

ORDINANCE NO. **3821**

AN ORDINANCE relating to County environmental policy; implementing amendments to the State Environmental Policy Act (SEPA) and State regulations; clarifying appeal procedures; deleting sensitive area procedures from this chapter; amending Ordinance 3026, Section 2, 8 and 15, and KCC 20.44.010, 20.44.070; and 20.44.140; repealing Ordinance 3026, Sections 5, 12 and 14 and KCC 20.44.040, 20.44.110 and 20.44.130; and adding a new Section on SEPA public information procedures.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 3026, Section 2 and KCC 20.44.010 are each amended to read as follows:

Policies and authority. (a) King County adopts the following environmental policies which are to be used in conditioning or denying actions pursuant to the State Environmental Policy Act, RCW 43.21C.060:

~~((a))~~ (1) King County hereby adopts by reference policies of the State Environmental Act as expressed in RCW 43.21C.010 and RCW 43.21C.020.

~~((b))~~ (2) ((The-County-and-its-departments-may-exercise-where-appropriate-the-authority)) It is the policy of King County to approve, deny or condition all public and private proposals, subject to the limitations of this ((Section)) Chapter, so as to mitigate or prevent identified significant adverse environmental impacts insofar as practical, in accordance with RCW 43.21C.020 (2) and .060.

The elements of the physical and human environment addressed by this policy are defined in WAC 197-10-444, as amended.

(3) King County shall utilize the policies contained in the King County Comprehensive Plan, its supplements and the community plans, which specifically address impacts to the physical and human environment, to approve, deny or condition all public and private proposals subject to SEPA, including governmental actions not requiring Council approval, pursuant to RCW 43.21C.060.

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1 (b) (~~(1)~~) A proposal not requiring Council approval which is  
2 a major action may be denied only if:

3 (1) The proposal would result in significant and unavoidable  
4 adverse environmental impacts not addressed by specific regulations  
5 when such impacts are identified in a final impact statement pre-  
6 pared pursuant to this chapter; and

7 (~~(2) (Approval-of-such-a-proposal-would-be-arbitrary-and~~  
8 ~~capricious-and-clearly-erroneous-in-view-of-such-impacts)~~) The  
9 beneficial consequences to the public, when balanced against such  
10 adverse impacts, do not support the reasonableness of the proposal;  
11 and

12 (~~(3) A-feasible-alternative-exists-with-a-reasonable-level~~  
13 ~~of-environmental-impact;~~)

14 (3) The denial is based upon one or more of the policies  
15 adopted in subsection (a) of this Section.

16 (c) A proposal not requiring Council approval which is a  
17 major action may be conditioned:

18 (1) So as to mitigate or prevent any significant adverse en-  
19 vironmental impacts not addressed by specific regulations when  
20 such impacts are identified in an environmental document prepared  
21 pursuant to this chapter; and

22 (2) Where the conditions can reasonably be fulfilled (~~and~~)  
23 taking into account

24 (~~((3)-Based-on)~~) the economic impact of the conditions on  
25 the applicant (~~(-)~~); and

26 (3) The conditions are based on one or more of the policies  
27 adopted in subsection (a) of this Section.

28 (~~(e)~~) (d) Any decision of denial, or approval with conditions  
29 made pursuant to this Section shall be set forth by the responsible  
30 official in a written order containing findings of fact and con-  
31 clusions explicitly based on the proposal's impacts as identified  
32 in the final EIS or other environmental document, giving appropriate  
33 consideration to economic values; (~~provided, at the same time such~~

1 written-order-is-made,-a--proposed-ordinance-shall-be-prepared-  
2 which-amends-the-King-County-Code-with-general-provisions-consist-  
3 ent-with-the-decision,-and-which-shall-be-proposed-by-the-executive  
4 to-the-Council-))

5 ((d)) (e) Any decision made pursuant to this section may be  
6 appealed by an aggrieved person through the zoning and subdivision  
7 examiner to the Council in a manner consistent with the procedures  
8 in King County Code 20.24. Any such appeal shall be filed in writ-  
9 ing with the examiner within ten days of the date of the written  
10 decision, and shall state in full the facts of the matter and the  
11 reasons for the appeal. ((In-the-event-of-an-appeal-of-this  
12 decision-to-the-Council,-the-Council-as-a-part-of-the-appeal-shall  
13 act-on-the-proposed-ordinance-as-provided-in-subsection-(e)-of-  
14 this-section)).

15 ((e)) (f) Compliance with this chapter shall constitute com-  
16 plete compliance with SEPA (RCW 43.21C) and the SEPA Guidelines  
17 (WAC 197-10). This chapter also ensures that economic values will  
18 be given appropriate consideration in the county's rule-making pro-  
19 cess along with environmental, social, health, and safety consider-  
20 ations, in accordance with Chapter 117, Laws of 1976, 2nd Ex. Sess

21 SECTION 2. Ordinance 3026, Section 5 and KCC 20.44.040, con-  
22 cerning sensitive areas, are each repealed. The Council intends  
23 that designated sensitive areas be protected through the compre-  
24 hensive plan, its policies, and land use regulations.

25 SECTION 3. Ordinance 3026, Section 8, and KCC 20.44.070 are  
26 each amended to read as follows:

27 Draft Environmental impact statements - Timing and purpose,  
28 content and procedures. (a) King County adopts by reference WAC  
29 197-10-055, WAC 197-10-400 through 197-10-465, and WAC 197-10.495,  
30 as now or hereafter amended. The contents and preparation proced-  
31 ures for draft environmental impact statements shall be governed  
32 by the SEPA Guidelines cited herein.

33 (b) The following additional elements may be part of the en-

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1 vironment for the purposes of environmental impact statement con-  
2 tent and final decisions on proposed actions but do not add to the  
3 criteria for threshold determinations:

4 (1) The economy, including both public and private sectors:

5 (2) Applicable local and regional goals, policies, plans,  
6 laws and regulations.

7 (c) Pursuant to WAC 197-10-444(1), the county shall focus the  
8 content of the draft EIS on the issues which caused the affirmative  
9 threshold determination, whether the proposal is publicly or pri-  
10 vately sponsored. The purpose of this subsection (c) is to ensure  
11 compliance with SEPA in the most efficient manner consistent with  
12 production of an adequate EIS and provision of all relevant infor-  
13 mation to county responsible officials.

14 (d) The responsible official may refuse to process and consid-  
15 er an application further if the applicant refuses or fails to pro-  
16 vide information specifically required for preparation of an ade-  
17 quate draft EIS within six months of written notification of such  
18 requirements. Written notice specifying all additional informat-  
19 ion so required must be provided within thirty days of the initial  
20 threshold determination. Such a refusal by responsible officials  
21 shall be final.

22 (e) The department procedures required by Section 20.44.140  
23 of this chapter shall specify each county department's procedures  
24 for requiring additional information and/or participation in draft  
25 EIS preparation, in accordance with WAC 197-10-420. County depart-  
26 ments are authorized to require or to allow complete preparation  
27 and printing of a draft EIS by a private applicant or his agent,  
28 subject to the provisions of WAC 197-10-420.

29 (f) For any action, except an approval of a county-sponsored  
30 proposal which is determined to be significant, the draft environ-  
31 mental impact statement shall be prepared (~~and listed in the "EIS~~  
32 ~~available register"~~) no later than forty-five days after final  
33 determination of significance. The purpose of this subsection (f).

1 and of all other time limits contained in this chapter, is to en-  
2 sure timely processing of all noncounty proposals subject to the  
3 requirements of SEPA.

4 (g) For proposed actions involving applications by private  
5 persons and noncounty agencies that are unusually large, complex  
6 or significant, the county executive or his designee may extend  
7 any of the time limits of this section in thirty-day increments.  
8 In so doing, the county executive or his designee shall notify the  
9 applicant in writing, specifying the good cause for such extension.

10 SECTION 4. Ordinance 3026, Section 12, and KCC 20.44.110 are  
11 each repealed, and the following substituted:

12 SEPA Public Information Procedures. King County adopts by  
13 reference WAC 197-10-831, as now or hereafter amended. Each branch  
14 of the county, and each department within the executive branch,  
15 shall be responsible for compliance with this Section, except that  
16 the County Executive may specify uniform procedures for public  
17 dissemination of SEPA-related information by executive departments  
18 Each branch and each department also shall be responsible for fil-  
19 ing final threshold determinations in accordance with WAC 197-10-  
20 340 (7).

21 SECTION 5. Ordinance 3026, Section 14, and KCC 20.44.130 are  
22 each repealed and the following substituted:

23 Public notice and statute of limitations. (a) Notice of any  
24 final decision made by the county in respect to the actions defin-  
25 ed in Section 20.44.020, including actions qualified for catego-  
26 rical exemption, may be publicized at the private or noncounty  
27 agency applicant's expense; or, in the case of county-sponsored  
28 projects and activities, by the county. In no event shall the  
29 county be responsible for publicizing notice for decisions made by  
30 the County in respect to private or noncounty agency projects and  
31 activities. Such notice, whenever given, shall be in substantially  
32 the form and using the procedures set forth in RCW 43.21C.080, as  
33 now or hereafter amended.

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1 (b) The forms for such notices as may be given pursuant to  
 2 this section shall be made available to private and noncounty  
 3 agency applicants at the offices of the clerk of the county council  
 4 and the applicable county department.

5 (c) In any action involving an attack on a determination made  
 6 by the county or a responsible official of the county relating to  
 7 the environmental significance of an action or category of actions  
 8 or relating to the adequacy of an environmental impact statement,  
 9 the determination by the county or a responsible official of the  
 10 county shall be accorded substantial weight.

11 SECTION 6. Ordinance 3026, Section 15, and KCC 20.44.140 are  
 12 each amended to read as follows:

13 Department Procedures - Regulations by county executive-Appeals.

14 (a) Each county department shall develop and present to the  
 15 county executive for approval, within ninety days of the effective  
 16 date of the ordinance codified in this section, or within ninety  
 17 days of the effective date of any subsequent amendment of such  
 18 ordinance, its own formal procedures to implement this chapter.  
 19 After approval the procedures shall be filed with the clerk of the  
 20 county council. The procedures shall accomplish the following:

21 (1) Identify the specific categories of departmental actions  
 22 which may potentially have a significant effect on the environment  
 23 so as to require an action-by-action determination of environmental  
 24 significance and possibly the preparation of an environmental im-  
 25 pact statement;

26 (2) Identify the responsible official or officials within the  
 27 department for purpose of compliance with the SEPA Guidelines and  
 28 this chapter;

29 (3) For noncounty projects, specify the circumstances under  
 30 which additional information may be required from private applicants  
 31 for the purposes of threshold determination and preparation of  
 32 draft and final impact statements;

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1 (4) Identify the specific comprehensive plan policies and  
 2 standards, and portions of the county code, which can be cited  
 3 as grounds for denial of private or noncounty applications to the  
 4 department for significant proposals without preparations of an  
 5 EIS as provided for in Section 20.44.100(e) of this chapter.

6 (b) Any responsible official within King County proposing to  
 7 assume the lead agency responsibilities of a noncounty agency pur-  
 8 suant to WAC 197-10-260 or 197-10-345 shall submit said proposal to  
 9 the county executive for approval before its submittal to (~~GEP~~)  
 10 DOE and/or the noncounty agency in question.

11 (c) The county executive shall have the authority to approve,  
 12 disapprove or modify the procedures of county departments devel-  
 13 oped pursuant to this section to ensure their consistency with this  
 14 chapter and to make orders and regulations relating to the imple-  
 15 mentation by county departments of the State Environmental Policy  
 16 Act and this chapter.

17 (d) Appeals.

18 (1) The zoning and subdivision examiner shall hear appeals by  
 19 aggrieved persons of threshold determinations made by responsible  
 20 officials within the executive branch concerning actions not sub-  
 21 ject to Council approval. Any such appeal shall be filed in writ-  
 22 ing with the examiner within ten days of the date of the final  
 23 declaration of significance/nonsignificance (~~{threshold-determin-~~  
 24 ~~ation-being-listed-with-the-SEPA-public-information-center}~~), and  
 25 shall state in full the reasons for the appeal. The ruling of the  
 26 examiner on any appeal of a threshold determination filed pursuant  
 27 to this section shall be final; provided that for land use pro-

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1 posals normally heard by the examiner for the council pursuant to  
2 KCC 20.24, the examiner and the council shall rule on the question  
3 as set forth in Section 20.44.050 of this chapter; in such cases,  
4 the applicant shall appeal an affirmative threshold determination  
5 within ten days by requesting in writing that the examiner's public  
6 hearing on the matter commence without preparation of a draft EIS.

7 INTRODUCED AND READ for the first time this 22nd day  
8 of May, 19 78.

9 PASSED this 31st day of July, 19 78

10 KING COUNTY COUNCIL  
11 KING COUNTY, WASHINGTON

12 Bernard Stern  
13 Chairman

14 ATTEST:

15 [Signature]  
16 [Signature]  
17 Clerk of the Council

18 APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

19 DEEMED ENACTED WITHOUT  
20 COUNTY EXECUTIVE'S SIGNATURE.

21 DATED: 8-10-78

22 King County Executive

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