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02/23/93

ORDINANCE NO. 25

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, ESTABLISHING A SURFACE WATER RUNOFF POLICY; ADOPTING BY REFERENCE CHAPTER 9.04 OF THE KING COUNTY CODE; PROVIDING PENALTIES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the following ordinance is in the best interest of the public health, safety and general welfare, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Except as provided in this ordinance, Chapter 9.04 of the King County Code, one copy of which has been and is on file in the office of City Clerk for use and examination by the public, is hereby adopted by this reference as if set forth in full.

Section 2. Chapter 9.04 of the King County Code, adopted by reference in this ordinance is hereby modified as follows:

- A. References to King County shall refer to the City of Woodinville.
- B. References to Director shall mean the Woodinville City Manager or his or her designee.
- C. References to Department or Division shall refer to the appropriate department or division of the City of Woodinville as established by the City Manager.
- D. Section 9.04.190 is deleted.

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Section 3. Penalty. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished as set forth by Ordinance 16 of the City.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

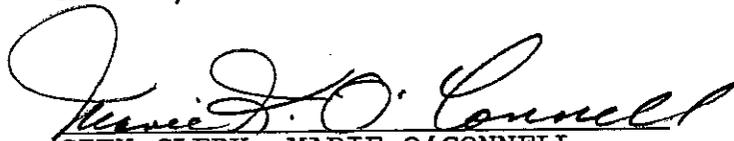
Section 5. Effective date. This ordinance shall be effective as of March 31, 1993, which is more than five (5) days after publication of an approved summary consisting of the title to this ordinance.

PASSED by the City Council of the City of Woodinville this 8 day of March, 1993.

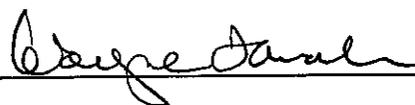
APPROVED:


MAYOR, LUCY DEYOUNG

ATTEST/AUTHENTICATED:


CITY CLERK, MARIE O'CONNELL

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

FILED WITH THE CITY CLERK: 3/8/93
PASSED BY THE CITY COUNCIL: 3/8/93
PUBLISHED:
EFFECTIVE DATE: 3/31/93
ORDINANCE NO. 25

F1
SURFACE WATER MANAGEMENT

Title 9
SURFACE WATER MANAGEMENT

Chapters:
9.04 Surface Water Runoff Policy
9.08 Surface Water Management Program

CROSS REFERENCE:
For provisions of surface and ground water quality see chapter 8.12.

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Chapter 9.04
SURFACE WATER RUNOFF POLICY

Sections:

- 9.04.010 Purposes.
- 9.04.020 Definitions.
- 9.04.030 Drainage review - when required.
- 9.04.040 Engineering plan - contents.
- 9.04.050 Drainage review - requirements.
- 9.04.060 Critical drainage areas - Development in critical flood, drainage and/or erosion areas.
- 9.04.070 Engineering plans - procedures for submittal.
- 9.04.090 Procedures and conditions related to construction timing and final approval.
- 9.04.100 Bonds and liability insurance required.
- 9.04.110 Maintenance of subdivision retention/detention facilities.
- 9.04.120 Maintenance of multifamily/commercial facilities.
- 9.04.125 Declaration of covenant.
- 9.04.130 Hazards.
- 9.04.140 Administration.
- 9.04.160 Retroactivity relating to county maintenance of subdivision retention/detention facilities.
- 9.04.170 Applicability to governmental entities.
- 9.04.180 Enforcement.
- 9.04.190 Effective date.
- 9.04.192 Liberal construction.
- 9.04.194 Implementation, review and revision.
- 9.04.200 Severability.

9.04.010 Purposes. The council finds this chapter is necessary in order to promote the public health, safety and welfare by providing for the comprehensive management of surface and storm waters and erosion control, especially that which preserves and utilizes the many values of the county's natural drainage system including open space, fish and wildlife habitat, recreation, education and urban separation. The council also finds that King County shall conduct programs which implement comprehensive and thorough permit review, construction inspection, enforcement, and maintenance in order to promote the effectiveness of the requirements contained in this chapter. (Ord. 9163 § 1, 1989).

9.04.020 Definitions. A. "Basin" means for the purpose of this document a drainage area which drains either to the Cedar, Green, Snoqualmie, Skykomish or White rivers, or the drainage areas which drain directly to Puget Sound.
B. "Basin Plan" means a plan and all implementing regulations and procedures including but not limited to land use management adopted by ordinance for managing surface and storm water management facilities and features within individual subbasins.
C. "Bond" means a surety bond, cash deposit or escrow account, assignment

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of savings, irrevocable letter of credit or other means acceptable to or required by the manager to guarantee that work is completed in compliance with the project's engineering plan and in compliance with all King County requirements.

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

E. "Department" means the department of public works.

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

G. "Development" means for the purposes of this document any activity that requires a permit or approval, including but not limited to a building permit, grading permit, shoreline substantial development permit, conditional use permit, unclassified use permit, zoning variance or reclassification, planned unit development, subdivision, short subdivision, master plan development, building site plan, or right-of-way use permit.

H. "Development engineer" means the building and land development division employee authorized to oversee the review, conditioning, inspection and acceptance of right-of-way use permits, road and drainage projects constructed pursuant to permits administered by the division. The development engineer or designee shall be a professional civil engineer registered and licensed under the laws of the State of Washington.

I. "Director" means the director of the department of public works or the director's designee.

J. "Division" means the building and land development division of the department of parks, planning and resources.

K. "Drainage" means the collection, conveyance, containment, and/or discharge of surface and storm water runoff.

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

M. "Drainage review" means an evaluation by building and land development division staff of a proposed project's compliance with the drainage requirements in the Surface Water Design Manual.

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

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

P. "Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios,

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driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of this document.

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

R. "Manager" means the manager of the building and land development division of the department of parks, planning and resources or his designee.

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

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

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

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

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

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

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

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

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

BB. "Subdivision retention/detention facility" means a retention/detention facility which is both located within or associated with a short or formal plat subdivision containing only single family or duplex residential structures located on individual lots and which is required to handle excess runoff generated by development of an area of which two-thirds or more is designated for single family or duplex residential structures located on individual lots.

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

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

EE. "Surface Water Design Manual" means the manual (and supporting documents as appropriate) describing surface and storm water design and analysis requirements, procedures and guidance which has been formally adopted by rule

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under the procedures specified in K.C.C. 2.98. The Surface Water Design Manual is available from the division permit center.

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

GG. "Wetponds" and "wetvaults" mean drainage facilities for water quality treatment that contain a permanent pool of water, usually four feet in depth, that are filled during the initial runoff from a storm event. They are designed to optimize water quality by providing retention time (on the order of a week or more) in order to settle out particles of fine sediment to which pollutants such as heavy metals absorb, and to allow biologic activity to occur that metabolizes nutrients and organic pollutants. For wetvaults, the permanent pool of water is covered by a lid which blocks sunlight from entering the facility, limiting photo-dependent biologic activity. (Ord. 9163 § 2, 1989).

9.04.030 Drainage review - when required. A. PERMITS. A drainage review is required for any proposed project requiring one of the King County permits or approvals listed in K.C.C. 9.04.030.B which would:

1. Add more than five thousand square feet of new impervious surface; or
2. Collect and concentrate surface and storm water runoff from a drainage area of more than five thousand square feet; or

3. Contain or abut a floodplain, stream, lake, wetland or closed depression, or a sensitive area as defined in K.C.C. 21.54 (Sensitive Areas).

B. The following King County permits and approvals will be required to have a drainage review if the project involves the planned actions listed in K.C.C.

9.04.030.A:

1. Commercial building;
2. Commercial Site Development;
3. Conditional use;
4. Formal subdivision (plat);
5. Grading;
6. Master plan development;
7. Planned unit development;
8. Residential building;
9. Right-of-way use;
10. Shoreline substantial development;
11. Administrative subdivision (short plat);
12. Special use;
13. Unclassified use;
14. Zoning reclassification; and/or
15. Zoning variance. (Ord. 11016 § 13, 1993; Ord. 9163 § 3, 1989).

9.04.040 Engineering plan - contents. All submittal procedures, definitions, and specifications for the required contents of engineering plans are presented in the plan review process section of the Surface Water Design Manual. (Ord. 9163 § 4, 1989).

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9.04.050 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:

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

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

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

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

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

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

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

Core Requirement #7: Bonds and liability. All drainage facilities for projects (except downspout roof drain infiltration systems) must comply with the bond and liability requirements of K.C.C. 9.04.100.

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

Special Requirement #1: Critical drainage area. If a project lies within an area designated by public rule as a "critical drainage area," then the project drainage review and engineering plans shall be prepared in accordance with the special critical drainage area requirements that have been formally adopted by

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public rule. Copies of all designated critical drainage area public rules (including critical drainage area maps) are available for reference from the division permit center;

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

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

a.Is a master planned development as described in an adopted community plan; or
b.Is a subdivision that will eventually have more than one hundred single family lots and encompasses a contiguous drainage sub-basin of more than two hundred acres; or

c.Is a commercial building permit or planned unit development that will eventually construct more than fifty acres of impervious surface; or
d.Will clear an area of more than five hundred acres within a contiguous drainage sub-basin; then a master drainage plan shall be prepared as specified in the Surface Water Design Manual. The master drainage plan process should proceed coincidentally with the State Environmental Policy Act (SEPA) process.

Approval of the master drainage plan is required before permit approval.

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

Special Requirement #5: Special water quality controls. If a project will construct more than one acre of impervious surface that will be subject to vehicular use or storage of chemicals and:

a.Proposes to discharge runoff directly to a regional facility, receiving water body, lake, wetland, or closed depression to provide the runoff control

consistent with Core Requirement #3; or

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

Special Requirement #6: Coalescing plate oil/water separators. If a project will construct more than five acres of impervious surface that will be subject to petroleum storage or transfer, or high vehicular (more than twenty five hundred vehicle trips per day) or heavy equipment use, storage or maintenance, then a coalescing plate or equivalent oil/water separator shall be employed to treat a project's runoff prior to treatment by a wetpond, wetvault, or water quality swale, and/or discharge from the project site.

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

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Special Requirement #8: Use of lakes, wetlands or closed depressions for runoff control. If a project proposes to use a lake, wetland, or closed depression for runoff controls required by Core Requirement #3, then the project must meet the requirements of K.C.C. 21.54 (Sensitive Areas) for such use, include special water quality controls, and observe the limits on any increases to the floodplain as specified in the Surface Water Design Manual;

Special Requirement #9: Delineation of one hundred year floodplain. If a project contains or abuts a stream, lake, wetland or closed depression, then the one hundred year floodplain boundaries (and floodway if available based on an approved floodplain study as specified in the Surface Water Design Manual) shall be delineated on the site improvement plans and profiles and on any final plat maps prepared for the project;

Special Requirement #10: Flood protection for Type 1 and 2 streams. If a project contains or abuts a Type 1 or 2 stream (as defined in the Surface Water Design Manual) that has an existing flood protection facility or involves construction of a new, or modification of existing flood protection facility, then the flood protection facility shall be analyzed and/or designed as specified in the Surface Water Design Manual and in the Federal Emergency Management (FEMA) regulations (44 CFR).

Special Requirement #11: Geotechnical analysis and report. If a project includes construction of a pond for drainage control or an infiltration system (excluding a roof downspout system) above a steep slope (as defined in the Surface Water Design Manual) within two hundred feet from the top of the steep slope or on a slope with a gradient steeper than fifteen percent, or construction of earth fill/bank armor for flood protection facilities, then a geotechnical analysis and report shall be prepared and stamped by a geotechnical professional civil engineer that shall address at a minimum the analysis described in the Surface Water Design Manual;

Special Requirement #12. Soils analysis and report. If the soils underlying a project have not been mapped, or if the existing soils maps are in error or not of sufficient resolution to allow the proper engineering analysis of the proposed site to be performed, then a soils analysis and report shall be prepared and stamped by a professional civil engineer with expertise in soils to verify and/or map the underlying soils by addressing at a minimum the analysis described in the Surface Water Design Manual.

C. VARIANCES FROM REQUIREMENTS. Where application of the provisions of this section may deny reasonable use of a property, or where alternate facility designs or methods will produce a compensating or comparable result which will achieve an equivalent level of safety, function, appearance, environmental protection, and maintainability, based upon sound engineering judgment, the

core and special requirements contained in the section and/or other requirements in the Surface Water Design Manual may be proposed for a variance. 1.A variance 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 will:

- a. Produce a compensating or comparable result which is in the public interest, and
 - b. Meet the objectives of safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment.
2. Granting any variance which would be in conflict with the requirements of any other King County division will require review and concurrence with that division.
3. Variance requests shall be processed in accordance with procedures specified in the Surface Water Design Manual.
4. Proposed variances to the core and special requirements must be approved prior to permit approval and construction.

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5. The applicant may appeal the denial of a variance request by following the appeal procedures as specified in the Surface Water Design Manual. (Ord. 10570 § 1, 1992: Ord. 9163 § 5, 1989: Ord. 7817 § 2, 1986: Ord. 4938 § 5, 1980: Ord. 2812 § 3, 1976: Ord. 2281 § 5, 1975).

9.04.060 Critical drainage areas - Development in critical flood, drainage and/or erosion areas. Development in areas where the department has determined that the existing flooding, drainage, and/or erosion conditions present an imminent likelihood of harm to the welfare and safety of the surrounding community shall meet special drainage requirements set by the director or development engineer, until such time as the community hazard is alleviated. Such conditions may include the limitation of the volume of discharge from the subject property to predevelopment levels, preservation of wetlands or other natural drainage features, or other controls necessary to protect against community hazard. Where applications of the provisions of this section will deny all reasonable uses of the property, or where alternate facility designs or methods will produce a compensating or comparable result which will achieve an equivalent level of safety, function, appearance, environmental protection, and maintainability, based upon sound engineering judgment, the restriction of development contained in this section may be proposed for a variance, provided that the resulting development shall be subject to all of the remaining terms and conditions of this chapter. (Ord. 10570 § 2, 1992: Ord. 9163 § 6, 1989: Ord. 7990 § 4, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 6, 1980: Ord. 2812 § 4, 1976).

9.04.070 Engineering plans - procedures for submittal. A. Where to submit.

1. All engineering plans shall be submitted to the building and land development division of the department of parks, planning and resources for review in accordance with the specifications in the Surface Water Design Manual.
2. All master drainage plans shall be submitted directly to the surface water management division of the department of public works for review. Master drainage plans must also be a part of a permit application that has been submitted to the building and land development division of the department of parks, planning and resources. The master drainage plan submittal should commence at the same time as the State Environmental Policy Act (SEPA) process.

B. Expiration. The expiration time frames as specified in the Surface Water Design Manual will apply to all permit and approval applications.

C. Processing. All plans will be processed in accordance with the review procedures specified in the Surface Water Design Manual. (Ord. 9163 § 7, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 5, 1976: Ord. 2281 § 6, 1975).

9.04.090 Procedures and conditions related to construction timing and final approval. A. No work related to permanent or temporary storm drainage control shall proceed without the approval of the manager.

B. Erosion/sedimentation control measures associated with both the interim and permanent drainage systems shall be:

1. Constructed in accordance with the approved plan prior to any grading or land clearing other than that associated with the erosion/sedimentation control plan;
2. Satisfactorily maintained until all improvements, restoration, and landscaping associated with the permit and/or approval listed in K.C.C. 9.04.030 are completed and the potential for onsite erosion has passed.
- C. Prior to the construction of any improvements and/or buildings on the site, those portions of the drainage facilities necessary to accommodate the

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control of surface and stormwater runoff discharging from the site must be constructed and in operation. SUBDIVISIONS ONLY: Recording may occur prior to the construction of drainage facilities when approved in writing by the development engineer only to minimize impacts that may result from construction during inappropriate times of the year. (Ord. 9163 § 8, 1989: Ord. 7990 § 5, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 7, 1980).

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

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

B. DEFECT AND MAINTENANCE BOND. After satisfactory completion of the drainage facility or final plat approval, whichever occurs last, the person required to construct the facility pursuant to Section 9.04.050 shall post a defect and maintenance bond warranting the satisfactory performance and maintenance of the drainage facility and guaranteeing the workmanship and materials used in the construction of the facility for a period of two years. For subdivision retention/detention facilities that King County may assume maintenance of pursuant to Section 9.04.110, the defect and maintenance bond shall be posted for a period of two years or until King County assumes maintenance, whichever is longer. The manager shall not release the defect and maintenance bond until all inspection fees are paid.

C. FAILURE TO COMPLETE PROPOSED WORK. In the event of failure to comply with all the conditions and terms of the permit and/or approval covered by this chapter, the manager shall notify the permittee and surety in writing, and

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failing to obtain response within seven days from the receipt of notification may order the work required to be satisfactorily completed or perform all necessary corrective work to stabilize and restore disturbed areas and eliminate hazards caused by not completing the work. The surety executing such bond shall continue to be firmly bound up to the limits of the bond, under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by King County in causing any and all such required work to be done. In no event shall the liability of the surety exceed the amount stated in the bond regardless of the number of years the bond remains in force.

D.LIABILITY POLICY. The person required to construct the facility pursuant to Section 9.04.050 shall maintain a liability policy in the amount of one hundred thousand dollars per individual, three hundred thousand dollars per occurrence and fifty thousand dollars property damage, which shall name King County as an additional insured, and which shall protect King County from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. Proof of said liability policy shall be provided to the manager prior to commencing construction of any drainage facility; provided, that in the case of facilities assumed by King County for maintenance pursuant to Section 9.04.110, said liability policy shall be terminated when said county maintenance responsibility commences. (Ord. 9163 § 9, 1989: Ord. 7990 § 6, 1987: Ord. 7817 § 2, 1986: Ord. 4938 § 8, 1980: Ord. 2812 § 6, 1976: Ord. 2281 § 7, 1975).

9.04.110 Maintenance of subdivision retention/detention facilities.

Maintenance of all subdivision retention/detention facilities shall remain the responsibility of the person required to construct the retention/detention facilities until all the conditions of this section have been met.

EXCEPTION: A retention/detention facility located within and servicing only an individual lot shall not be accepted by the county for maintenance and will remain the responsibility of persons holding title to the property within which the facility is located.

Only after all of the following conditions have been met shall King County assume maintenance of the subdivision retention/detention facility:

A.All of the requirements of Section 9.04.100 have been fully met;

B.All necessary easements or tracts entitling the county to properly maintain the retention/detention facility have been conveyed to the county and boundary survey stakes established.

C.The department has conducted an inspection and determined that the facility has been properly maintained and is operating as designed. This department inspection shall occur two years after posting of the defect and maintenance bond. (Ord. 9163 § 10, 1989: Ord. 8589 § 1, 1988: Ord. 7817 § 2, 1986: Ord. 5824 § 5, 1982: Ord. 4938 § 9, 1980: Ord. 2812 § 7, 1976: Ord. 2281 § 8, 1975).

9.04.120 Maintenance of multifamily/commercial facilities. A. Any person or persons holding title to the property for which a facility was required shall be responsible for the continual operation and maintenance of the facility in accordance with standards and requirements of the department. Prior to the issuance of any of the permits and/or approvals listed in Section 9.04.030 the person or persons holding title to the subject property for which

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a retention/detention facility was required shall record the declaration of covenant set forth in Appendix A to Ordinance 4938.* The restrictions set forth in such covenant shall include, but not be limited to, provisions for notice to the persons holding title to the property of a King County determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed. In the event that the titleholders do not effect such maintenance and/or repairs, King County may perform such work upon due notice. The titleholders are required to reimburse King County for any such work. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the King County records division.

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

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

D.The duties specified in this section with regard to payment of inspection fees and reimbursement of maintenance costs shall be enforced against the person or persons holding title to the property for which the retention/detention facility was required. (Ord. 9006 § 1, 1989: Ord. 7990 § 7, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 9, 1982: Ord. 4938 § 10, 1980).

9.04.125 DECLARATION OF COVENANT. APPENDIX A attached to Ordinance 4938, K.C.C. 9.04.120 relating to surface water management covenants for multifamily and commercial development is hereby repealed and the following substituted: DECLARATION OF COVENANT ASSOCIATED WITH MULTI-FAMILY/ COMMERCIAL RETENTION/DETENTION FACILITY

Declaration of Covenant

"In consideration of the approval of King County of a permit for application No. _____ relating to real property legally described as follows:

The undersigned as owner(s) covenants and agrees that:

1.All necessary easements will be dedicated to King County for access to inspect, maintain or repair the facilities in conformity with King County Code Section 9.04.120.

2.If King County determines that maintenance or repair work is required to be done to the retention/detention facility existing on the above-described property, the director of the department of public works shall give the person to whom the permit was issued pursuant to K.C.C. 9.04.030, the

*Ord. 9006, Section 2, repealed Appendix A of Ordinance 4938 and substituted a new Covenant. See K.C.C. 9.04.125.

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owner of the property within which the drainage facility is located, the person responsible for maintenance of the facility, or other person or agent in control of said property notice of the specific maintenance and/or repair required. The director of the department of public works shall set a

reasonable time in which such work is to be completed by the titleholders who were given notice. If the above required maintenance and/or repair is not completed within the time set by the director, the county may perform the required maintenance and/or repair. Written notice will be sent to the titleholders stating the county's intention to perform such maintenance. Maintenance work will not commence until at least seven days after such notice is mailed.

3.If at any time King County reasonably determines that any existing retention/detention system creates any of the conditions listed in K.C.C. 9.04.130 and herein incorporated by reference, the director may take measures specified therein.

4.The titleholders shall assume all responsibility for the cost of any maintenance and for repairs to the retention/detention facility. Such responsibility shall include reimbursement to the county within 30 days of the receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments. If legal action ensues, any costs or fees incurred by the county will be borne by the parties responsible for said reimbursements.

This covenant benefits all citizens of King County, touches and concerns the land and shall run with the land and be binding on all heirs, successors and assigns.

These covenants are intended to protect the value and desirability of the real property described above, and to benefit all the citizens of King County. They shall run with the land and be binding on all parties having or acquiring from or their successors any right, title or interest in the property or any part thereof, as well as their heirs, successors and assigns. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all the citizens of King County.

Owner

Owner

STATE OF WASHINGTON)
COUNTY OF KING)ss

On this day personally appeared before me

, to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein stated.

Given under my hand and official seal this _____ day of _____, 19 _____.

NOTARY PUBLIC In and for the State of Washington, residing at _____

(Ord. 9006 § 2, 1989).

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9.04.130 Hazards. Whenever the director or manager determines that any existing construction site, erosion/sedimentation problem and/or drainage facility poses a hazard to life and limb, endangers any property, and/or adversely affects the condition or capacity of other drainage facilities, the safety and operation of county right of way, utilities, and/or other property owned or maintained by the county, the person to whom the permit was issued pursuant to K.C.C. 9.04.030, the owner of the property within which the drainage facility is located, the person responsible for maintenance of the facility, and/or other person or agent in control of said property, upon

receipt of notice in writing from the director or manager shall within the period specified therein repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this chapter. Should the director or manager have reasonable cause to believe that the situation is so adverse as to preclude written notice, he may take the measures necessary to eliminate the hazardous situation; provided, that he shall first make a reasonable effort to locate the owner before acting. In such instances the person of whom a drainage plan was required pursuant to K.C.C. 9.04.030, the owner of the property and/or the person responsible for the maintenance of the facility shall be obligated for the payment of all costs incurred. If costs are incurred and a bond pursuant to this chapter or other county requirement has been posted, the director or manager shall have the authority to collect against the bond to cover costs incurred. (Ord. 9163 § 11, 1989: Ord. 7817 § 2, 1986: Ord. 5824 § 11, 1982: Ord. 4938 § 11, 1980).

9.04.140 Administration. The director is authorized to promulgate and adopt administrative rules and regulations under the procedures specified in K.C.C. 2.98, for the purpose of implementing and enforcing the provisions of this chapter. Said rules and regulations are available to the public in the Surface Water Design Manual and/or at the division permit center. The manager is authorized to develop procedures for applying adopted rules and regulations during the review of permit applications for the development of land. Said procedures may also be contained in the Surface Water Design Manual.

A.INSPECTIONS. The director or manager is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

B.RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director or manager has reasonable cause to believe that violations of this chapter are present or operating on a subject property or portion thereof, the director or manager may enter such premises at all reasonable times to inspect the same or perform any duty imposed upon the director or manager by this chapter; provided that, if such premises or portion thereof is occupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the premises or portion thereof and demand entry.

C.ACCESS. Proper ingress and egress shall be provided to the director or manager to inspect or perform any duty imposed upon the director or manager by this chapter. The director or manager shall notify the responsible party in writing of failure to comply with the said access requirement. Failing to obtain a response within seven days from the receipt of notification the director or manager may order the work required completed or otherwise address the cause of improper access. The obligation for the payment of all costs

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that may be incurred or expended by the county in causing such work to be done shall thereby be imposed on the person holding title to the subject property. (Ord. 9163 § 12, 1989: Ord. 7990 § 8, 1987: Ord. 7817 § 2, 1986: Ord. 5824 § 10, 1982: Ord. 4938 § 12, 1980).

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

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

A. All necessary easements or dedications entitling the county to properly maintain the retention/detention facility have been conveyed to the county;
B. The director has determined maintenance of the facility will contribute to protecting or improving the health, safety, and welfare of the community based upon review of the following factors:

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

C. The director, by his signature, has declared acceptance of maintenance responsibility by the county. Copies of this document will be kept on file in the King County public works record center and the surface water management facilities maintenance office.

A retention/detention facility which does not meet the criteria of this section shall remain the responsibility of the persons required to construct the facility and persons holding title to the property for which the facility was required. (Ord. 9163 § 14, 1989: Ord. 8589 § 2, 1988).

9.04.170 Applicability to governmental entities. All municipal corporations and governmental entities shall be required to submit a drainage plan and comply with the terms of this chapter when developing and/or improving land including, but not limited to, road building and widening, with the exception of drainage projects involving the surface water management division of the King County department of public works. (Ord. 9163 § 15, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 9, 1976: Ord. 2281 § 10, 1975).

9.04.180 Enforcement. The director or manager is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and

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any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of Title 23. (Ord. 7990 § 9, 1987: Ord. 7817 § 2, 1986: Ord. 2909 § 3(part), 1976: Ord. 2281 (part), 1975).

9.04.190 Effective date. The effective date of Ordinance 9163 shall be January 1, 1990. The requirements of this chapter shall apply to all development permit and approval applications submitted to the division on or after the effective date of Ordinance 9163. For the purposes of this chapter, development permit and approval applications submitted to the division prior to the effective date of Ordinance 9163 and determined by the division to be valid and fully complete shall be subject to the provisions of K.C.C. 9.04 and all applicable public rules and/or regulations as they existed on the date of acceptance as date-stamped on the application by the division.

A. For the purposes of this chapter, a valid and fully complete development permit or approval application must include:

1. An application form with all sections filled in;
2. Copies of all existing easements, deed restrictions, or other encumbrances restricting the use of the subject property;
3. A completed environmental checklist if required by K.C.C. 20.44, King County Environmental Procedures;
4. Record of payment for any application fees specified in K.C.C. Title 27,

Development Permit Fees;

5.Documentation of compliance with the application requirements in Chapter Two of the Surface Water Design Manual;

6.Completed applications for other required permits or approvals if they are to be processed with the development applications, or copies of issued permits or applications if they have been previously approved; and

7.Any other documents or information required in the King County Code or adopted Public Rules for the specific permit or approval which is the subject of the development application.

B.Determination if an application is valid and fully complete or not will be made by the division manager or the manager's designee.

C.For the purposes of this chapter, the date that an application is valid and fully complete shall be determined according to the following specifications:

1.If the application is determined by the division to be valid and fully complete, the date that the application was submitted and date-stamped at the division permit center shall be the date of the application being valid and fully complete.

2.If the application is determined to be invalid and/or incomplete by the division, and the information requested by the division to resolve the application's invalid or incomplete status is determined by the division to be valid and fully complete, then the date of the application being valid and fully complete shall be the date the last piece of requested information is submitted and date-stamped at the division permit center.

3.If the applicant does not submit responses to a request from the division for additional information within ninety days, the application shall be deemed withdrawn by the applicant and no valid and fully complete application rights shall exist.

D.Although the division shall determine the validity and completeness of an application for purposes of establishing a valid and fully complete application date, during the actual review of the application, the division

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may require submittal of additional information. (Ord. 9163 § 16, 1989: Ord. 7817 § 2, 1986: Ord. 4938 § 15, 1980: Ord. 2812 § 10, 1976: Ord. 2281 § 11, 1975).

9.04.192 Liberal construction. This chapter is exempted from the rule of strict construction and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. (Ord. 9163 § 17, 1989).

9.04.194 Implementation, review, and revision. The department shall promote the development of a training program for users of the new Surface Water Design Manual. The department shall also conduct an on-going research program to evaluate the effectiveness of the requirements in meeting the purpose of this chapter. This research program will examine, but not be limited to, hydrologic and hydraulic analysis methods, stream geomorphologic analysis methods, water quality, best management practices, and erosion/sedimentation control measures. (Ord. 9163 §§ 18-19, 1989).

9.04.200 Severability. If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Ord. 9163 § 20, 1989: Ord. 7817 § 2, 1986: Ord. 2812 § 11, 1976: Ord. 2281 § 12, 1975).