

ORDINANCE NO. 198-1996

AN ORDINANCE adopting development standards relating to stormwater management, to land clearing, and to grading, and repealing Kitsap County Ordinance Number 117 and Kitsap County Ordinance Number 148-1992, and amending Kitsap County Ordinance Number 175-1995.

WHEREAS, an expanding population and increased development of land, coupled with inadequate drainage controls, can lead to problems related to land clearing, grading and stormwater runoff impacts; and

WHEREAS, these problems contribute to increased sedimentation in ponds, creeks, and streams, and to water quality and fisheries habitat degradation, through excessive discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances to surface and groundwater; and

WHEREAS, inadequate surface and subsurface drainage planning and practice can lead to erosion and property damage, and risk to life; and

WHEREAS, excess water runoff on streets and highways poses a safety hazard to both lives and property; and

WHEREAS, future problems could be reduced if land developments, both public and private, provide for adequate drainage of property, and adequate grading of slopes; and

WHEREAS, a legal mechanism to enforce the provisions of adequate drainage facilities and adequate grading and land clearing practices in the development and use of property is necessary to ensure compliance with adopted standards; and

WHEREAS, RCW 90.54.090 charges the state, local governments, and municipal and public corporations with carrying out the powers vested in them in manners which are consistent with the goals and provisions of the Clean Water Act, the Water Resources Act of 1971, and the Growth Management Act; and

WHEREAS, the Puget Sound Water Quality Plan requires that municipalities in the Puget Sound Basin adopt stormwater management ordinances that are substantially equivalent to the "Stormwater Management Manual for the Puget Sound Basin" adopted by the Washington State Department of Ecology.

BE IT ORDAINED BY THE KITSAP COUNTY BOARD OF COMMISSIONERS:

**KITSAP COUNTY
STORMWATER MANAGEMENT ORDINANCE**

<u>Sections:</u>	<u>Page</u>
1.0 GENERAL PROVISIONS	2 of 45
2.0 DEFINITIONS	5 of 45
3.0 PERMITS	13 of 45
4.0 COVENANTS, SURETIES, AND LIABILITY INSURANCE	17 of 45
5.0 EROSION AND SEDIMENT CONTROL	19 of 45
6.0 GRADING	23 of 45
7.0 STORMWATER MANAGEMENT	26 of 45
8.0 OPERATION AND MAINTENANCE	35 of 45
9.0 CRITICAL DRAINAGE AREAS	37 of 45
10.0 WATER QUALITY	39 of 45
11.0 ENFORCEMENT	40 of 45

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SECTION 1.0 GENERAL PROVISIONS

1.10. Declaration of Title

This ordinance shall be known as the "Stormwater Management Ordinance."

1.20. Stormwater Management Standards and Specifications

The Kitsap County Board of Commissioners recognizes that stormwater control technology is a developing and evolving science. In order to ensure that the latest and best technology is utilized in Kitsap County, Exhibit "A" attached hereto and incorporated herein by this reference is hereby adopted as the "Kitsap County Stormwater Design Manual." All references to this ordinance shall include the Kitsap County Stormwater Design Manual. The Director may amend the Kitsap County Stormwater Design Manual, with the approval of the Kitsap County Board

of Commissioners, as necessary to reflect changing conditions and technology. All requirements contained in the Kitsap County Stormwater Design Manual, together with any amendments thereto, must be complied with as provided in Section 1.40 (Applicability).

1.21. Technical Deviations

The Director may grant minor technical deviations from requirements contained in the Kitsap County Stormwater Design Manual, provided that all of the following criteria are met:

- (1) the technical deviation will not otherwise result in non-compliance with this ordinance;
- (2) the granting of the technical deviation will not result in non-compliance with the development conditions imposed upon the project by the Board of Commissioners;
- (3) the granting of the technical deviation will produce a compensating or comparable result which is in the public interest;
- (4) the granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

1.22. Variances

The Kitsap County Board of Commissioners may, following a public hearing, grant a variance from the provisions of this ordinance, provided that all of the following criteria are met:

- (1) the granting of the variance will produce a compensating or comparable result which is in the public interest;
- (2) the granting of the variance will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

1.23. Water Quality

For circumstances or conditions related to water quality which are not specifically addressed within the scope of this ordinance, the preferred method for selection, design, and implementation of stormwater management practices shall be the most current edition of the Washington State Department of Ecology publication "Stormwater Management Manual for the Puget Sound Basin", or a subsequent manual adopted by WSDOE.

1.40. Applicability

The provisions of this ordinance shall apply to all site development activities requiring land use permits and approvals as defined in Section 2.0 herein, both public and private, within the bounds of unincorporated Kitsap County. The provisions of Section 8.0 (Operation and Maintenance) shall also apply to existing stormwater facilities in unincorporated Kitsap County. The provisions of Section 10.0 (Water Quality) shall apply to all situations and circumstances throughout unincorporated Kitsap County. No site development activities requiring land use permits and approvals shall be initiated prior to issuance of a Site Development Activity Permit.

1.45. Applicability of Other Ordinances & Permits

Any land development which is required by operation of any Kitsap County ordinance, State law or Federal law to construct, install or modify any natural or manmade drainage features within, abutting, or serving the development shall do so in accordance with this ordinance. However, where the provisions of this ordinance directly conflict with any other Kitsap County ordinance, State law or Federal law, or comprehensive drainage plan, the more stringent provisions shall apply to the extent permissible by law.

Approval of any land development activity by Kitsap County does not constitute approval of other applicable permits that may be required by other agencies. Examples of additional permits that may be required include construction and industrial discharge permits administered by the State Department of Ecology under the National Pollutant Discharge Elimination System (NPDES) program, and Hydraulic Project Approval (HPA) by the Department of Fish and Wildlife.

1.46. Administration

The Director, or an assignee, shall administer this ordinance. The Director shall have the authority to develop and implement procedures to administer and enforce this ordinance.

1.50. Severability

If any provision of this ordinance or its application to any person or property is held invalid, the remainder of the ordinance or the application of the provision to other persons or property shall not be affected.

1.60. Appeals

An aggrieved party may appeal any administrative interpretation or departmental ruling related to this ordinance to the Kitsap County Board of Commissioners.

1.70. Effective Date

This ordinance codified in this title shall become effective on April 1, 1997.

1.80. Repeal of Ordinance 117

Kitsap County Drainage Ordinance Number 117 is repealed as of the effective date of this ordinance.

1.81. Repeal of Ordinance 148-1992

Kitsap County Interim Ordinance for the Control of Erosion and Sedimentation on Construction Sites, Ordinance Number 148-1992, is repealed as of the effective date of this ordinance.

1.85. Amendment of Ordinance 175-1995

Section 3 (a) of Kitsap County Ordinance Number 175-1995 is hereby amended to read as follows:

- "a. International Conference of Building Officials, Uniform Building Code (1991 Ed.) together with those Appendices in Chapter 11, 12 DIV II, and 49."

SECTION 2.0 DEFINITIONS

2.10. The following definitions of terms shall apply to this ordinance:

Accepted Performance of Construction shall mean the written acknowledgment from the Director of the satisfactory completion of all work accepted by Kitsap County, including all work shown on the accepted plans, accepted revisions to the plans, and accepted field changes.

Applicant shall mean the person, party, firm, corporation, or other legal entity that proposes to engage in site development activities in unincorporated Kitsap County by submitting an application for any of the activities covered by this ordinance on a form furnished by the County and paying the required application fees.

Basin Plan shall mean a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and stormwater quality and quantity management facilities and drainage features within individual sub-basins.

Beneficial Use shall mean any activity that allows the owner to gain the use intended by the development activity, as so stated by the Applicant at the time of application for a Kitsap County Site Development Activity Permit.

Best Management Practices (BMP) shall mean physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Kitsap County as accepted BMPs.

Biofiltration/Biofilter Facilities shall mean vegetative BMPs which treat stormwater by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.

Board shall mean the Kitsap County Board of Commissioners or their assigns.

Bond shall mean a financial guarantee, in the form of a surety bond, assignment of funds, or irrevocable bank letter of credit, that shall guarantee compliance with applicable provisions of this ordinance.

Clearing or land clearing shall mean the surface removal of vegetation.

Closed Depressions shall mean low-lying areas which have no surface outlet, or such a limited surface outlet that in most storm events the area acts as a retention basin, holding water for infiltration, evaporation or transpiration.

Comprehensive Drainage Plan shall mean a detailed analysis, adopted by the Board, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location and extent of stormwater quantity and quality control measures which would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.

Contiguous Land shall mean land adjoining and touching other land regardless of whether or not portions of the parcels have separate Assessor's tax numbers or were purchased at different times, lie in different Sections, are in different government lots, or are separated from each other by private road or private rights-of-way.

County shall mean Kitsap County.

Critical Drainage Area shall refer to those areas designated in Section 9.0 (Critical Drainage Areas) which have a high potential for stormwater quantity or quality problems.

Design Storm Event shall mean a theoretical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

Detention Facilities shall mean stormwater facilities designed to store runoff while gradually releasing it at a pre-determined controlled rate. "Detention facilities" shall include all appurtenances associated with their designed function, maintenance and security.

Developed Site shall mean the condition of the development site following completion of construction of the development including all approved phases of construction.

Director shall refer to the Director of the Kitsap County Department of Public Works or assigns.

Diversion shall mean the routing of stormwater to other than its natural discharge location.

Drainage Feature shall mean any natural or manmade structure, facility, conveyance or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate or affect the flow rate of stormwater runoff.

Drainage Plan shall mean a plan for the collection, transport, treatment and discharge of runoff, and may include both the plan and profile views of the site as well as construction details and notes.

Easement shall mean an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

Erosion Control Design Storm shall mean the 2-year frequency, 24-hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

Existing Stormwater Facilities shall mean those facilities constructed or under permitted construction prior to the effective date of this ordinance.

Forested Land shall mean "forested land" as defined in RCW 76.09.020, and shall include all land which is capable of supporting a merchantable stand of timber and that is being actively used in a manner compatible with timber growing.

Geotechnical Engineer shall mean a practicing professional engineer licensed in the State of Washington who has at least four years of professional experience in geotechnical and landslide evaluation.

Geotechnical Report shall mean a study of the effects of drainage and drainage facilities on soil characteristics, geology and groundwater. The geotechnical analysis shall be prepared by a geotechnical engineer.

Grading shall mean any excavating, filling or embanking of earth materials.

Grubbing shall mean the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris, and shall include the incidental removal of topsoil to a depth not exceeding 12 inches.

Hydrograph shall mean a graph of runoff rate, inflow rate or discharge rate, past a specific point over time.

Hydrograph Method shall mean a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the Soil Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

Illicit Discharge shall mean all non-stormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to, sanitary sewer connections, industrial process water, interior floor drains, and greywater systems.

Impervious Surface shall mean 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, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

Land Disturbing Activity shall mean any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading and grubbing.

Land Use Permits and Approvals shall mean any use or development of land that requires Kitsap County action in legislation, administration or approval, including but not limited to, the following:

- (1) Preliminary plat subdivision
- (2) Final plat subdivision
- (3) Planned unit development (P.U.D.), including residential and commercial
- (4) Site plan review
- (5) Conditional use permit (C.U.P.)
- (6) Zoning variance
- (7) Short plat subdivision
- (8) Large lot subdivision
- (9) Grading Permit
- (10) Shoreline substantial development permit
- (11) Shoreline conditional use permit
- (12) S.E.P.A. and E.I.S. reviews
- (13) Binding Site Plan
- (14) Building Permit

Maintenance shall mean any activity which is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property which may directly impair the functions of the stormwater facilities.

Maintenance Covenant shall mean a binding agreement between Kitsap County and the person or persons holding title to a property served by a stormwater facility whereby the property owner promises to maintain certain stormwater facilities; grants Kitsap County the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the stormwater control facilities when such repairs or maintenance have not been performed by the property owner; and promises to reimburse Kitsap County for the cost should the County perform such repairs or maintenance.

Maintenance Schedule shall mean a document detailing required stormwater facility maintenance activities to be performed at specified intervals.

Major Development shall mean any new development or any redevelopment activity that (1) includes the creation or cumulative addition of 5,000 square feet or greater of impervious surface area from the pre-development conditions, or (2) includes land disturbing activity of one acre or greater, or (3) includes grading involving the movement of 5,000 cubic yards or more of material.

Manual shall mean Exhibit A of this ordinance entitled the "Kitsap County Stormwater Design Manual."

Minor Development shall mean any new development or redevelopment activity that (1) includes the creation or addition of less than 5,000 square feet of new impervious surface area, and (2) includes land disturbing activity of less than one acre, and (3) includes grading involving the movement of less than 5,000 cubic yards of material.

Non-forestry Use shall mean an active use of land which is incompatible with timber growing.

Off-site Drainage Analysis shall mean a study of those land areas contributing surface runoff to a development site as well as a study of the existing and predicted impacts of surface runoff from the development site on properties and drainage features that have the potential to receive stormwater from the development site.

Oil/Water Separator shall mean a structure or device used to remove suspended, floating or dispersed oil and greasy solids from water.

Operation and Maintenance Manual shall mean a written manual, prepared by a qualified civil engineer, that provides a description of operation and maintenance procedures for specific stormwater control facilities, for use by operation and maintenance personnel.

Owner shall mean any person or persons having a legal or equitable property right or interest, whether or not said right is legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust or deed of trust.

Pollution shall mean contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful.

Pre-development Conditions shall mean site conditions as they existed prior to manmade alterations other than those alterations that have been made with a prior Kitsap County approved storm drainage plan, or alterations that existed prior to September 21, 1987, which was the effective date of Ordinance #117.

Professional Engineer shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as attested by his or her legal registration as a professional engineer in the State of Washington.

Project Engineer shall mean the professional engineer responsible for the design of the project, who will affix his/her seal on the project drainage plans and drainage analysis. The project engineer shall be licensed in the state of Washington and qualified by experience or examination.

Redevelopment shall mean any land disturbing activity occurring on existing developed property.

Retention Facilities shall mean drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance and security.

SEPA shall mean the Washington State Environmental Policy Act.

Shorelines of the State shall mean the total of all "shorelines" and "shorelines of state-wide significance" within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act.

Site Development Activity shall mean the alteration of topography, clearing, paving, grading, construction, alteration of stormwater systems, site preparation, or other activity commonly associated with site development. Site development includes those activities listed in the definition of Land Use Permits and Approvals.

Site Development Activity Permit Plan shall mean all documents submitted as part of a Site Development Activity Permit application, including but not limited to, drainage plans, grading plans, erosion and sedimentation control plans, hydrological analyses, geotechnical reports, soils investigation reports, and design analyses related to a land development project.

Soils Investigation Report shall mean a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

Soils Engineer shall mean a practicing engineer licensed as a professional engineer in the State of Washington who has at least four years of professional employment as an engineer dealing with soil descriptions and characterizations.

Source Control BMP shall mean a Best Management Practice (BMP) that is intended to prevent pollutants from entering stormwater. Examples include erosion control practices, maintenance of stormwater facilities, constructing roofs

over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

Stabilized shall mean the application of BMPs sufficient to protect soil from the erosive forces of raindrop impact and flowing water. Examples include, but are not limited to, vegetative establishment, mulching, plastic covering, the early application of gravel base, and outlet and channel protection.

Stormwater shall mean the surface water runoff that results from all natural forms of precipitation.

Stormwater Facility shall mean a component of a manmade drainage feature, or features, designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities shall not include building gutters, downspouts and drains serving one single-family residence.

Stormwater Quality Control shall mean the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wetponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

Stormwater Quantity Control shall mean the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.

Technical Deviation shall mean permission granted by the Director to deviate from the provisions of the Manual.

Variance shall mean permission granted by the Kitsap County Board of Commissioners to deviate from the provisions of this ordinance.

Water Quality Design Storm Event The water quality design storm, used for the design of water quality treatment facilities, shall be the 6-month, 24-hour storm event. In that the precipitation data from isopluvial maps is not available for the 6-month, 24-hour storm event, the design engineer can use 64% of the 2-year, 24-hour precipitation as equivalent to the 6-month, 24-hour precipitation.

Water Quality Sensitive Area Areas that are sensitive to a change in water quality, including but not limited to, lakes, ground water management areas, ground water special protection areas, sole source aquifers, critical aquifer

recharge areas, well head protection areas, closed depressions, fish spawning and rearing habitat, wildlife habitat, and shellfish protection areas.

Wetland shall mean those areas of Kitsap County that are defined by separate ordinance, regulation or statute as wetlands.

SECTION 3.0 PERMITS

3.10. **Review By Department of Public Works**

Proposed site development activities shall be reviewed by the Kitsap County Department of Public Works to determine the permits required.

3.15. **Expiration of Existing Construction Plan Approval**

Any construction plans previously approved by Kitsap County shall expire six (6) months after the effective date of this ordinance. The Director may extend the expiration date if the project is under construction and progressing satisfactorily towards final completion.

3.20. **Site Development Activity Permits Required**

A Site Development Activity Permit, issued by the Kitsap County Department of Public Works, shall be required for any of the following activities:

- (1) Site development or redevelopment activities that meet the definition of a major development.
- (2) Site development or redevelopment activities that require connection to a public storm drainage system.
- (3) Grading activities that result in the movement of 150 cubic yards or more of earth.
- (4) Grading activities that will result in a temporary or permanent slope having a steepness exceeding 3 to 1 (3 feet horizontal to 1 foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding 5 feet.
- (5) Grading activities that include the construction of embankment berms which will result in the impoundment of water to a depth exceeding 18 inches and/or with a maximum volume exceeding 2500 cubic feet of water.

- (6) Grading activities that will result in the diversion of existing drainage courses, both natural and man-made, from their natural point of entry or exit from the grading site.
- (7) Any land clearing or grading on slopes steeper than 30%, or within the mandatory setback of a wetland, stream, lake, Puget Sound, as established by separate ordinance or by the Kitsap County Department of Community Development.

No site development activity, including land clearing, grading or other construction activity as described in this ordinance, shall occur until a Site Development Activity Permit has been issued, nor shall said site development activity continue without a Site Development Activity Permit in force.

3.21. Exemptions

Commercial agriculture and forest practices regulated under Title 222 WAC are exempt from the provisions of Section 3.0.

Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, shall be exempt from the provisions of Section 3.0.

Road Construction activities undertaken by Kitsap County Road Department shall be exempt from the administrative requirements of this ordinance, but shall comply fully with the technical requirements contained herein.

Grading activities described in Section 6.20 are exempt from the provisions of Section 3.0.

Residential lots 2.5 acres or larger shall be exempt from the provisions of Section 7.20 and 7.35 unless otherwise determined by the Director. Cases where the exemption does not apply includes, but is not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where the cumulative impacts of development warrant. Site development activities taking place on individual lots of 2.5 acres or larger, which meet the definition of a Major Development, are not exempt from the requirements of Section 7.0. Proposed access roadways serving residential lots larger than 2.5 acres which meet the definition of a Major Development, are not exempt from the requirements of Section 7.0.

3.22. Permit Requirements

The Director shall establish requirements for the issuance of Site Development Activity Permits, subject to the following criteria:

- (1) All site development activities shall comply with the standards, specifications and requirements contained in the Stormwater Design Manual.
- (2) The Director shall establish fees for Site Development Activity Permits. Site Development Activity Permit fees shall include fees for the review of permit applications and documents and for inspections during construction. Site Development Activity Permit fees, including permit application fees, shall be detailed in the Kitsap County Site Development Activity Fee Schedule.
- (3) A Site Development Activity Permit shall, at the time of its issuance, specify a maximum expiration date, not to exceed 3 years from the date of issuance. A Site Development Activity Permit shall expire upon approved completion of construction, or upon the specified maximum expiration date, whichever comes first. In the event that a Site Development Activity Permit expires prior to the completion of construction, all construction activity must cease, a new Site Development Activity Permit application must be submitted, and the issuance of a new Site Development Activity Permit shall be, at the discretion of the Director, subject to Kitsap County site development standards in force at the time of the new permit application.
- (4) Approved Site Development Activity Permit placards shall be prominently displayed on construction sites at all times until the completion of all permitted site development activities.

3.23. When A Professional Engineer Is Required

Unless otherwise required by Sections 5 or 6 of this ordinance, Site Development Activity Permit applications shall require the submittal of documents prepared by a qualified Professional Engineer when one of the following conditions exists:

- (1) Any land use or building or development on real property which meets the definition of a major development, OR;
- (2) Any improvements within the boundaries of Kitsap County rights-of-way for which Kitsap County will ultimately assume responsibility for maintenance, OR;
- (3) Any site development activity that the Director deems to be in the public's best interest to require that certain Site Development Activity Permit application submittal documents be prepared by a Professional Civil Engineer.

3.24. Off-site Analysis

All Site Development Activity Permit applications which meet any of the criteria listed in Section 3.23 of this ordinance shall include, along with other required submittal documents, an off-site drainage analysis as described in Section 7.20 (6) and Section 7.35 (6), prepared by a qualified Professional Engineer and based on a field investigation of the development's off-site contributing and receiving drainage areas.

3.25. Geotechnical Analysis

All Site Development Activity Permit applications for development activities where grading or the construction of retention facilities, detention facilities, or other stormwater facilities is proposed within 200 feet of slopes steeper than thirty percent (30%), or where the Director deems that the proposed construction poses a potential hazard due to its proximity to a slope, shall, when required by the Director, include a geotechnical analysis, prepared by a qualified engineer. Said geotechnical analysis shall address the effects of groundwater interception and infiltration, seepage, potential slip planes, and changes in soil bearing strength.

3.26. Soils Analysis

All Site Development Activity Permit applications which meet any of the criteria listed in Section 3.23 of this ordinance, where the soils underlying the proposed project have not been mapped, or where existing soils maps of the project site are inconsistent, or where the Director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis, shall include a soils investigation report.

3.30. Permit Modifications

Proposed modifications to an approved Site Development Activity Permit must be submitted to the Department of Public Works and be reviewed for compliance with this ordinance. Substantial proposed modifications, as determined by the Director, shall require additional review fees and shall require re-issuance of the required permit. Minor proposed modifications may be accepted by the Director without requiring the re-issuance of the accepted permit or the payment of additional review fees.

3.40. Erosion and Sedimentation Control

All final drainage, grading, clearing or other site development plans requiring acceptance from the Kitsap County Department of Public Works shall include a plan for the control of erosion and sedimentation as required in Section 5.10 and Section 5.20, for the period beginning with the commencement of site

development activity and continuing without interruption until permanent site stabilization is achieved.

No clearing, grubbing, grading or other construction activity may take place on a project site until an erosion and sedimentation control plan has been approved by the Department of Public Works.

SECTION 4.0 COVENANTS, SURETIES, AND LIABILITY INSURANCE

4.10. Site Stabilization

Prior to the issuance of a Site Development Activity Permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a Certificate of Commercial Liability Insurance.

This performance requirement for stabilization and erosion control should not be confused with the performance bond accepted at the time of final plat recording as a surety for construction items not yet completed. When a performance bond is accepted for a final plat in lieu of construction completion, the surety or covenant for stabilization and erosion control will be released, and the new performance bond shall cover site stabilization and erosion control along with the other incomplete construction items.

4.11. Performance Covenant for Site Stabilization

For project sites with less than 5 acres of land disturbing activity, a Performance Covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the Site Development Activity Permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the Stormwater Management Ordinance. This Covenant shall be recorded with the Kitsap County Auditor and shall run with the land until such a time as Kitsap County issues final acceptance of the permitted activities, or until a separate performance bond is posted prior to final plat approval. Upon issuance of final project approval, the Department of Public Works will record a document that extinguishes the Performance Covenant.

If the site work is determined by the Director to be in violation of the Stormwater Management Ordinance, the County may enforce the Performance Covenant to provide temporary and permanent site stabilization. In this case, the project proponent will be charged for all associated costs and, if required, a lien will be placed on the property

4.12. Performance Surety for Site Stabilization

The term "Bond" as defined in the ordinance shall mean a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with 5 or more acres of land disturbing activity, a Performance Bond shall be posted prior to issuance of a Site Development Activity Permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the ordinance. The amount of the Performance Bond shall be as follows:

- o One hundred fifty percent (150%) of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with the ordinance. A cost estimate shall be submitted by the project engineer subject to the approval of the Director. The minimum amount of the "Bond" shall be five thousand dollars (\$5000.00).

(OR)

- o One thousand dollars (\$1000.00) per acre of land disturbing activity. No engineer's estimate is required.

If the site work is determined by the Director to be in violation of the Stormwater Management ordinance, the County may use the Performance Bond to provide temporary and permanent site stabilization.

All Performance Bonds shall run continuously until released by the County, and shall not be subject to an expiration or cancellation date.

4.20. Performance Bond for Uncompleted Site Improvements

For single family residential developments, a Performance Bond shall be provided prior to the final recording of the plat/PUD, guaranteeing completion of all site improvements not yet completed. The amount of the Performance Bond shall be one-hundred fifty percent (150%) of the estimated cost of said improvements. The estimated cost of the construction shall be determined by a professional engineer subject to the approval of the Director.

All Performance Bonds shall run continuously until released by the County, and shall not be subject to an expiration or cancellation date.

4.30. Commercial Liability Insurance

The owner of any project must provide a Certificate of Liability Insurance to the Department of Public Works prior to issuance of a Site Development Activity Permit. The liability insurance shall remain in force until final project approval is

issued by the County. The commercial liability insurance shall be in the amount of not less than one million dollars (\$1,000,000.00) combined single limit bodily injury and property damage, with a two million dollar (\$2,000,000.00) aggregate. Such insurance shall include Kitsap County, its officers and employees as additional insureds, with respect to the terms and conditions of the policy.

4.40. **Maintenance Bonds**

A maintenance bond is required for residential plats/PUD's and other projects for which maintenance of the stormwater facilities and/or roads is to ultimately be taken over by the County.

Prior to the final approval of construction and release of any performance sureties, a Maintenance Bond must be posted and maintained by the project owner for a period of two (2) years. The Maintenance Bond shall guarantee the stormwater facilities and roads constructed under permit against design defects and/or failures in workmanship, and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the County will inspect the system and, when the facility is acceptable and eighty percent (80%) of the lots in that phase have been improved, the County will take over the maintenance and operations of the system. In the event that eighty percent (80%) of the lots in a residential development have not been improved by the end of the two year maintenance period, the maintenance bond may be extended, subject to the approval of the Director, for one (1) additional year.

The amount of the Maintenance Bond shall be ten percent (10%) of the estimated construction cost of the stormwater facilities and roads requiring maintenance, or five thousand dollars (\$5000.00), whichever is greater. The construction cost of the facilities requiring maintenance shall be estimated by the Project Engineer, subject to the approval of the Director.

SECTION 5.0 EROSION AND SEDIMENT CONTROL

5.10. **Minor Developments**

All Minor Developments, as defined in this ordinance, shall be required to control erosion and sedimentation during construction, to permanently stabilize soil exposed during construction, and to comply with the Minor Development Requirements described in Section 5.11 (1) through (5).

5.11. **Minor Development Requirements**

- (1) Construction access route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with

quarry spall or crushed rock to minimize the tracking of soils and debris onto public roads.

- (2) Stabilization of denuded area. All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to, sod or other vegetation, mat covering, mulching, or application of compacted ground base material on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with the Manual. From October 1 to April 30, no soils shall remain unstabilized for more than 2 days. From May 1 to September 30, no soils shall remain unstabilized for more than 7 days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within 12-hours as site and weather conditions dictate.

- (3) Protection of adjacent properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.
- (4) Maintenance. All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function.
- (5) Other BMPs. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMPs.

5.20. Major Developments

Any new development meeting the definition of a major development, shall comply with Section 5.30. For any redevelopment project meeting the definition of a major development, those portions of the site that are being redeveloped shall comply with Section 5.30.

5.21. Erosion and Sedimentation Control Plan Required

Compliance with the erosion and sedimentation control requirements of Section 5.30 shall be demonstrated through the implementation of an approved Erosion and Sedimentation Control plan.

5.30. Major Development Erosion and Sedimentation Control Minimum Requirements

- (1) Stabilization and sediment trapping. All exposed and unworked soils, including soil stockpiles, shall be stabilized by suitable application of

BMPs which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include, but are not limited to vegetative establishment, mulching, plastic covering, and the early application of gravel base on areas to be paved. From October 1 to April 30, no soils shall remain unstabilized for more than 2 days. From May 1 to September 30, no soils shall remain unstabilized for more than 7 days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within 12-hours as site and weather conditions dictate.

- (2) Delineation of clearing and easement limits. Clearing limits, setbacks, buffers, and sensitive or critical areas such as steep slopes, wetlands and riparian corridors shall be clearly marked in the field and inspected by Kitsap County Department of Community Development prior to commencement of land clearing activities.
- (3) Protection of adjacent properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.
- (4) Timing and stabilization of sediment trapping measures. Sediment ponds and traps, perimeter dikes, sediment barriers and other BMPs intended to trap sediment on-site shall be constructed as a first step in grading. These BMPs shall be functional before additional land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be stabilized according to the timing indicated in item (1) above.
- (5) Slope Stabilization. Cut and fill slopes shall be constructed in a manner that will minimize erosion. Roughened soil surfaces are preferred to smooth surfaces. Interceptors should be constructed at the top of long, steep slopes which have significant areas above that contribute runoff. Concentrated runoff should not be allowed to flow down the face of a cut or fill slope unless contained within an adequate channel or pipe slope drain. Wherever a slope face crosses a water seepage plane, adequate drainage or other protection should be provided. In addition, slopes should be stabilized in accordance with item (1) above.
- (6) Controlling off-site erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the development site by the implementation of appropriate BMPs to minimize adverse downstream impacts.

- (7) Stabilization of temporary conveyance channels and outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a 2-year frequency, 24-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.
- (8) Storm drain inlet protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment. After proper written application, the requirement for inlet protection may be waived by the Director on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate on-site sediment control BMP, including but not limited to sediment ponds or traps, and the conveyance system will be adequately cleaned following site stabilization.
- (9) Underground utility construction. The construction of underground utility lines shall be limited, where feasible, to no more than 500 feet of open trench at any one time. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of the trench. Dewatering devices shall discharge to an appropriate sediment trap or pond, preceded by adequate energy dissipation, prior to runoff leaving the site.
- (10) Constructed access routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMPs such as a Stabilized Construction Entrance. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.
- (11) Removal of temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of temporary BMPs shall be permanently stabilized. The removal of temporary erosion and sediment control BMPs may not be required for those projects, such as single family plats, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.

- (12) Dewatering construction sites. Dewatering devices shall discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.
- (13) Control of pollutants other than sediment on construction sites. All pollutants other than sediment that occur on-site during construction shall be handled and legally disposed of in a manner that does not cause contamination of surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete by-products and construction materials.
- (14) Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the Manual. The Applicant shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.
- (15) Financial liability. A performance covenant or performance surety, shall be required for all projects to ensure compliance with the approved erosion and sediment control plan, as outlined in Section 4.0 of the Ordinance.

5.40. Erosion Control Design Storm Event

Facilities designed for the control of erosion and sedimentation shall be designed for the erosion and sedimentation control design storm event, defined as the 2-year, 24-hour duration storm.

SECTION 6.0 GRADING

6.05. Authority of the Director

The Director is the designated agent for the issuance of Site Development Activity Permits for grading, and shall have the authority to prepare regulations and set administrative procedures to carry out the purposes and intent of this Section.

6.10. Grading Plan Required

Grading projects meeting the criteria of Section 3.23 shall be required to have an approved engineered grading plan.

6.11. Abbreviated Grading Plan

Grading projects meeting the definition of a Minor Development will require an approved abbreviated grading plan in lieu of an engineered grading plan. An abbreviated grading plan is a grading plan that does not require the seal of a professional civil engineer.

6.12. Erosion and Sedimentation Control

The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in Section 5.0 of this ordinance.

6.13. Drainage

- (1) All grading activities shall conform to the requirements of this ordinance concerning stormwater management.
- (2) Where required by the Director, all discharge of runoff from the project site shall be of like quality, flow rate and velocity as that which flowed from the project site prior to the work for which the Site Development Activity Permit has been issued.
- (3) Stormwater flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

6.14. Minimum Grading Standards

This ordinance sets forth minimum standards which shall apply to grading activities as described in Section 3.20. For circumstances not specifically addressed in this ordinance or the Stormwater Design Manual, the provisions of the Uniform Building Code shall apply.

6.15. Hazards

Whenever the Director determines that an existing excavation, embankment or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use or stability of a public way, critical drainage area, or drainage channel, such conditions shall become a violation of Section 11.80 of this ordinance.

6.16. Additional Review

Permits regulating grading activities for major developments may be subject to review and recommendation of approval by the Kitsap County Department of Community Development.

6.20. Permit Exemptions

The following grading activities shall not require the issuance of a Site Development Activity Permit:

- (1) Excavation for utilities, or for wells or tunnels allowed under separate permit by other agencies.
- (2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid Building Permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than 5 feet after the completion of such a structure.
- (3) Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the Kitsap Conservation District.
- (4) Excavation for cemetery graves.
- (5) Landscape installation where fill is confined to less than one (1) foot of topsoil and land disturbing activities are limited to less than one (1) acre.
- (6) The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to R.C.W. 70.95, and regulations presently enacted or as may be amended or as specifically approved by the Bremerton-Kitsap County Health District.
- (7) Mining, quarrying, excavating, processing and/or stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, and a permit for said activity has been issued by the State of Washington or the Federal Government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land and the activities meet the minimum requirements of this ordinance.
- (8) Exploratory excavations under the direction of a qualified professional engineer.

- (9) Grading activities already approved by separate permit granted by any governing authority, provided that the activities meet the minimum requirements of this Ordinance.
- (10) Emergency sandbagging, diking, ditching, filling or similar work during or after periods of extreme weather conditions when done to protect life or property.
- (11) Maintenance activities within public rights-of-way performed by Kitsap County personnel. However, exemption from the Site Development Activity Permit does not constitute an exemption from the other requirements of this ordinance.

6.30. Changes in Site Topography

- (1) The maximum surface gradient on any artificially created slope shall be two (2) feet of horizontal run to one (1) foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the Director, it has been demonstrated by the Applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.
- (2) The Applicant shall, at all times, protect adjacent private properties and public rights-of-way or easements from damage occurring during grading operations. The Applicant shall restore public improvements damaged by his/her operations.
- (3) The Applicant shall be responsible for obtaining and coordinating all required State or Federal permits associated with the filling of wetlands or other regulated activities.

6.40. Rockeries and Retaining Structures

Any rockery or other retaining structure greater than 4 feet in height shall be permitted under a separate Building Permit issued by the Kitsap County Department of Community Development.

6.50. Maintenance

It shall be the responsibility of the Applicant to maintain all erosion control and drainage facilities in good operating condition at all times, as required in Section 5.0.

6.60. Progress of Work

All work permitted under this ordinance shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the Director, with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the project site. Site Development Activity Permits, issued for grading only, shall expire six (6) months after issuance.

6.70. Expiration of Existing Grading Permits

Any Grading Permit issued by Kitsap County and currently valid as of the effective date of this ordinance shall expire six (6) months after the effective date of this ordinance.

SECTION 7.0 STORMWATER MANAGEMENT**7.05. Redevelopment Activities**

Where redevelopment activities meet the definition of a major development, the requirements of Section 7.0 of this ordinance shall apply to that portion of the site that is being redeveloped. In addition, where one or more of the following conditions exist, the requirements of Sections 7.0 of this ordinance shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

- (1) Existing sites greater than one (1) acre in size with 50% or more impervious surface.
- (2) Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to, water bodies:
 - (i) Listed in reports required under section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses;
 - (ii) Listed under section 304 (1) (1) (A) (i), 304 (1) (1) (A) (ii), or 304 (1) (1) (B) of the Clean Water Act as not expected to meet water quality standards or water quality goals;
 - (iii) Listed in Washington State's Nonpoint Source Assessment required under section 316 (a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards.

- (3) Sites where the need for additional stormwater control measures have been identified through a basin plan, watershed ranking process, or through Growth Management Act planning.

7.10. Approved Hydrological Methods for Design

Estimation of peak stormwater runoff rates used in the design of stormwater quantity control facilities shall utilize hydrograph methods of analysis approved by the Director. The design of storage facilities that are a part of stormwater quantity control facilities shall be designed using methods approved by the Director.

7.20. Stormwater Quantity Control

The following minimum requirements for stormwater quantity control shall apply to all land developments that meet the definition of a major development:

- (1) All surface water and stormwater entering the development site in its pre-development state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and stormwater leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent downstream properties, EXCEPT, diversion which will correct an existing man-made downstream problem may be permitted by the Director. For the purposes of this ordinance, "naturally occurring location" shall mean the location of those channels, swales, and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the Director.
- (2) The post-development peak stormwater discharge rates from the development site for the 2, 10 and 100-year, 24-hour duration storm events shall at no time exceed the pre-development peak stormwater runoff rates for the same design storm events, except as expressly permitted by this ordinance. Also, where stormwater directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak stormwater discharge rate from the development site for the 2-year, 24-hour duration storm event shall not exceed fifty percent (50%) of the pre-development peak stormwater runoff rate for the same design storm event. The Director may require that runoff from a development site be controlled for additional design storm events.
- (3) Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project

will discharge runoff to an existing closed depression that has greater than 5,000 square feet of water surface area at overflow elevation, the following requirements must be met:

- a. CASE 1: The pre-development 100-year, 7-day and 24-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - b. CASE 2: The pre-development 100-year, 7-day and 24-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the pre-development runoff rates for 50% of the 2-year and 100% of the 10-year and 100-year, 24-hour duration and 100-year, 7-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by Kitsap County, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - c. CASE 3: When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the 2, 10 and 100-year, 24-hour duration, and the 100-year, 7-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01-foot for the 100-year storm events.
- (4) Land developments shall provide stormwater quantity control facilities designed to meet, as a minimum performance standard, the requirements of this Section, except in the following circumstances:
- a. The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams

discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies and streambank or shoreline erosion will not occur.

- b. The development site discharges to a regional stormwater facility approved by the Director to receive the developed site runoff.
 - c. The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the Applicant, to the satisfaction of the Director, that stormwater quantity control is not warranted.
- (5) In the event that conditions downstream from a proposed development site are determined by the Director to be exceptionally sensitive to potential stormwater discharges from the subject site, the Director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable stormwater release rates.
- (6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.
- (7) Retention facilities and open stormwater quantity control facilities shall not be located in dedicated public road rights-of-way.
- (8) Reasonable access for maintenance, as determined by the Director, shall be provided to all stormwater facilities.
- (9) As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to the Manual. Streambank erosion control BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.
- (10) Where stormwater detention is proposed to meet stormwater quantity controls, volume correction factors as outlined in the manual shall be applied to increase pond size.

7.30. Stormwater Quality Control

Water quality best management practices (BMPs) shall be used to the maximum extent practicable to control pollution in stormwater. Water quality BMPs shall be used to comply with the standards of this ordinance, including those contained in the Manual. Construction and post-development water quality BMPs shall be utilized for all major development activities. Said water quality BMPs shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in Section 7.35 (2).

7.32. Illicit Discharges

Illicit discharges, as described in Section 10.20, or illicit connections to a stormwater drainage system, as described in Section 10.21, are prohibited.

7.33. Experimental Best Management Practices

In those instances where appropriate best management practices are not in the Manual, experimental BMPs may be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Manual. Experimental BMPs must be approved by the Director. The Director may require that the performance of experimental BMPs be monitored to document their effectiveness for future use.

7.34. Incorporation Into Stormwater Quantity Control Facilities

Water quality BMPs may be incorporated into the design of stormwater quantity control facilities where appropriate.

7.35. Minimum Requirements

The following minimum requirements for stormwater quality control shall apply to all land developments that meet the definition of a major development:

- (1) Source control of pollution. Source control BMPs shall be applied to all projects to the maximum extent practicable.
- (2) Stormwater treatment BMPs. Treatment BMPs shall be sized to capture and treat developed runoff from the water quality design storm, defined as the 6-month, 24-hour duration storm event. For the purpose of this ordinance, the precipitation from a 6-month, 24 hour storm event shall be considered equivalent to 64% of the precipitation from a 2-year, 24 hour storm event. All treatment BMPs shall be selected, designed, and maintained according to the Manual.

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.

All major developments shall provide treatment of stormwater discharge utilizing wetponds and/or biofiltration BMPs. Other water quality BMPs may only be substituted subject to the granting by the Director of a technical deviation from the provisions of the Stormwater Design Manual.

- (3) Wetponds shall be required for development sites with greater than five (5) acres of new impervious surface subject to motor vehicle use, which:
- (a) discharges directly to a regional facility, receiving body of water, or closed depression without providing on-site stormwater quantity control;
 - or (b) discharges directly or indirectly to a Class 1, 2 or 3 stream, or a Class 1 or 2 wetland within 1 mile downstream of the site.

"Wetpond" shall mean a stormwater basin which is intended to maintain a permanent pool of water equal to the post-development runoff volume of the 6-month frequency, 24-hour duration design storm.

- (4) Presettling basin. All stormwater, prior to discharge to a facility designed to utilize infiltration, shall pass through an appropriate stormwater treatment BMP designed to remove suspended solids.
- (5) Water quality-sensitive areas. Where the Director determines that these Major Development minimum requirements do not provide adequate protection of water-quality sensitive areas, either on-site or within the drainage basin in which the development is located, more stringent controls shall be required to protect water quality.

An adopted and implemented basin plan may be used to develop requirements for specific water quality sensitive areas.

- (6) Downstream analysis and mitigation. All major developments shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, streambank erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.
- (7) Oil/Water separators. All stormwater from paved areas subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to discharge.

Development sites that include use, storage or maintenance of heavy equipment, and those development sites that include storage or transfer of petroleum products, shall utilize appropriately sized API or CPS-type oil/water separators.

7.40. Stormwater Conveyance Facilities

- (1) All proposed developments must provide on-site stormwater conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater runoff rate resulting from a 100-year, 24-hour duration storm event, plus any existing upstream runoff that will be conveyed through the development site.
- (2) Estimation of peak stormwater runoff rates used in the design of water conveyance facilities shall use either the Rational Method or a hydrograph method of analysis accepted by the Director.
- (3) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater discharge for the 25-year storm event. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak stormwater discharge for the 100-year storm event. Downstream improvements or additional on-site stormwater quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The Director has the authority to waive the requirement for downstream improvements.
- (4) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

7.50. Easements, Tracts and Covenants

- (1) Drainage easements shall be provided in a proposed development for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems.

Drainage easements through structures is not permitted.

- (2) Stormwater facilities that are to be maintained by Kitsap County, together with maintenance access roads to said facilities, shall be located in public

right-of-way, separate tracts dedicated to Kitsap County, or drainage easements located in designated Open Space. The exception is for stormwater conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.

- (3) All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall appear on the face of all final plats/P.U.D.'s, and shall be contained in any covenants required for a development.

7.60. Wetlands

The following requirements apply only to situations where stormwater discharges directly or indirectly into a wetland, and must be met in addition to meeting the requirements in Major Development Minimum Requirement 7.35 (2), Stormwater Treatment BMPs:

- (1) Stormwater discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting State Water Quality and Groundwater Quality Standards.
- (2) Discharges to wetlands shall maintain the hydroperiod and flows of pre-development site conditions to the extent necessary to protect the characteristic functions of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.
- (3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.
- (4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are not in conflict with designated critical areas and associated buffers, and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with the Manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.
- (5) Wetland BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.

7.70. Regional Facilities

When the Director has determined that the public would benefit by the establishment of a regional stormwater facility which would serve as an alternative to the construction of separate on-site drainage facilities, the Director may recommend to the Board that a regional stormwater facility be constructed which would serve more than one development in providing stormwater quantity and/or quality control. In the event that a regional stormwater facility is required by the Board, such a regional stormwater facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the Board to be served by the regional facility shall, at the time of issuance of a Site Development Activity Permit for a development, be required to contribute a fair share to the cost of land purchase, design and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the Applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts.

7.80. Basin Planning

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands and water quality sensitive areas. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements for stormwater quantity or quality control addressed in this ordinance, provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this ordinance in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by Kitsap County.

SECTION 8.0 OPERATION AND MAINTENANCE**8.10. Maintenance of Stormwater Facilities by Owners**

- (1) Any person or persons holding title to a non-residential property for which stormwater facilities and BMPs have been required by Kitsap County shall be responsible for the continual operation, maintenance and repair of said

stormwater facilities and BMPs in accordance with the provisions of this ordinance.

- (2) For privately maintained stormwater facilities, the maintenance requirements specified in this ordinance, including the Manual, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

8.11. Maintenance Covenant Required for Privately Maintained Drainage Facilities

- (1) Prior to the beneficial use of a development constructed under a Site Development Activity Permit, the owner shall record a Maintenance Covenant which guarantees Kitsap County that the stormwater facilities shall be properly operated, maintained and inspected. 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 Kitsap County Auditor.
- (2) The Director may require the owners of existing stormwater facilities for which Kitsap County has not previously accepted operation and maintenance responsibility, to record a Maintenance Covenant, or to request that Kitsap County accept operation and maintenance responsibility for the stormwater facilities subject to the requirements of this ordinance.
- (3) Maintenance Covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject stormwater facilities is accepted by Kitsap County.

8.12. County Acceptance of New Stormwater Facilities

The County may accept for maintenance those new residential stormwater facilities constructed under an accepted Site Development Activity Permit that meet the following conditions:

- (1) Improvements in residential plats/PUDs have been completed on at least 80% of the lots, unless waived by the Director, AND;
- (2) All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2) years, AND;
- (3) All drainage facilities reconstructed during the maintenance period have been accepted by the Director, AND;

- (4) The stormwater facility, as designed and constructed, conforms to the provisions of this ordinance, AND;
- (5) All easements and tracts required under this ordinance, entitling the County to properly operate and maintain the subject drainage facility, have been conveyed to Kitsap County and have been recorded with the Kitsap County Auditor, AND;
- (6) For non-standard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by Kitsap County.
- (7) A complete and accurate set of reproducible mylar as-built drawings have been provided to Kitsap County.

8.13. County Acceptance of Existing Stormwater Facilities

Kitsap County may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of this ordinance that meet the following conditions:

- (1) Improvements in residential plats/PUDs have been completed on at least 80% of the lots, AND;
- (2) An inspection by the Director has determined that the stormwater facilities are functioning as designed, AND;
- (3) The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director, AND;
- (4) The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than 50% of the lots served by the stormwater facilities requesting that the County maintain the stormwater facilities, AND;
- (5) All easements required under this ordinance, entitling the County to properly operate and maintain the subject stormwater facilities, have been conveyed to Kitsap County and have been recorded with the Kitsap County Auditor, AND;
- (6) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director.

8.14. County Inspections of Privately Maintained Stormwater Facilities

- (1) The Director is authorized to develop an inspection program for privately owned and maintained stormwater facilities in Kitsap County. The purpose of this inspection program shall be to determine if said stormwater facilities, conveyance structures and water quality facilities are in good working order and are properly maintained, and to ensure that stormwater quality BMPs are in place and that non-point source pollution control is being implemented.
- (2) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this ordinance has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times any and all stormwater drainage facilities within Kitsap County to determine compliance with the provisions of this ordinance.
- (3) Prior to making any inspections, the Director or his assignee shall follow the procedures delineated in Section 11.16.

8.15. Inspection Schedule

The Director is authorized to establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned and operated by Kitsap County. The party (or parties) responsible for maintenance and operation shall be identified. Critical stormwater facilities, as so deemed by the Director, may require a more frequent inspection schedule.

SECTION 9.0 CRITICAL DRAINAGE AREAS**9.10. Special Drainage Improvements**

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the Director may require drainage improvements in excess of those required in other sections of this ordinance.

9.20. Designation

The following are designated as critical drainage areas:

- (1) All lands having a slope of thirty percent (30%) or greater:
 - a. As determined by a topographic survey of the site, OR;

- b. As shown on a U.S.G.S. topographic quadrangle map, when other topographic survey information is not available, OR;
 - c. As determined by the Director based on field investigation of the site.
- (2) Geologic hazardous area and historically documented unstable slopes.
 - (3) All lands within 200 feet of the ordinary high water mark of bodies of water possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
 - (4) All lands designated critical areas in any Comprehensive Drainage Plan, or defined as critical areas by separate ordinance;
 - (5) All lands that are classified as wetlands as defined by any separate Kitsap County ordinance or policy;
 - (6) Any lands that have existing local requirements for the management of groundwater, aquifers, or sole source aquifers;
 - (7) Any lands that drain to a natural feature that is a closed depression;
 - (8) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
 - (9) Any lands that are established by law as shellfish protection areas.
 - (10) Any lands determined by the Director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

9.30. Conflicting Information

In the event of conflict between maps or other available information resources, the final determination of whether or not certain lands are critical drainage areas shall be made by the Director. In making such a final determination, the Director may use detailed site surveys and/or other topographic data which the Director may require the Applicant to furnish at the Applicant's expense.

SECTION 10.0 WATER QUALITY

10.10. Purpose

This Section implements the directive of the 1991 Puget Sound Water Quality Management Plan (Sec. EM-10. Enhanced Local Enforcement).

10.20. Illicit Discharges

Illicit discharges to stormwater drainage systems are prohibited.

10.21. Illicit Connections and Uses

The stormwater system of Kitsap County, natural and artificial, may only be used to convey stormwater runoff. Stormwater System shall mean all natural and man-made systems which function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater. Violation of this section can result in enforcement action being taken as prescribed in Section 11.0.

No person shall use this system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater. No person shall make or allow any connection to the stormwater system which could result in the discharge of polluting matter. Connections to the stormwater system from the interiors of structures are prohibited. Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and shall be eliminated.

10.22. Pollution Control Device Maintenance

Owners and operators of oil/water separators, wet ponds, bio-filtration/biofilter facilities, sediment and erosion control systems, infiltration systems and any other pollution control devices shall operate and maintain such control devices to assure that performance meets the intended level of pollutant removal. Recommended maintenance schedules for these devices are included in the Manual.

10.31. Test Procedure

In the event that water quality testing is utilized in determining whether a violation of this Section has occurred, said water quality test procedures shall be followed as described in the most recent edition of the "Code of Federal Regulations, Part 136".

10.70. Exemptions

The following discharges are exempt from the provisions of this Section:

- (1) The regulated effluent from any commercial or municipal facility holding a valid state or federal wastewater discharge permit.
- (2) Acts of God or nature not compounded by human negligence.
- (3) Properly operating on-site domestic sewage systems.
- (4) Properly applied agricultural chemicals and materials.

SECTION 11.0 ENFORCEMENT**11.10. Violations of This Ordinance**

The placement, construction, or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public storm drainage facility, or grading, which violates the provisions of this ordinance shall be and the same hereby is declared to be unlawful and a public nuisance and may be abated as such through the use of civil penalties and Stop Work Orders, as well as any other remedies which are set forth in this ordinance, including, but not limited to, revocation of any permits. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources.

11.15. Inspection

(1) Routine Inspections. The Director or his designee shall have access to any site for which a Site Development Activity Permit has been issued pursuant to Section 3.20 hereof during regular business hours for the purpose of on-site review and to insure compliance with the terms of such Permit. Applicant for any such Permit shall agree in writing, as a condition of issuance thereof, that such access shall be permitted for such purposes.

(2) Inspection For Cause. Whenever there is cause to believe that a violation of this Ordinance has been or is being committed, the Director or his designee is authorized to inspect the project, and any part thereof reasonably related to the violation, during regular business hours, and at any other time reasonable in the circumstances. Applicant for any Site Development Activity Permit under Section 3.20 hereof shall, as a condition of issuance of such permit, agree in writing that such access to the project site, which inhibits the collection of information relevant to enforcement of the provisions of this ordinance, shall be grounds for issuance of a Stop Work Order by the Director or his designee.

11.16. Inspection Procedures

Prior to making any inspections, the Director or his assignee shall present identification credentials, state the reason for the inspection and request entry.

- (1) If the property or any building or structure on the property is unoccupied, the Director or his assignee shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
- (2) If after reasonable effort, the Director or his assignee is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the site or of the stormwater drainage system creates an imminent hazard to persons or property, the inspector may enter.

11.20. Stop Work Orders

"Stop Work Order" shall mean a written notice, signed by the Director or his assignee, that is posted on the site of a construction activity, which order states that a violation of a Kitsap County ordinance has occurred and that all construction-related activity, except for erosion and sedimentation control activities authorized by the Director, is to cease until further notice. The Director may cause a Stop Work Order to be issued whenever the Director has reason to believe that there is a violation of the terms of this ordinance. The effect of such a Stop Work Order shall be to require the immediate cessation of such work or activity until authorization is given by the Director to proceed.

11.30. Cumulative Civil Penalty

Every person who violates this ordinance, or the conditions of an accepted Site Development Activity Permit Plan, may incur a civil penalty. The penalty shall not be less than \$100.00 or exceed \$1000.00 for each violation. This penalty shall be in addition to any other penalty provided by law. Each and every such violation shall be a separate and distinct offense, and each day of continued or repeated violation shall constitute a separate violation.

11.31. Aiding or Abetting

Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

11.40. Order to Maintain or Repair

The Director shall have the authority to issue to an owner or person an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this ordinance. The order shall include:

- (1) A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;
- (2) A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken; and
- (3) A reasonable time to comply, depending on the circumstances.

11.41. Notice of Violation - Assessment of Penalty

Whenever the Director has found that a violation of this ordinance has occurred or is occurring, the Director is authorized to issue a Notice of Violation directed to the person or persons identified by the Director as the violator.

- (1) The Notice of Violation shall contain:
 - a. The name and address of the property owner;
 - b. The street address, when available, or a legal description sufficient to identify the building, structure, premises, or land upon or within which the violation is occurring;
 - c. A statement of the nature of such violation(s);
 - d. A statement of the action that is required to be taken within twenty-one (21) days from the date of service of the notice of violation, unless the Director has determined the violation to be hazardous and to be requiring immediate corrective action, OR unless the corrective action constitutes a temporary erosion control measure;
 - e. A statement that a cumulative civil penalty in the amount of not less than one hundred dollars (\$100.00) and not exceeding one thousand dollars (\$1000.00) per day shall be assessed against the person to whom the Notice of Violation is directed for each and every day following the date set for correction on which the violation continues; and
 - f. A statement that the Director's determination of violation may be appealed to the Kitsap County Board of Commissioners by filing

written notice of appeal, in duplicate, with the Board within twenty (20) days of service of the Notice of Violation. The per diem civil penalty shall not accrue during the pendency of such administrative appeal unless the violation was determined by the Director to be hazardous and to require immediate corrective action or was determined by the Director to constitute a temporary erosion control measure.

- (2) The Notice of Violation shall be served upon the person(s) to whom it is directed either personally or by complaint in Superior Court proceedings or by mailing a copy of the Notice of Violation by certified mail.

11.42. Appeal and Disposition

A Notice of Violation issued pursuant to this Section shall have the following appeal options:

- (1) Within thirty (30) days from the date of receipt of the Notice of Violation, the aggrieved person may make application for relief from penalty to the Director. Such application shall contain any information relevant to the situation that the aggrieved party believes the Director should consider. The Director may cancel, lower, or affirm the penalty.
- (2) Within fifteen (15) days from the date of receipt of the Director's response to said application for relief from penalty, the aggrieved party may appeal to the Kitsap County Board of Commissioners. The aggrieved person shall be entitled to have the appeal considered by the Board at its next available regularly scheduled meeting date following the filing of the appeal. The Board shall issue their decision within 15 days of the completion of the hearing. The aggrieved party shall be notified by certified mail of the determination of the Board.

11.50. Liability for Costs of Investigation

Any person found to be in violation of this ordinance shall be responsible for the costs of investigation by the County. Such cost may include the analytical services of a certified laboratory.

11.60. Collection of Civil Penalty

The civil penalty constitutes a personal obligation of the person(s) to whom the Notice of Violation is directed. Penalties imposed under this Section shall become due and payable 30 days after receiving notice of penalty unless an appeal is filed. The Prosecuting Attorney, on behalf of the County, is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or

granting of which shall neither stay nor terminate the accrual of additional per diem penalties so long as the violation continues.

11.70. Compromise Settlement and Disposition of Suits

The Director and the Prosecuting Attorney are hereby authorized to enter into negotiations with the parties or their legal representatives named in a lawsuit for the collection of civil penalties to negotiate a settlement, compromise or otherwise dispose of a lawsuit when to do so will be in the best interest of the County, provided that a report shall be submitted to the Board in any instance when a compromise settlement is negotiated.

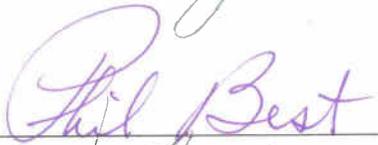
11.80. Hazards

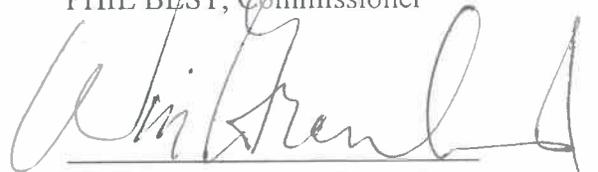
- (1) Whenever the Director determines that any existing construction site, erosion/sedimentation problem or drainage facility poses a hazard to public safety or substantially endangers property, or adversely affects the condition or capacity of the drainage facilities, or adversely affects the safety and operation of County right of way, or violates State water pollution laws, the person to whom the permit was issued, the person or persons holding title to the property within which the drainage facility is located, the person shall upon receipt of notice in writing from the Director, repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this Section.
- (2) Should the Director 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 or she shall first make a reasonable effort to locate the owner before acting, in accordance with Section 11.16. In such instances, the person or persons holding title to the subject property shall be obligated for the payment to Kitsap County of all costs incurred by the County. If costs are incurred and a bond pursuant to this Section or other County requirement has been posted, the Director shall have the authority to collect against the bond to cover costs incurred.

PASSED this 9th day of Dec, 1996.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON


MATT RYAN, Chairman


PHIL BEST, Commissioner


WIN GRANLUND, Commissioner

ATTEST:


Karen Halburk
Holly Anderson,
Clerk of the Board



Kitsap County Department Community Development

614 Division Street (MS-26), Port Orchard, WA 98366-4699

Bruce Freeland, Director

MEMORANDUM

To: Opal Robertson
From: Jeffrey L. Rowe-Hornbaker, Development Engineering
Re: **KITSAP COUNTY CODE TITLE 12**
Date: December 12, 2002

Opal, the code reviser made a typographical error in the KC Code Title 12. The attached section of Ordinance No. 199-1996 and Title 12 show the error. The Title 12 section should be revised to **"the 25-year storm event."**

Thank You

1/03

A copy of this
memo was sent
to David Griffiths
@ Procode

7.40. Stormwater Conveyance Facilities

- (1) All proposed developments must provide on-site stormwater conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater runoff rate resulting from a 100-year, 24-hour duration storm event, plus any existing upstream runoff that will be conveyed through the development site.
- (2) Estimation of peak stormwater runoff rates used in the design of water conveyance facilities shall use either the Rational Method or a hydrograph method of analysis accepted by the Director.
- (3) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater discharge for the 25-year storm event. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak stormwater discharge for the 100-year storm event. Downstream improvements or additional on-site stormwater quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The Director has the authority to waive the requirement for downstream improvements.
- (4) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

7.50. Easements, Tracts and Covenants

- (1) Drainage easements shall be provided in a proposed development for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems.

Drainage easements through structures is not permitted.

- (2) Stormwater facilities that are to be maintained by Kitsap County, together with maintenance access roads to said facilities, shall be located in public right-of-way, separate tracts dedicated to Kitsap County, or drainage easements located in designated Open Space. The exception is for stormwater conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.

kc Title 12

12.20.090 Storm water conveyance facilities.

(a) All proposed developments must provide on-site storm water conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak storm water runoff rate resulting from a one-hundred-year, twenty-four-hour duration storm event, plus any existing upstream runoff that will be conveyed through the development site.

(b) Estimation of peak storm water runoff rates used in the design of water conveyance facilities shall use either the rational method or a hydrograph method of analysis accepted by the director.

(c) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak storm water discharge for the **twenty-four-year storm event**. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak storm water discharge for the one-hundred-year storm event. Downstream improvements or additional on-site storm water quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The director has the authority to waive the requirement for downstream improvements.

(d) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

(Ord. 199 (1996) § 7.40, 1996)

ORDINANCE NO. 199-A-1997

AMENDMENT TO THE STORMWATER MANAGEMENT ORDINANCE

WHEREAS, Ordinance No. 199-1996, the Stormwater Management Ordinance was approved by the Kitsap County Board of Commissioners on December 9, 1996; and

WHEREAS, it is necessary to provide for effective investigation and enforcement by authorized officials to implement Ordinance No. 199-1996; and

WHEREAS, it is otherwise in the interest of public health, safety, and welfare so to do;

NOW THEREFORE be it ordained by the Kitsap County Board of Commissioners:

Section 1. Amendment. Section 11.10. of Ordinance 199-1996 is amended to read as follows:

The placement, construction, or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public storm drainage facility, or grading, which violates the provisions of this Ordinance shall be and the same hereby is declared to be unlawful and a public nuisance and may be abated as such through the use of the Civil Enforcement Ordinance No. 209-1997, civil penalties, and Stop Work orders, as well as any other remedies which are set forth in this Ordinance, including, but not limited to, revocation of any permits. If the Department chooses to utilize the Civil Enforcement Ordinance, then a violation of any provision of this Ordinance shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources.

Section 2. Effective Date. This Ordinance shall take effect immediately.

DATED this 28th day of July, 1997.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

Phil Best
PHIL BEST, Chairman


CHRIS ENDRESEN, Commissioner


CHARLOTTE GARRIDO, Commissioner

ATTEST:


HOLLY ANDERSON
Clerk of the Board



AGENDA SUMMARY

BOARD OF COMMISSIONERS

SUBJECT: CHANGES TO THE PREVIOUSLY REVIEWED ORDINANCE ADOPTING DEVELOPMENT STANDARDS RELATING TO STORMWATER MANAGEMENT, LAND CLEARING, AND GRADING. CONTRACT NO.: N/A ATTACHMENTS: STORMWATER DESIGN ORDINANCE (THE DESIGN MANUAL WAS SENT UNDER SEPARATE COVER AND REVIEWED IN THE COMMISSIONER'S WORK SESSION ON 11/20/96)	FOR AGENDA OF: 12/9/96		ITEM NO.	
	C L E A R A N C E S	CONCERNED DEPTS. Public Works Stormwater	INITIALS <i>RBC</i>	3:00
				SPECIAL INSTRUCTIONS
EXPENDITURE REQUIRED: -0-	AMOUNT BUDGETED: n/a	APPROPRIATION REQUIRED: -0-		
CONTACT PERSON: JON BRAND		PHONE NO.: EXT: 8997 DEPT.: PW-Stormwater		

SUMMARY STATEMENT:

THIS ORDINANCE AND RELATED DESIGN MANUAL PROVIDES STORMWATER DESIGN STANDARDS WHICH ARE TECHNICALLY EQUIVALENT TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY'S STORMWATER MANAGEMENT MANUAL FOR THE PUGET SOUND BASIN. KITSAP COUNTY'S DESIGN MANUAL PROVIDES GUIDANCE ON WATER QUALITY, WATER QUANTITY, AND EROSION CONTROL BMPs AS REQUIRED BY THE PUGET SOUND WATER QUALITY PLAN.

RECOMMENDED ACTION: (Word Like Motion)

MOVE THAT THE BOARD OF COMMISSIONERS IN REGULAR SESSION APPROVE THE ORDINANCE ADOPTING DEVELOPMENT STANDARDS RELATING TO STORMWATER MANAGEMENT, CLEARING, GRADING, AND EROSION CONTROL.

Matt Ryan

DISTRICT 1

Win Granlund

DISTRICT 2

Phil Best

DISTRICT 3

**Kitsap County
Board of
Commissioners**



614 Division Street MS-04 • Port Orchard, WA 98366-4678
(360) 876-7146

November 22, 1996

FOR LEGAL PUBLICATION:

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Kitsap County Board of Commissioners will hold a public hearing on December 9, 1996, at the hour of 3:00 p.m., in its Chambers, County Administration Building, 614 Division Street, Port Orchard, Washington, to consider the following described Ordinance:

AN ORDINANCE adopting development standards relating to stormwater management, to land clearing, and to grading, and repealing Kitsap County Ordinance Number 117 and Kitsap County Ordinance Number 148-1992, and amending Kitsap County Ordinance Number 175-1995.

WHEREAS, an expanding population and increased development of land, coupled with inadequate drainage controls, can lead to problems related to land clearing, grading and stormwater runoff impacts; and

WHEREAS, these problems contribute to increased sedimentation in ponds, creeks, and streams, and to water quality and fisheries habitat degradation, through excessive discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances to surface and groundwater; and

WHEREAS, inadequate surface and subsurface drainage planning and practice can lead to erosion and property damage, and risk to life; and

WHEREAS, excess water runoff on streets and highways poses a safety hazard to both lives and property; and

WHEREAS, future problems could be reduced if land developments, both public and private, provide for adequate drainage of property, and adequate grading of slopes; and

WHEREAS, a legal mechanism to enforce the provisions of adequate drainage facilities and adequate grading and land clearing practices in the development and use of property is necessary to ensure compliance with adopted standards; and

WHEREAS, RCW 90.54.090 charges the state, local governments, and municipal and public corporations with carrying out the powers vested in them in manners which are consistent with the goals and provisions of the Clean Water Act, the Water Resources Act of 1971, and the Growth Management Act; and

WHEREAS, the Puget Sound Water Quality Plan requires that municipalities in the Puget Sound Basin adopt stormwater management ordinances that are substantially equivalent to the "Stormwater Management Manual for the Puget Sound Basin" adopted by the Washington State Department of Ecology.

BE IT ORDAINED BY THE KITSAP COUNTY BOARD OF COMMISSIONERS:

**KITSAP COUNTY
STORMWATER MANAGEMENT ORDINANCE**

<u>Sections:</u>	<u>Page</u>
1.0 GENERAL PROVISIONS	2 of 45
2.0 DEFINITIONS	5 of 45
3.0 PERMITS	13 of 45
4.0 COVENANTS, SURETIES, AND LIABILITY INSURANCE	17 of 45
5.0 EROSION AND SEDIMENT CONTROL	19 of 45
6.0 GRADING	23 of 45
7.0 STORMWATER MANAGEMENT	26 of 45
8.0 OPERATION AND MAINTENANCE	35 of 45
9.0 CRITICAL DRAINAGE AREAS	37 of 45
10.0 WATER QUALITY	39 of 45
11.0 ENFORCEMENT	40 of 45

G:\swmanual\swml211.95 REV 10/21/96

SECTION 1.0 GENERAL PROVISIONS

1.10. Declaration of Title

This ordinance shall be known as the "Stormwater Management Ordinance."

1.20. Stormwater Management Standards and Specifications

The Kitsap County Board of Commissioners recognizes that stormwater control technology is a developing and evolving science. In order to ensure that the latest and best technology is utilized in Kitsap County, Exhibit "A" attached hereto and incorporated herein by this reference is hereby adopted as the "Kitsap County Stormwater Design Manual." All references to this ordinance shall include the Kitsap County Stormwater Design Manual. The Director may amend the Kitsap County Stormwater Design Manual, with the approval of the Kitsap County Board

of Commissioners, as necessary to reflect changing conditions and technology. All requirements contained in the Kitsap County Stormwater Design Manual, together with any amendments thereto, must be complied with as provided in Section 1.40 (Applicability).

1.21. Technical Deviations

The Director may grant minor technical deviations from requirements contained in the Kitsap County Stormwater Design Manual, provided that all of the following criteria are met:

- (1) the technical deviation will not otherwise result in non-compliance with this ordinance;
- (2) the granting of the technical deviation will not result in non-compliance with the development conditions imposed upon the project by the Board of Commissioners;
- (3) the granting of the technical deviation will produce a compensating or comparable result which is in the public interest;
- (4) the granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

1.22. Variances

The Kitsap County Board of Commissioners may, following a public hearing, grant a variance from the provisions of this ordinance, provided that all of the following criteria are met:

- (1) the granting of the variance will produce a compensating or comparable result which is in the public interest;
- (2) the granting of the variance will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

1.23. Water Quality

For circumstances or conditions related to water quality which are not specifically addressed within the scope of this ordinance, the preferred method for selection, design, and implementation of stormwater management practices shall be the most current edition of the Washington State Department of Ecology publication "Stormwater Management Manual for the Puget Sound Basin", or a subsequent manual adopted by WSDOE.

1.40. Applicability

The provisions of this ordinance shall apply to all site development activities requiring land use permits and approvals as defined in Section 2.0 herein, both public and private, within the bounds of unincorporated Kitsap County. The provisions of Section 8.0 (Operation and Maintenance) shall also apply to existing stormwater facilities in unincorporated Kitsap County. The provisions of Section 10.0 (Water Quality) shall apply to all situations and circumstances throughout unincorporated Kitsap County. No site development activities requiring land use permits and approvals shall be initiated prior to issuance of a Site Development Activity Permit.

1.45. Applicability of Other Ordinances & Permits

Any land development which is required by operation of any Kitsap County ordinance, State law or Federal law to construct, install or modify any natural or manmade drainage features within, abutting, or serving the development shall do so in accordance with this ordinance. However, where the provisions of this ordinance directly conflict with any other Kitsap County ordinance, State law or Federal law, or comprehensive drainage plan, the more stringent provisions shall apply to the extent permissible by law.

Approval of any land development activity by Kitsap County does not constitute approval of other applicable permits that may be required by other agencies. Examples of additional permits that may be required include construction and industrial discharge permits administered by the State Department of Ecology under the National Pollutant Discharge Elimination System (NPDES) program, and Hydraulic Project Approval (HPA) by the Department of Fish and Wildlife.

1.46. Administration

The Director, or an assignee, shall administer this ordinance. The Director shall have the authority to develop and implement procedures to administer and enforce this ordinance.

1.50. Severability

If any provision of this ordinance or its application to any person or property is held invalid, the remainder of the ordinance or the application of the provision to other persons or property shall not be affected.

1.60. Appeals

An aggrieved party may appeal any administrative interpretation or departmental ruling related to this ordinance to the Kitsap County Board of Commissioners.

1.70. Effective Date

This ordinance codified in this title shall become effective on April 1, 1997.

1.80. Repeal of Ordinance 117

Kitsap County Drainage Ordinance Number 117 is repealed as of the effective date of this ordinance.

1.81. Repeal of Ordinance 148-1992

Kitsap County Interim Ordinance for the Control of Erosion and Sedimentation on Construction Sites, Ordinance Number 148-1992, is repealed as of the effective date of this ordinance.

1.85. Amendment of Ordinance 175-1995

Section 3 (a) of Kitsap County Ordinance Number 175-1995 is hereby amended to read as follows:

- "a. International Conference of Building Officials, Uniform Building Code (1991 Ed.) together with those Appendices in Chapter 11, 12 DIV II, and 49."

SECTION 2.0 DEFINITIONS**2.10. The following definitions of terms shall apply to this ordinance:**

Accepted Performance of Construction shall mean the written acknowledgment from the Director of the satisfactory completion of all work accepted by Kitsap County, including all work shown on the accepted plans, accepted revisions to the plans, and accepted field changes.

Applicant shall mean the person, party, firm, corporation, or other legal entity that proposes to engage in site development activities in unincorporated Kitsap County by submitting an application for any of the activities covered by this ordinance on a form furnished by the County and paying the required application fees.

Basin Plan shall mean a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and stormwater quality and quantity management facilities and drainage features within individual sub-basins.

Beneficial Use shall mean any activity that allows the owner to gain the use intended by the development activity, as so stated by the Applicant at the time of application for a Kitsap County Site Development Activity Permit.

Best Management Practices (BMP) shall mean physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Kitsap County as accepted BMPs.

Biofiltration/Biofilter Facilities shall mean vegetative BMPs which treat stormwater by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.

Board shall mean the Kitsap County Board of Commissioners or their assigns.

Bond shall mean a financial guarantee, in the form of a surety bond, assignment of funds, or irrevocable bank letter of credit, that shall guarantee compliance with applicable provisions of this ordinance.

Clearing or land clearing shall mean the surface removal of vegetation.

Closed Depressions shall mean low-lying areas which have no surface outlet, or such a limited surface outlet that in most storm events the area acts as a retention basin, holding water for infiltration, evaporation or transpiration.

Comprehensive Drainage Plan shall mean a detailed analysis, adopted by the Board, for a drainage basin which assesses the capabilities and needs for runoff accommodation due to various combinations of development, land use, structural and nonstructural management alternatives. The plan recommends the form, location and extent of stormwater quantity and quality control measures which would satisfy legal constraints, water quality standards, and community standards, and identifies the institutional and funding requirements for plan implementation.

Contiguous Land shall mean land adjoining and touching other land regardless of whether or not portions of the parcels have separate Assessor's tax numbers or were purchased at different times, lie in different Sections, are in different government lots, or are separated from each other by private road or private rights-of-way.

County shall mean Kitsap County.

Critical Drainage Area shall refer to those areas designated in Section 9.0 (Critical Drainage Areas) which have a high potential for stormwater quantity or quality problems.

Design Storm Event shall mean a theoretical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

Detention Facilities shall mean stormwater facilities designed to store runoff while gradually releasing it at a pre-determined controlled rate. "Detention facilities" shall include all appurtenances associated with their designed function, maintenance and security.

Developed Site shall mean the condition of the development site following completion of construction of the development including all approved phases of construction.

Director shall refer to the Director of the Kitsap County Department of Public Works or assigns.

Diversion shall mean the routing of stormwater to other than its natural discharge location.

Drainage Feature shall mean any natural or manmade structure, facility, conveyance or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate or affect the flow rate of stormwater runoff.

Drainage Plan shall mean a plan for the collection, transport, treatment and discharge of runoff, and may include both the plan and profile views of the site as well as construction details and notes.

Easement shall mean an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

Erosion Control Design Storm shall mean the 2-year frequency, 24-hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

Existing Stormwater Facilities shall mean those facilities constructed or under permitted construction prior to the effective date of this ordinance.

Forested Land shall mean "forested land" as defined in RCW 76.09.020, and shall include all land which is capable of supporting a merchantable stand of timber and that is being actively used in a manner compatible with timber growing.

Geotechnical Engineer shall mean a practicing professional engineer licensed in the State of Washington who has at least four years of professional experience in geotechnical and landslide evaluation.

Geotechnical Report shall mean a study of the effects of drainage and drainage facilities on soil characteristics, geology and groundwater. The geotechnical analysis shall be prepared by a geotechnical engineer.

Grading shall mean any excavating, filling or embanking of earth materials.

Grubbing shall mean the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris, and shall include the incidental removal of topsoil to a depth not exceeding 12 inches.

Hydrograph shall mean a graph of runoff rate, inflow rate or discharge rate, past a specific point over time.

Hydrograph Method shall mean a method of estimating a hydrograph using a mathematical simulation. Commonly accepted hydrograph methods include the Soil Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

Illicit Discharge shall mean all non-stormwater discharges to stormwater drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to, sanitary sewer connections, industrial process water, interior floor drains, and greywater systems.

Impervious Surface shall mean 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, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

Land Disturbing Activity shall mean any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, paving, clearing, grading and grubbing.

Land Use Permits and Approvals shall mean any use or development of land that requires Kitsap County action in legislation, administration or approval, including but not limited to, the following:

- (1) Preliminary plat subdivision
- (2) Final plat subdivision
- (3) Planned unit development (P.U.D.), including residential and commercial
- (4) Site plan review
- (5) Conditional use permit (C.U.P.)
- (6) Zoning variance
- (7) Short plat subdivision
- (8) Large lot subdivision
- (9) Grading Permit
- (10) Shoreline substantial development permit
- (11) Shoreline conditional use permit
- (12) S.E.P.A. and E.I.S. reviews
- (13) Binding Site Plan
- (14) Building Permit

Maintenance shall mean any activity which is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property which may directly impair the functions of the stormwater facilities.

Maintenance Covenant shall mean a binding agreement between Kitsap County and the person or persons holding title to a property served by a stormwater facility whereby the property owner promises to maintain certain stormwater facilities; grants Kitsap County the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the stormwater control facilities when such repairs or maintenance have not been performed by the property owner; and promises to reimburse Kitsap County for the cost should the County perform such repairs or maintenance.

Maintenance Schedule shall mean a document detailing required stormwater facility maintenance activities to be performed at specified intervals.

Major Development shall mean any new development or any redevelopment activity that (1) includes the creation or cumulative addition of 5,000 square feet or greater of impervious surface area from the pre-development conditions, or (2) includes land disturbing activity of one acre or greater, or (3) includes grading involving the movement of 5,000 cubic yards or more of material.

Manual shall mean Exhibit A of this ordinance entitled the "Kitsap County Stormwater Design Manual."

Minor Development shall mean any new development or redevelopment activity that (1) includes the creation or addition of less than 5,000 square feet of new impervious surface area, and (2) includes land disturbing activity of less than one acre, and (3) includes grading involving the movement of less than 5,000 cubic yards of material.

Non-forestry Use shall mean an active use of land which is incompatible with timber growing.

Off-site Drainage Analysis shall mean a study of those land areas contributing surface runoff to a development site as well as a study of the existing and predicted impacts of surface runoff from the development site on properties and drainage features that have the potential to receive stormwater from the development site.

Oil/Water Separator shall mean a structure or device used to remove suspended, floating or dispersed oil and greasy solids from water.

Operation and Maintenance Manual shall mean a written manual, prepared by a qualified civil engineer, that provides a description of operation and maintenance procedures for specific stormwater control facilities, for use by operation and maintenance personnel.

Owner shall mean any person or persons having a legal or equitable property right or interest, whether or not said right is legal or equitable in character, including a fee owner, contract purchaser or seller, mortgagor or mortgagee, optionor or optionee, and beneficiary or grantor of a trust or deed of trust.

Pollution shall mean contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful.

Pre-development Conditions shall mean site conditions as they existed prior to manmade alterations other than those alterations that have been made with a prior Kitsap County approved storm drainage plan, or alterations that existed prior to September 21, 1987, which was the effective date of Ordinance #117.

Professional Engineer shall mean a person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering as attested by his or her legal registration as a professional engineer in the State of Washington.

Project Engineer shall mean the professional engineer responsible for the design of the project, who will affix his/her seal on the project drainage plans and drainage analysis. The project engineer shall be licensed in the state of Washington and qualified by experience or examination.

Redevelopment shall mean any land disturbing activity occurring on existing developed property.

Retention Facilities shall mean drainage facilities designed to store runoff for gradual release by evaporation, plant transpiration, or infiltration into the soil. Retention facilities shall include all such drainage facilities designed so that none of the runoff entering the facility will be discharged as surface water. Retention facilities shall include all appurtenances associated with their designed function, maintenance and security.

SEPA shall mean the Washington State Environmental Policy Act.

Shorelines of the State shall mean the total of all "shorelines" and "shorelines of state-wide significance" within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act.

Site Development Activity shall mean the alteration of topography, clearing, paving, grading, construction, alteration of stormwater systems, site preparation, or other activity commonly associated with site development. Site development includes those activities listed in the definition of Land Use Permits and Approvals.

Site Development Activity Permit Plan shall mean all documents submitted as part of a Site Development Activity Permit application, including but not limited to, drainage plans, grading plans, erosion and sedimentation control plans, hydrological analyses, geotechnical reports, soils investigation reports, and design analyses related to a land development project.

Soils Investigation Report shall mean a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils investigation report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

Soils Engineer shall mean a practicing engineer licensed as a professional engineer in the State of Washington who has at least four years of professional employment as an engineer dealing with soil descriptions and characterizations.

Source Control BMP shall mean a Best Management Practice (BMP) that is intended to prevent pollutants from entering stormwater. Examples include erosion control practices, maintenance of stormwater facilities, constructing roofs

over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

Stabilized shall mean the application of BMPs sufficient to protect soil from the erosive forces of raindrop impact and flowing water. Examples include, but are not limited to, vegetative establishment, mulching, plastic covering, the early application of gravel base, and outlet and channel protection.

Stormwater shall mean the surface water runoff that results from all natural forms of precipitation.

Stormwater Facility shall mean a component of a manmade drainage feature, or features, designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities shall not include building gutters, downspouts and drains serving one single-family residence.

Stormwater Quality Control shall mean the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater. Stormwater quality control facilities include, but are not limited to, source controls, biofiltration/biofilter facilities, wetponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

Stormwater Quantity Control shall mean the control of the rate and/or volume of stormwater released from a development site. Stormwater quantity control facilities include, but are not limited to, detention and retention facilities.

Technical Deviation shall mean permission granted by the Director to deviate from the provisions of the Manual.

Variance shall mean permission granted by the Kitsap County Board of Commissioners to deviate from the provisions of this ordinance.

Water Quality Design Storm Event The water quality design storm, used for the design of water quality treatment facilities, shall be the 6-month, 24-hour storm event. In that the precipitation data from isopluvial maps is not available for the 6-month, 24-hour storm event, the design engineer can use 64% of the 2-year, 24-hour precipitation as equivalent to the 6-month, 24-hour precipitation.

Water Quality Sensitive Area Areas that are sensitive to a change in water quality, including but not limited to, lakes, ground water management areas, ground water special protection areas, sole source aquifers, critical aquifer

recharge areas, well head protection areas, closed depressions, fish spawning and rearing habitat, wildlife habitat, and shellfish protection areas.

Wetland shall mean those areas of Kitsap County that are defined by separate ordinance, regulation or statute as wetlands.

SECTION 3.0 PERMITS

3.10. Review By Department of Public Works

Proposed site development activities shall be reviewed by the Kitsap County Department of Public Works to determine the permits required.

3.15. Expiration of Existing Construction Plan Approval

Any construction plans previously approved by Kitsap County shall expire six (6) months after the effective date of this ordinance. The Director may extend the expiration date if the project is under construction and progressing satisfactorily towards final completion.

3.20. Site Development Activity Permits Required

A Site Development Activity Permit, issued by the Kitsap County Department of Public Works, shall be required for any of the following activities:

- (1) Site development or redevelopment activities that meet the definition of a major development.
- (2) Site development or redevelopment activities that require connection to a public storm drainage system.
- (3) Grading activities that result in the movement of 150 cubic yards or more of earth.
- (4) Grading activities that will result in a temporary or permanent slope having a steepness exceeding 3 to 1 (3 feet horizontal to 1 foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding 5 feet.
- (5) Grading activities that include the construction of embankment berms which will result in the impoundment of water to a depth exceeding 18 inches and/or with a maximum volume exceeding 2500 cubic feet of water.

- (6) Grading activities that will result in the diversion of existing drainage courses, both natural and man-made, from their natural point of entry or exit from the grading site.
- (7) Any land clearing or grading on slopes steeper than 30%, or within the mandatory setback of a wetland, stream, lake, Puget Sound, as established by separate ordinance or by the Kitsap County Department of Community Development.

No site development activity, including land clearing, grading or other construction activity as described in this ordinance, shall occur until a Site Development Activity Permit has been issued, nor shall said site development activity continue without a Site Development Activity Permit in force.

3.21. Exemptions

Commercial agriculture and forest practices regulated under Title 222 WAC are exempt from the provisions of Section 3.0.

Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, shall be exempt from the provisions of Section 3.0.

Road Construction activities undertaken by Kitsap County Road Department shall be exempt from the administrative requirements of this ordinance, but shall comply fully with the technical requirements contained herein.

Grading activities described in Section 6.20 are exempt from the provisions of Section 3.0.

Residential lots 2.5 acres or larger shall be exempt from the provisions of Section 7.20 and 7.35 unless otherwise determined by the Director. Cases where the exemption does not apply includes, but is not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where the cumulative impacts of development warrant. Site development activities taking place on individual lots of 2.5 acres or larger, which meet the definition of a Major Development, are not exempt from the requirements of Section 7.0. Proposed access roadways serving residential lots larger than 2.5 acres which meet the definition of a Major Development, are not exempt from the requirements of Section 7.0.

3.22. Permit Requirements

The Director shall establish requirements for the issuance of Site Development Activity Permits, subject to the following criteria:

- (1) All site development activities shall comply with the standards, specifications and requirements contained in the Stormwater Design Manual.
- (2) The Director shall establish fees for Site Development Activity Permits. Site Development Activity Permit fees shall include fees for the review of permit applications and documents and for inspections during construction. Site Development Activity Permit fees, including permit application fees, shall be detailed in the Kitsap County Site Development Activity Fee Schedule.
- (3) A Site Development Activity Permit shall, at the time of its issuance, specify a maximum expiration date, not to exceed 3 years from the date of issuance. A Site Development Activity Permit shall expire upon approved completion of construction, or upon the specified maximum expiration date, whichever comes first. In the event that a Site Development Activity Permit expires prior to the completion of construction, all construction activity must cease, a new Site Development Activity Permit application must be submitted, and the issuance of a new Site Development Activity Permit shall be, at the discretion of the Director, subject to Kitsap County site development standards in force at the time of the new permit application.
- (4) Approved Site Development Activity Permit placards shall be prominently displayed on construction sites at all times until the completion of all permitted site development activities.

3.23. When A Professional Engineer Is Required

Unless otherwise required by Sections 5 or 6 of this ordinance, Site Development Activity Permit applications shall require the submittal of documents prepared by a qualified Professional Engineer when one of the following conditions exists:

- (1) Any land use or building or development on real property which meets the definition of a major development, OR;
- (2) Any improvements within the boundaries of Kitsap County rights-of-way for which Kitsap County will ultimately assume responsibility for maintenance, OR;
- (3) Any site development activity that the Director deems to be in the public's best interest to require that certain Site Development Activity Permit application submittal documents be prepared by a Professional Civil Engineer.

3.24. Off-site Analysis

All Site Development Activity Permit applications which meet any of the criteria listed in Section 3.23 of this ordinance shall include, along with other required submittal documents, an off-site drainage analysis as described in Section 7.20 (6) and Section 7.35 (6), prepared by a qualified Professional Engineer and based on a field investigation of the development's off-site contributing and receiving drainage areas.

3.25. Geotechnical Analysis

All Site Development Activity Permit applications for development activities where grading or the construction of retention facilities, detention facilities, or other stormwater facilities is proposed within 200 feet of slopes steeper than thirty percent (30%), or where the Director deems that the proposed construction poses a potential hazard due to its proximity to a slope, shall, when required by the Director, include a geotechnical analysis, prepared by a qualified engineer. Said geotechnical analysis shall address the effects of groundwater interception and infiltration, seepage, potential slip planes, and changes in soil bearing strength.

3.26. Soils Analysis

All Site Development Activity Permit applications which meet any of the criteria listed in Section 3.23 of this ordinance, where the soils underlying the proposed project have not been mapped, or where existing soils maps of the project site are inconsistent, or where the Director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis, shall include a soils investigation report.

3.30. Permit Modifications

Proposed modifications to an approved Site Development Activity Permit must be submitted to the Department of Public Works and be reviewed for compliance with this ordinance. Substantial proposed modifications, as determined by the Director, shall require additional review fees and shall require re-issuance of the required permit. Minor proposed modifications may be accepted by the Director without requiring the re-issuance of the accepted permit or the payment of additional review fees.

3.40. Erosion and Sedimentation Control

All final drainage, grading, clearing or other site development plans requiring acceptance from the Kitsap County Department of Public Works shall include a plan for the control of erosion and sedimentation as required in Section 5.10 and Section 5.20, for the period beginning with the commencement of site

development activity and continuing without interruption until permanent site stabilization is achieved.

No clearing, grubbing, grading or other construction activity may take place on a project site until an erosion and sedimentation control plan has been approved by the Department of Public Works.

SECTION 4.0 COVENANTS, SURETIES, AND LIABILITY INSURANCE

4.10. Site Stabilization

Prior to the issuance of a Site Development Activity Permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a Certificate of Commercial Liability Insurance.

This performance requirement for stabilization and erosion control should not be confused with the performance bond accepted at the time of final plat recording as a surety for construction items not yet completed. When a performance bond is accepted for a final plat in lieu of construction completion, the surety or covenant for stabilization and erosion control will be released, and the new performance bond shall cover site stabilization and erosion control along with the other incomplete construction items.

4.11. Performance Covenant for Site Stabilization

For project sites with less than 5 acres of land disturbing activity, a Performance Covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the Site Development Activity Permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the Stormwater Management Ordinance. This Covenant shall be recorded with the Kitsap County Auditor and shall run with the land until such a time as Kitsap County issues final acceptance of the permitted activities, or until a separate performance bond is posted prior to final plat approval. Upon issuance of final project approval, the Department of Public Works will record a document that extinguishes the Performance Covenant.

If the site work is determined by the Director to be in violation of the Stormwater Management Ordinance, the County may enforce the Performance Covenant to provide temporary and permanent site stabilization. In this case, the project proponent will be charged for all associated costs and, if required, a lien will be placed on the property

4.12. Performance Surety for Site Stabilization

The term "Bond" as defined in the ordinance shall mean a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with 5 or more acres of land disturbing activity, a Performance Bond shall be posted prior to issuance of a Site Development Activity Permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the ordinance. The amount of the Performance Bond shall be as follows:

- o One hundred fifty percent (150%) of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with the ordinance. A cost estimate shall be submitted by the project engineer subject to the approval of the Director. The minimum amount of the "Bond" shall be five thousand dollars (\$5000.00).

(OR)

- o One thousand dollars (\$1000.00) per acre of land disturbing activity. No engineer's estimate is required.

If the site work is determined by the Director to be in violation of the Stormwater Management ordinance, the County may use the Performance Bond to provide temporary and permanent site stabilization.

All Performance Bonds shall run continuously until released by the County, and shall not be subject to an expiration or cancellation date.

4.20. Performance Bond for Uncompleted Site Improvements

For single family residential developments, a Performance Bond shall be provided prior to the final recording of the plat/PUD, guaranteeing completion of all site improvements not yet completed. The amount of the Performance Bond shall be one-hundred fifty percent (150%) of the estimated cost of said improvements. The estimated cost of the construction shall be determined by a professional engineer subject to the approval of the Director.

All Performance Bonds shall run continuously until released by the County, and shall not be subject to an expiration or cancellation date.

4.30. Commercial Liability Insurance

The owner of any project must provide a Certificate of Liability Insurance to the Department of Public Works prior to issuance of a Site Development Activity Permit. The liability insurance shall remain in force until final project approval is

issued by the County. The commercial liability insurance shall be in the amount of not less than one million dollars (\$1,000,000.00) combined single limit bodily injury and property damage, with a two million dollar (\$2,000,000.00) aggregate. Such insurance shall include Kitsap County, its officers and employees as additional insureds, with respect to the terms and conditions of the policy.

4.40. Maintenance Bonds

A maintenance bond is required for residential plats/PUD's and other projects for which maintenance of the stormwater facilities and/or roads is to ultimately be taken over by the County.

Prior to the final approval of construction and release of any performance sureties, a Maintenance Bond must be posted and maintained by the project owner for a period of two (2) years. The Maintenance Bond shall guarantee the stormwater facilities and roads constructed under permit against design defects and/or failures in workmanship, and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the County will inspect the system and, when the facility is acceptable and eighty percent (80%) of the lots in that phase have been improved, the County will take over the maintenance and operations of the system. In the event that eighty percent (80%) of the lots in a residential development have not been improved by the end of the two year maintenance period, the maintenance bond may be extended, subject to the approval of the Director, for one (1) additional year.

The amount of the Maintenance Bond shall be ten percent (10%) of the estimated construction cost of the stormwater facilities and roads requiring maintenance, or five thousand dollars (\$5000.00), whichever is greater. The construction cost of the facilities requiring maintenance shall be estimated by the Project Engineer, subject to the approval of the Director.

SECTION 5.0 EROSION AND SEDIMENT CONTROL

5.10. Minor Developments

All Minor Developments, as defined in this ordinance, shall be required to control erosion and sedimentation during construction, to permanently stabilize soil exposed during construction, and to comply with the Minor Development Requirements described in Section 5.11 (1) through (5).

5.11. Minor Development Requirements

- (1) Construction access route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with

quarry spill or crushed rock to minimize the tracking of soils and debris onto public roads.

- (2) Stabilization of denuded area. All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to, sod or other vegetation, mat covering, mulching, or application of compacted ground base material on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with the Manual. From October 1 to April 30, no soils shall remain unstabilized for more than 2 days. From May 1 to September 30, no soils shall remain unstabilized for more than 7 days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within 12-hours as site and weather conditions dictate.

- (3) Protection of adjacent properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.
- (4) Maintenance. All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function.
- (5) Other BMPs. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMPs.

5.20. Major Developments

Any new development meeting the definition of a major development, shall comply with Section 5.30. For any redevelopment project meeting the definition of a major development, those portions of the site that are being redeveloped shall comply with Section 5.30.

5.21. Erosion and Sedimentation Control Plan Required

Compliance with the erosion and sedimentation control requirements of Section 5.30 shall be demonstrated through the implementation of an approved Erosion and Sedimentation Control plan.

5.30. Major Development Erosion and Sedimentation Control Minimum Requirements

- (1) Stabilization and sediment trapping. All exposed and unworked soils, including soil stockpiles, shall be stabilized by suitable application of

BMPs which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include, but are not limited to vegetative establishment, mulching, plastic covering, and the early application of gravel base on areas to be paved. From October 1 to April 30, no soils shall remain unstabilized for more than 2 days. From May 1 to September 30, no soils shall remain unstabilized for more than 7 days.

At all times of the year, the contractor shall have sufficient materials, equipment and labor on-site to stabilize and prevent erosion from all denuded areas within 12-hours as site and weather conditions dictate.

- (2) Delineation of clearing and easement limits. Clearing limits, setbacks, buffers, and sensitive or critical areas such as steep slopes, wetlands and riparian corridors shall be clearly marked in the field and inspected by Kitsap County Department of Community Development prior to commencement of land clearing activities.
- (3) Protection of adjacent properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMPs.
- (4) Timing and stabilization of sediment trapping measures. Sediment ponds and traps, perimeter dikes, sediment barriers and other BMPs intended to trap sediment on-site shall be constructed as a first step in grading. These BMPs shall be functional before additional land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be stabilized according to the timing indicated in item (1) above.
- (5) Slope Stabilization. Cut and fill slopes shall be constructed in a manner that will minimize erosion. Roughened soil surfaces are preferred to smooth surfaces. Interceptors should be constructed at the top of long, steep slopes which have significant areas above that contribute runoff. Concentrated runoff should not be allowed to flow down the face of a cut or fill slope unless contained within an adequate channel or pipe slope drain. Wherever a slope face crosses a water seepage plane, adequate drainage or other protection should be provided. In addition, slopes should be stabilized in accordance with item (1) above.
- (6) Controlling off-site erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the development site by the implementation of appropriate BMPs to minimize adverse downstream impacts.

- (7) Stabilization of temporary conveyance channels and outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a 2-year frequency, 24-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.
- (8) Storm drain inlet protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment. After proper written application, the requirement for inlet protection may be waived by the Director on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate on-site sediment control BMP, including but not limited to sediment ponds or traps, and the conveyance system will be adequately cleaned following site stabilization.
- (9) Underground utility construction. The construction of underground utility lines shall be limited, where feasible, to no more than 500 feet of open trench at any one time. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of the trench. Dewatering devices shall discharge to an appropriate sediment trap or pond, preceded by adequate energy dissipation, prior to runoff leaving the site.
- (10) Constructed access routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMPs such as a Stabilized Construction Entrance. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.
- (11) Removal of temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of temporary BMPs shall be permanently stabilized. The removal of temporary erosion and sediment control BMPs may not be required for those projects, such as single family plats, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.

- (12) Dewatering construction sites. Dewatering devices shall discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.
- (13) Control of pollutants other than sediment on construction sites. All pollutants other than sediment that occur on-site during construction shall be handled and legally disposed of in a manner that does not cause contamination of surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete by-products and construction materials.
- (14) Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the Manual. The Applicant shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.
- (15) Financial liability. A performance covenant or performance surety, shall be required for all projects to ensure compliance with the approved erosion and sediment control plan, as outlined in Section 4.0 of the Ordinance.

5.40. Erosion Control Design Storm Event

Facilities designed for the control of erosion and sedimentation shall be designed for the erosion and sedimentation control design storm event, defined as the 2-year, 24-hour duration storm.

SECTION 6.0 GRADING

6.05. Authority of the Director

The Director is the designated agent for the issuance of Site Development Activity Permits for grading, and shall have the authority to prepare regulations and set administrative procedures to carry out the purposes and intent of this Section.

6.10. Grading Plan Required

Grading projects meeting the criteria of Section 3.23 shall be required to have an approved engineered grading plan.

6.11. Abbreviated Grading Plan

Grading projects meeting the definition of a Minor Development will require an approved abbreviated grading plan in lieu of an engineered grading plan. An abbreviated grading plan is a grading plan that does not require the seal of a professional civil engineer.

6.12. Erosion and Sedimentation Control

The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in Section 5.0 of this ordinance.

6.13. Drainage

- (1) All grading activities shall conform to the requirements of this ordinance concerning stormwater management.
- (2) Where required by the Director, all discharge of runoff from the project site shall be of like quality, flow rate and velocity as that which flowed from the project site prior to the work for which the Site Development Activity Permit has been issued.
- (3) Stormwater flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

6.14. Minimum Grading Standards

This ordinance sets forth minimum standards which shall apply to grading activities as described in Section 3.20. For circumstances not specifically addressed in this ordinance or the Stormwater Design Manual, the provisions of the Uniform Building Code shall apply.

6.15. Hazards

Whenever the Director determines that an existing excavation, embankment or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use or stability of a public way, critical drainage area, or drainage channel, such conditions shall become a violation of Section 11.80 of this ordinance.

6.16. Additional Review

Permits regulating grading activities for major developments may be subject to review and recommendation of approval by the Kitsap County Department of Community Development.

6.20. Permit Exemptions

The following grading activities shall not require the issuance of a Site Development Activity Permit:

- (1) Excavation for utilities, or for wells or tunnels allowed under separate permit by other agencies.
- (2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid Building Permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than 5 feet after the completion of such a structure.
- (3) Agricultural crop management outside of critical drainage areas limited to the preparation of soil by turning, discing, or other means endorsed by the Kitsap Conservation District.
- (4) Excavation for cemetery graves.
- (5) Landscape installation where fill is confined to less than one (1) foot of topsoil and land disturbing activities are limited to less than one (1) acre.
- (6) The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to R.C.W. 70.95, and regulations presently enacted or as may be amended or as specifically approved by the Bremerton-Kitsap County Health District.
- (7) Mining, quarrying, excavating, processing and/or stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, and a permit for said activity has been issued by the State of Washington or the Federal Government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land and the activities meet the minimum requirements of this ordinance.
- (8) Exploratory excavations under the direction of a qualified professional engineer.

- (9) Grading activities already approved by separate permit granted by any governing authority, provided that the activities meet the minimum requirements of this Ordinance.
- (10) Emergency sandbagging, diking, ditching, filling or similar work during or after periods of extreme weather conditions when done to protect life or property.
- (11) Maintenance activities within public rights-of-way performed by Kitsap County personnel. However, exemption from the Site Development Activity Permit does not constitute an exemption from the other requirements of this ordinance.

6.30. Changes in Site Topography

- (1) The maximum surface gradient on any artificially created slope shall be two (2) feet of horizontal run to one (1) foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the Director, it has been demonstrated by the Applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.
- (2) The Applicant shall, at all times, protect adjacent private properties and public rights-of-way or easements from damage occurring during grading operations. The Applicant shall restore public improvements damaged by his/her operations.
- (3) The Applicant shall be responsible for obtaining and coordinating all required State or Federal permits associated with the filling of wetlands or other regulated activities.

6.40. Rockerries and Retaining Structures

Any rockery or other retaining structure greater than 4 feet in height shall be permitted under a separate Building Permit issued by the Kitsap County Department of Community Development.

6.50. Maintenance

It shall be the responsibility of the Applicant to maintain all erosion control and drainage facilities in good operating condition at all times, as required in Section 5.0.

6.60. Progress of Work

All work permitted under this ordinance shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the Director, with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the project site. Site Development Activity Permits, issued for grading only, shall expire six (6) months after issuance.

6.70. Expiration of Existing Grading Permits

Any Grading Permit issued by Kitsap County and currently valid as of the effective date of this ordinance shall expire six (6) months after the effective date of this ordinance.

SECTION 7.0 STORMWATER MANAGEMENT**7.05. Redevelopment Activities**

Where redevelopment activities meet the definition of a major development, the requirements of Section 7.0 of this ordinance shall apply to that portion of the site that is being redeveloped. In addition, where one or more of the following conditions exist, the requirements of Sections 7.0 of this ordinance shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

- (1) Existing sites greater than one (1) acre in size with 50% or more impervious surface.
- (2) Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to, water bodies:
 - (i) Listed in reports required under section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses;
 - (ii) Listed under section 304 (1) (1) (A) (i), 304 (1) (1) (A) (ii), or 304 (1) (1) (B) of the Clean Water Act as not expected to meet water quality standards or water quality goals;
 - (iii) Listed in Washington State's Nonpoint Source Assessment required under section 316 (a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards.

- (3) Sites where the need for additional stormwater control measures have been identified through a basin plan, watershed ranking process, or through Growth Management Act planning.

7.10. Approved Hydrological Methods for Design

Estimation of peak stormwater runoff rates used in the design of stormwater quantity control facilities shall utilize hydrograph methods of analysis approved by the Director. The design of storage facilities that are a part of stormwater quantity control facilities shall be designed using methods approved by the Director.

7.20. Stormwater Quantity Control

The following minimum requirements for stormwater quantity control shall apply to all land developments that meet the definition of a major development:

- (1) All surface water and stormwater entering the development site in its pre-development state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and stormwater leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent downstream properties, EXCEPT, diversion which will correct an existing man-made downstream problem may be permitted by the Director. For the purposes of this ordinance, "naturally occurring location" shall mean the location of those channels, swales, and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the Director.
- (2) The post-development peak stormwater discharge rates from the development site for the 2, 10 and 100-year, 24-hour duration storm events shall at no time exceed the pre-development peak stormwater runoff rates for the same design storm events, except as expressly permitted by this ordinance. Also, where stormwater directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak stormwater discharge rate from the development site for the 2-year, 24-hour duration storm event shall not exceed fifty percent (50%) of the pre-development peak stormwater runoff rate for the same design storm event. The Director may require that runoff from a development site be controlled for additional design storm events.
- (3) Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project

will discharge runoff to an existing closed depression that has greater than 5,000 square feet of water surface area at overflow elevation, the following requirements must be met:

- a. CASE 1: The pre-development 100-year, 7-day and 24-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - b. CASE 2: The pre-development 100-year, 7-day and 24-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the pre-development runoff rates for 50% of the 2-year and 100% of the 10-year and 100-year, 24-hour duration and 100-year, 7-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by Kitsap County, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off of the project site, impacts to adjacent properties shall be evaluated.
 - c. CASE 3: When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the 2, 10 and 100-year, 24-hour duration, and the 100-year, 7-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01-foot for the 100-year storm events.
- (4) Land developments shall provide stormwater quantity control facilities designed to meet, as a minimum performance standard, the requirements of this Section, except in the following circumstances:
- a. The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams

discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies and streambank or shoreline erosion will not occur.

- b. The development site discharges to a regional stormwater facility approved by the Director to receive the developed site runoff.
 - c. The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the Applicant, to the satisfaction of the Director, that stormwater quantity control is not warranted.
- (5) In the event that conditions downstream from a proposed development site are determined by the Director to be exceptionally sensitive to potential stormwater discharges from the subject site, the Director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable stormwater release rates.
 - (6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.
 - (7) Retention facilities and open stormwater quantity control facilities shall not be located in dedicated public road rights-of-way.
 - (8) Reasonable access for maintenance, as determined by the Director, shall be provided to all stormwater facilities.
 - (9) As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be selected, designed, and maintained according to the Manual. Streambank erosion control BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.
 - (10) Where stormwater detention is proposed to meet stormwater quantity controls, volume correction factors as outlined in the manual shall be applied to increase pond size.

7.30. Stormwater Quality Control

Water quality best management practices (BMPs) shall be used to the maximum extent practicable to control pollution in stormwater. Water quality BMPs shall be used to comply with the standards of this ordinance, including those contained in the Manual. Construction and post-development water quality BMPs shall be utilized for all major development activities. Said water quality BMPs shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in Section 7.35 (2).

7.32. Illicit Discharges

Illicit discharges, as described in Section 10.20, or illicit connections to a stormwater drainage system, as described in Section 10.21, are prohibited.

7.33. Experimental Best Management Practices

In those instances where appropriate best management practices are not in the Manual, experimental BMPs may be considered. In an effort to improve stormwater quality technology, experimental BMPs are encouraged as a means of solving problems in a manner not addressed by the Manual. Experimental BMPs must be approved by the Director. The Director may require that the performance of experimental BMPs be monitored to document their effectiveness for future use.

7.34. Incorporation Into Stormwater Quantity Control Facilities

Water quality BMPs may be incorporated into the design of stormwater quantity control facilities where appropriate.

7.35. Minimum Requirements

The following minimum requirements for stormwater quality control shall apply to all land developments that meet the definition of a major development:

- (1) Source control of pollution. Source control BMPs shall be applied to all projects to the maximum extent practicable.
- (2) Stormwater treatment BMPs. Treatment BMPs shall be sized to capture and treat developed runoff from the water quality design storm, defined as the 6-month, 24-hour duration storm event. For the purpose of this ordinance, the precipitation from a 6-month, 24 hour storm event shall be considered equivalent to 64% of the precipitation from a 2-year, 24 hour storm event. All treatment BMPs shall be selected, designed, and maintained according to the Manual.

Stormwater treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.

All major developments shall provide treatment of stormwater discharge utilizing wetponds and/or biofiltration BMPs. Other water quality BMPs may only be substituted subject to the granting by the Director of a technical deviation from the provisions of the Stormwater Design Manual.

- (3) Wetponds shall be required for development sites with greater than five (5) acres of new impervious surface subject to motor vehicle use, which:
- (a) discharges directly to a regional facility, receiving body of water, or closed depression without providing on-site stormwater quantity control;
 - or (b) discharges directly or indirectly to a Class 1, 2 or 3 stream, or a Class 1 or 2 wetland within 1 mile downstream of the site.

"Wetpond" shall mean a stormwater basin which is intended to maintain a permanent pool of water equal to the post-development runoff volume of the 6-month frequency, 24-hour duration design storm.

- (4) Presettling basin. All stormwater, prior to discharge to a facility designed to utilize infiltration, shall pass through an appropriate stormwater treatment BMP designed to remove suspended solids.
- (5) Water quality-sensitive areas. Where the Director determines that these Major Development minimum requirements do not provide adequate protection of water-quality sensitive areas, either on-site or within the drainage basin in which the development is located, more stringent controls shall be required to protect water quality.

An adopted and implemented basin plan may be used to develop requirements for specific water quality sensitive areas.

- (6) Downstream analysis and mitigation. All major developments shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, streambank erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.
- (7) Oil/Water separators. All stormwater from paved areas subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to discharge.

Development sites that include use, storage or maintenance of heavy equipment, and those development sites that include storage or transfer of petroleum products, shall utilize appropriately sized API or CPS-type oil/water separators.

7.40. Stormwater Conveyance Facilities

- (1) All proposed developments must provide on-site stormwater conveyance facilities having sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater runoff rate resulting from a 100-year, 24-hour duration storm event, plus any existing upstream runoff that will be conveyed through the development site.
- (2) Estimation of peak stormwater runoff rates used in the design of water conveyance facilities shall use either the Rational Method or a hydrograph method of analysis accepted by the Director.
- (3) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak stormwater discharge for the 25-year storm event. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to convey the post-development peak stormwater discharge for the 100-year storm event. Downstream improvements or additional on-site stormwater quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The Director has the authority to waive the requirement for downstream improvements.
- (4) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.

7.50. Easements, Tracts and Covenants

- (1) Drainage easements shall be provided in a proposed development for all stormwater conveyance systems that are not located in public rights-of-way or tracts. Said drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems.

Drainage easements through structures is not permitted.

- (2) Stormwater facilities that are to be maintained by Kitsap County, together with maintenance access roads to said facilities, shall be located in public

right-of-way, separate tracts dedicated to Kitsap County, or drainage easements located in designated Open Space. The exception is for stormwater conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.

- (3) All runoff from impervious surfaces, roof drains, and yard drains shall be directed so as not to adversely affect adjacent properties. Wording to this effect shall appear on the face of all final plats/P.U.D.'s, and shall be contained in any covenants required for a development.

7.60. Wetlands

The following requirements apply only to situations where stormwater discharges directly or indirectly into a wetland, and must be met in addition to meeting the requirements in Major Development Minimum Requirement 7.35 (2), Stormwater Treatment BMPs:

- (1) Stormwater discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting State Water Quality and Groundwater Quality Standards.
- (2) Discharges to wetlands shall maintain the hydroperiod and flows of pre-development site conditions to the extent necessary to protect the characteristic functions of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.
- (3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat stormwater.
- (4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are not in conflict with designated critical areas and associated buffers, and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with the Manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.
- (5) Wetland BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County Department of Community Development.

7.70. Regional Facilities

When the Director has determined that the public would benefit by the establishment of a regional stormwater facility which would serve as an alternative to the construction of separate on-site drainage facilities, the Director may recommend to the Board that a regional stormwater facility be constructed which would serve more than one development in providing stormwater quantity and/or quality control. In the event that a regional stormwater facility is required by the Board, such a regional stormwater facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the Board to be served by the regional facility shall, at the time of issuance of a Site Development Activity Permit for a development, be required to contribute a fair share to the cost of land purchase, design and construction of said regional facility. In the event that a proposed regional stormwater facility is not yet in operation at the time of completion of construction of a development that is to be served by said regional facility, the Applicant for said development shall be required to provide temporary stormwater quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts.

7.80. Basin Planning

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, stormwater treatment, streambank erosion control, wetlands and water quality sensitive areas. Adopted and implemented watershed-based basin plans may be used to modify any or all of the minimum requirements for stormwater quantity or quality control addressed in this ordinance, provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would otherwise be achieved by implementation of the provisions of this ordinance in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by Kitsap County.

SECTION 8.0 OPERATION AND MAINTENANCE

8.10. Maintenance of Stormwater Facilities by Owners

- (1) Any person or persons holding title to a non-residential property for which stormwater facilities and BMPs have been required by Kitsap County shall be responsible for the continual operation, maintenance and repair of said

stormwater facilities and BMPs in accordance with the provisions of this ordinance.

- (2) For privately maintained stormwater facilities, the maintenance requirements specified in this ordinance, including the Manual, shall be enforced against the owner(s) of the subject property served by the stormwater facility.

8.11. Maintenance Covenant Required for Privately Maintained Drainage Facilities

- (1) Prior to the beneficial use of a development constructed under a Site Development Activity Permit, the owner shall record a Maintenance Covenant which guarantees Kitsap County that the stormwater facilities shall be properly operated, maintained and inspected. 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 Kitsap County Auditor.
- (2) The Director may require the owners of existing stormwater facilities for which Kitsap County has not previously accepted operation and maintenance responsibility, to record a Maintenance Covenant, or to request that Kitsap County accept operation and maintenance responsibility for the stormwater facilities subject to the requirements of this ordinance.
- (3) Maintenance Covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject stormwater facilities is accepted by Kitsap County.

8.12. County Acceptance of New Stormwater Facilities

The County may accept for maintenance those new residential stormwater facilities constructed under an accepted Site Development Activity Permit that meet the following conditions:

- (1) Improvements in residential plats/PUDs have been completed on at least 80% of the lots, unless waived by the Director, AND;
- (2) All drainage facilities have been inspected and accepted by the Director and said drainage facilities have been in satisfactory operation for at least two (2) years, AND;
- (3) All drainage facilities reconstructed during the maintenance period have been accepted by the Director, AND;

- (4) The stormwater facility, as designed and constructed, conforms to the provisions of this ordinance, AND;
- (5) All easements and tracts required under this ordinance, entitling the County to properly operate and maintain the subject drainage facility, have been conveyed to Kitsap County and have been recorded with the Kitsap County Auditor, AND;
- (6) For non-standard drainage facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by Kitsap County.
- (7) A complete and accurate set of reproducible mylar as-built drawings have been provided to Kitsap County.

8.13. County Acceptance of Existing Stormwater Facilities

Kitsap County may accept for maintenance those stormwater facilities for residential developments existing prior to the effective date of this ordinance that meet the following conditions:

- (1) Improvements in residential plats/PUDs have been completed on at least 80% of the lots, AND;
- (2) An inspection by the Director has determined that the stormwater facilities are functioning as designed, AND;
- (3) The stormwater facilities have had at least two (2) years of satisfactory operation and maintenance, unless otherwise waived by the Director, AND;
- (4) The person or persons holding title to the properties served by the stormwater facilities submit a petition containing the signatures of the title holders of more than 50% of the lots served by the stormwater facilities requesting that the County maintain the stormwater facilities, AND;
- (5) All easements required under this ordinance, entitling the County to properly operate and maintain the subject stormwater facilities, have been conveyed to Kitsap County and have been recorded with the Kitsap County Auditor, AND;
- (6) The person or persons holding title to the properties served by the stormwater facilities show proof of the correction of any defects in the drainage facilities, as required by the Director.

8.14. County Inspections of Privately Maintained Stormwater Facilities

- (1) The Director is authorized to develop an inspection program for privately owned and maintained stormwater facilities in Kitsap County. The purpose of this inspection program shall be to determine if said stormwater facilities, conveyance structures and water quality facilities are in good working order and are properly maintained, and to ensure that stormwater quality BMPs are in place and that non-point source pollution control is being implemented.
- (2) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this ordinance has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times any and all stormwater drainage facilities within Kitsap County to determine compliance with the provisions of this ordinance.
- (3) Prior to making any inspections, the Director or his assignee shall follow the procedures delineated in Section 11.16.

8.15. Inspection Schedule

The Director is authorized to establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities that are not owned and operated by Kitsap County. The party (or parties) responsible for maintenance and operation shall be identified. Critical stormwater facilities, as so deemed by the Director, may require a more frequent inspection schedule.

SECTION 9.0 CRITICAL DRAINAGE AREAS

9.10. Special Drainage Improvements

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the Director may require drainage improvements in excess of those required in other sections of this ordinance.

9.20. Designation

The following are designated as critical drainage areas:

- (1) All lands having a slope of thirty percent (30%) or greater:
 - a. As determined by a topographic survey of the site, OR;

- b. As shown on a U.S.G.S. topographic quadrangle map, when other topographic survey information is not available, OR;
 - c. As determined by the Director based on field investigation of the site.
- (2) Geologic hazardous area and historically documented unstable slopes.
 - (3) All lands within 200 feet of the ordinary high water mark of bodies of water possessing fish spawning and rearing habitat for anadromous and resident fish species, as designated by the State Department of Fish and Wildlife;
 - (4) All lands designated critical areas in any Comprehensive Drainage Plan, or defined as critical areas by separate ordinance;
 - (5) All lands that are classified as wetlands as defined by any separate Kitsap County ordinance or policy;
 - (6) Any lands that have existing local requirements for the management of groundwater, aquifers, or sole source aquifers;
 - (7) Any lands that drain to a natural feature that is a closed depression;
 - (8) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
 - (9) Any lands that are established by law as shellfish protection areas.
 - (10) Any lands determined by the Director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

9.30. Conflicting Information

In the event of conflict between maps or other available information resources, the final determination of whether or not certain lands are critical drainage areas shall be made by the Director. In making such a final determination, the Director may use detailed site surveys and/or other topographic data which the Director may require the Applicant to furnish at the Applicant's expense.

SECTION 10.0 WATER QUALITY

10.10. Purpose

This Section implements the directive of the 1991 Puget Sound Water Quality Management Plan (Sec. EM-10. Enhanced Local Enforcement).

10.20. Illicit Discharges

Illicit discharges to stormwater drainage systems are prohibited.

10.21. Illicit Connections and Uses

The stormwater system of Kitsap County, natural and artificial, may only be used to convey stormwater runoff. Stormwater System shall mean all natural and man-made systems which function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater. Violation of this section can result in enforcement action being taken as prescribed in Section 11.0.

No person shall use this system, directly or indirectly, to dispose of any solid or liquid matter other than stormwater. No person shall make or allow any connection to the stormwater system which could result in the discharge of polluting matter. Connections to the stormwater system from the interiors of structures are prohibited. Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and shall be eliminated.

10.22. Pollution Control Device Maintenance

Owners and operators of oil/water separators, wet ponds, bio-filtration/biofilter facilities, sediment and erosion control systems, infiltration systems and any other pollution control devices shall operate and maintain such control devices to assure that performance meets the intended level of pollutant removal. Recommended maintenance schedules for these devices are included in the Manual.

10.31. Test Procedure

In the event that water quality testing is utilized in determining whether a violation of this Section has occurred, said water quality test procedures shall be followed as described in the most recent edition of the "Code of Federal Regulations, Part 136".

10.70. Exemptions

The following discharges are exempt from the provisions of this Section:

- (1) The regulated effluent from any commercial or municipal facility holding a valid state or federal wastewater discharge permit.
- (2) Acts of God or nature not compounded by human negligence.
- (3) Properly operating on-site domestic sewage systems.
- (4) Properly applied agricultural chemicals and materials.

SECTION 11.0 ENFORCEMENT**11.10. Violations of This Ordinance**

The placement, construction, or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public storm drainage facility, or grading, which violates the provisions of this ordinance shall be and the same hereby is declared to be unlawful and a public nuisance and may be abated as such through the use of civil penalties and Stop Work Orders, as well as any other remedies which are set forth in this ordinance, including, but not limited to, revocation of any permits. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources.

11.15. Inspection

(1) Routine Inspections. The Director or his designee shall have access to any site for which a Site Development Activity Permit has been issued pursuant to Section 3.20 hereof during regular business hours for the purpose of on-site review and to insure compliance with the terms of such Permit. Applicant for any such Permit shall agree in writing, as a condition of issuance thereof, that such access shall be permitted for such purposes.

(2) Inspection For Cause. Whenever there is cause to believe that a violation of this Ordinance has been or is being committed, the Director or his designee is authorized to inspect the project, and any part thereof reasonably related to the violation, during regular business hours, and at any other time reasonable in the circumstances. Applicant for any Site Development Activity Permit under Section 3.20 hereof shall, as a condition of issuance of such permit, agree in writing that such access to the project site, which inhibits the collection of information relevant to enforcement of the provisions of this ordinance, shall be grounds for issuance of a Stop Work Order by the Director or his designee.

11.16. Inspection Procedures

Prior to making any inspections, the Director or his assignee shall present identification credentials, state the reason for the inspection and request entry.

- (1) If the property or any building or structure on the property is unoccupied, the Director or his assignee shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.
- (2) If after reasonable effort, the Director or his assignee is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the site or of the stormwater drainage system creates an imminent hazard to persons or property, the inspector may enter.

11.20. Stop Work Orders

"Stop Work Order" shall mean a written notice, signed by the Director or his assignee, that is posted on the site of a construction activity, which order states that a violation of a Kitsap County ordinance has occurred and that all construction-related activity, except for erosion and sedimentation control activities authorized by the Director, is to cease until further notice. The Director may cause a Stop Work Order to be issued whenever the Director has reason to believe that there is a violation of the terms of this ordinance. The effect of such a Stop Work Order shall be to require the immediate cessation of such work or activity until authorization is given by the Director to proceed.

11.30. Cumulative Civil Penalty

Every person who violates this ordinance, or the conditions of an accepted Site Development Activity Permit Plan, may incur a civil penalty. The penalty shall not be less than \$100.00 or exceed \$1000.00 for each violation. This penalty shall be in addition to any other penalty provided by law. Each and every such violation shall be a separate and distinct offense, and each day of continued or repeated violation shall constitute a separate violation.

11.31. Aiding or Abetting

Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

11.40. Order to Maintain or Repair

The Director shall have the authority to issue to an owner or person an order to maintain or repair a component of a stormwater facility or BMP to bring it in compliance with this ordinance. The order shall include:

- (1) A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;
- (2) A notice that the violation or the potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken; and
- (3) A reasonable time to comply, depending on the circumstances.

11.41. Notice of Violation - Assessment of Penalty

Whenever the Director has found that a violation of this ordinance has occurred or is occurring, the Director is authorized to issue a Notice of Violation directed to the person or persons identified by the Director as the violator.

- (1) The Notice of Violation shall contain:
 - a. The name and address of the property owner;
 - b. The street address, when available, or a legal description sufficient to identify the building, structure, premises, or land upon or within which the violation is occurring;
 - c. A statement of the nature of such violation(s);
 - d. A statement of the action that is required to be taken within twenty-one (21) days from the date of service of the notice of violation, unless the Director has determined the violation to be hazardous and to be requiring immediate corrective action, OR unless the corrective action constitutes a temporary erosion control measure;
 - e. A statement that a cumulative civil penalty in the amount of not less than one hundred dollars (\$100.00) and not exceeding one thousand dollars (\$1000.00) per day shall be assessed against the person to whom the Notice of Violation is directed for each and every day following the date set for correction on which the violation continues; and
 - f. A statement that the Director's determination of violation may be appealed to the Kitsap County Board of Commissioners by filing

written notice of appeal, in duplicate, with the Board within twenty (20) days of service of the Notice of Violation. The per diem civil penalty shall not accrue during the pendency of such administrative appeal unless the violation was determined by the Director to be hazardous and to require immediate corrective action or was determined by the Director to constitute a temporary erosion control measure.

- (2) The Notice of Violation shall be served upon the person(s) to whom it is directed either personally or by complaint in Superior Court proceedings or by mailing a copy of the Notice of Violation by certified mail.

11.42. Appeal and Disposition

A Notice of Violation issued pursuant to this Section shall have the following appeal options:

- (1) Within thirty (30) days from the date of receipt of the Notice of Violation, the aggrieved person may make application for relief from penalty to the Director. Such application shall contain any information relevant to the situation that the aggrieved party believes the Director should consider. The Director may cancel, lower, or affirm the penalty.
- (2) Within fifteen (15) days from the date of receipt of the Director's response to said application for relief from penalty, the aggrieved party may appeal to the Kitsap County Board of Commissioners. The aggrieved person shall be entitled to have the appeal considered by the Board at its next available regularly scheduled meeting date following the filing of the appeal. The Board shall issue their decision within 15 days of the completion of the hearing. The aggrieved party shall be notified by certified mail of the determination of the Board.

11.50. Liability for Costs of Investigation

Any person found to be in violation of this ordinance shall be responsible for the costs of investigation by the County. Such cost may include the analytical services of a certified laboratory.

11.60. Collection of Civil Penalty

The civil penalty constitutes a personal obligation of the person(s) to whom the Notice of Violation is directed. Penalties imposed under this Section shall become due and payable 30 days after receiving notice of penalty unless an appeal is filed. The Prosecuting Attorney, on behalf of the County, is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or

granting of which shall neither stay nor terminate the accrual of additional per diem penalties so long as the violation continues.

11.70. Compromise Settlement and Disposition of Suits

The Director and the Prosecuting Attorney are hereby authorized to enter into negotiations with the parties or their legal representatives named in a lawsuit for the collection of civil penalties to negotiate a settlement, compromise or otherwise dispose of a lawsuit when to do so will be in the best interest of the County, provided that a report shall be submitted to the Board in any instance when a compromise settlement is negotiated.

11.80. Hazards

- (1) Whenever the Director determines that any existing construction site, erosion/sedimentation problem or drainage facility poses a hazard to public safety or substantially endangers property, or adversely affects the condition or capacity of the drainage facilities, or adversely affects the safety and operation of County right of way, or violates State water pollution laws, the person to whom the permit was issued, the person or persons holding title to the property within which the drainage facility is located, the person shall upon receipt of notice in writing from the Director, repair or otherwise address the cause of the hazardous situation in conformance with the requirements of this Section.
- (2) Should the Director 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 or she shall first make a reasonable effort to locate the owner before acting, in accordance with Section 11.16. In such instances, the person or persons holding title to the subject property shall be obligated for the payment to Kitsap County of all costs incurred by the County. If costs are incurred and a bond pursuant to this Section or other County requirement has been posted, the Director shall have the authority to collect against the bond to cover costs incurred.

ALL THOSE INTERESTED are welcome to attend.

HOLLY ANDERSON
Clerk of the Board
of County Commissioners

Note: Kitsap County does not discriminate on the basis of disability. If you plan on attending this hearing and need accommodations, please call for TTY (360)895-8975 or 1-800-816-2782.

Publication Date: November 27, 1996
The Sun

Holly Anderson, Clerk of the Board

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OFFICE OF THE
KITSAP COUNTY PROSECUTING ATTORNEY
Russell D. Hauge, Prosecuting Attorney

3100

Civil Division
Kitsap County Courthouse, 614 Division Street, MS-35A
Port Orchard, Washington 98366-4681

COPIES INDIVIDUALLY
ADDRESSED TO ALL
THREE (3):

(360) 895-4992
Fax (360) 876-7083

OPINION MEMORANDUM

RECEIVED

NOV 27 1996

KITSAP COUNTY COMMISSIONERS

TO: Matt Ryan, County Commissioner
Kitsap County Commissioners Office, MS-4

Phil Best, County Commissioner
Kitsap County Commissioner's Office, MS-4

FROM: Jacquelyn Aufderheide, Special Deputy Prosecutor
Kitsap County Prosecutor's Office, MS-35A *gma*

SUBJECT: NOTICE OF HEARING TO ADOPT KITSAP COUNTY STORMWATER
DESIGN MANUAL AND ORDINANCE

DATE: November 27, 1996

At the Work Session on November 20, you asked this office to give an opinion about the public notice that the County should provide for the proposed stormwater management standards. The issue raised is whether it is necessary to give notice by publishing a summary and providing copies of the entire proposed Stormwater Design Manual and Ordinance, or whether the County should give notice only of the significant changes made since the last public hearing. **I recommend that notice should include a summary of the entire Manual and Ordinance, published once at least ten days prior to the hearing.**

The last public hearing took place on June 19, 1995. After discussion and testimony, the Board continued the matter to July 17, 1995, to receive and consider additional written testimony. During this interim, the Department of Ecology revoked its approval of the standards and required additional changes. Changes were made to the satisfaction of DOE, and other "editorial" changes were made.

I reviewed the various statutes regarding public notice of proposed ordinances, particularly the Planning Enabling Act, at RCW 36.70.550 through .670, and relevant case law, particularly Leavitt v. Jefferson County, 74 Wn.App.668, 681-683 (1994). Almost one and one-half years

**Hearing Notice re: Adoption of Kitsap County
Stormwater Design Manual and Ordinance**

November 27, 1996

Page 2

have lapsed since the last public notice, public hearing, and consideration. Significant changes were made to the stormwater management standards, and other changes were made. Furthermore, the Ordinance contains civil enforcement penalties that under other circumstances require publication in full, not just by summaries.

Based on these considerations, I recommend that the public be notified with publication of a summary of the entire proposed Stormwater Design Manual and Ordinance, rather than invite procedural challenges to the Manual and Ordinance based on claims of defective notice.

This opinion was communicated to Dave Dickson. We agree that publication on November 27 will allow sufficient time to place this matter on the agenda for public comment on December 9. Please let me know if you have any questions, or want to discuss this further. Thank you.

cc: Dave Dickson, Public Works
Jon Brand, Public Works