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September 6, 1995

Introduced By:

dabsitw3/tk

Proposed No.:

92-614

ORDINANCE NO. **12015**

AN ORDINANCE adopting regulations implementing the Bear Creek Basin Plan; amending the Bear Creek Basin Plan; repealing P-suffix conditions in the Bear Creek Community Plan area zoning; and adopting clearing restrictions and enhanced stream buffers for the Bear Creek Basin; amending Ordinance 1018, Section 1 and K.C.C. 20.12.170; amending Ordinance 9614, Sections 100 and 103 and K.C.C. 16.82.050 and 16.82.150; amending Ordinance 10870, Section 483 and K.C.C. 21A.24.360, and amending Ordinance 10513, Section 1 and K.C.C. 20.14.030.

PREAMBLE:

The Bear Creek Basin Plan, as adopted by the council on August 17, 1992, called for a number of new standards for clearing and development of land which require further action for their implementation. Specifically, the plan calls for:

- a. Strict clearing restrictions throughout the rural parts of the Basin.
- b. Increasing the required buffers for streams above the minimums generally established in the sensitive areas ordinance.
- c. Applying more rigorous storm water retention and detention standards throughout the basin.

BE IT ORDAINED BY THE COUNCIL OF METROPOLITAN KING COUNTY:

SECTION 1. Ordinance 1018, Section 1, as amended and K.C.C. 20.12.170 are

each hereby amended to read as follows:

Bear Creek Community Plan. A. The Bear Creek Community Plan, attached to Ordinance 8846 as Appendix A, is adopted as an amplification and augmentation of the comprehensive plan for King County and as such constitutes official county policy for the geographic area defined therein.

B. The Bear Creek Community Plan Area Zoning, attached to Ordinance 8846 as Appendix B, is adopted as the official zoning control for that portion of unincorporated King County defined therein.

C. Ordinance 4035, previously adopting the King County sewerage general plan, is hereby amended in accordance with 20.12.170 A.

1 D. The Bear Creek Community Plan Area Zoning, attached to Ordinance 8846
2 as Appendix B is hereby amended by Ordinance 11653 and Ordinance 12015 (proposed
3 Ordinance 92-614) as follows: Existing zoning and potential zoning are replaced by the
4 zoning and potential zoning contained in Appendices A and O of Ordinance 11653.
5 Existing P-suffix conditions are retained except as amended by Appendix B of Ordinance
6 11653 and Appendix A of Ordinance 12015 (proposed Ordinance 92-614).

7 SECTION 2: Ordinance 9614, Section 100, and K.C.C. 16.82.050 are hereby
8 amended to read as follows:

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

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

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

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

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

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

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

26 b. Pavement maintenance;

27 c. Normal grading of gravel shoulders;

28 d. Maintenance of culverts;

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

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

2 6. Any clearing or grading for roads within a preliminary or finally
3 approved residential plat which has been approved by the director and for which a bond
4 has been posted;

5 7. Maintenance or reconstruction of the facilities of a common carrier by a
6 rail in interstate commerce within its existing right-of-way; provided restoration is
7 consistent with the requirements of Section 16.82.110; provided that this exception does
8 not apply if the clearing or grading is within a sensitive area as regulated in K.C.C.
9 Chapter ~~((21.54))~~21A.24.

10 8. Cemetery graves; provided that this exception does not apply except for
11 routine maintenance if the clearing or grading is within a sensitive area as regulated in
12 K.C.C. Chapter ~~((21.54))~~21A.24;

13 9. Clearing or grading within a preliminarily or finally approved residential
14 plat not involving any excavation exceeding five feet in vertical depth or any fill exceeding
15 three feet in vertical depth, regardless of the amount of material to be removed; provided
16 that this exception does not apply if the clearing or grading is within a sensitive area as
17 regulated in K.C.C. Chapter ~~((21.54))~~21A.24;

18 10. Excavation less than five feet in vertical depth not involving more than
19 one hundred cubic yards of earth or other material on a single site; provided that the
20 exception does not apply if the clearing or grading is within a sensitive area as regulated in
21 K.C.C. Chapter ~~((21.54))~~21A.24;

22 11. Fill less than three feet in vertical depth not involving more than one
23 hundred cubic yards of earth or other material on a single site; provided that the exception
24 does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C.
25 Chapter ~~((21.54))~~21A.24;

26 12. Minor stream restoration projects for fish habitat enhancement by a public
27 agency, utility or tribe as set out in K.C.C. ~~((21.54))~~21A.24.

28 13. Clearing or grading for construction of livestock manure storage facilities
29 or associated nonpoint source pollution facilities designed to the standards of and approved
30 in a conservation plan by the King County conservation district, and constructed and

1 maintained to those standards or livestock flood sanctuaries constructed and maintained to
2 the standards approved by 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 Special forest
5 practice in the F (Forestry) zone, that is conducted in accordance with RCW 76.09 and
6 WAC 222.

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

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

12 a. Clearing outside of sensitive areas and buffers as regulated in K.C.C.
13 Chapter ~~((21.54))21A.24~~ unless the development proposal site is in a basin with an adopted
14 basin plan and clearing standards identified in 16.82.150 or is within an area subject
15 to clearing restrictions contained in a critical drainage area administrative rule or in p-
16 suffix conditions in an adopted community plan.

17 b. Within sensitive areas, as regulated in K.C.C. Chapter ~~((21.54))21A.24~~,
18 the following activities are exempt from the clearing requirements of this chapter and no
19 permit shall be required.

20 (1) Normal and routine maintenance of existing lawns and landscaping
21 subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C.
22 Chapter ~~((21.54))21A.24~~.

23 (2) Permitted agricultural uses; provided the clearing is consistent with
24 the agricultural exemptions in sensitive areas as regulated in K.C.C. Chapter
25 ~~((21.54))21A.24~~.

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

28 (4) Normal and routine horticultural activities associated with
29 commercial orchards, nurseries, or Christmas tree farms in existence on the effective date
30 of Ordinance 9614 (November 27, 1990) subject to the limitations on the use of pesticides

1 in sensitive areas as set out in K.C.C. Chapter ~~((21.54))21A.24~~. This does not include
2 clearing or grading in order to develop or expand such activities.

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

6 (6) Removal of noxious weeds from steep slope hazard areas and the
7 buffers of streams and wetlands subject to the limitations on the use of pesticides in
8 sensitive areas as set out in K.C.C. Chapter ~~((21.54))21A.24~~.

9 (7) Pruning and limbing of vegetation for maintenance of above ground
10 electrical and telecommunication facilities; provided that the clearing is consistent with the
11 electric, natural gas, cable communication and telephone utility exemption in sensitive
12 areas as regulated in K.C.C. Chapter ~~((21.54))21A.24~~.

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

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

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

19 (c) The parcel is located within areas designated rural or agricultural by
20 the King county comprehensive plan or applicable community plan;

21 (d) The parcel is located outside of expansion areas for incorporated
22 cities or rural activity centers as designated in community plans, and;

23 (e) The parcel equals or exceeds 5 acres in size.

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

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

5 The department of development and environmental services shall also consider the
 6 effect of the proposed operation on the current and future land use in the area affected by
 7 the proposed operation and shall condition permits as necessary to protect the public
 8 interest in this regard. Temporary permits are good for the life of the contract of the
 9 specific job but must be reviewed annually. Each temporary permit site shall be fully
 10 restored during the term of the temporary permit, unless the site is subsequently designated
 11 with a QM zone classification or included in an unclassified use permit.

12 SECTION 3. Ordinance 9614, Section 103, and K.C.C. 16.82.150 are hereby
 13 amended to read as follows:

14 Clearing standards. For clearing and grading permits issued under this chapter, the
 15 following standards shall apply:

16 A. Within sensitive areas as defined in K.C.C. Title 21, the current clearing
 17 standards contained in:

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

20 2. P-suffix conditions within adopted community plans.

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

22 1. P-suffix conditions within adopted community plans:

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

25 C. In the RA (Rural Area) zoned areas in the Bear Creek Basin:

26 1. Clearing shall be limited to a maximum of 35% of lot or plat area or the amount
 27 cleared prior to the effective date of this ordinance whichever is greater, except under
 28 conditions specified in paragraph C5 below.

1 2. For subdivisions and short subdivisions, portions of the plat that are not
2 designated for clearing shall be retained in one or more open space tracts, with all
3 developable lots sited on the portions of the plat that may be cleared. For purposes of this
4 subsection, the portion of the plat that may be cleared is identified as 35% of plat area or
5 the amount that was cleared prior to the effective date of this ordinance, whichever is
6 greater. Sensitive areas designated under K.C.C. Title 21 shall be recorded separately from
7 tracts mandated by this regulation, but may be counted towards meeting these
8 requirements. Tracts mandated by this regulation may be retained by the subdivider,
9 conveyed to residents of the subdivision, or conveyed to a third party. Open space tracts
10 shall be shown on all property maps and shall be protected by covenants, approved by the
11 County, that restrict their uses to the following:

12 a. Passive recreation uses and related facilities, including pedestrian and
13 bicycle trails, nature viewing areas, fishing and camping areas, and other similar uses that
14 do not require permanent structures, provided that cleared areas and/or areas of compacted
15 soils associated with these uses and facilities do not exceed eight percent of the area of the
16 open space tract.

17 b. Utilities and utility easements, including surface water facilities, provided
18 that, whenever possible, such uses are within or adjacent to existing road or utility
19 easements.

20 c. Timber harvest, provided that it is accomplished in accordance with a timber
21 harvest management plan and clearing permit that have been approved by the Department
22 of Development and Environmental Services. That Department shall prepare
23 administrative rules regarding the review and approval of timber harvest management
24 plans in consultation with the Surface Water Management Division of the Department of
25 Public Works before approving any permits for timber harvest after the effective date of
26 this ordinance.

27 d. For sensitive areas designated under K.C.C. Title 21A that are not within
28 areas designated for clearing in the plat, uses shall be limited to those specified in K.C.C.
29 21A.24. Aside from approved timber harvest activities and removal of dangerous and/or
30 diseased trees, all trees within open space tracts at the time of subdivision application shall

1 be retained. All open space tracts established pursuant to this regulation shall be clearly
2 marked with at least one sign per buildable lot adjoining the tract indicating that the tract is
3 permanent, dedicated open space.

4 3. For individual lots, the clearing limits shall be applied at the time of
5 building permit application unless the lot is within a subdivision that has been approved
6 with other conditions to meet the standard established in paragraph C2. In cases where
7 conditions are applied to the subdivision, individual lots shall be exempt from the clearing
8 restrictions in paragraph C1. The uses and restrictions on the uncleared portions of
9 individual lots shall be those specified in paragraph C2. Sensitive areas designated under
10 K.C.C. Title 21A may be counted towards meeting requirements on individual lots. On
11 lots greater than or equal to 20,000 square feet, the restrictions in paragraph C1 shall apply.
12 On lots smaller than 20,000 square feet, up to 7,000 square feet may be cleared.

13 4. Clearing required for the construction of infrastructure to serve any lots
14 1.25 acres or smaller in size shall not be counted towards the 35% maximum clearing
15 standard established in paragraph C1.

16 5. Clearing shall be limited to a maximum of 60% of the lot or plat area if
17 the permit applicant commits to constructing on-site retention/detention facilities in
18 accordance with the On-Site Detention Standards set forth in Recommendation BW-2 of
19 the adopted Bear Creek Basin Plan or superseding standards that may be contained in an
20 update of the King County Surface Water Design Manual.

21 6. The subdivision or permitting of building on parcels that are cleared after
22 the effective date of this ordinance shall be subject to conditions requiring the restoration
23 of trees and understory vegetation on at least 65% of the plat or lot, or at least 40% if the
24 applicant chooses the conditions of paragraph C5. A restoration plan shall be required of
25 permit applicants, and shall be subject to the approval of the Department of Development
26 and Environmental Services. That Department shall prepare administrative rules regarding
27 the review and approval of restoration plans in consultation with the Surface Water
28 Management Division of the Department of Public Works before approving subdivision or
29 building permits for parcels cleared after the effective date of this ordinance. The

1 administrative rules shall also specify when a restoration plan will be deemed sufficient to
2 forego the six (6) year moratorium on permitting authorized in K.C.C. 16.82.140.

3 7. Clearing standards for Urban Planned Developments and Mineral zoned
4 properties will be determined through their own designated review processes.

5 8. The requirements of paragraphs C1 through C6 shall be waived by the
6 director for proposed projects that meet the following conditions:

7 a. The project shall consist of one or more of the following uses:

8 1. Government services listed in K.C.C. 21A.08.060.

9 2. Educational services listed in K.C.C. 21A.08.050.

10 3. Parks as listed in K.C.C. 21A.08.040 when located adjacent to an
11 existing or proposed school.

12 4. Libraries listed in K.C.C. 21A.08.040, and

13 5. Road projects;

14 b. The project site shall not be located in a designated Regionally
15 Significant Resource Area except for utility corridors that can demonstrate no feasible
16 alternative;

17 c. The project shall clear the minimum necessary to accomodate the
18 proposed use;

19 d. The project shall meet the on-site detention standard provisions in
20 paragraph C5; and

21 e. The modification or waiver shall not exempt the project from any other
22 code provisions which may apply.

23 The director's decision may be appealed to the zoning and subdivision examiner pursuant
24 to K.C.C. 20.24, provided that any such appeal must be consolidated with an appeal, if any,
25 heard by the examiner on the merits of the proposed project.

26 9. Construction projects can be a significant contributor of pollution to
27 streams and wetlands. Therefore, from October 1 through March 31:

28 a. The director may restrict or prohibit clearing, grading and construction
29 during this period in Regionally Significant Resource Areas to protect sensitive habitat
30 from damage caused by sedimentation.

1 b. Clearing and grading other than maintenance and repair of erosion and
2 sediment control facilities will be allowed only if there is installation and maintenance of a
3 temporary erosion and sedimentation control plan approved by the director. Alternate best
4 management practices may be approved or required on-site by the inspector.

5 c. If, during the course of construction, silt-laden runoff exceeding
6 standards in the King County Surface Water Design Manual leaves the construction site or
7 if erosion and sediment control measures shown in the approved plan are not maintained, a
8 notice of violation shall be issued.

9 d. If the erosion and sediment control problem defined in the violation is
10 not adequately repaired within 24 hours of the notice of violation, then a notice and order
11 may be issued by the inspector to install adequate erosion and sediment control measures
12 to stop silt-laden runoff from leaving the site. The notice and order may also require the
13 contractor to discontinue any further clearing or grading, except for erosion and sediment
14 control maintenance and repair, until the following March 31.

15 D. Where conflicts exist between standards, the most restrictive shall apply.

16 SECTION 4. Ordinance 10870, Section 483, and K.C.C. 21A.24.360 are hereby
17 amended to read as follows:

18 Streams: development standards. A development proposal on a site containing a
19 stream shall meet the following requirements:

20 A. The following minimum buffers shall be established from the ordinary high
21 water mark or from the top of the bank if the ordinary high water mark cannot be
22 identified:

- 23 1. a class 1 stream shall have a 100-foot buffer;
- 24 2. a class 2 stream used by salmonids shall have a 100-foot buffer;
- 25 3. a class 2 stream shall have a 50-foot buffer;
- 26 4. a class 3 stream shall have a 25-foot buffer;
- 27 5. in the Bear Creek Basin, class 1 and 2 streams used by salmonids, shall have
28 a 150-foot buffer;

29 6. in the Bear Creek Basin, a class 2 stream not used by salmonids, shall have a
30 100-foot buffer.

1 7. in the Bear Creek Basin, a class 3 stream shall have a 50-foot buffer except
2 in designated regionally significant resource areas where a class 3 stream shall have a 100-
3 foot buffer;

4 8((5)). any stream restored, relocated, replaced or enhanced because of a stream
5 alteration shall have the minimum buffer required for the stream class involved;

6 9((6)). any stream with an ordinary high water mark within 25 feet of the toe of
7 a slope 30% or steeper, but less than 40%, shall have:

8 a. the minimum buffer required for the stream class involved or a 25-foot
9 buffer beyond the top of the slope, whichever is greater, if the horizontal length of the
10 slope including small benches and terraces is within the buffer for that stream class; or

11 b. a 25-foot buffer beyond the minimum buffer required for the stream class
12 involved if the horizontal length of the slope including small benches and terraces extends
13 beyond the buffer for that stream class; and

14 10((7)). any stream adjoined by a riparian wetland or other contiguous sensitive
15 area shall have the buffer required for the stream class involved or the buffer which applies
16 to the wetland or other sensitive area, whichever is greater;

17 B. Buffer width averaging may be allowed by King County if it will provide
18 additional natural resource protection, as long as the total area contained in the buffer on
19 the development proposal site does not decrease;

20 C. Increased buffer widths shall be required by King County when necessary to
21 protect streams. Provisions for additional buffer widths shall be contained in
22 administrative rules promulgated pursuant to this chapter including, but not limited to,
23 critical drainage areas, location of hazardous substances, critical fish and wildlife habitat,
24 landslide or erosion hazard areas contiguous to streams, groundwater recharge and
25 discharge and the location of trail or utility corridors;

26 D. The use of hazardous substances, pesticides and fertilizers in the stream corridor
27 and its buffer may be prohibited by King County; and

28 E. The livestock restrictions in K.C.C. 21A.24.320 shall also apply to class 1 and 2
29 streams and their buffers except that barrier fencing shall not be required in the floodplain
30 of the Snoqualmie River.

1 SECTION 5. The requirements for drainage facilities in the Bear Creek Basin Plan
 2 shall supersede requirements in the King County Surface Water Management Design
 3 Manual unless specifically superseded in an update of the manual. References in the Bear
 4 Creek Basin Plan and documents and tables included therein to "steep slope" or
 5 "community plan" standards are to be governed by the "stream protection" standards.

6 SECTION 6. Ordinance 10513, Section 1, and K.C.C. 20.14.030 are each hereby
 7 amended to read as follows:

8 **Bear Creek Basin Plan.** The Bear Creek Basin Plan, dated July 1990 as amended by
 9 the Utilities Committee on July 2, 1992 as shown in Attachment A to Ordinance 10513* and
 10 as further amended by the Growth Management, Housing and Environment Committee on
 11 September 6, 1995 as shown in Appendix B to Ordinance 12015 (Proposed Ordinance 92-
 12 614) is adopted as a functional plan that implements the surface water management and
 13 environmental policies of the King County Comprehensive Plan--((As an amplification and
 14 augmentation of the King County Comprehensive)) The Bear Creek Basin Plan, ((it))
 15 constitutes official county policy with regard to surface water management in the Bear Creek
 16 Basin((-))and designates Regionally Significant Resource Areas and Locally Significant
 17 Resource Areas depicted in the Bear Creek Basin Plan. Pursuant to policy NE-307 of the
 18 1994 King County Comprehensive Plan the King County Executive shall study the standards
 19 of protection needed for Regionally Significant Resource Areas and Locally Significant
 20 Resource Areas and report the findings and recommendations to the Council in 1995. Based
 21 on the report, the Metropolitan King County Council will review and may revise the
 22 Regionally Significant Resource Areas and Locally Significant Resource Areas designated in
 23 the Bear Creek Basin Plan.

