



Legislation Text

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AN ORDINANCE modifying the public benefit rating system for open space and the agricultural current use assessment provisions; amending Ordinance 4461, Section 1, as amended, and K.C.C. 20.22.060, Ordinance 1076, Section 1 as amended, and K.C.C. 20.36.010, Ordinance 15137, Section 1, as amended, and K.C.C. 20.36.015, Ordinance 1076, Section 2, as amended, and K.C.C. 20.36.020, Ordinance 1076, Section 3, as amended, and K.C.C. 20.36.030, Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040, Ordinance 1076, Section 5, as amended, and K.C.C. 20.36.050, Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060, Ordinance 4462, Section 8, as amended, and K.C.C. 20.36.080, 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, Ordinance 1886, Section 11, as amended, and K.C.C. 20.36.120, Ordinance 1886, Section 12, as amended, and K.C.C. 20.36.130, Ordinance 10511, Section 6, and K.C.C. 20.36.160, Ordinance 10511, Section 9, and K.C.C. 20.36.180 and Ordinance 15137, Section 10, as amended, and K.C.C. 20.36.190 and repealing Ordinance 4462, Section 7, as amended, and K.C.C. 20.36.070 and Ordinance 10511, Section 8, as amended, and K.C.C. 20.36.170.

PREAMBLE:

Current use taxation programs, as defined in chapters 84.33 and 84.34 RCW, offer a property tax reduction to landowners who voluntarily preserve or manage lands within four categories: open

space land or land in the public benefit rating system, farm and agricultural land, and designated forestland.

King County first adopted a public benefit rating system program in 1992 and has updated the program several times since then. The changes to the program recommended in this ordinance, include the creation of a new ecological enhancement land category, which offers applicants additional points and tax savings for conducting major resource recovery efforts on their property.

Additional changes to existing category requirements and clarification on certain aspects of program policy, administration, the public hearing process for property in an incorporated area and reporting are designed to assist program applicants and to enhance the county's ability to administer program requirements fairly and consistently.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

The examiner shall issue recommendations, in the following cases:

- A. Proposals for establishment or modification of cable system rates under K.C.C. 6.27A.140;
- B. Vacation of county roads under K.C.C. chapter 14.40;
- C. All Type 4 decisions under K.C.C. chapter 20.20;
- D. Applications for public benefit rating system assessed valuation on open space land under K.C.C. chapter 20.36(~~(, except as provided in K.C.C. 20.36.090)~~);
- E. Appeals of decisions to designate or reject a nomination for designation for a landmark or issuing or denying a certificate of appropriateness under K.C.C. chapter 20.62;
- F. Creation of a lake or beach management district and a special assessment roll under chapter 36.61 RCW;

G. Appeals from decisions of the county road engineer in the road services division of the department of local services related to changes in speed limits under K.C.C. 14.06.030; and

H. Other applications or appeals that are prescribed by ordinance.

SECTION 2. Ordinance 1076, Section 1, as amended, and K.C.C. 20.36.010 are hereby amended to read as follows:

It is in the best interest of the county to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its ~~((citizens))~~ residents.

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

SECTION 3. Ordinance 15137, Section 1, as amended, and K.C.C. 20.36.015 are hereby amended to read as follows:

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

A. "Certified local government programs" means 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 its successor agency.

C. "Enrolled parcel" means a parcel:

1. ~~((£))~~ For which a public benefit rating system open space application has been received ~~((and))~~;
2. ~~((£))~~ For which an agreement related to open space classification, as described in WAC 458-30-240,

has been executed and recorded with the ~~((records and licensing services division))~~ King County recorder's office or its successor; and

3. ~~((t))~~That is receiving tax reduction benefits.

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

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

F. "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 4. Ordinance 1076, Section 2, as amended, and K.C.C. 20.36.020 are hereby amended to read as follows:

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

SECTION 5. Ordinance 1076, Section 3, as amended and K.C.C. 20.36.030 are hereby amended to read as follows:

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

thereof)).

SECTION 6. Ordinance 1076, Section 4, as amended, and K.C.C. 20.36.040 are hereby amended to read as follows:

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

B. ~~((H))~~ A fee shall not be charged for an application ((is filed)) to ((add)) award credit for farm and agricultural conservation land, ecological enhancement land, forest stewardship land, resource restoration or rural stewardship land category to a parcel that is already enrolled in the public benefit rating system~~((, no fee shall be charged for that application))~~. The definitions in K.C.C. 20.36.100 apply to this subsection.

C. ~~((In the case of))~~ For 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 shall collect and retain the entire fee. ~~((In the case of))~~ For open space 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 county shall collect and retain the entire fee~~ ~~((shall be collected and retained by the county))~~. Where the city legislative authority has established a filing fee for open space applications based on land in an incorporated area of the county, the county shall collect the fee established in subsection A. of this section ~~((shall be collected by the county from the applicant and the county shall))~~ and pay the city one-half ~~((of the fee collected))~~. The amount ~~((paid by the county to))~~ the county pays the city shall not exceed the fee established by the city. The city ~~((shall be))~~ is responsible for collecting any fees ~~((that it))~~ the city has established that exceed one-half of the amount established by subsection A. of this section.

SECTION 7. Ordinance 1076, Section 5, as amended, and K.C.C. 20.36.050 are hereby amended to read as follows:

Applications shall be ~~((made))~~ submitted by December 31~~((st))~~ of the calendar year ~~((preceding that year in which such))~~ before the year the classification is to begin.

SECTION 8. Ordinance 1076, Section 7, as amended, and K.C.C. 20.36.060 are hereby amended to read as follows:

The clerk of the council shall publish ~~((N))~~ 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 area of the county shall be given by one publication at least ten days before the hearing. The clerk of the council shall publish this notice))~~ in a newspaper of general circulation in the area at least ten days before the hearing.

SECTION 9. Ordinance 4462, Section 7, as amended, and K.C.C. 20.36.070 are hereby repealed.

SECTION 10. Ordinance 4462, Section 8, as amended, and K.C.C. 20.36.080 are hereby amended to read as follows:

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

SECTION 11. Ordinance 1886, Section 10, as amended, and K.C.C. 20.36.090 are hereby amended to read as follows:

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

~~((B. Such an application shall be acted upon by))~~ Both the county council~~((s transportation, economy and environment committee, or its successor))~~, consistent with K.C.C. 20.36.020, and the applicable city legislative body ~~((The application shall be acted upon))~~ shall act on the applications after a public hearing by each ~~((such))~~ body and after notice of each hearing ~~((shall have been given))~~ by ~~((one))~~ publication in a newspaper of general circulation in the area at least ten days before the hearing.

SECTION 12. Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100 are hereby amended to read as follows:

A. The definitions in this section apply throughout this section, as well as in K.C.C. 20.36.040 and K.C.C. 20.30.190, unless the context clearly requires otherwise.

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

~~((B-))~~ C. The following open space resources are each eligible for the points indicated:

1. ~~((Public recreation area – five points. For the purposes of this subsection B.1, "public recreation area" means land devoted to providing active or passive recreation use or that complements or substitutes for recreation facilities characteristically provided by public agencies. Use of motorized vehicles is prohibited on land receiving tax reduction for this category, except for golf carts on golf courses, for maintenance or for medical, public safety or police emergencies. To be eligible as a public 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 public recreation area. If a property meets the definition of public recreation area, the property owner must use best practices, if any, that are defined in K.C.C. chapter 21A.06. If a fee is charged for use, it must be comparable to the fee charged by a like public facility;))~~ Active trail linkage - fifteen or twenty-five points. "Active trail linkage" means land in private ownership through which the owner agrees to allow nonmotorized public passage, for the purpose of providing a connection between trails within the county's regional trails system and local or regional attractions or points of interest, for trail users including equestrians, pedestrians, bicyclists and other users. "Local or regional attractions or points of

interest" include other trails, parks, waterways or other recreational and open space attractions, retail centers, arts and cultural facilities, transportation facilities, residential concentrations or similar destinations. The linkage must be open to passage by the general public and the property owner shall enter into an agreement with the county consistent with applicable parks and recreation division policies to grant public access. To receive twenty-five points, the property owner shall enter into an agreement with the county regarding improvement of the trail, including trail pavement and maintenance. To receive fifteen points, the property owner shall agree to allow a soft-surface, nonpaved trail. The parks and recreation division is authorized to develop criteria for determining the highest priority linkages for which it will enter into agreements with property owners;

2. Aquifer protection area - five points. ~~((For the purposes of this subsection B.2,))~~ ~~"((a))~~Aquifer protection area" means property that has a plant community in which native plants are dominant and that includes an area designated as a critical aquifer recharge area under K.C.C. chapter 21A.24 or applicable city critical aquifer recharge area regulations. ~~((To be eligible as an aquifer protection area, a))~~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. If the enrolling open space area does not have a plant community in which native plants are dominant, a plan for revegetation must be submitted and approved by the department, and must be implemented according to the plan's proposed schedule of activities;

3. Buffer to public or current use classified land - three points. ~~((For the purposes of this subsection B.3,))~~ ~~"((b))~~Buffer to public or current use classified land" means land that has a plant community in which native plants are dominant or has other natural features, such as streams or wetlands, and that is ~~((adjacent))~~ abutting and provides a buffer to a publicly owned park, trail~~((,))~~ or forest, to land legally required to remain in a natural state ~~((or)), to~~ a state or federal highway or ~~((is adjacent to and provides a buffer))~~ to a property participating in a current use taxation program under chapters 84.33 or 84.34 RCW. The buffer ~~((shall be no less than))~~ must be at least fifty feet ~~((in length))~~ long and fifty feet ~~((in width))~~ wide. Public roads may

separate the public land, or land in private ownership classified under chapters 84.33 or 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~~) may not separate the public land or land enrolled under chapters 84.33 or 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. Ecological enhancement land - eighteen points. "Ecological enhancement land" means open space lands undergoing recovery of significantly degraded or lost ecological function or processes. The following requirements shall be met:

a. A jurisdiction, natural resource agency or appropriate organization has committed to sponsoring the ecological enhancement project, with secured funding in place before the application's public hearing;

b. The ecological enhancement project must include removing significant human-made structures, alterations or impediments such as shoreline armoring, roads, culverts and wetland fill that are detrimental to significant wildlife or salmonid habitat. The intent of the removal must be to reestablish natural function or processes to the project area;

c. The owner is responsible for providing and implementing an ecological enhancement plan for the proposed project. The approved enhancement plan must include at least a statement of purpose, detailed description of work to be done, site map of the project area and specific timeline for the enhancement activities to be completed and must be approved by the department; and

d. The owner shall annually provide to the department a monitoring report detailing the enhancement

efforts' success for five years following enrollment. The owner shall also provide any additional monitoring reports required by K.C.C. 20.36.190. The monitoring report must describe the progress and success of the enhancement project and must include photographs to document the success. Land receiving credit for this category may not receive credit for the rural stewardship land or resource restoration categories;

5. Equestrian-pedestrian-bicycle trail linkage - thirty-five points. ((For the purposes of this subsection B.4,)) "((e))Equestrian-pedestrian-bicycle 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 a tax reduction for 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-bicycle 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 and licensing services division)) King County recorder's office or its successor. 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 land eligible for current use taxation. Those portions of private roads, driveways or sidewalks open to the public for this purpose may also qualify. Fencing and gates are not allowed in the trail easement area, except those that are parallel to the trail or linkage;

~~((5. Active trail linkage—fifteen or twenty-five points. For the purposes of this subsection B.5, "active trail linkage" means land in private ownership through which the owner agrees to allow nonmotorized public~~

~~passage, for the purpose of providing a connection between trails within the county's regional trails system and local or regional attractions or points of interest, for trail users including equestrians, pedestrians, bicyclists and other users. For the purposes of this subsection B.5., "local or regional attractions or points of interest" include other trails, parks, waterways or other recreational and open space attractions, retail centers, arts and cultural facilities, transportation facilities, residential concentrations or similar destinations. To be eligible as an active trail linkage, the linkage must be open to passage by the general public and the property owner must enter into an agreement with the county consistent with applicable parks and recreation division policies to grant public access. To receive twenty-five points, the property owner must enter into an agreement with the county regarding improvement of the trail, including trail pavement and maintenance. To receive fifteen points, the property owner must agree to allow a soft surface, nonpaved trail. The parks and recreation division is authorized to develop criteria for determining the highest priority linkages for which it will enter into agreements with property owners.))~~

6. Farm and agricultural conservation land - five points. ~~((For the purposes of this subsection B.6.,))~~
"~~((f))~~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, t))~~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 returning the property to farm or agricultural activities by implementing a farm management plan. An applicant must have an approved farm management plan in accordance with K.C.C. 21A.24.051 that is acceptable to the department and that is being implemented according to its proposed schedule of activities before receiving credit for this category. Farm and agricultural activities must occur on at least one acre of the property. Eligible land must be zoned to allow agricultural uses and be owned by the same owner or held under the same ownership. Land receiving credit for

this category ~~((shall))~~ may not receive credit for the ~~((category-))~~ contiguous parcels under separate ownership ~~(())~~ category;

7. Forest stewardship land - five points. ~~((For the purposes of this subsection B.7.))~~ ~~((f))~~ Forest stewardship land" means property that is managed according to an approved forest stewardship plan and that is not enrolled in the designated forestland program under chapter 84.33 RCW. ~~((To be eligible as forest stewardship land, t))~~ The property must contain at least four acres of contiguous forestland, which may include land undergoing reforestation, according to the approved plan. The owner 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. Land receiving credit for this category ~~((shall))~~ may not receive credit for the resource restoration ~~((category or the))~~ or rural stewardship land ~~((category))~~ categories;

8. Historic landmark or archeological site: buffer to a designated site - three points. ~~((For the purposes of this subsection B.8.))~~ ~~((h))~~ 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))~~ King County's historic preservation officer or by a manager of a certified local government program in the jurisdiction in which the property is located. ~~((To be eligible as a historic landmark or archeological site: buffer to a designated site, a))~~ 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 B.8.))~~ ~~((s))~~ 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;

9. Historic landmark or archeological site: designated site - five points. ~~((For the purposes of this subsection B.9.))~~ ~~((h))~~ Historic landmark or archaeological site: designated site" means land that constitutes

or ~~((upon which is situated))~~ contains a historic landmark designated by King County or other certified local government program in the jurisdiction in which the property is located. 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))~~ 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;

10. Historic landmark or archeological site: eligible site - three points. ~~((For the purposes of this subsection B.10,))~~ ~~((h))~~ Historic landmark or archaeological site: eligible site" means land that constitutes or ~~((upon which is situated))~~ contains a historic property that has the potential of being 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))~~ To be eligible, 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))~~ shall determine the property meets the jurisdiction's criteria 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;

11. Public recreation area - five points. "Public recreation area" means land devoted to providing active or passive recreation use or that complements or substitutes for recreation facilities characteristically

provided by public agencies. Use of motorized vehicles is prohibited, except for golf carts on golf courses, for maintenance or for medical, public safety or police emergencies. 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 public recreation area. The property owner must use any best practices defined in K.C.C. chapter 21A.06. If a fee is charged for use, it must be comparable to the fee charged by a similar public facility;

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

a. has a plant community in which native plants are dominant; or

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

~~((12.))~~ 13. Rural stewardship land - five points. ((For the purposes of this subsection B.12.)) "((£))Rural stewardship land" means land((s)) zoned RA (rural area), A ((agriculture)) agricultural) or F (forest), that has an implemented rural stewardship plan ((as provided in)) under K.C.C. chapter 21A.24 ((that is)) acceptable to the department. On RA-zoned ((property)) properties, the approved rural stewardship plan ((shall)) must meet the goals and standards of K.C.C. 21A.24.055. ((For)) On 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 native vegetation

restoration, reforestation or enhancement ~~((of native vegetation))~~. Land receiving credit for this category ~~((shall))~~ may not receive credit for the ecological enhancement land, resource restoration or ~~((the))~~ forest stewardship land ~~((category))~~ categories;

~~((13.))~~ 14. Scenic resource, viewpoint or view corridor - five points.

a. ~~((For the purposes of this subsection B.13.,))~~ ~~((s))~~ "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))~~ The site 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.

b. ~~((For the purposes of this subsection B.13., a))~~ 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))~~ 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 ~~((s))~~ unlimited public access and must be identified by a permanent sign readily visible from a road or other public right-of-way.

c. ~~((For the purposes of this subsection B.13., a))~~ 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))~~ The site must contain at least one acre of open space that contributes to a view corridor visible to the public and that provides views of a scenic natural resource area or recognized cultural resource significant to the local area. ~~((Recognized cultural areas must be found significant by t))~~ The King County historic preservation officer or ~~((equivalent))~~ officer of another certified local government program in the jurisdiction in which the property is located must find the recognized cultural areas to be significant and must find that the site contains significant inventoried or designated historic properties. Eligibility is subject to determination by the department or applicable jurisdiction;

~~((14.))~~ 15. Significant plant or ecological site - five points. ~~((For the purposes of this subsection B.14.))~~ "~~((s))~~Significant plant or ecological site" means an area that meets the criteria for Element Occurrence established under the Washington Natural Heritage Program authorized by chapter 79.70 RCW. An Element Occurrence is a particular, on-the-ground observation of a rare species or ecosystem. An eligible site must be listed as an Element Occurrence by the Washington Natural Heritage Program ~~((as of the date of the application))~~ or be identified as a property that meets the criteria for an Element Occurrence. The identification must be confirmed by a qualified expert acceptable to the department. The department ~~((will))~~ shall notify the Washington Natural Heritage Program of any verified ~~((e))~~ Element ~~((o))~~ Occurrence on an enrolling property. Commercial nurseries, arboretums or other maintained garden sites with native or nonnative plantings are ineligible for this category;

~~((15.))~~ 16. Significant wildlife or salmonid habitat - five points.

a. ~~((For the purposes of this subsection B.15.))~~ "~~((s))~~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 date of the application,))~~ or used by species of local significance that are listed by the King County Comprehensive Plan or a local jurisdiction;

(2) an area where the species listed in subsection ~~((B.15.a.(1.))~~ C.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, to occur;

(3) a site that meets the criteria for priority habitats as defined by the Washington state Department of Fish and Wildlife and that is so listed by the King County Comprehensive Plan or by 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 department, by its own determination or by expert determination acceptable to the department, must verify that qualified species are present on the property or that the land fulfills the functions described in subsection (~~(B.15.a.)~~) C.16.a. of this section. To receive credit for salmonid habitat, the owner (~~(must)~~) shall 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)~~);

~~(16.)~~ 17. Special animal site - three points. (~~For the purposes of this subsection B.16.,~~) "~~(s)~~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~~) a biodiversity area (as) and corridor identified by the Washington state Department of Fish and Wildlife's priority habitats and species project as of the date of the application. (~~To be eligible as a special animal site,~~) The property must be identified by King County or local or state jurisdiction or by expert verification acceptable to the department or local jurisdiction. Property consisting mainly of disturbed or fragmented open space determined by the department to have minimal wildlife habitat significance is ineligible for this category;

~~(17.)~~ 18. Surface water quality buffer - five, eight or ten total points. (~~For the purposes of this subsection B.17.,~~) "~~(s)~~Surface water quality buffer" means an undisturbed area that has a plant community in which native plants are dominant (~~adjacent to~~) abutting a lake, pond, stream, shoreline, wetland or marine waters on or abutting the property, that provides buffers beyond that required by any applicable regulation. To (~~be eligible as surface water quality buffer~~) receive five points, the buffer must be at least fifty percent wider than the buffer required by any applicable regulation (~~and longer than twenty-five feet~~). To receive eight points, the buffer must be at least two times the required width. To receive ten points, the buffer must be at least three times the required width. The qualifying buffer (~~area~~) must be longer than twenty-five feet and

must be preserved from clearing ((and intrusion by domestic animals and protected from grazing)) or maintenance, unless this area is part of a department-approved ecological enhancement, farm management, forest stewardship, rural stewardship or resource restoration plan. Grazing or use by livestock on such land is prohibited;

~~((18.))~~ 19. Urban open space - five points.

a. ~~((For the purposes of this subsection B.18,))~~ "~~((u))~~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, t))~~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))~~ adjacent parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
- (5) the land enhances recreation opportunities ~~((t))~~ for 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 B.18.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

~~((19.))~~ 20. Watershed protection area - five points. ~~((For the purposes of this subsection B.19,))~~ "~~((w))~~Watershed protection area" means property contributing to the forest cover that provides run-off reduction and groundwater protection. ~~((To be eligible as watershed protection area, t))~~The property must consist of

contiguous native forest or be in the process of reforestation. The enrolling forested area must consist of additional forest cover beyond that required by county or applicable local government regulation and must be at least one acre or sixty-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 an ecological enhancement, forest stewardship, resource restoration or rural stewardship plan that addresses this need and is acceptable to the department.

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

~~((1. Resource restoration – five points. For the purposes of this subsection C.1, "resource restoration" means restoration of an enrolling area of property benefiting an area in an open space resource category. Emphasis shall be placed on the 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 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 that is acceptable to by the department. 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. Land receiving credit for this category shall not receive credit for the forest stewardship land category or the rural stewardship land category;~~

~~2. Additional surface water quality buffer – three or five points. For the purposes of this subsection C.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 category in subsection B. 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.)) 1. Conservation easement or historic preservation easement - eighteen points. "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 easement must be approved by the department and be recorded with the King County recorder's office or its successor. The easement must be conveyed to the county or to an organization acceptable to the department, such as a land trust or conservancy. Historic preservation easements must also be approved by the historic preservation officer of King County or of the 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;

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

((a. enrolling parcels abut each other without any significant natural or human-made barrier separating them; or)) a. "Contiguous parcels under separate ownership" means at least two or more parcels under different ownership where either:

(1) the enrolling parcels and open space acreage abut each other without a significant human-made barrier separating them; or

(2) the enrolling parcels do not abut each other, but abut a publicly owned open space, without a

significant human-made barrier separating the publicly owned open space and the open space portion of the parcels seeking open space classification.

~~((b. enrolling parcels abut a publicly owned open space but not necessarily abut each other without any significant natural or human-made barriers separating the publicly owned open space and the parcels seeking open space classification.))~~ b. Award of this category requires a single application by multiple owners and parcels with identical qualifying public benefit rating system resources. Only a single application fee is required.

c. 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 by the farm and agricultural conservation land category. ((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;))

5.)) Each parcel need not meet the minimum acreage requirements for a resource category so long as the total area of all enrolling land combined meets any required minimum acreage requirements. The owners of each parcel included in the application must agree to identical terms and conditions for enrollment in the program.

d. Individual parcels or portions of parcels may be withdrawn or removed from open space classification, consistent with all applicable rules and regulations. The continued eligibility of all parcels and associated acreage remaining in open space classification accepted under the same application is dependent upon the continued qualification for a resource category or categories.

e. Points are awarded for each participating owner above one owner and accrue to all owners of a single application. The withdrawal or removal of all enrolled acreage associated with an owner results in the loss of two points for each remaining owner;

~~((4. Conservation easement or historic preservation easement – fifteen points. For the purposes of this subsection C.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 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 of the 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.)) 3. Easement and access - thirty-five points. "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 may not overlap with the equestrian-pedestrian-bicycle trail linkage;

4. Public access - points depend on type and frequency of access allowed. ~~((For the purposes of this subsection C.5,))~~ ~~((p))~~ "Public access" means the general public is allowed access on an ongoing basis for uses such as ~~((, but not limited to,))~~ recreation, education or training. Access must be allowed on ~~((only))~~ the portion of the property that is designated for public access. 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 C.5, a))~~ 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 t)) The historic preservation officer of King County or ((officer of another certified)) a certified officer of another local government jurisdiction in which the property is located must approve the award of public access points for historic properties. 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 ~~((on the enrolled parcel))~~ without special arrangements with the property owner.

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

c. Seasonally limited public access - three points. Access by the public is allowed only for part of the year due to due to seasonal conditions, as mutually agreed to by the landowner and the department.

d. Environmental education access - three points. The landowner enters into an agreement with a school, an organization with 26 U.S.C. Sec. 501(c)(3) tax status, or, with the agreement of the department, an 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)) portion of the property has value for environmental education purposes.

~~((d. Seasonally limited public access – three points. Access by the public is allowed on the enrolled parcel, 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.))~~

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 C.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 bicycle trail linkage category.))~~ 5. Resource restoration - five points.

"Resource restoration" means restoration of an enrolling area of property benefiting an area in an open space resource category. Emphasis is placed on the restoration of native vegetation associated with anadromous fish rearing habitat, riparian zones, migration corridors and wildlife, forest, stream and wetland habitats. The owner shall provide and implement a restoration plan approved by the department. The plan may be developed in

cooperation with a natural resource expert or agency. The approved restoration plan must, at a minimum, include a purpose statement, a description of restoration work to be done, a detailed site map of the area to be restored, a specific timeline for the restoration activities to be completed and a monitoring schedule for the restoration project's first five years. Historic resource restoration must be approved by the King County historic preservation officer or officer of another certified local government in the jurisdiction in which the property is located and must be accompanied by a long-term maintenance plan. The owner shall also provide to the department a yearly monitoring report for at least five years following enrollment in the public benefit rating system program. The report must describe the progress and success of the restoration project and must include photographs to document the success. Land receiving credit for this category may not receive credit for the ecological enhancement land, forest stewardship land or rural stewardship land categories.

SECTION 13. Ordinance 1886, Section 11, as amended, and K.C.C. 20.36.120 are hereby amended to read as follows:

The county assessor shall approve or disapprove all applications for farm and agricultural classification with due regard ~~((to))~~ for all relevant evidence. These applications ~~((shall be))~~ are deemed ~~((to have been))~~ approved unless, prior to the first of May of the year after such application was mailed or delivered to the assessor, the assessor notifies the applicant in writing ~~((to the extent to which))~~ that some or all of the application is denied.

SECTION 14. Ordinance 1886, Section 12, as amended, and K.C.C. 20.36.130 are hereby amended to read as follows:

A.1. An applicant for current assessment of farm and agricultural land who receives notice in writing from the county assessor that all or a portion of the application has been denied may appeal ~~((such))~~ the denial ~~((to the county council))~~ by filing a written appeal with the ~~((clerk of the county council))~~ board of appeals and equalization within ~~((twenty-one))~~ sixty calendar days of the date of the ~~((assessor's written))~~ notice of denial.

2. An applicant for public benefit rating system open space land who receives notice in writing from

the council that all or a portion of the application has been denied may appeal the denial by filing a written appeal with the superior court of the county within twenty calendar days of the date of the notice of denial.

B. An owner of farm and agricultural or open space classified land who receives notice in writing from the county assessor that all or a portion of ~~((such))~~ the land has been removed from current use classification may appeal ~~((such))~~ the removal ~~((to the county board of equalization))~~ by filing a written appeal with the ~~((clerk of the))~~ board of appeals and equalization within ~~((thirty))~~ sixty calendar days of the date of the ~~((assessor's written))~~ notice of removal.

SECTION 15. Ordinance 10511, Section 6, and K.C.C. 20.36.160 are hereby amended to read as follows:

The public benefit rating system ~~((for open space land bases))~~ reduces the ~~((level of assessed fair market value reduction))~~ appraised land value for the participating portion of the parcel. The level of reduction shall be based on the total number of points awarded ~~((points. The market value reduction))~~. The total number of points awarded establishes the current use value for taxation purposes. ~~((This))~~ The current use value ~~((will))~~ shall be expressed as a percentage of ~~((market))~~ appraised value based on the public benefit rating of the property and the following valuation schedule ~~((below))~~:

<u>Public Benefit Rating</u>	<u>Current Use Value</u>
0-4 points	100% of ((market)) <u>appraised</u> value
5-10 points	50% of ((market)) <u>appraised</u> value
11-15 points	40% of ((market)) <u>appraised</u> value
16-20 points	30% of ((market)) <u>appraised</u> value
21-34 points	20% of ((market)) <u>appraised</u> value
35 ((52)) <u>points and above</u>	10% of ((market)) <u>appraised</u> value

SECTION 16. Ordinance 10511, Section 8, as amended, and K.C.C. 20.36.170 are hereby repealed.

SECTION 17. Ordinance 10511, Section 9, and K.C.C. 20.36.180 are hereby amended to read as

follows:

The executive shall submit an annual report to the council ~~((with))~~ that details the extent of participation in the public benefit rating system. ~~((The council shall reevaluate the public benefit rating system program two years from August 17, 1992, to assess the progress of the program.))~~

SECTION 18. Ordinance 15137, Section 10, as amended, and K.C.C. 20.36.190 are hereby amended to read as follows:

A. The definitions in K.C.C. 20.36.100 apply to this section.

B. A property may achieve a maximum ~~((of a))~~ ninety-percent reduction in ~~((assessed))~~ appraised value ~~((of))~~ for 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))~~. A plant community where native plants are dominant that does not independently contain a qualifying open space resource can participate if it is contiguous to and provides a benefit to a portion of the property being awarded credit for a qualifying open space priority resource. The department shall evaluate ~~((a property for which open space classification is sought under this chapter))~~ the property for the presence of open space resource categories. ~~((Adjacent))~~ Abutting 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~~((; except for))~~; however, property pursuing credit for the farm and agricultural conservation land category~~((; which))~~ must be owned by the same owner or held under the same ownership. 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.))~~ C. The presence or occurrence of an eligible open space resource ~~((shall))~~ may be verified by:

~~((a.))~~ 1. ~~((of))~~ Reference to a recognized source, such as:

~~((1))~~ a. the natural heritage data base;

~~((2))~~ b. the state office of historic preservation;

~~((3))~~ c. state, national, county or city registers of historic places;

~~((4))~~ d. the ~~((interagency committee for outdoor))~~ Washington state recreation and conservation office inventory of dry accretion beach and shoreline features;

~~((5) the))~~ e. a shoreline master program;

~~((6))~~ f. parks and recreation studies; or

~~((7))~~ g. studies by the state Department of Fish and Wildlife or Department of Natural Resources; ~~((or))~~

~~((b))~~ 2. ~~((f))~~ Reference to a map developed by the county or other recognized authority~~((-)); or~~

~~((2-))~~ 3. ~~((Alternatively, the existence of the resource may be verified u))~~ Using the best available source, such as a recognized expert in the particular resource being reviewed.

~~((3-))~~ D. When more than one reasonable interpretation can be supported by the text of this chapter, the department ~~((is authorized to))~~ may make a determination relating to the open space resource definitions and eligibility standards in accordance with the purpose and intent of this chapter. The department ~~((is authorized to))~~ may 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-))~~ E. Management or preservation of the open space resources is 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 of))~~ the owner to develop a plan acceptable to the department to restore any property whose open space resources are degraded. In addition, if an existing approved plan for farm and agricultural conservation land, ecological

enhancement land, forest stewardship land, rural stewardship land or resource restoration category has a management schedule or management goals that are out of date or otherwise require change, the owner is responsible for revising the plan. ~~((Any such revisions to the plan must be reviewed and accepted by the department))~~ The department must review and accept any plan revisions.

~~((D.))~~ F. The county~~(('s))~~ may base 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))~~ granting easements.

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

1. Improvements or structures ~~((situated up))~~ on eligible open space land;
2. Properties that do not contain a qualifying open space ~~((priority))~~ resource;
3. Open space areas protected by a native growth, forest retention or other covenant that is required as

part of a development process or subdivision, or required by zoning or other land use regulations~~((; except))~~; however, such an area ~~((would be))~~ is eligible as ecological enhancement, forest stewardship or rural stewardship land if ~~((its participation))~~ implementation of the associated plan provides ~~((further public benefit and there is))~~ resource improvements within the enrolling open space. Such an area is also eligible as public recreation area, equestrian-pedestrian-bicycle or active trail linkage due to the public's use and benefit.

Additionally:

a. ~~((e))~~ Enrollment of at least ten percent additional open space acres, beyond that restricted or required by applicable covenant or regulation, is necessary to qualify for additional resource categories not referenced in this subsection G.3. but not including those additional resource categories referenced in subsection G.3.b. of this section; and

b. The minimum ten percent additional ~~((acreage))~~ open space acres provided must be acceptable to the department and feature a plant community where native plants are dominant or ~~((that will))~~ should be

dominant (~~((following the implementation of))~~) after implementing an approved farm management, ecological enhancement, forest stewardship, resource restoration or rural stewardship plan associated with the approved open space resource or bonus category;

4. Any portion of a property (~~((that is))~~) dominated by or whose resource value is compromised by invasive plant species, unless the department has received a resource restoration, rural stewardship, ecological enhancement, farm management or forest stewardship plan and determined that the plan adequately addresses the invasive plant species concern and (~~((that the 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.))~~ H. 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))~~) of enrollment.

1. Monitoring may include scheduled, physical inspections of the property and in-office review using aerial photography, mapping software or other available technologies.

2. ~~((A.))~~ Program staff may require an owner of enrolled property (~~((enrolled in the program may be required))~~) to submit a monitoring report on an annual or less frequent basis (~~((as requested by program staff))~~). ~~((This))~~ The report must include a brief description of how the property still qualifies for each awarded resource category (~~((It must also include))~~), photographs from established points on the property and any owner observations (~~((by the owner))~~). The owner must submit this report to the department by email, the program's website or by other mutually agreed upon method. An environmental consultant need not prepare this report.

3. An owner of property receiving credit for farm and agricultural conservation land, ecological enhancement land, forest stewardship land(~~((;))~~) or rural stewardship land, all of which require a stewardship or management plan, (~~((must))~~) shall annually provide a monitoring report that describes progress (~~((of))~~) in implementing the plan and includes a brief description of activities taken to implement the plan and

photographs from established points on the property. The owner ~~((must))~~ shall submit this report~~((, which must include a brief description of activities taken to implement the plan and photographs from established points on the property,))~~ to the department by email or by other mutually agreed upon method. An environmental consultant need not prepare this report.

~~((G.))~~ I. 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))~~ is grounds for the department to reevaluate the property under the public benefit rating system. If the reevaluation shows the property or a portion of the property is no longer eligible to participate in the program ~~((because it does not qualify for any public benefit rating system category as 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.))~~ If the reevaluation shows the property or a portion thereof is no longer eligible as approved but that the property still qualifies for one or more public benefit rating system resource categories, then the overall credit award shall be adjusted to reflect the reevaluation. The new credit award may result in a current use assessment at a lower percentage of ~~((market))~~ appraised value than was originally approved. A landowner may appeal a determination under this subsection by following K.C.C. 20.36.130.B.

SECTION 19. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.