan shall be submitted for review ((~~prior to~~)) before or with submittal of grading permit applications or other permit applications incorporating

grading plans. ((~~This~~)) The plan shall identify the exact location, size, species, and condition of the significant trees proposed to be retained, transplanted or replaced in order to comply with this chapter;

3. The retention requirements shall be met as follows:

a. Except as provided in subsection B.3.b. of this section, the applicant shall determine that the final tree retention plan does not include significant trees unable to survive more than ten years after the date of project completion due to:

(1) ((~~D~~))damage or disease;

(2) ((~~S~~))safety hazards due to potential root, trunk or primary limb failure;

(3) ((~~W~~))windfall; or

(4) ((~~A~~))age in relation to the normal lifespan of the tree species;

b. At the discretion of the ((~~county~~)) department, damaged or diseased or standing dead trees, not classified as a danger tree, may be counted toward the significant tree requirement if demonstrated that such trees will provide important wildlife habitat; and

c. A significant tree may be credited as two trees when it meets one or more of the following characteristics:

(1) ((~~T~~))the tree is ((~~18~~)) eighteen inches or greater in diameter;

(2) ((~~T~~))the tree is located in a grouping of at least five trees with canopies that touch or overlap;

(3) ((~~T~~))the tree provides energy savings through winter wind protection or summer shading as a result of its location relative to buildings;

(4) ((~~T~~))the tree belongs to a unique or unusual species;

(5) ((~~T~~))the tree is located within ((~~25~~)) twenty-five feet of any ((~~sensitive~~)) critical area or required ((~~sensitive~~)) critical area buffers; or

(6) ((~~T~~))he tree is ~~listed~~ on a historical register((~~; and~~

~~d. The department shall, pursuant to K.C.C. 2.98, develop and maintain an advisory listing of trees recommended for retention. Such list shall describe their general characteristics and suitability, and provide guidelines for their retention~~));

4. ((~~Protection.~~)) To provide the best protection for significant trees designated for retention, the development shall comply with the following:

a. ((~~No t~~))Tree removal for a project action shall be allowed ((~~prior to~~)) before the county approval ((~~of a grading permit consistent with tree retention and landscape plans~~));

b. ((~~Prior to~~)) Before clearing for a project action, trees to be retained shall be flagged;

c. ((~~Prior to~~)) Before grading for a project action and throughout construction, a temporary chain-link or plastic net fence shall be used to identify the protected area of any significant tree designated for retention. The height of ((~~such~~)) the fencing shall be adjusted according to the topographic and vegetative conditions of the site to provide clear visual delineation of the protected area. The size of protected area around the tree shall be equal to one foot diameter for each inch of tree trunk diameter measured four feet above the ground; and

d. At no time during and after construction shall the following be permitted within the area described in subsection B.4.c. of this section:

(1) ((I))impervious surfaces, fill, excavation((,)) or storage of construction materials; or

(2) ((G))grade level changes, except in limited circumstances where proposed improvements using permeable materials are determined by an arborist to be non((-))detrimental to the trees root system; and

e. Alternative or additional protection methods may be proposed and be used if determined by the director to provide equal or greater protection for trees designated for retention;

5. Plan modifications and tree replacement are permitted as follows:

a. Any significant tree in the interior may be replaced by another significant tree in the interior;

b. If the required number of significant trees cannot be retained, then non((-))significant-sized trees may be retained or new trees may be planted to meet significant tree requirements((~~as follows, provided that the reason for the purpose of this subsection, the~~)). A significant tree to be replaced by the new or existing replacement tree ((~~is~~)) shall be assigned a diameter of ((~~12~~)) twelve inches. In addition:

(1) When using replacement trees measuring three inches in diameter or greater ((~~(~~)), as measured by caliper((~~)~~)), one-half inch diameter of replacement tree shall be provided for every one inch diameter of significant tree to be replaced; and

(2) When using replacement trees measuring less than three inches in diameter ((~~(~~))as measured by caliper((~~)~~)), one inch diameter of replacement tree shall be provided for every one inch diameter of significant tree to be replaced; ((~~and~~))

c. An approved tree retention plan shall be modified to reflect any changes made ((~~pursuant to~~)) under subsection B.5.a. and b((~~.~~)). of this section; and

d. If the department determines that retaining or replacing significant trees on site is impractical or contrary to the overall objectives of the underlying zone classification, alternative off-site locations may be used in accordance with the following:

(1) within the same subbasin in a location that also affords wildlife habitat protection or enhancement at a ratio of one-to-one;

(2) within the same subbasin but without wildlife habitat protection or enhancement, at a ratio of one-and-one half-to-one;

(3) within the same basin in a location that also affords wildlife habitat protection or enhancement at a ratio of two-to-one;

(4) within the same basin but without wildlife habitat protection or enhancement, at a ratio of three-to-one;

(5) within the same drainage in a location that also affords wildlife habitat protection or enhancement at a ratio of three-to-one; and

(6) within the same drainage but without wildlife habitat protection or enhancement, at a ratio of four-to-one; and

6. ((~~Maintenance.~~)) The following provisions apply to significant trees where applicable:

a. All significant trees shall be maintained for the life of the project;

b. All significant trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. This requirement shall not be interpreted to allow:

(1) ((T))topping of primary stems;

(2) ((P))pruning that results in the loss of ((20)) twenty percent of vegetative mass, and

(3) Cutting of major roots, except in preparation for transplantation or as deemed necessary and/or acceptable by a certified arborist; and

c. With the exception of dead, diseased or damaged trees specifically retained to provide wildlife habitat; other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season.

C. The development standards set forth in paragraph B shall not be applied to institutional development proposals that 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, or

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

NEW SECTION. SECTION 21. There is hereby added to K.C.C. chapter 16.8221A.24 a new section to read as follows:

**Vesting period for lots in final short plats.** Unless the department finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision, for a period of five years after recording, a lot within a short subdivision shall be governed by the provisions of this chapter in effect at the time a fully completed

application for short subdivision approval was filed in accordance with K.C.C. chapter 20.20.

SECTION 22. **Effective date.** This ordinance takes effect January 1, 2005.

SECTION 23. **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.

Ordinance 15053 was introduced on 3/8/2004 and passed as amended by the Metropolitan King County Council on 10/25/2004, by the following vote:

Yes: 7 - Mr. Phillips, Ms. Edmonds, Mr. Pelz, Mr. Ferguson, Mr. Gossett, Ms. Patterson and Mr. Constantine
No: 6 - Mr. von Reichbauer, Ms. Lambert, Mr. McKenna, Mr. Hammond, Ms. Hague and Mr. Irons
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Phillips, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this 5 day of November 2004.

Ron Sims, County Executive

RECEIVED
2004 NOV -5 PM 1:42
CLERK
KING COUNTY COUNCIL

**Attachments** None