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Introduced by:  
Proposed No.:

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**93-514**

ORDINANCE NO.

**12020**

AN ORDINANCE relating to financial guarantees; adding a new title to the King County Code; creating definitions; establishing authority and procedures for the collection of financial guarantees; repealing Ordinance 1488, Section 9, as amended, K.C.C. 16.82.080; amending Ordinance 9163, Section 2, as amended, K.C.C. 9.04.020, Ordinance 2281, Section 5, as amended, K.C.C. 9.04.050, Ordinance 2281, Section 7, as amended, K.C.C. 9.04.100, Ordinance 4938, Section 10, as amended, K.C.C. 9.04.120, Ordinance 4938, Section 11, as amended, K.C.C. 9.04.130, Ordinance 8589, Section 2, as amended, K.C.C. 9.04.160, Ordinance 4895, Section 2, as amended, K.C.C. 14.28.020, Ordinance 4895, Section 5, as amended, K.C.C. 14.28.050, Ordinance 4895, Section 6, as amended, K.C.C. 14.28.060, Ordinance 129, Section 4, as amended, K.C.C. 14.40.040, Ordinance 8041, Section 8, K.C.C. 14.42.070, Ordinance 1711, Section 8, K.C.C. 14.44.080, Ordinance 4099, Section 10, K.C.C. 14.46.100, Ordinance 7025, Section 1 as amended, K.C.C. 16.04.070, Ordinance 1488, Section 6, K.C.C. 16.82.050, Ordinance 10870, Sections 404, 447, 448 and 462, K.C.C. 21A. 16.190, K.C.C. 21A.22.090, K.C.C. 21A.24.140, and 21A.41.080, Ordinance 11621, Section 127; adding new sections to K.C.C. 9.04, K.C.C. 14.02, K.C.C. 16.82, K.C.C. 19.01, and K.C.C. 21A.06.

**FINDINGS:**

1. The King County Auditor's office management audit of the process for the administration and forfeiture of financial guarantees operated by the department of development and environmental services (DDES) contained recommendations to improve the effectiveness of DDES, including consolidation of financial guarantee requirements under one title.
2. Consolidation and clarification of financial guarantee requirements is necessary for the fair and equitable treatment of applicants and guarantors, and to assure completion of projects as approved and permitted by King County.

**BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

**NEW SECTION. SECTION 1.** There is hereby created a new title in the King County

Code entitled Financial Guarantees.

**NEW SECTION. SECTION 2.** There is added to the King County Code a new section

to read as follows:

**Purpose.** The purpose of this title is to establish authority and procedures for accepting and enforcing financial guarantees, with the intent of assuring that development projects are completed and maintained in accordance with county approval conditions.

1           NEW SECTION. SECTION 3. There is added to the King County Code a new section  
2 as follows:

3           Applicant. "Applicant" means the person or entity who is required to post the financial  
4 guarantee.

5           NEW SECTION. SECTION 4. There is added to the King County Code a new section  
6 to read as follows:

7           Default. "Default" means the failure to:

- 8           1. comply with financial guarantee conditions;
- 9           2. complete, in the specified time, the required improvements in accordance with the  
10 King County Code and with approved project plans and conditions; or
- 11           3. maintain, for the specified period of time, the required improvements in accordance  
12 with the King County Code and with approved project plans and conditions.

13           NEW SECTION. SECTION 5. There is added to the King County Code a new section  
14 to read as follows:

15           Department. "Department" means the King County department of development and  
16 environmental services or its successor organization.

17           NEW SECTION. SECTION 6. There is added to the King County Code a new section  
18 to read as follows:

19           Director. "Director" means the director of the King County department of development  
20 and environmental services or his/her designee.

21           NEW SECTION. SECTION 7. There is added to the King County Code a new section  
22 to read as follows:

23           Financial Guarantee. "Financial guarantee" means a form of financial security posted to  
24 ensure timely and proper completion of improvements, to ensure compliance with the King  
25 County Code, and/or to warranty materials, workmanship of improvements, and design.  
26 Financial guarantees include assignments of funds, cash deposits, surety bonds, and/or other  
27 forms of financial security acceptable to the director. For the purposes of this title, the terms  
28 performance guarantee, maintenance guarantee and defect guarantee are considered sub-  
29 categories of financial guarantee.

30           NEW SECTION. SECTION 8. There is added to the King County Code a new section  
31 to read as follows:

1 Guarantor. "Guarantor" means a bank or other acceptable entity which issues the  
2 financial guarantee.

3 NEW SECTION. SECTION 9. There is added to the King County Code a new section  
4 to read as follows:

5 General Provisions. This chapter sets forth provisions general to the administration of  
6 financial guarantees and includes: applicability, default, financial guarantee conditions,  
7 financial guarantees-form and amount, performance guarantee reductions, release of financial  
8 guarantees, scheduling of performance, maintenance and defects inspections, financial  
9 guarantee waivers, and status of current financial guarantees.

10 NEW SECTION. SECTION 10. There is added to the King County Code a new section  
11 to read as follows:

12 Applicability. The provisions of this title shall apply to permits and approvals granted  
13 pursuant to Titles 9, 14, 16, 19, or 21A (or their successors) of the King County Code.

14 NEW SECTION. SECTION 11. There is added to the King County Code a new section  
15 to read as follows:

16 Default. A. Determination of default shall be made by the department after an  
17 inspection has indicated that improvements need to be corrected or completed. In the event of  
18 failure to comply with any of the conditions and terms of the permits and/or approvals covered  
19 by this title, the director shall notify the applicant and guarantor in writing of the default. If  
20 satisfactory assurance is not received by the department within a time period determined by the  
21 director, that conditions will be appropriately corrected, the department may:

22 1. order the applicant to perform all necessary corrective work, and/or  
23 2. demand payment on the financial guarantee(s). Nothing in this title shall limit the  
24 ability of King County to enforce or otherwise compel compliance with conditions of any  
25 county permit or approval in accordance with any enforcement provision set forth in Title 23 of  
26 the King County Code.

27 B. The guarantor shall be responsible, up to the limits of the financial guarantee, for the  
28 payment of any and all necessary costs and expenses that have been or will be incurred or  
29 expended by King County in causing any and all such required work to be done. In the event  
30 that total costs associated with the required work exceed the guarantee amount, the applicant  
31 shall remain responsible to King County for the payment of any remaining amount.

1 C. In the event of default, King County may contract with a third party to complete  
2 work required pursuant to this title.

3 NEW SECTION. SECTION 12. There is added to the King County Code a new section  
4 to read as follows:

5 Financial Guarantee Conditions. A. Every financial guarantee shall obligate the  
6 applicant to comply with all of the provisions of the King County Code and complete all  
7 conditions required by the permit or approval within the time limit specified.

8 B. The county may collect against the financial guarantee when work is not completed  
9 in a timely manner in accordance with conditions of the permit and/or approval granted  
10 pursuant to Titles 9, 14, 16, 19, or 21A (or their successors). It is in the director's sole  
11 reasonable discretion to determine whether the permit or approval conditions have been  
12 satisfied in a timely manner, and to determine whether the performance guarantee shall be  
13 collected to remedy the violation. The director shall notify the applicant in writing of any such  
14 determination.

15 NEW SECTION. SECTION 13. There is added to the King County Code a new section  
16 to read as follows:

17 Financial guarantees-form and amount. Financial guarantees shall be in a form  
18 approved by the director, in consultation with the department of public works, the prosecuting  
19 attorney's office, and other affected agencies. The amounts of the financial guarantees shall be  
20 based on the schedules appropriate to the required work which are updated on a periodic and  
21 frequent basis to ensure that the amount fully captures likely costs. Financial guarantees shall  
22 also require a contingency in an amount to be determined by the director.

23 NEW SECTION. SECTION 14. There is added to the King County Code a new section  
24 to read as follows:

25 Performance guarantee reductions. The director may allow reductions in performance  
26 guarantee amounts in accordance with the county's cost estimate of the work remaining to be  
27 completed. No more than one reduction will be allowed except that two reductions may be  
28 allowed at the director's discretion for phased subdivisions. The reduction shall not exceed  
29 70% of the initial guarantee value including contingency. The request for reduction shall be in  
30 writing, accompanied by a schedule for completion of remaining work.

1            NEW SECTION. SECTION 15. There is added to the King County Code a new section  
2 to read as follows:

3            Release of financial guarantees. The department shall not release performance  
4 guarantees until all permit fees have been paid to date; maintenance guarantees and defect  
5 guarantees have been posted, if applicable; inspection of the development site has been  
6 performed; and the director has determined that the conditions and requirements of the  
7 permit/approval otherwise specified in the financial guarantee have been met and granted final  
8 construction approval if applicable.

9            NEW SECTION. SECTION 16. There is added to the King County Code a new section  
10 to read as follows:

11            Scheduling of final performance, maintenance, and defect inspections. The department  
12 shall be responsible for scheduling final performance, and maintenance and defects inspections.  
13 The department should schedule such inspections approximately forty-five days prior to  
14 expiration of the performance or maintenance period. If necessary to determine completion of  
15 performance, additional inspections should also be made after the expiration of the performance  
16 period. Periodic inspections may also be made at the discretion of the director of the  
17 department of development and environmental services or the director of the department of  
18 public works.

19            NEW SECTION. SECTION 17. There is added to the King County Code a new section  
20 to read as follows:

21            Financial guarantee waivers. Consistent with chapter 36.32 RCW, King County shall  
22 not require any state agency, ~~((or))~~ unit of local government, or gas company or electrical  
23 company (as those terms are defined in RCW 80.04.010) to secure the performance of a permit  
24 requirement with a financial guarantee as a condition of issuing a permit or approval for a  
25 building construction project. The director, however, may require such state agency or unit of  
26 local government, gas company or electric company to sign an agreement to complete required  
27 improvements and protect the County's rights and duty to remedy unsatisfactory performance.

28            NEW SECTION. SECTION 18. There is added to the King County Code a new section  
29 to read as follows:

30            Status of Current Financial Guarantees. All financial guarantees required by the  
31 department and posted by the applicant prior to the effective date of this ordinance shall

1 continue to be in force until released by the director following satisfactory compliance with  
2 financial guarantee conditions.

3 NEW SECTION. SECTION 19. There is added to the King County Code a new section  
4 to read as follows:

5 Performance guarantees authorized. A. The department is authorized to require all  
6 applicants constructing improvements pursuant to any permits and approvals granted pursuant  
7 to Titles 9, 14, 16, 19, or 21A (or their successors) of the King County Code to post  
8 performance guarantees with the director to guarantee completion of required improvements  
9 and compliance with the King County Code.

10 B. If more than one such guarantee is required, the applicant may, with the permission  
11 of the director, and to the extent allowable by law, combine guarantees; provided, that at no  
12 time shall the guaranteed amount be less than the total amount which would have been required  
13 in the form of separate financial guarantees; and provided further, that such guarantee shall on  
14 its face clearly delineate those separate additional financial guarantees which it is intended in  
15 lieu of.

16 C. Unless otherwise specifically indicated in the King County Code, performance  
17 guarantees shall require actual construction and installation of required improvements within  
18 two years after recording for final subdivision, two years after recording for short subdivision,  
19 one year after right-of-way permit issuance or six months after temporary building occupancy  
20 issued for a building permit. The time limit for performance guarantee compliance may be  
21 extended by six months at the director's discretion, if circumstances beyond the control of the  
22 applicant warrant an extension. The request for an extension shall be in writing, accompanied  
23 by a schedule for completion of remaining work.

24 NEW SECTION. SECTION 20. There is added to the King County Code a new section  
25 to read as follows:

26 Maintenance and defect guarantees authorized. A. The department is authorized to  
27 require all applicants to post a maintenance guarantee and/or defect guarantee warranting the  
28 successful operation and maintenance of improvements, and guaranteeing the workmanship,  
29 materials, and design used in construction of improvements required by the conditions of any  
30 permits or approvals issued pursuant to titles 9, 14, 16, 19, or 21A; (or their successors) and  
31 assuring compliance with the King County Code.

1 B. Unless otherwise specifically indicated in the King County Code, all maintenance  
 2 guarantees and defect guarantees shall guarantee successful operation, workmanship, materials,  
 3 and design of required facilities for a period of two years following final inspection and  
 4 approval of improvements.

5 C. Inspections of facilities required pursuant to Titles 9, 14, 16, 19, or 21A (or their  
 6 successors) should be scheduled by the appropriate department approximately forty-five days  
 7 prior to the end of the two year maintenance and/or defect period.

8 NEW SECTION. SECTION 21. There is added to the King County Code a new section  
 9 to read as follows:

10 Improvement requirements. The following provisions set forth special financial  
 11 guarantee requirements for certain improvements required pursuant to Titles 9, 14, 16, 19 or  
 12 21A (or their successors) of the King County Code.

13 NEW SECTION. SECTION 22. There is added to the King County Code a new section  
 14 to read as follows:

15 Drainage improvements. Financial guarantees for drainage improvements pursuant to  
 16 Title 9 shall be sufficient to cover the cost of corrective work on or off the project site which is  
 17 necessary to: provide drainage control consistent with approved plans and conditions; stabilize  
 18 and restore disturbed areas; and remove sources of any hazard associated with work which is in  
 19 progress but is not completed.

20 NEW SECTION. SECTION 23. There is added to the King County Code a new section  
 21 to read as follows:

22 Restoration and r((R))eclamation activities. A. Financial guarantees for restoration and  
 23 reclamation activities required pursuant to Title 16 and Title 21A shall be sufficient to cover the  
 24 cost of conformance with conditions of the permit, including corrective work necessary to  
 25 provide drainage consistent with approved plans and conditions, to remove geologic hazards,  
 26 and to protect water quality and the public health, safety, and welfare. The financial guarantee  
 27 may be reduced proportionately for phased projects as ~~((extraction))~~ work is complete and  
 28 subsequent reclamation and/or restoration on each phase is completed. The request for  
 29 reduction shall be in writing.

30 ~~((B. Any reclamation guarantees posted with the state of Washington Department of~~  
 31 ~~Natural Resources, or with the federal office of surface mining for surface mining permits may~~

1 be applied to King County financial guarantee requirements insofar as they pertain to Title 16  
2 and Title 21A reclamation provisions.))

3 ((C))B. ((Reclamation-f))Financial guarantees may be waived on:

- 4 1. projects of less than one thousand cubic yards, ((and))
- 5 2. King County department projects((-)),and
- 6 3. reclamation projects with financial guarantees posted with the state of Washington  
7 Department of Natural Resources or with the federal office of surface mining.

8 ((D))C. A cash ((reclamation)) guarantee shall accompany the operating permit and  
9 may be used after proper notice at the discretion of the director to correct deficiencies affecting  
10 public health, safety and welfare, including effects on water quality. The amount of the cash  
11 ((reclamation)) guarantee shall be determined by the director, and shall be maintained at the full  
12 value established by the director at all times during the life of the permit.

13 NEW SECTION. SECTION 24. There is added to the King County Code a new section  
14 to read as follows:

15 Rights-of-way. Financial guarantees for any right-of way improvement required  
16 pursuant to Title 14 shall be sufficient to cover the cost of restoring the right-of-way to original  
17 condition or complying with conditions of any permit or approval, including corrective work  
18 necessary to provide drainage consistent with approved plans and conditions, and to protect the  
19 public health, safety and welfare.

20 NEW SECTION. SECTION 25. There is added to the King County Code a new section  
21 to read as follows:

22 Site development and restoration. A. Financial guarantees for any improvement  
23 required pursuant to Titles 16, 19, or 21A (or their successors) shall be sufficient to cover the  
24 cost of complying with conditions of the permit or approval, including corrective work  
25 necessary to provide drainage consistent with approved plans and conditions, to remove  
26 geologic hazards, and to protect water quality and the public health, safety, and welfare. Such  
27 financial guarantees shall include site restoration and stabilization requirements.

28 B. No temporary certificate of occupancy shall be issued until:

- 29 1. drainage facility improvements are functional;
- 30 2. required parking is provided; and
- 31 3. safe access is provided.



1 C. The director may allow a performance guarantee to be posted for some or all of the  
2 improvements required by subsection B of this section if no life safety hazard exists. The  
3 request shall be made in writing, accompanied by a schedule for completion of required  
4 improvements.

5 NEW SECTION. SECTION 26. There is added to the King County Code a new section  
6 to read as follows:

7 Subdivisions. A. Pursuant to RCW 58.17.130, an applicant may request recording of a  
8 subdivision prior to the completion of the construction of required improvements subject to the  
9 posting of a performance financial guarantee. Performance guarantees for subdivisions which  
10 record prior to completing all improvements shall be subject to the following requirements:

11 1. A performance guarantee shall be posted with the department in an amount  
12 equal to the director's estimate for such improvements as assurance that the applicant will,  
13 within two years from the date of recording of the final subdivision, complete the  
14 improvements in accordance with the requirements and to the satisfaction of the development  
15 engineer (as defined in Title 19 or its successor);

16 2. Requests for performance guarantees shall be in writing, shall be correlated  
17 with the original terms and conditions of preliminary approval, and shall be accompanied by a  
18 detailed schedule for completion of the improvements and conditions,

19 3. Performance guarantees for improvements required pursuant to Title 19 (or its  
20 successor) shall be sufficient to cover the cost of conformance with conditions of the  
21 preliminary approval and approved construction plans, including corrective work necessary to  
22 protect the public health, safety, and welfare. 2. Maintenance guarantees and defect guarantee  
23 shall be posted with the director:

24 a. prior to final construction approval and recording of the final plat when the applicant  
25 has constructed improvements in accordance with the approval of the director and the  
26 development engineer, or b. prior to final construction approval and the release of  
27 performance guarantees when the applicant has previously recorded the plat.

28 3. Maintenance guarantees and defect guarantees shall be released following a final  
29 maintenance and defect inspection and, if applicable, acceptance of the facilities for county  
30 maintenance.

1            NEW SECTION. SECTION 27. There is added to the King County Code a new section  
2 to read as follows:

3            Landscaping. A. Prior to receiving a temporary or permanent occupancy certificate for  
4 any building or structure for which Title 21A requires landscaping, an applicant shall provide  
5 the required performance guarantee to secure the completion and improvement of required  
6 landscaping, in accordance with approved site plan, within three months following issuance of  
7 the building or buildings temporary or permanent occupancy certificate, whichever comes first.

8            B. Performance guarantees for landscaping required pursuant to K.C.C. 21A.16 shall be  
9 sufficient to cover the cost of conformance with conditions of the permit, and shall be required  
10 for a period of two years after the planting or transplanting of vegetation to insure proper  
11 installation, establishment and maintenance. This time period may be extended by one year by  
12 the director, if necessary to cover a planting and growing season.

13            C. The director may extend the time limit for compliance with the above landscaping  
14 requirement up to one year after issuance of the occupancy certificate if circumstances beyond  
15 the control of the applicant warrant an extension. The request for an extension shall be in  
16 writing, accompanied by a schedule for completion of remaining work.

17            NEW SECTION. SECTION 28. There is added to the King County Code a new section  
18 to read as follows:

19            Sensitive areas. A. Financial guarantees for mitigation required pursuant to K.C.C.  
20 21A.24 shall be sufficient to guarantee that all required mitigation measures will be completed  
21 no later than the time established by King County in accordance with K.C.C. 21A.24.

22            B. Performance and maintenance guarantees shall also be required for restoration of a  
23 sensitive area or buffer not performed as part of a mitigation or maintenance plan except that no  
24 financial guarantee shall be required for minor stream restoration carried out pursuant to K.C.C.  
25 21A.24.

26            C. For maintenance guarantees, the financial guarantee shall be sufficient to guarantee  
27 satisfactory workmanship, materials, and performance of structures and improvements required  
28 by K.C.C. 21A.24 for a period of up to five years.

29            D. Public development proposals shall be relieved from having to comply with the  
30 provisions of this section if public funds have previously been committed for mitigation,  
31 maintenance, monitoring or restoration.

1 NEW SECTION. SECTION 29. There is added to the King County Code a new section

2 to read as follows:

3 Section 309 Financial Guarantees. Financial guarantees required pursuant to Section  
4 309 of the King County modifications to the current Uniform Building Code shall be in the  
5 form of cash deposited with the director, assignment of funds approved by the director, or in an  
6 irrevocable escrow in an amount sufficient to restore the building and site, and to perform  
7 corrective work required by Title 16 of the King County Code.

8 NEW SECTION. SECTION 30. There is added to the King County Code a new section

9 to read as follows:

10 Moved and Temporary Buildings. Financial guarantees required with respect to moved  
11 or temporary buildings pursuant to Section 104 (e) of the King County modifications to the  
12 current Uniform Building Code shall be in the form of cash deposited with the director,  
13 assignment of funds approved by the director, or in an approved irrevocable escrow in a  
14 sufficient amount to be determined by the director.

15 NEW SECTION. SECTION 31. There is added to the King County Code a new section

16 to read as follows:

17 Financial Guarantees-Rules. The department is authorized to adopt, pursuant to K.C.C.  
18 2.98, such rules as are deemed appropriate to implement this title. The director may prepare  
19 and require the use of such forms as are deemed appropriate for its administration.

20 NEW SECTION. SECTION 32. There is added to K.C.C. 21A.06 a new section to read

21 as follows:

22 Financial Guarantee. "Financial guarantee" means a form of financial security posted to  
23 ensure timely and proper completion of improvements, to ensure compliance with the King  
24 County Code, and/or to warranty materials, workmanship of improvements, and design.  
25 Financial guarantees include assignments of funds, cash deposit, and surety bonds, and or other  
26 forms of financial security acceptable to the director. For the purposes of this title, the terms  
27 performance guarantee, maintenance guarantee, and defect guarantee are considered sub-  
28 categories of financial guarantee.

29 NEW SECTION. SECTION 33. There is added to K.C.C. 9.04 a new section to read as

30 follows:

1 Financial guarantees authorized. The department of development and environmental  
 2 services (or its successor organization) is authorized to require all applicants issued permits or  
 3 approvals under the provisions of the title to post financial guarantees consistent with the  
 4 provisions of this ordinance.

5 NEW SECTION. SECTION 34. There is added to K.C.C. 14.02 a new section to read  
 6 as follows:

7 Financial guarantees authorized. The department of development and environmental  
 8 services (or its successor organization) is authorized to require all applicants issued permits or  
 9 approvals under the provisions of the title to post financial guarantees consistent with the  
 10 provisions of this ordinance.

11 NEW SECTION. SECTION 35. There is added to K.C.C. 16.82 a new section to read  
 12 as follows:

13 Financial guarantees authorized. The department is authorized to require all applicants  
 14 issued permits or approvals under the provisions of the title to post financial guarantees  
 15 consistent with the provisions of this ordinance.

16 NEW SECTION. SECTION 36. There is added to K.C.C. 19.01 a new section to read  
 17 as follows:

18 Financial Guarantees authorized.: Notwithstanding any other provision of Title 19, the  
 19 director is authorized to require all applicants issued permits or approvals under the provisions  
 20 of the title to post financial guarantees consistent with the provisions of this ordinance.

21 SECTION 37. Ordinance 9163, Section 2, as amended, and K.C.C. 9.04.020 are hereby  
 22 amended to read as follows:

23 Definitions. A. "Basin" means a drainage area which drains either to the Cedar, Green,  
 24 Snoqualmie, Skykomish or White rivers, or the drainage areas which drain directly to Puget  
 25 Sound.

26 B. "Basin Plan" means a plan and all implementing regulations and procedures  
 27 including but not limited to capital projects, public education activities, and land use  
 28 management adopted by ordinance for managing surface and storm water management facilities  
 29 and features within individual subbasins.

30 ~~((C. "Bond" means a surety bond, cash deposit or escrow account, assignment of  
 31 savings, irrevocable letter of credit or other means acceptable to or required by the manager to~~

1 ~~guarantee that work is completed in compliance with the project's engineering plan and in~~  
 2 ~~compliance with all King County requirements.))~~

3 ((D-))C. "Closed depression" means an area of King County which is low-lying and  
 4 either has no, or such a limited, surface water outlet that during storm events the area acts as a  
 5 retention basin, with no more than five thousand square feet of overflow elevation.

6 ((E-))D. "Department" means the department of public works (or its successor  
 7 organization).

8 ((F-))E. "Design storm" means a rainfall (or other precipitation) event or pattern of  
 9 events for use in analyzing and designing drainage facilities.

10 ((G-))E. "Development" means any activity that requires a permit or approval,  
 11 including but not limited to a building permit, grading permit, shoreline substantial  
 12 development permit, conditional use permit, special use permit, zoning variance or  
 13 reclassification, subdivision, short subdivision, urban planned development, building site plan,  
 14 commercial site development permit, or right-of-way use permit.

15 ((H-))G. "Development engineer" means the department of development and  
 16 environment services employee authorized to oversee the review, conditioning, inspection and  
 17 acceptance of right-of-way use permits, road and drainage projects constructed pursuant to  
 18 permits administered by the division. The development engineer or designee shall be a  
 19 professional civil engineer registered and licensed under the laws of the State of Washington.

20 ((I-))H. "Director" means the director of the department of public works or the  
 21 director's designee.

22 ((J-))I. "Division" means the building and land development division of parks,  
 23 planning and resources department or its successor agency.

24 ((K-))J. "Drainage" means the ~~((collection))~~ system of collecting, conveyance,  
 25 containment, and/or discharge of surface and storm water runoff.

26 ((L-))K. "Drainage facility" means the system of collection, conveying and storing  
 27 surface and storm water runoff. Drainage facilities shall include but not be limited to all  
 28 surface and storm water conveyance and containment facilities including streams, pipelines,  
 29 channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities,  
 30 retention/detention facilities, erosion/sedimentation control facilities and other drainage  
 31 structures and appurtenances, both natural and manmade.

1           ((M.))L. "Drainage review" means an evaluation by department of development and  
2 environmental services staff of a proposed project's compliance with the drainage requirements  
3 in the Surface Water Design Manual.

4           ((N.))M. "Erosion/sedimentation control" means any temporary or permanent measures  
5 taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden  
6 water does not leave the site.

7           N. Financial Guarantee. "Financial guarantee" means a form of financial  
8 security posted to ensure timely and proper completion of improvements, to ensure compliance  
9 with the King County Code, and/or to warranty materials, workmanship of improvements, and  
10 design. Financial guarantees include assignments of funds, cash deposit, and surety bonds,  
11 and/or other forms of financial security acceptable to the director. For the purposes of this  
12 chapter, the terms performance guarantee, maintenance guarantee and defect guarantee are  
13 considered sub-categories of financial guarantee.

14           O. "Infiltration facility" means a drainage facility designed to use the hydrologic  
15 process of surface and storm water runoff soaking into the ground, commonly referred to as  
16 percolation, to dispose of surface and storm water runoff.

17           P. "Impervious surface" means a hard surface area which either prevents or retards  
18 the entry of water into the soil mantle as under natural conditions prior to development, and/or  
19 a hard surface area which causes water to run off the surface in greater quantities or at an  
20 increased rate of flow from the flow present under natural conditions prior to development.  
21 Common impervious surfaces include, but are not limited to, roofs, walkways, patios,  
22 driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or  
23 oiled earthen materials, or other surfaces which similarly impede the natural infiltration of  
24 surface and storm water. Open, uncovered retention/detention facilities shall not be considered  
25 as impervious surfaces for the purposes of this chapter.

26           Q. "Improvement" means streets (with or without curbs or gutters) sidewalks,  
27 crosswalks, parking lots, water mains, sanitary and storm sewers, drainage facilities, street trees  
28 and other appropriate items.

29           R. "Manager" means the manager of the building and land development division of  
30 the department of parks, planning and resources or its successor agency, or his/her designee.

1 S. "Master Drainage Plan" means a comprehensive drainage control plan intended  
2 to prevent significant adverse impacts to the natural and man made drainage system, both on  
3 and off-site.

4 T. "Multifamily/commercial retention/detention facility" means a  
5 retention/detention facility which is not a subdivision retention/detention facility as defined in  
6 this chapter.

7 U. "Preapplication" for the purposes of this chapter refers to the meeting(s) and/or  
8 form(s) used by applicants for some development permits to present initial project intentions to  
9 the division. Preapplication does not mean application.

10 V. "Professional civil engineer" means a person registered with the State of  
11 Washington as a professional engineer in civil engineering.

12 W. "Project" means the proposed action of a permit application or an approval  
13 which requires drainage review.

14 X. "Retention/detention facility" means a type of drainage facility designed either  
15 to hold water for a considerable length of time and then release it by evaporation, plant  
16 transpiration and/or infiltration into the ground; or to hold runoff for a short period of time and  
17 then release it to the surface and storm water management system.

18 Y. "Runoff" means water originating from rainfall and other precipitation that is  
19 found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as  
20 shallow ground water.

21 Z. "Shared facility" means a drainage facility designed to meet one or more of the  
22 requirements of K.C.C. 9.04.050 for two or more separate projects within a basin as defined in  
23 K.C.C. 9.04.020. Shared facilities usually include shared financial commitments for those  
24 drainage facilities.

25 AA. "Site" means the portion of a piece of property that is directly subject to  
26 development.

27 BB. "Subbasin" means a drainage area which drains to a water course or water body  
28 named and noted on common maps and which is contained within a basin as defined in K.C.C.  
29 9.04.020.

30 CC. "Subdivision retention/detention facility" means a retention/detention facility  
31 which is both located within or associated with a short or formal plat or subdivision as defined

1 by Title 19 (or its successor) (~~containing only single family or duplex residential structures~~  
2 ~~located on individual lots~~) and which is required to handle excess runoff generated by  
3 development of an area of which two-thirds or more is designated for single family or duplex  
4 residential structures located on individual lots.

5 DD. "Surface and storm water" means water originating from rainfall and other  
6 precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and  
7 wetlands as well as shallow ground water.

8 EE. "Surface and storm water management system" means drainage facilities and  
9 any other natural features which collect, store, control, treat and/or convey surface and storm  
10 water.

11 FF. "Surface Water Design Manual" means the manual (and supporting documents  
12 as appropriate) describing surface and storm water design and analysis requirements,  
13 procedures and guidance which has been formally adopted by rule under the procedures  
14 specified in K.C.C. 2.98. The Surface Water Design Manual is available from the division  
15 permit center.

16 GG. "Water quality swale" means an open vegetated drainage channel intended to  
17 optimize water quality treatment of surface and storm water runoff by following the specific  
18 design criteria described in the Surface Water Design Manual.

19 HH. "Wetponds" and "wetvaults" mean drainage facilities for water quality treatment  
20 that contain a permanent pool of water, usually four feet in depth, that are filled during the  
21 initial runoff from a storm event. They are designed to optimize water quality by providing  
22 retention time (on the order of a week or more) in order to settle out particles of fine sediment  
23 to which pollutants such as heavy metals absorb, and to allow biologic activity to occur that  
24 metabolizes nutrients and organic pollutants. For wetvaults, the permanent pool of water is  
25 covered by a lid which blocks sunlight from entering the facility, limiting photo-dependent  
26 biologic activity.

27 SECTION 38. Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050 are hereby  
28 amended to read as follows:

29 Drainage review - requirements. A. CORE REQUIREMENTS. Every permit or  
30 approval application with drainage review required by K.C.C. 9.04.030 must meet each of the  
31 following core requirements which are described in detail in the Surface Water Design Manual:



1 Core Requirement #1: Discharge at the natural location. The discharge from a  
2 project site must occur at the natural location and/or produce no significant adverse impact, as  
3 described in the Surface Water Design Manual.

4 Core Requirement #2: Off-site analysis. All projects must identify the upstream  
5 tributary drainage area and perform a downstream analysis. Levels of analysis required depend  
6 on the problems identified or predicted. At a minimum, a level one analysis as described in the  
7 Surface Water Design Manual must be submitted with the initial permit application.

8 Core Requirement #3: Runoff control. All projects shall provide runoff controls  
9 to control the quantity and quality of runoff from the project by limiting the peak rates of runoff  
10 from design storm events to the pre-developed peak rates based on the project site's existing  
11 runoff conditions. The design volume, when detention facilities are required by the Surface  
12 Water Design Manual to meet the standard runoff control performance curve for the two- and  
13 ten-year, twenty-four hour duration design storm events, shall be increased by a thirty percent  
14 factor for safety. This factor of safety shall be reviewed as new research is completed to  
15 evaluate its effectiveness.

16 Project runoff resulting from more than five thousand square feet of impervious surface,  
17 and subject to vehicular use or storage of chemicals, shall be treated prior to discharge from the  
18 project site by biofiltration measures as specified in the Surface Water Design Manual.

19 Core Requirement #4: Conveyance system. All conveyance systems for  
20 projects must be analyzed, designed and constructed for existing tributary off-site flows and  
21 developed on-site flows from the project.

22 Core Requirement #5: Erosion/sedimentation control plan. All engineering  
23 plans for projects that involve modification or significant impact to existing drainage facilities  
24 and/or construction of new drainage facilities must include a plan to control erosion and  
25 sedimentation during construction and to permanently stabilize soil at the site.

26 Core Requirement #6: Maintenance and operation. Maintenance of all drainage  
27 facilities constructed or modified by a project is the responsibility of the property owner as  
28 described in the Surface Water Design Manual, except King County performs maintenance of  
29 drainage facilities constructed for formal plat subdivisions and some short plat subdivisions,  
30 two years after final plat recording following an inspection by the department.

1 Core Requirement #7: ((Bonds)) Financial guarantees and liability: All  
2 drainage facilities for projects (except downspout roof drain infiltration systems) must comply  
3 with the ((bond)) financial guarantee and liability requirements of ((K.C.C. 9.04.100)) this  
4 ordinance.

5 B. SPECIAL REQUIREMENTS. In addition to the core requirements, engineering  
6 plans must also meet any of the following special requirements which apply to the project and  
7 which are described in detail in the Surface Water Design Manual:

8 Special Requirement #1: Critical drainage area. If a project lies within an area  
9 designated by public rule as a "critical drainage area," then the project drainage and engineering  
10 plans shall be prepared in accordance with the special critical drainage area requirements that  
11 have been formally adopted by public rule. Copies of all designated critical drainage area  
12 public rules (including critical drainage area maps) are available for reference from the division  
13 permit center;

14 Special Requirement #2: Compliance with an existing master drainage plan. If  
15 a project lies within an area covered by an approved master drainage plan as listed at the  
16 division permit center, then the project drainage and engineering plans shall be prepared in  
17 accordance with any special requirements of the master drainage plan. Copies of all master  
18 drainage plans are available for reference from the division permit center;

19 Special Requirement #3: Conditions requiring a master drainage plan. If a  
20 project:

21 a. Is an urban planned development as described in an adopted community  
22 plan; or

23 b. Is a subdivision that will eventually have more than one hundred single  
24 family lots and encompasses a contiguous drainage sub-basin of more than two hundred acres;  
25 or

26 c. Is a commercial building permit, commercial site development or formal  
27 subdivision that will eventually construct more than fifty acres of impervious surface; or

28 d. Will clear an area of more than five hundred acres within a contiguous  
29 drainage sub-basin; then a master drainage plan shall be prepared as specified in the Surface  
30 Water Design Manual. The master drainage plan process should proceed coincidentally with

1 the State Environmental Policy Act (SEPA) process. Approval of the master drainage plan is  
2 required before permit approval.

3 Special Requirement #4: Adopted basin or community plans. If a project lies  
4 within an area included in an adopted basin or community plan, then the project drainage  
5 review and engineering plans shall be prepared in conformance with the special requirements of  
6 the adopted basin or community plan. Copies of all adopted basin and community plans are  
7 available for reference from the division permit center;

8 Special Requirement #5: Shared Facility Drainage Plans. If a project lies  
9 within an area covered by an approved shared facility drainage plan, then the project drainage  
10 and engineering plans shall be prepared in accordance with any special requirements of the  
11 shared facility drainage plan. Copies of all adopted shared facility drainage plans are available  
12 for reference from the division permit center.

13 Special Requirement #6: Lake Management Plans. If a project lies within an  
14 area designated by public rule as a "lake management plan" then the project drainage and  
15 engineering plans shall be prepared in accordance with the special lake management plan  
16 requirements that have been formally adopted by public rule. Copies of all designated lake  
17 management plan public rules (including lake management plan are maps) are available for  
18 reference from the division permit center;

19 Special Requirement #7: Special water quality controls. If a project will  
20 construct more than one acre of impervious surface that will be subject to vehicular use or  
21 storage of chemicals and:

22 a. Proposes to discharge runoff directly to a regional facility, receiving  
23 water body, lake, wetland, or closed depression to provide the runoff control consistent with  
24 Core Requirement #3; or

25 b. The runoff from the project will discharge into a Type 1 or 2 stream, or  
26 Type 1 wetland within one mile from the project site; then a wetpond meeting the standards as  
27 specified in the Surface Water Design Manual shall be employed to treat a project's runoff prior  
28 to discharge from the project site. A wetvault or water quality swale may be used when a  
29 wetpond is not feasible.

30 Special Requirement #8: Coalescing plate oil/water separators. If a project will  
31 construct more than five acres of impervious surface that will be subject to petroleum storage or

1 transfer, or high vehicular (more than twenty five hundred vehicle trips per day) or heavy  
2 equipment use, storage or maintenance, then a coalescing plate or equivalent oil/water separator  
3 shall be employed to treat a project's runoff prior to treatment by a wetpond, wetvault, or water  
4 quality swale, and/or discharge from the project site.

5 Special Requirement #9: Closed depressions. If a project will discharge to an  
6 existing closed depression either on or off the site that has greater than five thousand square  
7 feet of surface area at potential overflow, then the project's drainage and engineering plans must  
8 meet the requirements for closed depressions as specified in the Surface Water Design Manual;

9 Special Requirement #10: Use of lakes, wetlands or closed depressions for  
10 runoff control. If a project proposes to use a lake, wetland, or closed depression for runoff  
11 controls required by Core Requirement #3, then the project must meet the requirements of  
12 K.C.C. 21A.24 (Sensitive Areas) for such use, include special water quality controls, and  
13 observe the limits on any increases to the floodplain as specified in the Surface Water Design  
14 Manual;

15 Special Requirement #11: Delineation of one hundred year floodplain. If a  
16 project contains or abuts a stream, lake, wetland or closed depression, then the one hundred  
17 year floodplain boundaries (and floodway if available based on an approved floodplain study as  
18 specified in the Surface Water Design Manual) shall be delineated on the site improvement  
19 plans and profiles and on any final plat maps prepared for the project;

20 Special Requirement #12: Flood protection for Type 1 and 2 streams. If a  
21 project contains or abuts a Type 1 or 2 stream (as defined in the Surface Water Design Manual)  
22 that has an existing flood protection facility or involves construction of a new, or modification  
23 of existing flood protection facility, then the flood protection facility shall be analyzed and/or  
24 designed as specified in the Surface Water Design Manual and in the Federal Emergency  
25 Management (FEMA) regulations (44 CFR).

26 Special Requirement #13: Geotechnical analysis and report. If a project  
27 includes construction of a pond for drainage control or an infiltration system (excluding a roof  
28 downspout system) above a steep slope (as defined in the Surface Water Design Manual) within  
29 two hundred feet from the top of the steep slope or on a slope with a gradient steeper than  
30 fifteen percent, or construction of earth fill/bank armor for flood protection facilities, then a  
31 geotechnical analysis and report shall be prepared and stamped by a geotechnical professional

1 civil engineer that shall address at a minimum the analysis described in the Surface Water  
2 Design Manual;

3 Special Requirement #14. Soils analysis and report. If the soils underlying a  
4 project have not been mapped, or if the existing soils maps are in error or not of sufficient  
5 resolution to allow the proper engineering analysis of the proposed site to be performed, then a  
6 soils analysis and report shall be prepared and stamped by a professional civil engineer with  
7 expertise in soils to verify and/or map the underlying soils by addressing at a minimum the  
8 analysis described in the Surface Water Design Manual.

9 C. VARIANCES FROM REQUIREMENTS. Where application of the provisions  
10 of this section may deny reasonable use of a property or where alternate facility designs or  
11 methods will produce a compensating or comparable result which will achieve an equivalent  
12 level of safety, function, appearance, environmental protection, and maintainability, based upon  
13 sound engineering judgment, the core and special requirements contained in the section and/or  
14 other requirements in the Surface Water Design Manual may be proposed for a variance.

15 1. A variance may be proposed provided that the resulting development shall be  
16 subject to all of the remaining terms and conditions of this chapter and provided that granting  
17 the variance will:

- 18 a. Produce a compensating or comparable result which is in the public interest,  
19 and  
20 b. Meet the objectives of safety, function, appearance, environmental protection  
21 and maintainability based upon sound engineering judgment.

22 2. Granting any variance which would be in conflict with the requirements of any  
23 other King County division will require review and concurrence with that division.

24 3. Variance requests shall be processed in accordance with procedures specified in  
25 the Surface Water Design Manual.

26 4. Proposed variances to the core and special requirements must be approved prior  
27 to permit approval and construction.

28 5. The applicant may appeal the denial of a variance request by following the  
29 appeal procedures as specified in the Surface Water Design Manual.

30 SECTION 39. Ordinance 2281, Section 7, as amended, and K.C.C. 9.04.100 are hereby  
31 amended to read as follows:

1           ~~((Bonds and 1)) Liability insurance required. ((The division is authorized to require all~~  
2 ~~persons constructing retention/detention facilities and other drainage facilities to post bonds~~  
3 ~~with the manager. Where such persons have previously posted, or are required to post, other~~  
4 ~~such bonds with the manager either on the facility itself or on other construction related to the~~  
5 ~~facility, such person may, with the permission of the manager and to the extent allowable by~~  
6 ~~law, combine all such bonds into a single bond; provided, that at no time shall the amount thus~~  
7 ~~bonded be less than the total amount which would have been required in the form of separate~~  
8 ~~bonds; and provided further, that such a bond shall on its face clearly delineate those separate~~  
9 ~~bonds which it is intended to replace.~~

10           A. ~~DRAINAGE FACILITIES RESTORATION AND SITE STABILIZATION~~  
11 ~~BOND. Prior to commencing construction, the person required to construct the drainage~~  
12 ~~facility pursuant to Section 9.04.050 shall post a drainage facilities restoration and site~~  
13 ~~stabilization bond in the amount sufficient to cover the cost of corrective work on or off the site~~  
14 ~~which is necessary to provide adequate drainage, stabilize and restore disturbed areas, and~~  
15 ~~remove sources of hazard associated with work which has been performed and is not~~  
16 ~~completed. After determination by the development engineer that all facilities are constructed~~  
17 ~~in compliance with approved plans, the drainage facilities restoration and site stabilization bond~~  
18 ~~shall be released. The county may collect against the drainage facilities restoration and site~~  
19 ~~stabilization bond when work is not completed in reasonable fashion and is found to be in~~  
20 ~~violation of the conditions associated with the permit and/or approval listed in Section~~  
21 ~~9.04.030. It is the manager's discretion to determine whether the site is in violation of the~~  
22 ~~requirements of this chapter, and whether the bond shall be collected to remedy the violation.~~  
23 ~~Prior to final approval and release of the drainage facilities restoration and site stabilization~~  
24 ~~bond, the division shall conduct a comprehensive inspection for the purpose of observing that~~  
25 ~~the retention/detention facilities and other drainage facilities have been constructed according to~~  
26 ~~plan, applicable specifications and standards.~~

27           B. ~~DEFECT AND MAINTENANCE BOND. After satisfactory completion of the~~  
28 ~~drainage facility or final plat approval, whichever occurs last, the person required to construct~~  
29 ~~the facility pursuant to Section 9.04.050 shall post a defect and maintenance bond warranting~~  
30 ~~the satisfactory performance and maintenance of the drainage facility and guaranteeing the~~  
31 ~~workmanship and materials used in the construction of the facility for a period of two years.~~

1 For subdivision retention/detention facilities that King County may assume maintenance of  
 2 pursuant to Section 9.04.110, the defect and maintenance bond shall be posted for a period of  
 3 two years or until King County assumes maintenance, whichever is longer. The manager shall  
 4 not release the defect and maintenance bond until all inspection fees are paid.

5 ~~C. FAILURE TO COMPLETE PROPOSED WORK.~~ In the event of failure to  
 6 comply with all the conditions and terms of the permit and/or approval covered by this chapter,  
 7 the manager shall notify the permittee and surety in writing, and failing to obtain response  
 8 within seven days from the receipt of notification may order the work required to be  
 9 satisfactorily completed or perform all necessary corrective work to stabilize and restore  
 10 disturbed areas and eliminate hazards caused by not completing the work. The surety executing  
 11 such bond shall continue to be firmly bound up to the limits of the bond, under a continuing  
 12 obligation for the payment of all necessary costs and expenses that may be incurred or  
 13 expended by King County in causing any and all such required work to be done. In no event  
 14 shall the liability of the surety exceed the amount stated in the bond regardless of the number of  
 15 years the bond remains in force.

16 ~~D. LIABILITY POLICY.))~~ The person required to construct the drainage facility  
 17 pursuant to ~~((Section 9.04.050))~~ K.C.C. 9.04 shall maintain a liability policy in the amount ~~((of~~  
 18 ~~one hundred thousand dollars per individual, three hundred thousand dollars per occurrence and~~  
 19 ~~fifty thousand dollars property damage,))~~ established annually by the King County risk  
 20 management program which shall name King County as an additional insured, and which shall  
 21 protect King County from ~~((any))~~ liability ~~((up to those amounts for any accident, negligence,~~  
 22 ~~failure of the facility, or any other liability whatsoever,))~~ relating to the construction or  
 23 maintenance of the facility until construction approval or acceptance for maintenance,  
 24 whichever is last. Proof of ~~((said))~~ this required liability policy shall be provided to the  
 25 ~~((manager))~~ director of development and environmental services prior to commencing  
 26 construction of any drainage facility ~~((; provided, that in the case of facilities assumed by King~~  
 27 ~~County for maintenance pursuant to Section 9.04.110, said liability policy shall be terminated~~  
 28 ~~when said county maintenance responsibility commences)).~~ If this liability insurance is not  
 29 kept in effect as required, King County may initiate enforcement action pursuant to Title 23.

30 SECTION 40. Ordinance 4938, Section 10, as amended, and K.C.C. 9.04.120 are  
 31 hereby amended to read as follows:

1 Maintenance of multifamily/commercial facilities. A. Any person or persons holding  
2 title to the property for which a facility was required shall be responsible for the continual  
3 operation and maintenance of the facility in accordance with standards and requirements of the  
4 department. Prior to the issuance of any of the permits and/or approvals listed in Section  
5 9.04.030 the person or persons holding title to the subject property for which a  
6 retention/detention facility was required shall record the declaration of covenant set forth in  
7 Appendix A to Ordinance 4938.\* The restrictions set forth in such covenant shall include, but  
8 not be limited to, provisions for notice to the persons holding title to the property of a King  
9 County determination that maintenance and/or repairs are necessary to the facility and a  
10 reasonable time limit in which such work is to be completed. In the event that the titleholders  
11 do not effect such maintenance and/or repairs, King County may perform such work upon due  
12 notice. The titleholders are required to reimburse King County for any such work. The  
13 restrictions set forth in such covenant shall be included in any instrument of conveyance of the  
14 subject property and shall be recorded with the King County records division.

15 B. The county shall enforce the restrictions set forth in Appendix A of Ordinance  
16 4938.\*

17 C. Prior to the issuance of any of the permits and/or approvals contained in Section  
18 9.04.030 or the release of ((bonds)) financial guarantees posted to guarantee satisfactory  
19 completion, the person or persons holding title to the subject property for which a  
20 retention/detention facility was required shall pay a fee established by the manager to  
21 reasonably compensate the county for costs relating to inspection of the facility to ensure that it  
22 has been constructed according to plan and applicable specifications and standards.

23 D. The duties specified in this section with regard to payment of inspection fees and  
24 reimbursement of maintenance costs shall be enforced against the person or persons holding  
25 title to the property for which the retention/detention facility was required.

26 SECTION 41. Ordinance 4938, Section 11, as amended, and K.C.C. 9.04.130 are  
27 hereby amended to read as follows:

28 Hazards. Whenever the director or manager determines that any existing construction  
29 site, erosion/sedimentation problem and/or drainage facility poses a hazard to life and limb,  
30 endangers any property, and/or adversely affects the condition or capacity of other drainage  
31 facilities, the safety and operation of county right of way, utilities, and/or other property owned



1 or maintained by the county, the person to whom the permit was issued pursuant to K.C.C.  
2 9.04.030, the owner of the property within which the drainage facility is located, the person  
3 responsible for maintenance of the facility, and/or other person or agent in control of said  
4 property, upon receipt of notice in writing from the director or manager shall within the period  
5 specified therein repair or otherwise address the cause of the hazardous situation in  
6 conformance with the requirements of this chapter.

7 Should the director or manager have reasonable cause to believe that the situation is so  
8 adverse as to preclude written notice, he may take the measures necessary to eliminate the  
9 hazardous situation; provided, that he shall first make a reasonable effort to locate the owner  
10 before acting. In such instances the person of whom a drainage plan was required pursuant to  
11 K.C.C. 9.04.030, the owner of the property and/or the person responsible for the maintenance  
12 of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and  
13 a ((bond)) financial guarantee pursuant to this chapter or other county requirement has been  
14 posted, the director or manager shall have the authority to collect against the ((bond)) financial  
15 guarantee to cover costs incurred.

16 SECTION 42. Ordinance 8589, Section 2, as amended, and K.C.C. 9.04.160 are hereby  
17 amended to read as follows:

18 Retroactivity relating to county maintenance of subdivision retention/detention  
19 facilities. The person required to construct a retention/detention facility pursuant to Section  
20 9.04.030 which is covered by a maintenance or defect ((bond)) financial guarantee or which has  
21 been released from all required ((bonds)) financial guarantees prior to July 7, 1980, the  
22 effective date of Ordinance 4938, and all persons holding title to the property for which a  
23 facility was required shall be responsible for the continual operation and maintenance of the  
24 facility in accordance with standards and requirements of the department and for any liability as  
25 a result of breach of these duties.

26 The county may assume maintenance of such facilities only after the following  
27 conditions have been met.

28 A. All necessary easements or dedications entitling the county to properly maintain  
29 the retention/detention facility have been conveyed to the county;

1           B.     The director has determined maintenance of the facility will contribute to  
 2 protecting or improving the health, safety, and welfare of the community based upon review of  
 3 the following factors:

- 4           1.     Existence of or potential for flooding,
- 5           2.     Existence of or potential for downstream erosion,
- 6           3.     Existence of or potential for property damage due to improper function of the  
 7 facility,
- 8           4.     Existence of or potential for safety hazard associated with the facility,
- 9           5.     Existence of or potential for degradation of surface or ground water quality or  
 10 in-stream resources, or
- 11          6.     Existence of or potential for degradation to the general welfare of the  
 12 community; and

13           C.     The director, by his signature, has declared acceptance of maintenance  
 14 responsibility by the county. Copies of this document will be kept on file in the King County  
 15 public works record center and the surface water management facilities maintenance office. A  
 16 retention/detention facility which does not meet the criteria of this section shall remain the  
 17 responsibility of the persons required to construct the facility and persons holding title to the  
 18 property for which the facility was required.

19           **SECTION 43.** Ordinance 4895, Section 2, as amended, and K.C.C. 14.28.020 are  
 20 hereby amended to read as follows:

21           Permit required for improvement or use - Application processing.

22           A.     **PERMITS REQUIRED.** County road right-of-way shall not be privately improved  
 23 or used for access or other purposes and no development approval shall be issued which  
 24 requires use of privately maintained county right-of-way unless a permit therefor has been  
 25 issued pursuant to this chapter, except for utility construction work authorized pursuant to KCC  
 26 Chapter 14.44. This section shall not apply to driveway connections from private property to  
 27 county road right-of-way.

28           B.     **GENERAL PROCEDURES.**

29           1.     Upon receipt of an application for right-of-way use permit, limited or  
 30 extended, the division shall forward copies of the application to the division of real property,  
 31 which shall determine whether the proposed activity is within county-owned right of way.

1           2. The division shall be the lead agency for the compliance with the State  
 2 Environmental Policy Act. In addition, the development engineer shall review applications for  
 3 compliance with applicable county plans, policies, regulations and standards. Prior to issuing a  
 4 right-of-way use permit, the division shall determine and secure an appropriate ~~((bond as  
 5 described in this chapter))~~ financial guarantee consistent with the provisions of this ordinance.

6           3. The division shall, when feasible, consolidate right-of-way use permits with  
 7 other development approvals to prevent duplication and increase efficiency. The fee for a  
 8 consolidated approval shall be reduced to the extent separate fees would be duplicative.

9           **SECTION 44.** Ordinance 4895, Section 5, as amended, and K.C.C. 14.28.050 are  
 10 hereby amended to read as follows:

11           Permit - Limited. A. Upon filing of a complete application, payment of the fee, and  
 12 posting of the required ~~((bond))~~ financial guarantee for construction, maintenance, and  
 13 restoration of the right-of-way consistent with the provisions of this ordinance, the division  
 14 may issue a permit authorizing the limited use of county road right-of-way, for use by  
 15 designated private parties for a specific use which is less than one year in duration.

16           B. The permit may require construction and restoration of the right-of-way to  
 17 adopted standards based on the nature and duration of the specific use, and subject to division  
 18 inspection. In addition, conditions may be set to assure the compliance with county plans,  
 19 policies, standards and regulations. Such conditions may require performance in excess of  
 20 adopted road standards.

21           ~~((C.—The permit applicant may be required to post bonds in amounts determined by  
 22 the division based on current bonding schedules which:~~

23           ~~1. Guarantee construction and maintenance of the roadway, drainage, and  
 24 retention/detention facilities in compliance with adopted standards; and~~

25           ~~2. Guarantee restoration of the right of way to a condition consistent with the  
 26 right of way use permit including blocking of access to the right of way at the expiration of the  
 27 permit period.))~~

28           ~~((D.))~~ C. The permit applicant shall assume sole responsibility for the safe and  
 29 adequate operation and maintenance of any improvements to the county right-of-way during the  
 30 period of time the permit is in effect.

1            ~~((E))~~ D.        The permit applicant may apply for one one-year extension to the right-  
2 of-way use permit: limited, upon written application for an extension, payment of the fees, and  
3 being found to have fully complied with the conditions and requirements of the original permit.  
4        The application for extension may only be made after the first six months of the original permit  
5 life.

6            SECTION 45. Ordinance 4895, Section 6, as amended, and K.C.C. 14.28.060 are  
7 hereby amended to read as follows:

8            Permit - Extended. A. Upon filing of a complete application and payment of fee, the  
9 division may issue a permit authorizing the use of the county right-of-way for a designated use  
10 and for a period exceeding one year in duration.

11            B.        The applicant may be required to construct a road to specific standards which  
12 may include full compliance with adopted King County road standards, and may be required to  
13 post ~~((bonds))~~ financial guarantees consistent with the provisions of this ordinance for  
14 construction, restoration and maintenance. Construction work and all restoration work required  
15 by the permit shall be completed within one year of the permit's issuance. In addition, the  
16 division may set conditions to assure compliance of the permit with other adopted plans, county  
17 policies, and regulations.

18            C.        The department of public works shall place and maintain permanent sign(s)  
19 denoting the end of the county-maintained road.

20            D.        The applicant shall have sole responsibility for the safe construction, operation  
21 and maintenance of any improvements to the county right-of-way pursuant to the permit, until  
22 such time as the improvements are officially accepted for maintenance by King County.

23            E.        The permit applicant may be required to record a covenant running with the land  
24 and for the benefit of King County, which contains:

25                    1. A legal description of the lot or parcel to be served by the right-of-way use  
26 permits, limited or extended;

27                    2. A statement indicating that access to such parcel is across an unmaintained  
28 county right-of-way, that the county is not responsible for maintenance of the right-of-way and  
29 that responsibility for maintenance of the road rests jointly and equitably upon all permit  
30 holders;

1 3. A statement that the owner(s) of the parcel will not oppose participation in a  
2 county road improvement district, if formation of such a district is deemed necessary by King  
3 County;

4 4. A prohibition against subdividing such parcel without obtaining either plat  
5 or short plat approval therefor, or if exempt from platting, a right-of-way use permit for the  
6 additional lots being created;

7 5. A statement that the right-of-way use permit covenant is binding on the  
8 successors and assigns of the owner(s); and

9 6. The acknowledged signature(s) of the owner(s) of such parcel.

10 SECTION 46. Ordinance 129, Section 4, as amended, and K.C.C. 14.40.040 are hereby  
11 amended to read as follows:

12 Deposit. Each petition for vacation of a road shall be accompanied by a ~~((bond or))~~  
13 cash deposit ~~((of one hundred dollars))~~ in an amount to be determined by the director of the  
14 department of public works which will be used to defray examination, report, publication,  
15 investigative and other costs connected with the application. Such deposit shall not be returned  
16 to the petitioner. When deemed necessary by the county executive, he may require an  
17 additional deposit to cover appraisal costs.

18 SECTION 47. Ordinance 8041, Section 8, and K.C.C. 14.42.070 are hereby amended  
19 to read as follows:

20 Penalties. Failure to comply with these standards may result in denial of plan or  
21 development permit approval, revocation of prior approvals, legal action for forfeiture of  
22 ~~((bond))~~ financial guarantee, code enforcement, and/or other penalties as provided by law.

23 SECTION 48. Ordinance 1711, Section 8, and K.C.C. 14.44.080 are hereby amended  
24 to read as follows:

25 Performance ~~((bond))~~ guarantee required. Prior to final approval of all right-of-way  
26 construction permits, the department of public works shall determine the amount of the  
27 performance ~~((bond))~~ guarantee necessary to assure compliance with the approved construction  
28 plans, applicable state and local health and sanitation regulations, county standards for water  
29 mains and fire hydrants and to assure proper restoration of the road and the health and safety of  
30 the users of the road. The applicant shall submit the ~~((bond in the amount indicated and by an~~  
31 ~~approved surety))~~ financial guarantee consistent with the provisions of this ordinance.

1            SECTION 49. Ordinance 4099, Section 10, and K.C.C. 14.46.100 are hereby amended  
2 to read as follows:

3            ~~((Bond))~~ Financial guarantee requirements. Prior to final approval of all permits, the  
4 department responsible for the management of the property to be affected shall determine the  
5 amount of the performance ~~((bond))~~ guarantee necessary to assure compliance with approved  
6 construction plans, applicable state and local health and sanitation regulations, county standards  
7 for water mains and fire hydrants, and to assure proper restoration of the property and the health  
8 and safety of the users of the property. The applicant shall submit the ~~((bond by an approved~~  
9 ~~surety in the amount indicated))~~ financial guarantee consistent with the provisions of this  
10 ordinance.

11            SECTION 50. Ordinance 7025, Section 1, as amended, and K.C.C. 16.04.070 are  
12 hereby amended to read as follows:

13            Site improvement ~~((bond))~~ financial guarantee. Site improvement ~~((bond))~~ financial  
14 guarantee refers to the ~~((bond or other approved security))~~ financial guarantee required by the  
15 this ordinance as security for the applicant's guarantee of the construction, according to  
16 approved plans and county specifications, of roadway and right-of-way improvements, traffic  
17 requirements, appurtenances, off-street parking, curbing, drainage, retention/detention facilities,  
18 and erosion/sedimentation control and site restoration associated with ~~((commercial))~~ building  
19 permits.

20            SECTION 51. Ordinance 1488, Section 6, as amended and K.C.C. 16.82.050 are  
21 hereby amended to read as follows:

22            Clearing and grading permit required - Exceptions. A. No person shall do any clearing or  
23 grading without first having obtained a clearing and grading permit from the director except for  
24 the following:

25            1. An on site excavation or fill for basements and footings of a building, retaining wall,  
26 parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill  
27 made with the material from such excavation nor exempt any excavation having an unsupported  
28 height greater than five feet after the completion of such structure;

29            2. The depositing or covering of any garbage, rubbish or other material at any solid waste  
30 facility operated by King County;

1 3. Maintenance of existing driveways or private access roads within their existing road  
2 prisms, provided that the performance and restoration requirements of this chapter are met and  
3 best management practices are utilized to protect water quality.

4 4. Any grading within a publicly owned road right-of-way;

5 5. Clearing or grading by a public agency for the following routine maintenance  
6 activities:

7 a. Roadside ditch cleaning provided the ditch does not contain salmonids;

8 b. Pavement maintenance;

9 c. Normal grading of gravel shoulders;

10 d. Maintenance of culverts;

11 e. Maintenance of flood control or other approved surface water management  
12 facilities;

13 f. Routine clearing within road right-of-way.

14 6. Any clearing or grading for roads within a preliminary or finally approved residential  
15 plat which has been approved by the director and for which a (~~bond~~) financial guarantee has  
16 been posted;

17 7. Maintenance or reconstruction of the facilities of a common carrier by a rail in  
18 interstate commerce within its existing right-of-way; provided restoration is consistent with the  
19 requirements of Section 16.82.110; provided that this exception does not apply if the clearing or  
20 grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24.

21 8. Cemetery graves; provided that this exception does not apply except for routine  
22 maintenance if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter  
23 21A.24;

24 9. Clearing or grading within a preliminarily or finally approved residential plat not  
25 involving any excavation exceeding five feet in vertical depth or any fill exceeding three feet in  
26 vertical depth, regardless of the amount of material to be removed; provided that this exception  
27 does not apply if the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter  
28 21A.24. This exception does not apply within an area placed into tracts or easements for a  
29 wildlife habitat corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise  
30 exempt under K.C.C. 21A.24;

1           10. Excavation less than five feet in vertical depth not involving more than one hundred  
2 cubic yards of earth or other material on a single site; provided that the exception does not apply if  
3 the clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 This  
4 exception does not apply within an area placed into tracts or easements for a wildlife habitat  
5 corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise exempt under  
6 K.C.C. 21A.24;

7           11. Fill less than three feet in vertical depth not involving more than one hundred cubic  
8 yards of earth or other material on a single site; provided that the exception does not apply if the  
9 clearing or grading is within a sensitive area as regulated in K.C.C. Chapter 21A.24 This  
10 exception does not apply within an area placed into tracts or easements for a wildlife habitat  
11 corridor pursuant to K.C.C. 21A.14 unless the proposed activity is otherwise exempt under  
12 K.C.C. 21A.24;

13           12. Minor stream restoration projects for fish habitat enhancement by a public agency,  
14 utility or tribe as set out in K.C.C. 21A.24.

15           13. Clearing or grading for construction of livestock manure storage facilities or  
16 associated nonpoint source pollution facilities designed to the standards of and approved in a  
17 conservation plan by the King County conservation district, and constructed and maintained to  
18 those standards or livestock flood sanctuaries constructed and maintained to the standards  
19 approved by the Soil Conservation Service and conservation district and the best management  
20 practices approved by King County.

21           14. Clearing and grading, performed as Class I, II, III or IV Special forest practice in the  
22 F (Forestry) zone, that is conducted in accordance with RCW 76.09 and WAC 222.

23           15. Any clearing or grading which has been approved by the director as part of a  
24 Commercial Site Development permit and for which a ((bond)) financial guarantee has been  
25 posted.

26           16. The following activities are exempt from the clearing requirements of this chapter  
27 and no permit shall be required:

28           a. Clearing outside of sensitive areas and buffers as regulated in K.C.C. Chapter  
29 21A.24 unless the development proposal site is within an area subject to clearing restrictions  
30 contained in wildlife habitat corridors pursuant to K.C.C. 21A.14, a critical drainage area  
31 established by administrative rule or in p-suffix conditions in an adopted community plan.



1           b. Within sensitive areas, as regulated in K.C.C. Chapter 21A.24, the following  
2 activities are exempt from the clearing requirements of this chapter and no permit shall be  
3 required.

4           (1) Normal and routine maintenance of existing lawns and landscaping subject to  
5 the limitations on the use of pesticides in sensitive areas as set out in K.C.C. Chapter 21A.24.

6           (2) Permitted agricultural uses; provided the clearing is consistent with the  
7 agricultural exemptions in sensitive areas as regulated in K.C.C. Chapter 21A.24.

8           (3) Emergency tree removal to prevent imminent danger or hazard to persons or  
9 property.

10           (4) Normal and routine horticultural activities associated with commercial orchards,  
11 nurseries, or Christmas tree farms in existence on the effective date of Ordinance 9614 (November  
12 27, 1990) subject to the limitations on the use of pesticides in sensitive areas as set out in K.C.C.  
13 Chapter 21A.24. This does not include clearing or grading in order to develop or expand such  
14 activities.

15           (5) Normal and routine maintenance of existing public parks and private and public  
16 golf courses. This does not include clearing or grading in order to develop or expand such  
17 activities in sensitive areas. For the purpose of this subsection, a park is defined as: any real  
18 property managed for public use which has been previously maintained as a park or has been  
19 developed as a park pursuant to a properly issued permit.

20           (6) Removal of noxious weeds from steep slope hazard areas and the buffers of  
21 streams and wetlands subject to the limitations on the use of pesticides in sensitive areas as set out  
22 in K.C.C. Chapter 21A.24.

23           (7) Pruning and limbing of vegetation for maintenance of above ground electrical  
24 and telecommunication facilities; provided that the clearing is consistent with the electric, natural  
25 gas, cable communication and telephone utility exemption in sensitive areas as regulated in  
26 K.C.C. Chapter 21A.24.

27           (8) Class I, II, III and IV Special forest practices outside of areas zoned F provided  
28 they occur on parcels that meet all of the following criteria for long term forestry:

29           (a) The parcel is enrolled under the current use taxation program as timber land  
30 pursuant to RCW 84.34 or as forest land pursuant to RCW 84.33;

1 (b) A long term management plan is approved for the parcel by the Washington  
2 Department of Natural Resources;

3 (c) The parcel is located within areas designated rural or agricultural by the King  
4 County Comprehensive Plan or applicable community plan;

5 (d) The parcel is located outside of expansion areas for incorporated rural cities or  
6 rural towns and neighborhoods as designated in King County comprehensive plan or applicable  
7 community plans,

8 (e) The parcel equals or exceeds 5 acres in size; and

9 17. Clearing within seismic hazard area, except on slopes greater than 15% and subject  
10 to clearing restrictions contained in wildlife habitat corridors pursuant to 21A.14, a critical  
11 drainage area established by administrative rule or in p-suffix conditions in an adopted  
12 community plan, and provided the site contains no other sensitive area features and

13 18. Clearing within coal mine hazard area, subject to clearing restrictions contained in  
14 wildlife habitat corridors pursuant to 21A.14, a critical drainage area established by administrative  
15 rule or in p-suffix conditions in an adopted community plan, and provided the site contains no  
16 other sensitive areas features.

17 B. TEMPORARY PERMITS. The director shall have the authority to issue temporary  
18 permits for excavations, processing, quarrying and mining, and removal of sand, gravel, rock and  
19 other natural deposits, together with the necessary buildings, apparatus or appurtenances incident  
20 thereto for specific jobs on application for highway, road, street, airport construction, flood  
21 control and other public works projects. In conjunction with such operations, allied uses such as,  
22 but not limited to, rock crushers, concrete-batching plants and asphalt-batching plants may be  
23 authorized by this temporary permit. The director shall also have the authority to issue temporary  
24 permits for the removal of existing stockpiles of previously mined material for the reclamation of  
25 land to its best use, consistent with the underlying zoning.

26 The department of development and environmental services shall consider the effect of the  
27 proposed operation on the county road system and any effect it may have on surface or  
28 groundwater drainage and flood control, and shall make such recommendations as are necessary  
29 to protect the public interest in this regard.

1 The department of development and environmental services shall also consider the effect of  
 2 the proposed operation on the current and future land use in the area affected by the proposed  
 3 operation and shall condition permits  
 4 as necessary to protect the public interest in this regard. Temporary permits are good for the life  
 5 of the contract of the specific job but must be reviewed annually. Each temporary permit site  
 6 shall be fully restored during the term  
 7 of the temporary permit, unless the site is subsequently designated with a M zone classification.

8 Development proposals will be subject to two levels of review standards based on  
 9 occupancy types - critical facilities and standard structures. The review standards for critical  
 10 facilities will be based on larger earthquake reoccurrence intervals than the earthquakes  
 11 considered for standard occupancy structures. The review standards will be set forth in the  
 12 administrative rules.

13 SECTION 52. Ordinance 10870, Section 405, and K.C.C. 21A.16.190 are hereby  
 14 amended to read as follows:

15 ~~((Bonds/security. Performance bonds or other appropriate security (including letters of  
 16 credit and set aside letters) shall be required for a period of two years after the planting or  
 17 transplanting of vegetation to insure proper installation, establishment and maintenance.))~~

18 Financial guarantees. Financial guarantees shall be required consistent with the provisions of  
 19 this ordinance.

20 SECTION 53. Ordinance 10870, Section 448, and K.C.C. 21A. 22.090 are hereby  
 21 amended to read as follows:

22 ~~((Bonds. A. Extractive operations shall be bonded as provided for in K.C.C. 16.82 and  
 23 RCW 78.44.~~

24 ~~B. The bond amount may be reduced proportionately as extraction on each phase is  
 25 completed and the phase is reclaimed.~~

26 ~~C. Performance security posted with the Washington State Department of Natural  
 27 Resources or U.S. Office of Surface Mining may be used to comply with this section.))~~

28 Financial guarantees. Financial guarantees shall be required consistent with the provisions of  
 29 this ordinance.

30 SECTION 54. Ordinance 10870, Section 462, and K.C.C. 21A.24.140 are hereby  
 31 amended to read as follows:

1           (~~(Bonds to insure mitigation, maintenance and monitoring. A. When mitigation~~  
2 ~~required pursuant to a development proposal is not completed prior to King County finally~~  
3 ~~approving the proposal, King County may delay final approval until mitigation is completed or~~  
4 ~~may require the applicant to post a performance bond or other security in a form and amount~~  
5 ~~deemed acceptable by King County. The bond shall be sufficient to guarantee that all required~~  
6 ~~mitigation measures will be completed no later than the time established by King County in~~  
7 ~~accordance with this chapter.~~

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

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

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

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

27           ~~F. Public development proposals shall be relieved from having to comply with the~~  
28 ~~bonding requirements of this section if public funds have previously been committed for~~  
29 ~~mitigation, maintenance, monitoring or restoration.)) Financial guarantees. Financial~~  
30 ~~guarantees shall be required consistent with the provisions of this ordinance.~~

1 SECTION 55. Ordinance 11621, Section 127, as amended, and K.C.C. 21A.41.080 are  
2 amended to read as follows:

3 ~~((Bonds and securities))~~Financial Guarantees. Performance ~~((bonds or other appropriate~~  
4 ~~securities (including letters of credit and set aside letters)))~~ guarantees consistent with the  
5 provisions of this ordinance may be required to assure that development occurs according to the  
6 approved plan.

7 SECTION 56. Ordinance 1488, Section 9, as amended, and K.C.C. 16.82.080 are each  
8 repealed.

9 NEW SECTION SECTION 57. There is added to the King County Code a new section  
10 to read as follows:

11 Severability. Should any chapter, section, subsection, paragraph, sentence, clause or  
12 phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not  
13 affect the validity of the remaining portion of this title.

14 INTRODUCED AND READ for the first time this 12<sup>th</sup> day of

15 July, 1993.

16 PASSED by a vote of 13 to 0 this 16<sup>th</sup> day of November  
17 1995.

18 KING COUNTY COUNCIL  
19 KING COUNTY, WASHINGTON

20 Kent Pullen  
21 Chair

22 ATTEST:

23 Donald A. Peterson  
24 Clerk of the Council

25 APPROVED this 16<sup>th</sup> day of November, 1995.

26 Ray Lohr  
27 King County Executive

28 Attachments: