

## Part Four – Clearing and Grading

# Clearing and Grading

## Purpose

King County's clearing and grading regulations are intended to regulate and protect critical areas from adverse clearing and grading operations including but not limited to the removal of vegetation, grading and earthwork construction, and mining and materials processing operations. These regulations establish standards for how and when clearing and grading activities can be undertaken, establishes administrative procedures for the approval, issuance and inspection of clearing and grading permits and provides for penalties for the violation of these regulations.

## When is a Clearing and Grading Permit required?

- Clearing or grading in any amounts within critical areas or buffers defined in K.C.C. 21A.24.
- Clearing in any quantities in areas subject to property specific development standards provided under K.C.C. 21A.38.
- Different thresholds apply if the work is occurring outside of critical areas.

Exceptions: Certain activities conducted in and adjacent to critical areas are exempt from the need to obtain a permit PROVIDED the work is conducted in accordance with operating standards in K.C.C. 16.82.100 and conforms to the limitations outlined in the permit exception table and the critical area alterations table. These exempt activities include:

- Maintenance of lawn, landscaping and gardening for personnel consumption;
- Maintenance of public and private roadways with some limitations adjacent to aquatic areas and wetlands;
- Construction and maintenance of farm field access roads subject to an approved farm management plan;
- Certain agricultural practices including tilling, discing, planting and seeding, and related activities;
- Construction and maintenance of manure storage facilities, and maintenance of ponds and drainage facilities subject to an approved farm management plan.

## Permitting

Once property owners have determined that a Clearing and/or Grading Permit is necessary, they should conduct further review to determine which permit process most appropriately fits their needs and is most suitable for their proposed project.

### Short Form Permits

The short form is a field issued permit for projects that generally meet the following criteria:

1. In certain limited instances, short form permits are used to authorize hazard tree removal and other minor miscellaneous clearing from critical area buffers provided the alterations are allowed under the Critical Areas Ordinance.
2. The project is exempt from State Environment Policy Act (SEPA) review or was covered under a prior determination. If applicants are not sure whether or not an Environmental Checklist is required for a proposed project, contact the Land Use Services Division's SEPA Section at 206-296-6600; and
3. The proposal does not include any permanent drainage facilities or exceed the thresholds requiring preparation of a drainage plan as outlined in K.C.C. 9.04 and the King County Surface Water Design Manual.

To obtain a Short Form Permit, the following steps will need to be completed:

1. Complete the Affidavit for Application Form;
2. Complete the Certification and/or Transfer of Applicant Status Form;
3. Prepare a site plan, and
4. Call 206-296-6600 to schedule an onsite meeting with a site development specialist.

Permit fees will be assessed during the onsite meeting and mailed to the department in an envelope provided. Work will not be authorized until fees owing are paid. A Short Form Permit may be issued for up to a year but may not be extended.

### Standard Application

If you do not qualify for a short form a standard permit application will be required. Fees and specific submittal requirements for a proposed project will be determined during the pre-application meeting. Please note that applications will not be accepted without a pre-application review. Call 206-296-6600 to schedule an appointment.

At the pre-application meeting, it is important to determine everything that must be submitted for the standard application to be considered complete. Review of a

standard application will not begin until all application materials have been submitted.

Please note that verification of the applicant is now required per Chapter 20.20 of the King County Code (K.C.C.). The Certification of Applicant Status Form is used to ensure that the property owner is aware that an application has been made to develop his/her property and to document the name of the legal applicant, as well as any consultants. The legal applicant is the individual or group authorized to receive plans and correspondence from King County. When the applicant is someone other than the property owner, the Certification and Transfer of Applicant Status Form is used to transfer applicant status to an agent. This form must include authorization from the legal property owner.

Unless a pre-application waiver form has been signed by the Site Development Services Section Supervisor or the supervisor's designee and accompanies the permit application, the pre-application number must be identified on the permit application form at the time of submittal. In addition, the standard application requirements listed below are required to submit a complete and vested permit application.

- Signed Clearing and Grading Permit Application Worksheet Form
- Applicant Status or Certification and Transfer of Applicant Status Form
- Affidavit for Application Form
- Completed and signed State Environmental Policy Act (SEPA) Checklist – If a project is categorically exempt from SEPA, the checklist requirement is then waived and a separate waiver form is not required. The Permit Application Worksheet must specify the applicable SEPA exemption.
- Fees – The applicant must submit a completed and signed permit fee worksheet with the permit application. The worksheet will be provided to the applicant by the site development specialist.
- List of pending or obtained permits – This information will be included on the application form.
- Documentation required by the code requirements set forth in the K.C. SWDM
- Site plan prepared in accordance with K.C.C. 16.82.060(A)(6), (B) and (C)
- Legal Description – The legal description should be included on the permit application form or included as an attachment to the application.
- Variances obtained or required under Title 21A, to the extent known at the time of application
- Description of Work – This information will be included on the completed permit application form.
- Identification of critical areas
- Identification any clearing restrictions pertaining to the property

All of the items listed above must be included with every standard permit application before it will be input by the Permit Center unless specific items have been waived

by the Site Development Services Section Supervisor or the supervisor's designee and a completed and signed permit requirements waiver form accompanies the permit file.

In addition to the statutory requirements listed above, the applicant shall also submit completed and signed fee and application worksheets for each permit application.

## **Emergencies**

Any activity that would normally require a permit, including alterations to critical areas, that at the time taken was not in compliance with the provisions of this code, will not be considered a violation if the action was undertaken in response to an emergency and the following steps are taken:

- The department was notified prior to undertaking the activity, or if that is not possible, within 48 hours of performing the work.
- A pre-application meeting is scheduled within 48 hours of conducting the work and is held within 30 days.

At the pre-application meeting, the department will assign permit application number to track and bill staff time for filing a completed permit application as well as provide direction to the applicant for corrective action or mitigation necessary to comply with K.C.C. 21A.24.

The department will confirm in a written decision that the activity was an emergency that was unanticipated and not caused by the action or inaction of the applicant, immediate action was necessary and that the action taken was appropriate for the risks posed by the emergency.

## **Plans, specification and other permit requirements**

### **Site clearing, grading and erosion control plans**

The first sheet of the plans must show the vicinity map and legal description of the property. Plans must be folded to fit into an 8½x14-inch folder and must include the following information:

1. A legal description of the property (Customers can get this from the King County Department of Assessments.);
2. A north arrow;
3. A vicinity map drawn to a scale of approximately one inch equals 2,000 feet that is in sufficient detail to clearly locate the project in relation to arterial streets, natural features, landmarks and municipal boundaries;
4. Grading plan scale (horizontal and vertical);

5. The size and location of existing improvements within 50 feet of the project, indicating which will be retained and which will be removed;
6. Property boundaries, easements, setback requirements and clearing limits (e.g., floodplains, shorelines, etc.);
7. Existing and proposed contours (maximum 5-foot intervals) that extend 100 feet beyond the edge of the project;
8. At least two cross-sections, one in each direction, showing existing and proposed contours and the horizontal and vertical scales;
9. The location of areas affected by clearing restrictions when such areas are contained within any of the following:
  - Wildlife Habitat Corridors, as specified in Chapter 21A.14 of the King County Code;
  - Special District overlays in an adopted community plan.
10. Clear marking of any open space tract or conservation easement (per Chapter 21A.14 of the King County Code);
11. Give the total area to be cleared on site as a percentage of the total site area;
12. Show temporary and permanent erosion-sediment control facilities. Temporary facilities (i.e., silt fence, mulching, netting, sediment ponds, etc.) must be designed to control runoff during clearing and grading. Permanent facilities (i.e., detention ponds, revegetation, biofiltration swales, etc.) must be designed to control erosion after grading is complete. All facilities must be designed in accordance with the current King County *Surface Water Design Manual*; and
13. A stamp and signature from a registered civil engineer licensed to practice in the State of Washington must appear on the following information:
  - plans that include permanent drainage facilities;
  - plans for work in landslide hazard areas; and
  - plans prepared in conjunction with the proposed construction or placement of a structure.

## Other requirements

1. Plan review fees must be paid at the time of permit application. Before permit issuance, the remaining fee balance, any bonds or insurance, and verification that property taxes are current will be required;
2. If access to the property is from a state highway, a State Highway Access Permit must be obtained from the Washington State Department of Transportation. If access to the property is from a King County road, the access must comply with the *King County Road Standards*. The standards include requirements for entering site distance, landings and other issues that may need to be reviewed;
3. If permanent drainage facilities are proposed, a separate storm drainage plan must be submitted. Consult Chapter 9.04 of the King County Code and the current *Surface Water Design Manual* for specific design criteria;
4. Two copies of the soils report or geotechnical evaluations prepared for the site must be provided. This provision may be waived for certain permits if the

- proposed grading is not intended to provide structural support, is not located in a hazard area (landslide, seismic, steep slope, or coal mine) and a covenant is placed in the Title advising of the nature of any fill;
5. Copies of any correspondence with King County regarding the project or site must be provided;
  6. Copies of any approvals or permits granted by other agencies, such as the Washington State Department of Fish and Wildlife, U.S. Army Corps of Engineers, U.S. Department of Natural Resources, Washington State Department of Ecology, etc., must be provided;
  7. Earthwork calculations must be submitted with the application if the earthwork quantities are greater than 3,000 cubic yards or the disturbed area is greater than one acre. If the project is located in a no-burn zone, or clearing will be done outside the normal burning season, or building demolition will be completed as part of the initial site development, a description of the proposed clearing/demolition waste management plan must be provided;

If customers have any questions regarding Clearing and/or Grading Permits, please contact the Land Use Services Division at 206-296-6600.

## **Permit decision processes**

Clearing and Grading permits are Type 1 land use actions<sup>1</sup>. Permit applications are reviewed pursuant to the permit process and procedures provisions of K.C.C. Chapter 20.20 for compliance with applicable King County Codes including, but not limited to, the critical area ordinance, shoreline management program and King County Surface Water Design Manual and may also be conditioned to mitigate identified project impacts. Projects that cannot mitigate impacts to less than significant levels or that cannot be modified or conditioned to meet King County Code requirements will be denied. Conditions necessary to comply with the critical area, shoreline, drainage and other King County development regulations are incorporated by reference into all Clearing and Grading Permits.

Any decision to approve, condition or deny a Clearing and Grading Permit based upon the requirements of the CAO with the provisions of the Land Use Petition Act as provided in 36.70C RCW, may be appealed to the Zoning and Subdivision Hearing Examiner in accordance with K.C.C. 20.20.090.

## **Permit duration and renewal**

Clearing and grading permits have varied durations which can last up to five years. The normal timeframes for an issued permit are:

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<sup>1</sup> Clearing and grading permits that require preparation of an Environmental Impact Statement are a Type 2 land use decision and decisions to approve, deny or condition such permits may be appealed to the Zoning and Subdivision Hearing Examiner in accordance with the provisions of Title 20.

- Short Form Permits – 1 year with no renewals; and
- Standard Applications – 1 year with annual renewals.

Permits will only be renewed after the department has determined that operating conditions and performance standards have been met and that permit conditions are adequate to protect against impacts resulting from the permitted activity. If a contrary finding is made, the department may require revisions to the permit, initiate periodic review or initiate an enforcement action to bring about necessary corrections.

## **Clearing and grading standards**

Any activity that involves clearing, grading or that otherwise alters the condition of any critical area or buffer, whether or not a permit has been obtained or is required, in addition to meeting the critical area development standards, must also meet the operating standards of the Clearing and Grading Ordinance. These operating conditions are aimed primarily at developing stable construction sites while maintaining soil hydrology, protecting water quality, preserving native vegetation.

### **Soil hydrology**

Areas that have been cleared or graded shall have the soil moisture holding capacity restored to that of the original undisturbed soil native to the site. This can be accomplished in several ways.

- The organic duff layer and native topsoil can be left in an undisturbed state. If any of these materials are removed during grading, they should be stockpiled on site in designated areas that are not adjacent to public resources or critical areas. The duff layer and topsoil shall be reapplied to other portions of the site at the completion of grading. If the reapplication of duff and topsoil is not adequate to meet this requirement, soil amendments can be applied.
- If the soil in any area has been compacted or if portions of the duff or topsoil layers have been removed, the soil shall be amended to mitigate for the lost moisture-holding capacity. The topsoil shall be replaced between May 1 and October 1 : and
  1. be a minimum of 8 inches thick unless the owner can demonstrate that a different application will replicate the pre-disturbance soil moisture holding capacity of the site;
  2. have an organic matter content of 8 to 13 percent dry weight and a pH suitable for the proposed landscaping.

Organic matter content can be achieved by:

- Amending soils on site with compost;
- importing compost-amended soil to the site and mixing it with existing soil;

- importing compost-amended soil and spreading it over the graded areas, or
- scooping native soils with plants intact to a depth of 18 inches, or below the root zone, whichever is deeper, and moving them to a receiving site, or back to the original location.

Topsoil-compost blends imported from offsite should contain from 10 to 30 percent fines passing the number 200 sieve. For best results, subsoils should be scarified to a depth of at least 2 inches in order to avoid stratified soil layers.

These standards do not apply if the cleared or graded area will be covered by an approved impervious surface or incorporated into an approved drainage facility.

## **Water quality protection**

Any person who clears, grades or disturbs a site is required to provide erosion and sediment control that prevents the transport of sediment to wetlands and aquatic resources, drainage facilities or adjacent properties. In addition, from October 1 through April 30, no clearing or grading shall be performed until it has been determined by the director, in writing, that work during this period will comply with the erosion and sediment control performance and implementation requirements of the King County Surface Water Design Manual. In making this determination, the director will consider:

- Slope, soil type, aspect, vegetative cover and proximity of receiving waters;
- Proposed limitations on activities and extent of disturbed areas;
- Proposed erosion and sediment control measures; and
- Natural resource values.

Certain activities are exempt from the seasonal requirements listed above. These include:

- Repair and maintenance of erosion and sediment control facilities;
- Sites with approved, installed ESC facilities that infiltrate 100% of surface water runoff;
- Routine landscape activities of existing single-family residences that do not require a permit; and
- Response to emergencies that threaten the public health, safety or welfare.

Activities that are exempt from these seasonal limitations must still comply with other provisions of this ordinance as well as the development conditions in the CAO.

## **Vegetation management**

On individual lots in the RA Zone, native vegetation shall be retained as follows:



- For lots 1¼ acre or smaller, excluding clearing necessary for access, utilities and onsite septic systems, clearing shall not exceed the greater of:
  1. the amount cleared before January 1, 2005, or cleared under a complete permit application filed before October 25, 2004;
  2. 50 percent of the lot area; or
  3. 7,000 thousand square feet.
- For lots greater than 1¼ acres and up to 5 acres, clearing shall not exceed the greater of:
  1. the amount legally cleared before January 1, 2005, or cleared under a complete permit application filed before October 25, 2004; or
  2. 50 percent of the lot area.
- For lots greater than 5 acres, clearing shall not exceed the greater of:
  1. the amount legally cleared before January 1, 2005, or cleared under a complete permit application filed before October 25, 2004;
  2. 2½ acres; or
  3. 35 percent of the lot area.
- For lots greater than 1¼ acres in either the Bear Creek, Issaquah Creek or May Creek Basins, clearing shall not exceed the greater of:
  1. the amount legally cleared before January 1, 2005 or cleared under a complete permit application filed before October 25, 2004; or
  2. 35 percent of the lot area.

These standards will not apply if more restrictive standards apply through application of the CAO or Special District overlays under K.C.C. 21A.38. Areas set aside for critical areas or buffers may count towards these clearing retention standards. The maximum amount of clearing may also be modified through an approved and current rural stewardship or farm management plan prepared pursuant to K.C.C. 21A.24. These clearing standards will also not apply under the following circumstances:

- Lots within a subdivision or short subdivision that were approved with clearing restrictions that conform to these standards;
- Areas within open space tracts created as part of a subdivision or short subdivision may be credited on a pro-rata basis towards the clearing retention standards for an individual lot within the subdivision or short subdivision;
- Areas encumbered by a utility corridor, or easement for a public road or trail rights-of-way or access easement will not be counted toward the cleared area limit; and
- The minimum clearing necessary to relocate an equestrian trail will not be counted towards the cleared area limit;

Within the urban growth area, conifer trees greater than 8 inches in diameter and deciduous trees greater than 12 inches in diameter shall be retained or replaced. The rate of retention and/or replacement is a function of the intensity of development. Project sites with 25 percent or more of the total gross site area in critical areas, critical area buffers or other areas to be left undisturbed, such as wildlife corridors, are exempt from these urban tree retention standards.