



Legislation Text

File #: 2016-0012, **Version:** 3

AN ORDINANCE amending King County stormwater and surface water management requirements to comply with state requirements for stormwater management and improve protection of water quality, aquatic resources, public health, safety and welfare; amending Ordinance 9163, Section 1, as amended, and K.C.C. 9.04.010, Ordinance 9163, Section 2, as amended, and K.C.C. 9.04.020, Ordinance 9163, Section 3, as amended and K.C.C. 9.04.030, Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050, Ordinance 2281, Section 6, as amended, and K.C.C. 9.04.070, Ordinance 4938, Section 12, as amended, and K.C.C. 9.04.140, Ordinance 10636, Section 2, as amended, and K.C.C. 9.12.005, Ordinance 10636, Section 3, as amended, and K.C.C. 9.12.015, Ordinance 10636, Section 4, as amended, and K.C.C. 9.12.025, Ordinance 10636, Section 5, as amended, and K.C.C. 9.12.035, Ordinance 10636, Section 6, as amended, and K.C.C. 9.12.045, Ordinance 10636, Section 7, as amended, and K.C.C. 9.12.050, Ordinance 10636, Section 8, as amended, and K.C.C. 9.12.060, Ordinance 10636, Section 10, as amended, and K.C.C. 9.12.080, Ordinance 15753, Section 4, and K.C.C. 14.42.030, Ordinance 11210, Section 9, and K.C.C. 21A.16.085 and Ordinance 15051, Section 234, and K.C.C. 21A.24.550, adding a new section to K.C.C. chapter 9.04, adding a new section to K.C.C. chapter 21A.06, repealing Ordinance 16392, Section 4, and K.C.C. 9.20.010, Ordinance 16392, Section 5, and K.C.C. 9.20.020, Ordinance 16392, Section 6, and K.C.C. 9.20.030 and

Ordinance 16392, Section 7, and K.C.C. 9.20.040 and prescribing penalties.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 9163, Section 1, as amended, and K.C.C. 9.04.010 are hereby amended to read as follows:

The council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of stormwater runoff and surface ~~((and storm))~~ water((s)) and erosion control, especially that which preserves and utilizes the many values of the county's natural drainage system including open space, fish and wildlife habitat, recreation, education and urban separation. The council also finds that King County shall conduct programs to reduce flooding, erosion((s)) and sedimentation; prevent and mitigate habitat loss; enhance groundwater recharge; and prevent water quality degradation through the implementation of comprehensive and thorough permit review, construction inspection, enforcement((s)) and maintenance, in order to promote the effectiveness of the requirements contained in this chapter.

SECTION 2. Ordinance 9163, Section 2, as amended, and K.C.C. 9.04.020 are hereby amended to read as follows:

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

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

B. "Applicant" means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement under 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.

C. "Basin" means a geographic area that contains and drains to a stream or river named and noted on common maps, such as the Cedar river, Sammamish river, Green river, Snoqualmie river, Skykomish river or White river, or a geographic area that drains to a nonflowing water body named and noted on common maps, such as Lake Washington or Puget Sound.

D. "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 water and (~~(storm water)~~) stormwater within the basin.

E. "Best management practice" or "BMP" means any schedule of activities, prohibition of practices, maintenance procedure, or structural and/or managerial practice approved by King County that, when used singly or in combination, prevents or reduces the release of pollutants and other adverse impacts to surface water, stormwater and groundwater.

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

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

~~(G.)~~ H. "Construction stormwater pollution prevention BMP" means a control or measure that prevents or reduces the discharge of pollutants and sediments resulting from construction activities.

I. "Conveyance system" means the drainage facilities and features, both natural and constructed, that ((

~~collect, contain and~~) provide for the ~~((flow))~~ collection and transport of surface ~~((and storm))~~ water ~~((from the highest points on the land down to a receiving water))~~ or stormwater runoff. The natural elements of the "conveyance system" include swales and small drainage courses, streams, rivers, lakes and wetlands. The constructed elements of the "conveyance system" include gutters, ditches, pipes, catch basins, channels and most flow control and water quality ~~((treatment))~~ facilities.

~~((H.))~~ J. "Department" means the department of natural resources and parks or its successor.

~~((I.))~~ K. "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, binding site plan, site development permit or right-of-way use permit. "Development" does not include forest management activities, as defined in K.C.C. chapter 21A.06.

~~((J.))~~ L. "Directed drainage review" means the drainage review for a proposed single-family residential project or agricultural project that is not subject to simplified or large project drainage review.

M. "Director" means the director of the department of natural resources and parks, or ~~((any duly authorized representative of the director))~~ the authorized representatives of the director, including compliance officers and inspectors whose responsibility includes the detection and reporting of code violations.

~~((K.))~~ N. "Drainage" means the collection, conveyance, containment or discharge, or any combination thereof, of stormwater runoff or surface ~~((and storm))~~ water ~~((runoff))~~.

~~((L.))~~ O. "Drainage facility" means a constructed or engineered feature that collects, conveys, stores, ~~((or))~~ treats or otherwise manages stormwater runoff or surface ~~((and storm))~~ water ~~((runoff))~~. "Drainage facility" includes, but is not limited to, a constructed or engineered stream, ~~((pipeline))~~ lake, wetland or closed depression, or a pipe, channel, ditch, gutter, ((lake, wetland, closed depression)) flow control ((or)) facility, flow control BMP, water quality ((treatment)) facility, erosion and sediment control facility and any other structure and appurtenance that provides for drainage.

~~((M.))~~ P. "Drainage review" means an evaluation by King County staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual. The types of drainage review include: ~~((Small project))~~ Simplified drainage review, targeted drainage review, directed drainage review, full drainage review and large project drainage review.

~~((N.))~~ Q. "Erosion and sediment 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 or enter into wetlands or aquatic areas.

~~((O.))~~ R. "Financial guarantee" means a form of financial security posted to do one or more of the following: ensure timely and proper completion of improvements; ensure compliance with the King County Code; or provide secured warranty of materials, workmanship of improvements and design. "Financial guarantees" include assignments of funds, cash deposit, surety bonds or other forms of financial security acceptable to the director of the department of permitting and environmental review. "Performance guarantee," "maintenance guarantee" and "defect guarantee" are considered sub categories of financial guarantee.

~~((P.))~~ S. "Flood hazard management plan" means a plan and all implementing goals, objectives, guiding principles, policies and programs, including, but not limited to, capital projects, public outreach and education activities and enforcement programs for reduction of flood risks and prepared in accordance with RCW 86.12.200.

~~((Q.))~~ T. "Flow control ~~((best management practice))~~ BMP" means a ~~((method or design for dispersing, infiltrating or otherwise reducing or preventing development-related increases in surface and storm water))~~ small scale drainage facility or feature that is part of a development site strategy to use processes such as infiltration, dispersion, storage, evaporation, transpiration, forest retention and reduced impervious surface footprint to mimic pre-developed hydrology and minimize stormwater runoff ~~((at, or near, the sources of those increases))~~. "Flow control ~~((best management practice))~~ BMPs" include~~((s))~~ the methods and designs specified in the Surface Water Design Manual. Flow control BMPs are also known as low impact development, or LID,

BMPs.

~~((R:))~~ U. "Flow control facility" means a drainage facility designed in accordance with the drainage requirements in this chapter to mitigate the impacts of increased ~~((surface and storm water))~~ stormwater runoff generated by site development ~~((in accordance with the drainage requirements in this chapter))~~. A "flow control facility" is designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration or infiltration into the ground or to hold runoff for a short period of time and then release it to the conveyance system.

~~((S:))~~ V. "Full drainage review" means the evaluation required by K.C.C. 9.04.030 for any proposed project, unless the project is subject to ~~((small project))~~ simplified drainage review, targeted drainage review, directed drainage review or large project drainage review, that:

1. Would result in two thousand square feet or more of new impervious surface, replaced impervious surface or new plus replaced impervious surface; or
2. Would result in ~~((thirty-five))~~ seven thousand square feet or more of ~~((new pervious surface: or~~
3. ~~Is a redevelopment project on one or more parcels where the total of new and replaced impervious surface is five thousand square feet or more and when the valuation of proposed improvements exceeds fifty percent of the assessed value of the existing site improvements, including interior improvements and excluding required mitigation and frontage improvements))~~ land disturbing activity.

~~((T:))~~ W. "Groundwater" means all water found in the soil and stratum beneath the land surface or beneath the bed of any surface water.

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

1. The area of ~~((A))~~ a commercial or industrial site subject to:
 - a. an expected daily traffic count greater than one hundred vehicles per one thousand square feet of

gross building area;

b. petroleum storage or transfer in excess of one thousand five hundred gallons per year, not including routine ~~((fuel))~~ heating oil storage or transfer at the end-user point of delivery; or

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

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

~~((U-))~~ Y. "Hydraulically connected" means connected through surface flow or water features such as wetlands or lakes.

~~((V-))~~ Z. "Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions before development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions before development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas that are paved, graveled, or made of packed or oiled earthen materials, or other surfaces that similarly impede the natural infiltration of surface ~~((and storm))~~ water or stormwater. For purposes of applying the impervious surface thresholds in this chapter, permeable pavement, vegetated roofs and underdrained pervious surfaces are considered "impervious surface," while ~~((A))~~ an open uncovered flow control or water quality ~~((treatment))~~ facility is not ~~((an "impervious surface"))~~.

~~((W-))~~ AA. "Improvement" means a permanent, human-made, physical change to land or real property including, but not limited to, buildings, streets, driveways, sidewalks, crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities and landscaping.

~~((X-))~~ BB. "Land disturbing activity" means an activity that results in a change in the existing soil cover, both vegetative and nonvegetative, or to the existing soil topography. "Land disturbing activity"

includes, but is not limited to, demolition, construction, clearing, grading, filling, excavation and compaction. "Land disturbing activity" does not include tilling conducted as part of agricultural practices, landscape maintenance or gardening.

~~((Y-))~~ CC. "Lake management plan" means a plan describing the lake management recommendations and requirements adopted by public rule for managing water quality within individual lake basins.

~~((Z-))~~ DD. "Large project drainage review" means the evaluation required by K.C.C. 9.04.030 for any proposed project that:

1. Has an urban plan development land use designation in the King County Comprehensive Plan land use map;
2. Would, at full buildout of the project site, result in fifty acres or more of new impervious surface within a drainage subbasin or a number of subbasins hydraulically connected across subbasin boundaries; or
3. Has a project site of fifty acres or more within a critical aquifer recharge area, as defined in K.C.C. Title 21A.

~~((AA-))~~ EE. "Licensed civil engineer" means a person registered with the State of Washington as a professional engineer in civil engineering.

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

~~((CC-))~~ GG. "Master drainage plan" means a comprehensive drainage control plan required for projects subject to large project drainage review and intended to prevent significant adverse impacts to ~~((the natural and~~

~~constructed drainage system~~) surface water and groundwater, both ~~((on and off site))~~ onsite and offsite.

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

~~((EE.))~~ II. "Natural discharge location" means the location where runoff leaves the project site under existing site conditions as defined in the Surface Water Design Manual.

~~((FF.))~~ JJ. "Natural hazard" means a condition in land or water, or both, that arises in whole or in part out of natural processes and that creates a threat of immediate and substantial harm. A "natural hazard" may include, but is not limited to, a beaver dam, a debris dam in a stream, severe erosion at the base of a steep slope or a stream displaced from its original channel.

KK. "New impervious surface" means the creation of ~~((a hard or compacted surface such as roofs, pavement, gravel or dirt))~~ impervious surface or the addition of a more compacted surface such as the paving of existing dirt or gravel.

~~((GG.))~~ LL. "New pervious surface" means the conversion of a native vegetated surface or other native surface to a nonnative pervious surface, including, but not limited to, pasture land, grassland, cultivated land, lawn, landscaping or bare soil or any alteration of existing nonnative pervious surface that results in increased ~~((surface and storm water))~~ stormwater runoff as defined in the Surface Water Design Manual.

~~((HH.))~~ MM. "Pollution-generating impervious surface" means an impervious surface considered to be a significant source of pollutants in ~~((surface and storm water))~~ stormwater runoff. "Pollution-generating impervious surface" includes those surfaces subject to vehicular use; industrial activities; or storage of erodible or leachable materials, wastes or chemicals and that receive direct rainfall or the run-on or blow-in of rainfall. A covered parking area would be included if runoff from uphill could regularly run through it or if rainfall could regularly blow in and wet the pavement surface. Metal roofs are also considered pollution-generating impervious surface unless they are treated to prevent leaching. Roofs exposed to the venting of significant

amounts of dusts, mists or fumes from manufacturing, commercial or other indoor activities are also included, as are vegetated roofs exposed to pesticides, fertilizers or loss of soil.

~~((H-))~~ NN. "Pollution-generating pervious surface" means a nonimpervious surface considered to be a significant source of pollutants in ~~((surface and storm water))~~ stormwater runoff. "Pollution-generating pervious surfaces" include: surfaces subject to vehicular use, industrial activities, storage of erodible or leachable materials, wastes or chemicals, and that receive direct rainfall or the run-on or blow-in of rainfall; or surfaces subject to the use of pesticides and fertilizers ~~((, to the use or storage of erodible or leachable materials, wastes or chemicals))~~ or to the loss of soil. "Pollution-generating pervious surface" includes, but is not limited to, the lawn and landscaped areas of a residential ~~((or)),~~ commercial~~((;))~~ or industrial site or land use, golf course, park, sports field and county-standard grassed modular grid pavement.

~~((J-))~~ OO. "Project" means any proposed action to alter or develop a site that may also require drainage review.

~~((K-))~~ PP. "Project site" means the portion of a site and any offsite areas subject to proposed project activities, alterations and improvements including those required by this chapter.

~~((L-))~~ QQ. "Redevelopment project" means a project that proposes to add, replace or modify impervious surface for purposes other than a residential subdivision or maintenance on a site that:

1. Is already substantially developed in a manner that is consistent with its current zoning or with a legal nonconforming use; or
2. Has an existing impervious surface coverage of thirty-five percent or more.

~~((M-))~~ RR. "Replaced impervious surface" means an existing impervious surface proposed to be removed and reestablished as impervious surface, excluding impervious surface removed for the sole purpose of installing utilities or performing maintenance. ~~((For purposes of this definition, "removed" includes the removal of buildings down to bare soil or the removal of Portland cement concrete slabs or pavement or asphaltic concrete pavement.))~~ For structures, "removed" means the removal of buildings down to the

foundation. For other impervious surfaces, "removed" means the removal down to base course or bare soil.
For purposes of this definition, "base course" means the layer of crushed rock that typically underlies an asphalt or concrete pavement.

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

~~OO.))~~ SS. "Salmon conservation plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance, capital projects, public education activities and enforcement programs for conservation and recovery of salmon within a water resource inventory area designated by the state under WAC 173-500-040.

~~((PP.))~~ TT. "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. Shared facilities usually include shared financial commitments for those drainage facilities.

~~((QQ.))~~ UU. "Simplified drainage review" means the drainage review for a proposed single-family residential project or agricultural project that:

1. Would result in impervious and new pervious surface insufficient to require a flow control or water quality facility as specified in K.C.C. 9.04.050 and the Surface Water Design Manual; and
2. Meets the simplified drainage requirements and BMPs specified in the Surface Water Design Manual, including flow control BMPs, construction stormwater pollution prevention BMPs, and drainage plan submittal requirements.

VV. "Site" means a single parcel, or either two or more contiguous parcels that are under common

ownership or documented legal control or a portion of a single parcel under documented legal control separate from the remaining parcel, used as a single parcel for a proposed project for purposes of applying for authority from King County to carry out a proposed project. For projects located primarily within dedicated rights-of-way, "site" includes the entire width of right-of-way subject to improvements proposed by the project.

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

~~1. Would result in:~~

- ~~a. ten thousand square feet or less of total impervious surface added on or after January 8, 2001; or~~
- ~~b. four percent or less of total impervious surface on a site as specified in the Surface Water Design~~

~~Manual; and~~

~~2. Meets the small project drainage requirements specified in the Surface Water Design Manual, including flow control best management practices, erosion and sediment control measures and drainage plan submittal requirement; and~~

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

~~SS.)) WW. "Stormwater" means the water produced during precipitation or snowmelt, which runs off, soaks into the ground or is dissipated into the atmosphere. Stormwater that runs off or soaks into the ground ultimately becomes surface water or groundwater.~~

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

~~((TT.)) YY. "Stormwater runoff" means stormwater that flows over, or just below, the surface where it fell or melted. "Stormwater runoff" contributes to and becomes surface water or groundwater.~~

ZZ. "Subbasin" means a geographic area that:

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

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

~~∇V.))~~ AAA. "Surface water" means the water that exists on land surfaces before, during, and after stormwater runoff occurs and includes, but is not limited to, the water found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and Puget Sound. It also includes shallow groundwater.

BBB. "Surface Water Design Manual" means the manual, and supporting documentation referenced or incorporated in the manual, describing surface and ~~((storm water))~~ stormwater design and analysis requirements, procedures and guidance ~~((that has been formally adopted by rule under the procedures in K.C.C. chapter 2.98))~~. The "Surface Water Design Manual" is formally adopted by rule under the procedures of K.C.C. chapter 2.98 and is available from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division or their successor agencies.

~~((WW.))~~ CCC. "Targeted drainage review" means an abbreviated evaluation required by K.C.C. 9.04.030 for certain types of proposed projects that are not subject to full or large project drainage review. Targeted drainage review may be required for some projects in ~~((small project))~~ simplified drainage review.

~~((XX.))~~ DDD. "Water quality ~~((treatment))~~ facility" means a drainage facility designed in accordance with the drainage requirements in this chapter to ~~((reduce pollutants once they are already contained))~~ mitigate the impacts of increased pollutants in stormwater runoff generated by site development. A "water quality facility" uses processes that include but are not limited to settling, filtration, adsorption and absorption to decrease pollutant concentrations and loadings in ~~((surface and storm water))~~ stormwater runoff. ~~((A water~~

~~quality treatment facility is the structural component of best management practices. When used singly or in combination, a water quality treatment facility reduces the potential for contamination of both surface and ground waters.))~~

SECTION 3. Ordinance 9163, Section 3, as amended and K.C.C. 9.04.030 are amended to read as follows:

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

1. Would result in two thousand square feet or more of new impervious surface, replaced impervious surface or new plus replaced impervious surface;
2. Would involve seven thousand square feet or more of land disturbing activity;
3. Would construct or modify a drainage pipe or ditch that is twelve inches or more in size or depth or receives stormwater runoff or surface ~~((and storm))~~ water ~~((runoff))~~ from a drainage pipe or ditch that is twelve inches or more in size or depth;
4. Contains or is adjacent to a flood hazard area as defined in K.C.C. chapter 21A.24;
5. Is located within a critical drainage area; or
6. Is a redevelopment project proposing one hundred thousand dollars or more of improvements to an existing high-use site~~((; or~~
- ~~7. Is a redevelopment project on a site in which the total of new plus replaced impervious surface is five thousand square feet or more and whose valuation of proposed improvements, including interior improvements and excluding required mitigation and frontage improvements, exceeds fifty percent of the assessed value of the existing site improvements)).~~

B. The drainage review for any proposed project shall be scaled to the scope of the project's size, type of development and potential for stormwater impacts to ~~((the regional surface water system))~~ surface water and groundwater to facilitate the preparation and review of project applications. If drainage review for a proposed

project is required under subsection A. of this section, the department (~~(of permitting and environmental)~~) performing drainage review as specified in K.C.C. 9.04.070 shall determine which of the following drainage reviews apply as specified in the Surface Water Design Manual:

1. (~~(Small project)~~) Simplified drainage review;
2. Targeted drainage review;
3. Directed drainage review;
4. Full drainage review; or
- ~~((4.))~~ 5. Large project drainage review.

SECTION 4. Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050 are amended as follows:

A. A proposed project required to have drainage review by K.C.C. 9.04.030 must meet each of the following core requirements, which are described in detail in the Surface Water Design Manual. Projects subject only to (~~(small project)~~) simplified drainage review that meet the (~~(small project)~~) simplified drainage requirements and BMPs specified in the Surface Water Design Manual, including flow control (~~(best management practices)~~) BMPs, (~~(erosion and sediment control measures)~~) construction stormwater pollution prevention BMPs and drainage plan submittal requirements are deemed to comply with the following core requirements:

1. Core requirement 1: Discharge at the natural location. All stormwater runoff and surface (~~(and storm)~~) water (~~(runoff)~~) from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which stormwater runoff (~~(is)~~) and surface water are discharged from the project site shall not create a significant adverse impact or significantly aggravate an existing adverse impact to downhill properties or drainage (~~(systems)~~) facilities as specified in the discharge requirements of the Surface Water Design Manual;
2. Core requirement 2: Offsite analysis. The initial application submittal for proposed projects shall include an offsite analysis report that assesses potential offsite drainage and water quality impacts associated

with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual;

3. Core ~~((R))~~ requirement 3: Flow control facilities. Proposed projects that would result in ~~two~~ five thousand square feet or more of new plus replaced impervious surface or ~~((thirty-five thousand square feet))~~ three quarters of an acre or more of new pervious surface ~~((, or that are redevelopment projects that would result in a total of five thousand square feet or more of new and replaced impervious surface,))~~ shall provide flow control facilities ~~((or flow control BMPs, or both,))~~ to control ~~((surface and storm water))~~ stormwater runoff generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control facilities shall meet the area-specific flow control facility requirements and the flow control facility implementation requirements applicable to the project site as specified in the Surface Water Design Manual. ~~((Flow control BMPs shall also be applied as specified in the Surface Water Design Manual.))~~ Projects subject to area-specific flow control facility requirements shall meet one of the flow control facility performance criteria listed in a. through c. of this subsection A.3., as directed by the Surface Water Design Manual:

- a. Level One shall match the predeveloped site's peak discharge rates for the two-year and ten-year return periods;
- b. Level Two shall meet Level One criteria and also match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the fifty percent of the two-year peak flow through the fifty-year peak flow; or
- c. Level Three shall meet Level Two criteria and also match the predeveloped site's peak discharge rate for the one hundred-year return period;

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

5. Core requirement 5: (~~(Erosion and sediment control.)~~) Construction stormwater pollution prevention. All proposed projects that will conduct construction activities onsite or offsite or will clear, grade or otherwise disturb the site shall provide stormwater pollution prevention controls, spill controls, and erosion and sediment controls (~~((that prevents, to the maximum extent practicable, the transport of sediment from the site))~~) to prevent, reduce or eliminate the discharge of pollutants including sediment to onsite or adjacent drainage facilities, ((water resources and)) adjacent properties and surface water or groundwater. Erosion and sediment controls shall be applied in accordance with K.C.C. chapter 16.82 and as specified by the temporary erosion and sediment control measures and performance criteria and implementation requirements in the King County Surface Water Design Manual;

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

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

8. Core requirement 8: Water quality facilities. Proposed projects that would result in five thousand

square feet or more of new plus replaced pollution-generating impervious surface or (~~((thirty-five thousand square feet))~~) three quarters of an acre or more of new pollution-generating pervious surface, or that are redevelopment projects that would result in a total of five thousand square feet or more of new and replaced pollution-generating impervious surface, shall provide water quality (~~((treatment))~~) facilities to treat polluted (~~((surface and storm water))~~) stormwater runoff generated by new or replaced pollution-generating impervious surface, new pollution-generating pervious surface and any existing pollution-generating impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. However, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if King County department of permitting and environmental review approves a landscape management plan that controls solids, pesticides, ((and)) fertilizers and other erodible or leachable materials leaving the site. Water quality (~~((treatment))~~) facilities shall meet the area-specific water quality (~~((treatment))~~) facility requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. The facilities specified by these requirements are designed to reduce pollutant loads according to the applicable annual average performance goals listed in a. through d. of this subsection A.8. for ninety-five percent of the annual average runoff volume:

- a. for basic water quality: remove eighty percent of the total suspended solids;
- b. for enhanced basic water quality: remove (~~((fifty))~~) sixty percent of (~~((the total))~~) dissolved zinc and thirty percent of dissolved copper;
- c. for sensitive lake protection: remove fifty percent of the total phosphorus; and
- d. for sphagnum bog protection: remove fifty percent of the total phosphorus and forty percent of the total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than ten milligrams per liter.

9. Core requirement 9: Flow control BMPs. Proposed projects that would result in two thousand

square feet or more of new plus replaced impervious surface or seven thousand square feet or more of land disturbing activity shall provide flow control BMPs that use processes such as infiltration, dispersion, storage, evaporation, transpiration, forest retention and reduced impervious surface footprint to mimic pre-developed hydrology and minimize stormwater runoff generated by new impervious surface, new pervious surface, replaced impervious surface and any existing impervious surface added on or after January 8, 2001, as specified in the Surface Water Design Manual. Flow control BMPs shall be applied to manage stormwater runoff from the aforementioned surfaces to the maximum extent feasible using lists of flow control BMPs specific to the project location, size and impervious coverage; or as required to demonstrate that developed discharge durations from the surfaces match pre-developed durations for those surfaces for the range of predeveloped discharge rates from eight percent of the two-year peak flow to fifty percent of the two-year peak flow as specified in the Surface Water Design Manual.

B. A proposed project required by K.C.C. 9.04.030 to have drainage review shall meet any of the following special requirements that apply to the site and that are described in detail in the Surface Water Design Manual. The department (~~(of permitting and environmental review)~~) performing drainage review as specified in K.C.C. 9.04.070 shall verify if a proposed project is subject to and must meet any of the following special requirements.

1. Special ~~((R))~~ requirement 1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard management plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, salmon conservation plan, stormwater compliance plan, flood hazard management plan, lake management plan or shared facility plan;

2. Special ~~((R))~~ requirement 2: Floodplain/floodway delineation. If a proposed project contains or is adjacent to a stream, lake, wetland or closed depression, or if other King County regulations require study of

flood hazards relating to the proposed project, the one hundred year floodplain boundaries and floodway shall be determined and delineated on the site improvement plans and profiles and any final maps prepared for the proposed project. The flood hazard study shall be prepared ~~((for))~~ as specified in the Surface Water Design Manual;

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

4. Special ~~((R))~~ requirement 4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent practicable. Water quality source controls shall be applied in accordance with K.C.C. chapter 9.12, the King County stormwater pollution prevention manual and the Surface Water Design Manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project; and

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

a. a project that creates a high-use site;

b. a redevelopment project proposing one hundred thousand dollars or more of improvements to an existing high-use site; or

c. a redevelopment project that results in new plus replaced pollution-generating impervious surface

of five thousand square feet or more or new pollution-generating pervious surface of three quarters of an acre or more.

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

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

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

3. Requests for adjustments that may conflict with the requirements of any other King County division shall require review and concurrence with that division. The director shall coordinate to resolve conflicts between adjustments to the Surface Water Design Manual and requirements of other divisions.

4. A request for an adjustment is a Type 1 land use decision as provided for in K.C.C. 20.20.020 and shall be processed in accordance with the procedures specified in the Surface Water Design Manual.

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

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

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

SECTION 5. Ordinance 2281, Section 6, as amended, and K.C.C. 9.04.070 are amended to read as

follows:

A.1. All engineering plans shall be submitted to the department of permitting and environmental review for drainage review in accordance with the Surface Water Design Manual except those drainage plans developed by, or under the review of, the water and land resources division of the department of natural resources and parks for either surface (~~and storm~~) water or stormwater capital improvement, repair, maintenance or restoration projects or other linear government agency projects, such as roadways, railways, pipelines, utility lines and trails.

2. If engineering plans are returned for any reason, they shall be returned to the applicant.

3. All master drainage plans, if required, shall be submitted to the department of permitting and environmental review for drainage review in accordance with the specifications in the Surface Water Design Manual. The master drainage plan process should commence at the same time as the state Environmental Policy Act (SEPA) process.

4. Drainage plans not subject to drainage review by the department of permitting and environmental review under subsection A.1. of this section shall be reviewed by the water and land resources division of the department of natural resources and parks in accordance with K.C.C. 9.04.050. Project applicability and compliance with K.C.C. 9.04.050 shall be documented in writing and available for review.

B. The expiration time frames as specified in the Surface Water Design Manual shall apply to all permit and approval applications.

C. All plans shall be processed in accordance with the drainage review procedures specified in the Surface Water Design Manual.

D. All submittal procedures, definitions and specifications for the required contents of engineering plans are presented in the Surface Water Design Manual.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 9.04 a new section to read as

follows:

Whenever the director has reasonable cause to believe that a natural hazard exists, the director may enter the premises on which the natural hazard is located and take any steps the director deems reasonably necessary to abate or mitigate the a threat of immediate and substantial harm. If the premises or portion thereof is occupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and seek entry. Proper ingress and egress shall be provided to the director to carry out the steps the director deems reasonably necessary to abate or mitigate the threat of immediate and substantial harm. The director should provide email notification to the council in a timely manner after entering a premises without permission. The email notification shall be sent to the clerk of the council, who shall retain the original email and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director and the lead staff for the transportation, economy and environment committee, or its successor.

SECTION 7. Ordinance 4938, Section 12, as amended, and K.C.C. 9.04.140, are hereby amended to read as follows:

A. ~~((Administration))~~ 1. The director is authorized to promulgate and adopt administrative rules under the procedures specified in K.C.C. chapter 2.98, for the purpose of implementing and enforcing ~~((the provisions of))~~ this chapter. Adopted administrative rules are available to the public from the department of permitting and environmental review or the department of natural resources and parks, water and land resources division. This includes, but is not limited to, the Surface Water Design Manual. Administrative rules adopted in accordance with to this section shall be posted to the websites of the department of permitting and environmental review and the department of natural resources and parks, water and land resources division, as well as any other website maintained by the executive to provide the public access to adopted public rules. The director should provide email notification to the council when an administrative rule adopted in accordance with this section has been posted to the websites. The email notification shall be sent to the clerk of the council, who shall retain

the original email and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director and the lead staff for the transportation, economy and environment committee, or its successor.

2. The director of department of permitting and environmental review is authorized to develop procedures for applying ~~((adopted))~~ those administrative rules adopted under subsection A.1. of this section and regulations during the review of permit applications for the development of land. These procedures may also be contained in the Surface Water Design Manual.

B. ~~((Inspections.))~~ The director is authorized to make such inspections and take ~~((such))~~ all actions ~~((as))~~ that may be required to enforce ~~((the provisions of))~~ this chapter.

C. ~~((Right of entry.))~~ Whenever necessary to make an inspection to enforce ~~((any of the provisions of))~~ this chapter, monitor for proper function of drainage facilities or whenever the director has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director may enter ~~((such))~~ the premises at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided that, if ~~((such))~~ the premises or portion thereof is occupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and ~~((demand))~~ seek entry.

D. ~~((Access.))~~ Proper ingress and egress shall be provided to the director to inspect, monitor or perform any duty imposed upon the director by this chapter. The director shall notify the responsible party in writing of failure to comply with this access requirement. Failing to obtain a response within seven days from the receipt of notification the director may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs that may be incurred or expended by the county in causing ~~((such))~~ the work to be done shall thereby be imposed on the person holding title to the subject property.

SECTION 8. Ordinance 10636, Section 2, as amended, and K.C.C. 9.12.005 are hereby amended to read as follows:

The purpose of this chapter is to protect the county's surface water and ~~((ground-water))~~ groundwater quality by providing minimum requirements for reducing and controlling the discharge of contaminants. The county council recognizes that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, this chapter prohibits the discharge of contaminants into surface ~~((and storm))~~ water ~~((and ground-water))~~, stormwater or groundwater, and outlines preventive measures to restrict contaminants from entering ~~((such))~~ those waters. These measures include the implementation of best management practices (BMPs) by the residents and businesses of King County.

The county council finds this chapter is necessary to protect the health, safety and welfare of the residents of King County and the integrity of the county's resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The county council recognizes that implementation of this chapter is required under the federal Clean Water Act, 33 U.S.C. 1251 et. seq., and chapter 90.48 RCW. In meeting the intent of the Clean Water Act and chapter 90.48 RCW, the county council also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals.

SECTION 9. Ordinance 10636, Section 3, as amended, and K.C.C. 9.12.015 are hereby amended as follows:

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

A. "AKART" means "all known, available and reasonable methods of prevention, control and treatment." "AKART" represents the most current methodology that can be reasonably required for preventing, controlling or abating the pollutants associated with a discharge. "AKART" applies to both point and nonpoint sources of pollution.

B. "Best management practice((s))" or "BMP((s))" means ~~((the best available and reasonable physical,~~

~~structural, managerial or behavioral activities,))~~ any schedule of activities, prohibition of practices, maintenance procedure, or structural and/or managerial practice approved by King County that, when used singly or in combination, ((eliminate or)) prevents or reduces ((the contamination of both surface and ground waters)) the release of pollutants and other adverse impacts to surface water, stormwater and groundwater.

C. "Chapter" means this chapter and any administrative rules and regulations adopted to implement this chapter.

D. "Clean Water Act" means 33 U.S.C. 1251 et. seq., as amended.

E. "Director" means the director of the King County department of natural resources and parks, other department directors specified in enforcement procedures established in accordance with this chapter, or ~~((any designee of those directors))~~ the authorized representatives of those directors, including compliance officers and inspectors whose responsibility includes the detection and reporting of civil code violations, as defined in K.C.C. 23.02.010.

F. "Discharge" means throw, drain, release, dump, spill, empty, emit, or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

G. "Drainage facility" has the same meaning as in K.C.C. 9.04.020.

H. "Farm management plan" means a comprehensive site-specific plan developed by the farm owner in cooperation with the King Conservation District taking into consideration the land owners objectives while protecting water quality and related natural resources.

I. "Forest practices" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined in chapter 222-16 WAC.

J. ~~(((Ground water)))~~ Groundwater means all water ~~(((s that exist)))~~ found in the soil and stratum beneath the land surface or beneath the bed of any ~~(((stream, lake or reservoir, or other body of)))~~ surface water ~~(((whatever may be the geological formation or structure in which such water stands or flows, percolates, or~~

~~otherwise moves~~)).

K. "Illicit connection" means any human-made connection to the storm drain system, surface water or groundwater that the director determines based on an investigation or other evidence is not composed entirely of stormwater. For the purposes of this subsection, "human-made connections" include, but are not limited to, sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, hoses, above-ground piping or outlets, that discharge directly to the storm drain system, surface water or groundwater.

L. "National Pollutant Discharge Elimination System" or "NPDES" means the national program for controlling pollutants from point source discharges directly into waters of the United States under the Clean Water Act.

~~((L.))~~ M. "National Pollutant Discharge Elimination System permit" means an authorization, license or equivalent control document issued by the United States Environmental Protection Agency or the Washington state Department of Ecology to implement the requirements of the NPDES program.

~~((M.))~~ N. "Normal single family residential activities" means activities that are ordinarily associated with domestic residential uses and that ordinarily occur on a single family residential property. "Normal single family residential activities" include but are not limited to washing and repair of personal vehicles and boats; storage and disposal of solid and yard wastes; use, storage and disposal of hazardous wastes; gardening and lawn care; home maintenance and repair; and swimming pool and hot tub maintenance. "Normal single family residential activities" do not include commercial business activities that are not associated with domestic residential uses or that do not ordinarily occur on a single family residential property.

O. "Person" means an individual and his or her agent or assign, municipality, political subdivision, government agency, partnership, corporation, business or any other entity.

~~((N.))~~ P. "Responsible party" means the owner, operator or occupant of property; or any person causing or contributing to an action prohibited by this chapter.

~~Q.~~ Q. "Source control BMP" means a BMP intended to prevent contaminants from entering surface ~~((and storm))~~ water, stormwater or ~~((ground water))~~ groundwater including the modification of processes to eliminate the production or use of contaminants. "Source control BMPs" can be either structural or nonstructural. Structural source control BMPs involve the construction of a physical structure on site, or other type of physical modification to a site. An example of a structural source control BMP is building a covered storage area. A nonstructural source control BMP involves the modification or addition of managerial or behavioral practices. An example of a nonstructural source control BMP is using less toxic alternatives to current products or sweeping parking lots.

~~((Q.))~~ R. "State Waste Discharge Permit" means an authorization, license, or equivalent control document issued by the Washington state Department of Ecology in accordance with chapter 173-216 WAC and under the authority of chapter 90.48 RCW.

~~((P.))~~ S. "Stormwater" means the water produced during precipitation or snowmelt that runs off, soaks into the ground or is dissipated into the atmosphere. Stormwater that runs off or soaks into the ground ultimately becomes surface water or groundwater.

T. "Stormwater Pollution Prevention Manual" means the manual adopted in accordance with K.C.C. chapter 2.98, and supporting documentation referenced or incorporated in the manual, describing ~~((best management practices))~~ BMPs and procedures for existing facilities and existing and new activities not covered by the Surface Water Design Manual.

~~((Q.))~~ U. "Surface ~~((and storm))~~ water" ~~((has the same meaning as in K.C.C. 9.04.020))~~ means the water that exists on land surfaces before, during and after stormwater runoff occurs and includes, but is not limited to, the water found on ground surfaces and in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, wetlands and Puget Sound. It also includes shallow groundwater.

~~((R.))~~ V. "Treatment BMP" means a BMP intended to remove contaminants once they are already ~~((contained in storm water))~~ introduced into stormwater. Examples of treatment BMPs include oil/water

separators, biofiltration swales and wetponds.

SECTION 10. Ordinance 10636, Section 4, as amended, and K.C.C. 9.12.025 are hereby amended to read as follows:

A.1. It is unlawful for any person to discharge any contaminants into surface (~~(and storm)~~) water, (~~(ground water or Puget Sound)~~) stormwater or groundwater. Contaminants include, but are not limited, to the following:

- a. trash or debris;
- b. construction materials;
- c. petroleum products including but not limited to oil, gasoline, grease, fuel oil, heating oil;
- d. antifreeze and other automotive products;
- e. metals in either particulate or dissolved form;
- f. flammable or explosive materials;
- g. radioactive material;
- h. batteries;
- i. acids, alkalis, or bases;
- j. paints, stains, resins, lacquers or varnishes;
- k. degreasers and solvents;
- l. drain cleaners;
- m. pesticides, herbicides or fertilizers;
- n. steam cleaning wastes;
- o. soaps, detergents or ammonia;
- p. swimming pool or spa filter backwash;
- q. chlorine, bromine and other disinfectants;
- r. heated water;

- s. domestic animal wastes;
- t. sewage;
- u. recreational vehicle waste;
- v. animal carcasses;
- w. food wastes;
- x. bark and other fibrous materials;
- y. collected lawn clippings, leaves or branches;
- z. silt, sediment or gravel;
- aa. dyes, except as stated in subsection C.1. of this section;
- bb. chemicals not normally found in uncontaminated water;
- cc. any hazardous material or waste not listed above.

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

- a. connections conveying allowable discharges;
- b. connections conveying discharges pursuant to an NPDES permit, other than an NPDES (~~storm water~~) stormwater permit, or a State Waste Discharge Permit; and
- c. connections conveying effluent from onsite sewage disposal systems to subsurface soils.

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

- 1. Potable water line flushing;
- 2. Lawn watering with potable water;
- 3. Dust control with potable water;

4. Automobile and boat washing;
5. Pavement and building washing;
6. Swimming pool and hot tub maintenance;
7. Auto repair and maintenance;
8. Building repair and maintenance;
9. Landscape maintenance;
10. Hazardous waste handling;
11. Solid and food waste handling; and
12. Application of pesticides.

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

1. Spring water;
2. Diverted stream flows;
3. Uncontaminated water from crawl space pumps, foundation drains or footing drains;
4. Lawn watering with potable water or collected rainwater;
5. Pumped groundwater flows that are uncontaminated;
6. Materials placed as part of an approved habitat restoration or bank stabilization project;
7. Natural uncontaminated surface water or ~~((ground water))~~ groundwater;
8. Flows from riparian habitats and wetlands;
9. The following discharges from boats: engine exhaust; cooling waters; effluent from sinks; showers and laundry facilities; and treated sewage from Type I and Type II marine sanitation devices;
10. Collected rainwater that is uncontaminated;

11. Uncontaminated groundwater that seeps into or otherwise enters stormwater conveyance systems;
12. Air conditioning condensation;
13. Irrigation water from agricultural sources that is commingled with stormwater runoff; ~~((and))~~
14. Nonstormwater discharges authorized by another NPDES or State Waste Discharge Permit;
15. Discharges from emergency fire-fighting activities; and
16. Other types of discharges as determined by the director.

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

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

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

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

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

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

and the site plan, where applicable, to restrict recurrence.

SECTION 11. Ordinance 10636, Section 5, as amended, and K.C.C. 9.12.035 are hereby amended to read as follows:

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

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

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

2. The discharge from a normal single family residential activity ~~((poses a hazard to the public health, safety or welfare, endangers any property or adversely affects the safety and operation of county right of way, utilities or other county owned or maintained property))~~ constitutes a hazard as set forth in K.C.C. 9.12.060.

C. Any ~~((P))~~ person ~~((s))~~ implementing BMPs through another federal, state or local program will not be required to implement the BMPs prescribed in the county's Stormwater Pollution Prevention Manual, unless the

director determines that the ~~((alternative))~~ other program's BMPs are ineffective at reducing the discharge of contaminants or not being implemented. If the other program requires the development of a stormwater pollution prevention plan or other ~~((best management practices))~~ BMP plan, the person shall make the plan available to King County upon request. ~~((Persons who qualify for exemptions))~~ Other federal, state, and local programs include, but are not limited to ~~((, persons))~~ any of the following:

1. ~~((Required to obtain a g))~~ General or individual NPDES permits from the Washington state Department of Ecology or the United States Environmental Protection Agency;
2. ~~((Implementing and maintaining, as scheduled, a))~~ A King Conservation District-approved farm management plan;
3. ~~((Implementing BMPs in compliance with))~~ Activities authorized under K.C.C. chapter 21A.30;
4. ~~((Implementing BMPs in compliance with t))~~ The county's municipal stormwater management program ~~((of the county's municipal NPDES permit))~~;
5. ~~((Engaged in f))~~ Forest practices under chapter 76.09 RCW, with the exception of forest practices occurring on lands platted after January 1, 1960, or on lands being converted to another use or when regulatory authority is otherwise provided to local government by RCW 76.09.240; ~~((or))~~
6. State Waste Discharge General Permit, under the authority of chapter 90.48 RCW; or
7. Other programs ~~((I))~~ identified by the director ~~((as being exempt from this section))~~.

SECTION 12. Ordinance 10636, Section 6, as amended, and K.C.C. 9.12.045 are hereby amended to read as follows:

A. The director is authorized to implement ~~((the provisions of))~~ this chapter. The director is authorized to promulgate and adopt administrative rules and regulations under the procedures specified in K.C.C. chapter 2.98 for the purpose of implementing and enforcing ~~((the provisions of))~~ this chapter. The director ~~((will))~~ shall coordinate the implementation and enforcement of this chapter with other departments of King County government. Administrative rules adopted in accordance with this section shall be posted to the websites of the

department of permitting and environmental review and the department of natural resources and parks, water and land resources division, or their successor agencies, as well as any other website maintained by the executive to provide the public access to adopted public rules. The director should provide email notification to the council when an administrative rule adopted in accordance with this section has been posted to the websites. The email notification shall be sent to the clerk of the council, who shall retain the original email and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director and the lead staff for the transportation, economy and environment committee, or its successor.

B. Whenever necessary to make an inspection to enforce any provision of this chapter, to monitor for proper implementation of BMPs or whenever the director has reasonable cause to believe that violations of this chapter are occurring, the director may enter the premises at all reasonable times to inspect or perform any duty imposed by this chapter; but if the premises are occupied, the director shall first make a reasonable effort to locate the owner or other person in control of any building, structure, property or portion thereof and seek entry. Unless entry is consented to by the owner or other person in control of any building, structure, property or portion thereof, or conditions are believed to exist which create a threat of immediate and substantial harm, the director, before entry, shall obtain a search warrant as authorized by the laws of the state of Washington. The director should provide email notification to the council in a timely manner after entering a property without permission. The email notification shall be sent to the clerk of the council, who shall retain the original email and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director and the lead staff for the transportation, economy and environment committee, or its successor.

SECTION 13. Ordinance 10636, Section 7, as amended, and K.C.C. 9.12.050 are hereby amended to read as follows:

A. The director is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of K.C.C. Title 23 and other enforcement provisions adopted by rule under the procedures of K.C.C. chapter 2.98.

B. The director shall gain compliance with this chapter by requiring the implementation of BMPs and, when necessary, AKART. The director shall initially ~~((rely on))~~ use education and ~~((informational))~~ technical assistance as much as possible to gain compliance with this chapter, unless the director determines a violation is a result of a flagrant act that should be addressed through immediate penalties or ~~((poses))~~ constitutes a hazard as ~~((defined))~~ set forth in ~~((the Hazards section))~~ K.C.C. 9.12.060.

C. The director, in consultation with other departments of King County government, shall develop and implement additional enforcement procedures. The ~~((se))~~ procedures shall indicate how the county will investigate and respond to reports or instances of noncompliance with this chapter and shall identify by title the official(s) responsible for implementing the enforcement procedures.

D.1. The director ~~((is authorized to make such))~~ may perform such inspections and take ~~((such))~~ any actions ~~((as may be required))~~ necessary to enforce ~~((the provisions of))~~ this chapter. ~~((Such inspections shall be made in accordance with K.C.C. 23.08.040.~~

~~1-))~~ 2. The director may observe ~~((best management practices))~~ the implementation of BMPs or examine or sample surface water, ~~((and storm water))~~ stormwater or ~~((ground water))~~ groundwater as often as ~~((may be))~~ necessary to determine compliance with this chapter. Whenever an inspection of a property is made, ~~((the findings))~~ observed violations shall be ~~((recorded))~~ documented and ~~((a copy of the inspection findings shall be furnished))~~ this documentation provided to the ~~((owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings))~~ responsible party.

~~((2-))~~ 3. When the director ~~((has made a determination))~~ determines under subsection ~~((1-))~~ D.2. of this section that a ~~((ny))~~ person is violating this chapter, the director may require the violator to sample and analyze any discharge, surface water, ~~((and storm water))~~ stormwater, ~~((ground water))~~ groundwater, and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the director. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the King County water and land resources division.

E. In addition to any other penalty or method of enforcement, the prosecuting attorney may bring actions for injunctive or other relief to enforce this chapter.

F. Enforcement actions taken under this section shall be subject to the appeal procedures in K.C.C. Title 23.

SECTION 14. Ordinance 10636, Section 8, as amended, and K.C.C. 9.12.060 are hereby amended to read as follows:

~~((Whenever the director determines that any violation of this chapter poses a hazard to public health, safety, or welfare; endangers any property; or adversely affects the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county; the person holding title to the subject property, and/or other person or agent in control of said property, upon receipt of notice in writing from the director shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.~~

~~Notwithstanding any other provisions of this chapter, whenever it appears to the director that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the director is authorized to enter at all times in or upon any such property, public or private, for the purpose of inspecting and investigating such emergency conditions. The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor as specified in K.C.C. 23.08.080.))~~ A. The director may determine that any violation of this chapter constitutes a hazard if the violation:

1. Poses a threat to public health, safety or welfare; or
2. Endangers any property; or
3. Adversely affects the safety and operation of any county right of way, utilities, or other property owned or maintained by the county.

B. Upon determining that a violation constitutes a hazard, the director shall immediately notify the responsible party and shall provide a verbal or written determination of the hazard that specifies the date by which the hazard shall be corrected.

C. Upon receipt of the director's written hazard determination, the responsible party shall correct the hazard by the date specified.

D. Notwithstanding any other provisions of this chapter, upon reasonable belief that any of the conditions described in K.C.C. 9.12.060.A.1 and A.3 exist, the director may enter at all times in or upon any public or private property for the purpose of investigating the existence of a hazard.

E. The director may without prior notice require the immediate discontinuance of any violation causing the hazard. Failure to comply shall constitute a willful violation of this chapter.

SECTION 15. Ordinance 10636, Section 10, as amended, and K.C.C. 9.12.080 are hereby amended to read as follows:

The enforcement provisions for water quality are intended to encourage compliance with this chapter. To achieve this, ~~((violators))~~ responsible parties will be required to take corrective action and comply with ~~((the requirements of))~~ this chapter, and may be required to pay a civil penalty and restitution payment for the redress of ecological, recreational~~((s))~~ and economic values lost or damaged due to their unlawful action.

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

B. Any ~~((person))~~ responsible party in violation of this chapter shall be subject to civil penalties assessed as follows:

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

2. An amount not to exceed ~~((\\$25,000))~~ ten thousand dollars per violation per day, that is reasonably based upon the nature and gravity of the violation and the cost to the county of enforcing this chapter against the violator.

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

D. In addition to civil penalties, a responsibility party whose violation of this chapter causes damage to or impairs a drainage facility, or causes damage to physical, chemical, or biological systems of waters of the state or waters of the United States, shall be liable to and reimburse the county for any damage, cost and expense caused by such a violation or discharge.

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

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

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

1. Each person's:

~~((1-))~~ a. culpability or degree of involvement in the violation;

b. ~~((A))~~ awareness of the violation;

~~((2-))~~ c. ~~((A))~~ ability to correct the violation;

~~((3-))~~ d. ~~((A))~~ ability to pay damages, costs, and expenses;

~~((4-))~~ e. ~~((C))~~ cooperation with government agencies; and

~~((5-))~~ 2. Degree of impact or potential threat to water or sediment quality, human health, or the environment.

~~((E-))~~ G. The director ~~((or the director's designee))~~ may engage in mitigation discussions with the ~~((violator))~~ responsible party. The director ~~((or the director's designee))~~ may reduce the penalties based upon one or more of the following mitigating factors:

1. The person responded to county attempts to contact the person and cooperated with efforts to correct the violation;
2. The person showed due diligence and/or substantial progress in correcting the violation; or
3. An unknown person was the primary cause of the violation.

H. Payment of a monetary penalty ~~((pursuant to))~~ under this chapter does not relieve the ~~((person))~~ responsible party of the duty to correct the violation.

~~((F-))~~ I. All civil penalties recovered during ~~((the))~~ enforcement of this chapter ~~((under this title and K.C.C. Title 23))~~ shall be deposited into a fund of the division taking the enforcement action and, subject to appropriation, shall be used for the protection of surface ~~((and storm))~~ water, stormwater or ~~((ground water))~~ groundwater as set forth in this chapter, through education or ~~((enhanced))~~ other implementation procedures determined by the director.

J. Civil penalties assessed under this section may be appealed in accordance with the appeal and waiver procedures for civil penalties in K.C.C. chapter 23.32.

SECTION 16. Ordinance 16392, Section 4, and K.C.C. 9.20.010 are hereby repealed.

SECTION 17. Ordinance 16392, Section 5, and K.C.C. 9.20.020 are hereby repealed.

SECTION 18. Ordinance 16392, Section 6, and K.C.C. 9.20.030 are hereby repealed.

SECTION 19. Ordinance 16392, Section 7, and K.C.C. 9.20.040 are hereby repealed.

SECTION 20. Ordinance 15753, Section 4, and K.C.C. 14.42.030 are hereby amended to read as follows:

A. The standards apply prospectively to all newly constructed or modified road and right-of-way facilities, both public and private, within King County. The standards apply to modifications of roadway features or existing facilities that are within the scope of reconstructions, required off-site road improvements for land developments or capital improvement projects when so required by King County or to the extent they are expressly referred to in project plans and specifications. These standards are not intended to apply to resurfacing, restoration, and rehabilitation projects as those terms are defined in the Washington state Department of Transportation Local Agency Guidelines Manual, as amended. The county road engineer may in his or her discretion consider the standards as optional goals for the design and construction of resurfacing restoration and rehabilitation projects.

B. The standards shall apply to every new placement and every planned, nonemergency replacement of existing utility poles and other utility structures within the King County right-of-way.

C. Construction shall be performed in accordance with the standards and with due regard to public safety.

D. Where feasible, flow control BMPs shall be applied as required in the Surface Water Design Manual.

NEW SECTION. SECTION 21. There is hereby added to K.C.C. chapter 21A.06 a new section to read as follows:

A. Bioretention: A stormwater best management practice consisting of a shallow landscaped depression designed to temporarily store and promote infiltration of stormwater runoff.

SECTION 22. Ordinance 11210, Section 9, and K.C.C. 21A.16.085 are hereby amended to read as follows:

All new landscape areas proposed for a development shall be subject to the following provisions:

A. Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep(~~(;~~)); or

2. Have an organic content of five percent or more to a depth of six inches as shown in a soil sample analysis. The soil analysis shall include:

a. ~~((D))~~determination of soil texture, indicating percentage of organic matter(~~(;~~));

b. ~~((A))~~an approximated soil infiltration rate (~~((;))~~)either measured or derived from soil/texture/infiltration rate tables(~~((;))~~). A range of infiltration rates shall be noted where appropriate(~~((;))~~); and

c. ~~((M))~~measure ~~((Ph))~~ pH value.

C. Except as specifically outlined for turf areas in subsection B. of this section, the organic content of soils in any landscape area shall be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings.

D. Landscape areas, except turf or areas of established groundcover, shall be covered with at least two inches of mulch to minimize evaporation.

E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.

F. Plants ~~((selection))~~ selected shall ~~((consider adaptability))~~ be natives, or other plants adapted to the climatic, geologic(~~((;))~~) and topographical conditions of the site. Preservation of existing noninvasive vegetation is encouraged.

G. Landscape areas are authorized to be used for bioretention, as long as the landscape areas meet the bioretention design standards of the Surface Water Design Manual, including soil mix and plant selection, and also meet the standards of this chapter for types of plants used and their spacing and density.

SECTION 23. Ordinance 15051, Section 234, and K.C.C. 21A.24.550 are hereby amended to read as follows:

A. A development proposal shall be deemed to comply with ~~((the provisions of))~~ this chapter and the department shall not require additional critical areas, fire or drainage review of a development proposal for a single-family residential development that is consistent with the conditions established by the department in its review of the development proposal if the applicant meets all of the following requirements:

1. The applicant provides to the department a critical areas report prepared by a preferred consultant, as provided in K.C.C. Title 27, for the critical areas on the development proposal site;
 2. The department has issued a critical areas designation under K.C.C. 21A.24.500. If applicable, the designation shall be issued before septic system design, application and approval;
 3. The development proposal qualifies for ~~((small project))~~ simplified drainage review and does not require targeted drainage review under K.C.C. chapter 9.04;
 4. The development proposal does not require an alteration exception or reasonable use exception under this chapter, a variance from road standards under K.C.C. Title 14 or a drainage adjustment under K.C.C. chapter 9.04; and
 5. The development proposal locates structures, on-site septic drainfield areas, the well location, and other impervious surfaces, including but not limited to driveways, within the areas identified by the department.
- B. If an applicant indicates on a form approved by the department that a development proposal for a single family residence will be proposed for review under this section, the department shall consolidate critical areas, drainage, road standards, and fire review. Based on the information provided by the applicant under this section, the department shall identify a development footprint on the property where the applicant may clear

and place structures and other impervious surfaces in order to meet the requirements of this chapter and K.C.C. chapters 9.04 and 16.82. At the time of development permit application, the department shall screen the proposal for compliance with the conditions established by the department under this section, set the conditions of permit approval and, if required, establish the mitigation financial guarantee.

SECTION 24. A. The executive shall transmit an ordinance that establishes a schedule of penalties to implement the civil penalties outlined in K.C.C. 9.12.080. The ordinance shall include a schedule of civil penalties that is based on the magnitude of the violation and the costs necessary to enforce the chapter. In establishing the schedule of penalties, the executive shall consider:

- 1 The criteria established in K.C.C. 9.12.080.F. for determining which persons will be penalized, and the amount of each person's civil penalty; and
2. Comparable civil penalties established by other local jurisdictions for similar violations.

B. The ordinance required by this section shall be transmitted to the council by December 31, 2016, in the form of a paper original and an electronic copy to the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director, and the lead staff for the transportation, economy and environment committee, or its successor.

SECTION 25. A. The executive shall transmit a report that identifies potential pilot projects to implement incentivizing the use of low impact development techniques. The report shall include:

1. Identification of a minimum of five pilot projects that further the goals of incentivizing the use of low impact development techniques; and
2. Evaluation of the pilot projects against the following criteria:
 - a. the policy goal the pilot project would achieve;
 - b. the anticipated costs of the pilot project and the expected impact on the surface water management fee rates;
 - c. the anticipated benefits of the pilot project, including benefits to water quality and to potential

customers taking advantage of the pilot project;

d. identification and evaluation of measures to evaluate the effectiveness of the project, if implemented; and

e. the length of time to implement the pilot project.

B. The report and a motion accepting the report shall be transmitted to the council by August 31, 2016, in the form of a paper original and an electronic copy to the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director, and the lead staff for the transportation, economy and environment committee, or its successor.

SECTION 26. A. The executive shall transmit a report that recommends actions the county can take to aid in the public's understanding of the stormwater and surface water code. In addition to the actions the executive may recommend, the report may include an analysis of the efficacy of the county:

1. Providing plan assistance documents for single family residential and agricultural property owners;

2. Posting plain language summaries of the provisions of K.C.C. chapters 9.04 and 9.12 to the websites of the department of permitting and environmental review and the department of natural resources and parks, water and land resources division or their successor agencies;

3. Allocating additional staff time for community outreach and engagement, with a focus on impacted communities.

B. The report shall be transmitted to the council by December 31, 2016, in the form of a paper original and an electronic copy to the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director, and the lead staff for the transportation, economy and environment committee, or its successor.

SECTION 27. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.