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February 23, 1994
GT/sr

CHRISTOPHER VANCE
Introduced by: CYNTHIA SULLIVAN

Proposed No.: 93-817

ORDINANCE NO. **11273**

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4 AN ORDINANCE relating to zoning, clarifying general
5 exemptions for single family and non-single family
6 development, excluding fill from general exemptions,
7 including road and recreation area improvements and
8 maintenance as a general exemption, including
9 replacement, remodeling, and reconstruction of
10 structures within a surrounding improved area located
11 within a sensitive areas buffer as a permitted
12 wetland, stream, and steep slope alteration, amending
13 Resolution 25789, Section 299.19, K.C.C. 21.54.030,
14 Ordinance 9614, Section 88, K.C.C. 21.54.250,
15 Ordinance 9614, Section 91, K.C.C. 21.54.280,
16 Ordinance 9614, Section 59, K.C.C. 21.54.320,
17 Ordinance 10870, Section 479, K.C.C. 21A.24.310,
18 Ordinance 10870, Section 481, K.C.C. 21A.24.330, and
19 Ordinance 10870, Section 485, K.C.C. 21A.24.370.

20 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

21 SECTION 1. Ordinance 9614, Section 4, and K.C.C.

22 21.54.030 are hereby amended as follows:

23
24 General Exemptions. The following are exemptions to the
25 provisions of this chapter and the administrative rules((τ)):

26 A. Emergencies that threaten the public health, safety
27 and welfare((τ)).

28 B. ~~((Structures in existence on the date this chapter
29 becomes effective (November 27, 1990) and that do not meet the
30 setback or buffer requirements of this chapter for wetlands,
31 streams, or steep slope hazard areas may be remodelled,
32 reconstructed or replaced provided that the new construction
33 or related activity does not further intrude into a stream,
34 wetland, steep slope, or associated buffers and is subject to
35 the restrictions of the flood hazard areas for reconstruction.
36 Provided further, however, that new construction or related
37 activity connected with an existing single family residence
38 shall not be considered further intruding into an associated
39 buffer so long as the footprint of the structure lying within
40 the sensitive area is not increased by more than 1000 square
41 feet and no portion of the structure is located closer to the
42 stream, wetland or steep slope than the existing structure.))~~

43 Structural modification of, addition to or replacement of
44 structures, except single detached residences, in existence

1 before November 27, 1990 which do not meet the building setback
2 or buffer requirements for wetlands, streams or steep slope
3 hazard areas if the modification, addition, replacement or
4 related activity does not increase the existing footprint of
5 the structure lying within the building setback area, sensitive
6 area or buffer, provided the modification, addition, or
7 replacement is subject to the restrictions of the flood hazard
8 area for reconstruction, provided further that areas of fill
9 shall be excluded from this exemption;

10 C. Structural modification of, addition to or replacement
11 of single detached residences in existence before November 27,
12 1990 which do not meet the building setback or buffer require-
13 ments for wetlands, streams or steep slope hazard areas if the
14 modification, addition, replacement or related activity does
15 not increase the existing footprint of the residence lying
16 within the buffer or building setback area by more than 1000
17 square feet over that existing on November 27, 1990 and no
18 portion of the modification, addition or replacement is located
19 closer to the wetland, stream or steep slope or, if the
20 existing residence is in the wetland, stream or steep slope,
21 extends farther into the wetland, stream or steep slope,
22 provided the modification, addition, or replacement is subject
23 to the restrictions of the flood hazard area for
24 reconstruction, provided further that areas of fill shall be
25 excluded from this exemption.

26 ((G-)) D. ((For the following)) Agricultural activities in
27 existence ((on the date this chapter becomes effective+))
28 before November 27, 1990, as follows:

- 29 1. Grazing of livestock; provided, it is consistent with
30 K.C.C. 21.54.270 and 21.54.310, administrative rules, and any
31 animal density limitations established by ordinance;
- 32 2. Mowing of hay, grass or grain crops;
- 33 3. Tilling, discing, planting, seeding, harvesting and
34 related activities for pasture, food crops, grass seed or sod;
35 provided that such activities shall not involve the conversion

1 of any Class I or II wetland or buffer or Class I or II stream
2 or buffer not currently under agricultural use and shall not
3 take place on steep slopes;

4 4. Normal and routine maintenance of existing irrigation
5 and drainage ditches; provided, however, that this exception
6 shall not apply to any ditches used by salmonids.

7 5. Normal and routine maintenance of farm ponds, fish
8 ponds, manure lagoons, and livestock watering ponds; provided
9 that such activities shall not involve conversion of any
10 wetland not currently being used for such activity.

11 ((D+)) E. ((Per-t)) The following electric, natural gas,
12 cable communications, and telephone utility-related activities
13 when undertaken pursuant to county-approved best management
14 practices:

15 1. Normal and routine maintenance or repair of existing
16 utility structures or right-of-way;

17 2. Relocation of electric facilities, lines, equipment
18 or appurtenances, not including substations, with an associated
19 voltage of 55,000 volts or less only when required by a local
20 governmental agency which approves the new location of the
21 facilities;

22 3. Relocation of natural gas, cable communications, gas
23 and telephone facilities, lines, pipes, mains, equipment or
24 appurtenances only when required by a local governmental agency
25 which approves the new location of the facilities;

26 4. Installation or construction in improved county road
27 right-of-way, and replacement, operation or alteration, of all
28 electric facilities, lines, equipment or appurtenances, not
29 including substations, with an associated voltage of 55,000
30 volts or less;

31 5. Installation or construction in improved county road
32 right-of-way, and replacement, operation, repair or alteration
33 of all natural gas, cable communications and telephone
34 facilities, lines, pipes, mains, equipment or appurtenances.

1 clerk 3/28/94

2 ((B-)) F. Public agency development proposals only to the extent of any
3 construction contract awarded before the effective date of the chapter,
4 provided that any regulation in effect at the time of such award shall
5 apply to such proposal.

6 G. Maintenance, operation, repair, modification or replacement of
7 improved roadways established prior to November 27, 1990, as long as any
8 such construction activity does not involve the expansion of roadways or
9 related improvements into previously unimproved rights-of-way, or for
10 private roadways, into previously unimproved roadway or driveway alignment.
11 For the purpose of this paragraph "Private Roadway" means privately owned,
12 and maintained access provided by a tract, easement or other legal means.
13 In the event that the exempted activity results in a hazard to public
14 safety, or damages or destroys a sensitive area or sensitive area buffer,
15 the department may require corrective action, or mitigation pursuant to
16 K.C.C. 21.54.

17 H. Maintenance, operation or repair of publicly improved recreation
18 areas as long as any such alteration does not involve the expansion of
19 improvements into previously unimproved recreation areas.

20 SECTION 2. Ordinance 9614, Section 88, and K.C.C. 21.54.250 are
21 hereby amended as follows:

22 Steep slope hazard areas -- protection mechanisms and permitted
23 alterations. Development proposals on sites containing a steep slope
24 hazards area shall meet the requirements of this section.

25 A. Buffers.

26 1. A minimum buffer shall be established at a horizontal distance
27 of 50 feet from the top, toe, and along all sides of slopes 40% or steeper.
28 Existing native vegetation within the buffer area shall be maintained and
29 the buffer shall be extended beyond these limits as required to mitigate
30 landslide and erosion hazards, or as otherwise necessary to protect the
31 public health, safety and welfare.

32 2. The buffer may be reduced to a minimum of ten feet when an
33 applicant demonstrates to King County pursuant to a

1 special study that the reduction will adequately protect the
2 proposed development and the sensitive area.

3 B. Sensitive Areas Tracts. Any continuous steep slope
4 hazard area and its buffers one acre or greater in size shall
5 be placed in separate sensitive areas tracts in development
6 proposals listed in K.C.C. 21.54.110.

7 C. Building Setback Lines. A building setback line will
8 be established at a distance of 15 feet from the edge of the
9 buffer.

10 D. Alterations. Alterations to steep slopes and buffers
11 shall be allowed only as follows:

12 1. Surface Water Management. Steep slopes may be used
13 for approved surface water conveyance as specified in the
14 Surface Water Design Manual. Installation techniques shall
15 minimize disturbance to the slope and vegetation.

16 2. Trails. Construction of public and private trails
17 may be allowed on steep slopes provided they receive site
18 specific approval by King County as guided by the construction
19 and maintenance standards in the U.S. Forest Service "Trails
20 Management Handbook" (FSH 2309.18, June 1987 as amended) and
21 "Standard Specifications for Construction of Trails"
22 (EM-7720-102, June 1984 as amended); but in no case shall
23 trails be constructed of concrete, asphalt or other impervious
24 surface which would contribute to surface water runoff unless
25 such construction is necessary for soil stabilization or soil
26 erosion prevention.

27 3. Utilities. Construction of public and private
28 utility corridors may be allowed on steep slopes provided that
29 a special sensitive area study indicates that such alteration
30 will not subject the area to the risk of landslide or erosion.

31 4. View Corridors. King County shall allow the limited
32 trimming and limbing of vegetation on steep slopes for the
33 creation and maintenance of views provided that the soils are
34 not disturbed and the activity is subject to the provisions of
35 administrative rules.

1 5. Mining activities. King County may allow alteration
2 of steep slope hazard areas in conjunction with approved mining
3 and quarrying activities.

4 6. Reconstruction, remodeling, or replacement of
5 existing structures. Reconstruction, remodeling, or
6 replacement of an existing structure upon another portion of an
7 existing impervious surface which was established pursuant to
8 King County laws and regulations may be allowed provided:

9 a. if within the buffer, the structure is located no
10 closer to the steep slope than the existing structure,

11 b. the existing impervious surface within the buffer
12 or steep slope is not expanded as a result of the
13 reconstruction or replacement.

14 F. King County may grant exemptions from the steep slope
15 requirements of this chapter pursuant to K.C.C. 21.54.050 and
16 .060.

17 G. Limited Exemptions.

18 1. Slopes 40% and steeper with a vertical elevation
19 change of up to 20 feet may be exempted from the provisions of
20 this section based on King County review of a soils report
21 prepared by a geologist or geotechnical engineer which
22 demonstrates that no adverse impact will result from the
23 exemption.

24 2. Any slope which has been created through previous,
25 legal grading activities may be regraded as part of an approved
26 development proposal. Any slope which remains equal to or in
27 excess of 40% following site development shall be subject to
28 the protection mechanisms for steep slopes.

29 H. Removal or introduction of vegetation on landslide or
30 steep slopes. Unless otherwise specified, the following
31 restrictions apply to vegetation removal or introduction in
32 steep slope hazard areas, landslide hazard areas and their
33 buffers.

34 1. There shall be no removal of any vegetation from any
35 steep slope hazard area or buffer except for the limited plant

1 removal necessary for surveying purposes and for the removal of
2 hazard trees determined to be unsafe according to the tree
3 selection rules prepared pursuant to this chapter after notice
4 to King County is provided.

5 2. On slopes which have been disturbed by human activity
6 or infested by noxious weeds, replacement with native species
7 or other appropriate vegetation may be allowed subject to
8 approval by King County of an enhancement plan.

9 SECTION 3. Ordinance 9614, Section 91, and K.C.C.

10 21.54.280 are hereby amended as follows:

11 Alterations to wetlands and buffers. A. King County may
12 grant exceptions from the wetland requirements of this chapter
13 pursuant to K.C.C. 21.54.050 and .060.

14 B. Utilities in wetland buffer.

15 1. Construction of utilities shall be permitted in
16 wetland buffers only when no practical alternative location is
17 available and the utility corridor meets the criteria set forth
18 in administrative rules including but not limited to
19 requirements for installation, replacement of vegetation and
20 maintenance.

21 2. Sewer Utility. Construction of sewer lines may only
22 be permitted in wetland buffers when the applicant demonstrates
23 it is necessary for gravity flow and meets the requirement of
24 this section. Joint use of the sewer utility corridor by other
25 utilities may be allowed.

26 a. Corridors shall not be allowed when the wetland
27 or buffer is used by species listed as endangered or threatened
28 by the federal government or state, or the presence of critical
29 or outstanding actual habitat for those species or heron
30 rookeries or raptor nesting trees;

31 b. Corridor alignment, including any allowed
32 maintenance roads, shall follow a path beyond a distance from
33 wetland edge equal to 75% of the buffer width;

34 c. Corridor construction and maintenance shall
35 protect the wetland and buffer environment, shall be aligned to

1 avoid cutting trees greater than 12 inches in diameter at
2 breast height when possible and shall not use pesticides,
3 herbicides or other hazardous or toxic substances;

4 d. Corridors shall require an additional, adjacent,
5 undisturbed buffer width equal to the proposed corridor width
6 including any allowed maintenance roads;

7 e. Corridors shall be revegetated with appropriate
8 native vegetation at pre-construction densities or greater
9 immediately upon completion of construction or as soon
10 thereafter as possible and the sewer utility shall ensure that
11 such vegetation survives;

12 f. Any additional corridor access for maintenance
13 shall be provided as much as possible at specific points rather
14 than by parallel roads. If parallel roads are necessary they
15 shall be of a minimum width but no greater than 15 feet; shall
16 be maintained without the use of herbicides, pesticides or
17 other hazardous or toxic substances; and shall be contiguous to
18 the location of the utility corridor on the side away from the
19 stream.

20 C. Surface water management.

21 The following surface water management activities may
22 be allowed only if they meet the following requirements:

23 1. New surface water discharges to wetlands from
24 detention facilities, pre-settlement ponds, or other surface
25 water management structures may be allowed provided that the
26 discharge does not increase the rate of flow nor decrease the
27 water quality of the wetland.

28 2. Class 1 and 2 wetlands may be used for regional
29 retention/detention facilities only when authorized by the
30 exception process set out in K.C.C. 21.54.050, and all
31 requirements of the surface water design manual are met, the
32 use will not alter the rating or the factors used in rating the
33 wetland, the proposal is in compliance with the latest adopted
34 findings of the Puget Sound Wetlands Research Project, and
35 there are no significant adverse impacts to wetland resources.

1 3. Class 3 wetlands and buffers which have as their
2 major function the storage of water may be altered for use as
3 regional retention/detention facilities provided that
4 presettlement ponds shall be required and all requirements of
5 the surface water design manual are met;

6 4. Wetlands shall not be used for retention/detention
7 facilities other than for regional facilities.

8 5. Use of wetland buffers for surface water management
9 activities other than retention/detention facilities, such as
10 energy dissipators and associated pipes, may be allowed only if
11 the applicant demonstrates:

- 12 a. No practicable alternative exists; and
13 b. The functions of the buffer or the wetland are
14 not adversely impacted.

15 D. Trails.

16 Construction of public and private trails may be
17 allowed in wetland buffers only upon adoption of administrative
18 rules pursuant to the following guidelines:

19 1. Trail surface shall not be of impervious materials,
20 except that impervious public multi-purpose trails like the
21 Burke-Gilman Trail may be allowed if they meet all other
22 requirements including water quality; and

23 2. Where trails are provided, buffers shall be expanded,
24 where possible, equal to the width of the trail corridor
25 including disturbed areas.

26 E. Docks.

27 Construction of a dock, pier, moorage, float or
28 launch facility may be permitted subject to criteria in K.C.C.
29 Title 25 provided:

30 1. Existing and zoned density around the wetland is
31 three dwelling units per acre or more;

32 2. At least 75% of the lots around the wetland have been
33 built upon, and no significant buffer or wetland vegetation
34 remains in these areas;

1 3. No significant buffer or wetland vegetation exists on
2 the lot; and

3 4. Open water is a significant component of wetland
4 subclasses.

5 F. Isolated wetlands.

6 Isolated wetlands are class 3 wetlands whose total
7 size is less than 2500 square feet excluding buffers, which are
8 hydrogically isolated from other wetlands or streams, and which
9 do not have permanent open water. Up to three isolated
10 wetlands per 20 acres may be altered per development proposal
11 site by combining their functions and values into one large
12 wetland relocated on site pursuant to a mitigation plan. The
13 replacement wetland shall include enhancement for wildlife
14 habitat.

15 G. Limited Agricultural Use Exemption.

16 King County may allow the construction of one
17 additional agricultural building or associated residence within
18 the buffer on a grazed wet meadow provided that all hydrologic
19 storage be replaced on site.

20 H. Firewood.

21 The cutting of up to 1 cord of firewood may be
22 permitted in buffers in any year provided the overall function
23 of the buffer is not adversely impacted. Removal of brush may
24 also be permitted for the purpose of enhancing tree growth.

25 I. Reconstruction, remodeling, or replacement of
26 existing structures.

27 Reconstruction, remodeling, or replacement of an
28 existing structure upon another portion of an existing
29 impervious surface which was established pursuant to King
30 County laws and regulations may be allowed provided:

31 1. if within the buffer, the structure is located no
32 closer to the wetland than the existing structure.

33 2. the existing impervious surface within the buffer
34 or wetland is not expanded as a result of the reconstruction or
35 replacement.

1 SECTION 4. Ordinance 9614, Section 95, and K.C.C.

2 21.54.320 are hereby amended as follows:

3 Alterations to streams and buffers. A. King County may
4 grant exceptions from the streams requirements of this chapter
5 pursuant to K.C.C. 21.54.050 and .060.

6 B. Stream Crossings. Stream crossings may be allowed
7 only if they meet the requirements as follows:

8 1. All road crossings shall use bridges or other
9 construction techniques which do not disturb the stream bed or
10 bank; provided, however, in the case of Class 2 or Class 3
11 streams, bottomless culverts or other appropriate methods
12 demonstrated to provide fisheries protection may be used if
13 ~~((and))~~ the applicant demonstrates that such methods and their
14 implementation will pose no harm to the stream or inhibit
15 migration of fish.

16 2. All crossings shall be constructed during summer low
17 flow and be timed to avoid stream disturbance during periods
18 when use is critical to salmonids;

19 3. Crossings shall not occur over salmonid spawning
20 areas unless no other possible crossing site exists;

21 4. Bridge piers or abutments shall not be placed within
22 the FEMA floodway or the ordinary high water mark;

23 5. Crossings shall not diminish the flood carrying
24 capacity of the stream;

25 6. Underground utility crossings shall be laterally
26 drilled and located at a depth of four feet below the maximum
27 depth of scour for the base flood predicted by a civil engineer
28 licensed by the State of Washington; and

29 7. Crossings shall be minimized and serve multiple
30 purposes and properties whenever possible.

31 C. Relocations. The following relocations may be
32 allowed if they meet all requirements and are approved by all
33 agencies with jurisdiction.

1 1. Class 2 streams shall not be relocated except for
2 public road projects which have been authorized by the
3 exemption process set out in K.C.C. 21.54.050.

4 2. Class 3 streams may be relocated under a mitigation
5 plan for the purpose of enhancement of in-stream resources.
6 Appropriate floodplain protection measures must be used. The
7 relocation shall occur on-site, provided that upon
8 demonstration on-site relocation is impracticable, King County
9 may consider off-site relocation if the location is in the same
10 drainage sub-basin, subject to applicant providing all
11 necessary easements and waivers from affected property owners.

12 3. An applicant must demonstrate, based on information
13 provided by a civil engineer and a qualified biologist, that:

14 a. The equivalent base flood storage volume and
15 function will be maintained;

16 b. There will be no adverse impact to local
17 groundwater;

18 c. There will be no increase in velocity;

19 d. There will be no interbasin transfer of water;

20 e. Performance standards as set out in the
21 mitigation plan are met;

22 f. The relocation conforms to other applicable
23 laws; and

24 g. All work will be carried out under the direct
25 supervision of a qualified biologist.

26 D. Trails.

27 Construction of public and private trails may be
28 allowed in stream buffers only upon adoption of administrative
29 rules and pursuant to the following guidelines:

30 1. Trail surface shall not be of impervious materials,
31 except that impervious public multi-purpose trails like the
32 Burke-Gilman Trail may be allowed if they meet all other
33 requirements including water quality; and

1 2. Where trails are provided, buffers shall be expanded,
2 where possible, equal to the width of the trail corridor
3 including disturbed areas.

4 E. Stream channel stabilization.

5 A stream channel may be stabilized when movement of
6 the stream channel threatens existing residential or commercial
7 structures, public improvements, unique natural resources, or
8 the only possible existing access to property and is done in
9 accordance with the requirements in K.C.C. 21.54.180-.210 and
10 the administrative rules.

11 F. Surface water management.

12 The following surface water management actions may be
13 allowed only if they meet the following requirements:

14 1. Surface water discharges to streams from detention
15 facilities, pre-settlement ponds, or other surface water
16 management structures may be allowed provided that the
17 discharge complies with the provisions of the surface water
18 design manual.

19 2. Class 2 streams may be used for regional
20 retention/detention facilities when authorized by the exemption
21 process set out in K.C.C. 21.54.050, all requirements of the
22 surface water design manual are met, the use will not alter the
23 rating or the factors used in rating the stream, and there are
24 no significant adverse impacts to stream resources.

25 3. Class 3 streams and buffers may be altered for use as
26 retention/ detention facilities provided that the project will
27 have no lasting adverse impacts on any stream and all
28 requirements of the surface water design manual are met;

29 G. Utilities in stream buffer.

30 1. Construction of utilities shall be permitted in
31 stream buffers only when no practical alternative location is
32 available and the utility corridor meets the criteria set forth
33 in administrative rules including but not limited to
34 requirements for installation, replacement of vegetation and
35 maintenance.

1 2. (~~Sewer Utility~~) Sewer utility corridors may only
2 be located in stream buffers when the applicant demonstrates it
3 is necessary for gravity flow. Joint use of the sewer utility
4 corridor by other utilities is allowed. The requirements for
5 utility corridors in K.C.C. 21.54.280 shall also apply to
6 streams.

7 H. Enhancement Independent of Development Proposal.

8 1. Enhancement of streams, not associated with any other
9 development proposal may be allowed when enhancement would
10 enhance stream functions, as determined by the county and any
11 state agency with jurisdiction. Such enhancement shall be
12 performed under a plan for the design, implementation,
13 maintenance and monitoring of the project prepared by a civil
14 engineer and a qualified biologist and shall be carried out
15 under the direct supervision of a qualified biologist pursuant
16 to criteria set out in the administrative rules.

17 2. Minor stream restoration projects for fish habitat
18 enhancement by a public agency, whose mandate includes such
19 work, unassociated with mitigation of a specific development
20 proposal and not to exceed \$25,000 dollars in cost, may be
21 allowed. Such projects are limited to placement of rock weirs,
22 log controls, spawning gravel and other specific salmonid
23 habitat improvements and shall involve use of hand labor and
24 light equipment only, to be performed under direct supervision
25 of a qualified biologist.

26 I. Drainage ditch maintenance.

27 Roadside drainage ditches and agricultural drainage
28 ditches that carry streams with salmonids may be maintained
29 through use of best management practices developed in
30 consultation with county, state and federal agencies with
31 expertise and/or jurisdiction. These practices shall be
32 adopted as administrative rules.

33 J. Firewood.

34 The cutting of up to 1 cord of firewood may be
35 permitted in buffers in any year provided the overall function

1 of the buffer is not adversely impacted. Removal of brush may
2 also be permitted for the purpose of enhancing tree growth.

3 K. Reconstruction, remodeling, or replacement of
4 existing structures.

5 Reconstruction, remodeling, or replacement of an
6 existing structure upon another portion of an existing
7 impervious surface which was established pursuant to King
8 County laws and regulations may be allowed provided:

9 1. if within the buffer, the structure is located no
10 closer to the stream than the existing structure,

11 2. the existing impervious surface within the buffer
12 or stream is not expanded as a result of the reconstruction or
13 replacement.

14 SECTION 5. Ordinance 10870, Section 479, and K.C.C.
15 21.A.24.310 are hereby amended as follows:

16 Steep slope hazard areas: development standards and
17 permitted alterations. A development proposal on a site
18 containing a steep slope hazard area shall meet the following
19 requirements: A. A minimum buffer of 50 feet shall be
20 established from the top, toe and along all sides of any slope
21 40% or steeper. The buffer shall be extended as required to
22 mitigate a landslide or erosion hazard or as otherwise
23 necessary to protect the public health, safety and welfare.
24 The buffer may be reduced to a minimum of ten feet if, based on
25 a special study, King County determines that the reduction will
26 adequately protect the proposed development and the sensitive
27 area. For single family residential building permits only,
28 King County may waive the special study requirement and
29 authorize buffer reductions if King County determines that the
30 reduction will adequately protect the proposed development and
31 the sensitive area;

32 B. Unless otherwise provided herein or as part of an
33 approved alteration, removal of any vegetation from a steep
34 slope hazard area or buffer shall be prohibited, except for
35 limited removal of vegetation necessary for surveying purposes

1 and for the removal of hazard trees determined to be unsafe
2 according to tree selection rules promulgated pursuant to this
3 chapter. Notice to King County shall be provided prior to any
4 vegetation removal permitted by this subsection;

5 C. Vegetation on steep slopes within steep slope hazard
6 areas or their buffers which has been damaged by human activity
7 or infested by noxious weeds may be replaced with vegetation
8 native to King County pursuant to a vegetation management plan
9 approved by King County. The use of hazardous substances,
10 pesticides and fertilizers in steep slope hazard areas and
11 their buffers may be prohibited by King County;

12 D. Alterations to steep slope hazard areas and buffers
13 may be allowed only as follows:

14 1. approved surface water conveyances, as specified in
15 the Surface Water Design Manual, may be allowed on steep slopes
16 if they are installed in a manner to minimize disturbance to
17 the slope and vegetation;

18 2. public and private trails may be allowed on steep
19 slopes as approved by the county. Under no circumstances shall
20 trails be constructed of concrete, asphalt or other impervious
21 surfaces which will contribute to surface water run-off, unless
22 such construction is necessary for soil stabilization or soil
23 erosion prevention or unless the trail system is specifically
24 designed and intended to be accessible to handicapped persons.
25 Additional requirements for trail construction may be set forth
26 in administrative rules;

27 3. utility corridors may be allowed on steep slopes if a
28 special study shows that such alteration will not subject the
29 area to the risk of landslide or erosion;

30 4. limited trimming and pruning of vegetation may be
31 allowed on steep slopes pursuant to an approved vegetation
32 management plan for the creation and maintenance of views if
33 the soils are not disturbed and the activity is subject to
34 administrative rules;

1 5. approved mining and quarrying activities may be
2 allowed; and

3 6. stabilization of sites where erosion or landsliding
4 threaten public or private structures, utilities, roads,
5 driveways or trails, or where erosion and landsliding threatens
6 any lake, stream, wetland or shoreline. Stabilization work
7 shall be performed in a manner which causes the least possible
8 disturbance to the slope and its vegetative cover; and

9 7. Reconstruction, remodeling, or replacement of
10 existing structures.

11 Reconstruction, remodeling, or replacement of an
12 existing structure upon another portion of an existing
13 impervious surface which was established pursuant to King
14 County laws and regulations may be allowed provided:

15 a. if within the buffer, the structure is located no
16 closer to the steep slope than the existing structure,

17 b. the existing impervious surface within the buffer
18 or steep slope is not expanded as a result of the
19 reconstruction or replacement.

20 E. The following are exempt from the provisions of this
21 section:

22 1. slopes which are 40% or steeper with a vertical
23 elevation change of up to 20 feet if no adverse impact will
24 result from the exemption based on King County's review of and
25 concurrence with a soils report prepared by a geologist or
26 geotechnical engineer; and

27 2. the approved regrading of any slope which was created
28 through previous legal grading activities. Any slope which
29 remains 40% or steeper following site development shall be sub-
30 ject to all requirements for steep slopes.

31 SECTION 6. Ordinance 10870, Section 481, and K.C.C.
32 21A.24.330 are hereby amended as follows:

33 Wetlands: permitted alterations. Alterations to wetlands
34 and buffers may be allowed only as follows: A. Alterations
35 may be permitted if King County determines, based upon its

1 review of special studies completed by qualified professionals,
2 that:

3 1. the wetland does not serve any of the valuable
4 functions of wetlands identified in K.C.C. 21A.06.730
5 including, but not limited to, biologic and hydrologic
6 functions; or

7 2. the proposed development will protect or enhance the
8 wildlife habitat, natural drainage or other valuable functions
9 of the wetland and will be consistent with the purposes of this
10 chapter;

11 B. To establish the conditions in subsection A.,
12 detailed studies may be required as part of the special study
13 on habitat value, hydrology, erosion and deposition and/or
14 water quality. Such detailed studies shall include specific
15 recommendations for mitigation which may be required as a
16 condition of any development proposal approval. The
17 recommendations may include, but are not limited to,
18 construction techniques or design, drainage or density
19 specifications;

20 C. If a wetland is in a flood hazard area, the applicant
21 shall notify affected communities and native tribes of proposed
22 alterations prior to any alteration and submit evidence of such
23 notification to the Federal Insurance Administration;

24 D. There shall be no introduction of any plant or
25 wildlife which is not indigenous to King County into any
26 wetland or buffer unless authorized by a state or federal
27 permit or approval;

28 E. Utilities may be allowed in wetland buffers if:

29 1. King County determines that no practical alternative
30 location is available; and

31 2. the utility corridor meets any additional
32 requirements set forth in administrative rules including, but
33 not limited to, requirements for installation, replacement of
34 vegetation and maintenance;

1 F. Sewer utility corridors may be allowed in wetland
2 buffers only if:

3 1. the applicant demonstrates that sewer lines are
4 necessary for gravity flow;

5 2. the corridor is not located in a wetland or buffer
6 used by species listed as endangered or threatened by the state
7 or federal government or containing critical or outstanding
8 actual habitat for those species or heron rookeries or raptor
9 nesting trees;

10 3. the corridor alignment including, but not limited to,
11 any allowed maintenance roads follows a path beyond a distance
12 equal to 75% of the buffer width from the wetland edge;

13 4. corridor construction and maintenance protects the
14 wetland and buffer and is aligned to avoid cutting trees
15 greater than 12 inches in diameter at breast height, when
16 possible, and pesticides, herbicides and other hazardous
17 substances are not used;

18 5. an additional, contiguous and undisturbed buffer,
19 equal in width to the proposed corridor including any allowed
20 maintenance roads, is provided to protect the wetland;

21 6. the corridor is revegetated with appropriate
22 vegetation native to King County at pre-construction densities
23 or greater immediately upon completion of construction or as
24 soon thereafter as possible, and the sewer utility ensures that
25 such vegetation survives;

26 7. any additional corridor access for maintenance is
27 provided, to the extent possible, at specific points rather
28 than by a parallel road; and

29 8. the width of any necessary parallel road providing
30 access for maintenance is as small as possible, but not greater
31 than 15 feet, the road is maintained without the use of her-
32 bicides, pesticides or other hazardous substances and the
33 location of the road is contiguous to the utility corridor on
34 the side away from the wetland;

1 G. Joint use of an approved sewer utility corridor by
2 other utilities may be allowed.

3 H. The following surface water management activities and
4 facilities may be allowed in wetland buffers only as follows:

5 1. surface water discharge to a wetland from a detention
6 facility, pre-settlement pond or other surface water management
7 activity or facility may be allowed if the discharge does not
8 increase the rate of flow, change the plant composition in a
9 forested wetland or decrease the water quality of the wetland;

10 2. a class 1 or 2 wetland or buffer may be used for a
11 regional retention/detention facility if:

12 a. a public agency and utility exception is granted
13 pursuant to K.C.C. 21A.24.070;

14 b. all requirements of the Surface Water Design
15 Manual are met;

16 c. the use will not alter the rating or the factors
17 used in rating the wetland;

18 d. the proposal is in compliance with the latest
19 adopted findings of the Puget Sound Wetlands Research Project;
20 and

21 e. there are no significant adverse impacts to the
22 wetland;

23 3. a class 3 wetland or buffer which has as its major
24 function the storage of water may be used as a regional
25 retention/detention facility if a pre-settlement pond is
26 required and all requirements of the Surface Water Design
27 Manual are met; and

28 4. use of a wetland buffer for a surface water
29 management activity or facility, other than a
30 retention/detention facility, such as an energy dissipater and
31 associated pipes, may be allowed only if the applicant
32 demonstrates, to the satisfaction of King County, that:

33 a. no practicable alternative exists; and

34 b. the functions of the buffer or the wetland are
35 not adversely affected;

1 I. Wetlands shall not be used for retention/detention
2 facilities other than for regional facilities as provided in
3 this section;

4 J. Public and private trails may be allowed in wetland
5 buffers only upon adoption of administrative rules consistent
6 with the following:

7 1. the trail surface shall not be made of impervious
8 materials, except that public multi-purpose trails such as the
9 Burke-Gilman Trail may be made of impervious materials if they
10 meet all other requirements including water quality; and

11 2. buffers shall be expanded, where possible, equal to
12 the width of the trail corridor including disturbed areas;

13 K. A dock, pier, moorage, float or launch facility may
14 be allowed, subject to the provisions of K.C.C. Title 25, if:

15 1. the existing and zoned density around the wetland is
16 three dwelling units per acre or more;

17 2. at least 75% of the lots around the wetland have been
18 built upon and no significant buffer or wetland vegetation
19 remains on these lots; and

20 3. open water is a significant component of the wetland;

21 L. Alterations to isolated wetlands may be allowed only
22 as follows:

23 1. on sites of less than 20 acres in size, one isolated
24 wetland may be altered by relocating its functions into a new
25 wetland on the site pursuant to an approved mitigation plan;

26 2. on sites 20 acres or greater in size, up to three
27 isolated wetlands may be altered by combining their functions
28 into one or more replacement wetlands on the site pursuant to
29 an approved mitigation plan; and

30 3. whenever an isolated wetland is altered pursuant to
31 this subsection, the replacement wetland shall include
32 enhancement for wildlife habitat;

33 M. One additional agricultural building or associated
34 residence may be allowed within the wetland buffer on a grazed
35 wet meadow if all hydrologic storage is replaced on the site;

1 N. Subject to a clearing and grading permit issued
2 pursuant to K.C.C. 16.82, the cutting of up to one cord of
3 firewood may be permitted in buffers of five acres or larger in
4 any year if the overall function of the buffer is not adversely
5 affected. Removal of brush may also be permitted for the
6 purpose of enhancing tree growth if the area of removal is
7 limited to the diameter of the tree canopy at the time of
8 planting; and

9 O. Wetland road crossings may be allowed if:

10 1. King County determines that no alternative access is
11 practical;

12 2. all crossings minimize impact to the wetland and
13 provide mitigation for unavoidable impacts through restoration,
14 enhancement or replacement of disturbed areas;

15 3. crossings do not change the overall wetland
16 hydrology;

17 4. crossings do not diminish the flood storage capacity
18 of the wetland; and

19 5. all crossings are constructed during summer low water
20 periods.

21 P. Reconstruction, remodeling, or replacement of
22 existing structures.

23 Reconstruction, remodeling, or replacement of an
24 existing structure upon another portion of an existing
25 impervious surface which was established pursuant to King
26 County laws and regulations may be allowed provided:

27 1. if within the buffer, the structure is located no
28 closer to the wetland than the existing structure.

29 2. the existing impervious surface within the buffer
30 or wetland is not expanded as a result of the reconstruction or
31 replacement.

32 SECTION 7. Ordinance 10870, Section 485, and K.C.C.
33 21A.24.370 are hereby amended to read as follows:

1 Streams: permitted alterations. Alterations to streams
2 and buffers may be allowed only as follows: A. Alterations may
3 only be permitted if based upon a special study;

4 B. The applicant shall notify affected communities and
5 native tribes of proposed alterations prior to any alteration
6 if a stream is in a flood hazard area and shall submit evidence
7 of such notification to the Federal Insurance Administration;

8 C. There shall be no introduction of any plant or
9 wildlife which is not indigenous to King County into any stream
10 or buffer unless authorized by a state or federal permit or
11 approval;

12 D. Utilities may be allowed in stream buffers if:

13 1. no practical alternative location is available;
14 2. the utility corridor meets any additional
15 requirements set forth in administrative rules including, but
16 not limited to, requirements for installation, replacement of
17 vegetation and maintenance;

18 3. the requirements for sewer utility corridors in
19 K.C.C. 21A.24.330 shall also apply to streams; and

20 4. joint use of an approved sewer utility corridor by
21 other utilities may be allowed.

22 E. The following surface water management activities and
23 facilities may be allowed in stream buffers as follows:

24 1. surface water discharge to a stream from a detention
25 facility, pre-settlement pond or other surface water management
26 activity or facility may be allowed if the discharge is in
27 compliance with the Surface Water Design Manual;

28 2. a class 2 stream or buffer may be used for a regional
29 retention/detention facility if:

30 a. a public agency and utility exception is granted
31 pursuant to K.C.C. 21A.24.070;

32 b. all requirements of the Surface Water Design
33 Manual are met;

34 c. the use will not alter the rating or the factors
35 used in rating the stream;

1 d. there are no significant adverse impacts to the
2 stream; and

3 3. a class 3 stream or buffer may be used as a regional
4 retention/detention facility if the alteration will have no
5 lasting adverse impact on any stream and all requirements of
6 the Surface Water Design Manual are met;

7 F. Except as provided in subsection G, public and
8 private trails may be allowed in stream buffers only upon
9 adoption of administrative rules consistent with the following:

10 1. the trail surface shall not be made of impervious
11 materials, except that public multi-purpose trails such as the
12 Burke-Gilman Trail may be made of impervious materials if they
13 meet all other requirements including water quality; and

14 2. buffers shall be expanded, where possible, equal to
15 the width of the trail corridor including disturbed areas;

16 G. Stream crossings may be allowed if:

17 1. all crossings use bridges or other construction
18 techniques which do not disturb the stream bed or bank, except
19 that bottomless culverts or other appropriate methods
20 demonstrated to provide fisheries protection may be used for
21 class 2 or 3 streams if the applicant demonstrates that such
22 methods and their implementation will pose no harm to the
23 stream or inhibit migration of fish;

24 2. all crossings are constructed during the summer low
25 flow and are timed to avoid stream disturbance during periods
26 when use is critical to salmonids;

27 3. crossings do not occur over salmonid spawning areas
28 unless King County determines that no other possible crossing
29 site exists;

30 4. bridge piers or abutments are not placed within the
31 FEMA floodway or the ordinary high water mark;

32 5. crossings do not diminish the flood-carrying capacity
33 of the stream;

34 6. underground utility crossings are laterally drilled
35 and located at a depth of four feet below the maximum depth of

1 scour for the base flood predicted by a civil engineer licensed
2 by the State of Washington; and

3 7. crossings are minimized and serve multiple purposes
4 and properties whenever possible;

5 H. Stream relocations may be allowed only for:

6 1. class 2 streams as part of a public road project for
7 which a public agency and utility exception is granted pursuant
8 to K.C.C. 21A.24.050; and

9 2. class 3 streams for the purpose of enhancing
10 resources in the stream if:

11 a. appropriate floodplain protection measures are
12 used; and

13 b. the relocation occurs on the site, except that
14 relocation off the site may be allowed if the applicant
15 demonstrates that any on-site relocation is impracticable, the
16 applicant provides all necessary easements and waivers from
17 affected property owners and the off-site location is in the
18 same drainage sub-basin as the original stream;

19 I. For any relocation allowed by this section, the
20 applicant shall demonstrate, based on information provided by a
21 civil engineer and a qualified biologist, that:

22 1. the equivalent base flood storage volume and function
23 will be maintained;

24 2. there will be no adverse impact to local groundwater;

25 3. there will be no increase in velocity;

26 4. there will be no interbasin transfer of water;

27 5. there will be no increase in the sediment load;

28 6. requirements set out in the mitigation plan are met;

29 7. the relocation conforms to other applicable laws; and

30 8. all work will be carried out under the direct
31 supervision of a qualified biologist;

1 J. A stream channel may be stabilized if:

2 1. movement of the stream channel threatens existing
3 residential or commercial structures, public facilities or
4 improvements, unique natural resources or the only existing
5 access to property; and

6 2. the stabilization is done in compliance with the
7 requirements of K.C.C. 21A.24.230 - 21A.24.270 and
8 administrative rules promulgated pursuant to this chapter;

9 K. Stream enhancement not associated with any other
10 development proposal may be allowed if accomplished according
11 to a plan for its design, implementation, maintenance and
12 monitoring prepared by a civil engineer and a qualified
13 biologist and carried out under the direct supervision of a
14 qualified biologist pursuant to provisions contained in
15 administrative rules;

16 L. A minor stream restoration project for fish habitat
17 enhancement may be allowed if:

18 1. the restoration is accomplished by a public agency
19 with a mandate to do such work;

20 2. the restoration is unassociated with mitigation of a
21 specific development proposal;

22 3. the restoration does not cost more than \$25,000;

23 4. the restoration is limited to placement of rock
24 weirs, log controls, spawning gravel and other specific
25 salmonid habitat improvements;

26 5. the restoration only involves the use of hand labor
27 and light equipment; and

28 6. the restoration is performed under the direct
29 supervision of a qualified biologist;

30 M. Roadside and agricultural drainage ditches which
31 carry streams with salmonids may be maintained through use of
32 best management practices developed in consultation with
33 relevant county, state and federal agencies. These practices
34 shall be adopted as administrative rules; and

1 N. Subject to a clearing and grading permit issued
2 pursuant to K.C.C. 16.82, the cutting of up to one cord of
3 firewood may be permitted in buffers of five acres or larger in
4 any year if the overall function of the buffer is not adversely
5 affected. Removal of brush may also be permitted for the
6 purpose of enhancing tree growth if the area of removal is
7 limited to the diameter of the tree canopy at the time of
8 planting.

1 O. Reconstruction, remodeling, or replacement of
2 existing structures. Reconstruction, remodeling, or
3 replacement of an existing structure upon another portion of an
4 existing impervious surface which was established pursuant to
5 King County laws and regulations may be allowed provided:

6 1. if within the buffer, the structure is located no
7 closer to the stream than the existing structure,

8 2. the existing impervious surface within the buffer
9 or stream is not expanded as a result of the reconstruction or
10 replacement.

11 INTRODUCED and READ for the first time this 15th
12 day of November, 1993.

13 PASSED this 28th day of March, 1994.

14 Passed by a vote of 12-0.

15 KING COUNTY COUNCIL
16 KING COUNTY, WASHINGTON

17 Kent Pullen
18 Chair

19 ATTEST:

20 Ronald G. Peter
21 Clerk of the Council

22 APPROVED this 7th day of April, 1994.

23 Doug Lodge
24 King County Executive

25 Attachments:
26 None



King County Executive
GARY LOCKE

400 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-4040

RECEIVED
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KING COUNTY COUNCIL

April 6, 1994

The Honorable Kent Pullen
Chair, Metropolitan King County Council
Room 402
COURTHOUSE

RE: Ordinance 11273

Dear Councilmember Pullen:

Enclosed is Ordinance 11273 which I have signed with reservations. This ordinance begins the process of regulatory reform to which I am committed. However, in amending the ordinance to include the maintenance, operation, repair, modification, or replacement of private roads as a sensitive areas exemption, the Council may have created a potential enforcement problem.

Because the exemption allows a property owner to do road maintenance without a permit or review, there will be virtually no way for the County to determine if the improvement expanded the road (an action not allowed by the exemption). This is compounded by the fact private roads have been established by any number of "legal" means, many of which do not require documentation (e.g. old logging roads, driveways, etc.).

The practical result will be that the Department of Development and Environmental Services (DDES) which is charged with enforcing this ordinance will not know if any violation of this exemption has occurred until after the fact, and only in those cases in which a complaint has been filed. This will place DDES in the position of being caught between the property owner who will in most cases have no documentation of the pre-existing condition of the road, and the complainant alleging that the work exceeded the exemption. DDES will have no way of determining whether a violation has occurred except in the most egregious cases. This problem does not present itself with regard to public roads because the County has good documentation of where public roads exist and their existing size.




The Honorable Kent Pullen
April 6, 1994
Page 2

I want to make it clear that in principle I agree with the intent of this amendment. Regulations should apply equally to the private and public sectors. In this particular case, however, the difference between private and public is so pronounced that similar treatment will probably load too much administrative difficulty for the County. My administration will continue to propose legislation which clarifies and simplifies existing regulations, while at the same time protects the public interest and reduces the administrative burden upon County agencies.

I have asked the staff at DDES to examine the private roads amendment and advise what can be done to meet the good intentions of the Council.

Sincerely,



Gary Lock
King County Executive

GL:CM:ew

cc: Charlie Earl, Deputy Executive for Operations
Chuck Kleeberg, Director, Department of Development and Environmental Services