

1 ..title

2 AN ORDINANCE relating to surface water management;
3 and amending Ordinance 9163, Section 2, as amended, and
4 K.C.C. 9.04.020, Ordinance 9163, Section 3, as amended,
5 and K.C.C. 9.04.030, Ordinance 2281, Section 5, as
6 amended, and K.C.C. 9.04.050, Ordinance 10636, Section 4,
7 as amended, and K.C.C. 9.12.025, Ordinance 10636, Section
8 5, as amended, and K.C.C. 9.12.035 and Ordinance 10636,
9 Section 10, as amended, and K.C.C. 9.12.080.

10 ..body

11 SECTION 1. Ordinance 9163, Section 2, as amended, and K.C.C. 9.04.020, as
12 amended, are each amended to read as follows:

13 The definitions in this section apply throughout this chapter unless the context
14 clearly requires otherwise.

15 A. "Adjustment" means a department-approved variation in the application of the
16 requirements of K.C.C. 9.04.050 and the Surface Water Design Manual to a particular
17 project in accordance with K.C.C. 9.04.050C. "Adjustment" replaces "variance," which
18 was used in prior editions of the Surface Water Design Manual.

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

24 C. "Basin" means a geographic area that contains and drains to a stream or river
25 named and noted on common maps, such as the Cedar river, Sammamish river, Green
26 river, Snoqualmie river, Skykomish river or White river, ~~((f))~~ or a geographic area that
27 drains to ~~((j*))~~ a nonflowing water body named and noted on common maps, such as
28 Lake Washington or Puget Sound.

29 D. "Basin plan" means a plan and all implementing regulations and procedures
30 including, but not limited to, capital projects, public education activities and land use
31 management adopted by ordinance for managing surface and storm water within the
32 basin.

33 E. "Closed depression" means an area greater than five thousand square feet at
34 overflow elevation that is low-lying and that has no or such a limited surface water outlet
35 that the area acts as a stormwater retention facility.

36 F. "Construct or modify" means to install a new drainage pipe or ditch or make
37 improvements to an existing drainage pipe or ditch, for purposes other than maintenance,
38 that either serves to concentrate previously unconcentrated surface and storm water
39 runoff or serves to increase, decrease or redirect the conveyance of surface and storm
40 water runoff. "Construct or modify" does not include installation or maintenance of a
41 driveway culvert installed as part of a single-family residential building permit.

42 G. "Conveyance system" means the drainage facilities and features, both natural
43 and constructed, that collect, contain and provide for the flow of surface and storm water
44 from the highest points on the land down to a receiving water. The natural elements of
45 the conveyance system include swales and small drainage courses, streams, rivers, lakes

46 and wetlands. The constructed elements of the conveyance system include gutters,
47 ditches, pipes, channels and most flow control and water quality treatment facilities.

48 H. "Department" means the department of natural resources and parks or its
49 successor.

50 I. "Development" means any activity that requires a permit or approval,
51 including, but not limited to, a building permit, grading permit, shoreline substantial
52 development permit, conditional use permit, special use permit, zoning variance or
53 reclassification, subdivision, short subdivision, urban planned development, binding site
54 plan, site development permit or right-of-way use permit. "Development" does not
55 include a Class I, II, III or IV-S forest practice conducted in accordance with chapter
56 76.09 RCW and Title 222 WAC or a class IV-G nonconversion forest practice, as defined
57 in K.C.C. chapter 21A.06, conducted in accordance with chapter 76.09 RCW and Title
58 222 WAC and a county-approved forest management plan.

59 J. "Director" means the director of the department of natural resources and parks,
60 or any duly authorized representative of the director.

61 K. "Drainage" means the collection, conveyance, containment or discharge, or
62 any combination thereof, of surface and storm water runoff.

63 L. "Drainage facility" means a constructed or engineered feature that collects,
64 conveys, stores or treats surface and storm water runoff. "Drainage facility" includes, but
65 is not limited to, a constructed or engineered stream, pipeline, channel, ditch, gutter, lake,
66 wetland, closed depression, flow control or water quality treatment facility, erosion and
67 sediment control facility and other structure and appurtenance that provides for drainage.

68 M. "Drainage review" means an evaluation by King County staff of a proposed
69 project's compliance with the drainage requirements in the Surface Water Design Manual.
70 The types of drainage review include: Small project drainage review, targeted drainage
71 review, full drainage review and large project drainage review.

72 N. "Erosion and sediment control" means any temporary or permanent measures
73 taken to reduce erosion, control siltation and sedimentation and ensure that
74 sediment-laden water does not leave the site or enter into wetlands or aquatic areas.

75 O. "Financial guarantee" means a form of financial security posted to do one or
76 more of the following: ensure timely and proper completion of improvements; ensure
77 compliance with the King County Code; or provide secured warranty of materials,
78 workmanship of improvements and design. "Financial guarantees" include assignments
79 of funds, cash deposit, surety bonds or other forms of financial security acceptable to the
80 director of the department of development and environmental services. "Performance
81 guarantee," "maintenance guarantee" and "defect guarantee" are considered sub
82 categories of financial guarantee.

83 P. "Flood hazard reduction plan" means a plan and all implementing programs,
84 regulations and procedures including, but not limited to, capital projects, public education
85 activities and enforcement programs for reduction of flood hazards and prepared in
86 accordance with RCW 86.12.200.

87 Q "Flow control best management practice" means a method or design for
88 dispersing, infiltrating or otherwise reducing or preventing development-related increases
89 in surface and storm water runoff at, or near, the sources of those increases. "Flow

90 control best management practice” includes the methods and designs specified in the
91 Surface Water Design Manual.

92 R. "Flow control facility" means a drainage facility designed to mitigate the
93 impacts of increased surface and storm water runoff generated by site development in
94 accordance with the drainage requirements in this chapter. A “flow control facility” is
95 designed either to hold water for a considerable length of time and then release it by
96 evaporation, plant transpiration or infiltration into the ground or to hold runoff for a short
97 period of time and then release it to the conveyance system.

98 S. "Full drainage review" means the evaluation required by K.C.C. 9.04.030 for
99 any proposed project, unless the project is subject to small project drainage review,
100 targeted drainage review or large project drainage review, that:

101 1. Would result in two thousand square feet or more of new impervious surface;
102 2. Would result in thirty-five thousand square feet or more of new pervious
103 surface: or

104 3. Is a redevelopment project on one or more parcels where the total of new and
105 replaced impervious surface is five thousand square feet or more and when the valuation
106 of proposed improvements exceeds fifty percent of the assessed value of the existing site
107 improvements, including interior improvements and excluding required mitigation and
108 frontage improvements.

109 T. "High-use site" means a commercial, industrial or road intersection site that
110 generates a higher than average number of vehicle turnovers or has other characteristics
111 that generate the potential for chronic oil accumulation. “High use site” includes:

112 1. A commercial or industrial site subject to:

113 a. an expected daily traffic count greater than one hundred vehicles per one
114 thousand square feet of gross building area;

115 b. petroleum storage or transfer in excess of one thousand gallons per year, not
116 including routine fuel oil storage or transfer; or

117 c. use, storage or maintenance of a fleet of twenty-five or more diesel vehicles
118 each weighing over ten tons; or

119 2. A road intersection with average daily traffic counts of twenty-five thousand
120 vehicles or more on the main roadway and fifteen thousand or more vehicles on any
121 intersecting roadway, excluding pedestrian or bicycle use improvement projects.

122 U. "Hydraulically connected" means connected through surface flow or water
123 features such as wetlands or lakes.

124 V. "Impervious surface" means a hard surface area that either prevents or retards
125 the entry of water into the soil mantle as under natural conditions before development or
126 that causes water to run off the surface in greater quantities or at an increased rate of flow
127 from the flow present under natural conditions prior to development. Common
128 impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways,
129 parking lots, storage areas, areas that are paved, graveled or made of packed or oiled
130 earthen materials or other surfaces that similarly impede the natural infiltration of surface
131 and storm water. An open uncovered flow control or water quality treatment facility is
132 not an "impervious surface".

133 W. "Improvement" means a permanent, human-made, physical change to land or
134 real property including, but not limited to, buildings, streets, driveways, sidewalks,

135 crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities and
136 landscaping.

137 X. "Land disturbing activity" means an activity that results in a change in the
138 existing soil cover, both vegetative and nonvegetative, or to the existing soil topography.
139 "Land disturbing activity" includes, but is not limited to, demolition, construction,
140 clearing, grading, filling, excavation and compaction. "Land disturbing activity" does
141 not include tilling conducted as part of agricultural practices, landscape maintenance or
142 gardening.

143 Y. "Lake management plan" means a plan describing the lake management
144 recommendations and requirements adopted by public rule for managing water quality
145 within individual lake basins.

146 Z. "Large project drainage review" means the evaluation required by K.C.C.
147 9.04.030 for any proposed project that:

148 1. Has an urban plan development land use designation in the King County
149 Comprehensive Plan land use map;

150 2. Would, at full buildout of the project site, result in fifty acres or more of new
151 impervious surface within a drainage subbasin or a number of subbasins hydraulically
152 connected across subbasin boundaries; or

153 3. Has a project site of fifty acres or more within a critical aquifer recharge area,
154 as defined in K.C.C. Title 21A.

155 AA. "Licensed civil engineer" means a person registered with the State of
156 Washington as a professional engineer in civil engineering.

157 BB. "Maintenance" means those usual activities taken to prevent a decline, lapse
158 or cessation in the use of currently serviceable structures, facilities, equipment or
159 systems, if there is no expansion of the structure, facilities, equipment or system and
160 there are no significant hydrologic impacts. "Maintenance" includes the repair or
161 replacement of nonfunctional facilities or the replacement of existing structures with
162 different types of structures, if the repair or replacement is required by one or more
163 environmental permits or to meet current engineering standards and the functioning
164 characteristics of the original facility or structure are not changed.

165 CC. "Master drainage plan" means a comprehensive drainage control plan
166 intended to prevent significant adverse impacts to the natural and constructed drainage
167 system, both on- and off-site.

168 DD. "Native vegetated surface" means a surface in which the soil conditions,
169 ground cover and species of vegetation are like those of the original native condition for
170 the site, as more specifically set forth in the Surface Water Design Manual.

171 EE. "Natural discharge location" means the location where runoff leaves the
172 project site under existing site conditions as defined in the Surface Water Design Manual.

173 FF. "New impervious surface" means the creation of a hard or compacted surface
174 such as roofs, pavement, gravel or dirt or the addition of a more compacted surface such
175 as the paving of existing dirt or gravel.

176 GG. "New pervious surface" means the conversion of a native vegetated surface
177 or other native surface to a nonnative pervious surface, including, but not limited to,
178 pasture land, grassland, cultivated land, lawn, landscaping or bare soil or any alteration of

179 existing nonnative pervious surface that results in increased surface and storm water
180 runoff as defined in the Surface Water Design Manual.

181 HH. "Pollution-generating impervious surface" means an impervious surface
182 considered to be a significant source of pollutants in surface and storm water runoff.
183 "Pollution-generating impervious surface includes those surfaces subject to vehicular use
184 or storage of erodible or leachable materials, wastes or chemicals and that receive direct
185 rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if
186 runoff from uphill could regularly run through it or if rainfall could regularly blow in and
187 wet the pavement surface. Metal roofs are also considered pollution-generating
188 impervious surface unless they are treated to prevent leaching.

189 II. "Pollution-generating pervious surface" means a nonimpervious surface
190 considered to be a significant source of pollutants in surface and storm water runoff.
191 "Pollution-generating pervious surfaces" include surfaces subject to the use of pesticides
192 and fertilizers, to the use or storage of erodible or leachable materials, wastes or
193 chemicals or to the loss of soil. "Pollution-generating pervious surface" includes, but is
194 not limited to, the lawn and landscaped areas of a residential or commercial site, golf
195 course, park sports field and county-standard grassed modular grid pavement.

196 JJ. "Project" means any proposed action to alter or develop a site that may also
197 require drainage review.

198 KK. "Project site" means the portion of a site and any offsite areas subject to
199 proposed project activities, alterations and improvements including those required by this
200 chapter.

201 LL. "Redevelopment project" means a project that proposes to add, replace or
202 modify impervious surface for purposes other than a residential subdivision or
203 maintenance on a site that:

204 1. Is already substantially developed in a manner that is consistent with its
205 current zoning or with a legal nonconforming use; or

206 2. Has an existing impervious surface coverage of thirty-five percent or more.

207 MM. "Replaced impervious surface" means an existing impervious surface
208 proposed to be removed and reestablished as impervious surface, excluding impervious
209 surface removed for the sole purpose of installing utilities or performing maintenance.
210 For purposes of this definition, "removed" includes the removal of buildings down to
211 bare soil or the removal of Portland cement concrete slabs or pavement or asphaltic
212 concrete pavement (~~((together with any asphalt treated base))~~).

213 NN. "Runoff" means that portion of water originating from rainfall and other
214 precipitation that flows over the surface or just below the surface from where it fell and is
215 found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and
216 shallow groundwater as well as on ground surfaces. For the purpose of this definition,
217 groundwater means all waters that exist beneath the land surface or beneath the bed of
218 any stream, lake or reservoir, or other body surface water, whatever may be the
219 geological formation or structure in which such water stands or flows, percolates or
220 otherwise moves.

221 OO. "Salmon conservation plan" means a plan and all implementing regulations
222 and procedures including, but not limited to, land use management adopted by ordinance,
223 capital projects, public education activities and enforcement programs for conservation

224 and recovery of salmon within a water resource inventory area designated by the state
225 under WAC 173-500-040.

226 PP. "Shared facility" means a drainage facility designed to meet one or more of
227 the requirements of K.C.C. 9.04.050 for two or more separate projects contained within a
228 basin. Shared facilities usually include shared financial commitments for those drainage
229 facilities.

230 QQ. "Site" means a single parcel, or two or more contiguous parcels that are
231 under common ownership or documented legal control, used as a single parcel for a
232 proposed project for purposes of applying for authority from King County to carry out a
233 proposed project. For projects located primarily within dedicated rights-of-way, "site"
234 includes the entire width of right-of-way subject to improvements proposed by the
235 project.

236 RR. "Small project drainage review" means the drainage review for a proposed
237 single-family residential project or agricultural project that:

- 238 1. Would result in:
- 239 a. ten thousand square feet or less of total impervious surface added on or after
240 January 8, 2001; or
- 241 b. four percent or less of total impervious surface on a site as specified in the
242 Surface Water Design Manual; and
- 243 2. Meets the small project drainage requirements specified in the Surface Water
244 Design Manual, including flow control best management practices, erosion and sediment
245 control measures and drainage plan submittal requirement; and

246 3. Limits new pervious surface as specified in the Surface Water Design
247 Manual.

248 SS. "Stormwater compliance plan" means a plan or study and all regulations and
249 procedures that have been adopted by the county to implement the plan or study,
250 including, but not limited to, capital projects, public education activities and enforcement
251 programs for managing stormwater quantity and quality discharged from the county's
252 municipal separate storm sewer system in compliance with the National Pollutant
253 Discharge Elimination System permit program under the Clean Water Act.

254 TT. "Subbasin" means a geographic area that:

- 255 1. Drains to a stream or water body named and noted on common maps; and
- 256 2. Is contained within the basin of the stream or water body.

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

260 VV. "Surface Water Design Manual" means the manual, and supporting
261 documentation referenced or incorporated in the manual, describing surface and storm
262 water design and analysis requirements, procedures and guidance that has been formally
263 adopted by rule under the procedures in K.C.C. chapter 2.98. The Surface Water Design
264 Manual is available from the department of development and environmental services or
265 the department of natural resources and parks, water and land resources division or their
266 successor agencies.

267 WW. "Targeted drainage review" means an abbreviated evaluation required by
268 K.C.C. 9.04.030 for certain types of proposed projects that are not subject to full or large

269 project drainage review. Targeted drainage review may be required for some projects in
270 small project drainage review.

271 XX. "Water quality treatment facility" means a drainage facility designed to
272 reduce pollutants once they are already contained in surface and storm water runoff. A
273 water quality treatment facility is the structural component of best management practices.
274 When used singly or in combination, a water quality treatment facility reduces the
275 potential for contamination of both surface and ground waters.

276 SECTION 2. Ordinance 9163, Section 3, as amended, and K.C.C. 9.04.030 are
277 each hereby amended to read as follows:

278 A. Drainage review is required when any proposed project is subject to a King
279 County development permit or approval and:

- 280 1. Would result in two thousand square feet or more of new impervious surface,
281 replaced impervious surface or new plus replaced impervious surface;
- 282 2. Would involve seven thousand square feet or more of land disturbing activity;
- 283 3. Would construct or modify a drainage pipe or ditch that is twelve inches or
284 more in size or depth or receives surface and storm water runoff from a drainage pipe or
285 ditch that is twelve inches or more in size or depth;
- 286 4. Contains or is adjacent to a flood hazard area as defined in K.C.C. chapter
287 21A.24;
- 288 5. Is located within a critical drainage area;
- 289 6. Is a redevelopment project proposing one hundred thousand dollars or more
290 of improvements to an existing high-use site; or

291 7. Is a redevelopment project on a site in which the total of new plus replaced
292 impervious surface is five thousand square feet or more and whose valuation of proposed
293 improvements, including interior improvements and excluding required mitigation and
294 frontage improvements, exceeds fifty percent of the assessed value of the existing site
295 improvements.

296 B. The drainage review for any proposed project shall be scaled to the scope of
297 the project's size, type of development and potential for impacts to the regional surface
298 water system to facilitate preparation and review of project applications. If drainage
299 review for a proposed project is required under subsection A. of this section, the
300 department of development and environmental services shall determine which of the
301 following drainage reviews apply as specified in the Surface Water Design Manual:

- 302 1. Small project drainage review;
- 303 2. Targeted drainage review;
- 304 3. Full drainage review; or
- 305 4. Large project drainage review.

306 SECTION 3. Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050 are
307 each hereby amended to read as follows:

308 A. A proposed project required to have drainage review by K.C.C. 9.04.030 must
309 meet each of the following core requirements which are described in detail in the Surface
310 Water Design Manual. Projects subject only to small project drainage review that meet
311 the small project drainage requirements specified in the Surface Water Design Manual,
312 including flow control best management practices, erosion and sediment control

313 measures and drainage plan submittal requirements are deemed to comply with the
314 following core requirements:

315 1. Core requirement 1: Discharge at the natural location. All surface and storm
316 water runoff from a project shall be discharged at the natural location so as not to be
317 diverted onto, or away from, downstream properties. The manner in which runoff is
318 discharged from the project site shall not create a significant adverse impact to downhill
319 properties or drainage systems as specified in the discharge requirements of the Surface
320 Water Design Manual;

321 2. Core requirement 2: Offsite analysis. The initial application submittal for
322 proposed projects shall include an offsite analysis report that assesses potential offsite
323 drainage and water quality impacts associated with development of the proposed site and
324 proposes appropriate mitigations to those impacts. This initial submittal shall include, at
325 minimum, a Level One downstream analysis as described in the Surface Water Design
326 Manual. If impacts are identified, the proposed projects shall meet any applicable
327 problem-specific requirements as specified in the Surface Water Design Manual;

328 3. Core Requirement 3: Flow control. Proposed projects that would result in
329 two thousand square feet or more of new impervious surface or thirty-five thousand
330 square feet or more of new pervious surface, or that are redevelopment projects that
331 would result in a total of five thousand square feet or more of new and replaced
332 impervious surface, shall provide flow control facilities or flow control BMPs, or both, to
333 control surface and storm water runoff generated by new impervious surface, new
334 pervious surface, replaced impervious surface and any existing impervious surface added
335 on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow

336 control facilities shall meet the area-specific flow control facility requirements and the
337 flow control facility implementation requirements applicable to the project site as
338 specified in the Surface Water Design Manual. Flow control BMPs shall also be applied
339 as specified in the Surface Water Design Manual. Projects subject to area-specific flow
340 control facility requirements shall meet one of the flow control facility performance
341 criteria listed in a. through c. of this subsection A.3., as directed by the Surface Water
342 Design Manual:

343 a. Level One shall match the predeveloped site's peak discharge rates for the
344 two-year and ten-year return periods;

345 b. Level Two shall meet Level One criteria and also match the predeveloped
346 site's discharge durations for the predeveloped peak discharge rates between the fifty
347 percent of the two-year peak flow through the fifty-year peak flow; or

348 c. Level Three shall meet Level Two criteria and also match the predeveloped
349 site's peak discharge rate for the one hundred-year return period;

350 4. Core requirement 4: Conveyance system. All engineered conveyance system
351 elements for proposed projects shall be analyzed, designed and constructed to provide the
352 minimum level of protection against overtopping, flooding, erosion and structural failure
353 as specified by the conveyance requirements for new and existing systems and
354 conveyance implementation requirements described in the Surface Water Design Manual;

355 5. Core requirement 5: Erosion and sediment control. All proposed projects
356 that will clear, grade or otherwise disturb the site shall provide erosion and sediment
357 control that prevents, to the maximum extent practicable, the transport of sediment from
358 the site to drainage facilities, water resources and adjacent properties. Erosion and

359 sediment controls shall be applied in accordance with K.C.C. chapter 16.82 as specified
360 by the temporary erosion and sediment control measures and performance criteria and
361 implementation requirements in the King County Surface Water Design Manual;

362 6. Core requirement 6: Maintenance and operation. Maintenance of all
363 drainage facilities in compliance with King County maintenance standards is the
364 responsibility of the applicant or property owner as described in the Surface Water
365 Design Manual, except those facilities for which King County assumes maintenance and
366 operation as described in K.C.C. 9.04.115 and 9.04.120 and the Surface Water Design
367 Manual;

368 7. Core requirement 7: Financial guarantees and liability. All drainage
369 facilities constructed or modified for projects, except downspout infiltration and
370 dispersion systems for single family residential lots, must comply with the liability
371 requirements of K.C.C. 9.04.100 and the financial guarantee requirements of K.C.C. Title
372 27A;

373 8. Core requirement 8: Water quality. Proposed projects that would result in
374 five thousand square feet or more of new pollution generating impervious surface or
375 thirty-five thousand square feet or more of new pollution-generating pervious surface, or
376 that are redevelopment projects that would result in a total of five thousand square feet or
377 more of new and replaced pollution-generating impervious surface, shall provide water
378 quality treatment facilities to treat polluted surface and storm water runoff generated by
379 new or replaced pollution-generating impervious surface, new pollution-generating
380 pervious surface and any existing pollution-generating impervious surface added on or
381 after January 8, 2001, as specified in the Surface Water Design Manual. However,

382 pervious surfaces are specifically excluded if there is a good faith agreement with the
383 King Conservation District to implement a farm management plan for agricultural uses,
384 and pervious areas for other uses are specifically excluded if King County department of
385 development and environmental services approves a landscape management plan that
386 controls pesticides and fertilizers leaving the site. Water quality treatment facilities shall
387 meet the area-specific water quality treatment requirements and the water quality
388 implementation requirements applicable to the project site as specified in the Surface
389 Water Design Manual. The facilities specified by these requirements are designed to
390 reduce pollutant loads according to the applicable annual average performance goals
391 listed in a. through d. of this subsection A.8. for ninety-five percent of the annual average
392 runoff volume:

- 393 a. for basic water quality: remove eighty percent of the total suspended solids;
- 394 b. for enhanced basic water quality: remove fifty percent of the total zinc;
- 395 c. for sensitive lake protection: remove fifty percent of the total phosphorus;

396 and

- 397 d. for sphagnum bog protection: remove fifty percent of the total phosphorus
398 and forty percent of the total nitrate plus nitrite. The discharge shall maintain a pH of
399 less than 6.5 and an alkalinity of less than ten milligrams per liter.

400 B. A proposed project required by K.C.C. 9.04.030 to have drainage review shall
401 meet any of the following special requirements which apply to the site and which are
402 described in detail in the Surface Water Design Manual. The department of development
403 and environmental services shall verify if a proposed project is subject to and must meet
404 any of the following special requirements.

405 1. Special Requirement 1: Other adopted area-specific requirements. If a
406 proposed project is in a designated critical drainage area, or is in an area included in an
407 adopted master drainage plan, basin plan, salmon conservation plan, stormwater
408 compliance plan, flood hazard reduction plan, lake management plan or shared facility
409 plan, then the proposed project shall meet the applicable drainage requirements of the
410 critical drainage area, master drainage plan, basin plan, salmon conservation plan,
411 stormwater compliance plan, flood hazard reduction plan, lake management plan or
412 shared facility plan;

413 2. Special Requirement 2: Floodplain/floodway delineation. If a proposed
414 project contains or is adjacent to a stream, lake, wetland or closed depression, or if other
415 King County regulations require study of flood hazards relating to the proposed project,
416 the one hundred year floodplain boundaries and floodway shall be determined and
417 delineated on the site improvement plans and profiles and any final maps prepared for the
418 proposed project. The flood hazard study shall be prepared for as specified in the Surface
419 Water Design Manual;

420 3. Special Requirement 3: Flood protection facilities. If a proposed project
421 contains or is adjacent to a stream that has an existing flood protection facility, such as a
422 levee, revetment or berm, or proposes to either construct a new or modify an existing
423 flood protection facility, then the flood protection facilities shall be analyzed and
424 designed as specified in the Surface Water Design Manual to conform with the Federal
425 Emergency Management Agency regulations as found in 44 C.F.R.;

426 4. Special Requirement 4: Source Control. If a proposed project requires a
427 commercial building or commercial site development permit, then water quality source

428 controls shall be applied to prevent rainfall and runoff from coming into contact with
429 pollutants to the maximum extent practicable. Water quality source controls shall be
430 applied in accordance with K.C.C. chapter 9.12, the King County stormwater pollution
431 prevention manual and the Surface Water Design Manual. All structural source controls
432 shall be identified on the site improvement plans and profiles or final maps prepared for
433 the proposed project; and

434 5. Special Requirement 5: Oil control. If a proposed project is a high-use site or
435 is a redevelopment project proposing one hundred thousand dollars or more of
436 improvements to an existing high-use site, then oil control shall be applied to all runoff
437 from the high-use portion of the site as specified in the Surface Water Design Manual.

438 C.1. An adjustment to the requirements contained in this section or other
439 requirements in the Surface Water Design Manual may be proposed. The resulting
440 development shall be subject to all of the remaining terms and conditions of this chapter
441 and the adjustment shall:

- 442 a. produce a compensating or comparable result in the public interest; and
- 443 b. meet this chapter's objectives of safety, function, appearance, environmental
444 protection and maintainability based upon sound engineering judgment.

445 2. If complying with subsection C.1.a. of this section will deny all reasonable
446 use of a property, the best practicable alternative shall be obtained as determined by the
447 director of the department of development and environmental services according to the
448 adjustment process defined in the Surface Water Design Manual.

449 3. Requests for adjustments that may conflict with the requirements of any other
450 King County division shall require review and concurrence with that division.

451 4. A request for an adjustment is a Type 1 land use decision as provided for in
452 K.C.C. 20.20.060 and shall be processed in accordance with the procedures specified in
453 the Surface Water Design Manual.

454 5. The county may require monitoring of experimental designs and technology
455 or untested applications proposed by the applicant in order to determine compliance with
456 subsection C.1. of this section and the approved plans and conditions.

457 6. The applicant may appeal an adjustment decision by following the appeal
458 procedures as specified in the Surface Water Design Manual.

459 D. The drainage review requirements in this section and in the Surface Water
460 Design Manual may be modified or waived under the procedures in K.C.C. 21A.55.060.

461 SECTION 4. Ordinance 10636, Section 4, as amended, and K.C.C. 9.12.025 are
462 each hereby amended to read as follows:

463 A.1. It is unlawful for any person to discharge any contaminants into surface and
464 storm water, ground water or Puget Sound. Contaminants include, but are not limited, to
465 the following:

- 466 a. trash or debris;
- 467 b. construction materials;
- 468 c. petroleum products including but not limited to oil, gasoline, grease, fuel oil,
469 heating oil;
- 470 d. antifreeze and other automotive products;
- 471 e. metals in either particulate or dissolved form;
- 472 f. flammable or explosive materials;
- 473 g. radioactive material;

- 474 h. batteries;
- 475 i. acids, alkalis, or bases;
- 476 j. paints, stains, resins, lacquers or varnishes;
- 477 k. degreasers and solvents;
- 478 l. drain cleaners;
- 479 m. pesticides, herbicides or fertilizers;
- 480 n. steam cleaning wastes;
- 481 o. soaps, detergents or ammonia;
- 482 p. swimming pool backwash;
- 483 q. chlorine, bromine and other disinfectants;
- 484 r. heated water;
- 485 s. domestic animal wastes;
- 486 t. sewage;
- 487 u. recreational vehicle waste;
- 488 v. animal carcasses;
- 489 w. food wastes;
- 490 x. bark and other fibrous materials;
- 491 y. collected lawn clippings, leaves or branches;
- 492 z. silt, sediment or gravel;
- 493 aa. dyes, except as stated in subsection C.1. of this section;
- 494 bb. chemicals not normally found in uncontaminated water;
- 495 cc. any hazardous material or waste not listed above.

496 2. Illicit connections. Any connection identified by the director that could
497 convey anything not composed entirely of surface and storm water directly to surface and
498 storm water or ground water is considered an illicit connection and is prohibited with the
499 following exceptions:

500 a. connections conveying allowable discharges;

501 b. connections conveying discharges pursuant to an NPDES permit, other than
502 an NPDES storm water permit, or a State Waste Discharge Permit; and

503 c. connections conveying effluent from onsite sewage disposal systems to
504 subsurface soils.

505 B. BMPs shall be applied to any business or residential activity that might result
506 in prohibited discharges as specified in the Stormwater Pollution Prevention Manual or as
507 determined necessary by the director. Activities that might result in prohibited
508 discharges include but are not limited to following:

509 1. Potable water line flushing;

510 2. Lawn watering with potable water;

511 3. Dust control with potable water;

512 3. Automobile and boat washing;

513 4. Pavement and building washing;

514 5. Swimming pool and hot tub maintenance;

515 6. Auto repair and maintenance;

516 7. Building repair and maintenance;

517 8. Landscape maintenance;

518 9. Hazardous waste handling;

519 10. Solid and food waste handling; and

520 11. Application of pesticides.

521 C. The following types of discharges shall not be considered prohibited
522 discharges for the purpose of this chapter unless the director determines that the type of
523 discharge, whether singly or in combination with other discharges, is causing significant
524 contamination of surface and storm water or ground water:

525 1. ((Potable)) Spring water;

526 2. ((Potable water line flushing)) Diverted stream flows;

527 3. Uncontaminated water from crawl space pumps, foundation drains or footing
528 drains;

529 4. Lawn watering with potable water or collected rainwater;

530 5. ((Residential car and boat washing)) Pumped groundwater flows that are
531 uncontaminated;

532 6. Materials placed as part of an approved habitat restoration or bank
533 stabilization project;

534 7. Natural uncontaminated surface water or ground water;

535 8. Flows from riparian habitats and wetlands;

536 9. The following discharges from boats: engine exhaust; cooling waters;
537 effluent from sinks; showers and laundry facilities; and treated sewage from Type I and
538 Type II marine sanitation devices;

539 10. ~~((Prohibited discharges to which BMPs are applied as specified in the~~
540 ~~Stormwater Pollution Prevention Manual or as determined necessary by the director.~~
541 ~~Activities that might result in prohibited discharges to which BMPs may be applied~~

542 ~~include, but are not limited to, residential auto repair and maintenance, residential auto~~
543 ~~washing, residential hazardous waste handling, residential maintenance and repair,~~
544 ~~residential solid and food waste handling and residential swimming pool and hot tub~~
545 ~~maintenance; and~~) Collected rainwater that is uncontaminated;

546 11. Uncontaminated groundwater that seeps into or otherwise enters stormwater
547 conveyance systems;

548 12. Air conditioning condensation;

549 13. Irrigation water from agricultural sources that is commingled with
550 stormwater runoff; and

551 14. Other types of discharges as determined by the director.

552 ~~((C.1.))~~ D.1. Dye testing is allowable but requires verbal notification to the King
553 County water and land resources division at least one day prior to the date of test. The
554 King County department of public health is exempt from this requirement.

555 2. A person does not violate subsection A. of this section if:

556 a. That person has properly designed, constructed, implemented and is
557 maintaining BMPs and is carrying out AKART as required by this chapter, but
558 contaminants continue to enter surface and storm water or ground water; or

559 b. That person can demonstrate that there are no additional contaminants being
560 discharged from the site above the background conditions of the water entering the site.

561 3. A person who, under subsection ~~((C.2.))~~ D.2. of this section, is not in
562 violation of subsection A. of this section is liable for any prohibited discharges through
563 illicit connections, dumping, spills, improper maintenance of BMPs or other discharges
564 that allow contaminants to enter surface and storm water or ground water.

565 4. Emergency response activities or other actions that must be undertaken
566 immediately or within a time too short to allow full compliance with this chapter in order
567 to avoid an imminent threat to public health or safety, shall be exempt from this section.
568 The director by public rule may specify actions that qualify for this exception in county
569 procedures. A person undertaking emergency response activities shall take steps to
570 ensure that the discharges resulting from such activities are minimized. In addition, this
571 person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence.

572 SECTION 5. Ordinance 10636, Section 5, as amended, and K.C.C. 9.12.035 are
573 each hereby amended to read as follows:

574 A. Compliance with this chapter shall be achieved through the use of the best
575 management practices described in the Stormwater Pollution Prevention Manual. In
576 applying the Stormwater Pollution Prevention Manual, the director shall first require the
577 implementation of source control BMPs. If these are not sufficient to prevent
578 contaminants from entering surface and storm water or ground water, the director may
579 require implementation of treatment BMPs as set forth in AKART. The King County
580 water and land resources division will provide, upon reasonable request, available
581 technical assistance materials and information, and information on outside financial
582 assistance options to persons required to comply with this chapter.

583 B. In applying the Stormwater Pollution Prevention Manual to prohibited
584 discharges from normal single family residential activities, the director shall use public
585 education and warnings as primary method of gaining compliance with this chapter and
586 shall not use citations, notice and orders, assessment of civil penalties and fines, or other
587 compliance actions as authorized in K.C.C. 23.02.040, unless the director determines:

588 1. The discharge from a normal single family residential activity, whether singly
589 or combination with other discharges, is causing a significant contribution of
590 contaminants to surface and storm water or ground water; or

591 2. The discharge from a normal single family residential activity poses a hazard
592 to the public health, safety or welfare, endangers any property or adversely affects the
593 safety and operation of county right-of-way, utilities or other county-owned or
594 maintained property.

595 C. Persons implementing BMPs through another federal, state or local program
596 will not be required to implement the BMPs prescribed in the county's Stormwater
597 Pollution Prevention Manual, unless the director determines the alternative BMPs are
598 ineffective at reducing the discharge ~~((of))~~ of contaminants. If the other program requires
599 the development of a stormwater pollution prevention plan or other best management
600 practices plan, the person shall make the plan available to King County upon request.

601 Persons who qualify for exemptions include, but are not limited to, persons:

602 1. Required to obtain a general or individual NPDES permit ~~((for storm water~~
603 ~~discharges))~~ from the Washington state Department of Ecology;

604 2. Implementing and maintaining, as scheduled, a King Conservation District-
605 approved farm management plan;

606 3. ~~((Who have received a permit under a Washington state Department of~~
607 ~~Ecology NPDES general or individual permit for commercial dairy operations;~~

608 4.)) Implementing BMPs in compliance with K.C.C. chapter 21A.30;

609 ~~((5.))~~ 4. Implementing BMPs in compliance with the management program of
610 the county's municipal NPDES permit;

611 ~~((6.))~~ 5. Engaged in forest practices, with the exception of forest practices
612 occurring on lands platted after January 1, 1960, or on lands being converted to another
613 use or when regulatory authority is otherwise provided to local government by RCW
614 76.09.240; or

615 ~~((7.))~~ 6. Identified by the director as being exempt from this section.

616 SECTION 6. Ordinance 10636, Section 10, as amended, and K.C.C. 9.12.080 are
617 each hereby amended to read as follows:

618 The enforcement provisions for water quality are intended to encourage
619 compliance with this chapter. To achieve this, violators will be required to take
620 corrective action and comply with the requirements of this chapter, and may be required
621 to pay a civil penalty for the redress of ecological, recreational, and economic values lost
622 or damaged due to their unlawful action.

623 A. The provisions in this section are in addition to and not in lieu of any other
624 penalty, sanction or right of action provided by law.

625 B. Any person in violation of this chapter shall be subject to civil penalties
626 assessed as follows:

627 1. An amount reasonably determined by the director to be equivalent to the
628 economic benefit the violator derives from the violation as measured by: the greater of
629 the resulting increase in market value of the property or business value received by the
630 violator, or savings of construction or retrofitting costs realized by the violator
631 performing any act in violation of this chapter; and

632 2. An amount, not to exceed \$25,000, that is reasonably based upon the nature
633 and gravity of the violation and the cost to the county of enforcing this chapter against the
634 violator.

635 C. Any person who, through an act of commission or omission, aids or abets in a
636 violation shall be considered to have committed the violation for the purposes of the civil
637 penalty.

638 D. Each violator is jointly and severally liable for a violation of this chapter. The
639 director may take enforcement action, in whole or in part, against any violator. The
640 decisions whether to take enforcement action, what type of action to take, and which
641 person to take action against, are all entirely within the director's discretion. Factors to be
642 used in taking such enforcement actions shall be:

- 643 1. Awareness of the violation;
- 644 2. Ability to correct the violation;
- 645 3. Cooperation with government agencies;
- 646 4. Degree of impact or potential threat to water or sediment quality, human
647 health, or the environment.

648 In the event more than one person is determined to have violated the provisions of
649 this chapter, all applicable civil penalties may be imposed against each person, and
650 recoverable damages, costs, and expenses may be allocated among the persons on any
651 equitable basis. Factors that may be considered in determining an equitable allocation
652 include:

- 653 1. Awareness of the violation;
- 654 2. Ability to correct the violation;

- 655 3. Ability to pay damages, costs, and expenses;
- 656 4. Cooperation with government agencies;
- 657 5. Degree of impact or potential threat to water or sediment quality, human
- 658 health, or the environment.

659 E. The director or the director's designee may engage in mitigation discussions

660 with the violator. The director or the director's designee may reduce the ((P))penalties

661 ((may be reduced)) based upon one or more of the following mitigating factors:

- 662 1. The person responded to county attempts to contact the person and
- 663 cooperated with efforts to correct the violation;
- 664 2. The person showed due diligence and/or substantial progress in correcting the
- 665 violation; or
- 666 3. An unknown person was the primary cause of the violation.
- 667 Payment of a monetary penalty pursuant to this chapter does not relieve the person of the
- 668 duty to correct the violation.

669 F. All civil penalties recovered during the enforcement of this chapter under this

670 title and K.C.C. Title 23 shall be deposited into a fund of the division taking the

671 enforcement action and shall be used for the protection of surface and storm water or

672 ground water as set forth in this chapter, through education or enhanced implementation.

673 SECTION 7. Pursuant to K.C.C. 20.44.080, the metropolitan King County

674 council finds that the requirements for environmental analysis, protections and mitigation

675 measures in the chapters of K.C.C. Title 9 amended by this ordinance, provide adequate

676 analysis of and mitigation for the specific adverse environmental impacts to which the

677 requirements apply.

678 SECTION 8. If any provision of this ordinance or its application to any person or
679 circumstance is held invalid, the remainder of the ordinance or the application of the
680 provision to other persons or circumstances is not affected.