

July 6, 1998
98-381sub

Introduced By: Rob McKenna
Louise Miller

rb Proposed No.: 98-381

1
2 ORDINANCE NO. **13247**

3 AN ORDINANCE relating to shorelines management;
4 allowing excavation, dredging and filling for limited roadside
5 and agricultural ditch maintenance; amending Ordinance
6 3688, Sections 414, 514, 614, and K.C.C. 25.16.190,
7 25.20.140, and 25.24.140; all as amended.

8 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 SECTION 1. For the purpose of implementing effective regulations, King County
10 makes the following legislative findings of fact:

11 1. In 1990, King County adopted the Sensitive Areas Ordinance which included
12 special study requirements and development standards to protect defined environmentally
13 sensitive areas. Alterations to sensitive area streams are permitted under certain
14 circumstances. Roadside and agricultural drainage ditches which convey streams with
15 salmonids may be maintained through the use of Best Management Practices developed in
16 consultation with local, state and federal agencies. The Best Management Practices were
17 to be adopted as administrative rules.

18 2. In 1997, King County identified relief from small scale flooding as a priority
19 work element under the Executive's Rural Resources Agenda. Part of this work program
20 included providing the King County Department of Transportation and farm owners the

1 ability to receive appropriate permits to maintain their respective roadside and agricultural
2 ditches.

3 3. In 1997, King County Department of Development and Environmental Services
4 received applications to excavate and dredge drainage ditches. The department was not
5 able to process permits since Best Management Practices, called for under Sensitive Areas
6 Code regulations, 21A.24, had not been prepared.

7 4. In order to implement the allowed stream alterations portion of the Sensitive
8 Areas Code and issue permits, King County needed to develop the Best Management
9 Practices and administrative rules. In 1998, King County conducted numerous meetings
10 and field trips with local, state, federal agencies and tribal and farm interests to develop the
11 Best Management Practices. The draft Best Management Practices are currently under
12 review and administrative rules are now being prepared.

13 5. In 1998, the Department of Development and Environmental Services
14 determined, even with the appropriate Best Management Practices, the King County
15 Shorelines Master Program restricted ditch maintenance.

16 6. The Executive proposes to amend the Shorelines Master Program to make it
17 consistent with the Sensitive Areas Code and allow the processing of ditch maintenance
18 pending applications.

19 SECTION 2. Ordinance 3688, Section 614, as amended, and K.C.C. 25.24.140 are
20 each hereby amended to read as follows:

1 **Excavation, Dredging and Filling.** Excavation, dredging and filling may be
2 permitted in the conservancy environment, subject to the excavation, dredging((s)) and
3 filling provisions in K.C.C. 25.16.190 of the urban environment, provided:

4 A. Excavation, dredging((s)) or filling below the ordinary high water mark shall be
5 permitted only as follows:

6 1. To mitigate conditions which endanger public safety or fisheries resources; or

7 2. As part of and necessary to roadside or agricultural ditch maintenance that is
8 performed consistent with best management practices promulgated through administrative
9 rules pursuant to the sensitive areas provisions of K.C.C. Chapter 21A.24 and if:

10 a. the maintenance does not involve any expansion of the ditch beyond its
11 previously excavated size. This limitation shall not restrict the county's ability to require
12 mitigation, pursuant to K.C.C. Chapter 21A.24, or other applicable laws;

13 b. the ditch was not constructed or created in violation of law;

14 c. the maintenance is accomplished with the least amount of disturbance to the
15 stream or ditch as possible;

16 d. the maintenance occurs during the summer low flow period and is timed to
17 avoid disturbance to the stream or ditch during periods critical to salmonids; and

18 e. the maintenance complies with standards designed to protect salmonids and
19 salmonid habitat, consistent with K.C.C. chapter 21A.24;

20 B. Channelizing, straightening or relocating rivers or streams shall not be
21 permitted;

22 C. Excavation or dredging of marshes, swamps or bogs shall not be permitted,
23 except for water transmission pipelines within existing utilized transmission pipeline

1 corridors, provided that no practicable alternatives exist, impacts are minimized, and
2 appropriate compensatory mitigation is provided consistent with K.C.C. chapter 21A.24.

3 SECTION 3. Ordinance 3688, Section 414, as amended, and K.C.C. 25.16.190 are
4 each hereby amended to read as follows:

5 Excavation, Dredging and Filling. Excavation, dredging and filling may be permitted
6 in the urban environment, only as part of an approved overall development plan not as an
7 independent activity provided:

8 A. Any fill or excavation regardless of size, shall be subject to the provisions of K.C.C.
9 16.82.100;

10 B. Landfill may be permitted below the ordinary high water mark only when necessary
11 for the operation of a water dependent or water related use, or when necessary to mitigate
12 conditions which endanger public safety;

13 C. Landfill or excavations shall be permitted only when technical information
14 demonstrates water circulation, littoral drift, aquatic life and water quality will not be
15 substantially impaired;

16 D. Landfill or disposal of dredged material shall be prohibited within the floodway;

17 E. Wetlands such as marshes, swamps, and bogs shall not be disturbed or altered
18 through excavation, filling, dredging, or disposal of dredged material unless the manager
19 determines that either:

20 1. The wetland does not serve any of the valuable functions of wetlands identified in
21 K.C.C. 20.12.080 and U.S. Army Corps of Engineers 33 CFR 320.4(b), including but not
22 limited to wildlife habitat and natural drainage functions, or

1 2. The proposed development would preserve or enhance the wildlife habitat, natural
2 drainage, and/or other valuable functions of wetlands as discussed in K.C.C. 20.12.080 or
3 U.S. Army Corps of Engineers 33 CFR 320.4(b) and would be consistent with the purposes
4 of this Title;

5 F. Class I beaches shall not be covered by landfill except for approved beach feeding
6 programs;

7 G. Excavations on beaches shall include precautions to prevent the migration of fine
8 grain sediments, disturbed by the excavation, onto adjacent beach areas and excavations on
9 beaches shall be backfilled promptly using material of similar composition and similar or
10 more coarse grain size;

11 H. No refuse disposal sites, solid waste disposal sites, or sanitary fills of putrescible or
12 non-putrescible material shall be permitted within the shorelines of the state;

13 I. Excavation or dredging below the ordinary high water mark shall be permitted only:

- 14 1. when necessary for the operation of a water dependent or water related use, or
- 15 2. when necessary to mitigate conditions which endanger public safety or fisheries
- 16 resources, or

17 3. as part of and necessary to roadside or agricultural ditch maintenance that is
18 performed consistent with best management practices promulgated through administrative
19 rules pursuant to the sensitive areas provisions of K.C.C. Chapter 21A.24 and if:

- 20 a. the maintenance does not involve any expansion of the ditch beyond its
- 21 previously excavated size. This limitation shall not restrict the county's ability to require
- 22 mitigation, pursuant to K.C.C. Chapter 21A.24, or other applicable laws;

- 1 b. the ditch was not constructed or created in violation of law;
- 2 c. the maintenance is accomplished with the least amount of disturbance to the
- 3 stream or ditch as possible;
- 4 d. the maintenance occurs during the summer low flow period and is timed to
- 5 avoid disturbance to the stream or ditch during periods critical to salmonids; and
- 6 e. the maintenance complies with standards designed to protect salmonids and
- 7 salmonid habitat, consistent with K.C.C. chapter 21A.24; provided, that this paragraph shall
- 8 not be construed to permit the mining or quarrying of any substance below the ordinary high
- 9 water mark;

10 J. Disposal of dredged material shall be done only in approved deep water disposal

11 sites or approved contain upland disposal sites;

12 K. Stockpiling of dredged material in or under water is prohibited;

13 L. Maintenance dredging not requiring a shoreline permit(s) shall conform to the

14 requirements of this Section;

15 M. Dredging shall be timed so that it does not interfere with aquatic life;

16 N. The County may impose reasonable conditions on dredging or disposal operations

17 including but not limited to working seasons and provisions of buffer strips, including

18 retention or replacement of existing vegetation, dikes, and settling basins to protect the public

19 safety and shore users' lawful interests from unnecessary adverse impact;

20 O. In order to insure that operations involving dredged material disposal and

21 maintenance dredging are consistent with this program as required by RCW 90.58.140(1), no

22 dredging may commence on shorelines without the responsible person having first obtained

23 either a substantial development permit or a statement of exemption; PROVIDED, that no

1 statement of exemption or shoreline permit is required for emergency dredging needed to
2 protect property from imminent damage by the elements;

3 P. Operation and maintenance of any existing system of ditches, canals, or drains, or
4 construction of irrigation reservoirs, for agricultural purposes are exempt from the shoreline
5 permit requirement.

6 SECTION 4. Ordinance 3688, Section 514, as amended, and K.C.C. 25.20.140 are
7 each hereby amended to read as follows:

8 Excavation, Dredging and Filling. Excavation, dredging and filling may be
9 permitted in the rural environment subject to the provisions of K.C.C. 25.16.190 of the urban
10 environment provided:

11 A. Excavation, dredging and filling below the ordinary high water mark shall be
12 permitted only:

13 1. to serve a water dependent use or when necessary to;

14 2. mitigate conditions which endanger public safety or fisheries resources, or

15 3. as part of and necessary to roadside or agricultural ditch maintenance that is

16 performed consistent with best management practices promulgated through administrative

17 rules pursuant to the sensitive areas provisions of K.C.C. Chapter 21A.24 and if:

18 a. the maintenance does not involve any expansion of the ditch beyond its
19 previously excavated size. This limitation shall not restrict the county's ability to require

20 mitigation, pursuant to K.C.C. Chapter 21A.24, or other applicable laws;

21 b. the ditch was not constructed or created in violation of law;

22 c. the maintenance is accomplished with the least amount of disturbance to the
23 stream or ditch as possible;

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d. the maintenance occurs during the summer low flow period and is timed to avoid disturbance to the stream or ditch during periods critical to salmonids; and
e. the maintenance complies with standards designed to protect salmonids and salmonid habitat, consistent with K.C.C. chapter 21A.24;

B. Channelizing, straightening or relocating rivers or streams shall not be permitted.

INTRODUCED AND READ for the first time this 22nd day of June, 1998.

PASSED by a vote of 9 to 1 this 27th day of July, 1998.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Louise Miller
Chair

ATTEST:

Amenon
Clerk of the Council

APPROVED this 4 day of August, 1998.

Andel C. Amis
King County Executive

Attachments: None