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Introduced By: Christopher Vance

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Proposed No.: 96-112

ORDINANCE NO. 12196

AN ORDINANCE implementing ESHB 1724 (Chapter 347, RCW), relating to permitting; providing new permit processes and administrative appeals, approval timelines, notice requirements, judicial review, SEPA/GMA integration through use of existing rules; amending Ordinance 9163, Section 2 and K.C.C. 9.04.020, Ordinance 4895, Section 1 and K.C.C. 14.28.010, Ordinance 3647, Section 2 and K.C.C. 16.04.010, Ordinance 11622, Section 3 and K.C.C. 16.04.052, Ordinance 1488, Section 5 and K.C.C. 16.82.020, Ordinance 1488, Section 7 and K.C.C. 16.82.060, Ordinance 2097, Section 1 and K.C.C. 17.04.010, Ordinance 263, Article 5, Section 4 and K.C.C. 20.24.040, Ordinance 263, Article 5 Section 5 and K.C.C. 20.24.050, Ordinance 263, Article 5, Section 6 and K.C.C. 20.24.060, Ordinance 4461, Section 1 and K.C.C. 20.24.070, Ordinance 4461, Section 2 and K.C.C. 20.24.080, Ordinance 4461, Section 3 and K.C.C. 20.24.090, Ordinance 11502, Section 14 and K.C.C. 20.24.097, Ordinance 11502, Section 15 and K.C.C. 20.24.098, Ordinance 263, Article 5, Section 7 (part)and K.C.C. 20.24.100, Ordinance 263, Article 5, Section 9 and K.C.C. 20.24.120, Ordinance 4461, Section 4 and K.C.C. 20.24.130, Ordinance 4461, Section 5 and K.C.C. 20.24.140, Ordinance 11502, Section 12 and K.C.C. 20.24.145, Ordinance 263, Article 5, Section 11 and K.C.C. 20.24.150, Ordinance 263, Article 5, Section 12 and K.C.C. 20.24.160, Ordinance 4461, Section 9, and K.C.C. 20.24.180, Ordinance 9544, Section 16, and K.C.C. 20.24.195, Ordinance 4461, Section 11, and K.C.C. 20.24.210, Ordinance 4461, Section 12, and K.C.C. 20.24.220, Ordinance 263, Article 5 Section 18, and K.C.C. 20.24.230, Ordinance 9544, Section 18, and K.C.C. 20.24.235, Ordinance 4461, Section 15, and K.C.C. 20.24.240, Ordinance 4461, Section 14, and K.C.C. 20.24.250, Ordinance 6949, Section 6, and K.C.C. 20.44.040, Ordinance 6949, Section 7, and K.C.C. 20.44.050, Ordinance 6949, Section 8, and K.C.C. 20.44.060, Ordinance 6949, Section 10, and K.C.C. 20.44.080, Ordinance 6949, Section 12 and K.C.C. 20.44.100, Ordinance 6949, Section 14, and K.C.C. 20.44.120, Ordinance 10870, Section 54 and K.C.C. 21A.06.070, Ordinance 10870, Section 454, and K.C.C. 21A.24.070, Ordinance 10870, Section 612, and K.C.C. 21A.42.040, Ordinance 10870, Section 616, and K.C.C. 21A.42.080, Ordinance 10870, Section 617, and K.C.C. 21A.42.090, Ordinance 11700, Section 45 and K.C.C. 25.08.015, Ordinance 3688, Section 806, and K.C.C. 25.32.060, Ordinance 3688, Section 808, and K.C.C. 25.32.080, Ordinance 3688, Section 809, and K.C.C. 25.32.090,

Ordinance 3688, Section 810, and K.C.C. 25.32.100, Ordinance 3688, Section 813, and K.C.C. 25.32.130, and repealing Ordinance 11622, Section 5, and K.C.C. 26.82.054, Ordinance 11622, Section 6, and K.C.C. 16.82.056, Ordinance 263, Article 1, Section 1 and K.C.C. 20.08.010, Ordinance 3747, Sections 1-3 and K.C.C. 20.24.200, Ordinance 263, Article 6 (part) Sections 1-6, and K.C.C. 20.28.010-.070, Ordinance 10870, Section 46, and K.C.C. 21A.06.030, Ordinance 10870, Sections 595, 596, 597 and K.C.C. 21A.40.010, .020, .030, Ordinance 11621, Section 108 and K.C.C. 21A.40.035, Ordinance 11622, Section 17 and K.C.C. 21A.40.037, Ordinance 11622, Sections 22 and 23 and K.C.C. 21A.40.040-.050, Ordinance 11622, Section 601 and K.C.C. 21A.40.060, Ordinance 10870, Section 603, and K.C.C. 21A.40.080, Ordinance 10870, Section 604, and K.C.C. 21A.40.090, Ordinance 10870, Sections 605-608 and K.C.C. 21A.40.100-.130, Ordinance 11621, Section 122, and K.C.C. 21A.41.030, Ordinance 11621, Section 123 and K.C.C. 21A.41.040, Ordinance 11621, Section 128, and K.C.C. 21A.41.090, Ordinance 10870, Sections 613-615 and K.C.C. 21A.42.050-.070, Ordinance 11622, Section 11 and K.C.C. 25.32.012, Ordinance 11622, Section 12, and K.C.C. 25.32.014, Ordinance 11622, Sections 13, 14, 15 and K.C.C. 25.32.016, .024 and .026 , Ordinance 3688, Section 803 and K.C.C. 25.32.030, Ordinance 3688, Section 807, and K.C.C. 25.32.070, all as amended, <u>and declaring an emergency</u>.

FINDINGS OF FACT:

1. ESHB 1724 requires local governments planning under the Growth Management Act to establish an "integrated and consolidated" project permit process.
2. Key elements of that process include: combined environmental review and project review; determination of complete application to the applicant within 28 days of filing; notice of application within 14 days following a determination of completeness and prior to a decision by the department; a single consolidated staff report for all decisions and recommendations made by the department; completion of project review and a decision within 120 days from the determination of completeness; an optional consolidated project permit review process for all permits; a uniform 14-day administrative appeal period; and providing for no more than one open record hearing and, excepting a SEPA determination of significance, one closed record appeal.
3. The County, as well as the State, has a strong interest in regulatory reform and efficient permitting to achieve affordable housing, economic vitality and other County goals.
4. The Council desires to eliminate delays to the fullest extent possible in the permitting and appeals process.
5. The Council desires to implement the recommendations of the Forum for Regulatory Balance by having subjected this ordinance to reasonable review, and by providing

for greater uniformity of standards among jurisdictions by modeling this ordinance on procedures used by the cities of Seattle and Bellevue.

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 a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

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.

C. "Basin Plan" means a plan and all implementing regulations and procedures including but not limited to capital projects, public education activities, and land use management adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.

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

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

F. "Department" means the department of public works.

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

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

I. "Development engineer" means the department and development and environmental services employee authorized to oversee the review, conditioning, inspection and acceptance of right-of-way use permits, road and drainage projects constructed pursuant to permits administered by the division. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the State of Washington.

J. "Director" means the director of the department of public works or the director's designee.

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

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

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.

N. "Drainage review" means an evaluation by the department of development and environmental services staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual.

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.

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.

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

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

S. "Manager" means the manager of the building and land development division of the department of parks, planning and resources or its successor agency, or his/her designee.

T. "Master Drainage Plan" means a comprehensive drainage control plan intended to prevent specific adverse impacts to the natural and man made drainage system, both on and off-site.

U. "Multifamily/commercial retention/detention facility" means a retention/detention facility which is not a subdivision retention/detention facility as defined in this chapter.

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

W. "Professional civil engineer" means a person registered with the State of Washington as a professional engineer in civil engineering.

X. "Project" means the proposed action of a permit application or an approval which requires drainage review.

Y. "Retention/detention facility" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and storm water management system.

Z. "Runoff" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

AA. "Shared Facility" means a drainage facility designed to meet one or more of the requirements of K.C.C. 9.04.050 for two or more separate projects contained within a basin as defined in K.C.C. 9.04.020. Shared facilities usually include shared financial commitments for those drainage facilities.

BB. "Site" means the portion of a piece of property that is directly subject to development.

CC. "Subbasin" means a drainage area which drains to a water course or water body named and noted on common maps and which is contained within a basin as defined in K.C.C. 9.04.020.

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

EE. "Surface and storm water" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water.

FF. "Surface and storm water management system" means drainage facilities and any other natural features which collect, store, control, treat and/or convey surface and storm water.

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

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

II. "Wetponds" and "wetvaults" mean drainage facilities for water quality treatment that contain a permanent pool of water, usually four feet in depth, that are filled during the initial runoff from a storm event. They are designed to optimize water quality by

providing retention time (on the order of a week or more) in order to settle out particles of fine sediment to which pollutants such as heavy metals absorb, and to allow biologic activity to occur that metabolizes nutrients and organic pollutants. For wetvaults, the permanent pool of water is covered by a lid which blocks sunlight from entering the facility, limiting photo-dependent biologic activity.

SECTION 2. Ordinance 4895, Section 1, as amended and K.C.C. 14.28.010 are hereby amended to read as follows:

Definitions.

A. Applicant. "Applicant" means a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

B. ((~~Division. "Division" means the building and land development division of the department of parks, planning and resources~~)) Department. "Department" means the department of development and environmental services.

C. Development approval. "Development approval" means the granting of a building permit, mobile home on-site permit, short subdivision or other county land use approval or approvals.

D. Development engineer. "Development engineer" means the building and land development division employee authorized to oversee the review, conditioning, inspection and acceptance of right-of-way use permits, road and drainage projects constructed pursuant to permits administered by the division. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the State of Washington.

E. Right-of-way use permit.

1. "Right-of-way use permit: limited" means a permit authorizing the use of the county right-of-way for a designated purpose and for a period of time limited to one year or less.

2. "Right-of-way use permit: extended" means a permit authorizing the use of the county right-of-way for a designated purpose and for a period of time exceeding one year in duration.

SECTION 3. Ordinance 3647, Section 2, as amended and K.C.C. 16.04.010 are hereby amended to read as follows:

Adoption. The following volumes, as published by or jointly with the International Conference of Building Officials, together with amendments, additions and deletions hereinafter adopted by reference, together with King County modifications attached to Ordinance 10608* and referred to as Attachment A, ((~~and with~~)) modifications attached to ((~~this~~)) Ordinance 11700 and referred to as Attachment A((~~,~~)) and modifications attached to this Ordinance and referred to as Attachment A, are adopted as the building codes of King County and hereinafter referred to as "the code":

A. The Uniform Building Code, including Chapter 41 Uniform Building Security Code, 1991 Edition, with Appendices, and the Uniform Building Code Standards, 1991 Edition as amended in WAC 51-20 and 51-21 on November 8, 1991;

B. The Uniform Mechanical Code, 1991 Edition, with Appendices as amended in WAC 51-22 on November 8, 1991;

C. The Uniform Housing Code, 1991 Edition;

D. The Uniform Code for the Abatement of Dangerous Buildings, 1991 Edition.

This code also may be further clarified and implemented with administrative rules adopted in accordance with K.C.C. 2.98.

SECTION 4. Ordinance 11622, Section 3, as amended and K.C.C. 16.04.052 are hereby amended as follows:

Applications - Complete applications. A. For the purposes of determining the application of time periods and procedures adopted by

((~~this chapter~~)) K.C.C. Title 20, applications for permits authorized by Chapter 16.04 shall be considered complete as of the date of submittal upon determination by the department that the materials submitted contain the following((~~:~~)), in addition to the complete application requirements of Section 11.

1. ((~~Application forms provided by the department and completed by the applicant;~~

~~2. As applicable, certificates of sewer and water availability from the appropriate purveyors, where sewer and/or water service is proposed to be obtained from a purveyor, confirming that the proposed water supply and/or sewage disposal are adequate to serve the development in compliance with adopted state and local system design and operating guidelines;~~

~~3. Certificate of transportation concurrency from the department of public works;~~

~~4. Certificate of future connection from the appropriate purveyor for lots located within the Urban Growth Area which are proposed to be served by onsite or community sewage system and/or Group B water systems or private well;~~

~~5. Receipt signed by the fire district verifying application submittal pursuant to K.C.C. 17.10.020E, if applicable;~~

~~6.~~)) Identification on the site plan of all easements, deed restrictions, or other encumbrances restricting the use of the property, if applicable; and

((~~7. Proof that the lot or lots are recognized as separate lots pursuant to the provisions of K.C.C. Title 19.04;~~

~~8. A sensitive area affidavit as provided by K.C.C. 21A.24;~~

~~9. A completed environmental checklist, if required by K.C.C. 20.44, County Environmental Procedures;~~

~~10. Payment of any development permit review fees, excluding impact fees collectible pursuant to K.C.C. Title 27, Development~~

~~Permit Fees and impact fees (mitigation payment system) collectible pursuant to K.C.C. Title 14; and~~

~~11. Copies of approved permits that are required to be obtained prior to the proposed application.~~

~~12.~~)) 2. All architectural/structural/mechanical plans consistent with uniform code requirements adopted by this title.

((~~B. Within 20 days following receipt of an application for a permit referenced in 16.82.056A, the department shall mail or provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state what is necessary to make the application complete. To that extent known by the department, the notice shall identify other agencies of local, state or federal governments that may have jurisdiction over some aspect of the application. This initial screening by the department is intended to determine completeness solely for purposes of applying the time periods established in this title.~~

~~C. The director may waive specific submittal requirements determined to be unnecessary for review of an application.~~))

SECTION 5. Ordinance 1488, Section 5, as amended and K.C.C. 16.82.020 are hereby amended to read as follows:

Definitions. Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows:

A. "Applicant" is a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

B. "Bench" is a relatively level step excavated or constructed on the face of a graded slope surface for drainage and maintenance purposes.

C. "Berm" is a mound or raised area used for the purpose of screening a site or operation.

D. "Civil engineer" means a professional engineer registered in the State of Washington to practice in the field of civil works.

E. "Clearing" means the cutting or removal of vegetation or other organic plant material by physical, mechanical, chemical or any other means.

F. "Compaction" is the densification of a fill by mechanical means.

G. "Cutting" is the severing of the main trunk or stems from close to or at the soil surface or at a point up to 25% of the total vegetation height.

H. "Director" means the director or the authorized agent of the parks, planning and resources department.

I. "Earth material" is any rock, natural soil or any combination thereof.

J. "Erosion" is the wearing away of the ground surface as the result of the movement of wind, water and/or ice.

K. "Excavation" is the removal of earth material.

L. "Fill" is a deposit of earth material placed by mechanical means.

M. "Grade" means the elevation of the ground surface.

1. "Existing grade" is the grade prior to grading.

2. "Rough grade" is the stage at which the grade approximately conforms to the approved plan as required in Section 16.82.060.

3. "Finish grade" is the final grade of the site which conforms to the approved plan as required in Section 16.82.060.

N. "Grading" is any excavating, filling, removing of the duff layer, or combination thereof.

O. "Grading and clearing permit" means the permit required by this chapter for grading and clearing activities, including temporary permits.

P. "Reclamation" means the final grading and land restoration of a site.

Q. "Shorelines" means those lands defined as shorelines in the state Shorelines Management Act of 1971.

R. "Site" is any lot or parcel of land or contiguous combination thereof where projects covered by this chapter are performed or permitted where a public street or way may intervene.

S. "Slope" is an inclined ground surface, the inclination of which is expressed as a ratio of ((~~horizontal distance to vertical distance~~)) vertical distance to horizontal distance.

T. "Soil engineer" means a person who has earned a degree in geology from an accredited college or university, or a person who has equivalent educational training and has experience as a practicing geologist.

U. "Structure" is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner.

V. "Terrace" is a relatively level step excavated or constructed on the face of a graded slope surface for drainage and maintenance purposes.

W. "Tidelands" means that portion of the land which is covered and uncovered by the ebb and flood tide.

X. "Tree" is a large woody perennial plant usually with a single main stem or trunk and generally over twelve feet tall at maturity.

Y. "Understory" is the vegetation layer of a forest that includes shrubs, herbs, grasses, and grass-like plants, but excludes native trees.

Z. "Vegetation" means any and all organic plant life growing at, below, or above the soil surface.

SECTION 6. Ordinance 1488, Section 7, as amended and K.C.C. 16.82.060 are hereby amended to read as follows:

Permit requirements. Except as exempted in Section 16.82.050, no person shall do any clearing or grading without first obtaining a clearing and grading permit from the director. A separate permit shall be required for each site and may cover both excavations and fills.

A. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. The director shall prescribe the form by which application is made. No application shall be accepted unless it is completed consistent with the requirements of this chapter, and the permit process and procedures chapter of K.C.C. Title 20.XXX. In addition to the requirements of Section 11, ((E))every application shall:

1. Identify and describe the work to be covered by the permit for which application is made;

2. Describe the land on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed site;

3. Identify and describe those sensitive areas as defined in K.C.C. 21A.24 on or adjacent to the site;

4. Indicate the estimated quantities of work involved;

5. Identify any clearing restrictions contained in wildlife habitat corridors pursuant to K.C.C. 21A.14, a critical drainage area established by administrative rule or in p-suffix conditions in an adopted community plan;

6. Be accompanied by plans and specifications as required in subsections B. and C.;

((~~7. Be signed by the property owner or his authorized agent who may be required to submit evidence to indicate such authority;~~))

((~~8.~~)) 7. Designate who the applicant is, on a form prescribed by the department, except that the application may be accepted and reviewed without meeting this requirement when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right of way and the following three requirements are met:

a. the name of the agency or public or private utility is shown on the application as the applicant;

b. the agency or public or private utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

c. the form designating ((~~who~~)) the applicant is submitted to the department prior to permit issuance; (~~(and)~~)

((~~9.~~)) 8. Give such other information as may be required by the director.

B. Plans and specifications. When required by the director, each application for a grading permit shall be accompanied by six sets of plans and specifications and other supporting data as may be required. The plans and specifications shall be prepared and signed by a civil engineer or landscape architect registered to practice in the State of Washington when required by the director; provided, he may require additional studies prepared by a qualified soils specialist. If the plans and specifications are returned as a result of permit denial or any other reason, they shall be returned to the applicant.

C. Information on plans and in specifications. Plans shall be drawn to an engineer's scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions

of this chapter and all other relevant laws, rules, regulations and standards. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared. The plans shall include the following minimum information:

1. General vicinity of the proposed site;

2. Property limits and accurate contours of existing ground and details of terrain and area drainage;

3. Limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction;

4. Location of all cleared areas, any open space tracts or conservation easements if required pursuant to K.C.C. 21A.14, critical drainage areas, or p-suffix conditions and the total area cleared on site as a percentage of the total site area;

5. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff of the area served by any drains;

6. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within fifty feet of the property or which may be affected by the proposed grading operations;

7. Landscape and rehabilitation plan as required by Section 16.82.110;

8. Other information as may be required by the director; and

9. If the clearing or grading is proposed to take place in or adjacent to a sensitive area as regulated in K.C.C. 21A.24, provide information as required by that chapter.

D. Granting of permits.

1. The director shall determine if the proposed grading will adversely affect the character of the site for present lawful uses or with the future development of the site and adjacent properties for building or other purposes as indicated by the comprehensive plan, the shoreline master program, and the zoning code.

2. After an application has been filed and reviewed, the director shall also ascertain whether such grading work complies with the other provisions of this chapter. If the application and plans so comply, or if they are corrected or amended so as to comply, the director may issue to the applicant a grading permit. A grading permit shall be valid for the number of days stated in the permit but in no case shall the period be more than two years; provided, that when operating conditions have been met, the permit may be renewed every two years, or less if a shorter approval and/or renewal period is specified by the director.

3. Upon approval of the application and issuance of the grading permit, no work shall be done that is not provided for in the permit. The director is authorized to inspect the premises at any reasonable time to determine if the work is in accordance with the permit application and plans.

4. The permits from the director shall be required regardless of any permits issued by any other department of county government or any other governmental agency who may be interested in certain aspects of the proposed work. Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining the permit, the violator shall be subject to such civil penalties as provided in Chapter 23.04. However, the payment of such civil penalties shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed thereon.

SECTION 7. Ordinance 2097, Section 1, as amended and K.C.C. 17.04.010 are hereby amended to read as follows:

Adoption. The Uniform Fire Code, 1991 Edition, and the Uniform Fire Standards, 1991 Edition, as published by the Western Fire Chiefs Association and the International Conference of Building Officials with Appendices, as amended in WAC 51-24 and 51-25 on November 8, 1991, together with amendments, additions and deletions listed in the King County modifications to the 1991 Uniform Fire Code, as amended by Attachment "A" and "B" of Ordinance 11016, Attachment "A" of Ordinance 11017, ((~~and by~~)) Attachment "B" ((~~to this Ordinance~~)) of Ordinance 11700 and by Attachment "B" of this Ordinance, are adopted as the Fire Code of King County, and hereinafter referred to as "this code." Administrative rules may be adopted in accordance with K.C.C. 2.98 to further clarify and implement these code requirements.

NEW SECTION. SECTION 8. There is added to the King County Code, Title 20, a new chapter, to read as follows:

Chapter purpose. The purpose of this chapter is to establish standard procedures for land use permit applications, public notice, hearings and appeals in King County. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the Comprehensive Plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process consistent with chapter 347, laws of 1995.

NEW SECTION. SECTION 9. There is added to the King County Code, Title 20, a new section, to read as follows:

Classifications of Land Use Decision Processes.

A. Land use permit decisions are classified into four types, based on the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to who makes the decision, whether public notice is required, whether a

public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in Exhibit XXX of this section.

1. Type 1 decisions are made by the Director, or his or her designee, ("Director") of the department of development and environmental services ("department"). Type 1 decisions are non-appealable administrative decisions which require the exercise of little or no administrative discretion. Public notice is not required for Type 1 decisions. For Type 1 decisions involving a SEPA determination, the SEPA determination is appealable to the Hearing Examiner as a Type 2 decision. However, the decision on the Type 1 permit, exclusive of SEPA, is not appealable to the Hearing Examiner; rather it is appealable to Superior Court. For the purposes of appealing a Type 1 decision to Superior Court, the Type 1 decision shall not be considered final until any associated SEPA appeal is decided by the Hearing Examiner.

2. Type 2 decisions are made by the director, or his or her designee. Type 2 decisions are discretionary decisions which are subject to administrative appeal in accordance with applicable provisions of law or ordinance.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to the County Council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the Council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. 20.44.120A.6 and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2,3 and 4 decisions included in consolidated permit applications that would require more than one Type of land use decision process may be processed and decided together, including any administrative appeals,

using the highest numbered land use decision Type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under the State Environmental Policy Act ("SEPA") will not require a threshold determination (determination of non-significance ("DNS") or determination of significance ("DS")). For all other projects, the SEPA review procedures codified in Chapter 20.44 K.C.C. are supplemental to the procedures set forth in this chapter.

Exhibit XXX

LAND USE DECISION TYPES

TYPE 1	(Decision by Director, no administrative appeal)	Building; clearing and grading; boundary line adjustment; right of way; road variance except those rendered in conjunction with a short plat decision**; variance from the requirements of Chapter 9.04 K.C.C.; shoreline exemption
TYPE 2	(Decision by Director appealable to Hearing Examiner, no further administrative appeal)	Short plat; road variance decisions rendered in conjunction with a short plat decision; zoning variance; conditional use permit; temporary use; shoreline substantial development permit; procedural and substantive SEPA decision; site development permit; approval of residential density incentives or transfer of development credits; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070B; preliminary determinations under Section 10B; sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based on the requirements of Chapter 21A.24 K.C.C., extractive operations pursuant to K.C.C. 21A.22.050; binding site plan.
TYPE 3	(Recommendation by Director, hearing and decision by Hearing Examiner,	Preliminary plat, plat alterations; preliminary plat revisions

	appealable to County Council on the record)	
TYPE 4***	(Recommendation by Director, hearing and recommendation by Hearing Examiner decision by County Council On the record)	Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations

* When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions pursuant to K.C.C. 25.32.080, the examiner (not the Director) makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

** The road variance process is administered by the County Road Engineer of the King County department of transportation pursuant to the King County road standards.

*** Only approvals that are consistent with the Comprehensive Plan are included.

NEW SECTION. SECTION 10. There is added to the King County Code, Title 20, a new section, to read as follows:

Pre-application Conferences. Prior to filing a permit application for a Type 1 decision, the applicant shall contact the department to schedule a preapplication conference which shall be held prior to filing the application, if the property will have 5,000 square feet of development site or right-of-way improvements, the property is in a critical drainage basin, or the property has a wetland, steep slope, landslide hazard, erosion hazard, or coal mine on site. Exempt from this requirement are: 1. a single family residence and its accessory buildings; 2. other structures where all work is in an existing building and no parking is required or added. Prior to filing a permit application requiring a Type 2, 3 or 4 decision, the applicant shall contact the department to schedule a pre-application conference which shall be held prior to filing the application, except as provided herein. The purpose of the pre-application conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The pre-application conference shall be

scheduled by the department, at the request of an applicant, and shall be held in a timely manner, within thirty (30) days from the date of the applicant's request. The fee for the pre-application conference shall be credited in full against the permit application fee. A project coordinator shall be assigned by the department following the pre-application conference. The Director may waive the requirement for a pre-application conference if it is determined to be unnecessary for review of an application. Nothing in this section shall be interpreted to require more than one pre-application conference or to prohibit the applicant from filing an application if the department is unable to schedule a pre-application conference within 30 days following the applicant's request.

Information presented at or required as a result of the pre-application conference shall be valid for a period of 180 days following the pre-application conference. An applicant wishing to submit a permit application more than 180 days following a preapplication for the same permit application shall be required to schedule another preapplication conference.

B. At or subsequent to a preapplication conference, the department may issue a preliminary determination that a proposed development is not permissible under applicable county policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner in the manner provided for a Type 2 permit, as an alternative to proceeding with a complete application. Mailed and published notice of the appeal shall be provided for as in New Section 13 (G) and (H).

NEW SECTION. SECTION 11. There is added to the King County Code, Title 20, a new section, to read as follows:

Application Requirements. A. The department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials and fees specified for complete applications. Applications for land use permits requiring Type 1, 2,

3, or 4 decisions shall be considered complete as of the date of submittal upon determination by the department that the materials submitted meet the requirements of this Section. Except as provided in Subsection B of this Section, all land use permit applications described in Exhibit 20.XXX shall include the following:

1. An application form provided by the department and completed by the applicant that allows the applicant to file a single application form for all land use permits requested by the applicant for the development proposal at the time the application is filed;

2. Designation of who the applicant is, except that this designation shall not be required as part of a complete application for purposes of this section when a public agency or public or private utility is applying for a permit for property on which the agency or utility does not own an easement or right of way and the following three requirements are met:

a. the name of the agency or public or private utility is shown on the application as the applicant;

b. the agency or public or private utility includes in the complete application an affidavit declaring that notice of the pending application has been given to all owners of property to which the application applies, on a form provided by the department; and

c. the form designating the applicant is submitted to the department prior to permit approval;

3. A Certificate of Sewer Availability or site percolation data with preliminary approval by the Seattle-King County department of public health; or for schools located in rural areas, a letter indicating compliance with the tightline sewer provisions in the zoning code, as required by Chapter 13.08 or 13.24 K.C.C.;

4. A current Certificate of Water Availability, if required by Chapter 13.24 K.C.C.;

5. A fire district receipt pursuant to Title 17 K.C.C., if required by Chapter 21A.40 K.C.C.;

6. A site plan, prepared in a form prescribed by the Director;

7. Proof that the lot or lots are recognized as separate lots pursuant to the provisions of K.C.C. 19.04, if required by K.C.C. 21A.24.090;

8. A sensitive areas affidavit if required by Chapter 21A.24 K.C.C.;

9. A completed environmental checklist, if required by Chapter 20.44 K.C.C., County Environmental Procedures;

10. Payment of any development permit review fees, excluding impact fees collectible pursuant to Title 27 K.C.C., Development Permit Fees;

11. A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the County or any other governmental entity;

12. Certificate of transportation concurrency from the department of public works, if required by Chapter 14.70 K.C.C.;

13. Certificate of future connection from the appropriate purveyor for lots located within the Urban Growth area which are proposed to be served by onsite or community sewage system and or group B water systems or private well, if required by K.C.C. 13.24.136-140;

14. Documentation required by the code requirements set forth in the Surface Water Design Manual adopted pursuant to Chapter 9.04 K.C.C.;

15. Current assessor's maps and a list of tax parcels to which public notice must be given for land use permits requiring a Type 2, 3 or 4 decision; and

16. Legal description of the site.

17. Variances obtained or required under Title 21A to the extent known at the date of application.

18. For commercial site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

B. Additional complete application requirements for the following land use permits are set forth in the following sections of the King County Code:

1. Clearing and grading permit, see K.C.C. 16.82.060.

2. Construction permits, K.C.C. 16.04.052.

C. The Director may specify the requirements of the site plan required to be submitted for various permits and may waive any of the specific submittal requirements listed herein that are determined to provide information that has no material value or are not applicable for review of an application.

D. The applicant shall attest by written oath to the accuracy of all information submitted for an application.

E. Applications shall be accompanied by the payment of the applicable filing fees, if any, as established by K.C.C. Title 27.

NEW SECTION. SECTION 12. There is added to the King County Code, Title 20, a new section, to read as follows:

Notice of Complete Application to Applicant.

A. Within twenty-eight (28) days following receipt of a land use permit application, the department shall mail or provide written

notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall state with specificity what is necessary to make the application complete. To the extent known by the department, the notice shall identify other agencies of local, state, regional or federal governments that may have jurisdiction over some aspects of the development proposal.

B. An application shall be deemed complete under this section if the department does not provide written notice to the applicant that the application is incomplete within the 28 day period as provided herein.

C. If the application is incomplete and the applicant submits the additional information requested by the department, the department shall notify the applicant in writing within fourteen (14) days whether the application is complete or what additional information specified by the department as provided in subsection A hereof is necessary to make the application complete. An application shall be deemed complete if the department fails to provide written notice to the applicant within the 14 day period that the application is incomplete.

D. The date an application is deemed complete is the date of receipt by the department of all of the information necessary to make the application complete as provided in this chapter. The department's issuance of a notice of complete application as provided in subsections A or C hereof, or the failure of the department to provide such a notice as provided in subsections B or C hereof, shall cause an application to be conclusively deemed to be complete and vested as provided in this chapter.

E. The department may cancel an incomplete application if the applicant fails to submit the additional information required by this chapter within ninety (90) days following notification from the department that the application is incomplete.

NEW SECTION. SECTION 13. There is added to the King County Code, Title 20, a new section, to read as follows:

Notice of Application. A. A notice of application shall be provided to the public for all land use permit applications requiring Type 2, 3, or 4 decisions pursuant to this section.

B. Notice of the application shall be provided by the department within fourteen (14) days following the department's determination that the application is complete. A public comment period of twenty-one (21) days shall be provided, except as otherwise provided in RCW 90.58. The public comment period shall commence on the 15th day following the department's determination that the application is complete.

C. If the County has made a determination of significance ("DS") under Chapter 43.21 RCW prior to the issuance of the notice of application, the notice of the DS shall be combined with the notice of application and the scoping notice.

D. All required notices of application shall contain the following information:

1. The file number;

2. The name of the applicant;

3. The date of application, the date of the notice of completeness, and the date of the notice of application;

4. A description of the project, the location, a list of the permits included in the application and the location where the application and any environmental documents or studies can be reviewed;

5. A site plan on 8 1/2 x 14 inch paper, if applicable;

6. The procedures and deadline for filing comments, requesting notice of any required hearings, and any appeal procedure.

7. The date, time, place and type of hearing, if applicable and scheduled at the time of notice.

8. The identification of other permits not included in the application to the extent known.

9. The identification of existing environmental documents that evaluate the proposed project.

10. A statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency with applicable County plans and regulations.

E. Notice shall be provided in the following manner:

1. Posted at the project site as provided in subsection F hereof;

2. Mailed by first class mail as provided in subsection G hereof; and

3. Published as provided in subsection H hereof.

F. Posted notice. Posted notice for a proposal shall consist of one or more notice boards posted by the applicant within 14 days following the department's determination of completeness as follows:

1. A single notice board shall be posted for a project. This notice board may also be used for the posting of the Notice of Decision and Notice of Hearing, and shall be placed by the applicant:

a. At the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility;

b. Five feet inside the street property line except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the department;

c. So that the top of the notice board is between seven to nine feet above grade; and

d. Where it is completely visible to pedestrians.

2. Additional notice boards may be required when:

a. The site does not abut a public road;

b. A large site abuts more than one public road; or

c. The department determines that additional notice boards are necessary to provide adequate public notice.

3. Notice boards shall be:

a. maintained in good condition by the applicant during the notice period, which shall extend through the time of the final county decision on the proposal and the expiration of any applicable appeal periods.

b. in place at least 28 days prior to the date of any required hearing for a Type 3 or 4 decision, or at least 14 days following the department's determination of completeness for any Type 2 decision; and

c. removed within 14 days after the end of the notice period.

4. Removal of the notice board prior to the end of the notice period may be cause for discontinuance of county review until the notice board is replaced and remains in place for the specified time period.

5. An affidavit of posting shall be submitted to the department by the applicant within 14 days following the department's determination of completeness to allow continued processing of the application by the department.

6. Notice boards shall be constructed and installed in accordance with subsection F, above, and any additional specifications promulgated by the department pursuant to Chapter 2.98 K.C.C., Rules of County Agencies.

G. Mailed notice. Mailed notice for a proposal shall be sent by the department within 14 days after the department's determination of completeness:

1. By first class mail to owners of record of property in an area within 500 feet of the site, provided such area shall be expanded as necessary to send mailed notices to at least 20 different property owners;

2. To any city with a utility which is intended to serve the site;

3. To the State Department of Transportation, if the site adjoins a state highway;

4. To the affected tribes;

5. To any agency or community group which the department may identify as having an interest in the proposal;

6. Be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice; and

7. For preliminary plats only, to all cities within one mile of the proposed preliminary plat, and to all airports within two miles of the proposed preliminary plat.

H. Published notice. Notice of a proposed action shall be published by the department within 14 days after the department's determination of completeness in the official county newspaper and another newspaper of general circulation in the affected area.

NEW SECTION. SECTION 14. There is added to the King County Code, Title 20, a new section, to read as follows:

Vesting. A. Applications for Type 1, 2, and 3 land use decisions, except those which seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all of the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

B. Supplemental information required after vesting of a complete application shall not affect the validity of the vesting for such application.

C. Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals.

NEW SECTION. SECTION 15. There is added to the King County Code, Title 20, a new section, to read as follows:

Applications - Modifications to proposal. A. Modifications required by the county to a pending application shall not be deemed a new application.

B. An applicant-requested modification occurring either before or after issuance of the permit shall be deemed a new application when such modification would result in a substantial change in a project's review requirements, as determined by the department.

NEW SECTION. SECTION 16. There is added to the King County Code, Title 20, a new section, to read as follows:

Notice of Decision or Recommendation - Appeals. A. The department shall provide notice in a timely manner of its final decision or recommendation on permits requiring Type 2, 3 and 4 land use decisions, including the threshold determination, if any, the dates for any public hearings and the procedures for administrative appeals, if any. Notice shall be provided to the applicant, to the Department of Ecology and to agencies with jurisdiction if required by Chapter 20.44 K.C.C., to the Department of Ecology and Attorney General as provided in RCW 90.58, and to any person who, prior to the decision or recommendation, had requested notice of the decision or recommendation or submitted comments. The notice shall also be provided to the public as provided in section 13 of this ordinance.

B. Except for shoreline permits which are appealable to the state Shorelines Hearings Board, all notices of appeal to the hearing examiner of Type 2 land use decisions made by the Director shall be filed within fourteen (14) calendar days from the date of issuance of the notice of decision as provided in K.C.C. 20.24.090; provided that

the appeal period shall be extended for an additional seven (7) calendar days if WAC 197-11-340(2)(a) applies.

NEW SECTION. SECTION 17. There is added to the King County Code, Title 20, a new section, to read as follows:

Permit Issuance. A. Final decisions by the County on all permits and approvals subject to the procedures of this chapter shall be issued within 120 days from the date the applicant is notified by the department pursuant to this chapter that the application is complete, provided that the following shorter time periods should apply for the type of land use permit indicated:

1. New Residential building permits.....90 days

2. Residential remodels.....40 days

3. Residential appurtenances, such as decks and garages....15 days

4. SEPA exempt clearing and grading.....45 days

5. SEPA clearing and grading.....90 days.

The following periods shall be excluded from this 120-day period:

1. Any period of time during which the applicant has been requested by the department, hearing examiner or council to correct plans; perform required studies, or provide additional information, including road variances and variances required under K.C.C. 9.04. The period shall be calculated from the date of notice to the applicant of the need for additional information until the earlier of the date the county advises the applicant that the additional information satisfies the county's request, or fourteen days after the date the information has been provided. If the county determines that the correction, study or other information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures of this section shall apply as if a new request for information had been made.

a. The department shall set a reasonable deadline for the submittal of corrections, studies, or other information when

requested, and shall provide written notification to the applicant. An extension of such deadline may be granted upon submittal by an applicant of a written request providing satisfactory justification of an extension.

b. Failure by the applicant to meet such deadline shall be cause for the department to cancel/deny the application.

c. When granting a request for a deadline extension, the department shall give consideration to the number of days between receipt by the department of a written request for a deadline extension and the mailing to the applicant of the department's decision regarding that request.

2. The period of time, as set forth in K.C.C. 20.44.050, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.

3. A period of no more than ninety days for an open record appeal hearing by the hearing examiner on a Type 2 land use decision, and no more than sixty days for a closed record appeal by the County Council on a Type 3 land use decision appealable to the County Council, except when the parties to an appeal agree to extend these time periods.

4. Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the department by the applicant.

5. Any time extension mutually agreed upon by the applicant and the department.

B. The time limits established in this section shall not apply if a proposed development:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW

36.70A.360, or the siting of an essential public facility as provided for RCW 36.70A.200, or

3. Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the department, in which case the time period shall start from the date at which the revised project application is determined to be complete.

C. If the department is unable to issue its final decision within the time limits established by this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

NEW SECTION. SECTION 18. There is added to the King County Code, Title 20, a new section, to read as follows:

Quarterly report. Beginning October 1, 1996 and continuing quarterly thereafter until October 1, 1998, the Director shall prepare a quarterly report to the King County council detailing what measures the department has in place to assure that adequate environmental protections are maintained, how the review process addresses these measures, and the length of time required to process applications for Type 1, 2, 3, and 4 land use decisions in the previous period, categorized both on average and by type of permit. The report shall provide commentary on department operations and identify any need for clarification of county policy or development regulations or process.

NEW SECTION. SECTION 19. There is added to the King County Code, Title 20, a new section, to read as follows:

Citizen's Guide. The director shall issue a citizen's guide to permit processing including making an appeal or participating in a hearing.

NEW SECTION. SECTION 20. There is added to the King County Code, Title 20, a new section, to read as follows: Citizen's Oversight Committee. The director shall create a Citizen's Oversight Committee,

which shall represent a broad cross-section of constituencies. The oversight committee shall consist of 6 members to be appointed from the membership of the The Forum for Regulatory Balance, and a representative from labor and a representative from small property owners groups. There shall be one member representing each of the following constituencies: 1) environmental 2) good government 3) affordable housing 4) building industry 5) business 6) neighborhood groups 7) labor 8) small property owners groups. This committee shall serve a term of one year, to be appointed by June 1, 1996. The role of the committee will be to monitor and evaluate the County's implementation of this ordinance. Their findings will be included in the director's quarterly report, required by new section 18 of this ordinance.

SECTION 21. Ordinance 263, Article 5, Section 4 and K.C.C. 20.24.040 are hereby amended as follows:

Removal. The examiner or his or her deputy may be removed from office at any time by the affirmative vote of not less than ((~~six~~)) eight members of the council for just cause.

SECTION 22. Ordinance 263, Article 5, Section 5 and K.C.C. 20.24.050 are hereby amended as follows:

Qualifications. The examiner and his or her deputy shall be appointed solely with regard to their qualifications for the duties of their office and shall have such training or experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them, and shall hold no other appointive or elective public office or position in the county government except as provided herein.

SECTION 23. Ordinance 263, Article 5, Section 6 and K.C.C. 20.24.060 are hereby amended as follows:

Deputy examiner duties. The deputy shall assist the examiner in the performance of the duties conferred upon ((~~him~~)) the examiner by ordinance and shall, in the event of the absence or the inability of

the examiner to act, have all the duties and powers of the examiner. The deputy may also serve in other capacities as an employee of the council.

SECTION 24. Ordinance 4461, Section 1 as amended, and K.C.C. 20.24.070 are hereby amended as follows:

Recommendations to the council. A. The examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof and issue recommendations, including findings and conclusions to the council based on the issues and evidence in the record in the following cases:

((~~1. Applications for reclassifications of property;~~

~~2. Applications for special use permits;~~

~~3. Applications for urban planned development permits;~~

~~4. Applications for preliminary plats; including those variance decisions made by the road engineer pursuant to KCC 14.42.060 with regard to road circulation in the subject preliminary plat proposal;~~

~~5. Applications for shoreline environment redesignations;~~)) All Type 4 land use decisions.

((~~6.~~)) 2. Applications to extend sewer service pursuant to Chapter 13.24 K.C.C.;

((~~7.~~)) 3. Applications for agricultural land variances;

((~~8.~~)) 4. Applications for public benefit rating system assessed valuation on open space land and current use assessment on timber lands except as provided in Section 20.36.090;

((~~9.~~)) 5. Appeals from denials by the county assessor of applications for current use assessments on farm and agricultural lands;

((~~10. Appeals from decisions regarding residential condominium binding site plan applications pursuant to Section 19.34.050;~~))

((~~11.~~)) 6. Applications for the vacation of county roads;

((~~12.~~)) 7. Appeals of a recommendation by the department of public works to deny the petition for vacation of a county road;

((~~13.~~)) 8. Appeals of a recommendation by the department of public works of the compensation amount to be paid for vacation of a county road;

((~~14.~~)) 9. Proposals for establishment or modification of cable system rates;

((~~15.~~)) 10. Other applications or appeals which the council may prescribe by ordinance.

B. The examiner's recommendation may be to grant or deny the application or appeal, or the examiner may recommend that the council adopt the application or appeal with such conditions, modifications and restrictions as the examiner finds necessary to ((~~make the application reasonably compatible with the environment and~~)) carry out applicable state laws and regulations, including Chapter 43.21C RCW, and the regulations, policies, objectives and goals of the comprehensive plan, the community plan, sub-area or neighborhood plans, the zoning code, the subdivision code and other official laws, policies and objectives of King County. In case of any conflict between the King County Comprehensive Plan and a community, sub-area or neighborhood plan, the Comprehensive Plan shall govern.

NEW SECTION. SECTION 25. There is added to the King County Code, Chapter 20.24, a new section, to read as follows:

Type 3 decisions by the examiner, appealable to the council.

A. The examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue decisions on Type 3 land use permit applications, including findings and conclusions, based on the issues and evidence in the record. The decision of the examiner on Type 3 land use permit applications shall be appealable to the Council on the record established by the examiner as provided by 20.24.210D.

B. The examiner's decision may be to grant or deny the application, or the examiner may grant the application with such conditions, modifications and restrictions as the examiner finds

necessary to carry out applicable state laws and regulations, including Chapter 43.21C RCW, and the regulations, policies, objectives and goals of the comprehensive plan, the community plan, sub-area or neighborhood plans, the zoning code, the subdivision code and other official laws, policies and objectives of King County. In case of any conflict between the King County Comprehensive Plan and a community, sub-area or neighborhood plan, the Comprehensive Plan shall govern.

SECTION 26. Ordinance 4461, Section 2 as amended, and K.C.C. 20.24.080 are hereby amended as follows:

Final decisions by the examiner. A. The examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable to superior court as provided by Section 20.24.240B, or to other designated authority in the following cases:

1. Appeals of all Type 2 land use decisions with the exception of appeals of shoreline permits including shoreline variances and conditional uses which are appealable to the State Shoreline Hearings Board;

2. Appeals of threshold determinations;

3. Appeals from notices and orders issued pursuant to Title 23 of this code or the Rules and Regulations VII of the King County department of public health;

~~((4. Appeals from decisions to require sensitive areas studies or to condition or deny pursuant to chapter 21A.24 development proposals which do not otherwise have an appeal process available;~~

~~5. Appeals from conditions imposed on final approvals of subdivisions receiving extensions pursuant to Section 19.28.050E or F;))~~

((~~6. Appeals from decisions of the director of the department of development and environmental services or zoning adjustor on conditional use permits, variances or periodic review of extractive operations;~~))

((~~7. Appeals from decisions regarding site plan approvals;~~))

((~~8.~~)) 4. Appeals from decisions regarding the abatement of a nonconformance;

((~~9. Applications for shoreline substantial development permits when combined with other land use applications pursuant to Section 25.32.080;~~))

((~~10.~~)) 5. Appeals from decisions of the director of the department of public works on requests for rate adjustments to surface and storm management rates and charges;

((~~11. Appeals from decisions regarding the reuse of public schools pursuant to Title 21A KCC;~~

~~((12. Appeals from decisions to condition or deny applications pursuant to RCW 43.21C.060, as provided in Section 20.44.120C.2;~~))

((~~13.~~)) 6. Appeals from department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW 69.50.505;

((~~14. Appeals from decisions of the director of the department of development and environmental services on variances;~~))

((~~15.~~)) 7. Appeals from notices and certifications of junk vehicles to be removed as a public nuisance as provided in Chapter 23.10 K.C.C.;

((~~16. Applications for a reasonable use exception pursuant to KCC 21A.24.070;~~

~~17.~~)) 8. Appeals from enforcement actions under K.C.C. 23.08.120;

((~~18. Appeals from decisions of the director of the department of development and environmental services on commercial site development permits;~~))

((~~19.~~)) 9. Appeals from the department's final decisions regarding transportation concurrency, mitigation payment system and intersection standards provisions of Title 14;

10. Applications for reasonable use exceptions pursuant to chapter 21A.24 K.C.C.

((~~20.~~)) 11. Other applications or appeals which the council may prescribe by ordinance.

B. The examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications and restrictions as the examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW, and the regulations, policies, objectives and goals of the comprehensive plan, the community plan, sub-area or neighborhood plans, the zoning code, the subdivision code and other official laws, policies and objectives of King County. In case of any conflict between the King County Comprehensive Plan and a community, sub-area or neighborhood plan, the Comprehensive Plan shall govern.

SECTION 27. Ordinance 4461, Section 3, as amended, and K.C.C. 20.24.090 are hereby amended as follows:

Notice of appeal to examiner - Filing. A. Except as otherwise provided herein, all notices of appeal to the examiner shall be filed with the county department or division issuing the original decision with a copy provided by the department or division to the office of the hearing examiner. Except as otherwise provided herein, notice of appeal, together with the required appeal fee, shall be filed within ((~~ten~~)) fourteen (14) calendar days from the date of issuance of such decisions. ((~~except as follows:~~)) In cases of appeals of Type 2 land

use decisions made by the Director, the appeal period shall be extended for an additional seven (7) calendar days if WAC 197-11-340(2)(a) applies.

~~((A. Notices of appeal of State Environmental Policy Act threshold determinations shall be filed within fifteen days of the lead agency determination; provided however, that the time period within which an appeal shall be filed for threshold determinations of county projects may be extended by the lead agency; and))~~

B. Notices of appeal of the recommendation to deny vacation of a county road by the department of public works, shall be filed along with the required two hundred dollar administrative fee with the clerk of the county council within thirty days of an issuance of said denial.

C. ((~~Statements of appeal - appeal arguments.~~)) If a notice of appeal has been filed within the time period provided herein, the appellant shall file a statement of appeal with the county department or division issuing the original decision or action within ((~~15~~)) 21 calendar days from the date of issuance of such decision or action. department or division staff shall:

1. Be available within a reasonable time to persons wishing to file a statement of appeal subsequent to an agency ruling, and to respond to queries concerning the facts and process of the agency decision; and

2. Make available within a reasonable time a complete set of files detailing the facts of the department or division ruling in question to persons wishing to file a statement of appeal, subsequent to an agency ruling. If a department or division is unable to comply with these provisions, the hearing examiner may authorize amendments to a statement of appeal to reflect information not made available to an appellant within a reasonable time due to a failure by a county agency to meet the foregoing requirements. The statement of appeal shall identify the decision being appealed and the alleged errors in

that decision. Further, the statement of appeal shall state specific reasons why the decision should be reversed or modified; and the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be based ((~~principally)~~) on matters or issues raised in the statement of appeal. Failure to timely file a notice of appeal, appeal fee or statement of appeal deprives the examiner of jurisdiction to consider the appeal.

SECTION 28. Ordinance 11502, Section 14 and K.C.C. 20.24.097 are hereby amended as follows:

Expeditious processing. A. Hearings shall be scheduled by the examiner to ensure that final decisions are issued within the time periods provided in K.C.C. 20.XXX. During periods of time when the volume of permit activity is high, the examiner shall retain one or more pro-tem examiners to ensure that the 120 day time period for final decisions is met.

B. Appeals shall be processed by the examiner as expeditiously as possible, giving appropriate consideration to the procedural due process rights of the parties. Unless a longer period is agreed to by the parties, or the examiner determines that the size and scope of the project is so compelling that a longer period is required, a pre-hearing conference or a public hearing shall occur within 45 days from the date the office of the hearing examiner is notified that a complete statement of appeal has been filed. In such cases where the examiner has determined that the size and scope warrant such an extension, the reason for the deferral shall be stated in the examiner's recommendation or decision. The time period may be extended by the examiner at the examiner's discretion for not more than 30 days.

SECTION 29. Ordinance 11502, Section 15 and K.C.C. 20.24.098 are hereby amended as follows:

Time limits. In all matters where the examiner holds a hearing on applications under K.C.C. 20.24.070, the hearing shall be completed

and the examiner's written report and recommendation issued within 30 days from the date the hearing opens. In every appeal heard by the examiner pursuant to K.C.C. 20.24.080, the appeal process including a written decision, shall be completed within 90 days from the date the examiner's office is notified of the filing of a notice of appeal pursuant to K.C.C. 20.24.090. When reasonably required to enable the attendance of all necessary parties at the hearing, or the production of evidence, or to otherwise assure that due process is afforded and the objectives of this chapter are met, these time periods may be extended by the examiner at the examiner's discretion for an additional 30 days. With the consent of all parties, the time periods may be extended indefinitely. In all such cases, the reason for such deferral shall be stated in the examiner's recommendation or decision. Failure to complete the hearing process within the stated time shall not terminate the jurisdiction of the examiner.

SECTION 30. Ordinance 263, Article 5, Section 7.(part) and K.C.C. 20.24.100 are hereby amended as follows:

Condition, modification and restriction examples. The examiner is authorized to impose ((~~Examples of, but not limited to, the kinds of~~)) conditions, modifications and restrictions ((~~which may be imposed are additional~~)), including but not limited to setbacks, screenings in the form of landscaping or fencing, covenants, easements, road improvements and dedications of additional road right-of-way and performance bonds ((~~may be required to insure compliance with conditions, modifications and restrictions~~)) as authorized by County ordinances.

SECTION 31. Ordinance 263, Article 5, Section 9 and K.C.C. 20.24.120 are hereby amended as follows:

Freedom from improper influence. Individual ((~~councilmen~~)) council members, county officials or any other person, shall not interfere with or attempt to interfere with the examiner or deputy examiner in the performance of his or her designated duties.

SECTION 32. Ordinance 4461, Section 4 and K.C.C. 20.24.130 are hereby amended as follows:

Public hearing. When it is found that an application meets the filing requirements of the responsible county department or an appeal meets the filing rules, it shall be accepted and a date assigned for public hearing. If for any reason testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the matter shall be continued to the soonest available date. A matter should be heard, to the extent practicable, on consecutive days until it is concluded. For purposes of proceedings identified in Sections 20.24.070 and XXX (new section 24), the public hearing by the hearing examiner shall constitute the hearing by the council. ((~~Before rendering a recommendation or decision on any application or appeal, the examiner shall hold at least one public hearing thereon; provided, that the examiner's review of appeals regarding variances and conditional use permits shall be based upon the record before the zoning adjustor as provided by Section 21.58.070~~)).

SECTION 33. Ordinance 4461, Section 5 and K.C.C. 20.24.140 are hereby amended as follows:

Consolidation of hearings. Whenever a project application ((~~requires~~)) includes more than one county permit, ((~~or~~)) approval or determination for which a public hearing is required or for which an appeal is provided pursuant to this chapter, the hearings and any such appeals ((~~of procedural or preliminary determinations shall~~)) may be consolidated ((~~to the extent feasible~~)) into a single proceeding before the hearing examiner pursuant to section 9(B) of this ordinance. ((~~using the hearing officer and processes applicable to the primary permit or appeal. The examiner's decision concerning consolidation of hearings shall be final~~)).

SECTION 34. Ordinance 11502, Section 12 and K.C.C. 20.24.145 are hereby amended as follows:

Pre-hearing conference. A pre-hearing conference may be called by the examiner pursuant to ((~~Section 20.24.070~~)) this chapter upon the request of a party, or on the examiner's own motion. A pre-hearing conference shall be held in every appeal brought pursuant to ((~~Section 20.24.080~~)) this chapter if timely requested by any party.

The pre-hearing conference shall be held at such time as ordered by the examiner, but not less than 14 days prior to the scheduled hearing on not less than ((~~14~~)) 7 days notice to those who are then parties of record to the proceeding. The purpose of a pre-hearing conference shall be to identify to the extent possible, the facts in dispute, issues, laws, parties and witnesses in the case. In addition the pre-hearing conference is intended to establish a timeline for the presentation of the case. The examiner shall establish rules for the conduct of pre-hearing conferences.

Any party who does not attend the pre-hearing conference, or anyone who becomes a party of record after notice of the pre-hearing conference has been sent to the parties, shall nevertheless be entitled to present testimony and evidence to the examiner at the hearing.

SECTION 35. Ordinance 263, Article 5, Section 11 and K.C.C. 20.24.150 are hereby amended as follows:

Report by department. When an application or appeal has been set for public hearing, the responsible county department shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in ((~~subject~~)) the application or appeal and shall prepare a report summarizing the factors involved and the department findings and recommendation or decision. At least fourteen calendar days prior to the scheduled hearing, the report, and in the case of appeals any written appeal arguments submitted to the county, shall be filed with the examiner and copies thereof shall be mailed to all persons of record who have not previously received said materials.

SECTION 36. Ordinance 263, Article 5, Section 12 and K.C.C. 20.24.160 are hereby amended as follows:

Notice. ((~~Unless otherwise provided by ordinance, the responsible county department shall cause notice of the receipt of completed applications for the cases identified in KCC 20.24.070A.1-5 to be posted not more than 10 days after the applicant has been advised by certified mail that the application is determined to be complete, and notice of the time and place of the public hearing to be mailed to all persons of record at least 14 calendar days prior to the scheduled hearing. The applicant shall not be held responsible for a failure to post the site in the absence of the department's certified notice to the applicant that the application has been determined to be complete. Additional notice shall be given as provided in the ordinance governing the particular type of application or appeal.~~)) A. Notice of the time and place of any hearing on an application before the hearing examiner pursuant to this chapter shall be mailed by first class mail at least 14 calendar days prior to the scheduled hearing date to all persons who commented or requested notice of the hearing. The notice of decision or recommendation required by K.C.C. Title 20 may be combined with the notice of hearing required hereby.

B. Notice of the time and place of any appeal hearing before the hearing examiner pursuant to this chapter shall be mailed to all parties of record by first class mail at least 14 calendar days prior to the scheduled hearing date.

C. If testimony cannot be completed prior to adjournment on the date set for a hearing, the examiner shall~~((:~~

~~1. A~~)) announce prior to adjournment the time and place said hearing will be continued. ((~~; or~~

~~2. Provide mailed notice for a continued hearing to all parties of record, when a new time and place is determined.~~))

SECTION 37. Ordinance 4461, Section 9 and K.C.C. 20.24.180 are hereby amended as follows:

Examiner findings. When the examiner renders a decision or recommendation, he or she shall make and enter findings of fact and conclusions from the record which support the ((~~his~~)) decision and the findings and conclusions shall set forth and demonstrate the manner in which the decision or recommendation is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the comprehensive plan, ((~~the~~)) subarea or community plans, ((~~the sewerage general plan,~~)) the zoning code, the ((~~subdivision~~)) land segregation code and other official laws, policies and objectives of King County, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

SECTION 38. Ordinance 9544, Section 16 and K.C.C. 20.24.195 are hereby amended as follows:

Additional examiner findings - preliminary plats. When the examiner ((~~issues a recommendation~~)) makes a decision regarding an application for a proposed preliminary plat, the ((~~recommendation)) decision~~ shall include additional findings as to whether:

A. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

B. The public use and interest will be served by the platting of such subdivision and dedication.

SECTION 39. Ordinance 4461, Section 11 and K.C.C. 20.24.210 are hereby amended as follows:

Written recommendation or decision. A. Within ten days of the conclusion of a hearing or rehearing, the examiner shall render a written recommendation or decision and shall transmit a copy thereof

to all persons of record. The examiner's decision shall identify the applicant and/or the owner by name and address.

B. Recommendations of the examiner in cases identified in ((~~Section~~)) K.C.C. 20.24.070 may be appealed to the council by an aggrieved party by filing a notice of appeal with the clerk of the council within fourteen 14 calendar days of the date the examiner's written recommendation is mailed. ((~~A copy of the notice shall also be delivered to the examiner.~~))

C. If no appeal is filed within fourteen calendar days, the clerk of the council shall place a proposed ordinance which implements the examiner's recommended action on the agenda of the next available council meeting for adoption; provided, that no final action to amend or reverse the examiner's recommendation shall be taken at that meeting and notice to parties shall be given before the adoption of a substitute or amended ordinance which amends or reverses the examiner's recommendation; provided further, the council by motion may refer the matter to a council committee or remand to the examiner for the purpose of further hearing, receipt of additional information or further consideration when determined necessary prior to the council's taking final action thereon.

D. Decisions of the examiner, that are appealable to the Council as provided in chapter 20.24 K.C.C., shall be final unless appealed to the Council by an aggrieved party of record by filing a notice of appeal with the Clerk of the Council within fourteen (14) calendar days of the date the examiner's written decision is mailed.

E. Decisions of the examiner in cases identified in ((~~section~~)) K.C.C. 20.24.080 shall be final and reviewable pursuant to ((~~section~~)) K.C.C. 20.24.240B.

SECTION 40. Ordinance 4461, Section 12 and K.C.C. 20.24.220 are hereby amended as follows:

Appeal to council - Recommendation. If an appeal has been filed pursuant to K.C.C. 20.24.210B, the appellant shall file with the

office of the clerk of the county council within twenty-one calendar days of the date of the examiner's written recommendation a written appeal statement specifying the basis for the appeal and any arguments in support of the appeal. If no written appeal statement or arguments are filed within the twenty-one calendar days, the clerk of the council shall place a proposed Ordinance which implements the examiner's recommended action on the agenda of the next available council meeting. If written appeal arguments are filed, the clerk of the council shall cause notice to be given to other parties of record that a notice of appeal and appeal statement have been filed and that written appeal statements or arguments in response thereto may be submitted to the clerk within fourteen calendar days of the date of such notification by the clerk.

Consideration by the council of the appeal shall be based upon the record as presented to the examiner at the public hearing and upon written appeal statements based upon the record; provided, the council also may allow parties a period of time for oral argument based on the record. The examiner may conduct a conference with all parties to the appeal for the purpose of clarifying or attempting to resolve certain issues on appeal, provided, that the deputy examiner who conducted the public hearing on the proposal may not conduct the conference. Such conference shall be informal and shall not be part of the public record.

If, after consideration of the record, written appeal statements and any oral argument the council determines that:

A. An error in fact or procedure may exist or additional information or clarification is desired, the council shall remand the matter to the examiner; or

B. The recommendation of the examiner is based on an error in judgment or conclusion, the council may modify or reverse the recommendation of the examiner; provided, the council's land use appeal committee may retain the matter, refer it to other council

committee or remand to the examiner for the purpose of further hearing, receipt of additional information or further consideration when determined necessary prior to the council's taking final action thereon.

NEW SECTION. SECTION 41. There is added to the King County Code, Chapter 20.24, a new section, to read as follows:

Appeal to Council - Examiner's Decision. If an appeal has been filed pursuant to K.C.C. 20.24.210D, the appellant shall file with the office of the clerk of the county council within twenty-one calendar days of the date of the examiner's written decision a written appeal statement specifying the basis for the appeal and any arguments in support of the appeal. If no written appeal statement or arguments are filed within the twenty-one calendar days, the hearing examiner's decision made pursuant to Section 24 shall be deemed final and conclusive action. If written appeal arguments are filed, the clerk of the council shall cause notice to be given to other parties of record that a notice of appeal and appeal statement have been filed and that written appeal statements or arguments in response thereto may be submitted to the clerk within fourteen calendar days of the date of such notification by the clerk.

Consideration by the council of the appeal shall be based upon the record as presented to the examiner at the public hearing and upon written appeal statements based upon the record; provided, the council also may allow parties a period of time for oral argument based on the record. The examiner may conduct a conference with all parties to the appeal for the purpose of clarifying or attempting to resolve certain issues on appeal, provided, that the deputy examiner who conducted the public hearing on the proposal may not conduct the conference. Such conference shall be informal and shall not be part of the public record.

If, after consideration of the record, written appeal statements and any oral argument the council determines that:

A. Additional information or clarification is required, the council shall remand the matter to the examiner; or

B. The decision of the examiner is based on an error in judgment or conclusion, the council may modify or reverse the recommendation of the examiner; provided, the council's land use appeal committee may retain the matter, refer it to another council committee or remand to the examiner for the purpose of further hearing, receipt of additional information or further consideration when determined necessary prior to the council's taking final action thereon.

Appeals shall be processed by the council as expeditiously as possible, giving appropriate consideration to the procedural due process rights of the parties. Consideration of the appeal by the council shall be scheduled to ensure that such appeals are processed within the time periods provided in K.C.C. 20.XXX. Failure of the Council to determine an appeal within applicable time limits shall not terminate the jurisdiction of the Council.

SECTION 42. Ordinance 263, Article 5, Section 18 and K.C.C. 20.24.230 are hereby amended as follows:

Council action. The council shall take final action on any recommendation of the examiner or appeal from a decision by the examiner by ordinance and when so doing, it shall make and enter findings of fact and conclusions ~~from the record~~ ((~~which support its action~~)) of the public hearing conducted by the examiner. Said findings and conclusions shall set forth and demonstrate the manner in which the action is consistent with, carries out and helps implement applicable state laws and regulations and the regulations, policies, objectives and goals of the comprehensive plan, the community plans, the sewerage general plan, the zoning code, the subdivision code and other official laws, policies and objectives for the development of King County. The council may adopt as its own all or portions of the examiner's findings and conclusions.

Any ordinance may contain conditions regarding the manner of development or other aspects regarding use of the property including but not limited to dedication of land, provision of public improvements to serve the subdivision, and/or impact fees authorized by Chapter 82.02 RCW.

Any ordinance may also contain reasonable conditions, in accordance with state law and County ordinances, which must be satisfied before the ordinance becomes effective and the official zoning maps shall not be amended until said conditions have been satisfied; provided, the ordinance shall also designate the time period within which any such conditions must be satisfied. All authority pursuant to such ordinance shall expire if any of said conditions are not satisfied within the designated time period and the property shall continue to be subject to all laws, regulations and zoning as if the ordinance had not been adopted; provided, the council may extend the period for satisfaction of said conditions if after a public hearing by the examiner the council finds an extension will be in the public interest and the extension was requested by applicant within the initial time period. As an alternative to the adoption of an ordinance containing conditions, the council may adopt an ordinance subject to the execution of a concomitant agreement between the county and the applicant regarding the manner of development of the property, any required improvements or any aspect regarding use of the property.

SECTION 43. Ordinance 9544, Section 18 and K.C.C. 20.24.235 are hereby amended as follows:

((~~Council~~)) Findings - Preliminary Plats.

A. In addition to the provisions of K.C.C. 20.24.230, ((~~the council~~)) King County shall not approve a proposed subdivision and dedication unless it finds that:

1. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable

water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

2. The public use and interest will be served by the platting of such subdivision and dedication.

B. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the council shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat.

The council may adopt as its own all or portions of the examiner's findings and conditions.

SECTION 44. Ordinance 4461, Section 15 and K.C.C. 20.24.240 are hereby amended as follows:

Judicial Review of Final Decisions. A. Decisions of the council in cases identified in K.C.C. 20.24.070, or in cases appealed to the council as provided in K.C.C. 20.24.210D, shall be final and conclusive action unless within twenty-one calendar days ((~~, or within thirty calendar days for decisions approving or denying plats,~~)) from the date of the council's adoption of an ordinance an ((~~aggrieved person applies for a writ of certiorari from the~~)) appeal is filed in Superior Court ((~~in and for the county of King~~)), State of Washington, for the purpose of review of the action taken; provided, no development or related action may occur during said twenty-one day ((~~, or thirty day for plat approvals~~)) appeal period.

B. Decisions of the examiner in cases identified in K.C.C. 20.24.080 shall be final and conclusive unless within twenty-one calendar days from the date of issuance of the examiner's decision an aggrieved person ((~~applies for a writ of certiorari from~~)) files an

appeal in Superior Court ((~~in and for the county of King~~)), State of Washington, for the purpose of review of the action taken; provided, no development or related action may occur during said twenty-one day appeal period; provided further, that ((~~examiner decisions on appeals of threshold determinations are not appealable to Superior Court prior to~~)) the twenty-one day appeal period from examiner decisions on appeals of threshold determinations or the adequacy of a final EIS shall not commence until final action on the underlying proposal.

SECTION 45. Ordinance 4461, Section 14 and K.C.C. 20.24.250 are hereby amended as follows:

A. Reconsideration of final action. Any final action by the county council or hearing examiner ((~~The council~~)) may be reconsidered ((~~any action after it has become final~~)) by the council or examiner, respectively if:

((~~A~~)) 1. The action was based in whole or in part on erroneous facts or information;

((~~B~~)) 2. The action when taken failed to comply with existing laws or regulations applicable thereto; or

((~~C~~)) 3. An error of procedure occurred which prevented consideration of the interests of persons directly affected by the action.

B. The council upon reconsideration shall refer the matter to the land use appeal committee to review the matter pursuant to the procedures and authority for appeals pursuant to Section K.C.C. 20.24.220 of this chapter.

C. The examiner shall reconsider a final decision pursuant to the rules of the hearing examiner.

D. Authority of the council and examiner to reconsider does not affect the finality of a decision when made.

SECTION 46. Ordinance 6949, Section 6, as amended and K.C.C. 20.44.040 are hereby amended as follows:

Categorical exemptions and threshold determinations.

A. King County adopts the standards and procedures specified in WAC 197-11-300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical exemptions and making threshold determinations subject to the following:

~~((1. The determination of whether a proposal is categorically exempt shall be made by the county department that serves as lead agency for such proposal.~~

~~2. Sensitive area maps adopted by KCC 21.54.130 are designated as maps of environmentally sensitive areas for purposes of WAC 197-11-908. The following categorical exemptions shall not apply should the proposal site be within areas designated as environmentally sensitive pursuant to the sensitive area maps and KCC 21A.24.080: WAC 197-11-800 (6)(a).~~)) 1. The following exempt threshold levels are hereby established pursuant to WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

a. The construction or location of any residential structures of 8 dwelling units;

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet on land zoned agricultural, or 15,000 square feet in all other zones, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

c. The construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet of gross floor area, and with associated parking facilities designed for forty automobiles;

d. The construction of a parking lot designed for forty automobiles;

e. Any fill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulation thereunder; provided, however, (i) that the

categorical exemption threshold shall be 100 cubic yards for any fill or excavation that is in a sensitive area, and (ii) that if the proposed action is to remove from or replace fill in a sensitive area to correct a violation, the threshold shall be 500 cubic yards.

2. The determination of whether a proposal is categorically exempt shall be made by the county department that serves as lead agency for such proposal.

A. The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

1. If the department issues a mitigated DNS, conditions requiring compliance with the mitigation measures which were specified in the application and environmental checklist shall be deemed conditions of any decision or recommendation of approval of the action.

2. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall review the threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS.

NEW SECTION. SECTION 47. A new section is hereby added to K.C.C. 20.44, to read as follows:

Planned Actions. A planned action does not require a threshold determination or the preparation of an environmental impact statement, but is subject to environmental review and mitigation under SEPA. The County may designate planned actions in the future pursuant to RCW ch. 43.21C.031.

SECTION 48. Ordinance 6949, Section 7 and K.C.C. 20.44.050 are hereby amended as follows:

Environmental impact statements and other environmental documents. The procedures and standards for preparation of environmental impact statements and other environmental documents pursuant to WAC 197-11-400 through 197-11-460 and 197-11-600 through 197-11-640 are adopted, subject to the following:

A. Pursuant to WAC 197-11-408(2)(a), all comments on determinations of significance and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

B. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the county department acting as lead agency shall be responsible for preparation and content of EIS's and other environmental documents. The department shall contract with consultants as necessary for the preparation of environmental documents. The department shall consider the opinion of the applicant regarding the qualifications of the consultant but the department shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

C. Consultants or subconsultants selected by King County to prepare environmental documents for a private development proposal shall not: act as agents for the applicant in preparation or acquisition of associated underlying permits; have a financial interest in the proposal for which the environmental document is being prepared; perform any work or provide any services for the applicant in connection with or related to the proposal.

D. The department shall establish and maintain one or more lists of qualified consultants who are eligible to receive contracts for preparation of environmental documents. Separate lists may be maintained to reflect specialized qualifications or expertise. When the department requires consultant services to prepare environmental documents, the department shall select a consultant from the lists and negotiate a contract for such services. The department director may waive these requirements as provided for in rules adopted to implement this section. Subject to Section 20.44.145 and pursuant to Chapter 2.98 K.C.C., the department of development and environmental services shall promulgate administrative rules prior to the effective date of

this section that establish processes to: create and maintain a qualified consultant list; select consultants from the list; remove consultants from the list; provide a method by which applicants may request a reconsideration of selected consultants based upon costs, qualifications, or timely production of the environmental document; and waive the consultant selection requirements of this chapter on any basis provided by Chapter 4.16 K.C.C.

E. All costs of preparing the environment document shall be borne by the applicant. Subject to Section 20.44.145 and pursuant to Chapter 2.98 K.C.C., the department of development and environmental services shall promulgate administrative rules which establish a trust fund for consultant payment purposes, define consultant payment schedules, prescribe procedures for treating interest from deposited funds, and develop other procedures necessary to implement this chapter.

F. In the event an applicant decides to suspend or abandon the project, the applicant must provide formal written notice to the department and consultant. The applicant shall continue to be responsible for all monies expended by the division or consultants to the point of receipt of notification to suspend or abandon, or other obligations or penalties under the terms of any contract let for preparation of the environmental documents.

G. The department shall only publish <u>an</u> environmental <u>impact statement (EIS)</u>((~~documents~~))when it believes that the <u>EIS</u> ((~~documents~~))adequately discloses: the specific direct, indirect, and cumulative adverse impacts of the proposal and <u>its</u> alternatives; mitigation measures proposed and committed to by the applicant, and their effectiveness in significantly mitigating impacts; mitigation measures that could be implemented or required; and unavoidable specific adverse impacts. <u>Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the department within 270 days following the issuance of a DS for the</u>

proposal, except for public projects and nonproject actions, unless the department determines at the time of issuance of the DS that a longer time period will be required because of the extraordinary size of the proposal or the scope of the environmental impacts resulting therefrom; provided that the additional time shall not exceed 90 days unless agreed to by the applicant.

H. The following periods shall be excluded from the 270 day time period for issuing a final environmental impact statement:

1. Any time period during which the applicant has failed to pay required environmental review fees to the department;

2. Any period of time during which the applicant has been requested to provide additional information required for preparation of the environmental impact statement, and

3. Any period of time during which the applicant has not authorized the department to proceed with preparation of the environmental impact statement.

SECTION 49. Ordinance 6949, Section 8, as amended and K.C.C. 20.44.060 are hereby amended as follows:

Comments and public notice. A. The procedures and standards of WAC 197-11-500 through 197-11-570 are adopted regarding public notice and comments.

B. For purposes of WAC 197-11-510, public notice ((~~shall consist of:~~

~~1. For project-specific proposals, posting of a notice board, KCC 19.26.070 A., on or adjacent to the subject property at a place conspicuous and likely to be seen by persons passing the property. The division may require additional notice boards when a site does not abut a public road, when a large site abuts more than one public road or in any other instance when the division deems additional boards to be necessary. The notice board shall be posted for fifteen days. Notice shall contain:~~

~~a. The name of the applicant, the description of the proposed action, the proposed use of the property, and the file number;~~

~~b. A plot plan and general location description in non-legal language;~~

~~c. The procedures and deadline for submitting comments;~~

~~d. A form to request subsequent department reports or decisions;~~

~~e. Identification of the responsible county official; and~~

~~f. A description of the appeal procedure.~~

~~A notarized affidavit of posting which certifies the location of a notice board on a vicinity map shall be submitted to the department within fifteen days of publication pursuant to this section.~~

~~2.~~)) shall be required as provided in K.C.C. Title 20. Publication of notice in a newspaper of general circulation in the area where the proposal is located also shall be required for all non project actions and for all other proposals that are subject to the provisions of this chapter but are not classified as land use permit decisions in K.C.C. Title 20.

C. ~~Additional notice.~~

~~1. For project specific proposals, the department shall mail to property owners within five hundred feet of the proposal's property boundaries: the threshold determination, or the decision to condition the permit pursuant to RCW ch. 43.21C.060 if notice has not been previously mailed. Failure of any specific property owner to receive notice shall not invalidate the determination or decision to condition.~~

~~2.~~ The responsible official may require further notice if deemed necessary to provide adequate public notice of a pending action. Failure to require further or alternative notice shall not be a violation of any notice procedure. ~~The procedures and standards of WAC 197-11-500 through 197-11-570 are adopted regarding public notice and commenting.~~))

SECTION 50. Ordinance 6949, Section 10 and K.C.C. 20.44.080 are hereby amended as follows:

Substantive authority. A. The procedures and standards of WAC 197-11-650 through 197-11-660 are adopted regarding substantive authority and mitigation.

B. For the purposes of RCW 43.21C.060 and WAC 197-11-660(a), the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of King County's substantive authority under SEPA, subject to the provisions of RCW 43.21C.240 and subsection C of this section:

1. The policies of the State Environmental Policy Act, RCW 43.21C.020.

2. The King County Comprehensive Plan, its addenda, and revisions and community and ((~~middle~~)) subarea plans and housing report, and surface water management program basin plans, as specified in King County Code chapter 20.12.

3. The King County Zoning Code, as adopted in King County Code Title 21A.

4. The King County Agricultural Lands Policy, as adopted in King County Code chapter 20.54 and Title 26.

5. The King County Landmarks Preservation Code, as adopted in King County Code chapter 20.62.

6. The King County Shoreline Management Master Plan, as adopted in King County Code Title 25.

7. The King County Surface Water Runoff Policy (chapter 9.04), including the Covington Master Drainage Plan (chapter 20.14), as adopted in King County Code.

8. The King County Road Standards, 1993 Update, as adopted in King County Code chapter 14.42.

9. The Comprehensive Plan for Transportation adopted by Resolution No. 6617 of the council of the Municipality of Metropolitan

Seattle and readopted and ratified by the county council by Ordinance 11032, section 28, as amended.

10. The Comprehensive Sewerage Disposal Plan adopted by Resolution No. 23 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by the county council by Ordinance 11032, Section 28, as amended.

11. The rules and regulations for construction and use of local sewerage facilities set forth in Ordinance 11034, as amended.

12. The rules and regulations on the consistency of sewer projects with local land use plans and policies set forth in Ordinance 11034, as amended.

13. The rules and regulations for the disposal of industrial waste into the sewerage system set forth in Ordinance 11034, as amended.

14. The Duwamish Clean Water Plan adopted by the council of the Municipality of Metropolitan Seattle and readopted and ratified by the county council by Ordinance 11032, section 28, as amended.

15. The Washington Department of Ecology's Best Management Practices for the Use of Municipal Sludge.

C. Within the Urban Growth Boundary, substantive SEPA authority to condition or deny new development proposals or other actions shall be used only in cases where specific adverse environmental impacts are not addressed by regulations as set forth below or unusual circumstances exist. In cases where the County has adopted the following regulations to systematically avoid or mitigate adverse impacts [Chapter 21A.12 K.C.C. Development Standards - Density and Dimensions, Chapter 21A.14 K.C.C. Development Standards - Design Requirements, Chapter 21A.16 K.C.C. Development Standards - Landscaping and Water Use, Chapter 21A.18 K.C.C. Development Standards - Parking and Circulation, Chapter 21A.20 K.C.C. Development Standards - Signs, Chapter 21A.22 K.C.C. Development Standards - Mineral Extraction, Chapter 21A.24 K.C.C. Development Standards - Environmentally Sensitive Areas, Chapter 21A.26 K.C.C. Development

Standards - Communication Facilities, Chapter 21A.28 K.C.C. Development Standards - Adequacy of Public Facilities and Services], those standards and regulations will normally constitute adequate mitigation of the impacts of new development. Unusual circumstances related to a site or to a proposal, as well as environmental impacts not mitigated by the foregoing regulations will be subject to site-specific or project-specific SEPA mitigation.

The provisions of this subsection shall not apply if the County's development regulations cited in this subsection are amended following the effective date of this ordinance unless the amending ordinance contains a finding, supported by documentation, and that the requirements for environmental analysis, protections and mitigation measures in the code chapter, as amended, provide adequate analysis of and mitigation for the specific adverse environmental impacts to which the requirements apply.

D. Outside the Urban Growth Boundary, in the course of project review, including any required environmental analysis, the responsible official may determine that requirements for environmental analysis, protection and mitigation measures in the County's development regulations or comprehensive plans adopted under 36.70A RCW and in other applicable local, state or federal laws and rules provide adequate analysis and mitigation for specific adverse environmental impacts of the project, if the following criteria are met:

1. In the course of project review, the responsible official shall identify and consider the specific probable adverse environmental impacts of the proposed action and then make a determination whether these specific impacts are adequately addressed by the development regulations. If they are not, the responsible official shall apply mitigation consistent with the applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan or other local, state or federal rules or laws, and

2. The responsible official bases or conditions its approval on compliance with these requirements or mitigation measures.

E. Any decision to approve, deny or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the responsible official's decision document. The written ((~~order~~)) decision shall contain facts and conclusions based on the ((~~proposals~~)) proposal's specific adverse environmental impacts (or lack thereof) as identified in an environmental checklist, EIS, threshold determination, other environmental document including an executive department's staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or Ordinance. The decision document shall state the specific plan, policy or regulation which supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

(~~(D)~~)F. This chapter shall not be construed as a limitation on the authority of King County to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

SECTION 51. Ordinance 6949, Section 12 and K.C.C. 20.44.100 are hereby amended as follows:

Responsibility as consulted agency. All requests from other agencies that King County consults on threshold investigations, the scoping process, EIS's or other environmental documents shall be submitted to the department of ((~~parks, planning and resources~~))development and environmental services. The department shall be responsible for coordination with other affected county departments and for compiling and transmitting King County's response to such requests for consultation."

SECTION 52. Ordinance 6949, Section 14 and K.C.C. 20.44.120 are hereby amended as follows:

Appeals. A. Appeals of threshold determinations ((~~shall be conducted by the hearing examiner pursuant to the provisions of this title and,~~)) or the adequacy of a final EIS are procedural SEPA appeals which are conducted by the hearing examiner pursuant to the provisions of K.C.C. 20.24.080, subject to the following:

1. Only one appeal proceeding on each procedural SEPA determination shall be allowed.

2. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight.

3. An appeal of a DS must be filed within fourteen calendar (14) days following issuance of the DS.

4. An Appeal of a DNS for actions classified as land use permit decisions in K.C.C. 20.XXX must be filed within fourteen calendar (14) days following notice of the decision as provided in K.C.C. chapter 20.XXX, provided that the appeal period for a DNS for land use permit decisions shall be extended for an additional seven (7) calendar days if WAC 197-11-340(2)(a) applies. For actions not classified as land use permit decisions in K.C.C. chapter 20.XXX, no administrative appeal of a DNS is permitted.

5. Administrative appeals of the adequacy of a final EIS are permitted only for actions classified as land use permit decisions in K.C.C. chapter 20.XXX. Such appeals must be filed within fourteen calendar (14) days following notice of the decision or recommendation as provided in K.C.C. chapter 20 XXX.

6. The hearing examiner shall make a final decision on all procedural SEPA determinations. The hearing examiner's decision may be appealed to Superior Court as provided in K.C.C. 20.24.240B.

B. ((~~Consideration of the adequacy of the final EIS shall be consolidated in all cases with the public hearing, if any, on the proposal. Administrative appeals regarding adequacy of the EIS shall be consolidated with the administrative appeal, if any, on the proposal. If no public hearing process exists for a proposal, review~~

~~of final EIS adequacy shall only be by writ of certiorari in King County Superior Court.~~)) The hearing examiner's consideration of procedural SEPA appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for appeals of a DS.

C. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal. If proposals requiring Type 3 or 4 land use decisions are appealed to the County Council as provided in K.C.C. 20.24.210B or D, the recommendation or decision of the examiner to condition or deny the proposal pursuant to RCW 43.21C.060 also may be appealed to the council, which shall make a final decision.

D. If no administrative appeal is otherwise authorized for a proposal, a decision denying or conditioning an application pursuant to RCW 43.21C.060 may be appealed to the ((~~zoning and subdivision~~)) hearing examiner pursuant to the provisions of this title as a Type 2 decision. Such appeals shall be limited to issue of whether or not the application was properly conditioned or denied pursuant to RCW 43.21C.060 and the regulations and ordinances implementing that statute.

E. ((~~Appeals of the adequacy of a final EIS shall be filed within the time periods for appeals of the proposal. Appeals of threshold determinations must be filed within fifteen days of the lead agency determination; provided however that the time period within which an appeal must be filed for threshold determinations of county projects may be extended by the lead agency.~~)) Notwithstanding the provisions of subsections A through D of this section, a department may adopt procedures under which an administrative appeal shall not be provided if the director of that department finds that consideration of an

appeal would be likely to cause the department to violate a compliance, enforcement, or other specific mandatory order or specific legal obligation. The director's determination shall be included in the notice of the SEPA determination, and the director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action.

SECTION 53. Ordinance 10870, Section 54 and K.C.C. 21A.06.070 are hereby amended to read as follows:

Applicant. Applicant: a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

SECTION 54. Ordinance 10870, Section 454 as amended, and K.C.C. 21A.24.070 are hereby amended as follows:

Exceptions. A. If the application of this chapter would prohibit a development proposal by a public agency and utility, the agency or utility may apply for an exception pursuant to this subsection:

1. The public agency or utility shall apply to the department and shall make available to the department other related project documents such as permit applications to other agencies, special studies and SEPA documents.

2. The department shall review the application based on the following criteria:

a. there is no other practical alternative to the proposed development with less impact on the sensitive area; and

b. the proposal minimizes the impact on sensitive areas.

3. The department shall process exceptions, provide public notice, and provide opportunity for the public to request a public hearing, and provide an appeal process consistent with the provisions of K.C.C. ((~~21A.42.040 through K.C.C. 21A.42.090~~)) chapter 20.XXX.

4. This exception shall not allow the use of the following sensitive areas for regional retention/detention facilities except where there is a clear showing that the facility will protect public health and safety or repair damaged natural resources:

a. class 1 streams or buffers;

b. class 1 wetlands or buffers with plant associations of infrequent occurrence; or

c. class 1 or 2 wetlands or buffers which provide critical or outstanding habitat for herons, raptors or state or federal designated endangered or threatened species unless clearly demonstrated by the applicant that there will be no impact on such habitat.

B. If the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this subsection:

1. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of K.C.C. 21A.44. The applicant shall apply to the department, and the department shall ((~~prepare a recommendation to the hearing examiner~~)) make a final decision based on the following criteria:

a. the application of this chapter would deny all reasonable use of the property;

b. there is no other reasonable use with less impact on the sensitive area;

c. the proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the

development proposal site and is consistent with the general purposes of this chapter and the public interest; and

d. any alterations permitted to the sensitive area shall be the minimum necessary to allow for reasonable use of the property; and

~~3.~~)) any authorized alteration of a sensitive area under this subsection shall be subject to conditions established by the ((~~examiner~~)) department including, but not limited to, mitigation under an approved mitigation plan.

SECTION 55. Ordinance 10870, Section 612 as amended, and K.C.C. 21A.42.040 are hereby amended as follows:

Director((~~/adjustor~~)) review - Actions subject to review. The following actions shall be subject to the director((~~/adjustor~~)) review procedures set forth in this chapter:

A. Applications for variances, exceptions under 21A.24.070(A) and conditional uses; and

B. Periodic review of extractive operations.

SECTION 56. Ordinance 10870, Section 616, and K.C.C. 21A.42.080 are hereby amended as follows:

Director((~~/adjustor~~)) review - Decision regarding proposal. A. Decisions regarding the approval or denial of proposals (excluding periodic review of extractive operations) subject to director((~~/adjustor~~)) review shall be based upon compliance with the required showings of K.C.C. 21A.44. Periodic reviews of extractive operations shall be based upon the criteria outlined in K.C.C. 21A.22.050.B.

((~~B. Decisions shall be rendered no more than 40 days after the termination of a public hearing or comment period. A public hearing or comment period may be reopened for purposes of obtaining additional information~~.))

((~~C~~)) B. The written decision contained in the record shall show:

1. Facts, findings and conclusions supporting the decision and demonstrating compliance with the applicable decision criteria; and

2. Any conditions and limitations imposed, if the request is granted.

((~~D~~)) C. The director ((~~or adjustor~~)) shall mail a copy of the written decision to the applicant and to all parties of record.

D. Rules. The director shall adopt rules for the transaction of business and shall keep a public record of his actions, findings, waivers and determinations.

SECTION 57. Ordinance 10870, Section 617, and K.C.C. 21A.42.090 are hereby amended as follows:

Director((~~/adjustor~~)) review - Decision final unless appealed. A. The decision of the director ((~~or adjustor~~)) shall be final unless the applicant or an ((~~adverse~~)) aggrieved party files an appeal to the ((~~zoning and subdivision~~)) hearing examiner pursuant to K.C.C. 20.24.

((~~B. Prior to an appeal hearing by the examiner, the examiner shall mail notice of the appeal to parties of record~~.))

((~~C. On appeals from a decision of the director, the examiner shall conduct the hearing as provided in King County Council 20.24.080. On appeals from a decision of the zoning adjustor, the examiner's review shall be limited to the record of the hearing conducted by the adjustor, the written appeal statement(s), and written and oral argument provided on the appeal.~~))

((~~D~~)) B. The examiner's decision may affirm, modify, or reverse the decision of the ((~~responsible official~~)) Director. ((~~A modification or reversal of the decision of the Zoning Adjustor or Director shall be based upon a determination that the prior decision was clearly erroneous. Alternatively, the examiner may remand the matter, with or without direction, if the examiner determines that additional evidence should have been considered by the responsible official or a substantial error in procedure occurred in the prior proceedings~~.))

((~~E~~)) C. As provided by K.C.C. 20.24.210A. and C.:

1. The examiner shall render a decision within ten days of the closing of hearing; and

2. The decision shall be final unless appealed under the provisions of K.C.C. 20.24.240B.

((~~F~~)) D. Establishment of any use or activity authorized pursuant to a conditional use permit or variance shall occur within four years of the effective date of the decision for such permit or variance, provided that for schools this period shall be five years. This period may be extended for one additional year by the director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension.

((~~G~~)) E. For the purpose of this section, "establishment" shall occur upon the issuance of all local permit(s) for on-site improvements needed to begin the authorized use or activity, provided that the conditions or improvements required by such permits are completed within the timeframes of said permits.

((~~H~~)) F. Once a use, activity or improvement allowed by a conditional use permit or variance has been established, it may continue as long as all conditions of permit issuance are met.

SECTION 58. Ordinance 11700, Section 45 and K.C.C. 25.08.015 are hereby amended to read as follows:

Applicant. "Applicant" means a property owner or a public agency or public or private utility which owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.

SECTION 59. Ordinance 3688, Section 806 and K.C.C. 25.32.060 are hereby amended as follows:

Alteration or Reconstruction of Nonconforming use or Development.

A. Applications for substantial development or building permits to modify a nonconforming use or development in the shoreline may be approved only if:

1. The modifications will make the use or development less nonconforming; or

2. The modifications will not make the use or development more nonconforming.

B. A use or development, not conforming to existing regulations, which is destroyed, deteriorated, or damaged more than fifty percent of its fair market value at present or at the time of its destruction by fire, explosion, or other casualty or act of God, may be reconstructed only insofar as it is consistent with existing regulations.

C. The review of applications for the modification of a nonconforming use or development shall be subject to the guidelines enumerated in ((~~Chapter 21A.32 - 21.51.~~)) K.C.C. . ((~~(Nonconforming Buildings and Uses)~~)) 21A.32.

SECTION 60. Ordinance 3688, Section 808 and K.C.C. 25.32.080 are hereby amended as follows:

Permits - Combined hearing authority. A. In those cases when proposed development under the jurisdiction of this title also requires ((~~a public hearing before either the zoning adjustor or the hearing examiner, the adjustor or the examiner may, pursuant to agreement between the director and the adjustor or examiner, act as the director for the purposes of the public hearing and decision provided for in Section 25.32.070. Acting as the director, the adjustor or~~ a Type 3 or Type 4 decision and a public hearing before the hearing examiner is required, the department shall issue a recommendation on the proposal and the examiner shall conduct a public hearing to receive evidence relating to the issuance of a substantial development permit or exemption therefrom, a shoreline management

conditional use permit and/or a shoreline management variance, if applicable.

B. The examiner shall conduct the hearing in accordance with the provisions of Chapter 20.24((~~Section 25.32.070~~)) K.C.C. and shall exercise the powers therein.

C. The decision of the ((~~adjuster or~~)) examiner shall be the decision of the director and shall be the final decision of the county with regard to shoreline management.

SECTION 61. Ordinance 3688, Section 809 and K.C.C. 25.32.090 are hereby amended as follows:

Permits - Approval or disapproval - Additional conditions - Limitations.((~~A. The director shall notify the following persons in writing of his final approval, disapproval or conditional approval of a substantial development permit application within five days of his final decision:~~

~~1. The applicant;~~

~~2. The Washington State Department of Ecology;~~

~~3. The Washington State Attorney General;~~

~~4. Any person who has submitted to the director written comments on the application;~~

~~5. Any person requesting notification prior to permit action.~~))

A.((~~B.~~)) In granting or extending a permit, the director may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed development and related development and activity outside of the shoreline as he finds necessary to make the permit compatible with the criteria set forth in Sections 25.04.030 and 25.32.010 of this title. Such conditions may include requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

B.((~~C.~~)) Issuance of a substantial development permit does not constitute approval pursuant to any other federal, state or county laws or regulations.

SECTION 62. Ordinance 3688, Section 810 and K.C.C. 25.32.100 are hereby amended as follows:

Appeals. A. Appeals from the final decision of the county with regard to shoreline management shall be governed solely by the provisions of RCW 90.58.180.

B. The effective date of King County's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

C. When a hearing and decision has occurred pursuant to Section 25.32.080 and the examiner's recommendation with regard to disposition of a proposed development pursuant to Titles ((~~19,~~)) 20 and ((~~Title~~)) 21A of this code requires King County council action, the final decision of the county pursuant to this title shall be effective on the date of filing as defined in RCW 90.58.140 for the purposes of appeal as provided in RCW 90.50.140. However, no development may occur until the King County council has taken final action on the examiner's recommendation required by Titles ((~~19,~~)) 20 and ((~~Title~~)) 21A of this code.

SECTION 63. Ordinance 3688, Section 813 and K.C.C. 25.32.130 are hereby amended as follows:

Shoreline environment redesignation. A. Shoreline environments designated by the master program may be redesignated by the County Council upon finding that such a redesignation will be consistent with:

1. The policy of Section 2 of the Shoreline Management Act of 1971;

2. The goals, objectives and policies of the master program;

3. The designation criteria of the shoreline environment designation requested.

B. Application for redesignation shall be made on forms and processed in a manner prescribed ((~~by the director~~)) in Chapter 20.24 K.C.C., chapter 20.XXX K.C.C.

C. The fee which shall accompany an application for a shoreline redesignation shall be as adopted by ordinance.

((~~D. Redesignations may be initiated by:~~

~~1. The verified application of the owner(s) of the property requested to be redesignated; or~~

~~2. The adoption of a motion by the council requesting the executive to set the matter for hearing and recommendation.~~))

D.((~~E.~~)) Applications for redesignation shall not be accepted by the department if a request for redesignation involving the same designation for substantially the same property has been denied within the last year.

((~~F. Upon receipt of a properly filed application for redesignation, the department shall prepare a report to the zoning and subdivision examiner.~~))

E.((~~G.~~)) The report and recommendation of the department shall be forwarded to the ((~~zoning and subdivision~~)) hearing examiner for consideration together with all relevant testimony at a public hearing to be held consistent with the procedures for a zone reclassification as provided in Chapter 20.42.

SECTION 64. Ordinance 11622, Section 5, and K.C.C. 16.82.054 are hereby repealed.

SECTION 65. Ordinance 11622, Section 6, and K.C.C. 16.82.056 are hereby repealed.

SECTION 66. Ordinance 263, Article 1, Section 1 and K.C.C. 20.08.010 are hereby repealed.

SECTION 67. Ordinance 3747, Sections 1-3 as amended and K.C.C. 20.24.200 are hereby repealed.

SECTION 68. Ordinance 263, Article 6 (part), Sections 1 through 6, and K.C.C. 20.28.010 - .070 are hereby repealed.

SECTION 69. Ordinance 10870, Section 46, and K.C.C. 21A.06.030 are hereby repealed.

SECTION 70. Ordinance 10870, Sections 595, 596, 597, and K.C.C. 21A.40.010,.020,.030 are hereby repealed.

SECTION 71. Ordinance 11621, Section 103, as amended, and K.C.C. 21A.40.035 are hereby repealed.

SECTION 72. Ordinance 11622, Section ~~17~~ 16, and K.C.C. 21A.40.037 are hereby repealed.

SECTION 73. Ordinance 11622, Sections 22 and 23, as amended, and K.C.C. 21A.40.040 - .050 are hereby repealed.

SECTION 74. Ordinance 11622, Section 601, as amended, and K.C.C. 21A.40.060 are hereby repealed.

SECTION 75. Ordinance 10870, Section 603, and K.C.C. 21A.40.080 are hereby repealed.

SECTION 76. Ordinance 10870, Section 604, as amended, and K.C.C. 21A.40.090 are hereby repealed.

SECTION 77. Ordinance 10870, Sections 605 through 608, and K.C.C. 21A.40.100 - .130 are hereby repealed.

SECTION 78. Ordinance 11621, Section 122, and K.C.C. 21A.41.030 are hereby repealed.

SECTION 79. Ordinance 11621, Section 123, and K.C.C. 21A.41.040 are hereby repealed.

SECTION 80. Ordinance 11621, Section 128, and K.C.C. 21A.41.090 are hereby repealed.

SECTION 81. Ordinance 10870, Sections 613 through 615, and K.C.C. 21A.42.050 through .070 are hereby repealed.

SECTION 82. Ordinance 11622, Section 11 and K.C.C. 25.32.012 are hereby repealed.

SECTION 83. Ordinance 11622, Section 12, as amended, and K.C.C. 25.32.014 are hereby repealed.

SECTION 84. Ordinance 11622, Sections 13, 14, and 15, and K.C.C. 25.32. 016, .024, and .026 are hereby repealed.

SECTION 85. Ordinance 3688, Section 803, as amended, and K.C.C. 25.32.030 are hereby repealed.

SECTION 86. Ordinance 3688, Section 807, and K.C.C. 25.32.070 are hereby repealed.

SECTION 87. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, such decisions shall not affect the validity of the remaining portion of this ordinance.

SECTION 88. Effective date. This ordinance shall become effective April 1, 1996 and shall apply to complete applications filed on and after that date.

SECTION 89. Emergency clause. The county council finds as a fact and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

INTRODUCED AND READ for the first time this 22nd day of January, 1996.

PASSED by a vote of 13 to 0 this 1st day of April, 1996.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Jane Hague
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

APPROVED this 12th day of April, 1996.

Gary Locke
King County Executive

Attachments: A: (Modifications to 1991 Uniform Building Code)
B: (Modifications to 1991 Uniform Fire Code)

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