

ORDINANCE NO. 4365

AN ORDINANCE relating to zoning; adding definitions of sensitive areas; regulating certain sensitive areas; adding new sections to KCC 20.44, KCC 21.04, and KCC 21.54.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is added to KCC 21.04 a new definition to read as follows:

"Sensitive areas" means those areas of King County which are subject to natural hazards and those lands which support unique, fragile, or valuable natural features. Sensitive areas include erosion hazard areas, coal mine hazard areas, Class III landslide hazard areas, and Class III seismic hazard areas, wetlands, fishbearing waters, and flood hazard areas, each as defined in this chapter.

SECTION 2. There is added to KCC 21.04 a new definition to read as follows:

"Erosion hazard areas" means those areas of King County containing soils which, according to the USDA Soil Conservation Service, King County Soils Survey dated 1973, may experience severe to very severe erosion hazard. According to the King County Soils Survey dated 1973, this group of soils includes Alderwood gravelly sandy loam (AgD), Alderwood-Kitsap (AkF), Beausite gravelly sandy loam (BeF), Kitsap silt loam (KpD), Ovall gravelly sandy loam (OvD and OvF), Ragnar fine sandy loam (RaD), Ragnar-Indianola Association (RdE), River Wash (Rh), and Coastal Beaches (Cb).

SECTION 3. There is added to KCC 21.04 a new definition to read as follows:

"Coal mine hazard areas" means those areas of King County underlain by abandoned mine workings such as adits, tunnels, drifts, and air shafts, or where mine tailings are present.

SECTION 4. There is added to KCC 21.04 a new definition to read as follows:

"Class III landslide hazard areas" means those areas of King County subject to a severe risk of landslide, due to the combination of:

1 (a) slopes greater than fifteen (15) percent; and (b) impermeable subsurface
2 material (typically silt and clay) sometimes interbedded with permeable sub-
3 surface material (predominantly wet sand and gravel) between the top and base
4 (foot) elevations; and (c) characterized by springs or seeping groundwater
5 during the wet season (November to February). These areas include both
6 active and currently inactive slides.

7 SECTION 5. There is added to KCC 21.04 a new definition to read as
8 follows:

9 "Class III seismic hazard areas" means those areas of King County
10 subject to severe risk of earthquake damage due to soils of low density, due
11 to poorly drained or impervious alluvium, due to highly saturated organic
12 material, or due to slopes greater than fifteen (15) percent, excluding
13 those Alderwood gravelly sandy loam (AgD) soils located on slopes less than
14 25% overlying thick sequences of Vashon till.

15 SECTION 6. There is added to KCC 21.04 a new definition to read as
16 follows:

17 "Wetlands" means those areas of King County that are inundated or
18 saturated by ground or surface water at a frequency and duration sufficient
19 to support, and that under normal circumstances do support, a prevalence of
20 vegetation typically adapted for life in saturated soil conditions. Wetlands
21 generally include swamps, marshes, bogs, and similar areas. (Army Corps of
22 Engineers Regulation CFR 323.2(c)).

23 SECTION 7. There is added to KCC 21.04 a new definition to read as
24 follows:

25 "Fish-bearing waters" means lakes, rivers and streams in King County
26 which are used in the life cycles of anadromous fish, including salmon,
27 steelhead, trout and Dolly Varden, based on data compiled by the Washington
28 State Department of Fisheries and other agencies with appropriate expertise.

29 SECTION 8. There is hereby added to KCC 21.54 a new section to read
30 as follows:
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1 Sensitive Areas Protection - Purpose. King County has areas of special
2 concern in addition to the flood hazard areas as defined in KCC 21.04.312
3 and this Chapter, which together comprise sensitive areas. The purposes of
4 this ordinance are:

5 (1) To protect sensitive areas by regulating their development;

6 (2) To protect the public from damage due to landslide, subsidence,
7 or erosion.

8 (3) To minimize turbidity and pollution of wetlands and fish-bearing
9 waters and to maintain wildlife habitat.

10 (4) To protect the public against avoidable losses from:

11 (a) maintenance and replacement of public facilities;

12 (b) property damage;

13 (c) subsidy cost of public mitigation of avoidable impacts;

14 (d) cost for public emergency rescue and relief operations;

15 (5) To alert appraisers, assessors, owners, potential buyers and
16 lessees of the natural limitations of the sensitive areas;

17 (6) To provide responsible officials with information to condition or
18 deny public or private projects to protect sensitive areas; and to avoid the
19 necessity of preparing environmental impact statements in cases where there
20 will not be significant adverse environmental effects, thus expediting
21 governmental approval processes.

22 (7) To protect unique, fragile and valuable elements of the
23 environment;

24 (8) To implement the policies of the State Environmental Policy Act
25 of 1971.

26 SECTION 9. There is hereby added to KCC 21.54 and KCC 20.44 a new
27 section to read as follows:

28 Mapping of sensitive areas. The distribution of environmentally sensi-
29 tive areas in western King County is displayed in maps published by the
30 Department of Planning and Community Development in the Sensitive Areas Map
31 Folio, as now or hereafter updated and supplemented. These maps are adopted
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1 by reference and shall be used by the Department to alert the public and
2 responsible officials to the potential presence of sensitive areas on the
3 sites of development proposals. In cases of a mapping error, the actual
4 presence or absence of the features defined in KCC 21.04 as sensitive areas,
5 as determined by qualified professional and technical persons, shall govern
6 the treatment of an individual building site or parcel of land as a sensitive
7 area.

8 SECTION 10. There is hereby added to KCC 21.54 a new section to read
9 as follows:

10 Sensitive Areas - General Provisions.

11 (1) Whenever a proposed development requires a building permit, grading
12 permit, shoreline substantial development permit, conditional use permit,
13 unclassified use permit, variance, rezone, planned unit development, sub-
14 division or short subdivision, and one or more of the sensitive areas, as
15 defined in KCC 21.04, is present on the site of the proposed development,
16 the Manager of the Building and Land Development Division may require special
17 studies by qualified professionals as provided in this ordinance. The
18 manager shall send written notification to the applicant whenever such
19 studies are required. The County may approve with conditions or deny any
20 such proposal to carry out the purposes of this ordinance, the policies of
21 the King County Comprehensive Plan, and other adopted County plans, policies
22 and regulations.

23 (2) Whenever an erosion hazard area, Class III seismic hazard
24 area, or fish bearing waters are present, soil, geology, erosion and deposi-
25 tion, hydrology and/or water quality studies may be required if there is a
26 reasonable possibility of significant erosion, landsliding, or seismic hazard
27 or of damage to fish populations.

28 (3) Any determination to require a study or any decision to approve
29 with conditions or deny a building permit, grading permit, conditional use
30 permit, variance, or short subdivision pursuant to this ordinance may be
31 appealed in writing to the Zoning and Subdivision Hearing Examiner within 10
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1 days of written notification of such determination or decision. The hearing
2 examiner shall hold a public hearing and consider the appeal pursuant to
3 KCC 20.24, PROVIDED that the decision of the hearing examiner regarding a
4 requirement for studies shall be final. Any appeal filed pursuant to this
5 section for actions relating to a building permit or short plat application
6 shall be scheduled for public hearing and acted upon by the County as
7 expeditiously as practicable.

8 (4) Where studies may be required for building permit applications by
9 an owner, lessee, or contract purchaser to construct a single family dwelling
10 for his or her own use or applications for a short subdivision into two
11 residential building lots, King County shall do a preliminary field investi-
12 gation to determine the need for further studies or mitigating conditions.

13 SECTION 11. There is hereby added to KCC 21.54 a new section to read
14 as follows:

15 "Class III landslide hazard areas. No building permit, grading permit,
16 shoreline substantial development permit, conditional use permit, unclassified
17 use permit, variance, rezone, planned unit development, subdivision or short
18 subdivision shall be granted for development on any Class III landslide
19 hazard area unless King County determines, upon review of a soils study
20 completed by a qualified soils engineer or engineering geologist, that the
21 proposed development together with any required conditions to mitigate adverse
22 environmental impacts can be safely accommodated on the site and is consistent
23 with the purposes of this ordinance. The soils study shall include specific
24 recommendations for mitigating measures which should be required as a
25 condition of any approval for such development. The recommendations may
26 include, but are not limited to, construction techniques, design, drainage, or
27 density specifications, or seasonal constraints on development. The Manager
28 of the Building and Land Development Division may waive the requirement for
29 special studies where sufficient information is otherwise available to approve,
30 approve with conditions, or deny the development permit or approval in
31 accordance with the purposes of this ordinance, the King County Comprehensive
32 Plan, and other adopted County plans, policies and regulations.
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SECTION 12. There is hereby added to KCC 21.54 a new section to read as follows:

Wetlands. Wetlands located on the site of a proposed development requiring a building permit, grading permit, shoreline substantial development permit, conditional use permit, unclassified use permit, variance, rezone, planned unit development, subdivision or short subdivision shall not be disturbed or altered through excavation, filling, building, or other improvements unless King County determines, upon review of special studies completed by qualified professionals, that either: (1) the wetland does not serve any of the valuable functions of wetlands identified in Ordinance 1838 and Army Corps of Engineers 33 CFR 320.4(b), including but not limited to wildlife habitat and natural drainage functions; or (2) the proposed development would preserve or enhance the wildlife habitat, natural drainage, and/or other valuable functions of wetlands as discussed in Ordinance 1838 or Army Corps of Engineers 33 CFR 320.4(b) and would be consistent with the purposes of this ordinance. The required studies may include habitat value, hydrology, erosion and deposition, and/or water quality studies. Such studies shall include specific recommendations for mitigating measures which should be required as a condition of any approval for such development. The recommendations may include, but are not limited to, construction techniques, or design, drainage, or density specifications. The Manager of the Building and Land Development Division may waive the requirement for special studies where sufficient information is otherwise available to approve, approve with conditions, or deny the development permit or approval in accordance with these criteria and the purposes of this ordinance. If the application of this section would deny all reasonable uses of a property, development may be allowed which is consistent with the general purposes of this ordinance and the public interest.

SECTION 13. There is added to KCC 21.54 a new section to read as follows:

Coal mine hazard area restrictions. There shall be no development of any type in coal mine hazard areas except the following:

- 1 (1) Agricultural crops and open field growing;
- 2 (2) Pasturing and grazing;
- 3 (3) Forest products, growing and harvesting, including processing
- 4 of locally harvested crops with portable equipment;
- 5 (4) Public parks and private or commercial recreation facilities
- 6 requiring open space as opposed to extensive structures and subject to a
- 7 conditional use permit as provided in KCC 21.44;
- 8 (5) Quarrying, mining and land fills, subject to an unclassified use
- 9 permit as provided in KCC 21.44;
- 10 (6) Residential, commercial, and industrial development as provided
- 11 in Section 14 below.

12 SECTION 14. There is added to KCC 21.54 a section to read as follows:

13 Additional coal mine hazard area provisions. Residential, commercial,

14 and industrial development may be permitted in coal mine hazard areas only

15 when King County determines that all significant hazards associated with

16 abandoned coal mine workings have been eliminated so that the site is, or can

17 be made through the improvements, as safe as a site which has not been

18 previously mined. To insure compliance with this provision, the following

19 conditions must be satisfied.

20 (1) The applicant shall select and retain, in consultation with King

21 County, a professional engineer or engineering geologist to perform

22 geotechnical studies, surveys, and drilling programs and to prepare an

23 engineering report for County consideration prior to preliminary approval

24 of rezones, subdivisions, short subdivisions, planned unit developments,

25 building permits, grading permits, shoreline substantial development permits,

26 unclassified use permits, conditional use permits, and variances; PROVIDED

27 that the applicant and King County shall jointly determine the specific

28 scope of work for such studies and engineering report and King County shall

29 determine the adequacy of the completed studies and report.

30 (2) The purpose of the required studies, surveys, and drilling programs

31 will be the specific identification and quantification of:

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(a) Existing underground voids resulting from previous mining activity;

(b) Location and definition of all surface openings resulting from previous mining activity;

(c) Location of all concentrations of lethal or noxious gases and ground water within abandoned mine workings; and

(d) Location, depth, and characteristics of all mine tailings on the surface of the site.

Existing maps of previous mining activity may be used as part of the identification and quantification process. All test holes must be located by field survey to a third order precision and shall be limited in number to those reasonably necessary for the identification and quantification of the features listed in (a) through (d) of this subsection (2).

(3) The required engineering report shall consist of plans and specifications together with the data and analysis upon which the conclusions and recommendations are based, including detailed geotechnical and survey information. These plans and specifications shall provide, and the development permit or approval shall require as a condition of County approval:

(a) That all mine openings on the subject property will be adequately sealed.

(b) That all voids beneath building sites which present a significant risk of subsidence or other risk to human health, safety, and welfare will either be filled with concrete, grout or other properly engineered material, excavated and backfilled, or otherwise remedied through engineering design to eliminate such risks;

(c) That any voids underlying open space areas of the site will present no significant risk to human health, safety, and welfare;

(d) That construction of utilities, roads and structures on the site will present no significant risk to human health, safety, and welfare;

1 (e) That no lethal or noxious gases will pose a threat to human
2 health, safety, or welfare and that the development and mitigating measures
3 required by this section do not pose a threat to surface or ground waters or
4 create other significant adverse environmental impacts;

5 (f) That all significant risk of seismic hazards in connection
6 with the proposed project, including but not limited to liquifaction potential,
7 subsidence, and landslide hazard, will be eliminated;

8 (g) That any mine tailings on the site will be removed or other-
9 wise mitigated to eliminate any significant risk to human health, safety,
10 and welfare.

11 (4) Prior to issuance of a building permit or final approval of plats,
12 short plats, planned unit developments and other development approvals as
13 referenced in Section 12 of this ordinance:

14 (a) A professional engineer, and/or engineering geologist, shall
15 certify that the plans and specifications approved by the County pursuant to
16 Subsection 3 above have been properly executed and that on-site inspection,
17 which may include drilling programs to the extent necessary for verification,
18 conclusively demonstrates that the approved design and all mitigating
19 measures have been accomplished. The applicant shall pay a fee sufficient
20 to enable the County to select and retain, in consultation with the applicant,
21 said engineering geologist for this purpose; and

22 (b) The County may require the applicant to provide, in a form
23 acceptable to the King County Prosecuting Attorney, written assurance that
24 any maintenance or repair for public improvements and any repair of damage
25 to private structures on the site caused by the presence of coal mine
26 hazards for a period not to exceed twenty (20) years following final building
27 permit inspection and issuance of a certificate of occupancy or final approval
28 of plats, short plats, planned unit developments and other development
29 proposals will be done at the expense of the applicant. The County may
30 require such written assurance to take the form of a bond, insurance policy,
31 indemnification or other security which is reasonable and will best accom-
32 plish the purpose of this Section.

1 (5) All prospective purchasers or lessees of lots, dwellings or other
2 structures which have received building permits, subdivision approval, or
3 other development permits and approvals pursuant to this Section shall
4 be furnished with a written notice that the property is located in a coal
5 mine hazard area and a copy of the engineering report and any written
6 assurance required by this section for inspection at least forty-eight (48)
7 hours prior to signing any binding agreement or offer to purchase or lease
8 any such lot or structure. Any such agreement, where the above information
9 has not been given to the purchaser in advance or at the time of his signing,
10 shall be voidable within a reasonable time at the option of the purchaser.
11 A purchaser may revoke such agreement within forty-eight (48) hours, where
12 he has received the above information less than forty-eight (48) hours before
13 he signed the agreement, and the agreement shall so provide. Notice of
14 revocation shall be made by written notice delivered to the seller or his
15 agent. The time period of forty-eight (48) hours shall not include all or
16 any portion of Saturday, Sunday, or legal holiday. All documents conveying
17 any title or interest in such properties must clearly indicate that the
18 property is located within a coal mine hazard area and that special
19 engineering measures may have been required for the development. A copy
20 of the engineering report with a legal description of the affected properties
21 shall be filed with the King County Department of Records and Elections.

22 SECTION 15. The Building and Land Development Division shall develop
23 and adopt, pursuant to KCC 2.98, administrative procedures to implement
24 Section 10 of this ordinance. The administrative procedures shall be
25 simultaneously submitted to the County Council for review.

26 SECTION 16. Severability. Should any section, subsection, paragraph,
27 sentence, clause or phrase of this chapter be held unconstitutional or
28 invalid for any reason, such decision shall not affect the validity of the
29 remaining portions of this chapter.
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SECTION 17. Eighteen months from the effective date of this ordinance, the County Council shall review this ordinance and make appropriate revisions.

SECTION 18. The effective date of this ordinance shall be the date upon which administrative regulations are adopted pursuant to Section 15 above.

INTRODUCED AND READ for the first time this 16th day of April, 1979.

PASSED this 9th day of July, 1979.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Ruby Chow
Chairman

ATTEST:

Dorothy M. Linn
Deputy Clerk of the Council

APPROVED this 12th day of July, 1979.

[Signature]
King County Executive