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1 ..title

2 AN ORDINANCE relating to the merger of the timberland  
3 classification with the designated forestland program;  
4 amending Ordinance 7590, Section 1, as amended, and  
5 K.C.C. 9.08.010, Ordinance 4461, Section 1, as amended,  
6 and K.C.C. 20.22.060, Ordinance 1076, Section 1, as  
7 amended, and K.C.C. 20.36.010, Ordinance 15137, Section  
8 1, as amended, and K.C.C. 20.36.015, Ordinance 1076,  
9 Section 2, as amended, and K.C.C. 20.36.020, Ordinance  
10 1076, Section 3, as amended, and K.C.C. 20.36.030,  
11 Ordinance 1076, Section 4, as amended, and K.C.C.  
12 20.36.040, Ordinance 1076, Section 7, as amended, and  
13 K.C.C. 20.36.060, Ordinance 4462, Section 7, as amended,  
14 and K.C.C. 20.36.070, Ordinance 4462, Section 8, as  
15 amended, and K.C.C. 20.36.080, Ordinance 1886, Section  
16 10, as amended, and K.C.C. 20.36.090, Ordinance 10511,  
17 Section 7, as amended, and K.C.C. 20.36.100 and  
18 Ordinance 13274, Section 4, as amended, and K.C.C.  
19 21A.37.020 and repealing Ordinance 2537, Section 2, as  
20 amended, and K.C.C. 20.36.110.

21 ..body

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PREAMBLE:

Current use taxation programs, as defined in chapters 84.33 and 84.34 RCW, offer a property tax reduction to landowners who voluntarily preserve or manage lands within four categories: open space land or land in the public benefit rating system, timberland, designated forestland and farm and agricultural land. The department of natural resources and parks administers the open space and timberland programs, and the department of assessments administers the designated forestland and farm and agricultural land programs.

The timberland program has long had a minimum acreage requirement of five acres. In 2014, the state amended RCW 84.33.035 to lower the minimum acreage requirement for the designated forestland program from twenty acres to five acres, in effect making the timberland and designated forestland programs duplicative. Additionally, RCW 84.34.400 was created to authorize a county legislative authority to terminate its timberland classification and merge it with the designated forestland program.

Given the similarities in the timberland and designated forestland programs, administrative efficiencies will result from terminating the timberland program. The department of assessments will continue to operate the designated forestland program.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

44           SECTION 1. As authorized by RCW 84.34.400, the open space timberland  
45 classification provided for in K.C.C. chapter 20.36 is hereby merged with the designated  
46 forestland program, and the open space timberland classification is hereby terminated.  
47 Any land classified as open space timberland pursuant to chapter 84.34 RCW is hereby  
48 designated forestland under chapter 84.33 RCW.

49           SECTION 2. The department of assessments will provide notice of the merger to  
50 the Washington state Department of Revenue in accordance with RCW 84.34.400(3) and  
51 to all participating owners of timberland in accordance with RCW 84.33.130(1)(b).

52           SECTION 3. Ordinance 7590, Section 1, as amended, and K.C.C. 9.08.010 are  
53 hereby amended to read as follows:

54           The following definitions shall apply in the interpretation and enforcement of this  
55 chapter:

56           A. "Basin plan" means a plan and all implementing regulations and procedures  
57 including but not limited to capital projects, public education activities, land use  
58 management regulations adopted by ordinance for managing surface and storm water  
59 management facilities and features within individual subbasins.

60           B. "Department" means the department of natural resources and parks or its  
61 successor.

62           C. "Developed parcel" means any parcel altered from the natural state by the  
63 construction, creation or addition of impervious surfaces.

64           D. "Director" means the director of the department of natural resources and parks  
65 or its successor or designee.

66 E. "Division" means the department of natural resources and parks, water and  
67 land resources division or its successor.

68 F. "Effective impervious area" means the portion of actual impervious area that is  
69 connected, or has the effect of being connected as defined in the King County Surface  
70 Water Design Manual, directly to the storm water drainage system via surface flow or  
71 discrete conveyances such as pipes, gutters or ditches.

72 G. "Flow control facility" means a drainage facility designed to mitigate the  
73 impacts of increased surface and storm water runoff generated by site development in  
74 accordance with the drainage requirements in this chapter. A flow control facility is  
75 designed either to hold water for a considerable length of time and then release it by any  
76 combination of evaporation, plant transpiration or infiltration into the ground or to hold  
77 runoff for a short period of time and then release it to the conveyance system.

78 H. "Flow control best management practice" means a method or design for  
79 dispersing, infiltrating or otherwise reducing or preventing development-related increases  
80 in surface and storm water runoff at, or near, the sources of those increases. "Flow  
81 control best management practice" includes the methods and designs specified in the  
82 Surface Water Design Manual.

83 I. "Lake management plan" means the plan, and supporting documents as  
84 appropriate, describing the lake management recommendations and requirements that has  
85 been formally adopted by rule under the procedures specified in K.C.C. chapter 2.98.  
86 Adopted lake management plans are available from the division and the department of  
87 local services, permitting division. A synopsis of adopted lake management plans shall

88 be distributed to all Surface Water Design Manual subscribers as part of the manual's  
89 routine update process.

90 J. "Drainage facility" means the system of collecting, conveying, and storing  
91 surface and storm water runoff. Drainage facilities shall include but not be limited to all  
92 surface and storm water conveyance and containment facilities including streams,  
93 pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration  
94 facilities, flow control facilities, erosion/sedimentation control facilities and other  
95 drainage structures and appurtenances, both natural and constructed.

96 K. "Impervious surface" means either a hard surface area that either prevents or  
97 retards the entry of water into the soil mantle as it entered under natural conditions before  
98 development, or a hard surface area that causes water to run off the surface in greater  
99 quantities or at an increased rate of flow from the flow present under natural conditions  
100 before development, or both. Common impervious surfaces include, but are not limited  
101 to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved,  
102 graveled or made of packed or oiled earthen materials or other surfaces which similarly  
103 impede the natural infiltration of surface and storm water. Open, uncovered flow control  
104 facilities shall not be considered as impervious surfaces.

105 L. "Land use code" means restrictions on the type of development for a specific  
106 parcel of land as identified by records maintained by the King County department of  
107 assessments as modified or supplemented by information resulting from investigation by  
108 the division. Land use codes are preliminary indicators of the extent of impervious  
109 surface and are used in the initial analysis to assign an appropriate rate category for a  
110 specific parcel.

111 M. "Maintenance" means the act or process of cleaning, repairing or preserving a  
112 system, unit, facility, structure or piece of equipment.

113 N. "Natural surface water drainage system" means such landscape features as  
114 rivers, streams, lakes and wetlands. This system circulates water in a complex  
115 hydrological cycle.

116 O. "National Pollutant Discharge Elimination System permit" means a permit  
117 issued by the Washington state Department of Ecology for discharges to waters of the  
118 United States under the Clean Water Act.

119 P. "Open space" means any parcel, property or portion thereof classified for  
120 current use taxation under K.C.C. chapter 20.36 and chapter 84.34 RCW, or for which the  
121 development rights have been sold to King County under K.C.C. chapter 26.04. This  
122 definition includes lands that have been classified as open space(~~(, agricultural)~~) or  
123 ~~((timber lands))~~ agricultural under criteria contained in K.C.C. chapter 20.36 and chapter  
124 84.34 RCW.

125 Q. "Parcel" means the smallest separately segregated unit or plot of land having  
126 an identified owner, boundaries and surface area that is documented for property tax  
127 purposes and given a tax lot number by the King County assessor.

128 R. "Person" means any individual, firm, company, association, corporation or  
129 governmental agency.

130 S. "Program" means the surface water management program as created and  
131 established in this chapter.

132 T. "Rate category" means the classification in this chapter given to a parcel in the  
133 service area based upon the type of land use on the parcel and the percentage of  
134 impervious surface area contained on the parcel.

135 U. "Residence" means a building or structure or portion thereof, designed for and  
136 used to provide a place of abode for human beings. "Residence" includes "residential" or  
137 "residential unit" as referring to the type of or intended use of a building or structure.

138 V. "Residential parcel" means any parcel that contains no more than three  
139 residences or three residential units within a single structure and is used primarily for  
140 residential purposes.

141 W. "Service area" means unincorporated King County.

142 X. "Storm water plan" means a King County ordinance specifying the storm  
143 water control facilities that will be funded by a bond issue.

144 Y. "Subbasin" means a drainage area that drains to a water course or water body  
145 named and noted on common maps and that is contained within a basin as defined in  
146 K.C.C. 9.04.020.

147 Z. "Surface and storm water management services" means the services provided  
148 by the surface water management program, including but not limited to basin planning,  
149 facilities maintenance, regulation, financial administration, public involvement, drainage  
150 investigation and enforcement, aquatic resource restoration, surface and storm water  
151 quality and environmental monitoring, natural surface water drainage system planning,  
152 intergovernmental relations and facility design and construction.

153 AA. "Surface water management fee protocols" means the surface water  
154 management fee standards and procedures that have been formally adopted by rule under

155 the procedures specified in K.C.C. chapter 2.98. The surface water management fee  
156 protocols are available from the department of natural resources and parks, water and  
157 land resources division, or its successor.

158 BB. "Surface and storm water" means water originating from rainfall and other  
159 precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds,  
160 lakes and wetlands as well as shallow ground water.

161 CC. "Surface and storm water management system" means constructed drainage  
162 facilities and any natural surface water drainage features that do any combination of  
163 collection, storing, controlling, treating or conveying surface and storm water.

164 DD. "Surface Water Design Manual" means the manual, and supporting  
165 documentation referenced or incorporated in the manual, describing surface and storm  
166 water design and analysis requirements, procedures and guidance that has been formally  
167 and most recently adopted by rule under the procedures in K.C.C. chapter 2.98. The  
168 Surface Water Design Manual is available from the department of local services,  
169 permitting division, or the department of natural resources and parks, water and land  
170 resources division, or its successor.

171 EE. "Undeveloped parcel" means any parcel that has not been altered from its  
172 natural state by the construction, creation or addition of impervious surface.

173 FF. "Water quality treatment facility" means a drainage facility designed to  
174 reduce pollutants once they are already contained in surface and storm water runoff.

175 "Water quality treatment facility" means the structural component of best management  
176 practices. When used singly or in combination, a water quality treatment facility reduces  
177 the potential for contamination of either surface or ground waters, or both.



178            SECTION 4. Ordinance 4461, Section 1, as amended, and K.C.C. 20.22.060 are  
179 hereby amended to read as follows:

180            The examiner shall issue recommendations, in the following cases:

- 181            A. Proposals for establishment or modification of cable system rates under
- 182 K.C.C. 6.27A.140;
- 183            B. Vacation of county roads under K.C.C. chapter 14.40;
- 184            C. All Type 4 decisions under K.C.C. chapter 20.20;
- 185            D. Applications for public benefit rating system assessed valuation on open space
- 186 land (~~and current use assessment on timber lands~~) under K.C.C. chapter 20.36, except
- 187 as provided in K.C.C. 20.36.090;
- 188            E. Appeals of decisions to designate or reject a nomination for designation for a
- 189 landmark or issuing or denying a certificate of appropriateness under K.C.C. chapter
- 190 20.62;
- 191            F. Creation of a lake or beach management district and a special assessment roll
- 192 under chapter 36.61 RCW;
- 193            G. Appeals from decisions of the county road engineer in the road services
- 194 division of the department of local services related to changes in speed limits under
- 195 K.C.C. 14.06.030; and
- 196            H. Other applications or appeals that are prescribed by ordinance.

197            SECTION 5. Ordinance 1076, Section 1, as amended, and K.C.C. 20.36.010 are  
198 hereby amended to read as follows:

199            It is in the best interest of the county to maintain, preserve, conserve and  
200 otherwise continue in existence adequate open space lands for the production of food,

201 fiber and forest crops, and to assure the use and enjoyment of natural resources and  
202 scenic beauty for the economic and social well-being of the county and its citizens.

203 It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by  
204 establishing procedures, rules and fees for the consideration of applications for public  
205 benefit rating system assessed valuation on "open space land" and for current use  
206 assessment on "farm and agricultural land" (~~and "timber land"~~) as those lands are  
207 defined in RCW 84.34.020. The provisions of RCW chapter 84.34, and the regulations  
208 adopted thereunder shall govern the matters not expressly covered in this chapter.

209 SECTION 6. Ordinance 15137, Section 1, as amended and K.C.C. 20.36.015 are  
210 hereby amended to read as follows:

211 The definitions in this section apply throughout this chapter unless the context  
212 clearly requires otherwise.

213 A. "Certified local government programs" means historic preservation programs  
214 that are formally certified by the National Park Service and Washington state Office of  
215 Archaeology and Historic Preservation.

216 B. "Department" means the department of natural resources and parks or its  
217 successor agency.

218 C. "Enrolled parcel" means a parcel for which a public benefit rating system open  
219 space (~~or timber land~~) application has been received and for which an agreement related  
220 to open space (~~or timber land~~) classification, as described in WAC 458-30-240, has  
221 been executed and recorded with the records and licensing services division and that is  
222 receiving tax reduction benefits.

223 D. "Native plant" or "native vegetation" means native vegetation as defined in  
224 K.C.C. 21A.06.790.

225 E. "Open space" means land that meets the criteria specified in RCW  
226 84.34.020(1)(b) and (c).

227 F. "Reevaluate" means to examine the characteristics of a property currently  
228 designated under current use taxation provisions of the open space program for  
229 qualification under the current public benefit rating system provided for in this chapter.

230 ~~((G. "Timber land" means a property that contains five to twenty acres of land  
231 that is devoted primarily to the growth and harvest of timber for commercial purposes  
232 according to an approved forest stewardship plan and that meets the requirements of  
233 chapter 84.34 RCW and K.C.C. 20.36.110.))~~

234 SECTION 7. Ordinance 1076, Section 2, as amended and K.C.C. 20.36.020 are  
235 hereby amended to read as follows:

236 The office of hearing examiner, as established by K.C.C. chapter 20.22, shall act  
237 on behalf of the council in considering applications for public benefit rating system  
238 assessed valuation on open space land ~~((and for current use assessments on timber land))~~  
239 in an unincorporated area of the county or appeals from denials by the county assessor of  
240 applications for current use assessments on farm and agricultural land as provided in this  
241 chapter. All such applications and appeals shall be processed under the procedures  
242 established in this chapter and K.C.C. chapter 20.22.

243 SECTION 8. Ordinance 1076, Section 3, as amended and K.C.C. 20.36.030 are  
244 hereby amended to read as follows:

245 An owner of farm and agricultural land desiring current use assessment under  
246 chapter 84.34 RCW shall make application to the county assessor and an owner of open  
247 space land desiring assessed valuation under the public benefit rating system (~~or an owner~~  
248 ~~of timber land desiring current use assessment~~) shall make application to the county  
249 council by filing an application with the department natural resources and parks. The  
250 application shall be upon forms supplied by the county and shall include such information  
251 deemed reasonably necessary to properly classify an area of land under chapter 84.34 RCW  
252 with a notarized verification of the truth thereof.

253 SECTION 9. Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040 are  
254 hereby amended to read as follows:

255 A. Except as provided in subsection B. of this section, the applicant shall pay a  
256 current use filing fee, payable to the King County finance and business operations division  
257 or its successor, in the amount of six hundred twenty dollars for each open space (~~or~~  
258 ~~timber land~~) application and one hundred eighty-one dollars for each farm and agriculture  
259 application.

260 B. If an application is filed to add farm and agricultural conservation land, forest  
261 stewardship land, resource restoration or rural stewardship land category to a parcel that  
262 is already enrolled in the public benefit rating system, no fee shall be charged for that  
263 application.

264 C. In the case of all farm and agricultural land applications, whether the  
265 application is based on land within or outside of an incorporated area, the entire fee shall  
266 be collected and retained by the county. In the case of open space (~~or timber land~~)  
267 applications based on land in an incorporated area of the county, where the city

268 legislative authority has set no filing fee, the county fee shall govern and the entire fee  
269 shall be collected and retained by the county. Where the city legislative authority has  
270 established a filing fee for open space (~~(or timber land)~~) applications based on land in an  
271 incorporated area of the county, the fee established in subsection A. of this section shall  
272 be collected by the county from the applicant and the county shall pay the city one-half of  
273 the fee collected. The amount paid by the county to the city shall not exceed the fee  
274 established by the city. The city shall be responsible for collecting any fees that it has  
275 established that exceed one-half of the amount established by subsection A. of this  
276 section.

277 SECTION 10. Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060 are  
278 hereby amended to read as follows:

279 Notice of the time, place and purpose of a public hearing before the hearing  
280 examiner on an open space (~~(or a timberland)~~) application based on land in unincorporated  
281 area of the county shall be given by one publication at least ten days before the hearing.  
282 The clerk of the council shall publish this notice in a newspaper of general circulation in  
283 the area.

284 SECTION 11. Ordinance 4462, Section 7, as amended, and K.C.C. 20.36.070 are  
285 hereby amended to read as follows:

286 In the case of open space (~~(and timber land)~~) applications filed after October 1 of  
287 each calendar year, the examiner shall establish time periods for satisfaction of any  
288 conditions so as to enable the county assessor to make a timely notation on the assessment  
289 list and the tax roll for that land in the event of approval of those applications.

290            SECTION 12. Ordinance 4462, Section 8, as amended, and K.C.C. 20.36.080 are  
291 hereby amended to read as follows:

292            Any ordinance approving an application constitutes authorization for the chair of  
293 the council or the chair's designee to sign the open space taxation agreement for  
294 classification under the public benefit rating system ((~~or the timber land~~)) program.

295            SECTION 13. Ordinance 1886, Section 10, as amended, and K.C.C. 20.36.090  
296 are hereby amended to read as follows:

297            A. In the case of open space ((~~and timber land~~)) applications received by the  
298 county based on land in incorporated areas of the county, the department shall promptly  
299 transmit a copy of the application to the affected city.

300            B. Such an application shall be acted upon by the county council's transportation,  
301 economy and environment committee, or its successor, and the applicable city legislative  
302 body. The application shall be acted upon after a public hearing by each such body and  
303 after notice of each hearing shall have been given by one publication in a newspaper of  
304 general circulation in the area at least ten days before the hearing.

305            SECTION 14. Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100  
306 are hereby amended to read as follows:

307            A. To be eligible for open space classification under the public benefit rating  
308 system, property must contain one or more qualifying open space resources and have at  
309 least five points as determined under this section. The department shall review each  
310 application and recommend award of credit for current use of property that is the subject of  
311 the application. In making such a recommendation, the department shall utilize the point  
312 system described in subsections B. and C. of this section.

313 B. The following open space resources are each eligible for the points indicated:

314 1. Public recreation area - five points. For the purposes of this subsection B.1,

315 "public recreation area" means land devoted to providing active or passive recreation use or

316 that complements or substitutes for recreation facilities characteristically provided by

317 public agencies. Use of motorized vehicles is prohibited on land receiving tax reduction

318 for this category, except for golf carts on golf courses, for maintenance or for medical,

319 public safety or police emergencies. To be eligible as a public recreation area, the facilities

320 must be open to the general public or to specific public user groups, such as youth, senior

321 citizens or people with disabilities. A property must be identified by the responsible

322 agency within whose jurisdiction the property is located as meeting the definition of public

323 recreation area. If a property meets the definition of public recreation area, the property

324 owner must use best practices, if any, that are defined in K.C.C. chapter 21A.06. If a fee is

325 charged for use, it must be comparable to the fee charged by a like public facility;

326 2. Aquifer protection area - five points. For the purposes of this subsection B.2,

327 "aquifer protection area" means property that has a plant community in which native plants

328 are dominant and that includes an area designated as a critical aquifer recharge area under

329 K.C.C. chapter 21A.24 or applicable city critical aquifer recharge area regulations. To be

330 eligible as an aquifer protection area, at least fifty percent of the enrolling open space area

331 or a minimum of one acre of open space shall be designated as a critical aquifer recharge

332 area. If the enrolling open space area does not have a plant community in which native

333 plants are dominant, a plan for revegetation must be submitted and approved by the

334 department, and be implemented according to the plan's proposed schedule of activities;

335           3. Buffer to public or current use classified land - three points. For the purposes  
336 of this subsection B.3, "buffer to public or current use classified land" means land that has a  
337 plant community in which native plants are dominant or has other natural features, such as  
338 streams or wetlands, and that is adjacent and provides a buffer to a publicly owned park,  
339 trail, forest, land legally required to remain in a natural state or a state or federal highway or  
340 is adjacent to and provides a buffer to a property participating in a current use taxation  
341 program under chapter 84.33 or 84.34 RCW. The buffer shall be no less than fifty feet in  
342 length and fifty feet in width. Public roads may separate the public land, or land in private  
343 ownership classified under chapter 84.33 or 84.34 RCW, from the buffering land, if the  
344 entire buffer is at least as wide and long as the adjacent section of the road easement.  
345 Landscaping or other nonnative vegetation shall not separate the public land or land  
346 enrolled under chapter 84.33 or 84.34 RCW from the native vegetation buffer. The  
347 department may grant an exception to the native vegetation requirement for property along  
348 parkways with historic designation, upon review and recommendation of the historic  
349 preservation officer of King County or the local jurisdiction in which the property is  
350 located. Eligibility for this exception does not extend to a property where plantings are  
351 required or existing plant communities are protected under local zoning codes,  
352 development mitigation requirements or other local regulations;

353           4. Equestrian-pedestrian-bicycle trail linkage - thirty-five points. For the purposes  
354 of this subsection B.4, "equestrian-pedestrian-bicycle trail linkage" means land in private  
355 ownership that the property owner allows the public to use as an off-road trail linkage for  
356 equestrian, pedestrian or other nonmotorized uses or that provides a trail link from a public  
357 right-of-way to a trail system. Use of motorized vehicles is prohibited on trails receiving a



358 tax reduction for this category, except for maintenance or for medical, public safety or  
359 police emergencies. Public access is required only on that portion of the property  
360 containing the trail. The landowner may impose reasonable restrictions on access that are  
361 mutually agreed to by the landowner and the department, such as limiting use to daylight  
362 hours. To be eligible as an equestrian-pedestrian-bicycle trail linkage, the owner shall  
363 provide a trail easement to an appropriate public or private entity acceptable to the  
364 department. The easement shall be recorded with the records and licensing services  
365 division. In addition to the area covered by the trail easement, adjacent land used as  
366 pasture, barn or stable area and any corral or paddock may be included, if an approved and  
367 implemented farm management plan is provided. Land necessary to provide a buffer from  
368 the trail to other nonequestrian uses, land that contributes to the aesthetics of the trail, such  
369 as a forest, and land set aside and marked for off road parking for trail users may also be  
370 included as land eligible for current use taxation. Those portions of private roads,  
371 driveways or sidewalks open to the public for this purpose may also qualify. Fencing and  
372 gates are not allowed in the trail easement area, except those that are parallel to the trail or  
373 linkage;

374         5. Active trail linkage - fifteen or twenty-five points. For the purposes of this  
375 subsection B.5., "active trail linkage" means land in private ownership through which the  
376 owner agrees to allow nonmotorized public passage, for the purpose of providing a  
377 connection between trails within the county's regional trails system and local or regional  
378 attractions or points of interest, for trail users including equestrians, pedestrians, bicyclists  
379 and other users. For the purposes of this subsection B.5., "local or regional attractions or  
380 points of interest" include other trails, parks, waterways or other recreational and open

381 space attractions, retail centers, arts and cultural facilities, transportation facilities,  
382 residential concentrations or similar destinations. To be eligible as an active trail linkage,  
383 the linkage must be open to passage by the general public and the property owner must  
384 enter into an agreement with the county consistent with applicable parks and recreation  
385 division polices to grant public access. To receive twenty-five points, the property owner  
386 must enter into an agreement with the county regarding improvement of the trail, including  
387 trail pavement and maintenance. To receive fifteen points, the property owner must agree  
388 to allow a soft-surface, nonpaved trail. The parks and recreation division is authorized to  
389 develop criteria for determining the highest priority linkages for which it will enter into  
390 agreements with property owners.

391 6. Farm and agricultural conservation land - five points. For the purposes of this  
392 subsection B.6., "farm and agricultural conservation land" means land previously classified  
393 as farm and agricultural land under RCW 84.34.020 that no longer meets the criteria of  
394 farm and agricultural land, or traditional farmland not classified under chapter 84.34 RCW  
395 that has not been irrevocably devoted to a use inconsistent with agricultural uses and has a  
396 high potential for returning to commercial agriculture. To be eligible as farm and  
397 agricultural conservation land, the property must be used for farm and agricultural activities  
398 or have a high probability of returning to agriculture and the property owner must commit  
399 to return the property to farm or agricultural activities by implementing a farm management  
400 plan. An applicant must have an approved farm management plan in accordance with  
401 K.C.C. 21A.24.051 that is acceptable to the department and that is being implemented  
402 according to its proposed schedule of activities before receiving credit for this category.  
403 Farm and agricultural activities must occur on at least one acre of the property. Eligible

404 land must be zoned to allow agricultural uses and be owned by the same owner or held  
405 under the same ownership. Land receiving credit for this category shall not receive credit  
406 for the category "contiguous parcels under separate ownership";

407 7. Forest stewardship land - five points. For the purposes of this subsection B.7.,  
408 "forest stewardship land" means property that is managed according to an approved forest  
409 stewardship plan and that is not enrolled in the (~~timberland program under chapter 84.34~~  
410 ~~RCW or the~~) designated forestland program under chapter 84.33 RCW. To be eligible as  
411 forest stewardship land, the property must contain at least four acres of contiguous  
412 forestland, which may include land undergoing reforestation, according to the approved  
413 plan. The owner shall have and implement a forest stewardship plan approved by the  
414 department. The forest stewardship plan may emphasize forest retention, harvesting or a  
415 combination of both. Land receiving credit for this category shall not receive credit for the  
416 resource restoration category or the rural stewardship land category;

417 8. Historic landmark or archeological site: buffer to a designated site - three  
418 points. For the purposes of this subsection B.8, "historic landmark or archaeological site:  
419 buffer to a designated site" means property adjacent to land constituting or containing a  
420 designated county or local historic landmark or archeological site, as determined by the  
421 historic preservation officer of King County or other jurisdiction in which the property is  
422 located that manages a certified local government program. To be eligible as a historic  
423 landmark or archeological site: buffer to a designated site, a property must have a plant  
424 community in which native plants are dominant and be adjacent to or in the immediate  
425 vicinity of and provide a significant buffer for a designated landmark or archaeological site  
426 listed on the county or other certified local government list or register of historic places or

427 landmarks. For the purposes of this subsection B.8., "significant buffer" means land and  
428 plant communities that provide physical, visual, noise or other barriers and separation from  
429 adverse effects to the historic resources due to adjacent land use;

430 9. Historic landmark or archeological site: designated site - five points. For the  
431 purposes of this subsection B.9., "historic landmark or archaeological site: designated site"  
432 means land that constitutes or upon which is situated a historic landmark designated by  
433 King County or other certified local government program. Historic landmarks include  
434 buildings, structures, districts or sites of significance in the county's historic or prehistoric  
435 heritage, such as Native American settlements, trails, pioneer settlements, farmsteads,  
436 roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites or  
437 traditional cultural properties. To be eligible as a historic landmark or archeological site:  
438 designated site, a property must be listed on a county or other certified local government  
439 list or register of historic places or landmarks for which there is local regulatory protection.  
440 Eligible property may include property that contributes to the historic character within  
441 designated historic districts, as defined by the historic preservation officer of King County  
442 or other certified local government jurisdiction. The King County historic preservation  
443 officer shall make the determination on eligibility;

444 10. Historic landmark or archeological site: eligible site - three points. For the  
445 purposes of this subsection B.10, "historic landmark or archaeological site: eligible site"  
446 means land that constitutes or upon which is situated a historic property that has the  
447 potential of being designated by a certified local government jurisdiction, including  
448 buildings, structures, districts or sites of significance in the county's historic or prehistoric  
449 heritage, such as Native American settlements, pioneer settlements, farmsteads, roads,

450 industrial works, bridges, burial sites, prehistoric and historic archaeological sites or  
451 traditional cultural properties. An eligible property must be determined by the historic  
452 preservation officer of King County or other certified local government program in the  
453 jurisdiction in which the property is located to be eligible for designation and listing on the  
454 county or other local register of historic places or landmarks for which there is local  
455 regulatory protection. Eligible property may include contributing property within  
456 designated historic districts. Property listed on the state or national Registers of Historic  
457 Places may qualify under this category;

458 11. Rural open space - five points. For the purposes of this subsection B.11.,  
459 "rural open space" means an area of ten or more contiguous acres of open space located  
460 outside of the urban growth area as identified in the King County Comprehensive Plan that:

- 461 a. has a plant community in which native plants are dominant;
- 462 b. is former open farmland, woodlots, scrublands or other lands that are in the  
463 process of being replanted with native vegetation for which the property owner is  
464 implementing an approved farm management, forest stewardship, rural stewardship or  
465 resource restoration plan acceptable to the department;

466 12. Rural stewardship land - five points. For the purposes of this subsection  
467 B.12., "rural stewardship land" means lands zoned RA (rural area), A (agriculture) or F  
468 (forest), that has an implemented rural stewardship plan as provided in K.C.C. chapter  
469 21A.24 that is acceptable to the department. On RA-zoned property, the approved rural  
470 stewardship plan shall meet the goals and standards of K.C.C. 21A.24.055. For A- and F-  
471 zoned properties, credit for this category is allowed if the plan meets the goals of K.C.C.  
472 21A.24.055 D. through G. A rural stewardship plan includes, but is not limited to,

473 identification of critical areas, location of structures and significant features, site-specific  
474 best management practices, a schedule for implementation and a plan for monitoring as  
475 provided in K.C.C. 21A.24.055. To be eligible as rural stewardship land, the open space  
476 must be at least one acre and feature a plant community in which native plants are  
477 dominant or be in the process of restoration, reforestation or enhancement of native  
478 vegetation. Land receiving credit for this category shall not receive credit for the resource  
479 restoration or the forest stewardship land category;

480 13. Scenic resource, viewpoint or view corridor - five points.

481 a. For the purposes of this subsection B.13., "scenic resource" means an area of  
482 ten or more enrolling acres of natural or recognized cultural features visually significant to  
483 the aesthetic character of the county. A site eligible as a scenic resource must be significant  
484 to the identity of the local area and must be visible to a significant number of the general  
485 public from public rights-of-way, must be of sufficient size to substantially preserve the  
486 scenic resource value and must enroll at least ten acres of open space.

487 b. For the purposes of this subsection B.13., a "viewpoint" means a property that  
488 provides a view of an area visually significant to the aesthetic character of the county. To  
489 be eligible as a viewpoint, a site must provide a view of a scenic natural or recognized  
490 cultural resource in King County or other visually significant area and allows unlimited  
491 public access and be identified by a permanent sign readily visible from a road or other  
492 public right-of-way.

493 c. For the purposes of this subsection B.13., a "view corridor" means a property  
494 that contributes to the aesthetics of a recognized view corridor critical to maintaining a  
495 public view of a visually significant scenic natural or recognized cultural resource. A site

496 eligible as a view corridor must contain at least one acre of open space that contributes to a  
497 view corridor visible to the public that provides views of a scenic natural resource area or  
498 recognized cultural resource significant to the local area. Recognized cultural areas must  
499 be found significant by the King County historic preservation officer or equivalent officer  
500 of another certified local government program and must contain significant inventoried or  
501 designated historic properties. Eligibility is subject to determination by the department or  
502 applicable jurisdiction;

503           14. Significant plant or ecological site - five points. For the purposes of this  
504 subsection B.14., "significant plant or ecological site" means an area that meets criteria for  
505 Element Occurrence established under the Washington Natural Heritage Program  
506 authorized by chapter 79.70 RCW. An Element Occurrence is a particular, on-the-ground  
507 observation of a rare species or ecosystem. An eligible site must be listed as an Element  
508 Occurrence by the Washington Natural Heritage Program as of the date of the application  
509 or be identified as a property that meets the criteria for an Element Occurrence. The  
510 identification must be confirmed by a qualified expert acceptable to the department. The  
511 department will notify the Washington Natural Heritage Program of any verified element  
512 occurrence on an enrolling property. Commercial nurseries, arboretums or other  
513 maintained garden sites with native or nonnative plantings are ineligible for this category;

514           15. Significant wildlife or salmonid habitat - five points.

515           a. For the purposes of this subsection B.15, "significant wildlife or salmonid  
516 habitat" means:

517           (1) an area used by animal species listed as endangered, threatened, sensitive or  
518 candidate by the Washington state Department of Fish and Wildlife or Department of

519 Natural Resources as of the date of the application, or used by species of local significance  
520 that are listed by the King County Comprehensive Plan or a local jurisdiction;

521 (2) an area where the species listed in subsection B.15.a.(1). of this section are  
522 potentially found with sufficient frequency for critical ecological processes to occur such as  
523 reproduction, nesting, rearing, wintering, feeding or resting;

524 (3) a site that meets the criteria for priority habitats as defined by the  
525 Washington state Department of Fish and Wildlife that is so listed by the King County  
526 Comprehensive Plan or the local jurisdiction in which the property is located; or

527 (4) a site that meets criteria for a wildlife habitat conservation area as defined  
528 by the department or a local jurisdiction.

529 b. To be eligible as significant wildlife or salmonid habitat, the department or by  
530 expert determination acceptable to the department must verify that qualified species are  
531 present on the property or that the land fulfills the functions described in subsection B.15.a.  
532 of this section. To receive credit for salmonid habitat, the owner must provide a buffer at  
533 least fifteen percent greater in width than required by any applicable regulation. Property  
534 consisting mainly of disturbed or fragmented open space determined by the department as  
535 having minimal wildlife habitat significance is ineligible for this category;

536 16. Special animal site - three points. For the purposes of this subsection B.16.,  
537 "special animal site" means a site that includes a wildlife habitat network identified by the  
538 King County Comprehensive Plan or individual jurisdictions through the Growth  
539 Management Act, chapter 36.70A RCW, or urban natural area as identified by the  
540 Washington state Department of Fish and Wildlife's priority habitats and species project as  
541 of the date of the application. To be eligible as a special animal site, the property must be



542 identified by King County or local or state jurisdiction or by expert verification acceptable  
543 to the department or local jurisdiction. Property consisting mainly of disturbed or  
544 fragmented open space determined by the department to have minimal wildlife habitat  
545 significance is ineligible for this category;

546 17. Surface water quality buffer - five points. For the purposes of this subsection  
547 B.17., "surface water quality buffer" means an undisturbed area that has a plant community  
548 in which native plants are dominant adjacent to a lake, pond, stream, shoreline, wetland or  
549 marine waters, that provides buffers beyond that required by any applicable regulation. To  
550 be eligible as surface water quality buffer, the buffer must be at least fifty percent wider  
551 than the buffer required by any applicable regulation and longer than twenty-five feet. The  
552 qualifying buffer area must be preserved from clearing and intrusion by domestic animals  
553 and protected from grazing or use by livestock;

554 18. Urban open space - five points.

555 a. For the purposes of this subsection B.18, "urban open space" means land  
556 located within the boundaries of a city or within the urban growth area that has a plant  
557 community in which native plants are dominant and that under the applicable zoning is  
558 eligible for more intensive development or use. To be eligible as urban open space, the  
559 enrolling area must be at least one acre, or be at least one-half acre if the land meets one of  
560 the following criteria:

- 561 (1) the land conserves and enhances natural or scenic resources;
- 562 (2) the land protects streams or water supply;
- 563 (3) the land promotes conservation of soils, wetlands, beaches or tidal marshes;

564 (4) the land enhances the value to the public of abutting or neighboring parks,  
565 forests, wildlife preserves, nature reservations or sanctuaries or other open space;  
566 (5) the land enhances recreation opportunities to the general public; or  
567 (6) the land preserves visual quality along highways, roads, and streets or  
568 scenic vistas.

569 b. Owners of noncontiguous properties that together meet the minimum acreage  
570 requirement of subsection B.18.a. of this section may jointly apply under this category if  
571 each property is closer than seventy-five feet to one other property in the application and if  
572 each property contains an enrolling open space area at least as large as the minimum zoned  
573 lot size; and

574 19. Watershed protection area - five points. For the purposes of this subsection  
575 B.19, "watershed protection area" means property contributing to the forest cover that  
576 provides run-off reduction and groundwater protection. To be eligible as watershed  
577 protection area, the property must consist of contiguous native forest or be in the process of  
578 reforestation. The enrolling forested area must consist of additional forest cover beyond  
579 that required by county or applicable local government regulation and must be at least one  
580 acre or sixty-five percent of the property acreage, whichever is greater. If reforestation or  
581 improvements to the forest health are necessary, the property owner shall provide and  
582 implement a forest stewardship, resource restoration or rural stewardship plan that  
583 addresses this need and is acceptable to the department.

584 C. Property qualifying for an open space category in subsection B. of this section  
585 may receive credit for additional points as follows:

586           1. Resource restoration - five points. For the purposes of this subsection C.1,  
587 "resource restoration" means restoration of an enrolling area benefiting an area in an open  
588 space resource category. Emphasis shall be placed on restoration of anadromous fish  
589 rearing habitat, riparian zones, migration corridors and wildlife, upland, stream and wetland  
590 habitats. To be eligible as resource restoration, the owner must provide and implement a  
591 restoration plan developed in cooperation with the Soil Conservation Service, the state  
592 Department of Fisheries and Wildlife, King County or other appropriate local or county  
593 agency that is acceptable to the department. Historic resource restoration must be approved  
594 by the King County historic preservation officer or officer of another certified local  
595 government and must be accompanied by a long-term maintenance plan. For resource  
596 restoration credit, the owner shall provide to the department a yearly monitoring report for  
597 at least five years following enrollment in the public benefit rating system program. The  
598 report shall describe the progress and success of the restoration project and shall include  
599 photographs to document the success. Land receiving credit for this category shall not  
600 receive credit for the forest stewardship land category or the rural stewardship land  
601 category;

602           2. Additional surface water quality buffer - three or five points. For the purposes  
603 of this subsection C.2, "additional surface water quality buffer" means an undisturbed area  
604 of native vegetation adjacent to a lake, pond, stream, wetland or marine water providing a  
605 buffer width of at least twice that required by regulation. To be eligible as additional  
606 surface water quality buffer, the property must qualify for the surface water quality buffer  
607 category in subsection B. of this section. Three points are awarded for additional buffers  
608 no less than two times the buffer width required by any applicable regulation. Five points

609 are awarded for additional buffers no less than three times the buffer width required by any  
610 applicable regulation;

611 3. Contiguous parcels under separate ownership - two points per participating  
612 owner above one owner. The points under this subsection C.3. accrue to all of the owners  
613 of a single application. However, the withdrawal of a participating property by an owner  
614 results in the loss of two points to the total credit awarded for each of the remaining owners  
615 under this subsection C.3. For the purposes of this subsection C.3, "contiguous parcels"  
616 means either:

617 a. enrolling parcels abut each other without any significant natural or human-  
618 made barrier separating them; or

619 b. enrolling parcels abut a publicly owned open space but not necessarily abut  
620 each other without any significant natural or human-made barriers separating the publicly  
621 owned open space and the parcels seeking open space classification. Contiguous parcels of  
622 land with the same qualifying public benefit rating system resources are eligible for  
623 treatment as a single parcel if open space classification is sought under the same application  
624 except as otherwise prohibited by the farm and agricultural conservation land category.

625 Award of this category requires a single application by multiple owners and parcels with  
626 identical qualifying public benefit rating system resources. Treatment as contiguous  
627 parcels shall include the requirement to pay only a single application fee and the  
628 requirement that the total area of all parcels combined must equal or exceed any required  
629 minimum area, rather than each parcel being required to meet the minimum area.

630 Individual parcels may be withdrawn from open space classification consistent with all  
631 applicable rules and regulations without affecting the continued eligibility of all other

632 parcels accepted under the same application, but the combined area of the parcels  
633 remaining in open space classification must still qualify for their original enrolling public  
634 benefit rating system category or categories. To be eligible as contiguous parcels under  
635 separate ownership, the property must include two or more parcels under different  
636 ownership. The owners of each parcel included in the application must agree to identical  
637 terms and conditions for enrollment in the program;

638 4. Conservation easement or historic preservation easement - fifteen points. For  
639 the purposes of this subsection C.4, "conservation easement or historic preservation  
640 easement" means land on which an easement is voluntarily placed that restricts, in  
641 perpetuity, further potential development or other uses of the property. The granting of this  
642 conservation easement or historic preservation easement provides additional value through  
643 permanent protection of a resource. These easements are typically donated or sold to a  
644 government or nonprofit organization, such as a land trust or conservancy. To be eligible  
645 as conservation easement or historic preservation easement, the easement must be approved  
646 by the department and be recorded with the records and licensing services division. The  
647 easement shall be conveyed to the county or to an organization acceptable to the  
648 department. In addition, historic preservation easements shall also be approved by the  
649 historic preservation officer of King County or officer of another certified local government  
650 jurisdiction in which the property is located. An easement required by zoning, subdivision  
651 conditions or other land use regulation is not eligible unless an additional substantive  
652 easement area is provided beyond that otherwise required;

653 5. Public access - points depend on type and frequency of access allowed. For the  
654 purposes of this subsection C.5, "public access " means the general public is allowed access

655 on an ongoing basis for uses such as, but not limited to, recreation, education or training.  
656 Access must be allowed on only the portion of the property that is designated for public  
657 access. The landowner may impose reasonable restrictions on access, such as limiting use  
658 to daylight hours, that are mutually agreed to by the landowner and the department. No  
659 physical barriers may limit reasonable public access or negatively affect an open space  
660 resource. To be eligible for public access at one of the levels described in a. through d. of  
661 this subsection C.5, a property owner shall demonstrate that the property is open to public  
662 access and is used by the public. Public access points for historic properties shall be  
663 approved by the historic preservation officer of King County or officer of another certified  
664 local government jurisdiction in which the property is located. The property owner may be  
665 required to furnish and maintain signage according to county specifications.

666 a. Unlimited public access - five points. Year-round access by the general public  
667 is allowed on the enrolled parcel without special arrangements with the property owner.

668 b. Limited public access because of resource sensitivity - five points. Access  
669 may be reasonably limited by the property owner on the enrolled parcel due to the sensitive  
670 nature of the resource, with access provided only to appropriate user groups. The access  
671 allowed shall generally be for an educational, scientific or research purpose and may  
672 require special arrangements with the owner.

673 c. Environmental education access - three points. The landowner enters into an  
674 agreement with a school, an organization with 26 U.S.C. Sec. 501(c)(3) tax status, or with  
675 the agreement of the department, other community organization that allows membership by  
676 the general public to provide environmental education on the enrolled parcel to its members

677 or the public at large. The landowner and the department must mutually agree that the  
678 enrolled parcel has value for environmental education purposes.

679 d. Seasonally limited public access - three points. Access by the public is  
680 allowed on the enrolled parcel, without special arrangements with the property owner,  
681 during only part of the year based on seasonal conditions, as mutually agreed to by the  
682 landowner and the department.

683 e. None or members-only - zero points. No public access is allowed or the  
684 access is allowed only by members of the organization using or owning the land; and

685 6. Easement and access – thirty-five points. For the purposes of this subsection  
686 C.6, "easement and access" means that the property has at least one qualifying open space  
687 resource, unlimited public access or limited public access due to resource sensitivity, and a  
688 conservation easement or historic preservation easement in perpetuity in a form and with  
689 conditions acceptable to the department. To be eligible a property must receive credit for  
690 an open space category and for the conservation easement or historic easement in  
691 perpetuity category. The owner must agree to allow public access to the portion of the  
692 property designated for public access in the easement. An easement required by zoning,  
693 subdivision conditions or other land use regulation is not eligible, unless there is additional  
694 easement area beyond that required. Credit for this category cannot overlap with the  
695 equestrian-pedestrian-bicycle trail linkage category.

696 SECTION 15. Ordinance 2537, Section 2, as amended, and K.C.C. 20.36.110 are  
697 hereby repealed.

698 SECTION 16. Ordinance 4461, Section 4, as amended, and K.C.C. 21A.37.020  
699 are hereby amended to read as follows:

700 A. For the purpose of this chapter, sending site means the entire tax lot or lots  
701 qualified under this subsection. Sending sites shall:

702 1. Contain a public benefit such that preservation of that benefit by transferring  
703 residential development rights to another site is in the public interest;

704 2. Meet at least one of the following criteria:

705 a. designation in the King County Comprehensive Plan or a functional plan as  
706 an agricultural production district or zoned A;

707 b. designation in the King County Comprehensive Plan or a functional plan as  
708 forest production district or zoned F;

709 c. designation in the King County Comprehensive Plan as Rural Area, zoned  
710 RA-2.5, RA-5 or RA-10, and meeting the definition in RCW 84.34.020 of open space(  
711 ~~or~~) or farm and agricultural land (~~or of timber land~~);

712 d. designation in the King County Comprehensive Plan or a functional plan as  
713 a proposed Rural Area or Natural Resource Land regional trail or Rural Area or Natural  
714 Resource Land open space site, through either:

715 (1) designation of a specific site; or

716 (2) identification of proposed Rural Area or Natural Resource Land regional  
717 trail or Rural Area or Natural Resource Land open space sites which meet adopted  
718 standards and criteria, and for Rural Area or Natural Resource Land open space sites,  
719 meet the definition of open space land, as defined in RCW 84.34.020;

720 e. identification as habitat for federally listed endangered or threatened species  
721 in a written determination by the King County department of natural resources and parks,  
722 Washington state Department of Fish and Wildlife, United States Fish and Wildlife



723 Services or a federally recognized tribe that the sending site is appropriate for  
724 preservation or acquisition;

725 f. designation in the King County Comprehensive Plan as urban separator and  
726 zoned R-1; or

727 g.(1) designation in the King County Comprehensive Plan as urban residential  
728 medium or urban residential high;

729 (2) zoned R-4, R-6, R-8, R-12, R-18, R-24 or R-48; and

730 (3) approved for conservation futures tax funding by the King County  
731 council;

732 3. Consist of one or more contiguous lots that have a combined area that meets  
733 or exceeds the minimum lot area for construction requirements in K.C.C. 21A.12.100 for  
734 the zone in which the sending site is located. For purposes of this subsection, lots divided  
735 by a street are considered contiguous if the lots would share a common lot line if the  
736 street was removed. This provision may be waived by the interagency committee if the  
737 total acreage of a rural or resource sending site application exceeds one hundred acres;  
738 and

739 4. Not be in public ownership, except:

740 a. as provided in K.C.C. 21A.37.110.C.;

741 b. for lands zoned RA that are managed by the Washington state Department  
742 of Natural Resources as state grant or state forest lands; or

743 c. for lands that are managed by King County for purposes of residential or  
744 commercial development.

745 B. For the purposes of the TDR program, acquisition means obtaining fee simple  
746 rights in real property or a property right in a form that preserves in perpetuity the public  
747 benefit supporting the designation or qualification of the property as a sending site. A  
748 sending site shall be maintained in a condition that is consistent with the criteria in this  
749 section under which the sending was qualified.

750 C. If a sending site has any outstanding code violations, the person responsible  
751 for code compliance should resolve these violations, including any required abatement,  
752 restoration, or payment of civil penalties, before a TDR sending site may be qualified by  
753 the interagency review committee created under K.C.C. 21A.37.070. However, the  
754 interagency may qualify and certify a TDR sending site with outstanding code violations  
755 if the person responsible for code compliance has made a good faith effort to resolve the  
756 violations and the proposal is in the public interest.

757 D. For lots on which the entire lot or a portion of the lot has been cleared or  
758 graded in accordance with a Class II, III or IV special forest practice as defined in chapter  
759 76.09 RCW within the six years before application as a TDR sending site, the applicant  
760 must provide an affidavit of compliance with the reforestation requirements of the Forest  
761 Practices Act, and any additional reforestation conditions of their forest practice permit.  
762 Lots on which the entire lot or a portion of the lot has been cleared or graded without any  
763 required forest practices or county authorization, shall be not qualified or certified as a  
764 TDR sending site for six years unless the six-year moratorium on development  
765 applications has been lifted or waived or the landowner has a reforestation plan approved  
766 by the Washington state Department of Natural Resources and King County.

767            SECTION 17. Severability. If any provision of this ordinance or its application  
768 to any person or circumstance is held invalid, the remainder of the ordinance or the  
769 application of the provision to other persons or circumstances is not affected.

DRAFT