

September 10, 1997

Introduced by MAGGI FIMIA
LARRY PHILLIPS

Proposed No.: 96-460

ORDINANCE NO. **12878**

AN ORDINANCE related to regulation of conversions from forestry to non-forestry uses, amending the clearing and grading code to restrict the release from a King County imposed moratorium to clearing consistent with an approved Conversion Option Harvest Plan or special circumstances as provided by and consistent with state law, amending code provisions to delineate that release from the moratorium is considered a Type 2 land use decision; amending Ordinance 12196, Section 9, and K.C.C. 20.20.020, amending Ordinance 9614, Section 1092, as amended, and K.C.C. 16.82.140, and amending Ordinance 1488, Section 6, as amended, and K.C.C. 16.82.050.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 9614, Section 102, as amended and K.C.C. 16.82.140 are each

hereby amended to read as follows:

Forest Practices. A. Class IV Forest Practice. Under a Class IV forest practice, all clearing not otherwise exempted under this chapter shall be subject to the requirements of this chapter. All such clearing shall be subject to the State Environmental Policy Act, RCW 43.21C, and King County shall accept or assume lead agency status. The review of the Class IV application shall be consolidated with the review of the associated King County development permit or approval. Clearing independent of permit or approval shall require a separate clearing and grading permit pursuant to this chapter. King County will also combine its SEPA review of Class IV forest practices and county permits.

B. Development applications on lands (~~outside the F zone and~~) cleared or graded pursuant to a Class ~~(I,)~~ II, III or IV ~~(S)~~ special forest practice as defined in RCW 76.09, or (~~cleared or graded~~) which are commenced without forest practices or county authorization, shall be denied for a period of six (6) years unless:

1. the applicant demonstrates that the clearing was consistent with (~~requirements of this chapter or the applicant adequately restores the site. Restoration shall include, but is not limited to,~~

1 ~~reforestation, erosion control, sensitive areas enhancement and restoration, surface water management~~
 2 ~~controls, and compliance with other applicable county regulations. Administrative rules shall set out~~
 3 ~~further details as to how restoration is accomplished and when it will be deemed sufficient)) the~~
 4 Conversion Option Harvest Plan reviewed and approved by King County pursuant to the Type I land
 5 use decision process and incorporated as a condition of the state's forest practice permit, or

6 2. the director of the department of development and environmental services determines special
 7 circumstances exist which should allow the landowner to be released from the moratorium pursuant to notice,
 8 review and appeal process for Type 2 land use decisions.

9 In all cases, lifting or waiving of the six-year moratorium is subject to compliance with all local ordinances.

10 SECTION 2. Ordinance 12196, Section 9, and K.C.C. 20.20.020 are each hereby amended to
 11 read as follows:

12 Classifications of Land Use Decision Processes.

13 A. Land use permit decisions are classified into four types, based on the amount of discretion
 14 associated with each decision. Procedures for the four different types are distinguished according to who
 15 makes the decision, whether public notice is required, whether a public hearing is required before a decision
 16 is made and whether administrative appeals are provided. The types of land use decisions are listed in
 17 Exhibit XXX of this section.

18 1. Type 1 decisions are made by the Director, or his or her designee, ("Director") of the
 19 department of development and environmental services ("department"). Type 1 decisions are non-appealable
 20 administrative decisions which require the exercise of little or no administrative discretion. Public notice is
 21 not required for Type 1 decisions. For Type 1 decisions involving a SEPA determination, the SEPA
 22 determination is appealable to the Hearing Examiner as a Type 2 decision. However, the decision on the
 23 Type 1 permit, exclusive of SEPA, is not appealable to the Hearing Examiner; rather it is appealable to
 24 Superior Court. For the purposes of appealing a Type 1 decision to Superior Court, the Type 1 decision shall
 25 not be considered final until any associated SEPA appeal is decided by the Hearing Examiner.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

2. Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions which are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to the County Council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the Council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. 20.44.120A.6 and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2,3 and 4 decisions included in consolidated permit applications that would require more than one Type of land use decision process may be processed and decided together, including any administrative appeals, using the highest numbered land use decision Type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under the State Environmental Policy Act ("SEPA") will not require a threshold determination (determination of non-significance ("DNS") or determination of significance ("DS")). For all other projects, the SEPA review procedures codified in Chapter 20.44 K.C.C. are supplemental to the procedures set forth in this chapter.

1 Exhibit XXX

2 LAND USE DECISION TYPES

3 TYPE 1 (Decision by Building; clearing and grading; boundary line adjustment;
 4 Director, no administrative right of way; road variance except those
 5 appeal) rendered in conjunction with a short plat decision**; variance
 6 from the requirements of Chapter 9.04 K.C.C.; shoreline
 7 exemption; approval of a conversion harvest plan.

8 TYPE 2 (Decision by Short plat; road variance decisions rendered in
 9 Director conjunction with a short plat decision; zoning
 10 appealable to variance; conditional use permit; temporary use;
 11 Hearing shoreline substantial development permit; procedural
 12 Examiner, no and substantive SEPA decision; site development
 13 further permit; approval of residential density incentives
 14 administrative or transfer of development credits; reuse of
 15 appeal) public schools; reasonable use exceptions under
 16 K.C.C. 21A.24.070B; preliminary determinations under
 17 Section 10B; sensitive areas exceptions and decisions to
 18 require studies or to approve, condition or deny a development
 19 proposal based on the requirements of Chapter 21A.24 K.C.C.,
 20 extractive operations pursuant to K.C.C. 21A.22.050; binding
 21 site plan; waivers from the moratorium provisions of K.C.C.
 22 16.82.140 based upon a finding of special circumstances.

23 TYPE 3 (Recommendation Preliminary plat, plat
 24 by Director, alterations; preliminary plat
 25 hearing and revisions.
 26 decision by
 27 Hearing
 28 Examiner,
 29 appealable to
 30 County Council
 31 on the record)

32 TYPE 4*** (Recommendation Zone reclassifications; shoreline
 33 by Director, environment redesignation; urban
 34 hearing and planned development; special use;
 35 recommendation amendment or deletion of P suffix
 36 by Hearing conditions; plat vacations
 37 Examiner
 38 decision by
 39 County Council
 40 On the record)

41 * When applications for shoreline permits are combined with other permits requiring Type 3 or 4
 42 land use decisions pursuant to K.C.C. 25.32.080, the examiner (not the Director) makes the
 43 decision. All shoreline permits, including shoreline variances and conditional uses, are appealable
 44 to the State Shorelines Hearings Board and not to the Hearing Examiner.

1 ** The road variance process is administered by the County Road Engineer of the King County
2 department of transportation pursuant to the King County road standards.

3 *** Only approvals that are consistent with the Comprehensive Plan are included.

4 SECTION 3. Ordinance 1488 Section 6, as amended, and K.C.C. 16.82.050 are each hereby
5 amended to read as follows:

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

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

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

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

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

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

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

21 b. Pavement maintenance;

22 c. Normal grading of gravel shoulders;

23 d. Maintenance of culverts;

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

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

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

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

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

7 9. Clearing or grading within a preliminarily or finally approved residential plat not involving
8 any excavation exceeding five feet in vertical depth or any fill exceeding three feet in vertical depth,
9 regardless of the amount of material to be removed; provided that this exception does not apply if the
10 clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 or an area placed
11 into tracts or easements pursuant to 21A.12.030. This exception does not apply within an area placed
12 into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed
13 activity is otherwise exempt under K.C.C. 21A.24;

14 10. Excavation less than five feet in vertical depth not involving more than one hundred
15 cubic yards of earth or other material on a single site; provided that the exception does not apply if the
16 clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 or an area placed
17 into tracts or easements pursuant to 21A.12.030. This exception does not apply within an area placed
18 into tracts or easements for a wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed
19 activity is otherwise exempt under K.C.C. 21A.24;

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

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

3 13. Clearing or grading for construction of livestock manure storage facilities or associated
4 nonpoint source pollution facilities designed to the standards of and approved in a conservation plan by
5 the King County conservation district, and constructed and maintained to those standards or livestock
6 flood sanctuaries constructed and maintained to the standards approved by the Soil Conservation
7 Service and conservation district and the best management practices approved by King County.

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

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

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

14 a. Clearing outside of sensitive areas and buffers as regulated in K.C.C. Chapter 21A.24
15 unless the development proposal site is within an area subject to clearing restrictions contained in a
16 wildlife habitat corridor pursuant to K.C.C. 21A.14, a critical drainage area established by
17 administrative rule or in p-suffix conditions in an adopted community plan or in clearing standards
18 identified in 16.82.150.

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

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

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

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

1 (4) Normal and routine horticultural activities associated with commercial orchards,
2 nurseries, or Christmas tree farms in existence on the effective date of Ordinance 9614 (November 27,
3 1990) subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter
4 21A.24. This does not include clearing or grading in order to develop or expand such activities.

5 (5) Normal and routine maintenance of existing public parks and private and public
6 golf courses. This does not include clearing or grading in order to develop or expand such activities in
7 sensitive areas. For the purpose of this subsection, a park is defined as: any real property managed for
8 public use which has been previously maintained as a park or has been developed as a park pursuant to
9 a properly issued permit.

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

13 (7) Pruning and limbing of vegetation for maintenance of above ground electrical and
14 telecommunication facilities; provided that the clearing is consistent with the electric, natural gas, cable
15 communication and telephone utility exemption in sensitive areas as regulated in K.C.C. Chapter
16 21A.24.

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

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

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

23 (c) The parcel is located within areas designated rural or agricultural by the King
24 County Comprehensive Plan or applicable community plan;

25 (d) The parcel is located outside of expansion areas for incorporated rural cities or
26 rural towns and neighborhoods as designated in

1 King County Comprehensive Plan or applicable community plans,

2 (e) The parcel equals or exceeds 5 acres in size; and

3 17. Clearing within seismic hazard area, except on slopes greater than 15% and subject to
4 clearing restrictions contained in wildlife habitat corridors pursuant to 21A.14, a critical drainage area
5 established by administrative rule or in p-suffix conditions in an adopted community plan, and
6 provided the site contains no other sensitive area features, and

7 18. Clearing within coal mine hazard area, subject to clearing restrictions contained in
8 wildlife habitat corridors pursuant to 21A.14, a critical drainage area established by administrative rule
9 or in p-suffix conditions in an adopted community plan, and provided the site contains no other
10 sensitive areas features.

11 B. TEMPORARY PERMITS. The director shall have the authority to issue temporary permits
12 for excavations, processing, quarrying and mining, and removal of sand, gravel, rock and other natural
13 deposits, together with the necessary buildings, apparatus or appurtenances incident thereto for specific
14 jobs on application for highway, road, street, airport construction, flood control and other public works
15 projects. In conjunction with such operations, allied uses such as, but not limited to, rock crushers,
16 concrete-batching plants and asphalt-batching plants may be authorized by this temporary permit. The
17 director shall also have the authority to issue temporary permits for the removal of existing stockpiles of
18 previously mined material for the reclamation of land to its best use, consistent with the underlying
19 zoning.

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

24 The department of development and environmental services shall also consider the effect of the
25 proposed operation on the current and future land use in the area affected by the proposed operation
26 and shall condition permits as necessary to protect the public interest in this regard. Temporary permits

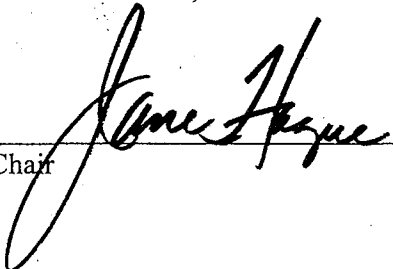
1 are good for the life of the contract of the specific job but must be reviewed annually. Each temporary
2 permit site shall be fully restored during the term of the temporary permit, unless the site is
3 subsequently designated with a M zone classification, or included in an unclassified use permit

4 Development proposals will be subject to two levels of review standards based on occupancy
5 types - critical facilities and standard structures. The review standards for critical facilities will be
6 based on larger earthquake reoccurrence intervals than the earthquakes considered for standard
7 occupancy structures. The review standards will be set forth in the administrative rules.

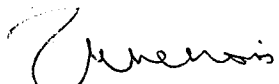
8 INTRODUCED AND READ for the first time this 3rd day of June, 1996.

9 PASSED by a vote of 12 to 0 this 29th day of September, 1997.

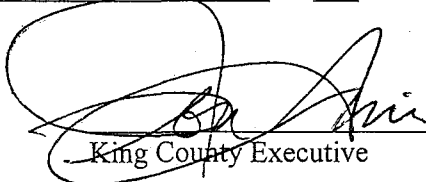
10 KING COUNTY COUNCIL
11 KING COUNTY, WASHINGTON

12 
13 _____
14 Chair

14 ATTEST:

15 
16 _____
17 Clerk of the Council

17 APPROVED this 9 day of October, 1997.

18 
19 _____
20 King County Executive

20 Attachments: