King County

Legislation Details (With Text)

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Title: AN ORDINANCE related to Rural Area clearing limits; and repealing Ordinance 15053, Section 14.

Sponsors: Reagan Dunn, Kathy Lambert, Pete von Reichbauer, Jane Hague

Indexes: Washington, State of

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Attachments: 1. A. Appelate Court Decision No. 59416-8-1

Date	Ver.	Action By	Action	Result
2/2/2009	1	Metropolitan King County Council	Reintroduced	
7/14/2008	1	Metropolitan King County Council	Introduced and Referred	

Clerk 07/10/2008

AN ORDINANCE related to Rural Area clearing limits; and repealing Ordinance 15053, Section 14.

STATEMENT OF FACTS:

1. The state of Washington Court of Appeals has issued a 3-0 decision reversing the summary judgment of *Citizens Alliance for Property Rights v. Ron Sims* on the basis that King County's rural clearing limits violated state law, as shown in Attachment A to this ordinance.

2. That decision held that the rural clearing limits imposed by Ordinance 15053 were akin to a tax, fee or charge on development which is expressly forbidden by RCW 82.02.020.

3. That decision also states: "the clearing limitations of this ordinance are not required by the GMA. While the GMA directs local jurisdictions to take action to protect certain functions and critical areas, it does not direct the County to take the particular action of adopting this clearing limits ordinance."

4. The rural clearing limits ordinance based its standard upon a "65/10" model. That clearing restriction standard holds that 65 percent of a development site will remain in native vegetation and allow up to 10 percent coverage for impervious surfaces.

5. According to the Executive's Report of the Best Available Science in February 2004: "The 65/10 clearing restriction standard was derived from the 65/10 stormwater standard, originally developed for the Issaquah Basin using empirical information on stream conditions and level of development from that basin. Thus it is most applicable for watersheds with rainfall, vegetation, soil, and topography similar to the Issaquah Basin."

6. Before the passage of the Clearing and Grading Ordinance, Ordinance 15053, rural clearing limits of 35 percent were limited to rural-zoned parcels in the Bear Creek Basin, the Issaquah Creek Basin, Soos Creek Basin, May Creek Basin, and East Sammamish Community Planning Area or Bear Creek Community Planning Area.

7. Ordinance 15053 eliminated those clearing restrictions and replaced them with blanket rural-wide restrictions based upon lot sized for all Rural Area-zoned parcels, while maintaining some protections for the Bear Creek, Issaquah Creek and May Creek Basins.

8. The nexus of direct environmental impact was therefore severed between clearing limits and the protection of watershed basins and replaced with a more generic Rural Area designation. In essence, all RA-zoned properties were now placed under the same consideration as watershed basins when relating to critical areas protections.

9. Repeal of the rural-wide blanket clearing limit will re-establish a nexus of direct connection to the protection of watershed basins. It will strengthen the protections of other voluntary programs for clearing limits, such as the Public Benefits Rating System.

10. Best Available Science demonstrates that the 65/10 model can be an effective way to protect watershed basins, aquatic areas, critical aquifer recharge areas, and geologically hazardous areas.

When applied to these critical areas, 65/10 constitutes a direct protection. When applied outside these areas, the body of Best Available Science draws no direct benefit to the protection of the environment.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 15053, Section 14, is hereby repealed.