



Critical Areas Ordinance Court Case

What did the Court of Appeals decide?

On July 7, 2008, the Court of Appeals issued a decision concerning one provision of King County's Clearing and Grading Code, which was enacted at the same time as updates to the county's Critical Areas Ordinance and Stormwater Regulations in 2004. The Court of Appeals ruled that the limits on the amount of clearing allowed on rural area zoned property were inconsistent with a state law.

Did the Court strike down King County's entire Critical Areas Ordinance?

No. The only issue before the court was whether the particular clearing limits in the Critical Areas Ordinance violated the state law relating to how taxes, fees, and charges on development are to be imposed.

What does this decision mean for me if I have a permit application or code enforcement case before King County?

King County will no longer enforce the provisions of the Clearing and Grading Code ([King County Code](#) 16.82.150, 16.82.151, 16.82.152, and 16.82.154 and associated cross-references), that require rural area zoned property owners to limit the amount of clearing on their property. These code sections will no longer be considered during the review of existing or future permit applications or in existing or future code enforcement complaints.

Do I still need to apply for a clearing permit?

Yes, if you are proposing to clear beyond the thresholds allowed under King County's regulations or in areas where clearing always requires a permit. Generally, clearing more than a cumulative total of seven thousand square feet requires a permit. For information on how to apply for clearing permits, see [Applying for a clearing and grading permits](#).

Are there other regulations that may apply to proposed clearing?

Yes. Clearing in many critical areas and their buffers is generally not allowed or allowed only in limited circumstances. If any clearing is allowed, a permit is almost always required. King County's Stormwater regulations also may apply. More than 7,000 square feet of land disturbing activity, which includes most clearing, also requires drainage review and may require measures to ensure that there are no stormwater impacts that result from the clearing.

Why does King County care about the amount of forest cover?

Scientific studies show that as the total amount of forest cover is reduced in a basin, there is increased risk of flooding and other adverse impacts to streams and wetlands in the basin.

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This is true even if the clearing takes place far away from the stream or wetland. If allowed to do the job, nature is the most effective, and also the most cost effective, way to manage stormwater. Forest cover is also important for a variety of wildlife species and important for recharging groundwater, a key source of drinking water for rural property owners.

Are there incentives or assistance for keeping natural forest cover on my property?

Yes. Under the County's stormwater code, retaining natural forest cover might be a less expensive alternative to building stormwater control and treatment facility. You can learn whether this is an option for you from the [Stormwater Pollution Prevention Manual](#). Through the county's [Current Use Taxation Programs](#), a commitment to protect forest cover beyond what regulations require might qualify you for a tax break. Finally, you can get [technical assistance](#) to keep your forest health and reduce wildfire risks.

Does this decision affect stream or wetland buffers or other county regulations?

No. King County requires that the buffer around a stream or wetland be left alone. Those regulations were not affected by the Court of Appeals decision. King County's zoning and stormwater regulations also remain in effect.

King County

[Department of Local Services, Permitting](#) (www.kingcounty.gov/permitting)

[Information Packets and Handouts](#)

Critical Areas Designation Information and Application

Critical Areas Mitigation Guidelines

[Permit application forms listed by packet](#)

Clearing and Grading Permits

Critical Area Alteration Exception

[Green Building](#)

[Contact and Office Location](#)

[King County Codes](#)