

ORDINANCE NO. **11618**

AN ORDINANCE relating to building and construction standards, adopting Title 16 and amending the clearing and grading code to be consistent with and implement the comprehensive plan, as required by the Washington State Growth Management Act; amending Ordinance 6575 Section 2, and K.C.C. 16.74.030; Ordinance 1488 Sections 2, 6, and 7, as amended and K.C.C. 16.82.010, K.C.C. 16.82.050 and K.C.C. 16.82.060; and Ordinance 9614 Sections 102 and 103, and K.C.C. 16.82.140 and K.C.C. 16.82.150; and adding a new section to K.C.C. 16.82.

PREAMBLE:

For the purpose of effective land use planning and regulation, the King County Council makes the following legislative findings:

1. King County has adopted the 1994 King County Comprehensive Plan, to meet the requirements of the Washington State Growth Management Act (GMA).
2. The GMA requires that King County adopt development regulations to be consistent with and implement the Comprehensive Plan by December 31, 1994.
3. The changes to the King County Building and Construction Standards Code (Title 16 of the King County Code) contained in this Ordinance are needed to bring Title 16 into conformance with the 1994 King County Comprehensive Plan, as required by the GMA. As such they bear a substantial relationship to, and are necessary for, the public health, safety and general welfare of King County and its residents.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. This Title of the King County Code is hereby enacted to be consistent with and implement the King County comprehensive plan in accordance with RCW 36.70A. The county recognizes that many actions undertaken pursuant to Title 16, as amended, may impact treaty fishing rights of federally-recognized tribes. In order to honor and prevent interference with these treaty fishing rights and to provide for water quality and habitat preservation, the county shall provide notice to any federally-recognized tribes whose treaty fishing rights would be affected by an action undertaken pursuant to this title, including but not limited to: development of wetlands, stream and river banks, lakeshore habitat of water bodies, or development directly or indirectly affecting anadromous bearing water bodies, including the promulgation of plans, rules, regulations or ordinances implementing the provisions of this title, whether or not review of such actions is required under the State Environmental Policy Act (SEPA), RCW 43.21C.

SECTION 2. Ordinance 6575, Section 2, and K.C.C. 16.74.030 are hereby amended to read as follows:

- 1 2. Protecting water quality from the adverse impacts
- 2 associated with erosion and sedimentation;
- 3 3. Minimizing aquatic and terrestrial wildlife habitat loss
- 4 caused by the removal of vegetation;
- 5 4. Protecting sensitive areas from adverse clearing and
- 6 grading activities;
- 7 5. Facilitating and encouraging long term forest practice
- 8 and agricultural production operations where appropriate;
- 9 6. Minimizing the adverse impacts associated with quarrying
- 10 and mining operations;
- 11 7. Preventing damage to property and harm to persons caused
- 12 by excavations and fills;
- 13 8. Establishing administrative procedures for the issuance
- 14 of permits, approval of plans, and inspection of clearing and
- 15 grading operations; and
- 16 9. Providing penalties for the violation of this chapter.

17 B. This chapter establishes the administrative procedure
 18 for issuance of permits, provides for approval of plans and
 19 inspection of clearing and grading operations, and provides for
 20 penalties for the violation of this chapter.

21 SECTION 4. Ordinance 1488, Section 6, as amended and K.C.C.
 22 16.82.050 are hereby amended to read as follows:

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

- 27 1. An on site excavation or fill for basements and footings
- 28 of a building, retaining wall, parking lot, or other structure
- 29 authorized by a valid building permit. This shall not exempt any
- 30 fill made with the material from such excavation nor exempt any
- 31 excavation having an unsupported height greater than five feet
- 32 after the completion of such structure;
- 33 2. The depositing or covering of any garbage, rubbish or
- 34 other material at any solid waste facility operated by King County;
- 35 3. Maintenance of existing driveways or private access roads
- 36 within their existing road prisms, provided that the performance
- 37 and restoration requirements of this chapter are met and best
- 38 management practices are utilized to protect water quality.
- 39 4. Any grading within a publicly owned road right-of-way;
- 40 5. Clearing or grading by a public agency for the following
- 41 routine maintenance activities:
- 42 a. Roadside ditch cleaning provided the ditch does not
- 43 contain salmonids;
- 44 b. Pavement maintenance;
- 45 c. Normal grading of gravel shoulders;
- 46 d. Maintenance of culverts;

- 1 e. Maintenance of flood control or other approved surface
2 water management facilities;
- 3 f. Routine clearing within road right-of-way.
- 4 6. Any clearing or grading for roads within a preliminary or
5 finally approved residential plat which has been approved by the
6 director and for which a bond has been posted;
- 7 7. Maintenance or reconstruction of the facilities of a
8 common carrier by a rail in interstate commerce within its existing
9 right-of-way; provided restoration is consistent with the
10 requirements of Section 16.82.110; provided that this exception
11 does not apply if the clearing or grading is within a sensitive
12 area as regulated in K.C.C. Chapter ((21-54)) 21A.24.
- 13 8. Cemetery graves; provided that this exception does not
14 apply except for routine maintenance if the clearing or grading is
15 within a sensitive area as regulated in K.C.C. Chapter ((21-54))
16 21A.24;
- 17 9. Clearing or grading within a preliminarily or finally
18 approved residential plat not involving any excavation exceeding
19 five feet in vertical depth or any fill exceeding three feet in
20 vertical depth, regardless of the amount of material to be removed;
21 provided that this exception does not apply if the clearing or
22 grading is within a sensitive area as regulated in K.C.C. Chapter
23 ((21-54)) 21A.24. This exception does not apply within an area
24 placed into tracts or easements for a wildlife habitat corridor
25 pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise
26 exempt under K.C.C. 21A.24;
- 27 10. Excavation less than five feet in vertical depth not
28 involving more than one hundred cubic yards of earth or other
29 material on a single site; provided that the exception does not
30 apply if the clearing or grading is within a sensitive area as
31 regulated in K.C.C. Chapter ((21-54)) 21A.24. This exception does
32 not apply within an area placed into tracts or easements for a
33 wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the
34 proposed activity is otherwise exempt under K.C.C. 21A.24;
- 35 11. Fill less than three feet in vertical depth not involving
36 more than one hundred cubic yards of earth or other material on a
37 single site; provided that the exception does not apply if the
38 clearing or grading is within a sensitive area as regulated in
39 K.C.C. Chapter ((21-54)) 21A.24. This exception does not apply
40 within an area placed into tracts or easements for a wildlife
41 habitat corridor pursuant to K.C.C. 21A.14 unless the proposed
42 activity is otherwise exempt under K.C.C. 21A.24;
- 43 12. Minor stream restoration projects for fish habitat
44 enhancement by a public agency, utility or tribe as set out in
45 K.C.C. ((21-54)) 21A.24.
- 46 13. Clearing or grading for construction of livestock manure
47 storage facilities or associated nonpoint source pollution

1 sanctuaries constructed and maintained to the standards approved by
2 the Soil Conservation Service and conservation district and the
3 best management practices approved by King County.

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

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

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

12 a. Clearing outside of sensitive areas and buffers as
13 regulated in K.C.C. Chapter (~~(21-54)~~) 21A.24 unless the development
14 proposal site is within an area subject to clearing restrictions
15 contained in wildlife habitat corridors pursuant to K.C.C. 21A.14,
16 a critical drainage area established by administrative rule or in
17 p-suffix conditions in an adopted community plan.

18 b. Within sensitive areas, as regulated in K.C.C. Chapter
19 (~~(21-54)~~) 21A.24, the following activities are exempt from the
20 clearing requirements of this chapter and no permit shall be
21 required.

22 (1) Normal and routine maintenance of existing lawns and
23 landscaping subject to the limitations on the use of pesticides in
24 sensitive areas as set out in K.C.C. Chapter (~~(21-54)~~) 21A.24.

25 (2) Permitted agricultural uses; provided the clearing is
26 consistent with the agricultural exemptions in sensitive areas as
27 regulated in K.C.C. Chapter (~~(21-54)~~) 21A.24.

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

30 (4) Normal and routine horticultural activities
31 associated with commercial orchards, nurseries, or Christmas tree
32 farms in existence on the effective date of Ordinance 9614
33 (November 27, 1990) subject to the limitations on the use of
34 pesticides in sensitive areas as set out in K.C.C. Chapter
35 (~~(21-54)~~) 21A.24. This does not include clearing or grading in
36 order to develop or expand such activities.

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

41 (6) Removal of noxious weeds from steep slope hazard
42 areas and the buffers of streams and wetlands subject to the
43 limitations on the use of pesticides in sensitive areas as set out
44 in K.C.C. Chapter (~~(21-54)~~) 21A.24.

45 (7) Pruning and limbing of vegetation for maintenance of
46 above ground electrical and telecommunication facilities; provided

1 that the clearing is consistent with the electric, natural gas,
2 cable communication and telephone utility exemption in sensitive
3 areas as regulated in K.C.C. Chapter ((21-54)) 21A.24.

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

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

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

12 (c) The parcel is located within areas designated rural
13 or agricultural by the King ((e)) County comprehensive plan or
14 applicable community plan;

15 (d) The parcel is located outside of expansion areas
16 for incorporated rural cities or rural towns and neighborhoods
17 ((activity centers)) as designated in King County comprehensive
18 plan or applicable community plans;

19 (e) The parcel equals or exceeds 5 acres in size; and
20 17. Clearing within seismic hazard area, except on slopes
21 greater than 15% and subject to clearing restrictions contained in
22 wildlife habitat corridors pursuant to 21A.14, a critical drainage
23 area established by administrative rule or in p-suffix conditions
24 in an adopted community plan, and provided the site contains no
25 other sensitive areas features.

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

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

41 The department of development and environmental services shall
42 also consider the effect of the proposed operation on the current
43 and future land use in the area affected by the proposed operation
44 and shall condition permits as necessary to protect the public
45 interest in this regard. Temporary permits are good for the life
46 of the contract of the specific job but must be reviewed annually.
47 Each temporary permit site shall be fully restored during the term

1 of the temporary permit, unless the site is subsequently designated
2 with a ((QM)) M zone classification ((~~or included in an~~
3 ~~unclassified use permit~~)). SECTION 5. Ordinance 1488, Section 7,
4 as amended and K.C.C. 16.82.060 are hereby amended to read as
5 follows:

6 Permit requirements. Except as exempted in Section 16.82.050,
7 no person shall do any clearing or grading without first obtaining
8 a clearing and grading permit from the director. A separate permit
9 shall be required for each site and may cover both excavations and
10 fills.

11 A. APPLICATION. To obtain a permit, the applicant shall
12 first file an application therefor in writing on a form furnished
13 for that purpose. The director shall prescribe the form by which
14 application is made. No application shall be accepted unless it is
15 completed consistent with the requirements of this chapter. Every
16 application shall:

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

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

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

25 4. Indicate the estimated quantities of work involved;

26 5. Identify any clearing restrictions contained in wildlife
27 habitat corridors pursuant to K.C.C. 21A.14, a critical drainage
28 area established by administrative rule or in p-suffix conditions
29 in an adopted community plan;

30 ((5-)) 6. Be accompanied by plans and specifications as
31 required in subsections B. and C.;

32 ((6-)) 7. Be signed by the property owner or his authorized
33 agent who may be required to submit evidence to indicate such
34 authority; and

35 ((7-)) 8. Give such other information as may be required by
36 the director.

37 B. PLANS AND SPECIFICATIONS. When required by the
38 director, each application for a grading permit shall be
39 accompanied by six sets of plans and specifications and other
40 supporting data as may be required. The plans and specifications
41 shall be prepared and signed by a civil engineer or landscape
42 architect registered to practice in the state of Washington when
43 required by the director; provided, he may require additional
44 studies prepared by a qualified soils specialist.

45 C. INFORMATION ON PLANS AND IN SPECIFICATIONS. Plans shall
46 be drawn to an engineer's scale upon substantial paper or cloth and

1 shall be of sufficient clarity to indicate the nature and extent of
 2 the work proposed and show in detail that they will conform to the
 3 provisions of this chapter and all other relevant laws, rules,
 4 regulations and standards. The first sheet of each set of plans
 5 shall give the location of the work and the name and address of the
 6 owner and the person by whom they were prepared. The plans shall
 7 include the following minimum information:

8 1. General vicinity of the proposed site;

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

11 3. Limiting dimensions, elevations or finished contours to
 12 be achieved by the grading, and proposed drainage channels and
 13 related construction;

14 4. Location of all cleared areas; any open space tracts or
 15 conservation easements if required pursuant to K.C.C. 21A.14,
 16 critical drainage areas, or p-suffix conditions; and the total area
 17 cleared on site as a percentage of the total site area,

18 ((4-)) 5. Detailed plans of all surface and subsurface
 19 drainage devices, walls, cribbing, dams, berms, settling ponds and
 20 other protective devices to be constructed with or as a part of the
 21 proposed work, together with the maps showing the drainage area and
 22 the estimated runoff of the area served by any drains;

23 ((5-)) 6. Location of any buildings or structures on the
 24 property where the work is to be performed and the location of any
 25 buildings or structures on land of adjacent owners which are within
 26 fifty feet of the property or which may be affected by the proposed
 27 grading operations;

28 ((6-)) 7. Landscape and rehabilitation plan as required by
 29 Section 16.82.110; and

30 ((7-)) 8. Other information as may be required by the
 31 director.

32 ((8-)) 9. If the clearing or grading is proposed to take
 33 place in or adjacent to a sensitive area as regulated in K.C.C.
 34 ((21-54)) 21A.24, provide information as required by that chapter.

35 D. GRANTING OF PERMITS. 1. The director shall determine
 36 if the proposed grading will adversely affect the character of the
 37 site for present lawful uses or with the future development of the
 38 site and adjacent properties for building or other purposes as
 39 indicated by the comprehensive plan, the shoreline master program,
 40 and the zoning code.

41 2. After an application has been filed and reviewed, the
 42 director shall also ascertain whether such grading work complies
 43 with the other provisions of this chapter. If the application and
 44 plans so comply, or if they are corrected or amended so as to
 45 comply, the director may issue to the applicant a grading permit.
 46 A grading permit shall be valid for the number of days stated in

1 the permit but in no case shall the period be more than two years;
2 provided, that when operating conditions have been met, the permit
3 may be renewed every two years, or less if a shorter approval
4 and/or renewal period is specified by the director.

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

8 4. Upon approval of the application and issuance of the
9 grading permit, no work shall be done that is not provided for in
10 the permit. The director is authorized to inspect the premises at
11 any reasonable time to determine if the work is in accordance with
12 the permit application and plans.

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

24 SECTION 6. Ordinance 9614, Section 102, and K.C.C. 16.82.140
25 are hereby amended to read as follows:

26 Forest Practices. A. Class IV Forest Practice. Under a Class
27 IV forest practice, all clearing not otherwise exempted under this
28 chapter shall be subject to the requirements of this chapter. All
29 such clearing shall be subject to the State Environmental Policy
30 Act, RCW 43.21C, and King County shall accept or assume lead agency
31 status. The review of the Class IV application shall be
32 consolidated with the review of the associated King County
33 development permit or approval. Clearing independent of permit or
34 approval shall require a separate clearing and grading permit
35 pursuant to this chapter which meets any applicable clearing
36 standards as defined by K.C.C. 16.82.150. King County will also
37 combine its SEPA review of Class IV forest practices and county
38 permits.

39 B. Development applications on lands outside the F zone and
40 cleared or graded pursuant to a Class I, II, III or IV Special
41 forest practice as defined in RCW 76.09, or cleared or graded
42 without forest practices or county authorization, shall be denied
43 for a period of six (6) years unless the applicant demonstrates
44 that the clearing was consistent with requirements of this chapter
45 or the applicant adequately restores the site. Restoration shall
46 include, but is not limited to, reforestation, erosion control,

1 sensitive areas enhancement and restoration, surface water
 2 management controls, and compliance with other applicable county
 3 regulations. Administrative rules shall set out further details as
 4 to how restoration is accomplished and when it will be deemed
 5 sufficient.

6 SECTION 7. Ordinance 9614, Section 103, and K.C.C. 16.82.150
 7 are hereby amended to read as follows:

8 Clearing standards. For clearing and grading permits issued
 9 under this chapter, the current clearing standards contained in the
 10 following regulations or adopted policies shall apply: (~~following~~
 11 ~~standards shall apply:~~

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

14 1. The Sensitive Areas Code, K.C.C. ((21-54)) 21A.24, and
 15 its adopted administrative rules;

16 2. P-suffix conditions within adopted community plans;

17 3. Critical drainage area designations identified by
 18 adopted administrative rule.

19 4. Wildlife habitat corridors pursuant to 21A.14

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

22 ~~1. P-suffix conditions within adopted community plans;~~

23 ~~2. Critical drainage area designations identified by~~
 24 ~~adopted administrative rules.)~~

25 B. Where conflicts exist between standards in subsection A,
 26 the most restrictive shall apply.

27 C. Within areas placed into tracts or conservation easements
 28 for wildlife habitat corridors pursuant to 21A.14 or corridors
 29 pursuant to 21A.14 or P-suffix conditions, the following uses are
 30 allowed:

31 1. Timber harvest in accordance with a timber harvest
 32 management plan and clearing permit approved by the department of
 33 development and environmental services or a successor agency;

34 2. Passive recreation uses and related facilities,
 35 including pedestrian and bicycle trails, nature viewing areas,
 36 fishing and camping areas, and other similar uses that do not
 37 require permanent structures, provided that cleared areas and/or
 38 areas of compacted soils associated with these uses and facilities
 39 do not exceed eight percent of the area of the tract or easement.

40 Within wildlife habitat corridors, trail widths shall be the
 41 minimum allowed under adopted trail standards and no other
 42 recreation uses shall be permitted in the 150 foot minimum width of
 43 the corridor;

44 3. Utilities and utility easements, including surface water
 45 facilities, provided that such uses are within or adjacent to
 46 existing road or utility easements whenever possible. Existing or

multiple utility uses within established easements shall be allowed within the 150 foot minimum width of the corridor. Development of new utility corridors shall be allowed only when multiple uses of existing easements are not feasible and are sited and use county-approved best management practices to minimize disturbance to the corridor; and

4. Removal of dangerous and or damaged trees.

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

Agricultural Production Districts (APDs). For any clearing and grading permits issued under this chapter for utilities or other public facilities crossing a portion of an APD, the following conditions shall be required:

- A. Demonstration that alternatives to crossing APDs are not feasible,
B. Timing of installation of facilities will minimize impacts to seasonal agricultural practices,
C. Placement of facilities in APD are built and located to minimize disruption of agricultural activity.

SECTION 9. Should any section, subsection paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this ordinance or its application to other persons or circumstances.

INTRODUCED AND READ for the first time this 28th day of November, 1994.

PASSED by a vote of 13 to 0 this 19th day of December, 1994.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

APPROVED this 30th day of December, 1994.

Doug Locher
King County Executive

Attachments:
None