



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

March 29, 2011

Ordinance 17052

Proposed No. 2011-0041.2

Sponsors Phillips

1 AN ORDINANCE relating to the public benefit rating
2 system for open space land; amending Ordinance 15137,
3 Section 1, as amended, and K.C.C. 20.36.015, Ordinance
4 1076, Section 2, as amended, and K.C.C. 20.36.020,
5 Ordinance 1076, Section 4, as amended, and K.C.C.
6 20.36.040, Ordinance 1076, Section 7, as amended, and
7 K.C.C. 20.36.060, Ordinance 4462, Section 7, and K.C.C.
8 20.36.070, Ordinance 4462, Section 8, as amended, and
9 K.C.C. 20.36.080, Ordinance 1886, Section 10, as
10 amended, and K.C.C. 20.36.090, Ordinance 10511, Section
11 7, as amended, and K.C.C. 20.36.100, Ordinance 2537,
12 Section 2, as amended, and K.C.C. 20.36.110 and
13 Ordinance 15137, Section 10, and K.C.C. 20.36.190 and
14 repealing Ordinance 13332, Section 38, as amended, and
15 K.C.C. 27.10.230.

16 **PREAMBLE:**

17 King County adopted the public benefit rating system ("PBRs") in 1992.
18 PBRs encourages voluntary open space resource protection on private
19 lands by providing a tax benefit for owners of participating properties.

20 In 2005, King County adopted Ordinance 15137, which included the
21 PBRS category requirements. Over time, the department of natural
22 resources and parks has identified changes that will clarify requirements
23 for applicants and improve the ability of the program staff to apply these
24 requirements fairly and consistently. Changes are described in this
25 preamble.

26 Current participants in PBRS who reapply for the purpose of receiving
27 additional credit for implementing a restoration plan are not required to
28 pay a fee for their reapplication. To improve consistency and promote
29 best management practices, the amendment extends this limited fee waiver
30 to reapplications for the purpose of receiving additional credit for
31 implementing a forest stewardship plan or a farm management plan.

32 The public notice procedures for the PBRS approval process are more
33 extensive under the King County Code than the requirements in state law.

34 This ordinance revises the notice provisions of K.C.C. 20.36.060 to be
35 consistent with state law and to increase the program's efficiency.

36 The amendment also removes two shoreline categories, which will prevent
37 duplicate award of credit for providing the same required buffer to a
38 resource.

39 The amendment to the watershed protection area category clarifies the
40 requirements of the category by specifying the amount of forest area
41 needed to be retained for qualification to be consistent with applicable
42 case law.

43 Monitoring participating properties is necessary to ensure compliance with
44 the open space taxation agreement executed between the landowner and
45 the county. This ordinance also adds limited reporting requirements for
46 property owners that will improve the ability of the program staff to cost-
47 effectively monitor continuing compliance.

48 The fee schedule for PBRS, timber land and the farm and agriculture
49 program is currently codified in K.C.C. chapter 27.10, which generally
50 establishes fees for the department of development and environmental
51 services. This ordinance moves the provisions establishing fees for the
52 PBRS, timber land and the farm and agriculture program from K.C.C.
53 Title 27 to K.C.C. chapter 20.36 to make the fee provisions easier for
54 citizens to locate.

55 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

56 SECTION 1. Ordinance 15137, Section 1, as amended, and K.C.C. 20.36.015 are
57 each hereby amended to read as follows:

58 The definitions in this section apply throughout this chapter unless the context
59 clearly requires otherwise.

60 A. "Certified local government programs" (~~are those~~) means historic
61 preservation programs that are formally certified by the National Park Service and
62 Washington state Office of Archaeology and Historic Preservation.

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

65 C. "Enrolled parcel" means a parcel for which a public benefit rating system open
66 space or timber land application has been received (~~(, that is receiving tax reduction~~
67 ~~benefits))~~ and for which an agreement related to open space (~~(taxation agreement))~~ or
68 timber land classification, as described in WAC (~~((458.30.240))~~ 458-30-240, has been
69 executed and recorded with the records and licensing services division and that is
70 receiving tax reduction benefits.

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

73 E. "Open space" means land that meets the criteria specified in RCW
74 84.34.020(1) (b) and (c).

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

78 G. "Timber land" means a property that contains five to twenty acres of land that
79 is devoted primarily to the growth and harvest of timber for commercial purposes
80 according to an approved forest stewardship plan and that meets the requirements of
81 chapter 84.34 RCW and K.C.C. 20.36.110.

82 SECTION 2. Ordinance 1076, Section 2, as amended, and K.C.C. 20.36.020 are
83 each hereby amended to read as follows:

84 The office of hearing examiner as established by K.C.C. chapter 20.24 (~~(as~~
85 ~~amended,)) shall act (~~(in))~~ on behalf of the council in considering applications for public
86 benefit rating system assessed valuation on open space land and for current use
87 assessments on timber land in an unincorporated area of the county or appeals from~~

88 denials by the county assessor of applications for current use assessments on farm and
89 agricultural land as provided (~~herein~~) in this chapter. All such applications and appeals
90 shall be processed pursuant to the procedures established in this chapter and K.C.C.
91 chapter 20.24.

92 SECTION 3. Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040 are
93 each hereby amended to read as follows:

94 A. Except as provided in subsection (~~C.~~) B. of this section, the applicant shall
95 pay a current use filing fee (~~as provided in K.C.C. 27.10.230~~), payable to the King
96 County (~~of~~) finance and business operations division or its successor, in the amount of
97 four hundred eighty dollars for each open space (~~farm and agricultural~~) or timber land
98 application (~~filed in calendar year 1973 or thereafter~~) and one hundred eighty one
99 dollars for each farm and agriculture application.

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

104 C. In the case of all farm and agricultural land applications, whether the
105 application is based on land within or outside of an incorporated area, the entire fee shall
106 be collected and retained by the county. In the case of open space or timber land
107 applications based on land in an incorporated area of the county, where the city
108 legislative authority has set no filing fee, the county fee shall govern and the entire fee
109 shall be collected and retained by the county. Where the city legislative authority has
110 established a filing fee for open space or timber land applications based on land in an

111 incorporated area of the county, the fee((s as set forth in K.C.C. Title 27)) established in
112 subsection A. of this section shall be collected by the county from the applicant and the
113 county shall pay the city one-half of the fee collected. ~~((; provided, that in no event shall~~
114 ~~€))~~The amount paid by the county to the city shall not exceed the fee established by the
115 city. The city shall be responsible for collecting any fees that it has established that
116 exceed one-half of the amount established by subsection A. of this section.

117 ~~((C. Public benefit rating system and timberland application fees for lands in the~~
118 ~~unincorporated areas shall be waived from December 10, 2008, through December 31,~~
119 ~~2008.))~~

120 SECTION 4. Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060 are
121 each hereby amended to read as follows:

122 ~~((A.))~~ Notice of the time, place and purpose of a public hearing before the
123 hearing examiner on an open space or a timber land application based on land in
124 unincorporated area((s)) of the county shall be given by one publication ((in the official
125 county newspaper)) at least ten days before the hearing. The clerk of the council shall

126 publish this notice in a newspaper of general circulation in the area.

127 ~~((B. Notice of the time, place and purpose of a public hearing before the hearing~~
128 ~~examiner on an open space application based on land in unincorporated areas of the~~
129 ~~county shall be provided by the following methods at least thirty days before the hearing:~~

130 ~~1. By the applicant posting the property included in the application with a sign~~
131 ~~provided at no charge by the department. The sign shall measure at least eighteen inches~~
132 ~~by twenty four inches, and shall include the name of the applicant, the location of the~~
133 ~~subject property, the date, place and purpose of the public hearing, a reference to this~~

134 ~~section and a source for additional information. The applicant must provide a declaration~~
135 ~~or affidavit to the department confirming the posting and the department shall file the~~
136 ~~declaration or affidavit with the clerk of the council;~~

137 ~~2. By the department by mailing notice in accordance with the standards~~
138 ~~provided for in K.C.C. 20.20.060.H. 1, 5, and 6; and~~

139 ~~3. By the clerk of the council by publishing notice in the official county~~
140 ~~newspaper and another newspaper of general circulation in the affected area.)~~

141 SECTION 5. Ordinance 4462, Section 7, and K.C.C. 20.36.070 are each hereby
142 amended to read as follows:

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

148 SECTION 6. Ordinance 4462, Section 8, as amended, and K.C.C. 20.36.080 are
149 each hereby amended to read as follows:

150 Any ordinance approving an application ((shall)) constitutes authorization for the
151 ((chairman)) chair of the council or ((his/her)) the chair's designee to sign the open space
152 taxation agreement for classification under the public benefit rating system or the timber
153 land program.

154 SECTION 7. Ordinance 1886, Section 10, as amended, and K.C.C. 20.36.090 are
155 each hereby amended to read as follows:

156 A. In the case of open space and timber land applications received by the county
157 based on land in incorporated areas of the county, the department shall promptly transmit
158 a copy of the application to the affected city.

159 B. Such an application shall be acted upon by ~~((a determining authority~~
160 ~~composed of three county council members who are member of))~~ the county council's
161 ~~((natural resources and utilities))~~ transportation, economy and environment committee, or
162 its successor, ~~((council))~~ and ~~((three city council members designated by))~~ the applicable
163 city legislative body. The application shall be acted upon after a public hearing by each
164 such body and after notice of ~~((the))~~ each hearing shall have been given by one
165 publication in a newspaper of general circulation in the area at least ten days before the
166 hearing~~((s))~~.

167 SECTION 8. Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100 are
168 each hereby amended to read as follows:

169 A. To be eligible for open space classification under the public benefit rating
170 system, property must contain one or more qualifying open space resources and have at
171 least five points as determined under this section. ~~((These resources are based on the~~
172 ~~adopted King County Open Space Plan referenced in K.C.C. 20.12.380))~~. The
173 department shall review each application and recommend award of credit for current use
174 of property that is the subject of the application. In making such a recommendation, the
175 department shall utilize the point system described in subsections ~~((A. and))~~ B. and C. of
176 this section.

177 ~~((A.))~~ B. The following open space resources are each eligible for the points
178 indicated:

179 1. ~~((Active or passive))~~ Public recreation area - five points. For the purposes of
180 this subsection ~~((A-))~~ B.1, "~~((active or passive))~~ public recreation area" means land
181 devoted to providing ~~((nonmotorized))~~ active or passive recreation use or that
182 complements or substitutes for recreation facilities characteristically provided by public
183 agencies. Use of motorized vehicles is prohibited on land receiving tax reduction for this
184 category, except for golf carts on golf courses, for maintenance or for medical, public
185 safety or police emergencies. To be eligible as ~~((an active or passive))~~ a public recreation
186 area, the facilities must be open to the general public or to specific public user groups,
187 such as youth, senior citizens or people with disabilities. A property must be identified
188 by the responsible agency within whose jurisdiction the property is located~~((;))~~ as
189 meeting the definition of ~~((an active or passive))~~ public recreation area. ~~((Enrolling~~
190 ~~property must adhere to best management practices or standards, as defined in K.C.C.~~
191 ~~21A.06.098, where available))~~ If a property meets the definition of public recreation area,
192 the property owner must use best practices, if any, that are defined in K.C.C. chapter
193 21A.06. If a fee is charged for use, it must be comparable to the fee charged by a like
194 public facility;

195 2. Aquifer protection area - five points. For the purposes of this subsection
196 ~~((A-))~~ B.2, "aquifer protection area" means property that has a plant community in which
197 native plants are dominant and that ~~((is located within))~~ includes an area designated as a
198 critical aquifer recharge area under K.C.C. chapter 21A.24 or applicable city critical
199 aquifer recharge area regulations. To be eligible as an aquifer protection area, at least
200 fifty percent of the enrolling open space area or a minimum of one acre of open space
201 shall be designated as a critical aquifer recharge area. If~~((F))~~ the enrolling open space

202 area ~~((must))~~ does not have a plant community in which native plants are dominant, ~~((or))~~
203 a plan for revegetation must be submitted and approved by the department, and be
204 implemented according to ~~((its))~~ the plan's proposed schedule of activities;

205 3. Buffer to public or current use classified land - three points. For the purposes
206 of this subsection ~~((A.))~~ B.3, "buffer to public or current use classified land" means land
207 that has a plant community in which native plants are dominant or has other natural
208 features, such as streams or wetlands, and that is adjacent and provides a buffer to a
209 publicly owned park, trail, forest, ~~((wildlife preserve, natural preserve, sanctuary,~~
210 ~~parkway, trail,))~~ land legally required to remain in a natural state or a state or federal
211 highway~~((, designated greenway))~~ or is adjacent to and provides a buffer to a property
212 participating in a current use taxation program under chapter 84.33 or 84.34 RCW. The
213 buffer shall be no less than fifty feet in length and fifty feet in width. Public roads may
214 separate the public land, or land in private ownership classified under chapter 84.33 or
215 84.34 RCW, from the buffering land, if the entire buffer is at least as wide and long as the
216 adjacent section of the road easement. Landscaping or other nonnative vegetation shall
217 not separate the public land or land enrolled under chapter 84.33 or 84.34 RCW from the
218 native vegetation buffer. The department may grant an exception to the native vegetation
219 requirement for property along parkways with historic designation, upon review and
220 recommendation of the historic preservation officer of King County or the local
221 jurisdiction in which the property is located. Eligibility for this exception does not
222 extend to a property where plantings are required or existing plant communities are
223 protected under local zoning codes, development mitigation requirements or other local
224 regulations;

225 4. Equestrian-pedestrian-bicycle trail linkage - thirty-five points. For the
226 purposes of this subsection ~~((A.))~~ B.4, "equestrian-pedestrian-bicycle trail linkage" means
227 land in private ownership that the property owner allows the public to use as an off-road
228 trail linkage for equestrian, pedestrian or other nonmotorized uses or that provides a trail
229 link from a public right-of-way to a trail system. Use of motorized vehicles is prohibited
230 on trails receiving a tax reduction ~~((s-in))~~ for this category, except for maintenance or for
231 medical, public safety or police emergencies. Public access is required only on that
232 portion of the property containing the trail. The landowner may impose reasonable
233 restrictions on access that are mutually agreed to by the landowner and the department,
234 such as limiting use to daylight hours. To be eligible as an equestrian-pedestrian-bicycle
235 trail linkage, the owner shall provide a trail easement to an appropriate public or private
236 entity ~~((;))~~ acceptable to the department. The easement shall be recorded with the records
237 and licensing services division. In addition to the area covered by the trail easement,
238 adjacent land used as pasture, barn or stable area and any corral or paddock may be
239 included, if an approved and implemented farm management plan is provided. Land
240 necessary to provide a buffer from the trail to other nonequestrian uses, land that
241 contributes to the aesthetics of the trail, such as a forest, and land set aside and marked
242 for off road parking for trail users may also be included as land ~~((s))~~ eligible for current
243 use taxation. Those portions of ~~((P))~~ private roads, ~~((or))~~ driveways or sidewalks open to
244 the public for this purpose may also qualify. ~~((Driveways and sidewalks, used primarily
245 by the landowner, do not qualify under this category.))~~ Fencing and gates are not
246 allowed in the trail easement area, except those that are parallel to the trail or linkage;

247 5. Active trail linkage - fifteen or twenty-five points. For the purposes of this
248 subsection ((A-)) B.5., "active trail linkage" means land in private ownership through
249 which the owner agrees to allow nonmotorized public passage, for the purpose of
250 providing a connection between trails within the county's regional trails system((;)) and
251 local or regional attractions or points of interest, for trail users including equestrians,
252 pedestrians, bicyclists and other users. For the purposes of this subsection ((A-)) B.5.,
253 "local or regional attractions or points of interest" include other trails, parks, waterways
254 or other recreational and open space attractions, retail centers, arts and cultural facilities,
255 transportation facilities, residential concentrations or similar destinations. To be eligible
256 as an active trail linkage, the linkage must be open to passage by the general public and
257 the property owner must enter into an agreement with the county consistent with
258 applicable parks and recreation division polices to grant public access. To receive
259 twenty-five points, the property owner must enter into an agreement with the county
260 regarding improvement of the trail, including trail pavement and maintenance. To
261 receive fifteen points, the property owner must agree to allow a soft-surface, nonpaved
262 trail. The parks and recreation division is authorized to develop criteria for determining
263 the highest priority linkages for which it will enter into agreements with property owners.

264 6. Farm and agricultural conservation land - five points. For the purposes of
265 this subsection ((A-)) B.6., "farm and agricultural conservation land" means land
266 previously classified as farm and agricultural land under RCW 84.34.020 that no longer
267 meets the criteria of farm and agricultural land, or traditional farmland not classified
268 under chapter 84.34 RCW that has not been irrevocably devoted to a use inconsistent
269 with agricultural uses and has a high potential for returning to commercial agriculture.

270 To be eligible as farm and agricultural conservation land, the property must be used for
271 farm and agricultural activities or have a high probability of returning to agriculture and
272 the property owner must commit to return the property to farm or agricultural activities
273 by implementing a farm management plan. An applicant must have ~~((a department-))~~ an
274 approved farm management plan in accordance with K.C.C. 21A.24.051 that is
275 acceptable to the department and that is being implemented according to its proposed
276 schedule of activities ~~((prior to))~~ before receiving credit for this category. ~~((The~~
277 ~~property))~~ Farm and agricultural activities must occur on ~~((be))~~ at least ~~((five acres in~~
278 ~~size; or greater than two acres and be actively farmed on more than seventy five percent))~~
279 one acre of the property. Eligible land must be zoned to allow agricultural uses and be
280 owned by the same owner or held under the same ownership. ~~((Combining separate~~
281 ~~parcels under different owners is not allowed under this category.))~~ Land receiving credit
282 for this category shall not receive credit for the category "contiguous parcels under
283 separate ownership";

284 7. Forest stewardship land - five points. For the purposes of this subsection
285 ~~((A-))~~ B.7, "forest stewardship land" means property that is managed according to an
286 approved forest stewardship plan and that is not enrolled in the timberland program under
287 chapter 84.34 RCW or the forestland program under chapter 84.33 RCW. To be eligible
288 as forest stewardship land, the property must contain at least four acres of contiguous
289 forestland, which may include land undergoing reforestation, according to the approved
290 plan. ~~((An applicant))~~ The owner shall have and implement a forest stewardship plan
291 approved by the department. The forest stewardship plan may emphasize forest
292 retention, harvesting or a combination of both. Land receiving credit for this category

293 shall not receive credit for the resource restoration category or the rural stewardship land
294 category;

295 8. Historic landmark or archeological site: buffer to a designated site - three
296 points. For the purposes of this subsection ((A-)) B.8, "historic landmark or
297 archaeological site: buffer to a designated site" means property adjacent to land
298 constituting or containing a designated county or local historic landmark or archeological
299 site, as determined by the historic preservation officer of King County or other
300 jurisdiction in which the property is located that manages a certified local government
301 program. To be eligible as a historic landmark or archeological site: buffer to a
302 designated site, a property must have a plant community in which native plants are
303 dominant and be adjacent to or in the immediate vicinity of and provide a significant
304 buffer for a designated landmark or archaeological site listed on the county or other
305 certified local government list or register of historic places or landmarks. For the
306 purposes of this subsection ((A-)) B.8, "significant buffer" means land and plant
307 communities that provide physical, visual, noise or other barriers and separation from
308 adverse effects to the historic resources due to adjacent land use;

309 9. Historic landmark or archeological site: designated site - five points. For the
310 purposes of this subsection ((A-)) B.9, "historic landmark or archaeological site:
311 designated site" means land that constitutes or upon which is situated a historic landmark
312 ((formally)) designated by King County or other certified local government program.
313 Historic landmarks include buildings, structures, districts or sites of significance in the
314 county's historic or prehistoric heritage, such as Native American settlements, trails,
315 pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric

316 and historic archaeological sites or traditional cultural properties. To be eligible as a
317 historic landmark or archeological site: designated site, a property must be listed on a
318 county or other certified local government list or register of historic places or landmarks
319 for which there is local regulatory protection. Eligible property may include property that
320 contributes to the historic character within designated historic districts, as defined by the
321 historic preservation officer of King County or other certified local government
322 jurisdiction. The King County historic preservation officer shall make the determination
323 on eligibility;

324 10. Historic landmark or archeological site: eligible site - three points. For the
325 purposes of this subsection ((A.)) B.10, "historic landmark or archaeological site:
326 eligible site" means land that constitutes or upon which is situated a historic property that
327 has the potential of being ((formally)) designated by a certified local government
328 jurisdiction, including buildings, structures, districts or sites of significance in the
329 county's historic or prehistoric heritage, such as Native American settlements, pioneer
330 settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and
331 historic archaeological sites or traditional cultural properties. An eligible property must
332 be determined by the historic preservation officer of King County or other certified local
333 government program in the jurisdiction in which the property is located to be eligible for
334 designation and listing on the county or other local register of historic places or
335 landmarks for which there is local regulatory protection. Eligible property may include
336 contributing property within designated historic districts. Property listed on the state or
337 national Registers of Historic Places may qualify under this category;

338 11. Rural open space - five points. For the purposes of this subsection ((A-))
339 B.11, "rural open space" means an area of ten or more contiguous acres of open space
340 located outside of the urban growth area as identified in the King County Comprehensive
341 Plan that:

342 a. has a plant community in which native plants are dominant ~~((and that is~~
343 ~~located outside of the urban growth area as identified in the King County Comprehensive~~
344 ~~Plan, except that an eligible site may include)); or~~

345 b. is former open farmland, woodlots, scrublands or other lands that are in the
346 process of being replanted with native vegetation for which the property owner is
347 implementing an approved farm management, forest stewardship, rural stewardship or
348 resource restoration plan acceptable to the department;

349 12. Rural stewardship land-five points. For the purposes of this subsection
350 ((A-)) B.12, "rural stewardship land" means lands zoned RA (rural area), A (agriculture)
351 or F (forest), that has ~~((a department approved and))~~ an implemented rural stewardship
352 plan as provided in K.C.C. chapter 21A.24 that is acceptable to the department. On RA-
353 zoned property, the approved rural stewardship plan shall meet the goals and standards of
354 K.C.C. 21A.24.055. For A- and F-zoned properties, credit for this category is allowed if
355 the plan meets the goals of K.C.C. 21A.24.055 D. through G. A rural stewardship plan
356 includes, but is not limited to, identification of critical areas, location of structures and
357 significant features, site-specific best management practices, a schedule for
358 implementation and a plan for monitoring as provided in K.C.C. 21A.24.055. To be
359 eligible as rural stewardship land, the open space must be at least one acre and feature a
360 plant community in which native plants are dominant or be in the process of restoration,

361 reforestation or enhancement of native vegetation. Land((s)) receiving credit for this
362 category shall not receive credit for the resource restoration or the forest stewardship land
363 ~~((public benefit rating system categories))~~ category;

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

365 a. For the purposes of this subsection ~~((A-))~~ B.13, "scenic resource" means an
366 area of ten or more enrolling acres of natural or recognized cultural features visually
367 significant to the aesthetic character of the county. A site eligible as a scenic resource
368 must be significant to the identity of the local area and must be visible to a significant
369 number of the general public from public rights-of-way, must be of sufficient size to
370 substantially preserve the scenic resource value and must enroll at least ten acres of open
371 space.

372 b. For the purposes of this subsection ~~((A-))~~ B.13, a "viewpoint" means a
373 property that provides a view of an area visually significant to the aesthetic character of
374 the county. To be eligible as a viewpoint, a site must provide a view of a scenic natural
375 or recognized cultural resource in King County or other visually significant area and
376 ~~((must))~~ allows unlimited public access~~((;))~~ and be identified by a permanent sign readily
377 visible from a road or other public right-of-way.

378 c. For the purposes of this subsection ~~((A-))~~ B.13, a "view corridor" means a
379 property that contributes to the aesthetics of a recognized view corridor critical to
380 maintaining a public view of a visually significant scenic natural or recognized cultural
381 resource. A site eligible as a view corridor must contain at least one acre of open space
382 that contributes to a view corridor visible to the public that provides views of a scenic
383 natural resource area or recognized cultural resource significant to the local area.

384 Recognized cultural areas must be found significant by the King County historic
385 preservation officer or equivalent officer of another certified local government program
386 and must contain significant inventoried or designated historic properties. Eligibility is
387 subject to determination by the department or applicable jurisdiction;

388 ~~14. ((Shoreline: conservancy environment – five points. For the purposes of this~~
389 ~~subsection A.14, "shoreline: conservancy environment " means marine, lake and river~~
390 ~~shoreline and associated wetlands designated as a conservancy environment in an city's~~
391 ~~adopted shoreline master plan under chapter 90.58 RCW, the Shoreline Management Act~~
392 ~~of 1971. To be eligible as shoreline: conservancy environment, the property enrolling~~
393 ~~must feature a plant community in which native plants are dominant, adjacent to the~~
394 ~~water for a length of more than twenty five feet, and provide additional buffer width.~~
395 ~~The buffer width must be at least twenty five percent greater than the buffer required by~~
396 ~~regulation. Credit for this category cannot overlap with credit for the shoreline natural~~
397 ~~environment category;~~

398 ~~15. Shoreline: natural environment – three points. For the purposes of this~~
399 ~~subsection A.15, "shoreline: natural environment" means marine, lake or river shoreline~~
400 ~~and its associated wetlands designated as a natural environment in an adopted shoreline~~
401 ~~master plan under chapter 90.58 RCW, the Shoreline Management Act of 1971. To be~~
402 ~~eligible as shoreline: natural environment, the property enrolling must feature a plant~~
403 ~~community in which native plants are dominant, adjacent to the water and be greater than~~
404 ~~twenty five feet in length, and provide additional buffer width. The buffer width must be~~
405 ~~at least twenty five percent greater than the buffer required by regulation. Credit for this~~
406 ~~resource cannot overlap with credit for the shoreline conservancy environment category;~~

407 ~~16.)~~ Significant plant or ecological site - five points. For the purposes of this
408 subsection ~~((A.16.))~~ B.14, "significant plant or ecological site" means~~((:))~~ an area ~~((with~~
409 ~~a naturally occurring concentrations of those plants defined as being monitor species and~~
410 ~~meeting the criteria for native plant communities by the Washington state Department of~~
411 ~~Natural Resources as of April 1, 2005, or an old growth forest stand at least ten acres in~~
412 ~~size))~~ that meets criteria for Element Occurrence established under the Washington
413 Natural Heritage Program authorized by chapter 79.70 RCW. An Element Occurrence is
414 a particular, on-the-ground observation of a rare species or ecosystem. An eligible site
415 must be listed~~((in the Natural Heritage Data Base))~~ as an Element Occurrence by the
416 Washington Natural Heritage Program as of ~~((April 1, 2005))~~ the date of the
417 application~~((:))~~ or be identified ~~((by an))~~ as a property that meets the criteria for an
418 Element Occurrence. The identification must be confirmed by a qualified expert
419 acceptable to the department ~~((confirming that qualified species are present on the~~
420 ~~property))~~. The department will notify the Washington Natural Heritage Program of any
421 verified element occurrence on an enrolling property. Commercial nurseries, arboretums
422 or other maintained garden sites with native or nonnative plantings are ineligible for this
423 category;

424 ~~((17.))~~ 15. Significant wildlife or salmonid habitat - five points.

425 a. For the purposes of this subsection ~~((A.17.))~~ B.15, "significant wildlife or
426 salmonid habitat" means:

427 (1) an area used by animal species listed as endangered, threatened, sensitive
428 or candidate by the Washington state Department of Fish and Wildlife or Department of
429 Natural Resources as of ~~((April 1, 2005))~~ the date of the application, or used by species of

430 local significance that are ~~((sø))~~ listed by the King County Comprehensive Plan or a local
431 jurisdiction;

432 (2) an area where the species listed in subsection ~~((A-17))~~ B.15.a.(1). of this
433 section are potentially found with sufficient frequency for critical ecological processes to
434 occur such as reproduction, nesting, rearing, wintering, feeding or resting;

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

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

440 b. To be eligible as significant wildlife or salmonid habitat, ~~((the property))~~ the
441 department or by expert determination acceptable to the department must ~~((be verified by~~
442 ~~the department, or by expert determination acceptable to the department))~~ verify that
443 qualified species are present on the property or that the land fulfills the functions
444 described in subsection ~~((A-17.))~~ B.15.a. of this section. To receive credit for salmonid
445 habitat, the owner must provide a buffer at least fifteen percent greater in width than
446 required by any applicable regulation. Property consisting mainly of disturbed or
447 fragmented open space determined by the department as having minimal wildlife habitat
448 significance is ineligible for this category;

449 ~~((18.))~~ 16. Special animal site - three points. For the purposes of this subsection
450 ~~((A-18))~~ B.16, "special animal site" means a site that includes a wildlife habitat network
451 identified by the King County Comprehensive Plan or individual jurisdictions through the
452 Growth Management Act, chapter 36.70A RCW, or urban natural area as identified by

453 the Washington state Department of Fish and Wildlife's priority habitats and species
454 project as of ~~((April 1, 2005))~~ the date of the application. To be eligible as a special
455 animal site, the property must be identified by King County or local or state jurisdiction
456 or ~~((where))~~ by expert verification acceptable to the department or local jurisdiction ~~((is~~
457 ~~provided))~~. Property consisting mainly of disturbed or fragmented open space
458 determined by the department to have minimal wildlife habitat significance is ineligible
459 for this category;

460 ~~((19.))~~ 17. Surface water quality buffer - five points. For the purposes of this
461 subsection ~~((A.19))~~ B.17, "surface water quality buffer" means an undisturbed area that
462 has a plant community in which native plants are dominant adjacent to a lake, pond,
463 stream, shoreline, wetland or marine waters, that provides buffers beyond that required
464 by any applicable regulation. To be eligible as surface water quality buffer, the buffer
465 must be at least fifty percent wider than the buffer required by any applicable regulation
466 and longer than twenty-five feet. The qualifying buffer area must be preserved from
467 clearing and intrusion by domestic animals and protected from grazing or use by
468 livestock;

469 ~~((20.))~~ 18. Urban open space - five points.

470 a. For the purposes of this subsection ~~((A.20))~~ B.18, "urban open space" means
471 land located within the boundaries of a city or within the urban growth area that has a
472 plant community in which native plants are dominant and that under the applicable
473 zoning is eligible for more intensive development or use. To be eligible as urban open
474 space, the enrolling area must be at least one acre, or be at least one-half acre if the land
475 meets one of the following criteria:

- 476 (1) the land conserves and enhances natural or scenic resources;
477 (2) the land protects streams or water supply;
478 (3) the land promotes conservation of soils, wetlands, beaches or tidal
479 marshes;
480 (4) the land enhances the value to the public of abutting or neighboring
481 parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
482 (5) the land enhances recreation opportunities to the general public; or
483 (6) the land preserves visual quality along highways, roads, and streets or
484 scenic vistas.

485 b. Owners of noncontiguous properties that together meet the minimum
486 acreage requirement of subsection ~~((A.20))~~ B.18.a. of this section may jointly apply
487 under this category if each property is closer than seventy-five feet to one other property
488 in the application and if each property contains an enrolling open space area at least as
489 large as the minimum zoned lot size; and

490 ~~((21.))~~ 19. Watershed protection area - five points. For the purposes of this
491 subsection ~~((A.21))~~ B.19, "watershed protection area" means property ~~((in a watershed))~~
492 contributing to the forest cover that provides run-off reduction and groundwater
493 protection. To be eligible as watershed protection area, the property must consist of
494 contiguous native forest or be in the process of reforestation. The enrolling forested area
495 must consist of ~~((an))~~ additional ~~((fifteen percent of))~~ forest cover beyond that required
496 by county or applicable local government regulation and must be at least one acre or
497 ~~((twenty-five))~~ sixty-five percent of the property acreage, whichever is greater. If
498 reforestation or improvements to the forest health are necessary, the property owner shall

499 provide and implement a ~~((department-approved))~~ forest stewardship, resource
500 restoration or rural stewardship plan that addresses this need and is acceptable to the
501 department.

502 ~~((B-))~~ C. Property qualifying for an open space category in subsection ~~((A-))~~ B. of
503 this section may receive credit for additional points as follows:

504 1. Resource restoration - five points. For the purposes of this subsection ~~((B-))~~
505 C.1, "resource restoration" means restoration of an enrolling area benefiting an area in an
506 open space resource category. Emphasis shall be placed on restoration of anadromous
507 fish rearing habitat, riparian zones, migration corridors and wildlife, upland, stream and
508 wetland habitats. To be eligible as resource restoration, the owner must provide and
509 implement a ~~((department-approved))~~ restoration plan developed in cooperation with the
510 Soil Conservation Service, the state Department of Fisheries and Wildlife, King County
511 or other appropriate local or county agency that is acceptable to the department. Historic
512 resource restoration must be approved by the King County historic preservation officer or
513 officer of another certified local government and must be accompanied by a long-term
514 maintenance plan. For resource restoration credit, the owner shall provide to the
515 department a yearly monitoring report for at least five years following enrollment in the
516 public benefit rating system program. The report shall describe the progress and success
517 of the restoration project and shall include photographs to document the success. Land
518 receiving ~~((C))~~ credit for this category ~~((cannot overlap with))~~ shall not receive credit for
519 the forest stewardship land category or the rural stewardship land category~~((If a~~
520 ~~property owner implements an approved restoration plan after enrolling in the public~~
521 ~~benefit rating system program and did not receive credit for the restoration in the initial~~

522 evaluation of the property, the owner may reapply to amend the application and receive
523 the bonus points credit without paying an additional application fee));

524 2. Additional surface water quality buffer - three or five points. For the
525 purposes of this subsection ((B-)) C.2, "additional surface water quality buffer" means an
526 undisturbed area of native vegetation adjacent to a lake, pond, stream, wetland or marine
527 water providing a buffer width of at least twice that required by regulation. To be
528 eligible as additional surface water quality buffer, the property must qualify for the
529 surface water quality buffer ((or a shoreline)) category in subsection ((A-)) B. of this
530 section. Three points are awarded for additional buffers no less than two times the buffer
531 width required by any applicable regulation. Five points are awarded for additional
532 buffers no less than three times the buffer width required by any applicable regulation;

533 3. Contiguous parcels under separate ownership - two points per participating
534 owner above one owner. The points under this subsection ((B-)) C.3. accrue to all of the
535 owners of a single application. However, the withdrawal of a participating property by
536 an owner ((means)) results in the loss of two points to the total credit awarded for each of
537 the remaining owners ((of the two points for the withdrawing owner's participation))
538 under this subsection ((B-)) C.3. For the purposes of this subsection ((B-)) C.3,
539 "contiguous parcels" means either:

540 a. enrolling parcels abut((ting)) each other without any significant natural or
541 manmade barrier separating them; or

542 b. enrolling parcels abut((ting)) a publicly owned open space but not
543 necessarily abut((ting)) each other without any significant natural or manmade barriers
544 separating the publicly owned open space and the parcels seeking open space

545 classification. Contiguous parcels of land with the same qualifying public benefit rating
546 system resources are eligible for treatment as a single parcel if open space classification
547 is sought under the same application except as otherwise prohibited by the farm and
548 agricultural conservation land category. Award of this category requires a single
549 application by multiple owners and parcels with identical qualifying public benefit rating
550 system resources. Treatment as contiguous parcels shall include((:)) the requirement to
551 pay only a single application fee((:)) and the requirement that the total area of all parcels
552 combined must equal or exceed any required minimum area, rather than each parcel
553 being required to meet the minimum area. Individual parcels may be withdrawn from
554 open space classification consistent with all applicable rules and regulations without
555 affecting the continued eligibility of all other parcels accepted under the same
556 application, but the combined area of the parcels remaining in open space classification
557 must still qualify for their original enrolling public benefit rating system category or
558 categories. To be eligible as contiguous parcels under separate ownership, the property
559 must include two or more parcels under different ownership. The owners of each parcel
560 included in the application must agree to identical terms and conditions for enrollment in
561 the program;

562 4. Conservation easement or historic preservation easement - fifteen points. For
563 the purposes of this subsection ((B-)) C.4, "conservation easement or historic preservation
564 easement" means land on which an easement is voluntarily placed that restricts, in
565 perpetuity, further potential development or other uses of the property. The granting of
566 this conservation easement or historic preservation easement provides additional value
567 through permanent protection of a resource. These easements are typically donated or

568 sold to a government or nonprofit organization, such as a land trust or conservancy. To
569 be eligible as conservation easement or historic preservation easement, the easement must
570 be approved by the department and be recorded with the records and licensing services
571 division. The easement shall be conveyed to the county or to an organization acceptable
572 to the department. In addition, historic preservation easements shall also be approved by
573 the historic preservation officer of King County or officer of another certified local
574 government jurisdiction in which the property is located. An easement required by
575 zoning, subdivision conditions or other land use regulation is not eligible unless an
576 additional substantive easement area is provided beyond that otherwise required;

577 5. Public access - points ~~((dependent))~~ depend on ~~((level))~~ type and frequency of
578 access allowed. For the purposes of this subsection ~~((B-))~~ C.5, "public access " means the
579 general public is allowed ~~((to))~~ access on an ongoing basis for uses such as, but not
580 limited to, recreation, education or training. Access ~~((is required))~~ must be allowed on
581 only the ~~((enrolling))~~ portion of the property that is designated for public access. The
582 landowner may impose reasonable restrictions on access, such as limiting use to daylight
583 hours, that are mutually agreed to by the landowner and the department. No physical
584 barriers may limit reasonable public access or negatively affect an open space resource.
585 To be eligible for public access at one of the levels described in a. through d. of this
586 subsection ~~((B-))~~ C.5, a property owner shall demonstrate that the property is open to
587 public access and is used by the public. Public access points for historic properties shall
588 be approved by the historic preservation officer of King County or officer of another
589 certified local government jurisdiction in which the property is located. The property

590 owner may be required to furnish and maintain signage according to county
591 specifications.

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

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

600 c. Environmental education access - three points. The landowner enters into
601 an agreement with a school, an organization with a 26 U.S.C. Sec. 501(c)(3) tax status,
602 or, with the agreement of the department, other community organization that allows
603 membership by the general public((s)) to provide environmental education on the enrolled
604 parcel to its members or the public at large. The landowner and the department must
605 mutually agree that the enrolled parcel has value for environmental education purposes.

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

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

612 6. Easement and access - thirty five points. For the purposes of this subsection
613 ~~((B-))~~ C.6, "easement and access" means that the property has at least one qualifying open
614 space resource, unlimited public access or limited public access due to resource
615 sensitivity, and a conservation easement or historic preservation easement in perpetuity in
616 a form and with conditions acceptable to the department. To be eligible a property must
617 receive credit for an open space category and for the conservation easement or historic
618 easement in perpetuity category. The owner must agree to allow public access to the
619 portion of the property designated for public access in the easement. An easement
620 required by zoning, subdivision conditions or other land use regulation is not eligible,
621 unless there is additional easement area beyond that required. Credit for this category
622 cannot overlap with the equestrian-pedestrian-bicycle trail linkage category.

623 SECTION 9. Ordinance 2537, Section 2, as amended, and K.C.C. 20.36.110 are
624 each hereby amended to read as follows:

625 Classification of timber land for current use taxation under ~~((the provisions of))~~
626 chapter 84.34 RCW shall be in accordance with the following criteria:

627 A. The property to be classified shall contain not less than five and not more than
628 twenty acres of timber land; ~~((and))~~

629 B. The property must be within an established F (forest resource), A (agriculture)
630 or RA (rural area) zone; and

631 C. The owner is responsible for the implementation of a department approved
632 forest stewardship plan.

633 SECTION 10. Ordinance 15137, Section 10, and K.C.C. 20.36.190 are each
634 hereby amended to read as follows:

635 A. A property may achieve a maximum of a ninety-percent reduction in assessed
636 value of that portion of the land enrolled in the public benefit rating system through the
637 rating system and the bonus categories. Portions of a property may qualify for open
638 space designation. A plant community where native plants are dominant that does not
639 independently contain a qualifying open space resource can participate if it is contiguous
640 to and provides a benefit to a portion of the property being awarded credit for a
641 qualifying open space priority resource. The department shall evaluate a property for
642 which open space classification is sought under this chapter for the presence of open
643 space resource categories. Adjacent parcels of land with the same open space resources,
644 owned by one or more landowners, may be eligible for consideration as a single parcel if
645 open space classification is sought under the same application, except for property
646 pursuing credit for the farm and agricultural conservation land category, which must be
647 owned by the same owner or held under the same ownership. For the purpose of
648 determining buffer measurements under this chapter, the width is the distance
649 perpendicular to the edge of the resource and the length of the buffer is parallel to the
650 resource. The entire buffer width may be averaged to qualify for a resource category.

651 B.1. The presence or occurrence of an eligible open space resource shall be
652 verified by:

653 a. reference to a recognized source, such as:

654 (1) the natural heritage data base;

655 (2) the state office of historic preservation;

656 (3) state, national, county or city registers of historic places;

657 (4) the interagency committee for outdoor recreation inventory of dry
658 accretion beach and shoreline features;

659 (5) the shoreline master program;

660 (6) parks and recreation studies; or

661 (7) studies by the state Department of Fish and Wildlife or Department of
662 Natural Resources; or

663 c. reference to a map developed by the county or other recognized authority.

664 2. Alternatively, the existence of the resource may be verified using the best
665 available source, such as a recognized expert in the particular resource being reviewed.

666 3. When more than one reasonable interpretation can be supported by the text of
667 this chapter, the department is authorized to make a determination relating to the open
668 space resource definitions and eligibility standards in accordance with the ~~((overall))~~
669 purpose and intent of this chapter. The department is authorized to calculate the
670 appropriate area of land to receive credit for a particular priority resource to support the
671 assessor's determination of the accompanying tax reduction for each priority resource.

672 C. Management or preservation of the open space resources ~~((shall be))~~ is a
673 condition for acceptance into the program. Each open space resource must be maintained
674 in the same or better condition as it was when approved for enrollment. The property
675 owner shall not engage in any activity that reduces the value of the open space resource,
676 unless that activity is required for public safety and is conducted lawfully under
677 appropriate permits. As a condition of enrollment into the program, the department may
678 require the development ~~((and agreement to a plan))~~ of a plan acceptable to the
679 department to restore any property whose open space resources are degraded. In

680 addition, if an existing approved plan for farm and agricultural conservation land, forest
681 stewardship land, rural stewardship land or resource restoration category has a
682 management schedule or management goals that are out of date or otherwise require
683 change, the owner is responsible for revising the plan. Any such revisions to the plan
684 must be reviewed and accepted by the department.

685 D. The county's acceptance of property into the public benefit rating system may
686 be based on specific conditions or requirements being met, including, but not limited to,
687 the granting of easements.

688 E. Except as otherwise provided in this chapter, the following properties or areas
689 are not eligible for open space classification:

- 690 1. Improvements or structures situated upon eligible open space land;
- 691 2. Properties that do not contain a qualifying open space priority resource;
- 692 3. Open space areas protected by a native growth, forest retention or other
693 covenant that is required as part of a development process or((;)) subdivision, or required
694 by zoning or other land use regulation, ((unless the owner)) except such an area would be
695 eligible if its participation provides further public benefit((; such as)) and there is
696 enrollment of at least ten percent additional open space ((not)) beyond that restricted or
697 required by applicable covenant or regulation((; or resource restoration. Dedicated open
698 space, such as a privately owned open space tract or native growth retention/detention
699 area, is eligible for participation only if)). The additional acreage((;)) provided must be
700 acceptable to the department((; featuring)) and feature a plant community where native
701 plants are dominant ((; is provided)) or that will be dominant following the

702 implementation of an approved farm management, forest stewardship, resource
703 restoration or rural stewardship plan;

704 4. Any portion of a property that is dominated by or whose resource value is
705 compromised by invasive plant species, unless the department has received ~~((an approved~~
706 ~~and implemented))~~ a resource restoration, rural stewardship, farm management or forest
707 stewardship plan and determined that the plan addresses the invasive plant species
708 concern and ~~((such))~~ that the plan is being implemented; and

709 5. Homesite and other areas developed for residential or personal use, such as
710 garden, landscaping and driveway, except for historic resources.

711 F. The department may monitor the participating portion of the property to
712 evaluate its current use and the continuing compliance with the conditions under which
713 open space classification was granted.

714 1. Monitoring may include ~~((a))~~ scheduled, physical inspections of the property.

715 2. An owner of property enrolled in the program may be required to submit a
716 monitoring report on an annual or less frequent basis as requested by program staff. This
717 report must include a brief description of how the property still qualifies for each
718 awarded resource category. It must also include photographs from established points on
719 the property and any observations by the owner. The owner must submit this report to
720 the department by email or by other mutually agreed upon method. An environmental
721 consultant need not prepare this report.

722 3. An owner of property receiving credit for farm and agricultural conservation
723 land, forest stewardship land, or rural stewardship land, all of which require a
724 stewardship or management plan, must annually provide a monitoring report that

725 describes progress of implementing the plan. The owner must submit this report, which
726 must include a brief description of activities taken to implement the plan and photographs
727 from established points on the property, to the department by email or by other mutually
728 agreed upon method. An environmental consultant need not prepare this report.

729 G. Failure by the owner to meet the conditions of the approval or to maintain the
730 uses of the property that were the basis for the original approval shall be grounds for the
731 department to reevaluate the property under the public benefit rating system. If the
732 reevaluation shows the property or a portion of the property is no longer eligible ((~~or that~~
733 the overall rating would result in a current use assessment at a higher percentage of
734 market value than was)) to participate in the program because it does not qualify for any
735 public benefit rating system category as originally approved, the county shall take action
736 to remove the current use classification and determine the amount of deferred taxes,
737 interest and penalty owed by the landowner. An appeal by the landowner from such a
738 determination may be filed as provided for in K.C.C. 20.36.130.B. If the reevaluation
739 shows the property or a portion thereof is no longer eligible as approved but that the
740 property still qualifies for one or more public benefit rating system resource categories,
741 then the overall credit award shall be adjusted to reflect the reevaluation. The new credit
742 award may result in a current use assessment at a lower percentage of market value than
743 was originally approved.

744 SECTION 11. Ordinance 13332, Section 38, as amended, and K.C.C. 27.10.230
745 are each hereby repealed.
746

Ordinance 17052 was introduced on 1/31/2011 and passed as amended by the Metropolitan King County Council on 3/28/2011, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr.
McDermott
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 30 day of March, 2011.



Dow Constantine, County Executive

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CLERK
KING COUNTY COUNCIL

Attachments: None