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Title: AN ORDINANCE amending the process for reviewing development-related permit applications and for appealing associated development decisions, including modification of appeal fee amounts; amending Ordinance 8804, Section 3, and K.C.C. 14.42.062, Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020, Ordinance 4461, Section 2, as amended, and K.C.C. 20.24.080, Ordinance 6949, Section 5, as amended, and K.C.C. 20.44.030, Ordinance 6949, Section 6, as amended, and K.C.C. 20.44.040, Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080, Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120, Ordinance 10870, Section 457, and K.C.C. 21A.24.100, Ordinance 10870, Section 464, as amended, and K.C.C. 21A.24.170, and Ordinance 10870, Section 465, and K.C.C. 21A.24.180, Ordinance 13332, Section 7, and K.C.C. 27.02.120, and adding a new section to K.C.C. chapter 20.44.

Sponsors: Jane Hague

Indexes: DDES/DPER, Fees, Permits

Code sections: 14.42.062 -, 20.20.020 -, 20.24.080 -, 20.44.030 -, 20.44.040 -, 20.44.080 -, 20.44.120 -, 21A.24.100 -, 21A.24.170 -, 21A.24.180 -, 27.02.120 -

Attachments: 1. Ordinance 14449.pdf, 2. 2002-0211 - Post Adoption Notice.doc, 3. 2002-0211 Fiscal Note - Regulatory Reform Ordinance.doc, 4. 2002-0211 GMUAC-Checklist.doc, 5. 2002-0211 Hearing notice.doc, 6. 2002-0211 Regulatory Note Checklist of Criteria.doc, 7. 2002-0211 Summary of draft regulatory reform.doc, 8. 2002-0211 transmittal letter.doc, 9. Revised Staff Report 07-02-02, 10. Staff Report 06-18-02, 11. Staff Report 06-18-02 Attachment 2

Date	Ver.	Action By	Action	Result
8/19/2002	2	Metropolitan King County Council	Hearing Held	
8/19/2002	2	Metropolitan King County Council	Passed	Pass
7/2/2002	1	Growth Management and Unincorporated Areas Committee	Amended	Pass
7/2/2002	2	Growth Management and Unincorporated Areas Committee	Recommended Do Pass Substitute	Pass
5/20/2002	1	Metropolitan King County Council	Introduced and Referred	

Clerk 8/20/2002

AN ORDINANCE amending the process for reviewing development-related permit applications and for appealing associated development decisions, including modification of appeal fee amounts; amending Ordinance 8804, Section 3, and K.C.C. 14.42.062, Ordinance 12196, Section 9, as amended, and K.C.C.

20.20.020, Ordinance 4461, Section 2, as amended, and K.C.C. 20.24.080, Ordinance 6949, Section 5, as amended, and K.C.C. 20.44.030, Ordinance 6949, Section 6, as amended, and K.C.C. 20.44.040, Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080, Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120, Ordinance 10870, Section 457, and K.C.C. 21A.24.100, Ordinance 10870, Section 464, as amended, and K.C.C. 21A.24.170, and Ordinance 10870, Section 465, and K.C.C. 21A.24.180, Ordinance 13332, Section 7, and K.C.C. 27.02.120, and adding a new section to K.C.C. chapter 20.44.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 8804, Section 3, and K.C.C. 14.42.062 are each hereby amended to read as follows:

Appeals from decisions on variances. ~~((Appeals from))~~ The department of transportation by public rule shall establish procedures governing the administrative appeal of the road engineer's decision(s) on a request for a variance(s) made ((by the road engineer pursuant to)) in accordance with K.C.C. 14.42.060((; may be appealed according to the procedures set forth in K.C.C. 20.24)). The department's decision on such appeals shall be final.

SECTION 2. Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 are each hereby amended to read as follows:

Classifications of land use decision processes.

A. Land use permit decisions are classified into four types, based on ~~((the amount of discretion associated with each decision. Procedures for the four different types are distinguished according to))~~ who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in ~~((Exhibit A~~

)) subsection E of this section.

1. Type 1 decisions are made by the director, or his or her designee, ("director") of the department of development and environmental services ("department"). Type 1 decisions are nonappealable administrative decisions ~~((that require the exercise of little or no administrative discretion, except for Type 1 decisions for which the department has issued a SEPA threshold determination. Type 1 decisions for which the department has issued a SEPA threshold determination are appealable at the time of issuance of the SEPA threshold determination to the hearing examiner as a Type 2 decision, but the appeal is limited to the SEPA threshold determination and issues relating to zoning code (K.C.C. Title 21A) compliance excluding compliance with permitted use provisions. However, the decision on the Type 1 permit, exclusive of SEPA threshold determinations issued by the department and issues relating to zoning code (K.C.C. Title 21A) compliance excluding compliance with permitted use provisions, is not appealable to the hearing examiner; rather, it is appealable to superior court. For the purposes of appealing a Type 1 decision to superior court, the Type 1 decision shall not be considered final until any permitted appeal to the hearing examiner is decided. Public notice is not required for Type 1 decisions, except for Type 1 decisions for which the department has issued a SEPA threshold determination, which are treated like Type 2 decisions for the purposes of public notice))~~.

2. Type 2 decisions are made by the director. Type 2 decisions are discretionary decisions that are subject to administrative appeal.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to the county council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. ~~((20.44.120A.6))~~ 20.44.120A.7 and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would

require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under SEPA do not require a threshold determination (determination of nonsignificance ("DNS") or determination of significance ("DS")). For all other projects, the SEPA review procedures in K.C.C. chapter 20.44 are supplemental to the procedures in this chapter.

((Exhibit A

LAND USE DECISION TYPES))

E. Land use decision types are classified as follows:

TYPE 1	(Decision by director, no administrative appeal)	Building(;) permit, site development permit, or clearing and grading permit that is not subject to SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which the department has issued a determination of nonsignificance or mitigated determination of nonsignificance; boundary line adjustment; right of way; ((road variance except those rendered in conjunction with a short plat decision**);) variance from K.C.C. chapter 9.04; shoreline exemption; approval of a conversion-option harvest plan; a binding site plan for a condominium that is based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites or a site development permit for the entire site.
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TYPE 2 ¹	(Decision by director appealable to hearing examiner, no further administrative appeal)	Short plat; short plat revision; short plat alteration; (road variance decisions rendered in conjunction with a short plat decision;) zoning variance; conditional use permit; temporary use; shoreline substantial development permit ² ; ((Type 1 decision for which the department has issued a SEPA threshold determination****; procedural and substantive SEPA decision;) building permit, site development permit <u>or</u> clearing and grading permit for which the department has issued a determination of significance; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070B; preliminary determinations under K.C.C. 20.20.030B; sensitive areas exceptions and decisions to require studies or to approve, condition or deny a development proposal based K.C.C. chapter 21A.24; extractive operations under K.C.C. 21A.22.050; binding site plan; waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special circumstances.
TYPE 3 ¹	(Recommendation by director, hearing and decision by hearing examiner, appealable to county council on the record)	Preliminary plat((s)); plat alterations; preliminary plat revisions.
TYPE 4(***) ^{1,3}	(Recommendation by director, hearing and recommendation by hearing examiner decision by county council on the record)	Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations; short plat vacations; deletion of special district overlay.

¹ See K.C.C. 20.44.120C for provisions governing procedural and substantive SEPA appeals and appeals of Type 3 and 4 decisions to the council.

~~((*)² When an application((s)) for a shoreline permit((s-are)) is combined with other permits requiring Type 3 or 4 land use decisions under K.C.C. 25.32.080, the examiner, not the director, makes the decision. A((H)) shoreline permit((s)), including a shoreline variance((s-and)) or conditional use((s-are)), is appealable to the state Shorelines Hearings Board and not to the hearing examiner.~~

~~((** The road variance process is administered by the county road engineer of the King County department of transportation under the King County road standards.~~

~~***))³ Approvals that are consistent with the Comprehensive Plan may be considered by the council at any time. Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the council's hearing and consideration shall be scheduled with the amendment to the Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.~~

~~((*** Only the SEPA threshold determination and issues relating to zoning code compliance, excluding compliance with permitted use provisions, may be appealed, upon issuance of the threshold determination; other issues, including those relating to building code compliance, are not appealable.))~~

SECTION 3. Ordinance 4461, Section 2, as amended, and K.C.C. 20.24.080 are each hereby amended to read as follows:

Final decisions by the examiner.

A. The examiner shall receive and examine available information, conduct open record public hearings and prepare records and reports thereof, and issue final decisions, including findings and conclusions, based on the issues and evidence in the record, which shall be appealable ~~((to superior court))~~ as provided by K.C.C. 20.24.240, or to other designated authority in the following cases:

1. Appeals ~~((from the))~~ of SEPA decisions ~~((of the administrator for short subdivisions, including those variance decisions of the road engineer made pursuant to K.C.C. 14.42.060 with regard to road circulation in the subject short divisions))~~, as provided in K.C.C. 20.44.120 and public rules adopted under section 6 of this ordinance;

2. Appeals of all Type 2 land use decisions, with the exception of appeals of shoreline permits, including shoreline variances and conditional uses, which are appealable to the state shoreline hearings board;

3. Appeals ~~((from))~~ of citations, notices and orders and stop work orders issued pursuant to K.C.C. Title 23 or Title 1.08 of the rules and regulations of the King County board of health;

4. Appeals ~~((from))~~ of decisions regarding the abatement of a nonconformance;

5. Appeals ~~((from))~~ of decisions of the director of the department of natural resources and parks on

requests for rate adjustments to surface and storm water management rates and charges;

6. Appeals ~~((from))~~ of department of public safety seizures and intended forfeitures, when properly designated by the chief law enforcement officer of that department as provided in RCW 69.50.505;
7. Appeals ~~((from))~~ of notices and certifications of junk vehicles to be removed as a public nuisance as provided in K.C.C. Title 21A and K.C.C. chapter 23.10;
8. Appeals ~~((from))~~ of the department's final decisions regarding transportation concurrency, mitigation payment system and intersection standards provisions of K.C.C. Title 14;
9. Appeals ~~((from))~~ of decisions of the interagency review committee created under K.C.C. 21A.37.070 regarding sending site applications for certification pursuant to K.C.C. chapter 21A.37; and
10. Appeals of ~~((Θ))~~ other applications or appeals ~~((which))~~ that the council ~~((may))~~ prescribes by ordinance.

B. The examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications and restrictions as the examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including chapter 43.21C RCW, and the regulations, policies, objectives and goals of the Comprehensive Plan, the community plans, subarea or neighborhood plans, the zoning code, the subdivision code and other official laws, policies and objectives of King County. In case of any conflict between the King County Comprehensive Plan and a community, subarea or neighborhood plan, the King County Comprehensive Plan shall govern.

SECTION 4. Ordinance 6949, Section 5, as amended, and K.C.C. 20.44.030 are amended as follows:

Purpose and general requirements. The procedures and standards regarding the timing and content of environmental review specified in WAC 197-11-055 through 197-11-100 are adopted subject to the following:

- A. ~~((Pursuant to WAC 197-11-055(4), the building and land development division shall adopt rules and regulations pursuant to K.C.C. 2.98 establishing a process for environmental review at the conceptual stage of~~

~~permit applications which require detailed project plans and specifications (i.e., building permits and PUD's). This process shall not become effective until it has been reviewed by the council.~~

~~B.))~~ The optional provision of WAC 197-11-060(3)(c) is adopted.

~~((C.))~~ B. Under WAC 197-11-100, the applicant shall prepare the initial environmental checklist, unless the lead agency specifically elects to prepare the checklist. The lead agency shall make a reasonable effort to verify the information in the environmental checklist and shall have the authority to determine the final content of the environmental checklist.

~~((D.))~~ C. The ~~((manager of the building and land development division))~~ department of development and environmental services may set reasonable deadlines for the submittal of information, studies, or documents necessary for, or subsequent to, threshold determinations. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously submitted for review may be returned to the applicant together with any unexpended portion of the application review fees.

SECTION 5. Ordinance 6949, Section 6, as amended, and K.C.C. 20.44.040 are each hereby amended to read as follows:

Categorical exemptions and threshold determinations.

A. King County adopts the standards and procedures specified in WAC 197-11-300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical exemptions and making threshold determinations subject to the following:

1. The following exempt threshold levels are hereby established ~~((pursuant to))~~ in accordance with WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

a. The construction or location of any residential structures of ~~((eight))~~ twenty dwelling units within the boundaries of an urban growth area, or of any residential structures of eight dwelling units outside of the boundaries of an urban growth area;

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or

packing structure, or similar agricultural structure, covering ~~((30,000))~~ thirty thousand square feet on land zoned agricultural, or ~~((15,000))~~ fifteen thousand square feet in all other zones, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

c. The construction of an office, school, commercial, recreational, service or storage building with ~~((12,000))~~ twelve thousand square feet of gross floor area, and with associated parking facilities designed for forty automobiles;

d. The construction of a parking lot designed for forty automobiles;

e. Any fill or excavation of ~~((500))~~ five hundred cubic yards throughout the total lifetime of the fill or excavation and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulation thereunder ~~((: provided, however, (i) that t))~~. The categorical exemption threshold shall be ~~((400))~~ one hundred cubic yards for any fill or excavation that is in a sensitive area ~~((, and (ii) that i))~~. If the proposed action is to remove from or replace fill in a sensitive area to correct a violation, the threshold shall be ~~((500))~~ five hundred cubic yards.

2. The determination of whether a proposal is categorically exempt shall be made by the county department that serves as lead agency for ~~((such))~~ that proposal.

B. The mitigated DNS provision of WAC 197-11-350 shall be enforced as follows:

1. If the department issues a mitigated DNS, conditions requiring compliance with the mitigation measures which were specified in the application and environmental checklist shall be deemed conditions of any decision or recommendation of approval of the action.

2. If at any time the proposed mitigation measures are withdrawn or substantially changed, the responsible official shall review the threshold determination and, if necessary, may withdraw the mitigated DNS and issue a DS.

SECTION 6. There is hereby added to K.C.C. chapter 20.44 a new section to read as follows:

Department of natural resources and parks procedural SEPA decisions. The department of natural resources and parks by public rule may authorize procedural SEPA administrative appeals of threshold determinations or determinations of the adequacy of a final EIS made by one or more of the department's divisions. The public rule shall establish procedures for the administrative appeal, which shall be governed by K.C.C. 20.44.120.

SECTION 7. Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080 are amended as follows:

Substantive authority.

A. The procedures and standards of WAC 197-11-650 through 197-11-660 regarding substantive authority and mitigation, and WAC 197-11-158, regarding reliance on existing plans, laws and regulations, are adopted.

B. For the purposes of RCW 43.21C.060 and WAC 197-11-660~~((a))~~, the following policies, plans, rules and regulations, and all amendments thereto, are designated as potential bases for the exercise of King County's substantive authority under SEPA, subject to ~~((the provisions of))~~ RCW 43.21C.240 and subsection C of this section:

1. The policies of the ~~((S))~~state Environmental Policy Act, RCW 43.21C.020.
2. As specified in K.C.C. chapter 20.12, ~~((F))~~the King County Comprehensive Plan, its addenda~~((;))~~ and revisions and community and subarea plans and housing report, and as specified in K.C.C. chapter 20.14, surface water management program basin plans~~((, as specified in K.C.C. chapter 20.12))~~.
3. The King County Zoning Code, as adopted in K.C.C. Title 21A.
4. The King County Agricultural Lands Policy, as adopted in K.C.C. chapter 20.54 and K.C.C. Title 26.
5. The King County Landmarks Preservation Code, as adopted in K.C.C. chapter 20.62.
6. The King County Shoreline Management Master Plan, as adopted in K.C.C. Title 25.
7. The King County Surface Water Runoff Policy, as adopted in K.C.C. chapter 9.04, including the

Covington Master Drainage Plan, as adopted in K.C.C. chapter 20.14.

8. The King County Road Standards, (~~(1986)~~) 1993 Update, as adopted in K.C.C. chapter 14.42.

9. The Comprehensive Plan for Transportation adopted by Resolution No. 6617 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by the county council in K.C.C. 28.01.030.

10. The Comprehensive Sewerage Disposal Plan adopted by Resolution No. 23 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by the county council in K.C.C. 28.01.030.

11. The rules and regulations for construction and use of local sewage facilities set forth in K.C.C. chapters 28.81 through 28.84.

12. The rules and regulations on the consistency of sewer projects with local land use plans and policies set forth in Ordinance 11034, as amended.

13. The rules and regulations for the disposal of industrial waste into the sewerage system set forth in Ordinance 11034, as amended.

14. The Duwamish Clean Water Plan adopted by the council of the Municipality of Metropolitan Seattle and readopted and ratified by the county council by Ordinance 11032, (~~(s)~~)Section 28, as amended.

15. The Washington Department of Ecology's Best Management Practices for the Use of Municipal Sludge.

C. Within the urban growth (~~(boundary)~~) area, substantive SEPA authority to condition or deny new development proposals or other actions shall be used only in cases where specific adverse environmental impacts are not addressed by regulations as set forth below or unusual circumstances exist. In cases where the county has adopted the following regulations to systematically avoid or mitigate adverse impacts (~~(f)~~)K.C.C. chapter 21A.12, Development Standards - Density and Dimensions, K.C.C. chapter 21A.14, Development Standards - Design Requirements, K.C.C. chapter 21A.16, Development Standards - Landscaping and Water Use, K.C.C. chapter 21A.18, Development Standards - Parking and Circulation, K.C.C. chapter 21A.20, Development Standards - Signs, K.C.C. chapter 21A.22, Development Standards - Mineral Extraction, K.C.C.

chapter 21A.24, (~~(Development Standards)~~) Environmentally Sensitive Areas, K.C.C. chapter 21A.26, Development Standards - Communication Facilities, K.C.C. chapter 21A.28, Development Standards - Adequacy of Public Facilities and Services(~~(j)~~), those standards and regulations will normally constitute adequate mitigation of the impacts of new development. Unusual circumstances related to a site or to a proposal, as well as environmental impacts not mitigated by the (~~(foregoing)~~) regulations listed in this subsection, will be subject to site-specific or project-specific SEPA mitigation.

~~((The provisions of t))~~ This subsection shall not apply if the county's development regulations cited in this subsection are amended after April 22, 1996, unless the amending ordinance contains a finding, supported by documentation, that the requirements for environmental analysis, protections and mitigation measures in (~~(the code)~~) this chapter(~~(-as amended,)~~) provide adequate analysis of and mitigation for the specific adverse environmental impacts to which the requirements apply.

D. Outside the urban growth (~~(boundary)~~) area, in the course of project review, including any required environmental analysis, the responsible official may determine that requirements for environmental analysis, protection and mitigation measures in the county's development regulations or comprehensive plans adopted under chapter 36.70A RCW and in other applicable local, state or federal laws and rules provide adequate analysis and mitigation for specific adverse environmental impacts of the project, if the following criteria are met:

1. In the course of project review, the responsible official shall identify and consider the specific probable adverse environmental impacts of the proposed action and then make a determination whether these specific impacts are adequately addressed by the development regulations. If they are not, the responsible official shall apply mitigation consistent with the applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan or other local, state or federal rules or laws(~~(;)~~); and
2. The responsible official bases or conditions its approval on compliance with these requirements or mitigation measures.

E. Any decision to approve, deny or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the responsible official's decision document. The written decision shall contain facts and conclusions based on the proposal's specific adverse environmental impacts, ~~((or lack thereof(())~~), as identified in an environmental checklist, EIS, threshold determination, other environmental document including an executive department's staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document shall state the specific plan, policy or regulation ~~((which))~~ that supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

F. This chapter shall not be construed as a limitation on the authority of King County to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

SECTION 8. Ordinance 6949, Section 14, as amended, and K.C.C. 20.44.120 are each hereby amended to read as follows:

Appeals.

A. ~~The administrative appeal((s)) of a threshold determination((s)) or of the adequacy of a final EIS ((are))~~ is a procedural SEPA appeal((s which are)) that is conducted by the hearing examiner ~~((pursuant to the provisions of))~~ under K.C.C. 20.24.080~~((;))~~ and is subject to the following:

1. A procedural SEPA appeal to the hearing examiner is authorized only for an action classified as a Type 2, 3 or 4 land use decision in K.C.C. 20.20.020 or as provided for by public rule adopted under section 6 of this ordinance;

2. Only one appeal of each threshold determination shall be allowed on a proposal~~((;))~~;

~~((2-))~~ 3. As provided in RCW 43.21C.075(3)(d), the decision of the responsible official shall be entitled to substantial weight~~((;))~~;

~~((3-))~~ 4. An appeal of a DS must be filed with the department issuing the DS as provided in K.C.C. ~~((~~

~~20.20.090.)~~ 20.24.090;

~~((4.))~~ 5. An appeal of a DNS ~~((for actions classified as land use permit decisions in K.C.C. 20.20.020))~~ or of the adequacy of an EIS must be filed with the department issuing the DNS or EIS as provided in K.C.C. ((20.20.090, provided that)) 20.24.090. ~~((†))~~The appeal period for a DNS ~~((for land use permit decisions))~~ shall be extended for an additional seven calendar days if WAC 197-11-340(2)(a) applies~~((For actions not classified as land use permit decisions in K.C.C. 20.20.020, no administrative appeal of a DNS is permitted.~~

~~5. Administrative appeals of the adequacy of a final EIS are permitted for actions classified as Type 2, 3 or 4 land use permit decisions in K.C.C. 20.20.020 except Type 1 decisions for which the department has issued a threshold determination. Such appeals must be filed as provided in K.C.C. 20.20.090.);~~

6. Except as otherwise provided in this section, SEPA appeals are subject to K.C.C. 20.24.090C; and

7. The hearing examiner shall make a final decision on all procedural SEPA ~~((determinations. The hearing examiner's decision may be appealed to superior court as provided in K.C.C. 20.24.240B))~~ appeals.

B. Except for a procedural SEPA appeal authorized pursuant to section 6 of this ordinance, ~~((F))~~the hearing examiner's consideration of a procedural SEPA appeal((s)) shall be consolidated in all cases with the substantive SEPA appeal((s)), if any, involving a decision((s)) to condition or deny an application pursuant to RCW 43.21C.060 and with the public hearing or appeal, if any, on the proposal, except for an appeal((s)) of a DS.

C. ~~((Administrative appeals of decisions to condition or deny applications pursuant to RCW 43.21C.060 shall be consolidated in all cases with administrative appeals, if any, on the merits of a proposal.))~~
A procedural or substantive SEPA appeal authorized by subsection A of this section on a Type 2, 3 or 4 land use decision shall be consolidated with any administrative appeal on the merits of that decision, as provided in K.C.C. chapter 20.24 and this section. A procedural SEPA appeal authorized by a public rule adopted under section 6 of this ordinance shall not be consolidated with the administrative appeal on the merits of the

decision. If ~~((proposals requiring))~~ a Type 3 or 4 land use decision ~~((s are))~~ is appealed to the county council as provided in K.C.C. 20.24.210B or D, the appeal of the recommendation or decision of the examiner to condition or deny the proposal pursuant to RCW 43.21C.060 ~~((also may be appealed))~~ shall be made to the council, which shall make a final decision.

D. Notwithstanding ~~((the provisions of))~~ subsections A through C of this section, a department may adopt procedures under which an administrative appeal shall not be provided if the director of that department finds that consideration of an appeal would be likely to cause the department to violate a compliance, enforcement or other specific mandatory order or specific legal obligation. The director's determination shall be included in the notice of the SEPA determination, and the director shall provide a written summary upon which the determination is based within five days of receiving a written request. Because there would be no administrative appeal in such situations, review may be sought before a court of competent jurisdiction under RCW 43.21C.075 and applicable regulations, in connection with an appeal of the underlying governmental action.

SECTION 9. Ordinance 10870, Section 457, and K.C.C. 21A.24.100 are each amended as follows:

Sensitive area review.

A. Except as provided in subsection C of this section, King County shall perform a sensitive area review for any ~~((King County))~~ development proposal permit application or other request for permission to proceed with an alteration on a site ~~((which))~~ that includes a sensitive area or is within an identified sensitive area buffer or building setback area.

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

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

5. Determine whether any proposed alteration to the sensitive area is necessary; and

6. Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

C. If a development proposal does not involve any site disturbance, clearing, or grading and only requires a permit or approval under K.C.C. chapter 16.04 or 17.04, sensitive area review is not required, unless the development proposal is located within a landslide hazard area, seismic hazard area, or coal mine hazard area and the proposed development will cause additional loads on the foundation, such as by expanding the habitable square footage of the structure or by adding or changing structural features that change the load bearing characteristics of the structure. Sensitive area review required under this subsection shall be limited to consideration of the development proposal and the hazard area in which it is located.

SECTION 10. Ordinance 10870, Section 464, as amended, and K.C.C. 21A.24.170 are each amended as follows:

Notice on title.

A. Except as otherwise provided in subsection C of this section, ((F))the owner of any property containing sensitive areas or buffers on which a development proposal is submitted ~~((, except a public right-of-way or the site of a permanent public facility,))~~ shall file a notice approved by King County with the records ~~((and)), elections and licensing services~~ division. The required contents and form of the notice shall be set forth in administrative rules. The notice shall inform the public of the presence of sensitive areas or buffers on the property, of the application of this chapter to the property and that limitations on actions in or affecting such sensitive areas or buffers may exist. The notice shall run with the land.

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

C. The notice required under subsection A of this section is not required if:

1. The property is a public right-of-way or the site of a permanent public facility; or
2. The development proposal does not require sensitive area review under K.C.C. 21A.24.100C.

SECTION 11. Ordinance 10870, Section 465, and K.C.C. 21A.24.180 are each amended as follows:

Sensitive area tracts and designations on site plans.

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

1. All landslide hazard areas and buffers (~~((which))~~) that are one acre or greater in size;
2. All steep slope hazard areas and buffers (~~((which))~~) that are one acre or greater in size;
3. All wetlands and buffers; and
4. All streams and buffers.

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

C. Site plans submitted as part of development proposals for building permits, master plan developments and clearing and grading permits shall include and delineate:

1. ~~((a))~~All flood hazard areas, ~~((f))~~ if they have been mapped by FEMA or King County or if a special study is required~~((j))~~;
2. ~~((l))~~Landslide, volcanic, coal mine and steep slope hazard areas~~((s))~~;
3. ~~((s))~~Streams and wetlands~~((s))~~;
4. ~~((b))~~Buffers; and
5. ~~((b))~~Building setbacks.

D. If only a part of the development site has been mapped pursuant to K.C.C. 21A.24.120C((-)), the part of the site (~~((which))~~) that has not been mapped shall be clearly identified and labeled on the site plans. (~~The site plans shall be attached to the notice on title required by K.C.C. 21A.24.170.~~)

SECTION 12. Ordinance 13332, Section 7, and K.C.C. 27.02.120 are each hereby amended as follows:

Appeals to the hearing examiner. All appeals to the hearing examiner, or from decisions of the hearing examiner, shall be charged a fixed fee of (~~((one hundred twenty five))~~) two hundred fifty dollars to help defray the cost associated with appeal processing. Appeal fees shall be paid at the time of appeal submittal.

SECTION 13. In accordance with K.C.C. 20.44.080, the metropolitan King County council finds that the requirements for environmental analysis, protections and mitigations in those chapters of K.C.C. Title 21A amended by this ordinance provide adequate analysis of and mitigation for the specific adverse environmental impacts to which the requirements apply.

SECTION 14 Applicability. Sections 1, 2, 5 and 8 of this ordinance shall not

apply to complete land use permit applications submitted prior to the effective date of this ordinance.

30 days, official paper, post outside chamber

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