



Legislation Text

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Clerk 05/07/2003

AN ORDINANCE relating to three development projects; adopting provisions for approval of three low-impact development and Built Green demonstration projects, in accordance with K.C.C. 21A.55.010; amending Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050 and adding a new section to K.C.C. chapter 21A.55.

PREAMBLE:

The creation of livable communities and the availability of affordable housing is a regional vision shared by the Growth Management Act, countywide planning policies, and the King County Comprehensive Plan. Concerns relative to creating safe, healthy and diverse communities include the desirability of sustainable growth, the affordability of housing at all income levels, and the efficiency of the development review process as it affects project affordability.

Comprehensive Plan Polices U-447, U-448 and U-449 support testing new models by exploring alternative land development, flexible development standards, and construction techniques; home ownership methods; and development of projects with shared common areas, open space and community facilities. Comprehensive Plan Policy U-407 also encourages land use and investment strategies that stimulate mixed-use and mixed-income developments as a way to integrate neighborhoods and increase housing choices. The development of innovative, affordable demonstration projects can encourage new housing and neighborhood models that

will meet the changing needs of individuals and families.

King County wishes to foster innovative design and development techniques that will demonstrate that the impact of development can be reduced while maintaining housing affordability and that changes to the development regulations and building practices will lead to an innovative approach to land development, storm water management and increased construction of affordable housing. The county also wishes to promote the use of recycled material, more efficient use of water resources, increased energy savings and eco-friendly building techniques as outlined in the Built Green program.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. There is hereby added to K.C.C. chapter 21A.55 a new section to read as follows:

Demonstration project overlay - low-impact development and Built Green.

A. The purpose of the low-impact development and Built Green demonstration projects is to determine whether innovative permit processing, site development and building construction techniques based on low-impact development and building construction practices result in environmental benefits, affordable housing and lead to administrative and development cost savings for project applicants and King County. The demonstration projects will provide information on application of these techniques to an urban infill mixed-use redevelopment project, an urban single family residential project and a Vashon Town housing project. The demonstration projects will also provide information to assist in the development of King County Comprehensive Plan policies to guide application and refinement of regulations such as zoning, subdivision, roads and stormwater regulations. Expected benefits from the demonstration projects include: improved conditions of habitat, ground and surface waters within a watershed; reduced impervious surface areas for new site infrastructure in developed and redeveloped projects; greater use of recycled-content building materials and more efficient use of energy and natural resources; and the opportunity to identify and evaluate potential

substantive changes to land use development regulations that support and improve natural functions of watersheds. The demonstration projects will also evaluate whether consolidated administrative approval of modifications or waivers and any subsequent hearings, if required, effectively speeds the development review process while maintaining land use coordination and environmental protection, and whether that leads to administrative costs savings for project applicants and King County.

B. The department shall implement the low-impact development and Built Green demonstration projects in all or a portion of each of the following: the White Center neighborhood of the Park Lake Homes HOPE VI Project as described in Attachment A to this ordinance; the unincorporated Urban Area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B to this ordinance; and the Vashon Town as described in Attachment C to this ordinance. If the geographic boundaries of Park Lake Homes HOPE VI Project are expanded, the provisions of this ordinance may apply provided the criteria in subsection K of this section are met.

C. A request by the applicant to modify or waive development standards for the development proposals shall be evaluated by the department based on the criteria in subsection K of this section. A request shall first be either approved or denied administratively and may be further reviewed as described in subsection G.3 of this section. Approval or denial of the proposed modification or waiver shall not be construed as applying to any other development application either within the demonstration project area or elsewhere in the county.

D. A modification or waiver approved by the department in accordance with the low-impact development and Built Green demonstration projects shall be in addition to those modifications or waivers that are currently allowed by K.C.C. Title 9 and this title. The range of proposed modifications or waivers to development regulations that may be considered pursuant to the low-impact development and Built Green demonstration projects shall include only the following King County code regulations and related public rules:

1. Drainage review requirements: K.C.C. chapter 9.04 and the Surface Water Design Manual;
2. King County road standards: K.C.C. 14.42.010 and the county road standards, 1993 update;

3. Density and dimensions: K.C.C. chapter 21A.12, if the base density is that of the zone applied to the entire demonstration project and if the minimum density is not less than the minimum residential density of the zone calculated for the portion of the site to be used for residential purposes, in accordance with K.C.C. 21A.12.060. However, if a demonstration project provides fifty-one percent of the housing to households that, at the time of initial occupancy, have incomes of eighty percent or less of median income for King County as periodically published by the United States Department of Housing and Urban Development, or its successor agency, then the director may approve less than the minimum density;

4. Design requirements: K.C.C. chapter 21A.14;

5. Landscaping and water use: K.C.C. chapter 21A.16;

6. Parking and circulation: K.C.C. chapter 21A.18;

7. Signs: K.C.C. chapter 21A.20; and

8. Environmentally sensitive areas: K.C.C. chapter 21A.24, if the modification results in a net improvement to the functions of the sensitive area.

E. A demonstration project authorized by this section and located in the R-12 through R-48 zones may contain residential and limited nonresidential uses subject to the following provisions:

1. The demonstration project may request a modification or waiver of any of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, subject to the review process described in subsection G of this section and the criteria described in subsection K of this section.

2. The demonstration project may include single family detached residential dwelling units as a permitted use, subject to the review process described in subsection G of this section and the criteria described in subsection K of this section.

3. The demonstration project may include any nonresidential use allowed as a permitted use in the NB zone, subject to any development conditions contained in K.C.C. 21A.08.040, 21A.08.050, 21A.08.060,

21A.08.070, 21A.08.080 and 21A.08.100, without the need to request a modification or waiver as described in subsection G of this section. The applicant may request a modification or waiver of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080, and 21A.08.100, subject to the criteria in subsection K of this section. If a nonresidential use is permitted in the R-12 through R-48 zones, subject to development conditions, and is permitted in the NB zone without development conditions, the use shall be permitted in the demonstration project without development conditions and without the need to request a modification or waiver.

4. If a nonresidential use is subject to a conditional use permit in the R-12 through R-48 zones and not subject to a conditional use permit in the NB zone, the use shall be permitted in the demonstration project without requiring a conditional use permit.

5. If a use is subject to a conditional use permit in both the R-12 through R-48 zones and the NB zone or only in the NB zone, the use may be permitted in the demonstration project if the demonstration project applies for and obtains a conditional use permit and satisfies the conditional use permit criteria.

6. Uses authorized by this subsection shall be allowed only as part of a demonstration project. All such uses shall be subject to the development standards in KCC 21A.12.030, except as may be modified or waived under subsection D of this section and this subsection E.

F. This subsection authorizes a residential basics program for townhouse and apartment building types if such housing are located in a demonstration project located in the R-12 through R-48 zones, even if not otherwise authorized by the department of development and environmental services public rules chapter 16-04: residential basics program.

G.1. Requests for a modification or waiver made in accordance with this section may only be submitted in writing in relation to the following types of applications:

- a. a site development permit;
- b. a binding site plan;

- c. a building permit;
- d. a short subdivision; or
- e. a subdivision.

2. Requests shall be submitted to the department in writing before or in conjunction with an application for one or more of the permits listed in subsection G.1 of this section, together with any supporting documentation. The supporting documentation must illustrate how the proposed modification meets the criteria of subsection K of this section.

3. Except for an applicant's request for a modification or waiver submitted in conjunction with an application for a subdivision, the notice of application, review and approval of a proposed modification or waiver shall be treated as a Type 2 land use decision in accordance with K.C.C. 20.20.020. The request for a modification or waiver submitted in conjunction with an application for a subdivision shall be treated as a Type 3 land use decision in accordance with K.C.C. 20.20.020.

4. A preapplication meeting with the applicant and the department to determine the need for and the likely scope of a proposed modification or waiver is required before submittal of such a request. The department of natural resources and parks and the department of transportation shall be invited to participate in the preapplication meeting, if necessary.

5. If the applicant requests a modification or waiver of K.C.C. 9.04.050 or the Surface Water Design Manual, the director shall consult with the department of natural resources and parks before granting the modification or waiver.

6. If the applicant requests a variance from the county road standards, the director shall refer the request to the county road engineer for decision under KCC 14.42.060, with the right to appeal within the department of transportation as provided in K.C.C. 14.42.062. The purposes of this demonstration ordinance are intended as a factor to be considered relative to the public interest requirement for road variances described in K.C.C. 14.42.060.

7. Administrative appeals of modifications or waivers approved by the director shall be combined with any appeal of the underlying permit decision, if the underlying permit is subject to appeal.

H. The hearing examiner may consider an environmental impact statement adequacy appeal in conjunction with a demonstration project plat appeal if the environmental impact statement is prepared by a lead agency other than the department and if its adequacy has not previously been adjudicated, even if not otherwise authorized by K.C.C. 20.44.120.

I. An approved development proposal for any of the applications listed in subsection G.1 of this section, including site plan elements or conditions of approval, may be amended or modified at the request of the applicant or the applicant's successor in interest designated by the applicant in writing. The director may administratively approve minor modifications to an approved development proposal. Modifications that result in major changes as determined by the department or as defined by the approval conditions, shall be treated as a new application for purposes of vesting and shall be reviewed as applicable to the underlying application pursuant to K.C.C. 20.20.020. Any increase in the total number of dwelling units above the maximum number set forth in the development proposal permit or approval shall be deemed a major modification. The county, through the applicable development proposal permit or approval conditions, may specify additional criteria for determining whether proposed modifications are major or minor. The modifications allowed under this section supercede other modification or revision provisions of K.C.C. Title 16, Title 19A and this title.

J. For any subdivision with more than four hundred units that is also a part of a demonstration project, the preliminary subdivision approval shall be effective for eighty-four months, even if not otherwise authorized by K.C.C. 19A.12.020. The director may administratively grant a one-time extension, extending the approval an additional five years, only if the applicant has shown substantial progress towards development of the demonstration project. Before granting the extension, the director will assess the applicant's compliance with the demonstration project conditions and may modify or impose new standards deemed necessary for the public health or safety.

K.1. To be eligible to utilize the provisions of the demonstration project, development proposals must be located within the boundaries of the Park Lake Homes HOPE VI Project as described in Attachment A to this ordinance, or as may be modified as described in subsection B of this section; in the area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B to this ordinance; and in the Vashon Town as described in Attachment C to this ordinance.

2. Proposals to modify or waive development regulations for a development application must be consistent with general health, safety and public welfare standards, and must not violate state or federal law.

3.a. Applications must demonstrate how the proposed project, when considered as a whole with the proposed modifications or waivers to the code, will meet all of the criteria listed in this subsection, as compared to development without the modification or waiver, and achieves higher quality urban development; enhances infill, redevelopment and greenfield development; optimizes site utilization; stimulates neighborhood redevelopment; and enhances pedestrian experiences and sense of place and community.

b. Any individual request for a modification or waiver must meet two or more of criteria (1) through (4) as follows:

(1) uses the natural site characteristics to protect the natural systems;

(2) addresses stormwater and drainage safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment;

(3) contributes to achievement of a two-star or a three-star rating for the project site under the Built Green "Green Communities" program recognized by the Master Builders Association of King and Snohomish Counties; or

(4) where applicable, reduces housing costs for future project residents or tenants without decreasing environmental protection.

4. The criteria of subsection K of this section supercede other variance, modification or waiver criteria and provisions of K.C.C. Title 9 and Title 21A.

L. Regulatory modification and waiver applications, or both, authorized by this section shall be filed with the department by December 31, 2006, or by such a later date as may be specified in the conditions of any development approval for any type of modification or waiver for which the opportunity for future application is expressly granted in those conditions. Modifications or waivers contained within an approved development proposal shall be valid as long as the underlying permit or development application approval is valid. Modifications or waivers that are approved as separate applications must be incorporated into a valid permit or development application that must be filed by December 31, 2006. The director may extend the date for filing the demonstration project permit and development applications for a maximum of twelve months. The ability to establish the location and maximum size of uses that are not otherwise permitted in the R-12 through R-48 zones as set forth in subsection E of this section expires December 31, 2006. Any deadline set forth in this subsection shall be adjusted to include the time for appeal of all or any portion of the project approval.

M.1. By December 31, 2006, the director shall prepare and submit to the council a report on the pilot programs that:

- a. describes and evaluates the pertinent preliminary results from the demonstration projects; and
- b. recommends changes, based on the evaluation, which should be made to the county processes and ordinances.

2. If only insufficient or inconclusive data are available when this report is due, the director shall provide an interim status report and indicate the date a subsequent report or reports will be transmitted to fully evaluate outcomes of the demonstration projects.

SECTION 2. Ordinance 2281, Section 5, as amended, and K.C.C. 9.04.050 are amended to read as follows:

Drainage review - requirements.

A. Core requirements. Every permit or approval application with drainage review required by K.C.C. 9.04.030 must meet each of the following core requirements which are described in detail in the Surface Water

Design Manual.

1. Core requirement #1: Discharge at the natural location. All surface and storm water runoff from a project shall be discharged at the natural location so as not to be diverted onto, or away from, downstream properties. The manner in which runoff is discharged from the project site shall not create a significant adverse impact to downhill properties or drainage systems as specified in the discharge requirements of the Surface Water Design Manual.

2. Core requirement #2: Offsite analysis. The initial application submittal for proposed projects shall include an offsite analysis report that assesses potential offsite drainage impacts associated with development of the proposed site and proposes appropriate mitigations to those impacts. This initial submittal shall include, at minimum, a Level One downstream analysis as described in the Surface Water Design Manual. If impacts are identified, the proposed projects shall meet any applicable problem-specific requirements as specified in the Surface Water Design Manual.

3. Core Requirement #3: Flow control. Proposed projects shall provide flow control facilities to mitigate the increased surface and storm water runoff generated by the addition of five thousand square feet or more of new impervious surface and any related land-cover conversion. These facilities shall meet the area-specific flow control requirements and the flow control implementation requirements applicable to the project site as specified in the Surface Water Design Manual. Projects subject to area-specific flow control requirements shall meet one of the performance criteria listed below as directed by the Surface Water Design Manual:

- a. Level One: match the predeveloped site's peak discharge rates for the two-year and ten-year return periods;
- b. Level Two: match the predeveloped site's discharge durations for the predeveloped peak discharge rates between the fifty percent of the two-year peak flow through the fifty-year peak flow; or
- c. Level Three: meet Level Two criteria and also match the predeveloped site's peak discharge rate

for the one hundred-year return period.

4. Core requirement #4: Conveyance system. All engineered conveyance system elements for proposed projects shall be analyzed, designed and constructed to provide the minimum level of protection against overtopping, flooding, erosion and structural failure as specified by the conveyance requirements for new and existing systems and conveyance implementation requirements described in the Surface Water Design Manual.

5. Core requirement #5: Erosion and sediment plan. All proposed projects that will clear, grade, or otherwise disturb the site shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources and adjacent properties. Erosion and sediment controls shall be applied in accordance with K.C.C. chapter 16.82 as specified by the temporary ESC measures and performance criteria and implementation requirements in the King County erosion and sediment control standards.

6. Core requirement #6: Maintenance and operation. Maintenance of all drainage facilities in compliance with King County maintenance standards is the responsibility of the applicant/property owner as described in the Surface Water Design Manual, except those facilities for which King County is granted an easement or covenant and assumes maintenance and operation as described in the Surface Water Design Manual.

7. Core requirement #7: Financial guarantees and liability. All drainage facilities constructed or modified for projects, except downspout infiltration and dispersion systems for single family residential lots, must comply with the liability requirements of K.C.C. 9.04.100 and the financial guarantee requirements of K.C.C. Title 27A.

8. Core requirement #8: Water quality. Proposed projects shall provide water quality treatment facilities to treat polluted surface and storm water runoff generated by the addition and/or replacement of five thousand square feet or more of pollution-generating impervious surface or one acre or more of pollutant-

generating pervious surface; however, pervious surfaces are specifically excluded if there is a good faith agreement with the King Conservation District to implement a farm management plan for agricultural uses, and pervious areas for other uses are specifically excluded if King County department of development and environmental services approves a landscape management plan that controls pesticides and fertilizers leaving the site. These facilities shall meet the area-specific water quality treatment requirements and the water quality implementation requirements applicable to the project site as specified in the Surface Water Design Manual. At a minimum, the facilities shall reduce pollutant loads by meeting the applicable annual average performance goals listed below for ninety-five percent of the annual average runoff volume:

- a. basic water quality: remove eighty percent of the total suspended solids;
- b. sensitive lake protection: remove fifty percent of the total phosphorus;
- c. resource stream protection: remove fifty percent of the total zinc;
- d. sphagnum bog protection: remove fifty percent of the total phosphorus and forty percent of the

total nitrate plus nitrite. The discharge shall maintain a pH of less than 6.5 and an alkalinity of less than ten milligrams per liter.

B. Special Requirements. Every proposed project required by K.C.C. 9.04.030 to have drainage review shall meet any of the following special requirements which apply to the site and which are described in detail in the Surface Water Design Manual. The department of development and environmental services shall verify if a proposed project is subject to and meets any of the special requirements.

1. Special Requirement #1: Other adopted area-specific requirements. If a proposed project is in a designated critical drainage area, or is in an area included in an adopted master drainage plan, basin plan, lake management plan or shared facility plan, then the proposed project shall meet the applicable drainage requirements of the critical drainage area, master drainage plan, basin plan, lake management plan or shared facility plan.

2. Special Requirement #2: Floodplain/floodway delineation. If a proposed project contains or is

adjacent to a stream, lake, wetland or closed depression, or if other King County regulations require study of flood hazards, then the one hundred year floodplain boundaries (and floodway if available or if improvements are proposed within the one hundred year floodplain), based on an approved flood hazard study as described in the Surface Water Design Manual, shall be delineated on the site improvement plans and profiles, and on any final subdivision maps prepared for the proposed project.

3. Special Requirement #3: Flood protection facilities. If a proposed project contains or is adjacent to a Class 1 or 2 stream that has an existing flood protection facility (such as levees, revetments and berms), or proposes to construct a new, or modify an existing, flood protection facility, then the flood protection facilities shall be analyzed and/or designed as specified in the Surface Water Design Manual to conform with the Federal Emergency Management Administration regulations (44 C.F.R.).

4. Special Requirement #4: Source Control. If a proposed project requires a commercial building or commercial site development permit, then water quality source controls shall be applied to prevent rainfall and runoff from coming into contact with pollutants to the maximum extent possible. Water quality source controls shall be applied in accordance with K.C.C. chapter 9.12 and the King County stormwater pollution control manual. All structural source controls shall be identified on the site improvement plans and profiles or final maps prepared for the proposed project.

5. Special Requirement #5: Oil control. If a proposed project is a high-use site or is a redevelopment project proposing \$100,000 or more of improvements to an existing high-use site, then oil control shall be applied to all runoff from the high-use portion of the site as specified in the Surface Water Design Manual.

C. Adjustment.

1. An adjustment to the requirements contained in this section and/or other requirements in the Surface Water Design Manual may be proposed provided that the resulting development shall be subject to all of the remaining terms and conditions of this chapter and provided that granting the variance shall:

- a. produce a compensating or comparable result in the public interest, and

b. meet this chapter's objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.

2. If meeting the provisions of K.C.C. 9.04.050C.1.a will deny reasonable use of a property, the best practicable alternative shall be obtained as determined by the director of the department of development and environmental services according to the adjustment process defined in the Surface Water Design Manual.

3. Requests for adjustments which may be in conflict with the requirements of any other King County division shall require review and concurrence with that division.

4. Requests for adjustments shall be processed in accordance with procedures specified in the Surface Water Design Manual. (Note that the adjustment concept has been termed "variance" in earlier editions of the Surface Water Design Manual).

5. The county may require monitoring of experimental designs and technology or untested applications proposed by the applicant in order to determine compliance with K.C.C. 9.04.050C.1 and the approved plans and conditions.

6. The applicant may appeal an adjustment decision by following the appeal procedures as specified in the Surface Water Design Manual.

D. The drainage review requirements in this section and in the Surface Water

Design Manual may be modified or waived under the procedures in section 1 of this ordinance.

official paper, 30 days prior

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