

February 16, 1995

Introduced by: CHRISTOPHER VANCE

Proposed No.: 95-074

ORDINANCE NO. **11700**

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AN ORDINANCE relating to permitting; clarifying that engineering plans shall be returned to the applicant and defining who the applicant is; amending Ordinance 9163, Section 2 and K.C.C. 9.04.020, Ordinance 2281, Sections 6, 7 and 8 and K.C.C. 9.04.070, K.C.C. 9.04.100 and K.C.C. 9.04.110, Ordinance 4938, Section 11 and K.C.C. 9.04.130, Ordinance 8589, Section 2 and K.C.C. 9.04.160, Ordinance 4895, Sections 1 and 7 and K.C.C. 14.28.010 and K.C.C. 14.28.030, Ordinance 3647, Section 2 and K.C.C. 16.04.010, Ordinance 1488, Sections 5 and 7 and K.C.C. 16.82.020 and K.C.C. 16.82.060, Ordinance 2097, Section 1 and K.C.C. 17.04.010, Resolution 11048, Sections IIIA (part) and IV AB(2) and K.C.C. 19.16.010 and K.C.C. 19.24.040, Ordinance 9543, Sections 2, 5 and 13 and K.C.C. 19.26.020, K.C.C. 19.26.050 and K.C.C. 19.26.140, Resolution 11048, Section IV A(2) and K.C.C. 19.28.020, Ordinance 9898, Section 1 and K.C.C. 19.28.030, Resolution 11048, Section IV A(4) and K.C.C. 19.28.050, Ordinance 11017, Sections 2, 3 and 4 and K.C.C. 19.33.020, 19.33.030 and K.C.C. 19.33.040, Resolution 11048, Appendix A and K.C.C. 19.36.030 and 19.36.040, Ordinance 9544, Section 3 and K.C.C. 19.36.045, Resolution 11048, Appendix A and K.C.C. 19.36.060, Ordinance 6084, Section 2 and K.C.C. 19.36.065, Resolution 11048, Appendix A and K.C.C. 19.36.070, Ordinance 9544, Sections 19 and 20 and K.C.C. 19.36.087 and K.C.C. 19.36.089, Ordinance 5596, Sections 5, 7, 8, 9, 11 and 14 and K.C.C. 19.38.030, K.C.C. 19.38.050, K.C.C. 19.38.060, K.C.C. 19.38.070, K.C.C. 19.38.090 and K.C.C. 19.38.120, Ordinance 9544, Section 6 and K.C.C. 19.39.020, Ordinance 10870, Sections 54, 584 and 597 and K.C.C. 21A.06.070, K.C.C. 21A.39.030 and K.C.C. 21A.40.030, Ordinance 11622, Section 13 and K.C.C. 25.XX.XXX and adding new sections to K.C.C. 19.04, K.C.C. 19.34 and K.C.C. 25.08 and repealing Ordinance 5596, Section 2 and K.C.C. 19.04.350, all as amended.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 9163, Section 2 and K.C.C. 9.04.020

are hereby amended to read as follows:

Definitions. A. "Applicant" means a property owner, or any person or entity designated or named in writing by the property owner to be the applicant, in an application for a development proposal, permit or approval.

((A-)) B. "Basin" means a drainage area which drains either to the Cedar, Green, Snoqualmie, Skykomish or White rivers, or the drainage areas which drain directly to Puget Sound.

((B-)) C. "Basin Plan" means a plan and all implementing regulations and procedures including but not limited to capital

1 projects, public education activities, and land use management
2 adopted by ordinance for managing surface and storm water
3 management facilities and features within individual subbasins.

4 ((C-)) D. "Bond" means a surety bond, cash deposit or
5 escrow account, assignment of savings, irrevocable letter of
6 credit or other means acceptable to or required by the manager
7 to guarantee that work is completed in compliance with the
8 project's engineering plan and in compliance with all King
9 County requirements.

10 ((D-)) E. "Closed depression" means an area of King
11 County which is low-lying and either has no, or such a limited,
12 surface water outlet that during storm events the area acts as
13 a retention basin, with more than five thousand square feet at
14 overflow elevation.

15 ((E-)) F. "Department" means the department of public
16 works.

17 ((F-)) G. "Design storm" means a rainfall (or other
18 precipitation) event or pattern of events for use in analyzing
19 and designing drainage facilities.

20 ((G-)) H. "Development" means any activity that requires
21 a permit or approval, including but not limited to a building
22 permit, grading permit, shoreline substantial development
23 permit, conditional use permit, special use permit, zoning
24 variance or reclassification, subdivision, short subdivision,
25 urban planned development, building site plan, or commercial
26 site development permit or right-of-way use permit.

27 ((H-)) I. "Development engineer" means the building and
28 land development division employee authorized to oversee the
29 review, conditioning, inspection and acceptance of right-of-way
30 use permits, road and drainage projects constructed pursuant to
31 permits administered by the division. The development engineer
32 or designee shall be a professional civil engineer registered
33 and licensed under the laws of the State of Washington.

34 ((I-)) J. "Director" means the director of the department
35 of public works or the director's designee.

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((J-)) K. "Division" means the building and land development division of the department of parks, planning and resources or its successor agency.

((K-)) L. "Drainage" means the collection, conveyance, containment, and/or discharge of surface and storm water runoff.

((L-)) M. "Drainage facility" means the system of collecting, conveying and storing surface and storm water runoff. Drainage facilities shall include but not be limited to all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities and other drainage structures and appurtenances, both natural and constructed.

((M-)) N. "Drainage review" means an evaluation by building and land development division staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual.

((N-)) O. "Erosion/sedimentation control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the site.

((O-)) P. "Infiltration facility" means a drainage facility designed to use the hydrologic process of surface and storm water runoff soaking into the ground, commonly referred to as percolation, to dispose of surface and storm water runoff.

((P-)) Q. "Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not

1 limited to, roofs, walkways, patios, driveways, parking lots,
2 storage areas, areas which are paved, graveled or made of
3 packed or oiled earthen materials, or other surfaces which
4 similarly impede the natural infiltration of surface and storm
5 water. Open, uncovered retention/detention facilities shall
6 not be considered as impervious surfaces for the purposes of
7 this chapter.

8 ((Q-)) R. "Improvement" means streets (with or without
9 curbs or gutters) sidewalks, crosswalks, parking lots, water
10 mains, sanitary and storm sewers, drainage facilities, street
11 trees and other appropriate items.

12 ((R-)) S. "Manager" means the manager of the building and
13 land development division of the department of parks, planning
14 and resources or its successor agency, or his/her designee.

15 ((S-)) T. "Master Drainage Plan" means a comprehensive
16 drainage control plan intended to prevent significant adverse
17 impacts to the natural and man made drainage system, both on
18 and off-site.

19 ((T-)) U. "Multifamily/commercial retention/detention
20 facility" means a retention/detention facility which is not a
21 subdivision retention/detention facility as defined in this
22 chapter.

23 ((U-)) V. "Preapplication" for the purposes of this
24 chapter refers to the meeting(s) and/or form(s) used by
25 applicants for some development permits to present initial
26 project intentions to the division. Preapplication does not
27 mean application.

28 ((V-)) W. "Professional civil engineer" means a person
29 registered with the State of Washington as a professional
30 engineer in civil engineering.

31 ((W-)) X. "Project" means the proposed action of permit
32 application or an approval which requires drainage review.

33 ((X-)) Y. "Retention/detention facility" means a type of
34 drainage facility designed either to hold water for a
35 considerable length of time and then release it by evaporation,

1 plant transpiration and/or infiltration into the ground; or to
2 hold runoff for a short period of time and then release it to
3 the surface and storm water management system.

4 ((Y-)) Z. "Runoff" means water originating from rainfall
5 and other precipitation that is found in drainage facilities,
6 rivers, streams, springs, seeps, ponds, lakes and wetlands as
7 well as shallow ground water.

8 ((Z-)) AA. "Shared Facility" means a drainage facility
9 designed to meet one or more of the requirements of K.C.C.
10 9.04.050 for two or more separate projects contained within a
11 basin as defined in K.C.C. 9.04.020. Shared facilities usually
12 include shared financial commitments for those drainage
13 facilities.

14 ((AA-)) BB. "Site" means the portion of a piece of
15 property that is directly subject to development.

16 ((BB-)) CC. "Subbasin" means a drainage area which drains
17 to a water course or water body named and noted on common maps
18 and which is contained within a basin as defined in K.C.C.
19 9.04.020.

20 ((CC-)) DD. "Subdivision retention/detention facility"
21 means a retention/detention facility which is both located
22 within or associated with a short or formal plat subdivision
23 containing only single family or duplex residential structures
24 located on individual lots and which is required to handle
25 excess runoff generated by development of an area of which
26 two-thirds or more is designated for single family or duplex
27 residential structures located on individual lots.

28 ((DD-)) EE. "Surface and storm water" means water
29 originating from rainfall and other precipitation that is found
30 in drainage facilities, rivers, streams, springs, seeps, ponds,
31 lakes and wetlands as well as shallow ground water.

32 ((EE-)) FF. "Surface and storm water management system"
33 means drainage facilities and any other natural features which
34 collect, store, control, treat and/or convey surface and storm
35 water.

1 ((FF-)) GG. "Surface Water Design Manual" means the
2 manual (and supporting documents as appropriate) describing
3 surface and storm water design and analysis requirements,
4 procedures and guidance which has been formally adopted by
5 rule under the procedures specified in K.C.C. 2.98. The
6 Surface Water Design Manual is available from the division
7 permit center.

8 ((GG-)) HH. "Water quality swale" means an open vegetated
9 drainage channel intended to optimize water quality treatment
10 of surface and storm water runoff by following the specific
11 design criteria described in the Surface Water Design Manual.

12 ((HH-)) II. "Wetponds" and "wetvaults" mean drainage
13 facilities for water quality treatment that contain a permanent
14 pool of water, usually four feet in depth, that are filled
15 during the initial runoff from a storm event. They are
16 designed to optimize water quality by providing retention time
17 (on the order of a week or more) in order to settle out
18 particles of fine sediment to which pollutants such as heavy
19 metals absorb, and to allow biologic activity to occur that
20 metabolizes nutrients and organic pollutants. For wetvaults,
21 the permanent pool of water is covered by a lid which blocks
22 sunlight from entering the facility, limiting photo-dependent
23 biologic activity.

24 SECTION 2. Ordinance 2281, Section 6, as amended and
25 K.C.C. 9.04.070 are hereby amended to read as follows:

26 Engineering plans - procedures for submittal. A. Where to
27 submit.

28 1. All engineering plans shall be submitted to the
29 building and land development division of the department of
30 parks, planning and resources for review in accordance with the
31 specifications in the Surface Water Design Manual. If
32 engineering plans are returned for any reason, they shall be
33 returned to the applicant.

34 2. All master drainage plans shall be submitted
35 directly to the surface water management division of the

1 department of public works for review. Master drainage plans
 2 must also be a part of a permit application that has been
 3 submitted to the building and land development division of the
 4 department of parks, planning and resources. The master
 5 drainage plan submittal should commence at the same time as the
 6 State Environmental Policy Act (SEPA) process.

7 B. Expiration. The expiration time frames as specified
 8 in the Surface Water Design Manual will apply to all permit and
 9 approval applications.

10 C. Processing. All plans will be processed in accordance
 11 with the review procedures specified in the Surface Water
 12 Design Manual.

13 SECTION 3. Ordinance 2281, Section 7, as amended and
 14 K.C.C. 9.04.100 are hereby amended to read as follows:

15 Bonds and liability insurance required. The division is
 16 authorized to require all ((persons)) applicants constructing
 17 retention/detention facilities and other drainage facilities to
 18 post bonds with the manager. Where such ((persons)) applicants
 19 have previously posted, or are required to post, other such
 20 bonds with the manager either on the facility itself or on
 21 other construction related to the facility, ((such-person)) the
 22 applicant may, with the permission of the manager and to the
 23 extent allowable by law, combine all such bonds into a single
 24 bond; provided, that at no time shall the amount thus bonded be
 25 less than the total amount which would have been required in
 26 the form of separate bonds; and provided further that such a
 27 bond shall on its face clearly delineate those separate bonds
 28 which it is intended to replace.

29 A. Drainage facilities restoration and site stabilization
 30 Bond. Prior to commencing construction, the ((person))
 31 applicant required to construct the drainage facility pursuant
 32 to Section 9.04.050 shall post a drainage facilities
 33 restoration and site stabilization bond in the amount
 34 sufficient to cover the cost of corrective work on or off the
 35 site which is necessary to provide adequate drainage, stabilize

1 and restore disturbed areas, and remove sources of hazard
2 associated with work which has been performed and is not
3 completed. After determination by the development engineer
4 that all facilities are constructed in compliance with approved
5 plans, the drainage facilities restoration and site
6 stabilization bond shall be released. The county may collect
7 against the drainage facilities restoration and site
8 stabilization bond when work is not completed in reasonable
9 fashion and is found to be in violation of the conditions
10 associated with the permit and/or approval listed in Section
11 9.04.030. It is the manager's discretion to determine whether
12 the site is in violation of the requirements of this chapter,
13 and whether the bond shall be collected to remedy the
14 violation. Prior to final approval and release of the drainage
15 facilities restoration and site stabilization bond, the
16 division shall conduct a comprehensive inspection for the
17 purpose of observing that the retention/detention facilities
18 and other drainage facilities have been constructed according
19 to plan, applicable specifications and standards.

20 B. Defect and maintenance bond. After satisfactory
21 completion of the drainage facility or final plat approval,
22 whichever occurs last, the ((person)) applicant required to
23 construct the facility pursuant to Section 9.04.050 shall post
24 a defect and maintenance bond warranting the satisfactory
25 performance and maintenance of the drainage facility and
26 guaranteeing the workmanship and materials used in the
27 construction of the facility for a period of two years. For
28 subdivision retention/detention facilities that King County may
29 assume maintenance of pursuant to Section 9.04.110, the defect
30 and maintenance bond shall be posted for a period of two years
31 or until King County assumes maintenance, whichever is longer.
32 The manager shall not release the defect and maintenance bond
33 until all inspection fees are paid.

34 C. Failure to complete proposed work. In the event of
35 failure to comply with all the conditions and terms of the

1 permit and/or approval covered by this chapter, the manager
2 shall notify the ((~~permittee~~)) applicant and surety in writing,
3 and failing to obtain response within seven days from the
4 receipt of notification may order the work required to be
5 satisfactorily completed or perform all necessary corrective
6 work to stabilize and restore disturbed areas and eliminate
7 hazards caused by not completing the work. The surety
8 executing such bond shall continue to be firmly bound up to the
9 limits of the bond, under a continuing obligation for the
10 payment of all necessary costs and expenses that may be
11 incurred or expended by King County in causing any and all such
12 required work to be done. In no event shall the liability of
13 the surety exceed the amount stated in the bond regardless of
14 the number of years the bond remains in force.

15 D. Liability policy. The ((~~person~~)) applicant required
16 to construct the facility pursuant to Section 9.04.050 shall
17 maintain a liability policy in the amount of one hundred
18 thousand dollars per individual, three hundred thousand dollars
19 per occurrence and fifty thousand dollars property damage,
20 which shall name King County as an additional insured, and
21 which shall protect King County from any liability up to those
22 amounts for any accident, negligence, failure of the facility,
23 or any other liability whatsoever, relating to the construction
24 or maintenance of the facility. Proof of said liability policy
25 shall be provided to the manager prior to commencing
26 construction of any drainage facility; provided, that in the
27 case of facilities assumed by King County for maintenance
28 pursuant to Section 9.04.110, said liability policy shall be
29 terminated when said county maintenance responsibility
30 commences.

31 SECTION 4. Ordinance 2281, Section 8, as amended and
32 K.C.C. 9.04.110 are hereby amended to read as follows:

33 Maintenance of subdivision retention/detention facilities.
34 Maintenance of all subdivision retention/detention facilities
35 shall remain the responsibility of the ((~~person~~)) applicant

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required to construct the retention/detention facilities until all the conditions of this section have been met.

EXCEPTION: A retention/detention facility located within and servicing only an individual lot shall not be accepted by the county for maintenance and will remain the responsibility of persons holding title to the property within which the facility is located.

Only after all of the following conditions have been met shall King County assume maintenance of the subdivision retention/detention facility:

A. All of the requirements of Section 9.04.100 have been fully met;

B. All necessary easements or tracts entitling the county to properly maintain the retention/detention facility have been conveyed to the county and boundary survey stakes established.

C. The department has conducted an inspection and determined that the facility has been properly maintained and is operating as designed. This department inspection shall occur two years after posting of the defect and maintenance bond.

SECTION 5. Ordinance 4938, Section 11, as amended and K.C.C. 9.04.130 are hereby amended to read as follows:

Hazards. Whenever the director or manager determines that any existing construction site, erosion/sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of county right of way, utilities, and/or other property owned or maintained by the county, the ((~~person~~)) applicant to whom the permit was issued pursuant to K.C.C. 9.04.030, the owner of the property within which the drainage facility is located, the person responsible for maintenance of the facility, and/or other person or agent in control of said property, upon receipt of notice in writing from the director or manager shall within the period specified therein repair or

1 otherwise address the cause of the hazardous situation in
2 conformance with the requirements of this chapter.

3 Should the director or manager have reasonable cause to
4 believe that the situation is so adverse as to preclude written
5 notice, he may take the measures necessary to eliminate the
6 hazardous situation; provided, that he shall first make a
7 reasonable effort to locate the owner before acting. In such
8 instances the ((person)) applicant of whom a drainage plan was
9 required pursuant to K.C.C. 9.04.030, the owner of the property
10 and/or the person responsible for the maintenance of the
11 facility shall be obligated for the payment of all costs
12 incurred. If costs are incurred and a bond pursuant to this
13 chapter or other county requirement has been posted, the
14 director or manager shall have the authority to collect against
15 the bond to cover costs incurred.

16 SECTION 6. Ordinance 8589, Section 2, as amended and
17 K.C.C. 9.04.160 are hereby amended to read as follows:

18 Retroactivity relating to county maintenance of
19 subdivision retention/detention facilities. The ((person))
20 applicant required to construct a retention/detention facility
21 pursuant to Section 9.04.030 which is covered by a maintenance
22 or defect bond or which has been released from all required
23 bonds prior to July 7, 1980, the effective date of Ordinance
24 4938, and all persons holding title to the property for which a
25 facility was required shall be responsible for the continual
26 operation and maintenance of the facility in accordance with
27 standards and requirements of the department and for any
28 liability as a result of breach of these duties.

29 The county may assume maintenance of such facilities only
30 after the following conditions have been met.

31 A. All necessary easements or dedications entitling the
32 county to properly maintain the retention/detention facility
33 have been conveyed to the county;

34 B. The director has determined maintenance of the
35 facility will contribute to protecting or improving the health,

