



Legislation Text

---

File #: 2004-0512, Version: 3

---

Clerk 03/15/2005

AN ORDINANCE relating to the public benefit rating system for open space land; amending Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040, Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060, Ordinance 1886, Section 10, as amended, and K.C.C. 20.36.090, Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100 and Ordinance 10511, Section 8, and K.C.C. 20.36.170, adding new sections to K.C.C. chapter 20.36, decodifying K.C.C. 20.36.140 and repealing Ordinance 12969, Section 7, and K.C.C. 20.36.105 and Ordinance 12969, Section 1, as amended, and K.C.C. 20.36.150.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. There is hereby added to K.C.C. chapter 20.36 a new section to read as follows:

**Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- A. "Certified local government programs" are those historic preservation programs that are formally certified by the National Park Service and Washington state Office of Archaeology and Historic Preservation.
- B. "Department" means the department of natural resources and parks or successor agency.
- C. "Enrolled parcel" means a parcel for which a public benefit rating system open space application has been received, that is receiving tax reduction benefits and for which an open space taxation agreement, as described in WAC 458.30.240, has been executed and recorded with the records, elections and licensing

services division.

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

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

SECTION 2. Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040 are each hereby amended to read as follows:

**Fees.**

A. Except as provided in subsection C. of this section, ~~((F))~~ the applicant shall pay a current use filing fee as provided in K.C.C. ~~((Title 27))~~ 27.10.230, payable to the King County ~~((office))~~ finance and business operations division, for each open space, farm and agricultural or timberland application filed in calendar year 1973 or thereafter.

B. In the case of all farm and agricultural land applications, whether the application is based on land within or outside of an incorporated area, the entire fee shall be collected and retained by the county. In the case of open space or timberland applications based on land in an incorporated area of the county, where the city legislative authority has set no filing fee, the county fee shall govern and the entire fee shall be collected and retained by the county. Where the city legislative authority has established a filing fee for open space or timberland applications based on land in an incorporated area of the county, fees as set forth in K.C.C. Title 27 shall be collected by the county from the applicant and the county shall pay the city one-half of the fee collected; provided, that in no event shall the amount paid to the city exceed the fee established by the city.

C. Public benefit rating system application fees for lands in the unincorporated areas shall be waived from the effective date of this ordinance through December 31, 2005.

SECTION 3. Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060 are each hereby amended to read as follows:

**Notice of public hearing for timberland and open space applications in unincorporated areas.**

A. Notice of the time, place and purpose of ((any such)) a public hearing before the hearing examiner on a timberland application based on land in unincorporated areas of the county shall be given by one publication in the official county newspaper at least ((twenty)) ten days before the hearing.

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

1. By the applicant posting the property included in the application with a sign provided at no charge by the department. The sign shall measure at least eighteen inches by twenty-four inches, and shall include the name of the applicant, the location of the subject property, the date, place and purpose of the public hearing, a reference to this section and a source for additional information. The applicant must provide a declaration or affidavit to the department confirming the posting and the department shall file the declaration or affidavit with the clerk of the council;

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

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

SECTION 4. Ordinance 1886, Section 10, as amended, and K.C.C. 20.36.090 are each hereby amended to read as follows:

**Open space and timberland applications in incorporated areas.**

A. In the case of open space and timberland applications received by the county based on land in incorporated areas of the county, the department ((of development and environmental services)) shall promptly transmit a copy of the application to the affected city.

B. Such an application shall be acted upon by a determining authority composed of three county

council members(~~(designated by the council))~~ who are members of the council's natural resources and utilities committee, or its successor, and three city council members designated by the applicable city legislative body. The application shall be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearings.

SECTION 5. Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100 are each hereby amended to read as follows:

~~((Criteria for approval – p))~~ **Public benefit rating system for open space land - ((rating system – bonus system – super bonus system)) definitions and eligibility.**

~~((A.))~~ To be eligible for open space classification under the public benefit rating system, property must contain one or more ~~((priority))~~ qualifying open space resources and have at least five points as determined under this section. These resources are ~~((ranked as high priority, medium priority and low priority resources and are))~~ based on the adopted King County Open Space Plan referenced in K.C.C. 20.12.380. ~~((High priority resources receive five points each, medium priority resources receive three points each and low priority resources receive one point each. Property can receive a maximum of thirty points from no more than six open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to K.C.C. 20.36.100B and C and a property can achieve a maximum of fifty two points through the rating system and the bonus system. Portions of property may also qualify for open space designation. Complete definitions of each resource, sources and eligibility standards are fully described in the summary report adopted by reference by K.C.C. 20.36.150. The department of natural resources and parks shall have the administrative authority to interpret issues relating to the priority resource definitions and eligibility standards outlined in the summary report.~~

1. ~~High priority resources – five points each.~~

a.) The department shall review each application and recommend award of credit for current use of property that is the subject of the application. In making such a recommendation, the department shall utilize

the point system described in subsections A. and B. of this section.

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

1. Active or passive recreation area - five points.

~~((b. Property under option for purchase as park, recreation, open space land or CIP mitigation site.~~

e.)) For the purposes of this subsection A.1, "active or passive recreation area" means land devoted to providing nonmotorized active or passive recreation use or that complements or substitutes for recreation facilities characteristically provided by public agencies. To be eligible as an active or passive recreation area, the facilities must be open to the general public or to specific public user groups, such as youth, senior citizens or people with disabilities. A property must be identified by the responsible agency within whose jurisdiction the property is located, as meeting the definition of an active or passive recreation area. Enrolling property must adhere to best management practices or standards, as defined in K.C.C. 21A.06.098, where available. If a fee is charged for use, it must be comparable to the fee charged by a like public facility;

2. Aquifer protection area - five points.

~~((d. Shoreline: "Conservancy" environment.~~

~~e. Scenic resource, viewpoint or view corridor.~~

~~f. Surface water quality buffer area.~~

~~g. Open space close to urban or growth area.~~

~~h. Significant plant, wildlife or salmonid habitat area.~~

~~i. Significant aquatic ecosystem.~~

~~j. Historic landmark/archaeological site: designated site.~~

~~k. Trail linkage.~~

~~l. Urban or growth area open space.~~

~~m. Farm and agricultural conservation land.~~

~~n. Forest stewardship land.~~

6-)) For the purposes of this subsection A.2, "aquifer protection area" means property that has a plant community in which native plants are dominant and that is located within an area designated as a critical aquifer recharge area under K.C.C. chapter 21A.24. To be eligible as an aquifer protection area, at least fifty percent of the enrolling open space area or a minimum of one acre of open space shall be designated as a critical aquifer recharge area. The enrolling open space area must have a plant community in which native plants are dominant, or a plan for revegetation must be submitted and approved by the department, and be implemented according to its proposed schedule of activities;

3. Buffer to public land - three points. For the purposes of this subsection A.3, "buffer to public land" means land that has a plant community in which native plants are dominant and that is adjacent and provides a buffer to a publicly owned park, forest, wildlife preserve, natural preserve, sanctuary, parkway, trail, highway, designated greenway or is adjacent and provides a buffer to a property participating in a current use taxation program under chapter 84.34 RCW. The buffer shall be no less than fifty feet in length and fifty feet in width. Public roads may separate the public land, or land in private ownership classified under chapter 84.34 RCW, from the buffering land, if the entire buffer is at least as wide and long as the adjacent section of the road easement. Landscaping or other nonnative vegetation shall not separate the public land or land enrolled under chapter 84.34 RCW from the native vegetation buffer. The department may grant an exception to the native vegetation requirement for property along parkways with historic designation, upon review and recommendation of the historic preservation officer of King County or the local jurisdiction in which the property is located. Eligibility for this exception does not extend to a property where plantings are required or existing plant communities are protected under local zoning codes, development mitigation requirements or other local regulations;

4. Equestrian-pedestrian trail linkage - thirty-five points. For the purposes of this subsection A.4, "equestrian-pedestrian trail linkage" means land in private ownership that the property owner allows the public to use as an off-road trail linkage for equestrian, pedestrian or other nonmotorized uses or that provides a trail

link from a public right of way to a trail system. Use of motorized vehicles is prohibited on trails receiving tax reductions in this category, except for maintenance or for medical, public safety or police emergencies. Public access is required only on that portion of the property containing the trail. The landowner may impose reasonable restrictions on access that are mutually agreed to by the landowner and the department, such as limiting use to daylight hours. To be eligible as an equestrian-pedestrian trail linkage, the owner shall provide a trail easement to an appropriate public or private entity, acceptable to the department. The easement shall be recorded with the records, elections and licensing services division. In addition to the area covered by the trail easement, adjacent land used as pasture, barn or stable area and any corral or paddock may be included, if an approved and implemented farm management plan is provided. Land necessary to provide a buffer from the trail to other nonequestrian uses, land that contributes to the aesthetics of the trail, such as a forest, and land set aside and marked for off road parking for trail users may also be included as lands eligible for current use taxation. Private roads or driveways open to the public for this purpose may also qualify. Driveways and sidewalks, used primarily by the landowner, do not qualify under this category. Fencing and gates are not allowed in the trail easement area, except those that are parallel to the trail or linkage;

5. Farm and agricultural conservation land - five points. For the purposes of this subsection A.5, "farm and agricultural conservation land" means land previously classified as farm and agricultural land under RCW 84.34.020 that no longer meets the criteria of farm and agricultural land, or traditional farmland not classified under chapter 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses and has a high potential for returning to commercial agriculture. To be eligible as farm and agricultural conservation land, the property must be used for farm and agricultural activities or have a high probability of returning to agriculture and the property owner must commit to return the property to farm or agricultural activities. An applicant must have a department-approved farm management plan in accordance with K.C.C. 21A.24.051 that is being implemented according to its proposed schedule of activities prior to receiving credit for this category. The property must be: at least five acres in size; or greater than two acres

and be actively farmed on more than seventy-five percent of the property. Eligible land must be zoned to allow agricultural uses. Combining separate parcels under different owners is not allowed under this category;

6. Forest stewardship land - five points. For the purposes of this subsection A.6, "forest stewardship land" means property that is managed according to an approved forest stewardship plan and that is not enrolled in the timberland program under chapter 84.34 RCW or the forestland program under chapter 84.33 RCW. To be eligible as forest stewardship land, the property must contain at least four acres of contiguous forestland, which may include land undergoing reforestation, according to the approved plan. An applicant shall have and implement a forest stewardship plan approved by the department. The forest stewardship plan may emphasize forest retention, harvesting or a combination of both;

7. Historic landmark or archeological site: buffer to a designated site - three points. For the purposes of this subsection A.7, "historic landmark or archaeological site: buffer to a designated site" means property adjacent to land constituting or containing a designated county or local historic landmark or archeological site, as determined by the historic preservation officer of King County or other jurisdiction in which the property is located that manages a certified local government program. To be eligible as a historic landmark or archeological site: buffer to a designated site, a property must have a plant community in which native plants are dominant and be adjacent to or in the immediate vicinity of and provide a significant buffer for a designated landmark or archaeological site listed on the county or other certified local government list or register of historic places or landmarks. For the purposes of this subsection A.7, "significant buffer" means land and plant communities that provide physical, visual, noise or other barriers and separation from adverse effects to the historic resources due to adjacent land use;

8. Historic landmark or archeological site: designated site - five points. For the purposes of this subsection A.8, "historic landmark or archaeological site: designated site" means land that constitutes or upon which is situated a historic landmark formally designated by King County or other certified local government program. Historic landmarks include buildings, structures, districts or sites of significance in the county's



historic or prehistoric heritage, such as Native American settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites or traditional cultural properties. To be eligible as a historic landmark or archeological site: designated site, a property must be listed on a county or other certified local government list or register of historic places or landmarks for which there is local regulatory protection. Eligible property may include property that contributes to the historic character within designated historic districts, as defined by the historic preservation officer of King County or other certified local government jurisdiction. The King County historic preservation officer shall make the determination on eligibility;

9. Historic landmark or archeological site: eligible site - three points. For the purposes of this subsection A.9, "historic landmark or archeological site: eligible site" means land that constitutes or upon which is situated a historic property that has the potential of being formally designated by a certified local government jurisdiction, including buildings, structures, districts or sites of significance in the county's historic or prehistoric heritage, such as Native American settlements, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites or traditional cultural properties. An eligible property must be determined by the historic preservation officer of King County or other certified local government program in the jurisdiction in which the property is located to be eligible for designation and listing on the county or other local register of historic places or landmarks for which there is local regulatory protection. Eligible property may include contributing property within designated historic districts. Property listed on the state or national Registers of Historic Places may qualify under this category;

10. Rural open space - five points. For the purposes of this subsection A.10, "rural open space" means an area of ten or more contiguous acres that has a plant community in which native plants are dominant and that is located outside of the urban growth area as identified in the King County Comprehensive Plan, except that an eligible site may include former open farmland, woodlots, scrublands or other lands that are in the process of being replanted with native vegetation;

~~((p-))~~ 11. Rural stewardship land - five points. For the purposes of this subsection A.11, "rural stewardship land" means lands zoned RA (rural area), A (agriculture) or F (forest), that has a department-approved and implemented rural stewardship plan as provided in K.C.C. chapter 21A.24. On RA-zoned property, the approved rural stewardship plan shall meet the goals and standards of K.C.C. 21A.24.055. For A- and F-zoned properties, credit for this category is allowed if the plan meets the goals of K.C.C. 21A.24.055 D. through G. A rural stewardship plan includes, but is not limited to, identification of critical areas, location of structures and significant features, site-specific best management practices, a schedule for implementation and a plan for monitoring as provided in K.C.C. 21A.24.055. To be eligible as rural stewardship land, the open space must be at least one acre and feature a plant community in which native plants are dominant or be in the process of restoration, reforestation or enhancement of native vegetation. Lands receiving credit for this category shall not receive credit for the resource restoration or the forest stewardship land public benefit rating system categories;

12. Scenic resource, viewpoint or view corridor - five points. For the purposes of this subsection A.12, "scenic resource" means an area of ten or more enrolling acres of natural or recognized cultural features visually significant to the aesthetic character of the county. A site eligible as a scenic resource must be significant to the identity of the local area and must be visible to a significant number of the general public from public rights-of-way, must be of sufficient size to substantially preserve the scenic resource value and must enroll at least ten acres of open space. For the purposes of this subsection A.12, a "viewpoint" means a property that provides a view of an area visually significant to the aesthetic character of the county. To be eligible as a viewpoint, a site must provide a view of a scenic natural or recognized cultural resource in King County or other visually significant area and must allow unlimited public access, and be identified by a permanent sign readily visible from a road or other public right-of-way. For the purposes of this subsection A.12, a "view corridor" means a property that contributes to the aesthetics of a recognized view corridor critical to maintaining a public view of a visually significant scenic natural or recognized cultural resource. A site

eligible as a view corridor must contain at least one acre of open space that contributes to a view corridor visible to the public that provides views of a scenic natural resource area significant to the local area.

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

13. Shoreline: conservancy environment - five points. For the purposes of this subsection A.13, "shoreline: conservancy environment" means marine, lake and river shoreline and associated wetlands designated as a conservancy environment in an adopted shoreline master plan under chapter 90.58 RCW, the Shoreline Management Act of 1971. To be eligible as shoreline: conservancy environment, the property enrolling must feature a plant community in which native plants are dominant, adjacent to the water for a length of more than twenty-five feet, and provide additional buffer width. The buffer width must be at least twenty-five percent greater than the buffer required by regulation. Credit for this category cannot overlap with credit for the shoreline natural environment category;

14. Shoreline: natural environment - three points. For the purposes of this subsection A.14, "shoreline: natural environment" means marine, lake or river shoreline and its associated wetlands designated as a natural environment in an adopted shoreline master plan under chapter 90.58 RCW, the Shoreline Management Act of 1971. To be eligible as shoreline: natural environment, the property enrolling must feature a plant community in which native plants are dominant, adjacent to the water and be greater than twenty-five feet in length, and provide additional buffer width. The buffer width must be at least twenty-five percent greater than the buffer required by regulation. Credit for this resource cannot overlap with credit for the shoreline conservancy environment category;

15. Significant plant site - five points. For the purposes of this subsection A.15, "significant plant site" means: an area with naturally occurring concentrations of those plants defined as being monitor species

and meeting the criteria for native plant communities by the Washington state Department of Natural Resources as of the effective date of this ordinance; or an old growth forest stand at least ten acres in size. An eligible site must be listed in the Natural Heritage Data Base as of the effective date of this ordinance, or be identified by an expert acceptable to the department confirming that qualified species are present on the property. Commercial nurseries, arboretums or other maintained garden sites with native or nonnative plantings are ineligible for this category;

16. Significant wildlife or salmonid habitat - five points.

a. For the purposes of this subsection A.16, "significant wildlife or salmonid habitat" means:

(1) an area used by animal species listed as endangered, threatened, sensitive or candidate by the Washington state Department of Fish and Wildlife or Department of Natural Resources as of the effective date of this ordinance, or used by species of local significance that are so listed by the King County Comprehensive Plan or a local jurisdiction;

(2) an area where the species listed in subsection A.16.a.(1). of this section are potentially found with sufficient frequency for critical ecological processes to occur such as reproduction, nesting, rearing, wintering, feeding or resting;

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

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

b. To be eligible as significant wildlife or salmonid habitat, the property must be verified by the department, or by expert determination acceptable to the department that qualified species are present or that the land fulfills the functions described in subsection A.16.a. of this section. To receive credit for salmonid habitat, the owner must provide a buffer at least fifteen percent greater in width than required by any applicable

regulation. Property consisting mainly of disturbed or fragmented open space determined by the department as having minimal wildlife habitat significance is ineligible for this category;

17. Special animal site - three points. For the purposes of this subsection A.17, "special animal site" means a site that includes a wildlife habitat network identified by the King County Comprehensive Plan or individual jurisdictions through the Growth Management Act, chapter 36.70A RCW, or urban natural area as identified by the Washington state Department of Fish and Wildlife's priority habitats and species project as of the effective date of this ordinance. To be eligible as a special animal site, the property must be identified by King County or local or state jurisdiction or where expert verification acceptable to the department or local jurisdiction is provided. Property consisting mainly of disturbed or fragmented open space determined by the department to have minimal wildlife habitat significance is ineligible for this category;

18. Surface water quality buffer - five points. For the purposes of this subsection A.18, "surface water quality buffer" means an undisturbed area that has a plant community in which native plants are dominant adjacent to a lake, pond, stream, wetland or marine waters, that provides buffers beyond that required by any applicable regulation. To be eligible as surface water quality buffer, the buffer must be at least fifty percent wider than the buffer required by any applicable regulation and longer than twenty-five feet. The qualifying buffer area must be preserved from clearing and intrusion by domestic animals and protected from grazing or use by livestock;

19. Urban open space - five points.

a. For the purposes of this subsection A.19, "urban open space" means land located within the boundaries of a city or within the urban growth area that has a plant community in which native plants are dominant and that under the applicable zoning is eligible for more intensive development or use. To be eligible as urban open space, the enrolling area must be at least one acre, or be at least one-half acre if the land meets one of the following criteria:

(1) the land conserves and enhances natural or scenic resources;

(2) the land protects streams or water supply;

(3) the land promotes conservation of soils, wetlands, beaches or tidal marshes;

(4) the land enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;

(5) the land enhances recreation opportunities to the general public; or

(6) the land preserves visual quality along highways, roads, and streets or scenic vistas.

b. Owners of noncontiguous properties that together meet the minimum acreage requirement of subsection A. 19. a. of this section may jointly apply under this category if each property is closer than seventy-five feet to one other property in the application and if each property contains an enrolling open space area at least as large as the minimum zoned lot size; and

~~((~~4~~)) 20. Watershed protection area - five points.~~

~~((2. Medium priority resources – three points each.~~

~~a. Public land or right-of-way buffer.~~

~~b. Special native plant site.~~

~~c. Natural shoreline environment.~~

~~d. Geological feature.~~

~~e. Eligible historic landmark or archaeological site.~~

~~f. Buffer to designated historic landmark/archaeological site.~~

~~g. Special animal site.~~

~~3. Low priority resource – one point.~~

~~a. Buffer to eligible historic/archaeological site.)) For the purposes of this subsection A.20,~~

"watershed protection area" means property in a watershed contributing to the forest cover that provides run-off reduction and groundwater protection. To be eligible as watershed protection area, the property must consist of contiguous native forest or be in the process of reforestation. The enrolling forested area must consist of an

additional fifteen percent of forest cover beyond that required by county or applicable local government regulation and must be at least one acre or twenty-five percent of the property acreage, whichever is greater. If reforestation or improvements to the forest health are necessary, the property owner shall provide and implement a department-approved forest stewardship or rural stewardship plan.

B. Property qualifying ((in the specific high, medium or low priority categories)) for an open space category in subsection A. of this section may receive ((up to twenty two)) credit for additional points ((if the following additional qualifications are met)) as follows:

1. Resource restoration - five points. For the purposes of this subsection B.1, "resource restoration" means restoration of an enrolling area benefiting an area in an open space resource category. Emphasis shall be placed on restoration of anadromous fish rearing habitat, riparian zones, migration corridors and wildlife, upland, stream and wetland habitats. To be eligible as resource restoration, the owner must provide and implement a department-approved restoration plan developed in cooperation with the Soil Conservation Service, the state Department of Fisheries and Wildlife, King County or other appropriate local or county agency. Historic resource restoration must be approved by the King County historic preservation officer or officer of another certified local government and must be accompanied by a long-term maintenance plan. For resource restoration credit, the owner shall provide to the department a yearly monitoring report for at least five years following enrollment in the public benefit rating system program. The report shall describe the progress and success of the restoration project and shall include photographs to document the success. Credit for this category cannot overlap with credit for the forest stewardship land category or the rural stewardship land category. If a property owner implements an approved restoration plan after enrolling in the public benefit rating system program and did not receive credit for the restoration in the initial evaluation of the property, the owner may reapply to amend the application and receive the bonus points credit without paying an additional application fee;

2. ((Bonus)) Additional surface water quality buffer - three or five points. For the purposes of this

subsection B.2, "additional surface water quality buffer" means an undisturbed area of native vegetation adjacent to a lake, pond, stream, wetland or marine water providing a buffer width of at least twice that required by regulation. To be eligible as additional surface water quality buffer, the property must qualify for the surface water quality buffer or a shoreline category in subsection A. of this section. Three points are awarded for additional buffers no less than two times the buffer width required by any applicable regulation. Five points are awarded for additional buffers no less than three times the buffer width required by any applicable regulation;

3. Contiguous parcels under separate ownership - two points per participating owner above one owner.

The points under this subsection B.3. accrue to all of the owners. However, withdrawal of a participating owner means the loss to each of the remaining owners of the two points for the withdrawing owner's participation under this subsection B.3. For the purposes of this subsection B.3, "contiguous parcels" means enrolling parcels abutting each other without any significant natural or manmade barrier separating them or enrolling parcels abutting a publicly owned open space but not necessarily abutting each other without any significant natural or manmade barriers separating the publicly owned open space and the parcels seeking open space classification. Contiguous parcels of land with the same qualifying public benefit rating system resources are eligible for treatment as a single parcel if open space classification is sought under the same application except as otherwise prohibited. Award of this category requires a single application by multiple owners and parcels with identical qualifying public benefit rating system resources. Treatment as contiguous parcels shall include: the requirement to pay only a single application fee; and the requirement that the total area of all parcels combined must equal or exceed any required minimum area, rather than each parcel being required to meet the minimum area. Individual parcels may be withdrawn from open space classification consistent with all applicable rules and regulations without affecting the continued eligibility of all other parcels accepted under the same application, but the combined area of the parcels remaining in open space classification must still qualify for their original enrolling public benefit rating system category or categories. To be eligible as contiguous parcels under separate ownership, the property must include two or more parcels under different



ownership. The owners of each parcel included in the application must agree to identical terms and conditions for enrollment in the program;

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

5. ~~((Bonus p))~~ Public access - points dependent on level of access. For the purposes of this subsection B.5, "public access " means the general public is allowed to access for uses such as, but not limited to, recreation, education or training. Access is required on only the enrolling portion of the property. The landowner may impose reasonable restrictions on access, such as limiting use to daylight hours, that are mutually agreed to by the landowner and the department. No physical barriers may limit reasonable public access or negatively affect an open space resource. To be eligible for public access at one of the levels described in a. through d. of this subsection B.5, a property owner shall demonstrate that the property is open to public access and is used by the public. Public access points for historic properties shall be approved by the historic preservation officer of King County or officer of another certified local government jurisdiction in

which the property is located. The property owner may be required to furnish and maintain signage according to county specifications.

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

b. Limited public access ((-sensitive area)) because of resource sensitivity - five points. Access may be reasonably limited due to the sensitive nature of the resource, with access provided only to appropriate user groups. The access allowed shall generally be for an educational, scientific or research purpose and may require special arrangements with the owner.

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

d. Seasonally ((L))limited public access - three points. Access by the public is allowed, with or without special arrangements with the property owner, during only part of the year based on seasonal conditions, as mutually agreed to by the landowner and the department.

~~((C. Property with at least one high priority resource and which allows unlimited public access, or limited public access if due to resource sensitivity, and which conveys a conservation, historic preservation, or trail easement in perpetuity, in a form approved by the county, shall be automatically eligible for current use value at ten percent of market value.))~~ e. None or members-only - zero points. No public access is allowed or the access is allowed only by members of the organization using or owning the land; and

6. Easement and access - thirty five points. For the purposes of this subsection B.6, "easement and access" means that the property has at least one qualifying open space resource, unlimited public access or limited public access due to resource sensitivity, and a conservation easement or historic preservation easement

in perpetuity in a form and with conditions acceptable to the department. To be eligible a property must receive credit for an open space category and for the conservation easement or historic easement in perpetuity category. The owner must agree to allow public access to the portion of the property designated for public access in the easement. An easement required by zoning, subdivision conditions or other land use regulation is not eligible, unless there is additional easement area beyond that required. Credit for this category cannot overlap with the equestrian-pedestrian trail linkage category.

SECTION 6. Ordinance 14259, Section 7, and K.C.C. 20.36.105 are each hereby repealed.

SECTION 7. Section 20.36.140 is hereby decodified.

SECTION 8. Ordinance 12969, Section 1, as amended, and K.C.C. 20.36.150 are each hereby repealed.

SECTION 9. Ordinance 10511, Section 8, and K.C.C. 20.36.170 are each hereby amended to read as

follows:

**Review of previously approved open space applications.** In accordance with chapter 84.34 RCW, the department shall reevaluate ~~((Θ))~~open space property ~~((which))~~ that has been ~~((previously))~~ approved for current use assessment ~~((will be reassessed under the public benefit rating system, pursuant to the procedures outlined in this chapter. If this determination results in an assessment at 100% of market value for the property or a portion thereof,))~~ before August 28, 1992, where the revaluation has not been completed before the effective date of this ordinance. The landowner shall be notified of the new assessed value in the manner described in RCW 84.40.045 <<http://search.leg.wa.gov/wslrcw/RCW%20%2084%20%20TITLE/RCW%20%2084%20.%2040%20%20CHAPTER/RCW%20%2084%20.%2040%20.045.htm>>. ~~((t))~~The property owner may request removal ~~((from open space classification))~~ of all, or a portion of, the property ~~((or that portion thereof,))~~ from open space classification by notifying the department in writing within thirty days ~~((of))~~ after the notification~~((;))~~ required by this section has been mailed to the owner without ~~((monetary))~~ incurring back taxes, interest and penalty, in accordance with WAC 458-30-340.

NEW SECTION. SECTION 10. There is hereby added to K.C.C. 20.36 a new section to read as

follows:

**Evaluation and approval of open space resource applications.**

A. A property may achieve a maximum of a ninety-percent reduction in assessed value of that portion of the land enrolled in the public benefit rating system through the rating system and the bonus categories. Portions of a property may qualify for open space designation. The department shall evaluate a property for

which open space classification is sought under this chapter for the presence of open space resource categories. Adjacent parcels of land with the same open space resources, owned by one or more landowners, may be eligible for consideration as a single parcel if open space classification is sought under the same application. For the purpose of determining buffer measurements under this chapter, the width is the distance perpendicular to the edge of the resource and the length of the buffer is parallel to the resource. The entire buffer width may be averaged to qualify for a resource category.

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

a. reference to a recognized source, such as:

- (1) the natural heritage data base;
- (2) the state office of historic preservation;
- (3) state, national, county or city registers of historic places;
- (4) the interagency committee for outdoor recreation inventory of dry accretion beach and shoreline

features;

- (5) the shoreline master program;
- (6) parks and recreation studies; or
- (7) studies by the state Department of Fish and Wildlife or Department of Natural Resources; or

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

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

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

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

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

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

1. Improvements or structures situated upon eligible open space land;
2. Properties that do not contain a qualifying open space priority resource;
3. Open space areas required as part of a development or, subdivision, or required by zoning or other land use regulation, unless the owner provides further public benefit, such as additional open space not restricted or required by applicable regulation, or resource restoration. Dedicated open space, such as a privately owned open space tract or native growth retention/detention area, is eligible for participation only if additional acreage, acceptable to the department, featuring a plant community where native plants are dominant, is provided;
4. Any portion of a property that is dominated by or whose resource value is compromised by invasive species, unless an approved and implemented restoration, rural stewardship or forest stewardship plan has been provided and is being implemented; and
5. Homesite and other areas developed for residential or personal use, such as garden, landscaping and driveway, except for historic resources.

F. The department may monitor the participating portion of the property to evaluate its current use and

the continuing compliance with the conditions under which open space classification was granted. Monitoring may include a scheduled, physical inspection of the property. Failure by the owner to meet the conditions of the approval or to maintain the uses of the property that were the basis for the original approval shall be grounds for the department to reevaluate the property under the public benefit rating system. If the revaluation shows the property is no longer eligible or that the overall rating would result in a current use assessment at a higher percentage of market value than was originally approved, the county shall take action to remove the current use classification and determine the amount of deferred taxes, interest and penalty owed by the landowner. An appeal by the landowner from such a determination may be filed as provided for in K.C.C. 20.36.130.B.

NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 20.36 a new section to read as follows:

The department shall undertake an outreach effort to actively encourage participation by eligible landowners in obtaining open space classification under the public benefit rating system, with emphasis on rural stewardship, aquifer protection areas, farm and agricultural conservation lands, forest stewardship lands, rural open space lands, and watershed protection areas. This outreach must include, among other elements, communications with community groups, civic organizations, volunteer associations and similar organizations, to:

- A. Highlight the benefits of the program;
- B. Seek participation by qualifying landowners;
- C. Seek communications with local media outlets; and

D. Seek participation in workshops by the department related to farm management planning, forest management planning and rural stewardship planning.