

**SECTION 431.**

**21A.20.110 Regional business zone signs.** Signs in the RB zone shall be limited as follows:

- A. Wall signs are permitted, provided they do not total an area more than 15 percent of the building facade on which they are located;
- B. Freestanding signs;
  - 1. One freestanding sign not exceeding 200 square feet is permitted for each street frontage of the lot, provided corner lots with a street frontage of less than 100 feet on each street shall be permitted only one freestanding sign;
  - 2. Multiple tenant developments that have more than 300 feet of street frontage on one street may have one additional freestanding sign for each 300 feet of street frontage, or portion thereof. Such signs shall be separated from one another by a minimum of 150 feet, if located on the same street frontage not exceeding 150 square feet;
  - 3. On lots where more than one freestanding sign is permitted, the sign area permitted for individual freestanding signs may be combined; provided the combined sign area does not exceed 300 square feet; and
  - 4. The maximum height for a freestanding sign shall be 35 feet.

**SECTION 432.**

**21A.20.120 Signs or displays of limited duration.** The following temporary signs or displays are permitted and except as required by the Uniform Building Code, or as otherwise permitted in this chapter, do not require building permits:

- A. Grand opening displays:
  - 1. Signs, posters, pennants, strings of lights, blinking lights, balloons and searchlights are permitted for a period of up to one month to announce the opening of a new enterprise or the opening of an enterprise under new management; and
  - 2. All grand opening displays shall be removed upon the expiration of 30 consecutive days;
- B. Construction signs:
  - 1. Construction signs identifying architects, engineers, planners, contractors or other individuals or firms involved with the construction of a building and announcing the character of the building or the purpose for which the building is intended may be displayed;
  - 2. One nonilluminated, double-faced sign is permitted for each public street upon which the project fronts;
  - 3. No sign shall exceed 32 square feet in surface area or ten feet in height, or be located closer than 30 feet from the property line of the adjoining property; and
  - 4. Construction signs must be removed by the date of first occupancy of the premises or one year after placement of the sign, whichever occurs first;
- C. Political Signs:
  - 1. Signs, posters or bills promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property with the consent of the property owner. Any such sign, poster or bill shall be removed within ten days following the election; and
  - 2. No sign, poster, bill or other advertising device shall be located on public property or within public easements or street right-of-way;
- D. Real estate signs. All temporary real estate signs may be single or double-faced signs.:
  - 1. Signs advertising an individual residential unit for sale or rent shall be limited to one sign per street frontage. The sign may not exceed eight square feet in area, and shall not exceed six feet in height. The sign shall be removed within five days after closing of the sale, lease or rental of the property.

2. Portable off-premise residential directional signs announcing directions to an open house at a specified residence which is offered for sale or rent shall not exceed six square feet in area for each sign, and shall not exceed 42 inches in height. Such signs shall be permitted only when the agent or seller is in attendance at the property for sale or rent and may be located on the right-of-way outside of vehicular and bicycle lanes.

3. On-site commercial or industrial property for sale or rent signs shall be limited to one sign per street frontage, and shall not exceed 32 square feet in area. The sign shall not exceed 12 feet in height. The sign shall be removed within 30 days after closing of the sale, lease or rental of the property. A building permit is required and shall be issued for a one year period. The permit is renewable for one year increments up to a maximum of three years.

4. On-site residential development for sale or rent signs shall be limited to one sign per development. The sign shall not exceed 32 square feet in area, and shall not exceed 12 feet in height. A building permit is required and shall be issued for a one year period. The permit is renewable annually for up to a maximum of three years

5. Off-site directional signs for residential developments shall be limited to six signs. Each sign shall not exceed 16 square feet in area, and shall include only the name of and directions to the residential development. The sign(s) shall be placed a maximum of two miles from the nearest residential development entrance. No two signs for one residential development shall be located closer than 500 feet from one another on the same street. A single building permit is required for all signs and shall be issued for a one year period. The permit number and the permit expiration date must be clearly displayed on the face of each sign. The permit is renewable for one year increments up to a maximum of three years, provided that extensions will only be granted if the sign permit applicant has complied with the applicable regulations.

6. Residential on-premise informational signs shall be limited to one sign per feature, including but not limited to signs for information centers, model homes, parking areas or announcing features such as parks, playgrounds, or trails. Each sign shall not exceed 16 square feet in area, and shall not exceed six feet in height.

E. Community event signs:

1. Community event signs shall be limited to announcing or promoting a non-profit sponsored community fair, festival or event;

2. Community event signs may be displayed no more than the time period specified in the temporary use permit issued pursuant to K.C.C. 21A.44; and

3. Community event signs shall be removed by the event sponsor within two weeks following the end of the community fair, festival or event.

**SECTION 433.**

**21A.20.130 Billboards: Location and height standards.** A. All billboard alterations or relocations shall comply with the following location and design standards:

1. Billboards shall only be located on sites zoned CB, RB, or I;

2. No more than five billboard faces shall be oriented toward and visible from the same direction of travel within one mile of the proposed relocation site as measured along the adjacent roadway;

3. Billboards shall be located at least 100 feet from any other billboard, provided side-by-side, v-type and back-to-back billboard faces shall be considered one billboard for purposes of this subsection only;

4. The zoning on the opposite side of the street from a proposed relocation site must also permit billboards;

5. Type II billboards shall be at least 100 feet from any residential zone. Type I billboards shall be at least 330 feet from any residential zone;

6. No billboard shall extend beyond the property line of the billboard site;

7. No billboard shall be located more than 100 feet from any adjacent arterial;

8. Billboards shall observe the same street setback as all buildings within 50 feet of the proposed billboard location;

9. Type I billboard faces shall only be located adjacent to arterials developed with at least two primary travel lanes in each direction. In all other locations, billboards shall be limited to Type II billboard faces; and

10. No single billboard structure shall support a total of more than two Type I billboard faces or the equivalent, and no single billboard structure shall orient more than one Type I billboard face or the equivalent in any single direction.

B. Height:

1. Billboards located in the CB or RB zone shall not exceed 15 feet above the average height of all buildings within 330 feet of the billboard or 35 feet, whichever is less; and

2. Billboards located in the I zone shall not exceed 15 feet above the average height of all buildings within 330 feet of the billboard or 45 feet, whichever is less.

#### **SECTION 434.**

**21A.20.140 Billboards: General requirements.** A. The total number of billboard faces within unincorporated King County shall not exceed the total number of billboard faces existing on June 20, 1988, except as provided in K.C.C. 21A.20.160 E. In addition, the total number of existing billboard faces within each zone permitting billboards shall not be exceeded except as provided in K.C.C. 21A.20.150.

B. In the event that portions of unincorporated King County annex to incorporated cities or towns or incorporate after June 20, 1988, the total number of allowable billboard faces shall be decreased by the number of faces existing in such areas on the effective date of annexation or incorporation.

C. As soon as practical after June 20, 1988, the county shall compile an inventory of existing billboards within the county. Until the inventory is completed, no billboard shall be erected, modified, or relocated, nor shall King County issue any permits. Following completion of the inventory, the county shall grant a billboard permit for each existing billboard reflecting the location, size, height, zoning, and the degree of conformity with the requirements of this chapter. Only inventoried billboards may be subsequently issued billboard alteration or relocation permits. Billboard owners can accelerate the inventory process by providing the necessary inventory information for their billboards. If owners have provided necessary inventory information for all billboards in their ownership, the county shall release billboard permits for that ownership, regardless of the degree of completion of the remainder of the inventory.

#### **SECTION 435.**

**21A.20.150 Billboards: Special restrictions in the CB zone.** A. In the event that a billboard owner elects to relocate CB zoned billboards outside of the CB zone, the CB zone designation shall be removed and that permit may not later be used to relocate a billboard in the CB zone.

B. Bill boards may be relocated only within the zone district identified on the valid billboard permit, except the number of billboards permitted within non-CB zone district may increase only as a result of billboard relocation from within the CB zone district.

#### **SECTION 436.**

**21A.20.160 Billboards: Alteration or relocation limitations.** A. Except as provided in K.C.C. 21A.20.160 D, billboards shall not be altered with regard to size, shape, orientation, height, or location without the prior issuance of a billboard alteration or relocation permit. All such permits shall require full compliance with the provisions of K.C.C. 21A.20.130 -.180.

B. There shall be no time limit on the eligibility to alter or relocate inventoried billboards; however, individual alteration and relocation permits shall expire if the approved modifications are not completed within one year of permit issuance. Any project not completed within this period shall be placed in a holding category until a new permit is issued by King County, and no further work on the subject billboard shall occur until a permit is issued.

C. Relocation of inventoried billboards shall also require the issuance of a demolition permit for the removal of the existing billboard. Billboard demolitions shall be completed within 90 days of permit issuance and prior to installation of the relocated billboard.

D. Ordinary and necessary repairs which do not change the size, shape, orientation, height, or location of an inventoried billboard shall not require alteration permits. Billboard copy replacement may occur at any time and is exempt from the requirement for alteration permits, provided:

1. New Type II billboard faces do not exceed the size of previously inventoried faces, or
2. New Type I billboard faces may only exceed the size of the previously inventoried face with temporary cut-out extensions if the billboard is otherwise conforming, and if the extensions do not exceed a total of 125 square feet. Any extension shall be removed with the next change of billboard copy.

E. Single Type I billboard faces may be replaced with two side-by-side Type II billboard faces, and likewise two side-by-side Type II billboard faces may be replaced with a single Type I billboard face, provided each resulting billboard face complies with the location and height standards of K.C.C. 21A.20.130.

F. Any location or orientation alteration of billboards conforming to the provisions of K.C.C. 21A.20.130 - .180 shall be accompanied by the alteration or relocation of an equal number of billboards under the control of the same applicant which do not fully conform to these provisions, if any nonconforming billboards exist. Whenever more than one nonconforming billboard exists under a single ownership, they shall be made conforming in the following order:

1. Billboards deemed nonconforming pursuant to K.C.C. 21A.20.170;
2. Billboards located in zones which do not allow billboards;
3. Billboards located in billboard free areas;
4. Billboards located in the CB zone district; and
5. Any other nonconforming billboard.

#### **SECTION 437.**

**21A.20.170 Billboards: View and vegetative screening protections.** A. Notwithstanding any other provision of K.C.C. 21A.20.130 - .180 or other applicable laws or regulations, no billboard shall be located or oriented in a manner that is within the direct line-of-sight of views of Mt. Rainier, Mt. Baker, the Olympic Mountains, Puget Sound, or any lake or river from adjacent public roadways. All applications for billboard alteration or relocation shall be certified by the applicant as meeting this provision. Any billboard subsequently found to violate this provision shall be deemed nonconforming and shall be required to become the next nonconforming billboard relocated pursuant to K.C.C. 21A.20.160F.

B. Notwithstanding any other provision of K.C.C. 21A.20.130 - .180 or other applicable law or regulation, no billboard owner or his agent shall remove, cut, or otherwise alter any vegetative screening on public property or private landscaping required by code as a condition of permit approval in order to improve the visibility of a nearby billboard. Should such an alteration occur, any billboard so benefited shall be deemed nonconforming and shall be required to become the next nonconforming billboard relocated pursuant to K.C.C. 21A.20.160F.

#### **SECTION 438.**

**21A.20.180 Billboard free areas.** A. Notwithstanding any other provision of K.C.C. 21A.20.130 - .180, no billboard shall be relocated in any of the following areas:

1. Sites listed in either the Washington State or National Register of Historic Places or on sites designated as county landmarks or community landmarks;

2. Open space and scenic resource sites identified in the adopted King County Open Space Plan;
3. Between any sites identified in Sections 21A.20.180 A.1 or 21A.20.180 A.2 and the nearest adjacent public roadways;
  4. Within 660 feet of any state or county park;
  5. Redondo Beach Road and Redondo Way from Redondo Beach Road to 13th Avenue South;
  6. South 292nd Street from 65th Avenue South to State Highway 181;
  7. The south and east side of State Highway 522 from Northeast 149th Street to 68th Avenue Northeast;
  8. Northeast 175th Street from 61st Avenue Northeast to 68th Avenue Northeast;
  9. Rainier Avenue South from the Renton city limits to the Seattle city limits;
  10. South 188th Street and Orillia Road South from 46th Avenue South to Military Road South; and
  11. Within 300 feet of the intersection of South 144th Street and 51st Avenue South.
- B. After June 20, 1988, any billboard located in a designated billboard free area shall be deemed nonconforming and shall be relocated pursuant to K.C.C. 21A.20.160F.

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**CHAPTER 21A.22 DEVELOPMENT STANDARDS -  
MINERAL EXTRACTION**

**SECTIONS:**

21A.22.010	Purpose
21A.22.020	Exemptions
21A.22.030	Grading permit required
21A.22.040	Nonconforming extractive operations
21A.22.050	Periodic review
21A.22.060	Site design standards
21A.22.070	Operating standards
21A.22.080	Reclamation
21A.22.090	Bonds

**SECTION 439.**

**21A.22.010 Purpose.** The purpose of this chapter is to establish standards which minimize the impacts of extractive operations upon surrounding properties by:

- A. Ensuring adequate review of all operating aspects of extractive sites;
- B. Requiring project phasing to ensure that an extractive site is reclaimed in a timely manner prior to the disturbance of additional areas or removal of additional materials;
- C. Requiring minimum site areas large enough to provide setbacks and mitigations necessary to protect environmental quality; and
- D. Requiring periodic review of extractive operations to ensure compliance with the most current operating standards.

**SECTION 440.**

**21A.22.020 Exemptions.** The provisions of this chapter shall not apply to uses or activities specifically exempted in K.C.C. 16.82.050.

**SECTION 441.**

**21A.22.030 Grading permits required.** Extractive operations shall commence only after issuance of a grading permit.

**SECTION 442.**

**21A.22.040 Nonconforming extractive operations.** To the extent determined feasible by the county, nonconforming extractive operations shall be brought into conformance with the operating standards of K.C.C. 21A.22.070.

**SECTION 443.**

**21A.22.050 Periodic review.** Unless a more frequent review is required by the county, periodic review of extractive operations shall be provided as follows:

- A. All extractive operations shall be subject to a review of development and operating standards, as well as reclamation progress, at five year intervals;
- B. The periodic review shall be:
  - 1. Conducted by the director or zoning adjutor pursuant to the review process outlined in K.C.C. 21A.42.040 - .090.; and
  - 2. Used to determine that the site is operating consistent with the most current standards and to establish other conditions as necessary to mitigate identifiable environmental impacts.

**SECTION 444.**

**21A.22.060 Site design standards.** Except as provided for nonconforming extractive operations in K.C.C. 21A.22.040, all extractive operations shall at minimum comply with the following standards:

- A. The minimum site area of an extractive operation shall be 10 acres.
- B. Extractive operations on sites larger than 20 acres shall occur in phases to minimize environmental impacts. The size of each phase shall be determined during the review process;
- C. Fences shall be:
  - 1. Provided in a manner which discourages access to safety hazards which may arise on areas of the site where:
    - a. active extracting, processing, stockpiling and loading of materials is occurring;
    - b. any unstable slope or any slope exceeding a grade of 40 percent is present; or
    - c. any settling pond or other stormwater facility is present;
  - 2. At least six feet in height above the grade measured at a point five feet from the outside of the fence;
  - 3. Installed with lockable gates at all openings or entrances;
  - 4. No more than four inches from the ground to fence bottom; and
  - 5. Maintained in good repair;
- D. Warning and trespass signs advising of the extractive operation shall be placed on the perimeter of the site adjacent to RA, UR or R zones at intervals no greater than 200 feet along any unfenced portion of the site where the items noted in subsection C.1.a-c are present;
- E. Structural setbacks from property lines shall be as follows:
  - 1. Buildings or structures used in the processing of materials shall be no closer than:
    - a. One hundred feet from any UR or R zoned properties except that the setback may be reduced to 50 feet when the grade where such building or structures are proposed is 50 feet or greater below the grade of said UR or R zoned property, or
    - b. Twenty feet from any other zoned property, except when adjacent to another extractive site, or from any public street.
  - 2. Offices, scale facilities, equipment storage buildings and stockpiles shall not be closer than 20 feet from any property line except when adjacent to another extractive site;
- F. No clearing, grading or excavation, excluding that necessary for roadway or storm drainage facility construction, shall be permitted within 20 feet of any property line except along any portion of the perimeter adjacent to another extractive operation provided that such activities may be pursuant to an approved reclamation plan;
- G. Landscaping as required pursuant to K.C.C. 21A.16 shall be provided along any portion of the site perimeter where disturbances such as site clearing and grading, or mineral extraction or processing is performed, except where adjacent to another extractive operation; and
- H. Lighting shall:
  - 1. Be limited to that required for security, lighting of structures and equipment, and vehicle operations; and
  - 2. Not direct glare onto surrounding properties.

**SECTION 445.**

**21A.22.070 Operating standards.** All operating standards shall be as specified in K.C.C. 16.82 except:

- A. Noise levels produced by an extractive operation shall not exceed levels specified by the King County Noise Ordinance.
- B. Blasting shall be conducted:
  - 1. Consistent with the methods specified in the Office of Surface Mining, 1987 Blasting Guidance Manual;
  - 2. During daylight hours; and



3. According to a time schedule that:
  - a. features regular or predictable times, except in the case of an emergency; and
  - b. is provided to residents within one-half mile of the site;
- C. Dust and smoke produced by extractive operations shall not substantially increase the existing levels of suspended particulates at the perimeter of the site and shall be controlled by watering of the site and equipment or other methods specified by the county;
- D. The applicant shall provide for measures to prevent transport of rocks, dirt and mud from trucks onto public roadways;
- E. Traffic control measures such as flagmen or warning signs as determined by the county shall be provided by the applicant during all hours of operation; and
- F. The applicant shall be responsible for cleaning of debris or repairing of damage to roadways caused by the operation.

#### **SECTION 446.**

**21A.22.080 Reclamation.** A reclamation plan shall be submitted with each rezone application which addresses:

- A. Subsequent land uses on the reclaimed lands anticipating reclassification of zones;
- B. Present and proposed final topography;
- C. The relationship and impact of alternative post-reclamation land uses on surrounding properties as they relate to possible alternative land uses;
- D. A time schedule indicating how and when reclamation will occur during and after extractive operations; and
- E. The requirements of RCW 78.44.090.

#### **SECTION 447.**

- 21A.22.090 Bonds.**
- A. Extractive operations shall be bonded as provided for in K.C.C. 16.82.
  - B. The bond amount may be reduced proportionately as extraction on each phase is completed and the phase is reclaimed.
  - C. Reclamation bonds posted with the Washington State Department of Natural Resources or U.S. Office of Surface Mining may be used to comply with this section.

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## CHAPTER 21A.24 ENVIRONMENTALLY SENSITIVE AREAS

## SECTIONS:

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**SECTION 448.**

21A.24.010 Purpose. The purpose of this chapter is to implement the goals and policies of the Washington State Environmental Policy Act, RCW 43.21C, and the King County Comprehensive Plan which call for protection of the natural environment and the public health and safety by:

A. Establishing development standards to protect defined sensitive areas;

- B. Protecting members of the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, seismic and volcanic events, soil subsidence or steep slope failures;
- C. Protecting unique, fragile and valuable elements of the environment including, but not limited to, wildlife and its habitat;
- D. Requiring mitigation of unavoidable impacts on environmentally sensitive areas by regulating alterations in or near sensitive areas;
- E. Preventing cumulative adverse environmental impacts on water availability, water quality, wetlands and streams;
- F. Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of wetland and stream functions;
- G. Protecting the public trust as to navigable waters and aquatic resources;
- H. Meeting the requirements of the National Flood Insurance Program and maintaining King County as an eligible community for federal flood insurance benefits;
- I. Alerting members of the public including, but not limited to, appraisers, owners, potential buyers or lessees to the development limitations of sensitive areas; and
- J. Providing county officials with sufficient information to protect sensitive areas.

#### **SECTION 449.**

- 21A.24.020 Applicability.** A. The provisions of this chapter shall apply to all land uses in King County, and all persons within the county shall comply with the requirements of this chapter.
- B. King County shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first assuring compliance with the requirements of this chapter.
- C. Approval of a development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.
- D. When any provision of any other chapter of the King County Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection to environmentally sensitive areas shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations.
- E. The provisions of this chapter shall apply to all forest practices over which the county has jurisdiction pursuant to RCW 76.09 and WAC 222.

#### **SECTION 450.**

- 21A.24.030 Appeals.** Any decision to approve, condition or deny a development proposal based on the requirements of K.C.C. 21A.24 may be appealed according to and as part of the appeal procedure for the permit or approval involved.

#### **SECTION 451.**

- 21A.24.040 Sensitive areas rules.** Applicable departments within King County are authorized to adopt, pursuant to K.C.C. 2.98, such administrative rules and regulations as are necessary and appropriate to implement K.C.C. 21A.24 and to prepare and require the use of such forms as are necessary to its administration.

#### **SECTION 452.**

- 21A.24.050 Complete exemptions.** The following are exempt from the provisions of this chapter and any administrative rules promulgated thereunder:

- A. Alterations in response to emergencies which threaten the public health, safety and welfare or which pose an imminent risk of damage to private property as long as any alteration undertaken pursuant to this subsection is reported to the department immediately. The director shall confirm that an emergency exists and determine what, if any, mitigation shall be required to protect the health, safety, welfare and environment and to repair any resource damage;

**B. Agricultural activities in existence before November 27, 1990, as follows:**

1. mowing of hay, grass or grain crops;
2. tilling, discing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod if such activities do not take place on steep slopes;
3. normal and routine maintenance of existing irrigation and drainage ditches not used by salmonids; and
4. normal and routine maintenance of farm ponds, fish ponds, manure lagoons and livestock watering ponds;

**C. Public water, electric and natural gas distribution, public sewer collection, cable communications, telephone utility and related activities undertaken pursuant to county-approved best management practices, as follows:**

1. normal and routine maintenance or repair of existing utility structures or rights-of-way;
2. relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by a local governmental agency which approves the new location of the facilities;
3. replacement, operation, repair, modification or installation or construction in an improved county road right-of-way or county authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less;
4. relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by a local governmental agency which approves the new location of the facilities; and
5. replacement, operation, repair, modification, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or county authorized private roadway;

**D. Maintenance, operation, repair, modification or replacement of publicly improved roadways as long as any such alteration does not involve the expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way;**

**E. Maintenance, operation or repair of publicly improved recreation areas as long as any such alteration does not involve the expansion of improvements into previously unimproved recreation areas;**

**F. Public agency development proposals only to the extent of any construction contract awarded before November 27, 1990, provided that any law or regulation in effect at the time of such award shall apply to the proposal, and**

**G. All clearing and grading activities which are exempt from the requirement for a clearing and grading permit as specified in K.C.C. 16.82.050, unless these activities require other permits or authorizations as specified in K.C.C. 21A.24.020.**

**SECTION 453.**

**21A.24.060 Partial exemptions.** A. The following are exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the notice on title provisions, K.C.C. 21A.24.170 - 21A.24.180, and the flood hazard area provisions, K.C.C. 21A.24.230 - 21A.24.270:

1. structural modification of, addition to or replacement of structures, except single detached residences, in existence before November 27, 1990 which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the structure lying within the above-described building setback area, sensitive area or buffer;

2. structural modification of, addition to or replacement of single detached residences in existence before November 27, 1990 which do not meet the building setback or buffer requirements for wetlands, streams or steep slope hazard areas if the modification, addition, replacement or related activity does not increase the existing footprint of the residence lying within the above-described buffer or building setback area by more than 1000 square feet over that existing before November 27, 1990 and no portion of the modification, addition or replacement is located closer to the sensitive area or, if the existing residence is in the sensitive area, extends farther into the sensitive area; and

3. maintenance or repair of structures which do not meet the development standards of this chapter for coal mine, landslide, seismic or volcanic hazard areas if the maintenance or repair does not increase the footprint of the structure and there is no increased risk to life or property as a result of the proposed maintenance or repair;

B. The grazing of livestock is exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the livestock restriction provisions, K.C.C. 21A.24.320 and 21A.24.360, and any animal density limitations established by law, if the grazing activity was in existence before November 27, 1990;

C. A permit or approval sought as part of a development proposal for which multiple permits are required is exempt from the provisions of this chapter and any administrative rules promulgated thereunder, except for the notice on title provisions, K.C.C. 21A.24.170 - 21A.24.180, if:

1. King County previously reviewed all sensitive areas on the site;
2. there is no material change in the development proposal since the prior review;
3. there is no new information available which is important to any sensitive area review of the site or particular sensitive area;
4. the permit or approval under which the prior review was conducted has not expired or, if no expiration date, no more than five years lapsed since the issuance of that permit or approval; and
5. the prior permit or approval, including any conditions, has been complied with.

#### **SECTION 454.**

**21A.24.070 Exceptions.** A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this subsection:

1. the public agency or utility shall apply to the department and shall make available to the department other related project documents such as permit applications to other agencies, special studies and SEPA documents. The department shall prepare a recommendation to the zoning and subdivision examiner;
2. the examiner shall review the application and conduct a public hearing pursuant to the provisions of K.C.C. 20.24.070. The examiner shall make a recommendation to the council based on the following criteria:
  - a. there is no other practical alternative to the proposed development with less impact on the sensitive area; and
  - b. the proposal minimizes the impact on sensitive areas;
3. this exception shall not allow the use of the following sensitive areas for regional retention/detention facilities except where there is a clear showing that the facility will protect public health and safety or repair damaged natural resources:
  - a. class 1 streams or buffers;
  - b. class 1 wetlands or buffers with plant associations of infrequent occurrence; or
  - c. class 1 or 2 wetlands or buffers which provide critical or outstanding habitat for herons, raptors or state or federal designated endangered or threatened species unless clearly demonstrated by the applicant that there will be no impact on such habitat.

B. If the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this subsection:

1. the applicant shall apply to the department, and the department shall prepare a recommendation to the zoning and subdivision examiner. The applicant may apply for a reasonable use exception without first having applied for a variance if the requested exception includes relief from standards for which a variance cannot be granted pursuant to the provisions of K.C.C. 21A.44;

2. the examiner shall review the application in consultation with the prosecuting attorney and shall conduct a public hearing pursuant to the provisions of K.C.C. 20.24.080. The examiner shall make a final decision based on the following criteria:

- a. the application of this chapter would deny all reasonable use of the property;
- b. there is no other reasonable use with less impact on the sensitive area;
- c. the proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and
- d. any alterations permitted to the sensitive area shall be the minimum necessary to allow for reasonable use of the property; and

3. any authorized alteration of a sensitive area under this subsection shall be subject to conditions established by the examiner including, but not limited to, mitigation under an approved mitigation plan.

#### SECTION 455.

**21A.24.080 Sensitive area maps and inventories.** The distribution of many environmentally sensitive areas in western King County is displayed on maps in the Sensitive Areas Map Folio. Many of the wetlands are inventoried and rated and that information is published in the King County Wetlands Inventory Notebooks. Many flood hazard areas are mapped by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County." If there is a conflict among the maps, inventory and site-specific features, the actual presence or absence of the features defined in this title as sensitive areas shall govern.

#### SECTION 456.

**21A.24.090 Disclosure by applicant.** A. The applicant shall disclose to King County the presence of sensitive areas on the development proposal site and any mapped or identifiable sensitive areas within 100 feet of the applicant's property.

B. If the development proposal site contains or is within a sensitive area, the applicant shall submit an affidavit which declares whether the applicant has knowledge of any illegal alteration to any or all sensitive areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to K.C.C. Title 23. If the applicant previously has been found in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of King County.

#### SECTION 457.

**21A.24.100 Sensitive area review.** A. King County shall perform a sensitive area review for any King County development proposal permit application or other request for permission to proceed with an alteration on a site which includes a sensitive area or is within an identified sensitive area buffer or building setback area.

B. As part of the sensitive area review, King County shall:

1. determine whether any sensitive area exists on the property and confirm its nature and type;
2. determine whether a sensitive area special study is required;
3. evaluate the sensitive area special study;
4. determine whether the development proposal is consistent with this chapter;

5. determine whether any proposed alteration to the sensitive area is necessary; and
6. determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

**SECTION 458.**

**21A.24.110 Sensitive area special study requirement.** A. An applicant for a development proposal which includes a sensitive area or is within an identified sensitive area buffer shall submit a sensitive area special study to adequately evaluate the proposal and all probable impacts.

B. King County may waive the requirement for a special study if the applicant shows, to King County's satisfaction, that:

1. there will be no alteration of the sensitive area or buffer;
2. the development proposal will not have an impact on the sensitive area in a manner contrary to the goals, purposes, objectives and requirements of this chapter; and
3. the minimum standards required by this chapter are met.

C. If necessary to insure compliance with this chapter, King County may require additional information from the applicant, separate from the special study.

**SECTION 459.**

**21A.24.120 Contents of sensitive area special study.** A. The sensitive area special study shall be in the form of a written report and shall contain the following, as applicable:

1. identification and characterization of all sensitive areas on or encompassing the development proposal site;
2. assessment of the impacts of any alteration proposed for a sensitive area or buffer, assessment of the impacts of any alteration on the development proposal, other properties and the environment, and/or assessment of the impacts to the development proposal resulting from development in the sensitive area or buffer;
3. studies which propose adequate mitigation, maintenance, monitoring and contingency plans and bonding measures;
4. a scale map of the development proposal site; and
5. detailed studies, as required by King County.

B. A sensitive area special study may be combined with any studies required by other laws and regulations; and

C. If the development proposal will affect only a part of the development proposal site, the county may limit the scope of the required special study to include only that part of the site which may be affected by the development.

**SECTION 460.**

**21A.24.130 Mitigation, maintenance, monitoring and contingency.** A. As determined by King County, mitigation, maintenance and monitoring measures shall be in place to protect sensitive areas and buffers from alterations occurring on the development proposal site.

B. Where monitoring reveals a significant deviation from predicted impacts or a failure of mitigation or maintenance measures, the applicant shall be responsible for appropriate corrective action which, when approved, shall be subject to further monitoring.

**SECTION 461.**

**21A.24.140 Bonds to insure mitigation, maintenance and monitoring.** A. When mitigation required pursuant to a development proposal is not completed prior to King County finally approving the proposal, King County may delay final approval until mitigation is completed or may require the applicant to post a performance bond or other security in a form and amount deemed acceptable by King County. The bond shall be sufficient to guarantee that all required mitigation



measures will be completed no later than the time established by King County in accordance with this chapter.

B. If the development proposal is subject to mitigation, maintenance or monitoring plans, the applicant shall post a maintenance/monitoring bond or other security in a form and amount deemed acceptable by King County. The bond shall be sufficient to guarantee satisfactory workmanship on, materials in and performance of or related to structures and improvements allowed or required by this chapter for a period of up to five years. The duration of maintenance/monitoring obligations shall be established by King County, based upon the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

C. Performance and maintenance/monitoring bonds or other security shall also be required for restoration of a sensitive area or buffer not performed as part of a mitigation or maintenance plan, except that no bond shall be required for minor stream restoration carried out pursuant to this chapter. The bond or other security shall be in a form and amount deemed acceptable by King County.

D. Performance and maintenance/monitoring bonds or other security authorized by this section shall remain in effect until King County determines, in writing, that the standards bonded for have been met.

E. Depletion, failure or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring or restoration.

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring or restoration.

#### **SECTION 462.**

**21A.24.150 Vegetation management plan.** A. For all development proposals where preservation of existing vegetation is required by this chapter, a vegetation management plan shall be submitted and approved prior to issuance of the permit or other request for permission to proceed with an alteration.

B. The vegetation management plan shall identify the proposed clearing limits for the project and any areas where vegetation in a sensitive area or its buffer is proposed to be disturbed.

C. Where clearing includes cutting any merchantable stand of timber, as defined in WAC 222-16-010(28), the vegetation management plan shall include a description of proposed logging practices which demonstrates how all sensitive areas will be protected in accordance with the provisions of this chapter.

D. Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner. Proposed methods of field marking shall be reviewed and approved by King County prior to any site alteration. Field marking shall remain in place until the certificate of occupancy or final project approval is granted.

E. The vegetation management plan may be incorporated into a temporary erosion and sediment control plan or landscaping plan where either of these plans is required by other laws or regulations.

F. Submittal requirements for vegetation management plans shall be set forth in administrative rules.

#### **SECTION 463.**

**21A.24.160 Sensitive area markers and signs.** A. Permanent survey stakes delineating the boundary between adjoining property and sensitive area tracts shall be set, using iron or concrete markers as established by current survey standards.

B. The boundary between a sensitive area tract and contiguous land shall be identified with permanent signs.

**SECTION 464.**

**21A.24.170 Notice on title.** A. The owner of any property containing sensitive areas or buffers on which a development proposal is submitted, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by King County with the records and elections division. The required contents and form of the notice shall be set forth in administrative rules. The notice shall inform the public of the presence of sensitive areas or buffers on the property, of the application of this chapter to the property and that limitations on actions in or affecting such sensitive areas or buffers may exist. The notice shall run with the land.

B. The applicant shall submit proof that the notice has been filed for public record before King County shall approve any development proposal for the property or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording.

**SECTION 465.**

**21A.24.180 Sensitive area tracts and designations on site plans.** A. Sensitive area tracts shall be used to delineate and protect those sensitive areas and buffers listed below in development proposals for subdivisions, short subdivisions or binding site plans and shall be recorded on all documents of title of record for all affected lots:

1. all landslide hazard areas and buffers which are one acre or greater in size;
2. all steep slope hazard areas and buffers which are one acre or greater in size;
3. all wetlands and buffers; and
4. all streams and buffers.

B. Any required sensitive area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot or shall be held by an incorporated homeowner's association or other legal entity which assures the ownership, maintenance and protection of the tract.

C. Site plans submitted as part of development proposals for building permits, master plan developments and clearing and grading permits shall include and delineate all flood hazard areas, [if they have been mapped by FEMA or King County or if a special study is required] landslide, volcanic, coal mine and steep slope hazard areas, streams and wetlands, buffers and building setbacks. If only a part of the development site has been mapped pursuant to K.C.C.

21A.24.120.C, the part of the site which has not been mapped shall be clearly identified and labeled on the site plans. The site plans shall be attached to the notice on title required by K.C.C. 21A.24.170.

**SECTION 466.**

**21A.4.190 Alteration.** Any human activity which results or is likely to result in an impact upon the existing condition of a sensitive area is an alteration which is subject to specific limitations as specified for each sensitive area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in an impact to existent vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing or any other passive recreation or other similar activities.

**SECTION 467.**

**21A.24.200 Building setbacks.** Unless otherwise provided, buildings and other structures shall be set back a distance of 15 feet from the edges of all sensitive area buffers or from the edges of all sensitive areas, if no buffers are required. The following may be allowed in the building setback area:

- A. Landscaping;
- B. Uncovered decks;

- C. Building overhangs if such overhangs do not extend more than 18 inches into the setback area; and
- D. Impervious ground surfaces, such as driveways and patios, provided that such improvements may be subject to special drainage provisions specified in administrative rules adopted for the various sensitive areas.

**SECTION 468.**

- 21A.24.210 Coal mine hazard areas: development standards and permitted alterations.** A. Alterations to coal mine hazard areas may be allowed only when mitigation based on the best available engineering and geological practices is implemented which eliminates or minimizes the risk of damage, death or injury resulting from abandoned mine workings.
- B. Building setback areas may be required by King County to accomplish the objective stated in subsection A.
  - C. Buildings with less than 2500 square feet of floor area or roof area (whichever is greater) that contain no living quarters and that are not used as places of employment or public assembly are exempt from the provisions of this section provided, that King County staff finds no site specific evidence indicating the presence of mine workings at a depth of less than 200 feet within a horizontal distance of 200 feet of the proposed structure.
  - D. Mobile homes which replace pre-existing mobile homes at the same location are exempt from the provisions of this section provided that, based on a field visit and review of existing information, King County finds no specific evidence indicating the presence of mine workings at a depth of less than 200 feet within a horizontal distance of 200 feet of the proposed structure.

**SECTION 469.**

- 21A.24.220 Erosion hazard areas: development standards and permitted alterations.** A. Clearing on an erosion hazard area is allowed only from April 1 to September 1, except that:
- 1. up to 15,000 square feet may be cleared on any lot, subject to any other requirement for vegetation retention and subject to any clearing and grading permit required by K.C.C. 16.82; and
  - 2. timber harvest may be allowed pursuant to an approved forest practice permit issued by the Washington Department of Natural Resources.
- B. All development proposals on sites containing erosion hazard areas shall include a temporary erosion control plan consistent with this section and other laws and regulations prior to receiving approval. Specific requirements for such plans shall be set forth in administrative rules.
  - C. All subdivisions, short subdivisions or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:
    - 1. except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;
    - 2. if any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant shall be required to submit a restoration plan to King County for review and approval. Following approval, the applicant shall be required to implement the plan;
    - 3. clearing of vegetation on lots may be allowed without a separate clearing and grading permit if King County determines that:
      - a. such clearing is a necessary part of a large scale grading plan;
      - b. it is not feasible to perform such grading on an individual lot basis; and
      - c. drainage from the graded area will meet water quality standards to be established by administrative rules.
  - D. Where King County determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide regular monitoring of surface water discharge from the site. If the project does not meet water quality standards established by law or administrative rules, the county may suspend further development work on the site until such standards are met.

E. The use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by King County.

**SECTION 470.**

**21A.24.230 Flood hazard areas: components.** A. A flood hazard area consists of the following components:

1. floodplain;
2. flood fringe;
3. zero-rise floodway; and
4. Federal Emergency Management Agency ("FEMA") floodway.

B. King County shall determine the flood hazard area after obtaining, reviewing and utilizing base flood elevations and available floodway data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood." The base flood is determined for existing conditions, unless a basin plan including projected flows under future developed conditions has been completed and adopted by King County, in which case these future flow projections shall be used. In areas where the Flood Insurance Study for King County includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by King County.

**SECTION 471.**

**21A.24.240 Flood fringe: development standards and permitted alterations.** A. Development proposals shall not reduce the effective base flood storage volume of the floodplain. Grading or other activity which would reduce the effective storage volume shall be mitigated by creating compensatory storage on the site or off the site if legal arrangements can be made to assure that the effective compensatory storage volume will be preserved over time. Grading for construction of livestock manure storage facilities to control non-point source water pollution designed to the standards of and approved by the King County Conservation District is exempt from this compensatory storage requirement.

B. No structure shall be allowed which would be at risk due to stream bank destabilization including, but not limited to, that associated with channel relocation or meandering.

C. All elevated construction shall be designed and certified by a professional structural engineer licensed by the State of Washington and shall be approved by King County prior to construction.

D. Subdivisions, short subdivisions and binding site plans shall meet the following requirements:

1. new building lots shall contain 5,000 square feet or more of buildable land outside the zero-rise floodway, and building setback areas shall be shown on the face of the plat to restrict permanent structures to this buildable area;

2. all utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed consistent with subsections E., F. and I.;

3. base flood data and flood hazard notes shall be shown on the face of the recorded subdivision, short subdivision or binding site plan including, but not limited to, the base flood elevation, required flood protection elevations and the boundaries of the floodplain and the zero-rise floodway, if determined; and

4. the following notice shall also be shown on the face of the recorded subdivision, short subdivision or binding site plan for all affected lots:

**"NOTICE"**

"Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions."

E. New residential structures and substantial improvements of existing residential structures shall meet the following requirements:

1. the lowest floor shall be elevated to the flood protection elevation;
2. portions of a structure which are below the lowest floor area shall not be fully enclosed.

The areas and rooms below the lowest floor shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for satisfying this requirement shall meet or exceed the following requirements:

- a. a minimum of two openings on opposite walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - b. the bottom of all openings shall be no higher than one foot above grade; and
  - c. openings may be equipped with screens, louvers or other coverings or devices if they permit the unrestricted entry and exit of floodwaters;
3. materials and methods which are resistant to and minimize flood damage shall be used; and
  4. all electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be flood-proofed to or elevated above the flood protection elevation.

F. New nonresidential structures and substantial improvements of existing nonresidential structures shall meet the following requirements:

1. the elevation requirement for residential structures contained in subsection E.1. shall be met; or

2. the structure shall be flood-proofed to the flood protection elevation and shall meet the following requirements:

- a. the applicant shall provide certification by a professional civil or structural engineer licensed by the State of Washington that the flood-proofing methods are adequate to withstand the flood-depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms with the approved plans and specifications; and

- b. approved building permits for flood-proofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums shall be based upon rates for structures which are one foot below the flood-proofed level;

3. materials and methods which are resistant to and minimize flood damage shall be used; and

4. all electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities shall be flood-proofed to or elevated above the flood protection elevation.

G. All new construction shall be anchored to prevent flotation, collapse or lateral movement of the structure.

H. Mobile homes and mobile home parks shall meet the following requirements:

1. mobile homes shall meet all requirements for flood hazard protection for residential structures, shall be anchored and shall be installed using methods and practices which minimize flood damage; and

2. no permit or approval for the following shall be granted unless all mobile homes within the mobile home park meet the requirements for flood hazard protection for residential structures:

- a. a new mobile home park;

- b. an expansion of an existing mobile home park; or

- c. any repair or reconstruction of streets, utilities or pads in an existing mobile home park which equals or exceeds 50 percent of the value of such streets, utilities or pads.

I. Utilities shall meet the following requirements.

1. new and replacement utilities including, but not limited to, sewage treatment facilities shall be flood-proofed to or elevated above the flood protection elevation;

2. new on-site sewage disposal systems shall be, to the extent possible, located outside the limits of the base flood elevation. The installation of new on-site sewage disposal systems in the flood fringe may be allowed if no feasible alternative site is available;

3. sewage and agricultural waste storage facilities shall be flood-proofed to the flood protection elevation;

4. above-ground utility transmission lines, other than electric transmission lines, shall only be allowed for the transport of non-hazardous substances; and
5. buried utility transmission lines transporting hazardous substances shall be buried at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a professional civil engineer licensed by the State of Washington, and shall achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated.
- J. Critical facilities may be allowed within the flood fringe of the floodplain, but only when no feasible alternative site is available. Critical facilities shall be evaluated through the conditional or special use permit process. Critical facilities constructed within the flood fringe shall have the lowest floor elevated to three or more feet above the base flood elevation. Flood-proofing and sealing measures shall be taken to ensure that hazardous substances will not be displaced by or released into floodwaters. Access routes elevated to or above the base flood elevation shall be provided to all critical facilities from the nearest maintained public street or roadway.
- K. Prior to approving any permit for alterations in the flood fringe, King County shall determine that all permits required by state or federal law have been obtained.

#### **SECTION 472.**

- 21A.24.250 Zero-rise floodway: development standards and permitted alterations.** A. The requirements which apply to the flood fringe shall also apply to the zero-rise floodway. The more restrictive requirements shall apply where there is a conflict.
- B. A development proposal including, but not limited to, new or reconstructed structures shall not cause any increase in the base flood elevation unless the following requirements are met:
1. amendments to the Flood Insurance Rate Map are adopted by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and
  2. appropriate legal documents are prepared in which all property owners affected by the increased flood elevations consent to the impacts on their property. These documents shall be filed with the title of record for the affected properties.
- C. The following are presumed to produce no increase in base flood elevation and shall not require a special study to establish this fact:
1. new residential structures outside the FEMA floodway on lots in existence before November 27, 1990 which contain less than 5,000 square feet of buildable land outside the zero-rise floodway and which have a total building footprint of all proposed structures on the lot of less than 2,000 square feet;
  2. substantial improvements of existing residential structures in the zero-rise floodway, but outside the FEMA floodway, where the footprint is not increased; or
  3. substantial improvements of existing residential structures meeting the requirements for new residential structures in K.C.C. 21A.24.240.
- D. Post or piling construction techniques which permit water flow beneath a structure shall be used.
- E. All temporary structures or substances hazardous to public health, safety and welfare, except for hazardous household substances or consumer products containing hazardous substances, shall be removed from the zero-rise floodway during the flood season from September 30 to May 1.
- F. New residential or non-residential structures shall meet the following requirements:
1. the structures shall be outside the FEMA floodway; and
  2. the structures shall be on lots in existence before November 27, 1990 which contain less than 5000 square feet of buildable land outside the zero-rise floodway.
- G. Utilities may be allowed within the zero-rise floodway if King County determines that no feasible alternative site is available, subject to the following requirements:
1. installation of new on-site sewage disposal systems shall be prohibited unless a waiver is granted by the Seattle/King County department of public health; and
  2. construction of sewage treatment facilities shall be prohibited.

H. Critical facilities shall not be allowed within the zero-rise floodway except as provided in subsection J.

I. Livestock manure storage facilities and associated non-point source water pollution facilities designed, constructed and maintained to the standards of and approved in a conservation plan by the King County Conservation District may be allowed if King County reviews and approves the location and design of the facilities.

J. Structures and installations which are dependent upon the floodway may be located in the floodway if the development proposal is approved by all agencies with jurisdiction. Such structures include, but are not limited to:

1. dams or diversions for water supply, flood control, hydroelectric production, irrigation or fisheries enhancement;
2. flood damage reduction facilities, such as levees and pumping stations;
3. stream bank stabilization structures where no feasible alternative exists for protecting public or private property;
4. storm water conveyance facilities subject to the development standards for streams and wetlands and the Surface Water Design Manual;
5. boat launches and related recreation structures;
6. bridge piers and abutments; and
7. other fisheries enhancement or stream restoration projects.

#### **SECTION 473.**

**21A.24.260 FEMA floodway: development standards and permitted alterations.** A. The requirements which apply to the zero-rise floodway shall also apply to the FEMA floodway. The more restrictive requirements shall apply where there is a conflict.

B. A development proposal including, but not limited to, new or reconstructed structures shall not cause any increase in the base flood elevation.

C. New residential or nonresidential structures are prohibited within the FEMA floodway.

D. Substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to produce no increase in base flood elevation and shall not require a special study to establish this fact.

#### **SECTION 474.**

**21A.24.270 Flood hazard areas: certification by engineer or surveyor.** A. For all new structures or substantial improvements in a flood hazard area, the applicant shall provide certification by a professional civil engineer or land surveyor licensed by the State of Washington of:

1. the actual as-built elevation of the lowest floor, including basement; and
  2. the actual as-built elevation to which the structure is flood-proofed, if applicable.
- B. The engineer or surveyor shall indicate if the structure has a basement.
- C. King County shall maintain the certifications required by this section for public inspection.

#### **SECTION 475.**

**21A.24.280 Landslide hazard areas: development standards and permitted alterations.** A development proposal on a site containing a landslide hazard area shall meet the following requirements:

A. A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a steep slope or erosion hazard or as otherwise necessary to protect the public health, safety and welfare;

B. Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a landslide hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe according to tree selection rules promulgated pursuant to this chapter. Notice to King County shall be provided prior to any vegetation removal permitted by this subsection;

C. Vegetation on slopes within a landslide hazard area or buffer which has been damaged by human activity or infested by noxious weeds may be replaced with vegetation native to King County pursuant to an enhancement plan approved by King County. The use of hazardous substances, pesticides and fertilizers in landslide hazard areas and their buffers may be prohibited by King County; and

D. Alterations to landslide hazard areas and buffers may be allowed only as follows:

1. a landslide hazard area located on a slope 40% or steeper may be altered only if the alteration meets the standards and limitations set forth for steep slope hazard areas in K.C.C. 21A.24.310;

2. a landslide hazard area located on a slope less than 40% may be altered only if the alteration meets the following requirements:

a. the development proposal will not decrease slope stability on contiguous properties; and

b. mitigation based on the best available engineering and geological practices is implemented

which either eliminates or minimizes the risk of damage, death or injury resulting from landslides; and

3. neither buffers nor a sensitive area tract shall be required if the alteration meets the standards of subsection D.2.

#### **SECTION 476.**

**21A.24.290 Seismic hazard areas: development standards and permitted alterations.** A development proposal on a site containing a seismic hazard area shall meet the following requirements:

A. Unless exempt, development proposals shall be subject to review standards based on two occupancy types: critical facilities and other structures. The review standards for critical facilities shall be based on larger earthquake reoccurrence intervals. The review standards for both occupancy types shall be set forth in administrative rules;

B. Alterations to seismic hazard areas may be allowed only as follows:

1. the evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or

2. mitigation based on the best available engineering and geological practices is implemented which either eliminates or minimizes the risk of damage, death or injury resulting from seismically induced settlement or soil liquefaction; and

3. mobile homes may be placed in seismic hazard areas without performing special studies to address the seismic hazard. Such mobile homes may be subject to special support and tie-down requirements. These requirements shall be set forth in administrative rules.

C. Buildings with less than 2500 square feet of floor area or roof area (whichever is greater) that contain no living quarters and that are not used as places of employment or public assembly exempt from the provisions of this section.

#### **SECTION 477.**

**21A.24.300 Volcanic hazard areas: development standards and permitted alterations.** A development proposal on a site containing a volcanic hazard area shall meet the following requirements:



- A. within volcanic hazard areas located along the White River upstream from Mud Mountain Dam:
1. no critical facilities shall be constructed or located;
  2. no new apartments, townhouses or commercial structures shall be constructed or located;
  3. all new lots created by subdivision, short subdivision or binding site plan shall require building areas outside of the volcanic hazard area which shall be designated with building setback areas; and
  4. new single detached residential construction on existing lots may be allowed if the applicant records with the records and elections division the following notice on all title documents:

**"NOTICE"**

"The structures on this property are located in an area which may be inundated by mudflows originating on Mount Rainier. For further information regarding this hazard, please contact King County";

- B. Within volcanic hazard areas located along the White River downstream from Mud Mountain Dam and Green and Duwamish Rivers: critical facilities shall be evaluated for risk of inundation or flooding resulting from mudflows originating on Mount Rainier. These structures shall be designed to withstand, without damage, the effects of mudflows equal in magnitude to the prehistoric Electron Mudflow; and
- C. This section shall not become effective until King County has completed the required modeling and mapping of volcanic hazard areas.

**SECTION 478.**

**21A.24.310 Steep slope hazard areas: development standards and permitted alterations.** A development proposal on a site containing a steep slope hazard area shall meet the following requirements:

- A. A minimum buffer of 50 feet shall be established from the top, toe and along all sides of any slope 40% or steeper. The buffer shall be extended as required to mitigate a landslide or erosion hazard or as otherwise necessary to protect the public health, safety and welfare. The buffer may be reduced to a minimum of ten feet if, based on a special study, King County determines that the reduction will adequately protect the proposed development and the sensitive area. For single family residential building permits only, King County may waive the special study requirement and authorize buffer reductions if King County determines that the reduction will adequately protect the proposed development and the sensitive area;
- B. Unless otherwise provided herein or as part of an approved alteration, removal of any vegetation from a steep slope hazard area or buffer shall be prohibited, except for limited removal of vegetation necessary for surveying purposes and for the removal of hazard trees determined to be unsafe according to tree selection rules promulgated pursuant to this chapter. Notice to King County shall be provided prior to any vegetation removal permitted by this subsection;
- C. Vegetation on steep slopes within steep slope hazard areas or their buffers which has been damaged by human activity or infested by noxious weeds may be replaced with vegetation native to King County pursuant to a vegetation management plan approved by King County. The use of hazardous substances, pesticides and fertilizers in steep slope hazard areas and their buffers may be prohibited by King County;
- D. Alterations to steep slope hazard areas and buffers may be allowed only as follows:
1. approved surface water conveyances, as specified in the Surface Water Design Manual, may be allowed on steep slopes if they are installed in a manner to minimize disturbance to the slope and vegetation;

2. public and private trails may be allowed on steep slopes as approved by the county. Under no circumstances shall trails be constructed of concrete, asphalt or other impervious surfaces which will contribute to surface water run-off, unless such construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons. Additional requirements for trail construction may be set forth in administrative rules;

3. utility corridors may be allowed on steep slopes if a special study shows that such alteration will not subject the area to the risk of landslide or erosion;

4. limited trimming and pruning of vegetation may be allowed on steep slopes pursuant to an approved vegetation management plan for the creation and maintenance of views if the soils are not disturbed and the activity is subject to administrative rules;

5. approved mining and quarrying activities may be allowed; and

6. stabilization of sites where erosion or landsliding threaten public or private structures, utilities, roads, driveways or trails, or where erosion and landsliding threatens any lake, stream, wetland or shoreline. Stabilization work shall be performed in a manner which causes the least possible disturbance to the slope and its vegetative cover; and

E. The following are exempt from the provisions of this section:

1. slopes which are 40% or steeper with a vertical elevation change of up to 20 feet if no adverse impact will result from the exemption based on King County's review of and concurrence with a soils report prepared by a geologist or geotechnical engineer; and

2. the approved regrading of any slope which was created through previous legal grading activities. Any slope which remains 40% or steeper following site development shall be subject to all requirements for steep slopes.

#### **SECTION 479.**

**21A.24.320 Wetlands: development standards.** A development proposal on a site containing a wetland shall meet the following requirements:

A. The following minimum buffers shall be established from the wetland edge:

1. a class 1 wetland shall have a 100-foot buffer;

2. a class 2 wetland shall have a 50-foot buffer;

3. a class 3 wetland shall have a 25-foot buffer;

4. any wetland restored, relocated, replaced or enhanced because of a wetland alteration shall have the minimum buffer required for the highest wetland class involved; and

5. any wetland within 25 feet of the toe of a slope 30% or steeper, but less than 40%, shall have:

a. the minimum buffer required for the wetland class involved or a 25-foot buffer beyond the top of the slope, whichever is greater, if the horizontal length of the slope including small benches and terraces is within the buffer for that wetland class; or

b. a 25-foot buffer beyond the minimum buffer required for the wetland class involved if the horizontal length of the slope including small benches and terraces extends beyond the buffer for that wetland class;

B. Buffer width averaging may be allowed by King County if it will provide additional protection to wetlands or enhance their functions, as long as the total area contained in the buffer on the development proposal site does not decrease;

C. Increased buffer widths shall be required by King County when necessary to protect wetlands. Provisions for additional buffer widths shall be contained in administrative rules promulgated pursuant to this chapter including, but not limited to, provisions pertaining to critical drainage areas, location of hazardous substances, critical fish and wildlife habitat, landslide or erosion hazard areas contiguous to wetlands, groundwater recharge and discharge and the location of trail or utility corridors;

D. The use of hazardous substances, pesticides and fertilizers in the wetland and its buffer may be prohibited by King County;

E. Unless otherwise provided, the following restrictions shall apply to all development proposals which include the introduction of livestock:

1. to prevent damage to class 1 and 2 wetlands:
    - a. a plan to protect and enhance the wetland's water quality shall be implemented pursuant to 21A.30; or
    - b. fencing located not closer than the buffer edge shall be required; and
  2. standards pertaining to access to streams for watering purposes, stream crossing requirements and use of natural barriers and vegetative buffering in lieu of fencing shall be included in administrative rules promulgated pursuant to this chapter;
- F. The livestock restrictions contained in subsection E. shall not apply to wetlands defined as grazed wet meadows, regardless of their classification;

#### SECTION 480.

**21A.24.330 Wetlands: permitted alterations.** Alterations to wetlands and buffers may be allowed only as follows:

A. Alterations may be permitted if King County determines, based upon its review of special studies completed by qualified professionals, that:

1. the wetland does not serve any of the valuable functions of wetlands identified in K.C.C. 21A.06.730 including, but not limited to, biologic and hydrologic functions; or
2. the proposed development will protect or enhance the wildlife habitat, natural drainage or other valuable functions of the wetland and will be consistent with the purposes of this chapter;

B. To establish the conditions in subsection A., detailed studies may be required as part of the special study on habitat value, hydrology, erosion and deposition and/or water quality. Such detailed studies shall include specific recommendations for mitigation which may be required as a condition of any development proposal approval. The recommendations may include, but are not limited to, construction techniques or design, drainage or density specifications;

C. If a wetland is in a flood hazard area, the applicant shall notify affected communities and native tribes of proposed alterations prior to any alteration and submit evidence of such notification to the Federal Insurance Administration;

D. There shall be no introduction of any plant or wildlife which is not indigenous to King County into any wetland or buffer unless authorized by a state or federal permit or approval;

E. Utilities may be allowed in wetland buffers if:

1. King County determines that no practical alternative location is available; and
2. the utility corridor meets any additional requirements set forth in administrative rules including, but not limited to, requirements for installation, replacement of vegetation and maintenance;

F. Sewer utility corridors may be allowed in wetland buffers only if:

1. the applicant demonstrates that sewer lines are necessary for gravity flow;
2. the corridor is not located in a wetland or buffer used by species listed as endangered or threatened by the state or federal government or containing critical or outstanding actual habitat for those species or heron rookeries or raptor nesting trees;
3. the corridor alignment including, but not limited to, any allowed maintenance roads follows a path beyond a distance equal to 75% of the buffer width from the wetland edge;
4. corridor construction and maintenance protects the wetland and buffer and is aligned to avoid cutting trees greater than 12 inches in diameter at breast height, when possible, and pesticides, herbicides and other hazardous substances are not used;
5. an additional, contiguous and undisturbed buffer, equal in width to the proposed corridor including any allowed maintenance roads, is provided to protect the wetland;
6. the corridor is revegetated with appropriate vegetation native to King County at pre-construction densities or greater immediately upon completion of construction or as soon thereafter as possible, and the sewer utility ensures that such vegetation survives;

7. any additional corridor access for maintenance is provided, to the extent possible, at specific points rather than by a parallel road; and

8. the width of any necessary parallel road providing access for maintenance is as small as possible, but not greater than 15 feet, the road is maintained without the use of herbicides, pesticides or other hazardous substances and the location of the road is contiguous to the utility corridor on the side away from the wetland;

G. Joint use of an approved sewer utility corridor by other utilities may be allowed.

H. The following surface water management activities and facilities may be allowed in wetland buffers only as follows:

1. surface water discharge to a wetland from a detention facility, pre-settlement pond or other surface water management activity or facility may be allowed if the discharge does not increase the rate of flow, change the plant composition in a forested wetland or decrease the water quality of the wetland;

2. a class 1 or 2 wetland or buffer may be used for a regional retention/detention facility if:

a. a public agency and utility exception is granted pursuant to K.C.C. 21A.24.070;

b. all requirements of the Surface Water Design Manual are met;

c. the use will not alter the rating or the factors used in rating the wetland;

d. the proposal is in compliance with the latest adopted findings of the Puget Sound

Wetlands Research Project; and

e. there are no significant adverse impacts to the wetland;

3. a class 3 wetland or buffer which has as its major function the storage of water may be used as a regional retention/detention facility if a pre-settlement pond is required and all requirements of the Surface Water Design Manual are met; and

4. use of a wetland buffer for a surface water management activity or facility, other than a retention/detention facility, such as an energy dissipater and associated pipes, may be allowed only if the applicant demonstrates, to the satisfaction of King County, that:

a. no practicable alternative exists; and

b. the functions of the buffer or the wetland are not adversely affected;

I. Wetlands shall not be used for retention/detention facilities other than for regional facilities as provided in this section;

J. Public and private trails may be allowed in wetland buffers only upon adoption of administrative rules consistent with the following:

1. the trail surface shall not be made of impervious materials, except that public multi-purpose trails such as the Burke-Gilman Trail may be made of impervious materials if they meet all other requirements including water quality; and

2. buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;

K. A dock, pier, moorage, float or launch facility may be allowed, subject to the provisions of K.C.C. Title 25, if:

1. the existing and zoned density around the wetland is three dwelling units per acre or more;

2. at least 75% of the lots around the wetland have been built upon and no significant buffer or wetland vegetation remains on these lots; and

3. open water is a significant component of the wetland;

L. Alterations to isolated wetlands may be allowed only as follows:

1. on sites of less than 20 acres in size, one isolated wetland may be altered by relocating its functions into a new wetland on the site pursuant to an approved mitigation plan;

2. on sites 20 acres or greater in size, up to three isolated wetlands may be altered by combining their functions into one or more replacement wetlands on the site pursuant to an approved mitigation plan; and

3. whenever an isolated wetland is altered pursuant to this subsection, the replacement wetland shall include enhancement for wildlife habitat;

M. One additional agricultural building or associated residence may be allowed within the wetland buffer on a grazed wet meadow if all hydrologic storage is replaced on the site;

N. Subject to a clearing and grading permit issued pursuant to K.C.C. 16.82, the cutting of up to one cord of firewood may be permitted in buffers of five acres or larger in any year if the overall function of the buffer is not adversely affected. Removal of brush may also be permitted for the purpose of enhancing tree growth if the area of removal is limited to the diameter of the tree canopy at the time of planting; and

O. Wetland road crossings may be allowed if:

1. King County determines that no alternative access is practical;
2. all crossings minimize impact to the wetland and provide mitigation for unavoidable impacts through restoration, enhancement or replacement of disturbed areas;
3. crossings do not change the overall wetland hydrology;
4. crossings do not diminish the flood storage capacity of the wetland; and
5. all crossings are constructed during summer low water periods.

#### **SECTION 481.**

**21A.24.340 Wetlands: mitigation requirements.** A. Restoration shall be required when a wetland or its buffer is altered in violation of law or without any specific permission or approval by King County. The following minimum requirements shall be met for the restoration of a wetland:

1. the original wetland configuration shall be replicated including its depth, width, length and gradient at the original location;
2. the original soil type and configuration shall be replicated;
3. the wetland edge and buffer configuration shall be restored to its original condition;
4. the wetland, edge and buffer shall be replanted with vegetation native to King County which replicates the original vegetation in species, sizes and densities; and
5. the original wetland functions shall be restored including, but not limited to, hydrologic and biologic functions.

B. The requirements in subsection A. may be modified if the applicant demonstrates that greater wetland functions can otherwise be obtained.

C. Replacement shall be required when a buffer is altered pursuant to an approved development proposal or a wetland is used for a regional retention/detention facility or other approved use. The requirements for the restoration of wetlands shall be met by replacement wetlands.

D. Enhancement may be allowed when a wetland or buffer will be altered pursuant to a development proposal, but the wetland's biologic and/or hydrologic functions will be improved. Minimum requirements for enhancement shall be established in administrative rules.

E. All alterations of wetlands shall be replaced or enhanced on the site using the following formulas: class 1 and 2 wetlands on a 2:1 basis and class 3 wetlands on a 1:1 basis with equivalent or greater biologic functions including, but not limited to, habitat functions and with equivalent hydrologic functions including, but not limited to, storage capacity.

F. Replacement or enhancement off the site may be allowed if the applicant demonstrates to the satisfaction of King County that the off-site location is in the same drainage sub-basin as the original wetland and that greater biologic and hydrologic functions will be achieved. The formulas in subsection E. shall apply to replacement and enhancement off the site.

G. Surface water management or flood control alterations including, but not limited to, wetponds shall not constitute replacement or enhancement unless other functions are simultaneously improved.

#### **SECTION 482.**

**21A.24.350 Wetlands: limited exemption.** Isolated wetlands less than 1000 square feet may be exempted from the provisions of K.C.C. 21A.24.320 - 21A.24.340 and may be altered by filling or dredging if King County determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan.

**SECTION 483.**

**21A.24.360 Streams: development standards.** A development proposal on a site containing a stream shall meet the following requirements:

A. The following minimum buffers shall be established from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified:

1. a class 1 stream shall have a 100-foot buffer;
2. a class 2 stream used by salmonids shall have a 100-foot buffer;
3. a class 2 stream shall have a 50-foot buffer;
4. a class 3 stream shall have a 25-foot buffer;
5. any stream restored, relocated, replaced or enhanced because of a stream alteration shall have the minimum buffer required for the stream class involved;
6. any stream with an ordinary high water mark within 25 feet of the toe of a slope 30% or steeper, but less than 40%, shall have:
  - a. the minimum buffer required for the stream class involved or a 25-foot buffer beyond the top of the slope, whichever is greater, if the horizontal length of the slope including small benches and terraces is within the buffer for that stream class; or
  - b. a 25-foot buffer beyond the minimum buffer required for the stream class involved if the horizontal length of the slope including small benches and terraces extends beyond the buffer for that stream class; and
7. any stream adjoined by a riparian wetland or other contiguous sensitive area shall have the buffer required for the stream class involved or the buffer which applies to the wetland or other sensitive area, whichever is greater;

B. Buffer width averaging may be allowed by King County if it will provide additional natural resource protection, as long as the total area contained in the buffer on the development proposal site does not decrease;

C. Increased buffer widths shall be required by King County when necessary to protect streams. Provisions for additional buffer widths shall be contained in administrative rules promulgated pursuant to this chapter including, but not limited to, critical drainage areas, location of hazardous substances, critical fish and wildlife habitat, landslide or erosion hazard areas contiguous to streams, groundwater recharge and discharge and the location of trail or utility corridors;

D. The use of hazardous substances, pesticides and fertilizers in the stream corridor and its buffer may be prohibited by King County; and

E. The livestock restrictions in K.C.C. 21A.24.320 shall also apply to class 1 and 2 streams and their buffers except that barrier fencing shall not be required in the floodplain of the Snoqualmie River.

**SECTION 484.**

**21A.24.370 Streams: permitted alterations.** Alterations to streams and buffers may be allowed only as follows:

A. Alterations may only be permitted if based upon a special study;

B. The applicant shall notify affected communities and native tribes of proposed alterations prior to any alteration if a stream is in a flood hazard area and shall submit evidence of such notification to the Federal Insurance Administration;

C. There shall be no introduction of any plant or wildlife which is not indigenous to King County into any stream or buffer unless authorized by a state or federal permit or approval;

D. Utilities may be allowed in stream buffers if:

1. no practical alternative location is available;
2. the utility corridor meets any additional requirements set forth in administrative rules including, but not limited to, requirements for installation, replacement of vegetation and maintenance;
3. the requirements for sewer utility corridors in K.C.C. 21A.24.330 shall also apply to streams; and

4. joint use of an approved sewer utility corridor by other utilities may be allowed.
- E. The following surface water management activities and facilities may be allowed in stream buffers as follows:
1. surface water discharge to a stream from a detention facility, pre-settlement pond or other surface water management activity or facility may be allowed if the discharge is in compliance with the Surface Water Design Manual;
  2. a class 2 stream or buffer may be used for a regional retention/detention facility if:
    - a. a public agency and utility exception is granted pursuant to K.C.C. 21A.24.070;
    - b. all requirements of the Surface Water Design Manual are met;
    - c. the use will not alter the rating or the factors used in rating the stream;
    - d. there are no significant adverse impacts to the stream; and
  3. a class 3 stream or buffer may be used as a regional retention/detention facility if the alteration will have no lasting adverse impact on any stream and all requirements of the Surface Water Design Manual are met;
- F. Except as provided in subsection G, public and private trails may be allowed in stream buffers only upon adoption of administrative rules consistent with the following:
1. the trail surface shall not be made of impervious materials, except that public multi-purpose trails such as the Burke-Gilman Trail may be made of impervious materials if they meet all other requirements including water quality; and
  2. buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;
- G. Stream crossings may be allowed if:
1. all crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for class 2 or 3 streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;
  2. all crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;
  3. crossings do not occur over salmonid spawning areas unless King County determines that no other possible crossing site exists;
  4. bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;
  5. crossings do not diminish the flood-carrying capacity of the stream;
  6. underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the State of Washington; and
  7. crossings are minimized and serve multiple purposes and properties whenever possible;
- H. Stream relocations may be allowed only for:
1. class 2 streams as part of a public road project for which a public agency and utility exception is granted pursuant to K.C.C. 21A.24.050; and
  2. class 3 streams for the purpose of enhancing resources in the stream if:
    - a. appropriate floodplain protection measures are used; and
    - b. the relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream;
- I. For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
1. the equivalent base flood storage volume and function will be maintained;
  2. there will be no adverse impact to local groundwater;
  3. there will be no increase in velocity;
  4. there will be no interbasin transfer of water;

5. there will be no increase in the sediment load;
  6. requirements set out in the mitigation plan are met;
  7. the relocation conforms to other applicable laws; and
  8. all work will be carried out under the direct supervision of a qualified biologist;
- J. A stream channel may be stabilized if:
1. movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property; and
  2. the stabilization is done in compliance with the requirements of K.C.C. 21A.24.230 - 21A.24.270 and administrative rules promulgated pursuant to this chapter;
- K. Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer and a qualified biologist and carried out under the direct supervision of a qualified biologist pursuant to provisions contained in administrative rules;
- L. A minor stream restoration project for fish habitat enhancement may be allowed if:
1. the restoration is accomplished by a public agency with a mandate to do such work;
  2. the restoration is unassociated with mitigation of a specific development proposal;
  3. the restoration does not cost more than \$25,000;
  4. the restoration is limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;
  5. the restoration only involves the use of hand labor and light equipment; and
  6. the restoration is performed under the direct supervision of a qualified biologist;
- M. Roadside and agricultural drainage ditches which carry streams with salmonids may be maintained through use of best management practices developed in consultation with relevant county, state and federal agencies. These practices shall be adopted as administrative rules; and
- N. Subject to a clearing and grading permit issued pursuant to K.C.C. 16.82, the cutting of up to one cord of firewood may be permitted in buffers of five acres or larger in any year if the overall function of the buffer is not adversely affected. Removal of brush may also be permitted for the purpose of enhancing tree growth if the area of removal is limited to the diameter of the tree canopy at the time of planting.

#### **SECTION 485.**

- 21A.24.380 Streams: mitigation requirements.** A. Restoration shall be required when a stream or its buffer is altered in violation of law or without any specific permission or approval by King County. A mitigation plan for the restoration shall demonstrate that:
1. the stream has been degraded and will not be further degraded by the restoration activity;
  2. the restoration will reliably and demonstrably improve the water quality and fish and wildlife habitat of the stream;
  3. the restoration will have no lasting significant adverse impact on any stream functions; and
  4. the restoration will assist in stabilizing the stream channel.
- B. The following minimum requirements shall be met for the restoration of a stream:
1. all work shall be carried out under the direct supervision of a qualified biologist;
  2. basin analysis shall be performed to determine hydrologic conditions;
  3. the natural channel dimensions shall be replicated including its depth, width, length and gradient at the original location, and the original horizontal alignment (meander lengths) shall be replaced;
  4. the bottom shall be restored with identical or similar materials;
  5. the bank and buffer configuration shall be restored to its original condition;
  6. the channel, bank and buffer areas shall be replanted with vegetation native to King County which replicates the original vegetation in species, sizes and densities; and
  7. the original biologic functions of the stream shall be recreated.



- C. The requirements in subsection B. may be modified if the applicant demonstrates to the satisfaction of King County that a greater biologic function can otherwise be obtained;
- D. Replacement or enhancement shall be required when a stream or buffer is altered pursuant to an approved development proposal. There shall be no net loss of stream functions on a development proposal site and no impact on stream functions above or below the site due to approved alterations.
- E. The requirements which apply to the restoration of streams in subsection B. shall also apply to the relocation of streams, unless the applicant demonstrates to the satisfaction of King County that a greater biologic function can be obtained by modifying these requirements.
- F. Replacement or enhancement for approved stream alterations shall be accomplished in streams and on the site unless the applicant demonstrates to the satisfaction of King County that:
1. enhancement or replacement on the site is not possible;
  2. the off-site location is in the same drainage sub-basin as the original stream; and
  3. greater biologic and hydrologic functions will be achieved.
- G. Surface water management or flood control alterations shall not be considered enhancement unless other functions are simultaneously improved.

**SECTION 486.**

**21A.24.390 Sensitive areas mitigation fee - creation of fund.** There is hereby created a Sensitive Areas Mitigation Fund. This fund shall be administered by the King County Office of Finance.

**SECTION 487.**

**21A.24.400 Sensitive areas mitigation fee - source of funds.** All monies received from penalties resulting from the violation of rules and laws regulating development and activities within sensitive areas shall be deposited into the fund.

**SECTION 488.**

**21A.24.410 Sensitive areas mitigation fee - use of funds.** Monies from the fund shall only be used for paying the cost of enforcing and implementing sensitive area laws and rules.

**SECTION 489.**

**21A.24.420 Sensitive areas mitigation fee - investment of funds.** Monies in the fund not needed for immediate expenditure shall be deposited in a separate investment fund pursuant to RCW 36.29.020. The director shall be designated as the investment fund director.

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**CHAPTER 21A.26 DEVELOPMENT STANDARDS  
COMMUNICATION FACILITIES**

**SECTIONS:**

21A.26.010	Purpose
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21A.26.040	Review process by zone
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21A.26.070	Color and lighting standards
21A.26.080	Fencing and NIER warning signs
21A.26.090	Interference
21A.26.100	NIER exposure standards
21A.26.110	NIER measurements and calculations
21A.26.120	Measurements and monitoring
21A.26.130	Shock and burn standard
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21A.26.180	NIER compliance criteria
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21A.26.200	Periodic review of NIER standard
21A.26.210	State regulation

**SECTION 490.**

**21A.26.010 Purpose.** The purpose of this chapter is to assure greater compatibility between communication facilities and adjacent land uses , to protect the general public from the effects of non-ionizing electromagnetic radiation (NIER), and to provide for the communication needs of the region by:

- A. Establishing design and operating standards for communication facilities;
- B. Limiting exposure to NIER; and
- C. Providing for the modification or consolidation of existing communication facilities.

**SECTION 491.**

**21A.26.020 Exemptions.** The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);
- B. Machines and equipment that are designed and marketed as consumer products, such as microwave ovens and remote control toys;
- C. The storage, shipment or display for sale of transmission equipment;
- D. Radar systems for military and civilian communication and navigation;
- E. Hand-held, mobile, marine and portable radio transmitters and/or receivers;
- F. Two-way radio utilized for temporary or emergency services communications;
- G. Licensed amateur (Ham) radio stations and citizen band stations;
- H. Earth station downlink using satellite dish antennas with a diameter of less than 12 feet provided that stations in excess of one dish antennas are subject to conditional use permits;
- I. Receive-only satellite dish antennas as an accessory use;

J. Two-way radio antennas, point-to-point microwave dishes, and cellular radio antennas which are not located on a transmission structure (lattice towers and monopoles); and

K. Any maintenance, reconstruction, repair or replacement of a conforming or nonconforming communication facility, transmission equipment, transmission structure or transmitter building; provided, that the transmission equipment does not result in noncompliance with K.C.C. 21A.26.100 and 21A.26.130.

L. In the event a building permit is required for any emergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall not be required until 30 days after the completion of such emergency activities. In the event a building permit is required for nonemergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such nonemergency activities.

**SECTION 492.**

**21A.26.030 Applicability.** The standards and process requirements of this chapter supercede all other review process, setback or landscaping requirements of this title. All communication facilities which are not exempt pursuant to K.C.C. 21A.26.020 shall comply with the provisions of this chapter as follows:

A. New communication facilities, with the exception of consolidations, shall comply with the provisions of K.C.C. 21A.26.020 through 21A.26.130 and K.C.C. 21A.26.160 through 21A.26.190;

B. Modified communication facilities, with the exception of consolidations, shall comply with standards as provided in K.C.C. 21A.26.020 through 21A.26.040; K.C.C. 21A.26.060 through 21A.26.140; and K.C.C. 21A.26.160 through 21A.26.190;

C. Consolidations shall comply with standards as provided in K.C.C. 21A.26.020 through 21A.26.040; K.C.C. 21A.26.060 through 21A.26.130; and K.C.C. 21A.26.150 through 21A.26.190.

**SECTION 493.**

**21A.26.040 Review process by zone.** A. Except for cellular radio as regulated pursuant to subsection B, communication facilities shall be permitted and reviewed pursuant to K.C.C. 21A.08.060 and 21A.08.100.

B. Minor communication facilities for the transmission or reception of cellular radio signals shall be permitted and reviewed as follows:

TYPE OF TRANSMISSION STRUCTURE

Poles no more than 100 feet tall

<u>ZONE</u>	<u>REVIEW PROCESS</u>	<u>SETBACKS<sup>3</sup></u>
R-4 to R-48	C <sup>2</sup>	Front: 35 feet Side: 20 feet Rear: 20 feet
R-1 UR RA	C	Front: 30 feet <sup>6</sup> Side: 10 feet Rear: 10 Feet
Other Zones	P	10 feet <sup>4</sup>

TYPE OF TRANSMISSION STRUCTURE

Poles more than 100 feet tall

<u>ZONE</u>	<u>REVIEW PROCESS</u>	<u>SETBACKS<sup>3</sup></u>
R-4 to R-48	C <sup>2</sup>	One-half for one <sup>5</sup>
R-1 UR RA	C	Front: 40 feet <sup>6</sup> Side: 30 feet Rear: 30 feet
Other Zones	C	10 feet <sup>4</sup>
R-4 to R-48	S <sup>2</sup>	One for one <sup>5</sup>
R-1 UR RA	C	One-half for one
Other Zones	C	20 feet <sup>4</sup>

Lattice towers

**KEY: P - Permitted Use, S - Special Use Permit, C - Conditional Use Permit**

**FOOTNOTES:**

1. The department may decide whether a pole no more than 100 feet tall will be wood or steel based on a determination of which material would be more appropriate at the proposed location;
2. The following special procedures and conditions shall apply to the review and issuance of permits:
  - a. The applicant shall demonstrate that the proposed facility complies with all applicable laws and that it requires placement at a particular location to meet the needs of the cellular telephone system;
  - b. The applicant shall arrange a public meeting with owners of the property near the proposed facility for the purpose of providing information and receiving comments about the proposed facility;

c. The applicant shall provide notice of the public meeting announcing time, date, location and purpose of the public meeting; and

d. A department representative shall attend the public meeting;

3. The setback requirements apply to the transmission pole or tower and transmission equipment placed on the pole or tower. The county may reduce the setback where the applicant demonstrates that the facility will be adequately screened from public view;

4. Transmission structures shall be set back an additional 20 feet from any property line abutting any R, UR or RA zoned properties; and

5. "One-half for one" and "one for one" means the transmission structure shall be set back from the property lines one-half foot or one foot, respectively, for every foot of pole or tower height.

6. In the RA zone, five additional feet is required in the front setback.

#### SECTION 494.

**21A.26.050 Setback requirements.** Except as outlined for modifications and consolidations pursuant to K.C.C. 21A.26.140 and 21A.26.150 or when setbacks are increased to ensure compliance with NIER exposure limits, communication facilities shall comply with the following setbacks:

A. Transmission structures, which do not exceed the height limit of the zone in which they are located, shall be set back from the property line as required for other structures by the zone in which such transmission structure is located;

B. Transmission structures, which exceed the height limit of the zone in which they are located, shall be set back from property lines either a minimum of 50 feet or one foot for every foot in height, whichever results in the greater setback, except:

1. Transmission structures located in the A, F, NB, CB, RB, O or I zones shall be set back from the property line as required by the zone in which they are located; and

2. Transmission structures for the transmission or reception of cellular radio signals shall be set back from the property line as provided in K.C.C. 21A.26.040.B.;

C. When two or more communication facilities share a common boundary, the setback from such boundary shall comply with the requirements of the zone in which the facilities are located, unless easements are provided:

1. On the adjoining sites which limit development to communication facilities;

2. Of sufficient depth to provide the setbacks required in subsections A and B; and

3. Which provide for King County as a third party signatory to the agreement; and

D. Transmitter buildings shall be subject to the setback requirements of the zone in which they are located.

#### SECTION 495.

**21A.26.060 Landscaping requirements.** A communication facility site shall provide landscaping as follows:

A. When the facility is located in:

1. The NB, CB, RB, O, or I zone, the base of any transmission structure or transmitter building shall be landscaped with eight feet of Type II landscaping as defined by K.C.C. 21A.16.040.B, if there is no existing landscaping consistent with K.C.C. 21A.16 along the lot line abutting R, UR, or RA zoned properties.

2. The A, F, or M zone, the base of the transmission structure or transmitter building shall be landscaped with ten feet of Type III landscaping (groundcover may be excluded) as defined by K.C.C. 21A.16.040.C, if the base of such transmission structure or transmitter building is within 300 feet of any lot line abutting R, UR, or RA zoned properties.

3. The R, UR, or RA zone, the base of any transmission structure or transmitter building shall be landscaped with ten feet of Type I landscaping as defined by K.C.C. 21A.16.040.A.

B. When a security fence is used to prevent access onto a transmission structure or transmitter building, any landscaping required pursuant to K.C.C. 21A.26.060.A shall be placed outward of such security fence.

C. When a security fence is used:

1. In the NB, CB, RB, O, or I zone, wood slats shall be woven into the security fence if made of chain-link material.

2. In the R, UR, or RA zone, climbing evergreen shrubs or vines capable of growing on the fence shall supplement any landscaping required pursuant to K.C.C. 21A.26.060.A.

D. Landscaping shall be planted according to accepted practice in good soil and maintained in good condition at all times. Landscaping shall be planted as a yard improvement at or before the time of completion of the first structure or within a reasonable time thereafter, considering weather and planting conditions.

E. Existing vegetation may be used and/or supplemented with additional vegetation to comply with the requirements of K.C.C. 21A.26.060.A.

#### **SECTION 496.**

**21A.26.070 Color and lighting standards.** Except as specifically required by the Federal Aviation Administration ("FAA") or the FCC, transmission structures shall:

A. Use colors such as grey, blue or green which reduce their visual impacts; provided, wooden poles do not have to be painted; and

B. Not be illuminated, except transmitter buildings may use lighting for security reasons which is compatible with the surrounding neighborhood.

#### **SECTION 497.**

**21A.26.080 Fencing and NIER warning signs.** Communication facility sites shall be:

A. Fenced in a manner which prevents access by the public to transmission structures and/or areas of the site where NIER or shock/burn levels are exceeded. This may be modified if natural features, such as an adjoining waterway, or a topographic feature preclude access;

B. Signed to warn the public of areas of the site where:

1. NIER standards are exceeded; and

2. Potential risks for shocks or burns are present.

#### **SECTION 498.**

**21A.26.090 Interference.** Permit applications for communication facilities shall include:

A. A statement describing the nature and extent of interference which may be caused by the proposed communication facility and the applicant's responsibilities under FCC rules and regulations;

B. Unless the department determines that there will be no noticeable interference from the proposed communication facility, notification of expected interference shall be provided as specified in K.C.C. 21A.26.170; and

C. General information concerning the causes of interference and steps which can be taken to reduce or eliminate it.

#### **SECTION 499.**

**21A.26.100 NIER exposure standards.** To prevent whole-body energy absorption of .08 W/Kg or more, a communication facility, by itself or in combination with others, shall not expose the public to NIER that exceeds the electric or magnetic field strength, or the power density, for the frequency ranges and durations described as follows:

<b>NIER Exposure Standards (1) (6)</b>
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Frequency (2)	Mean squared electric field strength (3)	Mean squared magnetic field strength (4)	Equivalent plane-wave power density (5)
0.1 to 3	80,000	0.5	20,000
3 to 30	$4,000 \times (180/f^2)$	$0.025 \times (180/f^2)$	$180,000/f^2$
30 to 300	800	0.005	200
300 to 1500	$4,000 \times (f/1500)$	$0.025 \times (f/1500)$	$f/1.5$
1500 to 300,000	4,000	0.025	1000

(1) All standards refer to root mean squared measurements averaged over a six minute period;

(2) Frequency or  $f$  is measured in megahertz (MHz);

(3) Electric field strength is expressed in volts squared per meter squared ( $V^2/m^2$ );

(4) Magnetic field strength is expressed in amperes squared per meter squared ( $A^2/m^2$ ); and

(5) Power density is expressed in microwatts per centimeter squared ( $\mu W/cm^2$ ).

(6) Peak NIER levels shall not exceed the following equivalent plane-wave power densities:

- a. Twenty times the average values in the frequencies below 300 MHz;
- b.  $4,000 \mu W/cm^2$  in the frequencies between 300 Mhz to 6,000 MHz;
- c.  $(f/1.5)\mu W/cm^2$  in the frequencies 6,000 MHz to 30,000 MHz; and
- d.  $20,000 \mu W/cm^2$  in the frequencies above 30 GHz.

#### SECTION 500.

**21A.26.110 NIER measurements and calculations.** NIER levels shall be measured and calculated as follows:

A. When measuring NIER for compliance with K.C.C. 21A.26.100:

1. Measuring equipment used shall be generally recognized by the Environmental Protection Agency (EPA), National Council on Radiation Protection and Measurement (NCRPM), American National Standards Institute (ANSI), or National Bureau of Standards (NBS) as suitable for measuring NIER at frequencies and power levels of the proposed and existing sources of NIER;

2. Measurement equipment shall be calibrated as recommended by the manufacturer in accordance with methods used by the NBS and ANSI, whichever has the most current standard;

3. The effect of contributing individual sources of NIER within the frequency range of a broadband measuring instrument may be specified by separate measurement of these sources using a narrowband measuring instrument;

4. NIER measurements shall be taken when and where NIER levels are expected to be highest due to operating or environmental conditions;

5. NIER measurements shall be taken along the perimeter of the communication facility site and other areas on-site or off-site where the health department deems necessary to take measurements; and

6. NIER measurements shall be taken following spatial averaging procedures generally recognized and used by experts in the field of RF measurement or other procedures recognized by the FCC, EPA, NCRPM, ANSI, NBS;



B. NIER calculations shall be consistent with the FCC, Office of Science and Technology (OST) bulletin 65 or other engineering practices recognized by the EPA, NCRPM, ANSI, NBS or similarly qualified organization; and

C. Measurements and calculations shall be certified by a licensed professional engineer and shall be accompanied by an explanation of the protocol, methods, equipment, and assumptions used.

#### SECTION 501.

**21A.26.120 Measurements and monitoring.** A. The department of public health shall measure or contract for measurement of NIER levels as necessary to insure that the NIER standard is not being exceeded.

B. If the NIER level of an existing major communication facility has not been measured within 3 years of the effective date of this title, such facility shall be measured within 120 days from the effective date of this title. All major communication facilities shall be measured every third year thereafter. The measurements shall be submitted to the department of public health for review within 60 days of measurement. The department shall be reimbursed for its review of the measurements pursuant to this section.

C. New major communication facilities shall be measured within 120 days from the commencement of the operation and every third year thereafter. The department shall be reimbursed for its review of the measurements pursuant to this section.

D. The department of public health shall have the authority to assess fees for the cost of plan review. The fee shall be based upon the time required by staff, including overhead cost, for plan review.

#### SECTION 502.

**21A.26.130 Shock and burn standard.** The communication facility shall not emit radiation such that the public will be exposed to shock and burn in excess of the standards contained in ANSI C-95.1 or subsequent amendments thereto recognized by ANSI.

#### SECTION 503.

**21A.26.140 Modifications.** A. Cumulative modifications of conforming or nonconforming communication facilities, transmission structures or transmission equipment which do not increase the overall height of the transmission structure or transmission equipment by more than 30 percent shall be allowed provided:

1. A nonconformance with respect to the transmission structure shall not be created or increased, except as otherwise provided above as to height;
2. Existing perimeter vegetation or landscaping shall not be reduced; and
3. The modification results in compliance with K.C.C. 21A.26.100 and 21A.26.130. The applicant shall provide King County a detailed certification of compliance with these provisions which has been prepared by a licensed professional engineer.

B. Except for consolidations allowed by K.C.C. 21A.26.150, modifications which increase the overall height of the transmission structure or transmission equipment by more than 30 percent shall be subject to the following provisions:

1. Applications for such transmission structures shall be reviewed pursuant to the applicable process specified in K.C.C. 21A.26.040; and
2. Such transmission structures shall comply with the provisions of K.C.C. 21A.26.020 through 21A.26.040; K.C.C. 21A.26.060 through 21A.26.140; and K.C.C. 21A.26.160 through 21A.26.190.

**SECTION 504.**

**21A.26.150 Consolidation.** Consolidation of two or more existing transmission structures may be permitted subject to the following:

A. If the consolidated transmission structure cannot meet the requirements of K.C.C. 21A.26.050, it shall be located on the portion of the parcel on which it is situated which, giving consideration to the following, provide the optimum practical setback from adjacent properties:

1. topography and dimensions of the site,
2. (in the case of a consolidation) to any existing structures to be retained, and
3. (in the case of a guyed transmission tower) to guy anchor placement necessary to assure structural integrity of the consolidated transmission tower.

Consolidated transmission structures shall be set back from abutting residential property a minimum of ten percent of the height of the consolidated transmission structure, but in all cases no less than 100 feet;

B. If a consolidation involves the removal of transmission structures from two or more different sites and if a consolidated transmission structure is to be erected on one of those sites, it shall be erected on the site which provides for the greatest compliance with the standards of this chapter;

C. All existing transmission equipment on the site of a communication facility which does not comply with the provisions of this chapter shall be relocated to the consolidated transmission structure before the relocation of transmission equipment from a non-exempt off-site, conforming communication facility is permitted;

D. The consolidation shall eliminate NIER and electrical current levels attributable to the consolidating transmission equipment which exceed the limits of K.C.C. 21A.26.100 and 21A.26.130;

E. Any transmission structure to be removed as part of a consolidation shall be removed within 12 months of relocation of the transmitting equipment;

F. Consolidation shall result in a net reduction in the number of transmission structures; and

G. Consolidated facilities shall require a conditional use permit.

**SECTION 505.**

**21A.26.160 Supplemental application requirements.** A. In addition to any required site plan, a permit application for any communication facility shall also include:

1. A site plan which shows existing and proposed transmission structures; guy wire anchors; warning signs; fencing and access restrictions;

2. A report by a licensed professional engineer demonstrating compliance with applicable structural standards of the UBC, and describing the general structural capacity of any proposed transmission structure(s), including:

- a. The number and type of antennas that can be accommodated; and
- b. The basis for the calculation of capacity;

3. A report by a state licensed professional engineer that includes the following:

- a. A description of any proposed transmission tower(s) or structure(s), including height above grade, materials, color and lighting; and
- b. Information related to interference required by K.C.C. 21A.26.090.

B. Where a permit for a non-exempt communication facility is required, the application shall also include the following information:

1. The name and address of the operator(s) of proposed and existing antennas on the site;
2. The height of any proposed antennas;
3. Manufacture, type, and model of such antennas;
4. Frequency, modulation and class or service;
5. Transmission and maximum effective radiated power;
6. Direction of maximum lobes and associated radiation;
7. The calculated NIER levels attributable to the proposed antennas at points along the property line and other areas off-site which are higher than the property line points, as well as calculated power density (NIER levels) in areas that are expected to be unfenced on-site;

8. For a major communication facility, if there is another major communication facility within one mile of the site of the proposed facility, the level of NIER at the points identified in subsection B.7. as measured within 30 days prior to application; and

9. For a minor communication facility, if there is an existing major communication facility within one-half mile of the site of the proposed facility, the level of NIER at the points identified in subsection B.7. as measured within 30 days prior to the application.

#### **SECTION 506.**

**21A.26.170 Notification requirements.** Notification of a permit application shall be given to adjacent property owners within a 500 foot radius and the local community council. The area within which mailed notice is required shall be expanded to include at least 20 different owners in rural or lightly inhabited areas or in other appropriate cases to the extent the department determines is necessary. The standards of published notice and posting of property required by K.C.C. 21A.42 shall be pursuant to K.C.C. 21A.40.

#### **SECTION 507.**

**21A.26.180 NIER compliance criteria.** The department of public health shall consider the following criteria in determining compliance with K.C.C. 21A.26.100:

- A. The number and location of points at which levels have been determined to exceed NIER standards;
- B. The duration of exposure to NIER levels above the standard;
- C. The extent by which the levels measured at such points exceed the standards established by this chapter; and
- D. The relative contribution of individual sources in a multiple source environment.

#### **SECTION 508.**

**21A.26.190 NIER enforcement.** A. The department of public health shall be responsible for the enforcement of the provisions of K.C.C. 21A.26.100 in accordance with K.C.C. 23. The department director shall allow no more than 10 days to elapse from the date of a violation before corrective action is commenced. If this deadline cannot be met, the director shall issue a stop work order.

B. If the approved NIER standard is exceeded in an area where there are multiple users and transmission equipment, all users shall share in the NIER reductions, scaled proportionally to their current discharges.

#### **SECTION 509.**

**21A.26.200 Periodic review of NIER standard.** The department of public health shall review the county approved NIER standard every three years and report to the chair of the council on whether it should be changed.

#### **SECTION 510.**

**21A.26.210 State regulation.** A. If state regulations establish a NIER exposure standard which is more restrictive than the county standard, the state standard shall automatically become effective.

B. If such state standards are intended to preempt local enforcement with respect to specific sections of this chapter, said sections shall automatically be deemed ineffective.

C. Application of the provisions of this chapter shall be subject to any rule, regulation, order or decision of any state or federal court or government agency with which such communication facility is obligated to comply.

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**CHAPTER 21A.28 DEVELOPMENT STANDARDS - ADEQUACY OF PUBLIC  
FACILITIES AND SERVICES**

**SECTIONS:**

21A.28.010	Purpose
21A.28.020	General requirements
21A.28.030	Adequate sewage disposal
21A.28.040	Adequate water supply
21A.28.050	Surface water management
21A.28.060	Adequate roads
21A.28.070	Adequate roads - Road Capacity level of service ("LOS") Standard
21A.28.080	Adequate roads - Applicability of Capacity Standard
21A.28.090	Adequate roads - General conditions
21A.28.100	Adequate roads - Special conditions
21A.28.110	Exceptions
21A.28.120	Adequate vehicular access
21A.28.130	Adequate fire protection
21A.28.140	Concurrency- applicability and relationship with fees
21A.28.150	Findings, recommendations, and decisions regarding school capacities.
21A.28.160	School Concurrency standard.
21A.28.170	Interim Period.
21A.28.180	Credit for improvements.

**SECTION 511.**

**21A.28.010 Purpose.** The purpose of this chapter is to ensure that public facilities and services necessary to support development are adequate or will be provided in a timely manner consistent with the Public Facilities and Services planning goal of the Washington State Growth Management Act of 1990 by:

- A. Specifying the on-site and off-site facilities and services that must be in place or otherwise assured of timely provision prior to development;
- B. Allocating the cost of those facilities and services fairly; and
- C. Providing a general framework for relating development standards and other requirements of this code to:
  - 1. Adopted service level standards for public facilities and services;
  - 2. Procedural requirements for phasing development projects to ensure that services are provided as development occurs; and
  - 3. The review of development permit applications.

**SECTION 512.**

**21A.28.020 General Requirements.** A. All new development proposals including any use, activity, or structure allowed by K.C.C. 21A.08 that requires King County approval shall be adequately served by the following facilities and services prior to the time of occupancy, plat recording, or other land use approval, as further specified in this chapter:

- 1. sewage disposal;
- 2. water supply;
- 3. surface water management;
- 4. roads and access;
- 5. fire protection service; and
- 6. schools.

B. Regardless of the number of sequential permits required, the provisions of this chapter shall be applied only once to any single development proposal. If changes and modifications result in impacts not considered when the proposal was first approved, the county shall consider the revised proposal as a new development proposal.

**SECTION 513.**

**21A.28.030. Adequate sewage disposal.** All new development shall be served by an adequate public or private sewage disposal system, including both collection and treatment facilities as follows:

A. A public sewage disposal system is adequate for a development proposal provided that:

1. For the issuance of a building permit, preliminary plat approval or other land use approval the site of the proposed development is or can be served by an existing disposal system consistent with the Sewerage General Plan, and the disposal system has been approved by the department as being consistent with applicable state and local design and operating guidelines;

2. For the issuance of a certificate of occupancy for a building or change of use permit, the approved public sewage disposal system as set forth in subsection A.1 of this section is installed to serve each building or lot;

3. For recording a final plat, final short plat or binding site plan the approved public sewage disposal system set forth in subsection A.1 of this section shall be installed to serve each lot respectively; or a bond or similar security shall be deposited with King County for the future installation of an adequate sewage disposal system. The bond may be assigned to a purveyor to assure the construction of such facilities within two years of recording; and

4. For a zone reclassification or urban planned development permit, the timing of installation of required sewerage improvements shall be contained in the approving ordinance as specified in K.C.C. 20.24.230; and

B. A private individual sewage system is adequate, if an on-site sewage disposal system for each individual building or lot is installed to meet the requirements and standards of the department of public health as to lot size, soils, and system design prior to issuance of a certificate of occupancy for a building or change of use permit.

**SECTION 514.**

**21A.28.040 Adequate water supply.** All new development shall be served by an adequate public or private water supply system as follows:

A. A public water system is adequate for a development proposal provided that:

1. For the issuance of a building permit, preliminary plat approval or other land use approval, the applicant must demonstrate that the existing water supply system available to serve the site:

a. complies with the applicable planning, operating and design requirements of WAC 246.290; K.C.C. 14.42 and K.C.C. 14.44 and K.C.C. Title 17; Coordinated Water system plans; K.C.C. Title 12, K.C.C. Title 13 and other applicable provisions of the rules and regulations of the King County board of health; and any limitation or condition imposed by the county-approved comprehensive plan of the water purveyor; and

b. the proposed improvements to an existing water system have been reviewed by the department and determined to comply with the design standards and conditions specified in paragraph a of this subsection; or

c. a proposed new water supply system has been reviewed by the department and determined to comply with the design standards and conditions specified in paragraph a of this subsection;

2. Prior to issuance of a certificate of occupancy for a building or change of use permit, the approved public water system and any system improvements set forth in subsection A. 1 of this section shall be installed to serve each building or lot respectively;

3. For recording a final plat, final short plat or binding site plan, either the approved public water supply system or system improvements set forth in subsection A.1 of this section shall be installed to serve each lot or a bond or similar security shall be deposited with King County and may be assigned to a purveyor to assure the construction of required water facilities in Group A systems as defined by board of health regulations, within two years of recording; and

4. For a zone reclassification or urban planned development permit, the timing of installation of required water system improvements shall be included in the approving ordinance as specified in K.C.C. 20.24.230.

B. An on-site, individual water system is adequate and the plat or short plat may receive preliminary and final approval, and a building or change of use permit may be issued:

1. In an urban area if:

a. the buildings or lots to be served are located outside of a county approved water purveyor service area; or

b. The water purveyor has indicated that service cannot be provided in compliance with the purveyor's approved comprehensive plan; and

c. The Seattle-King County department of public health has approved the proposed method of water supply in accordance with the applicable King County board of health rules and regulations and this section. The applicant shall provide appropriate information to demonstrate to the department and the Seattle-King County department of public health that a private individual water system will be adequate. The Seattle-King County department of public health may require installation of private individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available.

2. In a rural area, if the Seattle-King County department of public health has approved the proposed method of water supply in accordance with the applicable King County board of health rules and regulations and this section. The applicant shall provide appropriate information to demonstrate to the department and the Seattle-King County department of public health that a private individual water system will be adequate. The Seattle-King County department of public health may require installation of private individual water systems prior to final approval of a plat or short plat where information is insufficient to show an adequate water supply can be made available.

#### **SECTION 515.**

**21A.28.050 Surface water management.** All new development shall be served by an adequate surface water management system as follows:

A. The proposed system is adequate if the development proposal site is served by a surface water management system approved by the department as being consistent with the design, operating and procedural requirements of the Surface Water Design Manual and K.C.C. Title 9;

B. For a subdivision, zone reclassification or urban planned development, the phased installation of required surface water management improvements shall be stated in the approving ordinance as specified in K.C.C. 20.24.230. Such phasing may require that a bond or similar security be deposited with King County; and

C. A variance request from the requirements of the Surface Water Design Manual and K.C.C. Title 9 shall be reviewed as set forth in K.C.C. 9.04.050 and does not require a variance from this Title unless relief is requested from a building height, setback, landscaping or other development standard set forth in K.C.C. 21A.12 through K.C.C. 21A.30.

#### **SECTION 516.**

**21A.28.060 Adequate roads.** A. All new development shall be served by adequate roads. Roads are adequate if the development's traffic impacts on surrounding public roads are acceptable under the level-of-service standards as stated in K.C.C. 21A.28.070 and the compliance procedures established in K.C.C. 21A.28.080 and K.C.C. 21A.28.090.

B. The renewal of permits or the issuance of a new permit for existing uses constitutes a new development proposal only if it will generate additional traffic above that currently generated by the use.

C. A variance request from the road cross-section or construction standards established by K.C.C. Title 14, Roads and Bridges, shall be reviewed as set forth in K.C.C. 14.42.060 and does not require a variance from this Title unless relief is requested from a building height, setback, landscaping or other development standard set forth in K.C.C. 21A.12 through K.C.C. 21A.30.

#### **SECTION 517.**

**21A.28.070 Adequate roads - Road Capacity Level of Service ("LOS") Standard.** A. A calculated LOS D or better shall be considered desirable.

B. A calculated LOS E shall be considered adequate.

C. A calculated LOS F shall be considered inadequate.

#### **SECTION 518.**

**21A.28.080 Adequate Roads - Applicability of Capacity Standard.** The road adequacy standards as stated in K.C.C. 21A.28.070 shall apply to all public county, city or state roads, other than freeways, provided that:

A. No improvements to state roads shall be required unless the state requests such improvements and there is an agreement between the state, county and applicant;

B. No improvements to city roads shall be required unless the affected city requests such improvements and an interlocal agreement is adopted by county and city ordinances. An application of different standards than set forth in K.C.C. 21A.28.070 may be allowed within the city limits or the county's planning area through an interlocal agreement if such standards are agreed upon through an interlocal agreement and have been adopted as an official control by city and county ordinance; and

C. The standard established in K.C.C. 21A.28.070 shall be applied to a project unless a different standard as provided in subsection B has been adopted prior to the project date, or in the case of plats, it has been adopted prior to its legally established approval date.

#### **SECTION 519.**

**21A.28.090 Adequate roads - General conditions.** A. A development proposal which will have a direct traffic impact on a roadway or intersection which results in a calculated LOS F shall not be approved unless:

1. The non-project LOS is D and the applicant agrees to fund improvements needed to attain LOS D or better;

2. The non-project LOS is E or F and the applicant agrees to fund improvements to LOS E or better;

3. The applicant achieves LOS E by phasing the project or using Transportation Demand Management ("TDM") techniques to reduce the number of peak hour trips generated by the project;

4. King County has established a date for final approval of subdivisions and Urban Plan Developments to become effective corresponding with the anticipated date of award of a construction contract for county, city, or state improvements needed to provide LOS D or better, or when the calculated non-project LOS is E or F, to provide LOS E or better; provided such effective approval date may be established only when the anticipated date of award of construction contract is within twelve months of final approval; or

5. The roadway or intersection has already been improved to its ultimate roadway section and the applicant agrees to use TDM incentives and/or phase the development proposal as determined by King County.

B. Developments proposed which will have a direct impact on city traffic facilities or designated areas pursuant to K.C.C. 21A.28.080 may attain the LOS specified in the adopted interlocal agreements rather than meeting K.C.C. 21A.28.070.



**SECTION 520.**

**21A.28.100 Adequate roads - Special conditions.** The conditions set forth in K.C.C. 21A.28.070 shall be considered fulfilled for all developments proposed, except building permits, if the following conditions are met:

- A. Intersection improvements need only attain LOS E or better;
- B. A construction contract is scheduled to be awarded within twelve months; and
- C. Complete funding for the necessary improvements is assured by the county, city, state, developer, or any combination thereof.

**SECTION 521.**

**21A.28.110 Exceptions.** A. Exceptions from the standards of K.C.C. 21A.28.060 - .070 may be granted only when extraordinary circumstances make compliance with the standards infeasible, or when a traffic impact fee is proposed pursuant to K.C.C. Title 27.

B. For those developments proposed where the zoning and subdivision examiner makes a recommendation to the council, the record must reflect the basis for the exception, and the approving ordinance must grant the exception in order for it to be effective. The ordinance approving the proposal shall be determinative and conclusive as to the proposal's compliance with this chapter.

C. For developments proposed for which the zoning and subdivision examiner or zoning adjuster decision is final, the decision of the zoning examiner or zoning adjuster shall be determinative and conclusive as to the proposal's compliance with this chapter.

D. For permits which are administrative and ministerial for which no appeal is normally available, the issue of the application of the standards in this chapter to a development proposed may be appealed to the zoning and subdivision examiner for a final decision. Such an appeal together with appeal arguments shall be filed with the department within 10 days of the department's decision.

**SECTION 522.**

**21A.28.120 Adequate vehicular access.** All new development shall be served by adequate vehicular access as follows:

- A. The property upon which the development proposed is to be located has direct access to:
  - 1. A public or private street that meets county road standards or is formally declared acceptable by the county road engineer; or
  - 2. The property has access to such a street over a private driveway approved by the county;
- B. The proposed circulation system of a proposed subdivision, short subdivision or binding site plan shall intersect with existing and anticipated streets abutting the site at safe and convenient locations, as determined by the department and the county road engineer; and
- C. Every lot upon which one or more buildings is proposed to be erected or traffic generating use is proposed to be established, shall establish safe access as follows:
  - 1. Safe passage from the street right-of-way to building entrances for transit patrons and other pedestrians, in accordance with the design standards set forth in K.C.C. 21A.18;
  - 2. Direct access from the street right-of-way, fire lane or a parking space to any part of the property as needed to provide public services in accordance with adopted standards (e.g. fire protection, emergency medical service, mail delivery or trash collection); and
  - 3. Direct access from the street right-of-way, driveway, alley or other means of ingress/egress approved by King County, to all required off-street parking spaces on the premises.

**SECTION 523.**

**21A.28.130 Adequate fire protection.** All new development shall be served by adequate fire protection as set forth below:

- A. The site of the development proposed is served by a water supply system that provides at least minimum fire flow and a, road system or fire lane system that provides life safety/rescue access, and other fire protection requirements for buildings as required by K.C.C. Title 17, Fire Code and K.C.C. Title 16, Building and Construction Standards;
- B. For a zone reclassification or Urban planned development, the timing of installation of required fire protection improvements shall be stated in the approving ordinance as specified in K.C.C. 20.24.230, secured with a bond or similar security, and deposited with King County; and
- C. A variance request from the requirements established by K.C.C. Title 17, Fire Code, shall be reviewed as set forth in K.C.C. 17.08.090 or K.C.C. 17.10.040, and/or in Article 2 of the currently adopted edition of the Uniform Fire Code and does not require a variance from this Title unless relief is requested from a building height, setback, landscaping or other development standard set forth in K.C.C. 21A.12 through K.C.C. 21A.30.

#### **SECTION 524.**

**21A.28.140 School Concurrency - Applicability and Relationship with Fees.** A. The school concurrency standard set out in Section 21A.28.160 shall apply to applications for preliminary plat or UPD approval which would result in the creation of new residential building lots or mobile home parks or the construction of new dwelling units, requests for multifamily zoning, and building permits for multifamily housing projects which have not been previously evaluated for compliance with the concurrency standard.

B. The county's finding of concurrency shall be made at the time of preliminary plat or urban planned development approval, at the time that a request to actualize potential multifamily zoning is approved, or prior to building permit issuance for multifamily housing projects which have not been previously established for compliance with the concurrency standard. Once such a finding has been made, the development shall be considered as vested for purposes of the concurrency determination.

C. Excluded from the application of the concurrency standard are building permits for individual single family dwellings, and any form of housing exclusively for the elderly, including nursing homes and retirement centers. Also excluded from the application of the concurrency standard are shelters for temporary placement, relocation facilities and transitional housing facilities. Replacement, reconstruction or remodeling of existing dwelling units is not subject to the provisions of K.C.C. 21A.28.140 - .180.

- D. Also excluded from the application of the concurrency standard set out in this chapter are:
1. short subdivisions;
  2. building permits for residential units in preliminary planned unit developments which were under consideration by King County on January 22, 1991;
  3. building permits for residential units in recorded planned unit developments approved pursuant to K.C.C. Title 21 that have not yet expired per K.C.C. 21A.56.060;
  4. building permits applied for by December 31, 1993, related to rezone applications to actualize potential zoning which were under consideration by King County on January 22, 1991;
  5. building permits applied for by December 31, 1993, related to residential development proposals for site plan review to fulfill P-Suffix requirements of multifamily zoning which were under consideration by King County on January 22, 1991; and
  6. any residential building permit for any development proposal for which a concurrency determination has already been made pursuant to the terms of this chapter or K.C.C. Title 21A.
- E. All of the development activities which are excluded from the application of the concurrency standard are subject to school impact fees imposed pursuant to Title 27.
- F. The assessment and payment of impact fees are governed by and shall be subject to the provisions in K.C.C. Title 27 addressing school impact fees.

G. A certification of concurrency for a school district shall not preclude the county from collecting impact fees for the district. Impact fees may be assessed and collected as long as the fees are used to fund capital and system improvements needed to serve the new development, and as long as the use of such fees is consistent with the requirements of Chapter 82.02 RCW and this chapter. Pursuant to Chapter 82.02 RCW, impact fees may also be used to recoup capital and system improvement costs previously incurred by a school district to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

**SECTION 525.**

**21A.28.150 Findings, recommendations, and decisions regarding school capacities.** A. In making a threshold determination pursuant to SEPA, the director and/or the zoning and subdivision examiner, in the course of reviewing proposals for residential development including applications for plats or UPD's, or multi-family zoning, and multifamily building permits, shall consider the school district's capital facilities plan as adopted by the council.

B. Documentation which the district is required to submit pursuant to Section 21.61.060 or Title 20. shall be incorporated into the record in every case without requiring the district to offer such plans and data into the record. The school district is also authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific development.

C. Based upon a finding that the impacts generated by the plat, the UPD or the multi-family development were generally not anticipated at the time of the last council review and approval of a school district capital plan and were not included in the district's long-range forecast, the director may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, the State Subdivision Act, and the State Environmental Policy Act.

D. Determinations of the examiner or director regarding concurrency can be appealed only pursuant to the provisions for appeal of the development permit process for which the determination has been made. Where no other administrative appeal process is available, an appeal may be taken to the zoning examiner using the appeal procedures for variances. Any errors in the formula identified as a result of an appeal should be referred to the council for possible modifications.

E. Where the council has not adopted an impact fee ordinance for a particular school district, the language of this section shall not affect the authority or duties of the examiner or the director pursuant to the State Environmental Policy Act or the State Subdivision Act.

**SECTION 526.**

**21A.28.160 School concurrency standard.** A. Schools shall be considered to have been provided concurrently with the development which will impact the schools if :

1. The permanent and interim improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur; or
2. The necessary financial commitments are in place to assure the completion of the needed improvements to meet the district's standard of service within 3 years of the time that the impacts of development are expected to occur. Necessary improvements are those facilities identified by the district in its capital facilities plan as reviewed and adopted by King County.

B. Any combination of the following shall constitute the "necessary financial commitments" for the purposes of subsection A.

1. The district has received voter approval of and/or has bonding authority;
2. The district has received approval for federal, state, or other funds;
3. The district has received a secured commitment from a developer that the developer will construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan; and/or

4. The district has other assured funding, including but not limited to school impact fees which have been paid.

C. Compliance with this concurrency requirement of this section shall be sufficient to satisfy the provisions of RCW 58.17.060 and RCW 58.17.110.

**SECTION 527.**

**21A.28.170 Interim Period.** A. During the interim period prior to the School Capacity Technical Review Committee completing its review of a district's plans and the county incorporating the plan into the county comprehensive plan, districts shall submit the following materials to the hearing examiner and director:

1. A copy of the Inventory of Permanent School Facilities prepared by the Superintendent of Public Instruction which identifies the number of classrooms at each of the schools by grade span and by type of student;

2. Documentation of the number of other classrooms available in the district which the district believes will best serve its student population; and

3. Based on the information in subsections 1. and 2., a resolution of the school board adopting an interim estimate of the district's overall capacity over the next six (6) years, which shall be a function of the district's standard of service, by the number of students which can be housed in district facilities.

B. Until such time as the committee is able to conduct the review required by Section 21A.61.065, the hearing examiner and the director shall be guided by the interim capacity submitted by the district and adopted by the school board in making finds of concurrency.

C. In the event that the hearing examiner or the director finds that the district's interim capacity is unreasonable based on the standards identified in Section 21.61.065 or Title 20, the examiner or the director shall request the council to review the interim capacity consistent with the requirements of Section 21.61.070 or Title 20.

D. Determinations of the examiner or director may be appealed to the council pursuant to the provisions for appeal of the underlying permit process.

**SECTION 528.**

**21A.28.180 Credit for Improvements.** Whenever a development is granted approval subject to a condition that the development proponent actually provide a school facility acceptable to the district, the development proponent shall be entitled to a credit for the actual cost of providing the facility, against the fee that would be chargeable under the formula provided by K.C.C. Title 27. The cost of construction shall be estimated at the time of approval, but must be documented and the documentation confirmed after the construction is completed to assure that an accurate credit amount is provided. If construction costs are less than the calculated fee amount, the difference remaining shall be chargeable as a school impact fee.

**CHAPTER 21A.30 DEVELOPMENT STANDARDS  
ANIMALS, HOME OCCUPATION, HOME INDUSTRY**

**SECTIONS:**

<b>21A.30.010</b>	<b>Purpose</b>
<b>21A.30.020</b>	<b>Animal regulations-small animals</b>
<b>21A.30.030</b>	<b>Animal regulations-livestock</b>
<b>21A.30.040</b>	<b>Animal regulations-livestock-densities</b>
<b>21A.30.050</b>	<b>Farm management plan</b>
<b>21A.30.060</b>	<b>Animal regulations-livestock-management standards</b>
<b>21A.30.070</b>	<b>Existing livestock operations</b>
<b>21A.30.080</b>	<b>Home occupation</b>
<b>21A.30.090</b>	<b>Home industry</b>

**SECTION 529.**

**21A.30.010 Purpose.** The purpose of this chapter is to enhance and preserve the compatibility between neighboring properties by regulating the scope and intensity of accessory uses or activities.

**SECTION 530.**

**21A.30.020. Animal regulations-small animals.** The raising, keeping, breeding or fee boarding of small animals are subject to K.C.C. 11.04, Animal Control Regulations, and the following requirements:

- A. Small animals which are kept indoors as household pets in aquariums, terrariums, cages or similar containers shall not be limited in number, except as may be provided in Title 11. Other small animals excluding cats kept indoors as household pets shall be limited to five, of which not more than three may be unaltered cats or dogs. Cats kept indoors shall not be limited in numbers
- B. Other small animals kept outside, including adult cats and dogs, shall be limited to three per household on lots of less than 20,000 square feet, five per household on lots of 20,000 to 35,000 square feet, with an additional 2 per acre of site area over 35,000 square feet up to a maximum of 20, unless more are allowed as an accessory use pursuant to paragraph E., provided that not more than three of such cats or dogs are unaltered, or as authorized for a hobby kennel or cattery or commercial kennel or cattery pursuant to K.C.C. 11.04.
- C. Excluding kennels and catteries, the total number of unaltered adult cats and dogs per household shall not exceed three, whether those animals are kept in a dwelling or outside.
- D. Animals considered to be household pets shall be treated as other small animals pursuant to K.C.C. 21A.30.020E. when they are kept for commercial breeding, boarding or training;
- E. Small animals and household pets kept as an accessory use outside the dwelling, shall be raised, kept or bred only as an accessory use on the premises of the owner, or in a kennel or cattery approved through the conditional use permit process, subject to the following limitations:
  - 1. Birds shall be kept in an aviary or loft that meets the following standards:
    - a. The aviary or loft shall provide 1/2 square foot for each parakeet, canary or similarly sized birds, 1 square foot for each pigeon, small parrot or similarly sized bird, and 2 square feet for each large parrot, macaw or similarly sized bird.
    - b. Aviaries or lofts shall not exceed 2000 square feet, provided this limit shall not apply in rural, forestry, or agricultural zones,
    - c. the aviary is set back at least 10 feet from any property line, and 20 feet from any dwelling unit.

2. Small animals other than birds shall be kept according to the following standards:
  - a. The minimum site area shall be one-half acre if more than 3 small animals are being kept;
  - b. All animals shall be confined within a building, pen, aviary or similar structure;
  - c. Any covered structure used to house or contain such animals shall maintain a distance of not less than 10 feet to any property line, except structures used to house mink and fox shall be a distance of not less than 150 feet;
  - d. Poultry, chicken, squab, and rabbits are limited to a maximum of one animal per one square foot of structure used to house such animals, up to a maximum of 2000 square feet; provided that this maximum structure size limit shall not apply in rural, forestry, or agricultural zones;
  - e. Hamsters, nutria and chinchilla are limited to a maximum of one animal per square foot of structure used to house such animals, up to a maximum of 2000 square feet; provided that this maximum structure size limit shall not apply in rural, forestry, or agricultural zones;
  - f. Mink and fox are permitted only on sites having a minimum area of five acres;
  - g. Beekeeping is limited as follows:
    - i. Beehives are limited to 50 on sites less than five acres;
    - ii. The number of beehives shall not be limited on sites of five acres or greater;
    - iii. Colonies shall be maintained in movable-frame hives at all times;
    - iv. Adequate space shall be provided in each hive to prevent overcrowding and swarming;
    - v. Colonies shall be requeened following any swarming or aggressive behavior;
    - vi. All colonies shall be registered with the County Extension agent prior to April 1st of each year, on a state registration form acceptable to the county; and
    - vii. Abandoned colonies, diseased bees, or bees living in trees, buildings, or any other space except in movable-frame hives shall constitute a public nuisance, and shall be abated as set forth in K.C.C. 21A.50, Enforcement;
3. Kennels and catteries are subject to the following requirements:
  - a. For kennels located on residential zoned sites:
    - i. The minimum site area shall be five acres; and
    - ii. Structures housing animals and outdoor animal runs shall be a minimum distance of 100 feet from property lines abutting residential zones;
  - b. For kennels located on non-residential zoned sites, run areas shall be completely surrounded by an eight foot solid wall or fence, and be subject to the requirements in K.C.C. 11.04.060; and
  - c. Catteries shall be on sites of 35,000 square feet or more, and buildings used to house cats shall be a minimum distance of 50 feet from property lines abutting residential zones.

#### **SECTION 531.**

**21A.30.030 Animal regulations-livestock - purpose.** The primary purpose of this section is to support the raising and keeping of livestock in the county by setting livestock densities and by implementing applicable best management practices for land used to accommodate such livestock in ways which reduce the impact of livestock on the environment, particularly with regard to their impacts on water quality. The regulations set forth in this section are intended to be consistent with livestock welfare; however, those concerns are more appropriately addressed through K.C.C. 11.04.

#### **SECTION 532.**

**21A.30.040 Animal regulations-livestock -densities.** The raising, keeping, breeding or fee boarding of livestock are subject to K.C.C. 11.04, Animal Control Regulations, and the following requirements:

- A. The minimum site which may be used to accommodate large livestock shall be 35,000 square feet, provided that the portion of the total site area used for confinement or grazing meets the requirements of this section;

B. The maximum number of livestock shall be as follows:

1. Commercial dairy farms covered by the Washington State department of Ecology NPDES system; either through a general or special permit - as consistent with the permit requirements.

2. Stables with covered arenas, for which farm management plans are implemented and maintained pursuant to K.C.C. 21A. 030.033 such that pasture and paddock use does not exceed the equivalent of 3 animals per acre on a full time basis, up to 6 resident horses per acre, provided further that higher densities may be allowed subject to the conditional use permit process to confirm compliance with the management standards;

3. For all large livestock not covered by paragraph 1. or 2. above:

(a) if a farm management plan pursuant to K.C.C. 21A.030.033 is implemented and maintained as or, in the alternative, all of the management standards of section K.C.C. 21A.30.035 are met, three horse, cows or similarly sized animals per gross acre of total site area, provided further that two ponies shall be counted as being equivalent to one horse and that miniature horses shall be treated as small livestock subject to paragraph d below.

(b) if paragraph (a) is not met, one horse, cow, or similarly sized animal (excluding any young under 6 months of age) per two acres of fenced grazing area;

4. for small livestock, five of each or any combination (excluding sucklings) per one acre of fenced pasturage, or per one-half acre of total site area subject to the management requirements set out in K.C.C. 21.30.035 below.

#### SECTION 533.

**21A.30.050 Farm management plan.** In order to achieve the maximum livestock density allowances provided for in Section K.C.C. 21A.030.032, above, a farm management plan (conservation) plan developed by the property owner with the assistance of the King Conservation District (KCD) which incorporates applicable best management practices for grazing and pasture management, manure management, watering and feeding area management, and stream corridor management must be developed, implemented and maintained. Such plans must include a schedule for implementation. A copy of the proposed and final plans shall be provided to the clerk of the council.

#### SECTION 534.

**21A.30.060 Animal regulations-livestock - management standards.** A. As an alternative to a farm management plan, any property owner may implement the following management standards for any site which is used or proposed to be used to accommodate large livestock at densities greater than 1 animal per 2 acres, and small livestock at densities greater than 5 per acre.

1. Livestock access to streams and their buffers shall be limited to stream crossing and watering points which have been addressed by a crossing plan or watering point designed to SCS/KCD specifications which shall prevent free access along the length of the stream; fencing shall be used as necessary to prevent livestock access to streams. Bridges may be used in lieu of stream crossings, provided that piers and abutments shall not be placed within the ordinary high water mark or top-of-bank, whichever is greater. Bridges shall be designed to allow free flow of flood waters and shall not diminish the flood carrying capacity of the stream; these bridges may be placed without a county building permit, provided that such permit waiver shall not constitute any assumption of liability by the county with regard to such bridge or its placement. The waiver of county building permit requirements does not constitute a waiver from other required agency permits;

2. Grazing areas not addressed by K.C.C. 21A.24 shall maintain a vegetative buffer of 25 feet from any naturally occurring pond, wetland edge of a class I or II wetland, (except those wetlands meeting the definition of grazed wet meadows) or the ordinary high water mark of a class I or II stream. If the buffer does not contain vegetation sufficient for bank stability and biofiltration, fencing or timed rotational grazing shall be used to establish and maintain the buffer.

3. Confinement areas located within 200 feet of any class I or II streams, wetlands or drainageways shall:

a. Have a 20 foot wide vegetative filter strip downhill from the confinement area, consisting of heavy grasses or other ground cover with high stem density and which may also include tree cover, in addition to the buffers in paragraph b;

b. Not be located in any stream or wetland buffer area required by the sensitive areas ordinance in effect at the time the confinement area is built, or within 50 feet of any naturally occurring pond, wetland edge of any class I or II wetland or the ordinary high water mark of any class I or II stream, unless some other distance has been approved by a county permit issued following an environment review or by a farm management plan pursuant to 21A.30.050. Existing confinement areas which do not meet these requirements shall be modified as necessary to provide the buffers specified herein within five years of the effective date of this section provided further that buildings in the confinement area need not be so modified;

c. Have roof drains of any buildings in the confinement area diverted away from the confinement area; and

4. Manure storage areas shall be managed as follows:

a. Surface flows and roof runoff shall be diverted away from manure storage areas.

b. All manure stockpiled within 200 feet of any stream, wetland, or drainageway to a stream or wetland shall be covered during the winter months (October 15 to April 15) in a manner that excludes precipitation and allows free flow of air to minimize fire danger; and

c. Manure shall be stored in a location that avoids having runoff from the manure enter streams or wetlands. Manure piles shall not be closer than 50 feet to any wetland edge, the ordinary high water mark of any stream, or any ditch to which the topography would generally direct runoff from the manure, nor in any stream buffer.

5. Manure shall be spread on fields only during the growing season, and not on saturated or frozen fields.

B. The following setback and buffer requirements apply to the keeping of livestock:

1. Any building used to house, confine or feed livestock shall not be located closer than 10 feet to any boundary property line or 35 feet to any residence existing when the livestock structure is built, and shall be increased to 100 feet for any building used to house, confine or feed swine;

2. Any building used to house, confine or feed livestock shall not be located closer than 35 feet to any dwelling unit or accessory living quarters on the same premises, except that a barn or stable may contain a caretaker's accessory living quarters;

3. There shall be no uncovered storage of manure, shavings or similar organic material closer than 45 feet to any dwelling unit or accessory living quarters; and

4. Grazing and confinement areas may extend to the property line.

C. In residential zones, fee boarding of livestock other than in a legally established stable shall only be as an accessory use to a residence on the subject property; and

D. A barn or stable may contain a caretaker's accessory living quarters.

#### SECTION 535.

**21A.30.070 Existing livestock operations.** All existing livestock operations shall either implement a farm management plan pursuant to K.C.C. 21A.30.033 or meet the management standards in K.C.C. 21A.30.035A, within five years of the adoption date of this title: existing buildings are exempt from this provision.

#### SECTION 536.

**21A.30.080 Home occupation.** Residents of a dwelling unit may conduct one or more home occupations as accessory activities, provided:



- A. The total area devoted to all home occupation(s) shall not exceed twenty percent of the floor area of the dwelling unit. Areas with attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home occupation area but may be used for storage of goods associated with the home occupation;
- B. In urban residential zones, all the activities of the home occupation(s) shall be conducted indoors, except for those related to growing or storing of plants used by the home occupation(s);
- C. No more than one non-resident shall be employed by the home occupation(s);
- D. The following activities shall be prohibited in urban residential zones only::
  - 1. Automobile, truck and heavy equipment repair;
  - 2. Autobody work or painting;
  - 3. Parking and storage of heavy equipment; and
  - 4. Storage of building materials for use on other properties;
- E. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:
  - 1. One stall for a non-resident employed by the home occupation(s); and
  - 2. One stall for patrons when services are rendered on-site;
- F. Sales shall be limited to:
  - 1. Mail order sales; and
  - 2. Telephone sales with off-site delivery;
- G. Services to patrons shall be arranged by appointment or provided off-site;
- H. The home occupation(s) may use or store a vehicle for pickup of materials used by the home occupation(s) or the distribution of products from the site, provided:
  - 1. No more than one such vehicle shall be allowed;
  - 2. Such vehicle shall not park within any required setback areas of the lot or on adjacent streets; and
  - 3. Such vehicle shall not exceed a weight capacity of one ton; and
- I. The home occupation(s) shall not use electrical or mechanical equipment that results in:
  - 1. A change to the fire rating of the structure(s) used for the home occupation(s);
  - 2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
  - 3. Fluctuations in line voltage off-premises.
- J. Uses not allowed as home occupations may be allowed as a home industry pursuant to K.C.C. 21A.30.

#### **SECTION 537.**

**21A.30.090 Home industry.** A resident may establish a home industry as an accessory activity, provided:

- A. The site area shall be no less than one acre;
- B. The area of the home industry shall not exceed 50 percent of the floor area of the dwelling unit. Areas within attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home industry area but may be used for storage of goods associated with the home occupation;
- C. No more than four non-residents shall be employed in a home industry;
- D. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:
  - 1. One stall for each non-resident employee of the home industry; and
  - 2. One stall for customer parking;
- E. Additional customer parking shall be calculated for areas devoted to the home industry at the rate of one stall per:
  - 1. 1,000 square feet of building floor area; and
  - 2. 2,000 square feet of outdoor work or storage area;
- F. Sales shall be limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques;

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G. Ten feet of Type I landscaping shall be provided around portions of parking and outside storage areas which are otherwise visible from adjacent properties or public rights-of-way; and

H. The zoning adjustor shall ensure compatibility of the home industry by:

1. Limiting the type and size of equipment used by the home industry to those which are compatible with the surrounding neighborhood;
2. Providing for setbacks or screening as needed to protect adjacent residential properties;
3. Specifying hours of operation;
4. Determining acceptable levels of outdoor lighting; and
5. Requiring sound level tests for activities determined to produce sound levels which may be in excess of those set forth in KCC 12.88.

**CHAPTER 21A.32 GENERAL PROVISIONS -  
NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES**

**SECTIONS:**

21A.32.010	Purpose
21A.32.020	Nonconformance - applicability
21A.32.030	Nonconformance - determining status
21A.32.040	Nonconformance - abatement of illegal use, structure or development
21A.32.050	Nonconformance - continuation and maintenance of nonconformance
21A.32.060	Nonconformance - re-establishment of discontinued nonconformance
21A.32.070	Nonconformance - repair or reconstruction of nonconforming structure
21A.32.080	Nonconformance - alteration of nonconforming structure
21A.32.090	Nonconformance - expansion of nonconformance
21A.32.100	Temporary use permits - uses requiring permits
21A.32.110	Temporary use permits - exemptions to permit requirement
21A.32.120	Temporary use permits - duration and frequency
21A.32.130	Temporary use permits - parking
21A.32.140	Temporary use permits - traffic control
21A.32.150	Temporary construction buildings
21A.32.160	Temporary construction residence
21A.32.170	Temporary mobile home for medical hardship
21A.32.180	Temporary real estate offices
21A.32.190	Temporary school facilities
21A.32.200	Re-use of facilities - general standards
21A.32.210	Re-use of facilities - re-establishment of closed public school facilities
21A.32.220	Re-use of facilities - standards for conversion of historic buildings

**SECTION 538.**

21A.32.010 Purpose. The purposes of this chapter are to:

- A. Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;
- B. Provide for the temporary establishment of uses that are not otherwise permitted in a zone and to regulate such uses by their scope and period of use; and
- C. Encourage the adaptive re-use of existing public facilities which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:
  1. Temporary re-use of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;
  2. Permanent re-use of surplus nonresidential facilities (e.g. schools, fire stations, government facilities) not retained in school district ownership; or
  3. Permanent re-use of historic structures listed on the National Register or designated as county landmarks.

**SECTION 539.**

21A.32.020 Nonconformance - applicability. A. With the exception of nonconforming extractive operations identified in K.C.C. 21A.22, all nonconformances shall be subject to the provisions of this chapter.

B. The provisions of this chapter do not supersede or relieve a property owner from compliance with:

1. The requirements of the Uniform Building and Fire Codes; or
2. The provisions of this code beyond the specific nonconformance addressed by this chapter.

**SECTION 540.**

**21A.32.030 Nonconformance - determining status.** A. Any use, structure or other site improvement (e.g. landscaping or signage) development standard which was legally established prior to the effective date of this title shall be considered nonconforming if:

1. The use is now prohibited or cannot meet use limitations applicable to the zone in which it is located; or

2. The use does not comply with the density, dimensions, landscaping, parking sign or residential design standards of this title.

B. A change in the required permit review process shall not create a nonconformance.

C. Any nonconformance that is brought into conformance for any period of time shall forfeit status as a nonconformance, except as specified by K.C.C. 21A.32.060.

**SECTION 541.**

**21A.32.040 Nonconformance - abatement of illegal use, structure or development.** Any use, structure or other site improvement not established in compliance with use and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal pursuant to the provisions of K.C.C. Title 23.

**SECTION 542.**

**21A.32.050 Nonconformance - continuation and maintenance of nonconformance.** A nonconformance may be continued or physically maintained as provided by this chapter.

**SECTION 543.**

**21A.32.060 Nonconformance - re-establishment of discontinued nonconforming use.** A nonconforming use may be re-established as a nonconformance, except any nonconforming use that is discontinued for a period of 12 continuous months shall be deemed abandoned and shall not be re-established.

**SECTION 544.**

**21A.32.070 Nonconformance - repair or reconstruction of nonconforming structure.** Any structure nonconforming as to height or setback standards may be repaired or reconstructed provided that:

A. The extent of the previously existing nonconformance is not increased; and

B. The building permit application for repair or reconstruction is submitted within 12 months of the occurrence of damage or destruction.

**SECTION 545.**

**21A.32.080 Nonconformance - modifications to nonconforming structures.** Modifications to a nonconforming structure may be permitted, provided the modification does not increase the area, height or degree of an existing nonconformity.

**SECTION 546.**

**21A.32.090 Nonconformance - expansion of nonconformance.** A nonconformance may be expanded subject to approval of a conditional use permit or a special use permit, whichever permit is required under existing codes, or if no permit is required through a conditional use permit, provided:

A. A nonconformance with the development standard provisions of K.C.C. 21A.12 through 21A.30 shall not be created or increased;

B. The proposal complies with the development standards of K.C.C. 21A.12 through 21A.30 to the extent feasible;

- C. Approval of such proposal shall be based on a finding that the expansion:
  - 1. Does not allow an expansion that would be detrimental to adjacent uses; and
  - 2. Improves aspects of safety or function of the nonconformance; and
- D. Expansions involving environmentally sensitive areas shall be subject to the provisions of K.C.C. 21A.24.

**SECTION 547.**

**21A.32.100 Temporary use permits - uses requiring permits.** Except as provided by K.C.C. 21A.32.110, a temporary use permit shall be required for:

- A. Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency; or
- B. Limited expansion of any use that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval.

**SECTION 548.**

**21A.32.110 Temporary use permits - exemptions to permit requirement.**

A. The following uses shall be exempt from requirements for a temporary use permit when located in the RB, CB, NB, O, or I zones for the time period specified below:

- 1. Uses not to exceed a total of 30 days each calendar year:
  - a. Christmas tree lots;
  - b. Fireworks stands; and
  - c. Produce stands.
- 2. Uses not to exceed a total of 14 days each calendar year:
  - a. Amusement rides, carnivals, or circuses;
  - b. Community festivals; and
  - c. Parking lot sales.

B. Any use not exceeding a cumulative total of 2 days each calendar year shall be exempt from requirements for a temporary use permit.

C. Any community event held in a public park and not exceeding a period of 7 days shall be exempt from requirements for a temporary use permit.

**SECTION 549.**

**21A.32.120 Temporary use permits - duration and frequency.** Temporary use permits shall be limited in duration and frequency as follows:

- A. The temporary use permit shall be effective for no more than 180 days from the date of the first event;
- B. The temporary use shall not exceed a total of 60 days, provided that this requirement applies only to the days that the event(s) actually take place;
- C. The temporary use permit shall specify a date upon which the use shall be terminated and removed; and
- D. A temporary use permit shall not be granted for the same temporary use on a property more than once per calendar year provided that a temporary use permit may be granted for multiple events during the approval period.

**SECTION 550.**

**21A.32.130 Temporary use permits - parking.** Parking and access for proposed temporary uses shall be approved by the county.

**SECTION 551.**

**21A.32.140 Temporary use permits - traffic control.** The applicant for a proposed temporary use shall provide any parking/traffic control attendants as specified by the King County department of public safety.

**SECTION 552.**

**21A.32.150 Temporary construction buildings.** Temporary structures for storage of tools and equipment, or for supervisory offices may be permitted for construction projects, provided that such structures are:

- A. Allowed only during periods of active construction; and
- B. Removed within 30 days of project completion or cessation of work.

**SECTION 553.**

**21A.32.160 Temporary construction residence.** A. A mobile home may be permitted on a lot as a temporary dwelling for the property owner, provided a building permit for a permanent dwelling on the site has been obtained.

B. The temporary mobile home permit shall be effective for a period of 12 months. The permit may be extended for one additional period of 12 months if the permanent dwelling is constructed with a finished exterior by the end of the initial approval period

C. The mobile home shall be removed within 90 days of:

- 1. The expiration of the temporary mobile home permit; or
- 2. The issuance of a certificate of occupancy for the permanent residence, whichever occurs first.

**SECTION 554.**

**21A.32.170 Temporary mobile home for medical hardship.**

A. A mobile home may be permitted as a temporary dwelling on the same lot as a permanent dwelling, provided:

1. The applicant demonstrates the temporary dwelling is necessary to provide daily care to an individual certified by a physician as needing such care;

2. The primary provider of daily care shall reside on-site; and

3. The mobile home together with the permanent residence shall meet the setback, height, building footprint, and lot coverage provisions of the applicable zone.

B. Temporary mobile home permits for medical hardships shall be effective for 12 months.

Extensions of the temporary mobile home permit may be approved in 12 month increments subject to demonstration of continuing medical hardship.

C. The mobile home shall be removed within 90 days of:

- 1. The expiration of the temporary mobile home permit; or
- 2. The cessation of provision of daily care.

**SECTION 555.**

**21A.32.180 Temporary real estate offices.** One temporary real estate office may be located on any new residential development, provided that activities are limited to the initial sale or rental of property or units within the development. The office use shall be discontinued within one year of recording of a subdivision or short subdivision or issuance of a final certificate of occupancy apartment development.

**SECTION 556.**

**21A.32.190 Temporary school facilities.** Temporary school structures may be permitted during construction of new school facilities or during remodeling of existing facilities, provided that such structures are:

A. Allowed only during periods of active construction or remodeling;

B. Do not expand the student capacity beyond the capacity under construction or remodeling; and

C. Removed within 30 days of project completion or cessation of work.

**SECTION 557.**

**21A.32.200 Re-use of facilities - general standards.** The interim or permanent re-use of surplus nonresidential facilities in residential zoned areas shall require that no more than 50 percent of the original floor area may be demolished for either permanent or interim re-use of facilities.

**SECTION 558.**

**21A.32.210 Re-use of facilities - re-establishment of closed public school facilities.** The re-establishment or reconversion of an interim nonschool use of school facilities back to school uses shall require a site plan and the issuance of a change of use permit pursuant to K.C.C. 16.04.

**SECTION 559.**

**21A.32.220 Re-use of facilities - standards for conversion of historic buildings.** In order to insure that significant features of the property are protected pursuant to K.C.C. 20.62, the following standards shall apply to conversion of historic buildings:

- A. Gross floor area of building additions or new buildings required for the conversion shall not exceed 20 percent of the gross floor area of the historic building, unless allowed by the zone;
- B. Conversions to apartments shall not exceed one dwelling unit for each 3,600 square feet of lot area, unless allowed by the zone; and,
- C. Any construction required for the conversion shall require certification of appropriateness from the King County Landmark Commission.

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