

ORDINANCE NO. **11624**

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AN ORDINANCE relating to water quality, adopting Chapter 12 of K.C.C. Title 8 and amending it to be consistent with and implement the comprehensive plan as required by the Washington State Growth Management Act; amending Ordinance 10636 Sections 4, 5 and 7, and K.C.C. 8.12.025, K.C.C. 8.12.035 and K.C.C. 8.12.050; transferring Ordinance 10636 Sections 1 through 13, and K.C.C. 8.12.005 through K.C.C. 8.12.110 to a new chapter in K.C.C. Title 9.

PREAMBLE:

For the purpose of effective land use planning and regulation, the King County Council makes the following legislative findings:

1. King County has adopted the 1994 King County Comprehensive Plan, to meet the requirements of the Washington State Growth Management Act (GMA).
2. The GMA also requires King County to adopt development regulations to be consistent with and implement the adopting Chapter 12 of K.C.C. Title 8 Comprehensive Plan by December 31, 1994.
3. The changes to the King County Water Quality Code (Chapter 8.12 of the King County Code) contained in this Ordinance are needed to bring Chapter 8.12 into conformance with the 1994 King County Comprehensive Plan, as required by the GMA. As such they bear a substantial relationship to, and are necessary for, the public health, safety and general welfare of King County and its residents.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 10636, and K.C.C. 8.12 are hereby enacted to be consistent with and implement the comprehensive plan in accordance with RCW 36.70A. The county recognizes that many actions undertaken pursuant to Title 8, as amended, may impact treaty fishing rights of federally-recognized tribes. In order to honor and prevent interference with these treaty fishing rights and to provide for water quality and habitat preservation, the county shall provide notice to any federally-recognized tribes whose treaty fishing rights would be affected by an action undertaken pursuant to this title, including but not limited to: development of wetlands, stream and river banks, lakeshore habitat of water bodies, or development directly or indirectly affecting anadromous bearing water bodies, including the promulgation of plans, rules, regulations or ordinances implementing the provisions of this title, whether or not review of such actions is required under the State Environmental Policy Act (SEPA), RCW 43.21C.

SECTION 2. Ordinance 10636, Section 4, and K.C.C. 8.12.025 are amended to read as follows:

Discharges into King County waters.

- 1 h. batteries;
- 2 I. acids, alkalis, or bases;
- 3 j. paints, stains, resins, lacquers, or varnishes;
- 4 k. degreasers and/or solvents;
- 5 l. drain cleaners;
- 6 m. pesticides, herbicides, or fertilizers;
- 7 n. steam cleaning wastes;
- 8 o. soaps, detergents, or ammonia;
- 9 p. swimming pool backwash (~~((diatomaceous earth))~~);
- 10 q. chlorine, bromine, and other disinfectants;
- 11 r. heated water;
- 12 s. domestic animal wastes;
- 13 t. sewage;
- 14 u. recreational vehicle waste;
- 15 v. animal carcasses;
- 16 w. food wastes;
- 17 x. bark and other fibrous materials;
- 18 y. collected lawn clippings, leaves, or branches;
- 19 z. silt, sediment, or gravel;
- 20 aa. dyes (except as stated in subsection C.1. of this
- 21 section);
- 22 bb. chemicals, not normally found in uncontaminated water;
- 23 cc. any hazardous material or waste, not listed above.
- 24 2. Illicit connections. Any connection, identified by the
- 25 director, that could convey anything not composed entirely of
- 26 surface and storm water directly to surface and storm water or
- 27 ground water is considered an illicit connection and is prohibited
- 28 with the following exceptions: conn((n))ections conveying
- 29 allowable discharges, connections conveying discharges pursuant to
- 30 an NPDES permit (other than an NPDES storm water permit) or a State
- 31 Waste Discharge Permit, and connections conveying effluent from
- 32 onsite sewage disposal systems to subsurface soils.
- 33 B. Allowable discharges. The following types of discharges
- 34 shall not be considered prohibited discharges for the purpose of
- 35 this chapter unless the director of public works determines that
- 36 the type of discharge, whether singly or in combination with
- 37 others, is causing significant contamination of surface and storm
- 38 water or ground water:
- 39 1. potable water;
- 40 2. potable water line flushing;
- 41 3. uncontaminated water from crawl space pumps or footing
- 42 drains;
- 43 4. lawn watering;
- 44 5. residential car and boat washing;
- 45 6. dechlorinated swimming pool water;
- 46 7. materials placed as part of an approved habitat

1 restoration or bank stabilization project;

2 8. natural uncontaminated surface water or ground water;

3 9. flows from riparian habitats and wetlands;

4 10. the following discharges from boats: engine exhaust,
5 cooling waters, effluent from sinks, showers and laundry facilities
6 and treated sewage from Type I and Type II marine sanitation
7 devices; ((and))

8 11. common practices for water well disinfection; and

9 ((11-)) 12. other types of discharges as determined by the
10 director of public works.

11 C. Exceptions.

12 1. Dye testing is allowable but requires verbal notification
13 to the King County surface water management division at least one
14 day prior to the date of test. The King County health department
15 is exempt from this requirement.

16 2. If a person has properly designed, constructed,
17 implemented and is maintaining BMPs, and is carrying out AKART as
18 required by this chapter (~~and in the Storm Water BMP Manual~~), and
19 contaminants continue to enter surface and storm water or ground
20 water; or the person can demonstrate that there is no additional
21 contaminants being discharged from the site above the background
22 conditions of the water entering the site; that person shall not be
23 in violation of subsection A of this section. The said person
24 however, is still liable for prohibited discharges through illicit
25 connections, dumping, spills, improper maintenance of BMPs, or
26 other discharges that allow contaminants to enter surface and storm
27 water or ground water.

28 3. Emergency response activities or other actions that must
29 be undertaken immediately or within a time too short to allow full
30 compliance with this chapter, to avoid an imminent threat to public
31 health or safety, shall be exempt from this section. The director
32 of public works may specify actions that qualify for this exception
33 in county procedures. The person responsible for emergency
34 response activities should take steps to ensure that the discharges
35 resulting from such activities are minimized to the greatest extent
36 possible. In addition, this person shall evaluate BMPs and the
37 site plan, where applicable, to restrict recurrence.

38 SECTION 3. Ordinance 10636, Section 5, and K.C.C. 8.12.035 are
39 amended to read as follows:

40 Best management practices.

41 A. Best management practices.

42 1. The King County surface water management division shall
43 develop a ((S))storm ((W))water ((B))best ((M))management
44 ((P))practices ((M))manual and present this manual to the King
45 County council for approval. The manual shall present BMPs and
46 procedures for existing facilities and activities and for new
47 development activities not covered by the King County ((S))surface

1 ((W))water ((D))design. ((M))manual. At a minimum, the manual shall
 2 describe the types of regulated activities; the types of
 3 contaminants generated by each activity, and the contaminant's
 4 effect on water quality; the required source control BMPs and
 5 available treatment BMPs, including information on design and
 6 maintenance; ~~((experimental))~~ allowable use of alternative BMPs;
 7 and a schedule for BMP implementation.

8 2. In applying the BMP manual, the director shall first
 9 require the implementation of source control BMPs. If these are
 10 not sufficient to prevent contaminants from entering surface and
 11 storm water or ground water, the director may require
 12 implementation of treatment BMPs, according to AKART. The King
 13 County surface water management division will provide, upon
 14 reasonable request, available technical assistance materials and
 15 information, and information on outside financial assistance
 16 options to persons required to comply with this chapter.

17 B. Exemptions.

18 1. Persons implementing BMPs through another federal, state,
 19 or local program will not be required to implement the BMPs
 20 prescribed in the county's manual, unless the director determines
 21 the alternative BMPs to be ineffective at reducing the discharge or
 22 contaminants. If the other program requires the development of a
 23 best management practices plan, the person shall make their plan
 24 available to King County upon request. Persons who qualify for
 25 exemptions include, but are not limited to, persons who are:

26 a. Required to obtain a general or individual NPDES
 27 permit for storm water discharges from the Washington State
 28 Department of Ecology;

29 b. Implementing and maintaining, as scheduled, a King
 30 ~~((County))~~ Conservation District-approved farm management plan;

31 c. Permitted under a Washington State Department of
 32 Ecology NPDES general or individual permit for commercial dairy
 33 operations;

34 d. Implementing BMPs in compliance with K.C.C. 21A.30 -
 35 Development Standards: Animals, Home Occupation, Home Industry;

36 e. Implementing BMPs in compliance with the management
 37 program of the county's municipal NPDES permit;

38 f. Engaged in forest practices, with the exception of
 39 ~~((Class IV, and Class IVA Special general forest practices. This
 40 section will apply to Class IV general))~~ forest practices occurring
 41 on lands platted after January 1, 1960, or on lands being converted
 42 to another use, or where ~~((the activity is taking place in areas
 43 designated by the Washington State Department of Natural Resources
 44 as "lands with a likelihood of future conversion"; or))~~ regulatory
 45 authority is otherwise provided to local government by RCW
 46 76.09.240; or

47 g. Identified by the director of public works as being

1 exempt from this section.

2 2. Persons conducting normal single family residential
3 activities will not be required to implement the BMPs prescribed in
4 the county's manual, unless the director determines that these
5 activities pose a hazard to public health, safety, or welfare;
6 endanger any property; or adversely affect the safety and operation
7 of county right-of-way, utilities, and/or other property owned or
8 maintained by the county. The county council intends to consider
9 the application of BMPs to single family residential activities
10 after completion of the ((S))storm ((W))water best management
11 practices ((BMP)) ((M))manual.

12 SECTION 4. Ordinance 10636, Section 7, and K.C.C. 8.12.050 are
13 amended to read as follows:

14 Enforcement.

15 A. The director is authorized to carry out enforcement actions
16 pursuant to the enforcement and penalty provisions of K.C.C. Title
17 23 and other enforcement provisions adopted by rule under the
18 procedures of K.C.C. 2.98. ~~((The director is authorized to enforce
19 against prohibited discharges resulting from illicit connections
20 and intentional acts, such as dumping, immediately upon the
21 effective date of this chapter. The director will be authorized to
22 enforce against all other prohibited discharges upon the effective
23 date of the Storm Water BMP Manual.))~~

24 B. The director shall gain compliance with this chapter by
25 requiring the implementation of BMPs and, when necessary, AKART.
26 The director shall initially rely on education and informational
27 assistance as much as possible to gain compliance with this
28 chapter, unless the director determines a violation is a result of
29 a flagrant act that should be addressed through immediate penalties
30 or poses a hazard as defined in the Hazards section.

31 C. The director of public works, in consultation with other
32 departments of King County government, shall develop and implement
33 additional enforcement procedures. These procedures shall indicate
34 how the county will investigate and respond to reports or instances
35 of noncompliance with this chapter and shall identify by title the
36 official(s) responsible for implementing the enforcement
37 procedures.

38 D. The director is authorized to make such inspections and
39 take such actions as may be required to enforce the provisions of
40 this chapter. Such inspections shall be made in accordance with
41 K.C.C. 23.08.040.

42 1. The director may observe best management practices or
43 examine or sample surface and storm water or ground water as often
44 as may be necessary to determine compliance with this chapter.
45 Whenever an inspection of a property is made, the findings shall be
46 recorded and a copy of the inspection ~~((report))~~ findings shall be

1 furnished to the owner or the person in charge of the property
2 after the conclusion of the investigation and completion of the
3 inspection (~~report~~) findings.

4 2. When the director has (~~reason to believe~~) made a
5 determination under subsection 1 of this section that any person is
6 violating this chapter, the director may require the violator to
7 sample and analyze any discharge, surface and storm water, ground
8 water, and/or sediment, in accordance with sampling and analytical
9 procedures or requirements determined by the director. If the
10 violator is required to complete this sampling and analysis, a copy
11 of the analysis shall be provided to the King County surface water
12 management division.

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

16 SECTION 5. King County Code 8.12.005-8.12.110 is hereby
17 transferred into King County Code Title 9 with "Water Quality" as
18 the title for the new chapter.

19 SECTION 6. Should any section, subsection, paragraph,
20 sentence, clause or phrase of this ordinance or its application to
21 any person or circumstance be declared unconstitutional or invalid
22 for any reason, such decision shall not affect the validity of the
23 remaining portion of this ordinance or its application to other
24 persons or circumstances.

25 INTRODUCED AND READ for the first time this 28th day of
26 November, 19 94.

27 PASSED by a vote of 13 to 0 this 19th day of
28 December, 1994

29 KING COUNTY COUNCIL
30 KING COUNTY, WASHINGTON

31 Kent Pullen
32
33 Chair

34 ATTEST:

35 Gerald A. Petru
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37 Clerk of the Council

38 APPROVED this 30th day of December, 1994

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40
41 Ray Loh
42
43 King County Executive

44 Attachments:

45 None