

ORDINANCE NO. 6949

AN ORDINANCE relating to administration of the State Environmental Policy Act and related rules and regulations, repealing and substituting a new county environmental procedures code; repealing K.C.C. 20.44.010 through 20.44.160; adding a chapter to Title 20 entitled County Environmental Procedures, amending Ordinance 6465, section 13; Ordinance 4461, section 1 and K.C.C. 20.24.070 and amending Ordinance 5570, section 6; Ordinance 5002, section 16, Ordinance 4461, section 2 and 3, and K.C.C. 20.24.080 and.090.

PREAMBLE:

Based on the high volume of permit applications and the existence of adequate regulations to mitigate the environmental impact of small projects, King County elects to use the maximum level of categorical exemptions allowed by the State Environmental Policy Act Rules, WAC 197-11-800 (1) (c).

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 3026, Ordinance 3821, Ordinance 4462, Section 10 and 11, Ordinance 5224, Section 1, Ordinance 5788, Section 1 and Ordinance 6152, Section 1, and K.C.C. 20.44.010 through 20.44.160 are each hereby repealed.

NEW SECTION. SECTION 2. There is hereby added a new chapter to Title 20 of the King County Code entitled "County Environmental Procedures" to include sections 3 through 13 of this ordinance.

NEW SECTION. SECTION 3. Definitions and abbreviations.

A. King County adopts by reference the definitions contained in WAC 197-11-700 through 197-11-799. In addition, the following definitions are adopted for this chapter:

1. "County Council" means the county council described in Article 2 of the Home Rule Charter for King County or its duly authorized designee.

2. "County department" means any administrative office or executive department of King County, as described in K.C.C. chapter 2.16.

3. "County executive" means any county executive described in Article 3 of the Home Rule Charter for King County or his or her duly authorized designee.

B. The following abbreviations are used in this chapter:

- 1 1. SEPA -- State Environmental Policy Act
- 2 2. DNS -- Determination of Non-Significance
- 3 3. DS -- Determination of Significance
- 4 4. EIS -- Environmental Impact Statement

5 NEW SECTION. SECTION 4. Lead agency. The procedures and
6 standards regarding lead agency responsibility contained in WAC
7 197-11-050 and WAC 197-11-922 through 197-11-948 are adopted,
8 subject to the following:

9 A. The county department exercising initial jurisdiction over
10 a private proposal or sponsoring a county project shall be respon-
11 sible for performing the duties of the lead agency. The director
12 of such department shall serve as the responsible official.
13 Department directors may transfer lead agency and responsible
14 official responsibility to any county department which agrees to
15 perform as lead agency or may delegate such responsibility to
16 divisions within their own departments.

17 B. With respect to actions initiated by the county council,
18 the council shall refer such proposals to the county executive for
19 designation of a county department as lead agency.

20 C. In the event of uncertainty or disagreement regarding lead
21 agency status, the county executive shall designate the county
22 department responsible for performing the function of lead agency.

23 NEW SECTION. SECTION 5. Purpose and general requirements.
24 The procedures and standards regarding the timing and content of
25 environmental review specified in WAC 197-11-055 through
26 197-11-100 are adopted subject to the following:

27 A. Pursuant to WAC 197-11-055(4), the building and land
28 development division shall adopt rules and regulations pursuant to
29 K.C.C. 2.98 establishing a process for environmental review at the
30 conceptual stage of permit applications which require detailed
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1 project plans and specifications (i.e., building permits and
2 PUD's). This process shall not become effective until it has been
3 reviewed by the council.

4 B. The optional provision of WAC 197-11-060(3)(c) is adopted,
5 provided analysis of more than one independent private proposal
6 shall occur in a single environmental document only if all
7 affected private applicants agree to such an analysis.

8 C. Under WAC 197-11-100, the applicant shall be responsible
9 for completion of the environmental checklist, unless the lead
10 agency specifically elects to prepare the checklist.

11 NEW SECTION SECTION 6. Categorical exemptions and threshold
12 determinations.

13 A. King County adopts the standards and procedures specified
14 in WAC 197-11-300 through 197-11-390 and 197-11-800 through
15 197-11-890 for determining categorical exemptions and making
16 threshold determinations subject to the following:

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

20 2. Sensitive area maps adopted by K.C.C. 21.54.130 are
21 designated as maps of environmentally sensitive areas for purposes
22 of WAC 197-11-908. The following categorical exemptions shall not
23 apply should the proposal site be within areas designated as
24 environmentally sensitive pursuant to the sensitive area maps and
25 K.C.C. 21.54.070: WAC 197-11-800 (1), (2)(a-h), (3), (5), (6)(a),
26 (14)(c), (24)(a-g), and (25)(d), (f), (h) and (i).

27 3. The exemption standards for minor new construction con-
28 tained in WAC 197-11-800(1)(c) are adopted except that filling,
29 excavation and other grading which is both no greater than 500
30 cubic yards and which is less than five feet of excavation and
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1 less than three feet of fill shall be exempt pursuant to
2 WAC 197-11-800(1)(c)(v).

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

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

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

14 NEW SECTION. SECTION 7. Environmental Impact Statements.

15 The procedures and standards for preparation of environmental
16 impact statements contained in WAC 197-11-400 through 197-11-460
17 are adopted, subject to the following;

18 A. Under WAC 197-11-408(2)(a), all comments on determinations
19 of significance and scoping notices shall be in writing, except
20 where a public meeting on EIS scoping occurs pursuant to WAC
21 197-11-410(1)(b).

22 B. Under WAC 197-11-420, the applicant shall be responsible
23 for preparation of an EIS subject to the review and approval of
24 the responsible official, unless the lead agency specifically
25 elects to prepare the EIS. The applicant shall consult with the
26 lead agency in selecting persons or firms to author, co-author,
27 provide special services or otherwise participate in the
28 preparation of a required EIS.

29 NEW SECTION. SECTION 8. Comments and Public Notice.

30 A. The procedures and standards of WAC 197-11-500 through
31 197-11-570 are adopted regarding public notice and comments.
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1 B. For purposes of WAC 197-11-510, public notice shall
2 consist of

3 1. For site-specific proposals, posting the property in a
4 minimum of three locations readily observable from adjacent prop-
5 erty and public streets.

6 2. Publication of notice in a newspaper of general circu-
7 lation in the area where the proposal is located.

8 3. The responsible official may require additional notice
9 if deemed necessary to provide adequate public notice of a pending
10 action. Failure to require additional or alternative notice shall
11 not be a violation of any notice procedure.

12 NEW SECTION. SECTION 9. Use of Existing Environmental
13 Documents.

14 The procedures and standards of WAC 197-11-600 through
15 197-11-640 are adopted regarding use of existing environmental
16 documents.

17 NEW SECTION. SECTION 10. Substantive Authority.

18 A. The procedures and standards of WAC 197-11-650 through
19 197-11-660 are adopted regarding substantive authority and
20 mitigation.

21 B. For purposes of RCW 43.21C.060 and WAC 197-11-660(a), the
22 following policies, plans, rules and regulations are designated as
23 potential bases for the exercise of King County's authority under
24 SEPA:

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

27 2. The King County Comprehensive Plan, its addenda, and
28 revisions and community and middle plans and housing report, as
29 specified in King County Code chapter 20.12.

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

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

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

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

7 7. The King County Surface Water Runoff Policy, as adopted
8 in King County Code Chapter 20.50.

9 C. Any decision to approve, deny or approve with conditions
10 pursuant to RCW 43.21C.060 shall be contained in the responsible
11 official's decision document. The written order shall contain
12 facts and conclusions based on the proposals specific adverse
13 environmental impacts (or lack thereof) as identified in an
14 environmental checklist, EIS, threshold determination, other
15 environmental document including an executive department's staff
16 report and recommendation to a decision maker, or findings made
17 pursuant to a public hearing authorized or required by law or
18 ordinance. The decision document shall state the specific plan,
19 policy or regulation which supports the SEPA decision.

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

23 NEW SECTION. SECTION. 11. On Going Actions.

24 Unless otherwise provided herein, the provisions of WAC 197-11
25 shall be applicable to all elements of SEPA compliance, including
26 the modification or supplementation of an EIS, initiated after
27 the effective date of the ordinance.

28 NEW SECTION. SECTION 12. Responsibility as Consulted Agency.

29 All requests from other agencies that King County consult on
30 threshold investigations, the scope process, EIS's or other
31 environmental documents shall be submitted to the department of
32 planning and community development. The department shall be
33 responsible for coordination with other affected county departments

1 and for compiling and transmitting King County's response to such
2 requests for consultation.

3 NEW SECTION. SECTION 13. Fees.

4 A. The following fees are required for applications for
5 nonexempt county licenses and actions filed by a person or noncounty
6 agency in addition to the regular application and inspection fees:

7 1. Actions requiring an environmental checklist shall pay
8 a fee of \$100, plus the cost of public notice, if any, required by
9 WAC 197-11-340(2), provided, the fee shall not apply to the con-
10 struction, location or repair of a one-family dwelling unit and
11 permitted residential accessory uses.

12 2. Actions requiring preparation of a mitigated DNS or an
13 EIS:

14 a. actual cost of time spent by county employees required
15 for review, preparation, supervision of preparation and distribu-
16 tion of the mitigated DNS or the EIS; provided no costs shall be
17 charged for review of the completed mitigated DNS or EIS by county
18 officials as part of the decision-making process.

19 b. costs, if any, for experts not employed by the county,
20 texts, printing and for any other actual costs required for prep-
21 aration and distribution of the EIS; provided that no additional
22 costs can be charged for existing studies or general information
23 already in county files.

24 c. a one thousand dollar deposit shall be submitted to
25 the responsible official prior to commencement of EIS preparation
26 to cover costs incurred pursuant to this section. Any unexpended
27 balance shall be refunded.

28 B. Charges for reproduction of environmental documents shall
29 be paid pursuant to K.C.C. 2.12.110.
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NEW SECTION. SECTION 14. Appeals.

A. Appeals of threshold determinations shall be conducted by the zoning and subdivision examiner pursuant to K.C.C. 20.24.080, subject to the following:

1. Only one appeal of each threshold determination shall be allowed on a proposal.

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

B. Consideration of the adequacy of the final EIS shall be consolidated in all cases with the public hearing, if any, on the proposal. Administrative appeals regarding adequacy of the EIS shall be consolidated with the administrative appeal, if any, on the proposal. If no public hearing process exists for a proposal, review of final EIS adequacy shall only be by writ of certiorari in King County Superior Court.

C. 1. Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal.

2. If no administrative appeal is otherwise authorized for a proposal, a decision denying or conditioning an application pursuant to RCW 43.21C.060 may be appealed to the zoning and subdivision examiner pursuant to K.C.C. 20.24.080. Such appeals shall be limited to issue of whether or not the application was properly conditioned or denied pursuant to RCW 43.21C.060 and the regulations and ordinances implementing that statute.

3. Appeals of threshold determinations must be filed within fifteen days of the lead agency determination.

NEW SECTION. SECTION 15. Department Procedural Rules.

A. County departments which administer activities subject to SEPA may prepare rules and regulations pursuant to K.C.C. 2.98 for the implementation of SEPA WAC ch. 197-11 and this chapter.

B. The rules and regulations prepared by the department of planning and community development, which exercises initial

1 jurisdiction over a private proposal, shall not become effective
2 until approved by council motion.

3 SECTION 16. Ordinance 6465, section 13; Ordinance 4461,
4 section 1 and K.C.C. 20.24.070 are each hereby amended to read as
5 follows:

6 Recommendations to the council.

7 A. The examiner shall receive and examine available
8 information, conduct public hearings and prepare records and
9 reports thereof and issue recommendations to the council based
10 upon findings and conclusions in the following cases:

- 11 1. Applications for reclassifications of property;
 - 12 2. Applications for unclassified use permits;
 - 13 3. Applications for planned unit developments;
 - 14 4. Applications for preliminary plats;
 - 15 5. Applications for shoreline environment redesignations;
 - 16 6. Applications for boundary adjustments of local sewer
17 service areas in accordance with the county sewerage general plan,
18 Ordinance 4035, Chapter 6, required for development proposals
19 including but not limited to short subdivisions and building per-
20 mits, which seek or need sewer service but are located outside of
21 existing designated local sewer service areas;
 - 22 7. Applications for agricultural land variances;
 - 23 8. Applications for review of designations of agricul-
24 tural lands of county significance of King County agricultural
25 districts;
 - 26 9. Applications to revise the boundaries of agricultural
27 lands of county significance;
 - 28 10. Applications for current use assessment on open space
29 or timber lands except as provided in Section 20.36.090;
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1 11. Appeals from denials by the county assessor of
2 applications for current use assessments on farm and agricultural
3 lands;

4 ~~((12--Appeals-of-permit-denials-or-conditions-imposed-on
5 environmental-grounds-pursuant-to-Section-20.44.010))~~

6 ~~((13--Appeals-from-threshold-determinations-concerning
7 actions-subject-to-council-approval))~~

8 12. ((14)). Appeals from decisions regarding residential
9 condominium binding site plan applications pursuant to Section
10 19.34.050;

11 13. ((15)). Other applications or appeals which the council
12 may prescribe by ordinance.

13 B. The examiner's recommendation may be to grant or deny
14 the application or appeal, or the examiner may recommend that the
15 council adopt the application or appeal with such conditions, modi-
16 fications and restrictions as the examiner finds necessary to make
17 the application reasonably compatible with the environment and
18 carry out applicable state laws and regulations and the regula-
19 tions, policies, objectives and goals of the comprehensive plan,
20 the community plans, the sewerage general plan, the zoning code,
21 the subdivision code and other official laws, policies and
22 objectives of King County.

23 SECTION 17. Ordinance 5570, section 6; Ordinance 5002,
24 section 16; Ordinance 4461, section 2 and K.C.C. 20.24.080 are
25 each hereby amended to read as follows:

26 Final decisions by the examiner.

27 A. The examiner shall receive and examine available informa-
28 tion, conduct public hearings and prepare records and reports
29 thereof, and issue final decisions based upon findings and
30 conclusions in the following cases:

1 1. Appeals from the decisions of the administrator for
2 short subdivisions;

3 2. Appeals (~~from~~) of threshold determinations
4 (~~concerning-actions-not-subject-to-council-approval~~);

5 3. Appeals from notices and orders issued pursuant to Title
6 23 of this code or the rules and regulations VII of the King
7 County department of public health;

8 4. Appeals from decisions of the department of public works
9 regarding permits or licenses in flood hazard areas pursuant to
10 Section 21.54.100;

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

14 6. Appeals from decisions of the zoning adjustor on admini-
15 strative conditional use permits, conditional use permits or
16 variances;

17 7. Appeals from decisions regarding site plan approvals
18 pursuant to Section 21.46.180 and pursuant to Ordinance 4122;

19 8. Appeals from decisions regarding the abatement of
20 nonconforming uses;

21 9. Applications for shoreline substantial development
22 permits when combined with other land use applications pursuant to
23 Section 25.32.080;

24 10. Appeals from decisions regarding modification of land-
25 scaping requirements pursuant to Section 21.51.050;

26 11. Appeals from decisions to condition or deny applica-
27 tions pursuant to RCW 43.21C.060, as provided in Section 13 C. 2.
28 of this Ordinance.

29 12. (~~11.~~) Other applications or appeals which the council
30 may prescribe by ordinance.

1 B. The examiner's decision may be to grant or deny the
 2 application or appeal, or the examiner may grant the application
 3 or appeal with such conditions, modifications and restrictions as
 4 the examiner finds necessary to make the application or appeal
 5 compatible with the environment and carry out applicable state
 6 laws and regulations and the regulations, policies, objectives and
 7 goals of the comprehensive plan, the community plans, the sewerage
 8 general plan, the zoning code, the subdivision code and other
 9 official laws, policies and objectives of King County.

10 SECTION 18. Ordinance 4461, Section 3 and K.C.C. 20.24.090
 11 are each hereby amended to read as follows:

12 All notices of appeal regarding any decision being appealed to
 13 the zoning and subdivision examiner pursuant to this chapter shall
 14 be filed with the county department or division issuing the
 15 original decision within ten calendar days from the date of
 16 issuance of such decisions (←→) except notices of appeal of
 17 state environmental policy act threshold determinations shall be
 18 filed within fifteen days of the lead agency determination.

19 All notices of appeal shall state with specificity the decision
 20 being appealed and the reasons why the appealed decision should
 21 be reversed or modified.

22 SECTION 19. Severability.

23 Should any section, subsection, paragraph, sentence, clause or
 24 phrase of this ordinance be declared unconstitutional or invalid
 25 for any reason, such decision shall not affect the validity of the
 26 remaining portion of this ordinance.

27 INTRODUCED AND READ for the first time this 27th day of
August, 1984.

28 PASSED this 24th day of September, 1984.

29 KING COUNTY COUNCIL
 30 KING COUNTY, WASHINGTON

31 Gary Grant
 32 Chairman

33 ATTEST:

Dorothy M. Owens
 Clerk of the Council

DEEMED ENACTED WITHOUT
 COUNTY EXECUTIVE'S SIGNATURE, 1984.
 DATED: 10/4/84

APPROVED this _____ day of _____

King County Executive



King County Executive
Randy Revelle

October 5, 1984

The Honorable Gary Grant
Chairman, King County Council
C O U R T H O U S E

RE: Ordinance 6949

Dear Mr. Chairman:

Enclosed is Ordinance 6949 establishing new King County environmental procedures under the State Environmental Policy Act (SEPA). I am allowing Ordinance 6949 to become law without my signature.

We are concerned about the new level of categorical exemptions established by Ordinance 6949. We share with the King County Council the goal of increasing efficiency of the King County permit process to reduce delays and improve our ability to provide service to the public. We do not agree, however, that raising the categorical exemptions for projects not subject to SEPA to the maximum allowed by State law is justified by this goal.


Specifically, we are skeptical that eliminating environmental review for projects up to twenty dwelling units will result in speeding up permit processing. Rather, we believe it may cause occasional but significant problems in our ability to protect environmental quality in King County.

We will monitor application of the new standards. If our experience demonstrates that the absence of SEPA review for some or all of the newly exempt categories hampers our ability to protect the environment, we will bring this evidence back before the Council and ask for its reconsideration of the categorical exemptions in Ordinance 6949.

Gary Grant
October 5, 1984
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If you have any questions about our concerns, please contact Holly Miller at 344-7503.

Sincerely



RANDY REVELLE
King County Executive

RR:SM:me

cc: King County Councilmembers

ATTN: Cheryle Broom, Program Director
Jerry Peterson, Administrator

Holly Miller, Director, Department of Planning and
Community Development

ATTN: Steve Miller, Deputy Director
Bryan Glynn, Manager, Building and
Land Development Division

Tom Fitzsimmons, Program Development Manager