

June 2, 1989  
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Introduced by: Ron Sims

Proposed No.: 89 - 248

ORDINANCE NO. 8998

AN ORDINANCE relating to county environmental procedures, amending Ordinances 6949, Sections 5, 7, 8 and 14, and Ordinance 4551, Section 2, as amended, and K.C.C. 20.44.030, 20.44.050, 20.44.060, 20.44.120, and 4.16.080 and adding new sections to K.C.C. 20.44.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 6949, Section 5, and K.C.C. 20.44.030

are hereby amended to read as follows:

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

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

B. The optional provision of WAC 197-11-060(3)(c) is adopted.

C. Under WAC 197-11-100, the applicant shall ~~((be-responsible for-completion-of-the))~~ prepare the initial environmental checklist, unless the lead agency specifically elects to prepare the checklist. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and shall have the authority to determine the final content of the environmental checklist.

1 D. The manager of the building and land development division  
 2 may set reasonable deadlines for the submittal of information,  
 3 studies, or documents necessary for, or subsequent to, threshold  
 4 determinations. Failure to meet such deadlines shall cause the  
 5 application to be deemed withdrawn, and plans or other data  
 6 previously submitted for review may be returned to the applicant  
 7 together with any unexpended portion of the application review  
 8 fees.

9 SECTION 2. Ordinance 6949, Section 7 and KCC 20.44.050 are  
 10 hereby amended to read as follows: Environmental impact  
 11 statements and other environmental documents.

12 The procedures and standards for preparation of environmental  
 13 impact statements ~~((contained-in))~~ and other environmental  
 14 documents pursuant to WAC 197-11-400 through 197-11-460 and  
 15 197-11-600 through 197-11-640 are adopted, subject to the  
 16 following:

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

21 B. ~~((Under))~~ Pursuant to WAC 197-11-420, 197-11-620, and  
 22 197-11-625, the ((applicant)) county department acting as lead  
 23 agency shall be responsible for preparation and content

24 of ((an)) EIS's and other environmental documents ((subject to  
 25 the-review-and-approval-of-the-responsible-official,-unless-the  
 26 lead-agency-specifically-elects-to-prepare-the-EIS)).

27 The department shall contract with consultants as  
 28 necessary for the preparation of environmental documents. ((The  
 29 applicant-shall-consult-with-the-lead-agency-in)) The department  
 30 may consider the opinion of the applicant regarding the

1 qualifications of the consultant but the department shall retain  
2 sole authority for selecting persons or firms to author,  
3 co-author, provide special services or otherwise participate in  
4 the preparation of ((a)) required ((EIS)) environmental documents.

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

13 D. The department shall establish and maintain one or more  
14 lists of qualified consultants who are eligible to receive  
15 contracts for preparation of environmental documents. Separate  
16 lists may be maintained to reflect specialized qualifications or  
17 expertise. When the department requires consultant services to  
18 prepare environmental documents, the department shall select a  
19 consultant from the lists and negotiate a contract for such  
20 services. The department director may waive these requirements  
21 as provided for in rules adopted to implement this section.  
22 Subject to Section 6 and pursuant to K.C.C. 2.98, the building  
23 and land development division shall promulgate administrative  
24 rules prior to the effective date of this ordinance that  
25 establish processes to: create and maintain a qualified  
26 consultant list; select consultants from the list; remove  
27 consultants from the list; provide a method by which applicants  
28 may request a reconsideration of selected consultants based upon  
29 costs, qualifications, or timely production of the environmental  
30 document; and waive the consultant selection requirements of this  
31 ordinance on any basis provided by K.C.C. 4.19.

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1        E. All costs of preparing the environment document shall be  
2 borne by the applicant. Subject to Section 6 and pursuant to  
3 K.C.C. 2.98, the building and land development division shall  
4 promulgate administrative rules which establish a trust fund for  
5 consultant payment purposes, define consultant payment schedules,  
6 prescribe procedures for treating interest from deposited funds,  
7 and develop other procedures necessary to implement this  
8 ordinance.

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

16        G. The department shall only publish environmental documents  
17 when it believes that the documents adequately disclose: the  
18 significant direct, indirect, and cumulative adverse impacts of  
19 the proposal and its alternatives; mitigation measures proposed  
20 and committed to by the applicant, and their effectiveness in  
21 significantly mitigating impacts; mitigation measures that could  
22 be implemented or required; and unavoidable significant adverse  
23 impacts.

24        SECTION 3. Ordinance 6949, Section 8, and K.C.C. 20.44.060  
25 are hereby amended to read as follows:

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

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

31        1. For ((site))project-specific proposals, posting the  
32 property in a minimum of three locations readily observable from  
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1 adjacent property and ~~((public))~~ adjoining streets. A notarized  
 2 affidavit of posting which certifies the location of posters on a  
 3 vicinity map shall be submitted to the department within fifteen  
 4 days of publication pursuant to this section.

5 2. Publication of notice in a newspaper of general  
 6 circulation in the area where the proposal is located.

7 C. Additional notice.

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

15 ~~((3-))~~ 2. The responsible official may require ~~((additional))~~  
 16 further notice if deemed necessary to provide adequate public  
 17 notice of a pending action. Failure to require ~~((additional))~~  
 18 further or alternative notice shall not be a violation of any  
 19 notice procedure.

20 SECTION 4. Ordinance 6949, Section 14, and K.C.C. 20.44.120  
 21 are hereby amended to read as follows:

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

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

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

29 B. Consideration of the adequacy of the final EIS shall be  
 30 consolidated in all cases with the public hearing, if any, on the  
 31

1 proposal. Administrative appeals regarding adequacy of the EIS  
2 shall be consolidated with the administrative appeal, if any, on  
3 the proposal. If no public hearing process exists for a  
4 proposal, review of final EIS adequacy shall only be by writ of  
5 certiorari in King County superior court.

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

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

17 3. Appeals of the adequacy of a final EIS shall be filed  
18 within the time periods for appeals of the proposal. Appeals of  
19 threshold determinations must be filed within fifteen days of the  
20 lead agency determination.

21 SECTION 5. Ordinance 4551, Section 2, as amended, and K.C.C.  
22 4.16.080 are hereby amended to read as follows:

23 Rules and regulations for the solicitation and purchase of  
24 professional and/or technical service consultant contracts.

25 A. The rules and regulations stipulated in this section  
26 shall apply only to professional and/or technical service  
27 consultant contracts in which the county enters into an agreement  
28 to purchase consultant services for county government from a  
29 corporation, firm, agency, individual, or group of individuals  
30 based on their recognized experience and knowledge within a  
31  
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1 specialized area of expertise. Examples of such consultant  
 2 services subject to this chapter include, but are not limited to,  
 3 the following:

4 ((A-)) 1. Financial or administrative studies;

5 ((B-)) 2. Feasibility studies of a scientific or technical  
 6 nature;

7 ((C-)) 3. Architectural services, including landscape,  
 8 architectural, and engineering, as well as other design studies;

9 ((D-)) 4. Special project management for a defined period of  
 10 time or result;

11 ((E-)) 5. Management advisory services.

12 B. Consultant contracts for preparation of environmental  
 13 documents prepared as required by the State Environmental Policy  
 14 Act, RCW 43.21C, are exempt from the requirements of this chapter.

15 C. In soliciting and ultimately awarding a professional  
 16 and/or technical services consultant contract, having a value to  
 17 the contractor in excess of ten thousand dollars, the director or  
 18 his designee, shall have the operational responsibility to:

19 ((A-)) 1. Develop bid specifications or a project  
 20 description in the form of a request for proposal in concert with  
 21 the requesting county agency;

22 ((B-)) 2. Develop, with the requesting agency, the written  
 23 criteria which will be used to determine which written proposal  
 24 shall be accepted as the basis for recommending contract award.  
 25 Such determination at a minimum shall include:

26 ((1-)) a. Quality;

27 ((2-)) b. Known and documented expertise of the applicant;

28 ((3-)) c. Documentation, as required, and demonstration  
 29 of the financial capability of the party to perform specified  
 30 work;

1           ((4-)) d. Special consideration of the impact of  
2 affirmative action, including minority business contracting.

3           ((6-)) 3. Publicly advertise at least twice, and at least  
4 once, two consecutive weeks in advance, the purpose, scheduled  
5 date, location, and time of a prebid conference, or the name of a  
6 contact person within the issuing authority from which the  
7 project specifications shall be available. The purposes of prior  
8 notification shall be to distribute and discuss the project  
9 specifications in the form of a request for proposal to  
10 interested parties, and inform applicants of the stated time  
11 frame for submission;

12           ((9-)) 4. Recommend to the county executive which proposal,  
13 therefore party, should be awarded a contract as being in the  
14 best interests of the county; provided, that in the event the  
15 county fails to negotiate satisfactory terms with the highest  
16 ranked proposed contractor, the executive shall then begin  
17 negotiations with the next highest ranked contractor;

18           ((E-)) 5. Be responsible to address all necessary comments  
19 to other applicants, interested parties, or the general public  
20 regarding the decision by the county to contract for services  
21 from a party to the exclusion of other applicants.

22           NEW SECTION. SECTION 6. Effective date. Sections 1, 3, 4,  
23 6, and 7 of this ordinance shall become effective 10 days after  
24 enactment. Sections 2 and 5 shall become effective January 1,  
25 1990. Draft rules developed to implement this ordinance shall be  
26 transmitted to the county council by September 15, 1989 for  
27 review and approval prior to filing with the clerk of the  
28 council. Subsequent modifications or amendments of the rules  
29 shall be in accordance with K.C.C. 2.98.  
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1 NEW SECTION. SECTION 7. Severability. Should any section,  
2 subsection, paragraph, sentence, clause, or phrase of this  
3 ordinance be declared unconstitutional or invalid for any reason,  
4 such decision shall not affect the validity of the remaining  
5 portion of this ordinance.

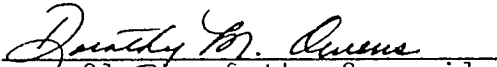
6 INTRODUCED AND READ for the first time this 27<sup>th</sup> day  
7 of March, 1989.

8 PASSED this 5<sup>th</sup> day of June, 1989.

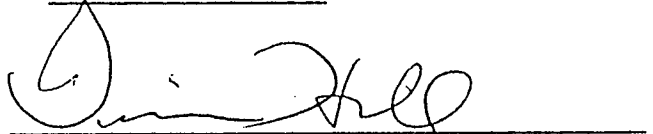
9  
10 KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

11   
12 \_\_\_\_\_  
13 Chairman

14 ATTEST:

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17 \_\_\_\_\_  
Clerk of the Council

18 APPROVED this 14<sup>th</sup> day of June, 1989.

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21 \_\_\_\_\_  
King County Executive