

**Ordinance \_\_\_\_ -2009**

Amending Kitsap County Code Title 12 relating to Illicit Discharges, Construction Runoff Control and Post Construction Runoff Control

**WHEREAS**, on January 17, 2007, the Washington State Department of Ecology issued the Pollutant Discharge Elimination System (NPDES) Phase II Permit for Western Washington (Permit);

**WHEREAS**, the Permit requires local governments to establish a program to eliminate illicit discharges into regulated small municipal separate storm sewer systems (MS4) and to reduce pollutants in stormwater runoff from new development, redevelopment and construction site activities;

**WHEREAS**, the County has implemented or is working toward the implementation of a variety of activities to satisfy the requirements of the Permit within the timeframes established by the Permit;

**WHEREAS**, the amendments to Title 12 below are but one of the many activities intended carry out the requirements within the Permit;

**WHEREAS**, on \_\_\_\_\_, public notice inviting comments from the public was published in a local newspaper of general circulation.

**WHEREAS**, on March 17, 2009, following timely and effective notice, a public hearing was held by the Kitsap County Planning Commission to evaluate the proposed amendments to Title 12 and make recommendations to the Kitsap County Board of Commissioners;

**WHEREAS**, on April 7, 2009, following timely and effective notice, the Kitsap County Planning Commission adopted findings and recommendations to the Kitsap County Board of Commissioners regarding Title 12;

**WHEREAS**, on August 10, 2009, following timely and effective notice, a public hearing was held by the Kitsap County Board of Commissioners to evaluate the Kitsap County Planning Commission's recommendations, to take testimony from the public, and to deliberate on the proposed amendments to Title 12;

**NOW, THEREFORE, BE IT ORDAINED:**

**Section 1.** Kitsap County Code Section 12.04.020 "Storm water management standards and specifications," adopted by Ordinance 199-1996, is amended as follows:

The Kitsap County board of commissioners recognizes that storm water control technology is a developing and evolving science. In order to ensure that the latest and best technology is utilized in Kitsap County, these regulations include the Kitsap County Stormwater Design Manual (Manual) that is incorporated herein by this reference. A

copy of the Manual is available for inspection or purchase upon request. The Kitsap County Stormwater Design Manual may consist of one or more documents each of which may be amended 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 12.04.030.

**NEW SECTION. Section 2.** A new section is added to Chapter 12.04 Kitsap County Code, "General Provisions," as follows:

KCC 12.04.025      Technical Deviations and Variances

(1 ) Technical Deviations. The director may grant minor technical deviations (adjustments) from requirements contained in the Kitsap County Stormwater Design Manual, provided that all of the following criteria are met:

- (A) The technical deviation will not otherwise result in noncompliance with this title;
- (B) The granting of the technical deviation will not result in noncompliance with the development conditions imposed upon the project;
- (C) The granting of the technical deviation will produce a compensating or comparable result which is in the public interest; including providing substantially equivalent environmental protection;
- (D) The granting of the technical deviation will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

(2) Variances. The Kitsap County Hearing Examiner may, following the process in KCC 21.04, grant a variance from the provisions of this title, provided that all of the following criteria are met and written findings are made thereon:

- (A) The variance is for project-specific design criteria based on site-specific conditions. All jurisdiction-wide variances must be approved by the Department of Ecology;
- (B) The requirements of this title impose a severe and unexpected economic hardship on the applicant. The determination of a severe and unexpected economic hardship shall involve the consideration, in writing, of all of the following:
  - i. The current (pre-project) use of the site, and
  - ii. How the application of this title restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of this title, and
  - iii. The possible remaining uses of the site if the variance were not granted, and
  - iv. The uses of the site that would have been allowed prior to the adoption of this title, and
  - v. A comparison of the estimated amount and percentage of value loss as a result of the requirements of this title versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of this title, and
  - vi. The feasibility for the owner to alter the project to comply with the requirements of this title.
- (C) The variance will not increase the risk to the public health and welfare, nor be injurious to other properties in the vicinity, to properties downstream or to the quality of the waters of the state; and

(D) The variance is the least possible alternative that could be granted to comply with the intent of this title; and

(E) The granting of the variance will produce a compensating or comparable result that is in the public interest; and

(F) The granting of the variance will meet the objectives of safety, function, appearance, environmental protection and maintainability based on sound engineering judgment.

**Section 3.** Kitsap County Code Section 12.04.050 “Administration,” adopted by Ordinance 199-1996, is amended as follows:

The director, or designee, shall administer this title. The director shall have the authority to develop and implement procedures to administer and enforce this title.

**Section 4.** Kitsap County Code Section 12.04.060 “Appeals,” adopted by Ordinance 199-1996, is amended as follows:

An aggrieved party may appeal any administrative interpretation or departmental ruling related to this title to the Kitsap County Hearing Examiner as outlined in Chapter 21.04 of this code.

**Section 5.** Kitsap County Code Section 12.08.010 Definitions,” adopted by Ordinance 199-1996 and last amended by Ordinance 375-2007, is amended as follows:

The following definitions of terms shall apply to this title:

1. “Abbreviated Grading Plan” means grading plan that does not require the seal of a professional civil engineer.
2. "Accepted performance of construction" means 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.
- 3."Applicant" means 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 title on a form furnished by the county and paying the required application fees.
- 4."Basin plan" means a plan and all implementing regulations and procedures including, but not limited to, land use management adopted by ordinance for managing surface and storm water quality and quantity management facilities and drainage features within individual sub-basins.
- 5."Beneficial use” means uses of waters of the state which include but are not limited to use for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, recreation, generation of electric power

and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

6. "Best management practices" ("BMP") means physical, structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants or other adverse impacts to water, and have been approved by Kitsap County as accepted BMPs.

7. "Biofiltration/biofilter facilities" means vegetative BMPs which treat storm water by filtration through vegetation. Biofiltration facilities include, but are not limited to, grassed or vegetated swales and filter strips.

8. "Bioretention facilities" means shallow landscaped depressions with an engineered soil mix designed to filter runoff from a small contributing area. Bioretention facilities may be in the form of swales or cells. Bioretention facilities are commonly referred to as rain gardens.

9. "Board" means the Kitsap County board of commissioners or their assigns.

10. "Bond" means 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 title.

11. "Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology. A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and, the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through an Ecology approved erosion and sediment control course.

12. "Closed depressions" means 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.

13. "Comprehensive drainage plan" means 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 storm water 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.

14. "Contiguous land" means 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.

15. "County" means Kitsap County.

16. "Critical drainage area" refers to those areas designated in Chapter 12.28 (Critical Drainage Areas), which have a high potential for storm water quantity or quality problems.

17. "Design storm event" means a theoretical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.

18. "Detention facilities" means storm water facilities designed to store runoff while gradually releasing it at a predetermined controlled rate. "Detention facilities" shall include all appurtenances associated with their designed function, maintenance and security.

19. "Developed site" means the condition of the development site following completion of construction of the development including all approved phases of construction.

20. "Director" means:

A. The director of the Kitsap County department of public works or his designee for the administration of the surface and stormwater management program of sections 12.36 and 12.40 and the stormwater maintenance program of section 12.24; or

B. The director of the Kitsap County department of community development or his designee for all permit related activities.

21. "Dispersion" means the release of surface or stormwater runoff such that the flow spreads over a wide area and is located so as not to allow flow to concentrate anywhere upstream of a drainage channel with erodible underlying soils.

22. "Diversion" means the routing of storm water to other than its natural discharge location.

23. "Drainage feature" means 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 storm water runoff.

24. "Drainage plan" means 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.

25. "Easement" means 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.

26. "Effective Impervious surface" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces on development sites are considered ineffective if the runoff is infiltrated or fully dispersed using the design criteria found in the Manual.

27. "Existing storm water facilities" means those facilities constructed or under permitted construction prior to the effective date of the ordinance codified in this chapter.

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

29. "Geologist" means a person who is licensed in the state of Washington and meets all experience and training requirements in accordance with Chapter WAC 308-15, as now or hereafter amended. The state provides for two specializations: Engineering Geology and Hydrogeology.

30. "Geotechnical engineer" means a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, with professional training and experience in geotechnical engineering, including at least four years' professional experience in evaluating geologically hazardous areas.

31. "Geotechnical report" and "geological report" mean a study of potential site development impacts related to retention of natural vegetation, soil characteristics, geology, drainage, groundwater discharge, and engineering recommendations related to slope and structural stability. The geotechnical report shall be prepared by, or in conjunction with, a geotechnical engineer meeting the minimum qualifications as defined by this title. Geological reports may contain the above information with the exception of engineering recommendations, and may be prepared by a geologist. "Geotechnical report" means a study of the effects of drainage and drainage facilities on soil characteristics, geology and groundwater. A geotechnical engineer or geologist shall prepare the geotechnical report.

32. "Grading" means any excavating, filling or embanking of earth materials.

33. "Hydrograph" means a graph of runoff rate, inflow rate or discharge rate, past a specific point over time.

34. "Hydrograph method" means a method of estimating a hydrograph using a mathematical simulation.

35. "Illicit discharge" means all non-storm-water discharges to storm water 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 graywater systems. The following shall not be considered illicit discharges unless the director determines that the type of

discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater::

- (a) Diverted stream flows.
- (b) Rising ground waters.
- (c) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)).
- (d) Uncontaminated pumped ground water.
- (e) Foundation drains.
- (f) Air conditioning condensation.
- (g) Irrigation water from agricultural sources that is commingled with urban stormwater.
- (h) Springs.
- (i) Water from crawl space pumps.
- (j) Footing drains.
- (k) Flows from riparian habitats and wetlands.
- (l) Non-stormwater discharges covered and compliant with by another NPDES permit.
- (m) Discharges from emergency fire fighting activities
- (n) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water so long as the discharges are de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent re-suspension of sediments in storm water drainage systems.
- (o) Discharges from lawn watering and other irrigation runoff.
- (p) Dechlorinated swimming pool discharges so long as the discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent re-suspension of sediments in the MS4. Swimming pool cleaning wastewater and filter backwash shall not be discharged to storm water drainage systems.
- (q) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. At active construction sites, street sweeping must be performed prior to washing the street.

36."Impervious surface" means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. 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, 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 for purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

37. "Land disturbing activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

38. "Land use permits and approvals" means any use or development of land that requires Kitsap County action in legislation, administration or approval contained in titles 11 (Roads, Highways and Bridges), 13 (Water and Sewers), 14 (Building and Construction), 15 (Flood Hazard Areas), 16 (Land Subdivision and Development), 17 (Zoning), 18 (Environment), 19 (Critical Areas Ordinance), and 22 (Shoreline Management Master Program) of this code, including but not limited to, the following:

- (a) Preliminary plat subdivision;
- (b) Final plat subdivision;
- (c) Performance based development (PBD) including residential and commercial;
- (d) Site plan review;
- (e) Conditional use permit (CUP);
- (f) Zoning variance;
- (g) Short plat subdivision;
- (h) Large lot subdivision;
- (i) Grading permit;
- (j) Shoreline substantial development permit;
- (k) Shoreline conditional use permit;
- (l) SEPA and EIS reviews;
- (m) Binding site plan;
- (n) Building permit
- (o) Permitted uses under Chapter 17 of this code.

39. "Maintenance" means activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. Maintenance shall also include the correction of any problem on the site property which may directly impair the functions of the storm water facilities.

40. "Maintenance covenant" means a binding agreement between Kitsap County and the person or persons holding title to a property served by a storm water facility whereby the property owner promises to, among other things, maintain certain storm water 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 storm water 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.

41. "Maintenance schedule" means a document detailing required storm water facility maintenance activities to be performed at specified intervals.

42. "Major development" means any new development or any redevelopment activity that:

(a) For sites within a census defined urban area or an urban growth area that

(i) creates or adds 5,000 square feet, or more, of new impervious surface area, or

(ii) Converts  $\frac{3}{4}$  acres, or more, of native vegetation to pollution generating pervious surface, or

(iii) Converts 2.5 acres, or more, of native vegetation to pasture; or .

(b) For sites outside census defined urban areas or urban growth areas that creates or adds 10,000 square feet, or more, of new impervious surface area or creates or adds 5% or more of impervious surface area of the site (whichever is greater), or

(c) includes land disturbing activity of one acre or greater; or

(d) includes grading involving the movement of five thousand cubic yards or more of material.

43. "Manual" means the Kitsap County Stormwater Design Manual.

44. "Minor development" means any new development or redevelopment activity that does not meet the thresholds of a major development.

45. "Native vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

46. "New development" means land disturbing activities, including Class IV -general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

47. "Non-forestry use" means an active use of land which is incompatible with timber growing.

48. "Off-site drainage analysis" means 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 storm water from the development site.

49. "Operation and maintenance manual" means a written manual, prepared by a qualified civil engineer, that provides a description of operation and maintenance procedures for specific storm water control facilities, for use by operation and maintenance personnel.

50. "Owner" means 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.

51. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of the 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.

52. "Pollution-generating impervious surface (PGIS)" - Those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those that are subject to: vehicular use; industrial activities; or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the runoff or blow-in of rainfall. Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. Metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating). A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly-used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.

The following are not considered regularly-used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lanes, and infrequently used maintenance access roads.

53. Pollution-generating pervious surfaces (PGPS) means any non-impervious surface subject to use of pesticides and fertilizers or loss of soil. Typical PGPS include lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.

54. "Pre-development conditions" means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The pre-developed condition shall be assumed to be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

55. "Project site" – means that portion of a property, properties, or right of way subject to land disturbing activities, new impervious surfaces, or replaced impervious surfaces.

56. "Professional engineer" means 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.

57. "Project engineer" means 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.

58. "Receiving waters" means bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow.

59. "Redevelopment" means development on a site that is already substantially developed (i.e., has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

60. "Replaced impervious surface" means

- a) For structures, the removal and replacement of any exterior impervious surfaces or foundation.
- b) For other impervious surfaces, the removal down to bare soil or base course and replacement.

61. "SEPA" means the Washington State Environmental Policy Act, Chapter 43.21C RCW.

62. "Shorelines of the state" means 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, Chapter 90.58 RCW.

63. "Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

64. "Site development activity" means the alteration of topography, clearing, paving, grading, construction, alteration of storm water 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."

65. "Site development activity permit plan" means 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.

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

67. "Soils engineer" means 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.

68. "Source control BMP" means a structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Structural Source Control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

69. "Stabilized" means 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.

70. "Storm water" means the surface water runoff that results from all natural forms of precipitation.

71. "Storm water facility" means 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, bioretention facilities, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, oil/water separators and sediment basins. Storm water facilities shall not include building gutters, downspouts and drains serving one single-family residence.

72. "Storm water quality control" means the control of the introduction of pollutants into storm water and the process of separating pollutants from storm water. Storm water

quality control facilities include, but are not limited to, source controls, pervious pavement systems, wetponds, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

73. "Storm water quantity control" means the control of the rate and/or volume of storm water released from a development site. Storm water quantity control facilities include, but are not limited to, detention and retention facilities.

74. "Storm water system" means all natural and manmade systems which function together or independently to collect, store, purify, discharge and convey storm water. Included are all storm water facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate or divert storm water.

75. "Technical deviation" means permission granted by the director to deviate from the provisions of the Manual.

76. "Variance" means permission granted by the Kitsap County hearing examiner to deviate from the provisions of this title.

77. "Water quality sensitive area" means areas that are sensitive to a change in water quality, including but not limited to, lakes, groundwater management areas, groundwater 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.

78. "Wetland" means those areas of Kitsap County that qualify as wetlands under Kitsap County's Critical Areas Ordinance, Title 19 of this code,

**Section 6.** Kitsap County Code Section 12.10.010 "Review by department of community development," adopted by Ordinance 199-1996 and last amended by Ordinance 290-2002, is amended as follows:

All proposed\_site development activities shall be reviewed by the Kitsap County department of community development to determine the permits required.

A site development activity permit, issued by the Kitsap County department of community development, shall be required for any of the following activities:

**Section 7.** Kitsap County Code Section 12.10.030 "Site development activity permits required," adopted by Ordinance 199-1996 and last amended by Ordinance 290-2002, is amended as follows:

(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, except those actions undertaken by the Kitsap County Public Works Department that do not meet the definition of a major development;
- (3) Grading activities that result in the movement of one hundred fifty cubic yards or more of earth;
- (4) Grading activities that will result in a temporary or permanent slope having a steepness exceeding three to one (three feet horizontal to one foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet.
- (5) Grading activities that include the construction of embankment berms which will result in the impoundment of water to a depth exceeding eighteen inches and/or with a maximum volume exceeding two thousand five hundred cubic feet of water;
- (6) Grading activities that will result in the diversion of existing drainage courses, both natural and manmade, from their natural point of entry or exit from the grading site;
- (7) Any land clearing or grading on slopes steeper than thirty percent, or within the mandatory setback of a steep slope, wetland, stream, lake, Puget Sound, as established by other titles of this code.

No site development activity, including land clearing, grading or other construction activity as described in this title, 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.

**Section 8.** Kitsap County Code Section 12.10.040 "Exemptions," adopted by Ordinance 199-1996, is amended as follows:

The following activities shall not require a site development activity permit.

1. Commercial Agriculture  
Commercial agriculture practices involving working the land for production are generally exempt. However, the conversion from timberland to agriculture, and the construction of impervious surfaces are not exempt.
2. Grading: Grading activities described in Section 12.16.090 are exempt from the provisions of this chapter.
3. Forest Practices: Forest practices regulated under Title 222 WAC, except for Class IV General forest practices that are conversions from timber land to other uses, are exempt from the provisions of the minimum requirements.
4. Road Maintenance: The following road maintenance practices are exempt: pothole and square cut patching, overlaying existing asphalt or concrete pavement with

asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, and vegetation maintenance.

The following road maintenance practices are considered redevelopment, and therefore are not categorically exempt.

(a) Removing and replacing a paved surface to base course or lower, or repairing the roadway base: If impervious surfaces are not expanded, the Minimum Requirements #1 through #5 of Chapter 12.18 apply. However, in most cases, only Minimum Requirement #2, Construction Stormwater Pollution Prevention will be germane.

(b) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders: These are considered new impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for redevelopment projects are met.

(c) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt, or concrete; or upgrading from a bituminous surface treatment (“chip seal”) to asphalt or concrete: These are considered new impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for redevelopment projects are met.

5. Underground Utilities: Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to Minimum Requirement #2, Construction Stormwater Pollution Prevention.

**Section 9.** Kitsap County Code Section 12.10.050 “Permit requirements,” adopted by Ordinance 199-1996 and last amended by Ordinance 291-2002, is amended as follows:

No site development activity permit shall be issued unless the applicant has satisfied the following criteria:

(1) Compliance with all applicable regulations, including Title 12, and compliance with the standards, specifications and requirements contained in the Manual.

(2) Payment of the applicable permit fees established by the County in KCC 21.06.100.

**NEW SECTION. Section 10.** A new section is added to Chapter 12.10 Kitsap County Code, “Permits,” as follows:

12.10.055 Permit Duration

(1) Except as provided in KCC 12.16.110, site development activity permits must be issued within one year of permit application approval, and will automatically expire at the end of one year unless an extension is granted by the director. The length of

extension period shall not exceed one year, and no more than two extensions shall be granted. At the end of the extension period, the permit will be automatically closed if it remains is still unissued. A closed permit may not be reissued or reactivated.

(2) Issued site development activity permits shall become invalid unless the work authorized by such permit is commenced within 360 days after its issuance, or if after commencing, the work authorized by such permit is suspended or abandoned for a period of 360 days. Having required inspections performed and approved within every 360 days is evidence that work has commenced and is continuing. Permits that do not receive a required inspection within 360 days of permit issuance, or within 360 days since the previous approved inspection, will be considered abandoned and shall automatically expire. If no action is taken within 180 days of the expiration date by the applicant/owner to reactivate the permit or request an extension, the permit will be closed. A closed permit may not be reissued or reactivated.

(3) The procedures for requesting and granting extensions or renewals to permits, and procedures for the disposition of inactive or expired permits shall be detailed in the Manual.

**Section 11.** Kitsap County Code Section 12.10.060 “Professional engineer required” adopted by Ordinance 199-1996, is amended as follows:

Unless otherwise required by Chapter 12.16, 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.

**Section 12.** Kitsap County Code Section 12.10.070 “Off-site analysis,” adopted by Ordinance 199-1996, is amended as follows:

All site development activity permit applications which meet any of the criteria listed in Section 12.10.060 shall include, along with other required submittal documents, an off-site drainage analysis as described in Section 12.18.030, prepared by a qualified professional engineer and based on a field investigation of the development's off-site contributing and receiving drainage areas.

**Section 13.** Kitsap County Code Section 12.10.080 “Geotechnical analysis,” adopted by Ordinance 199-1996, is amended as follows:

All site development activity permit applications for development activities where grading or the construction of retention facilities, detention facilities, or other storm water facilities is proposed within two hundred feet of slopes steeper than thirty percent, 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 professional geotechnical engineer or licensed engineering geologist. The geotechnical analysis shall address the effects of groundwater interception and infiltration, seepage, potential slip planes and changes in soil bearing strength.

**Section 14.** Kitsap County Code Section 12.10.090 “Soils analysis,” adopted by Ordinance 199-1996, is amended as follows:

All site development activity permit applications which meet any of the criteria listed in Section 12.10.060, or 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.

**Section 15.** Kitsap County Code Section 12.10.100 “Permit modifications,” adopted by Ordinance 199-1996 and last amended by Ordinance 290-2002, is amended as follows:

Proposed modifications to an issued site development activity permit must be submitted to the department of community development and be reviewed for compliance with this title. 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.

**Section 16.** Kitsap County Code Section 12.12.010 “Site stabilization,” adopted by Ordinance 199-1996, is amended as follows

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, in the form of a bond as defined in KCC 12.12.030, for site stabilization and erosion and sedimentation control.

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. Site stabilization bonding is not required for projects constructed or owned by Kitsap County.

**Section 17.** Kitsap County Code Section 12.12.030 “Performance surety for site stabilization,” adopted by Ordinance 199-1996, is renumbered and amended as follows:

12.12.020 Performance bond for site stabilization.

The term “bond,” as defined in this title, means a surety bond, assignment of funds, or irrevocable bank letter of credit. For project sites with one 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 this title. The amount of the performance bond shall be as follows:

(1) One hundred fifty percent 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 or his/her designee. The minimum amount of the bond shall be five thousand dollars; or

(2) Ten thousand dollars 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 storm water 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.

**Section 18.** Kitsap County Code Section 12.12.020 “Performance covenant for site stabilization,” adopted by Ordinance 199-1996, is renumbered and amended as follows:

12.12.030 Performance covenant for site stabilization

For project sites with less than one acre of land disturbing activity, a performance covenant may be recorded in lieu of a performance bond 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 storm water 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 storm water 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.

**Section 19.** Kitsap County Code Section 12.12.040 “Performance bond for uncompleted subdivision improvements,” adopted by Ordinance 199-1996, is amended as follows:

For single-family residential subdivision developments, a performance bond shall be provided to Kitsap County prior to recording of the final plat, and shall guarantee the completion of all site improvements not yet completed. The amount of the performance bond shall be one hundred fifty percent of the estimated cost of the improvements. The estimated cost of the improvements shall be determined by a professional civil engineer subject to the approval of the director or his/her designee.

All performance bonds shall run continuously until released by the county. No more than 25% of the lots may be issued building permits prior to release of the performance bond. Furthermore, a 2-year maintenance bond must be established prior to release of the performance bond. If the site improvements are not completed within a period of 18 months from the date of performance bond issuance, the county may, with 30 days written notice, collect the bond and complete the unfinished site improvements.

**Section 20.** Kitsap County Code Section 12.12.050 “Commercial liability insurance,” adopted by Ordinance 199-1996, is amended as follows:

The owner of any project must provide a certificate of liability insurance to Kitsap County 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 combined single limit bodily injury and property damage, with a two million dollar aggregate. Such insurance shall include Kitsap County, its officers and employees as additional insureds, with respect to the terms and conditions of the policy.

**Section 21.** Kitsap County Code Section 12.12.060 “Maintenance bonds,” adopted by Ordinance 199-1996, is amended as follows:

A maintenance bond is required for residential subdivision plats and other projects for which maintenance of the storm water facilities and/or roads is ultimately to be taken over by the county.

After the final approval of construction and prior to release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two years. The maintenance bond shall guarantee the storm water 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. In accordance with KCC Chapter 12.24, at the end of this time, the county will inspect the system and, when the facility is acceptable and houses have been constructed on eighty percent of the lots ,

the county will release the maintenance bond and take over the maintenance and operations of the system. In the event that eighty percent 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 additional year.

The amount of the maintenance bond shall be ten percent of the estimated construction cost of the storm water facilities and roads requiring maintenance, or five thousand dollars, 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.

**NEW SECTION. Section 22.** A new section is added to Kitsap County Code Chapter 12.16 “Grading,” as follows:

**12.16.010 Purpose**

This chapter sets forth the minimum standards that shall apply to grading activities as described in KCC 12.01.030. For circumstances not specifically addressed in this chapter or in the Stormwater Design Manual, the provisions of the International Building Code, as currently in effect and adopted in Title 14 of this code, shall apply.

**Section 23.** Kitsap County Code Section 12.16.010 “Authority of the director,” adopted by Ordinance 199-1996, is renumbered and amended as follows:

12.16.020 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 administrative procedures to carry out the purposes and intent of this chapter.

**Section 24.** Kitsap County Code Section 12.16.020 “Grading plan required,” adopted by Ordinance 199-1996, is renumbered and amended as follows:

12.16.030 Grading plan required.

Grading projects meeting the criteria of KCC 12.10.060 shall be required to have an approved engineered grading plan.

**Section 25.** Kitsap County Code Section 12.16.030 “Abbreviated grading plan,” adopted by Ordinance 199-1996, is renumbered and amended as follows

12.16.040 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.

**Section 26.** Kitsap County Code Section 12.16.050 “Drainage,” adopted by Ordinance 199-1996, is amended as follows:

(a) All grading activities, whether a permit is required or not, shall conform to the requirements of this title concerning storm water management.

(b) 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.

(c) Storm water flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

**Section 27.** Kitsap County Code Section 12.16.070 “Hazards,” adopted by Ordinance 199-1996, is renumbered and amended as follows

12.16.060 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 this title.

**Section 28.** Kitsap County Code Section 12.16.090 “Permit exemptions” adopted by Ordinance 199-1996, is renumbered and amended as follows

12.16.070 Permit exemptions

The following grading activities shall not require the issuance of a site development activity permit, so long as less there is less than one acre of land disturbing activity:

(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 five 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 County Conservation District;

(4) Excavation for cemetery graves;

(5) Landscape installation where fill is confined to less than one foot of topsoil and land disturbing activities are limited to less than 3/4 acre;

(6) The disposal of solid waste, wood waste, problem waste and demolition waste authorized pursuant to RCW 70.95, and regulations presently enacted or as may be amended or as specifically approved by the 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 title;

(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 title;

(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 title.

**Section 29.** Kitsap County Code Section 12.16.100 “Changes in Topography,” adopted by Ordinance 199-1996, is hereby renumbered to 12.16.080 “Changes in Topography.”

**Section 30.** Kitsap County Code Section 12.16.110 “Rockeries and retaining structures,” adopted by Ordinance 199-1996, is hereby renumbered and amended as follows:

12.16.090 Rockeries and retaining structures

Any rockery or other retaining structure greater than four feet in height, as measured from the base of the wall and not the ground surface, shall be permitted under a separate building permit.

**Section 31.** Kitsap County Code Section 12.16.120 “Maintenance,” adopted by Ordinance 199-1996, is hereby renumbered and amended as follows:

12.16.100 Maintenance

It shall be the responsibility of the applicant to maintain all erosion control and drainage facilities in good operating condition at all times.

**Section 32.** Kitsap County Code Section 12.16.130 “Progress of work,” adopted by Ordinance 199-1996, is hereby renumbered to 12.16.110 “Progress of work.”

**NEW SECTION. Section 33.** A new chapter 12.18 “Minimum Site Development Requirements” is added to Title 12 Kitsap County Code to read as follows:

## 12.18 Minimum Site Development Requirements

### **12.18.010 Plans and Reports (Minimum Requirement #1)**

All development and redevelopment projects meeting the thresholds contained in this chapter shall submit plans and reports in accordance with the criteria stipulated in the Manual.

### **12.18.020 Construction Stormwater Pollution Prevention Plan (SWPPP) (Minimum Requirement #2):**

All new development and redevelopment projects are responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.

The construction site operator shall include each of the twelve elements below in the SWPPP and ensure that they are implemented, from initial soil disturbance until final stabilization, unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP.

1. Preservation of Vegetation/Marking of Clearing Limits
2. Construction Access
3. Controlling Flow Rates
4. Installing Sediment Controls
5. Stabilizing Soils
6. Protecting Slopes
7. Protecting Drain Inlets:
8. Stabilizing Channels and Outlets:
9. Controlling Pollutants:

10. Controlling De-Watering:

11. Maintaining Best Management Practices:

12. Management of the Project

**12.18.030 Source Control of Pollution (Minimum Requirement #3):**

Source control best management practices (operational and/or structural) are required for all projects. Those practices listed in the source control chapter of the Manual as applicable operational or structural source controls for a particular pollutant source are required under this minimum requirement.

**12.18.040 Preservation of Natural Drainage Systems and Outfalls (Minimum Requirement #4):**

A. Natural drainage patterns shall be maintained, and discharges from the project site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation.

B. Downstream Analysis

The following projects shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide for mitigation of these impacts:

1. All major developments and
2. Any minor developments located within critical drainage areas

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, erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.

**12.18.050 On-site Stormwater Management (Minimum Requirement #5):**

All projects that add 2,000 square feet or more of impervious surface shall maintain the average annual volume of water that infiltrates on a site at or above predevelopment levels as predicted by an approved hydrologic model.

Project proponents may use prescriptive pre-designed best management practices contained in the Manual to fulfill this requirement.

**12.18.060 Runoff Treatment (Minimum Requirement #6):**

The following require construction of stormwater treatment facilities designed in accordance with the Manual.

1. Projects in which the total of effective, pollution-generating impervious surface (PGIS) is 5,000 square feet or more, or
2. Projects in which the total of pollution-generating pervious surfaces (PGPS) is three-quarters (3/4) of an acre or more, and from which there is a surface discharge in a natural or man-made conveyance system from the site.
3. The level of treatment for each project will be determined by KCC 12.18.070 through KCC 12.18.100.

#### **12.18.070 Oil Control Treatment Requirements:**

1. Treatment to achieve Oil Control applies to projects that have “high-use sites.” High-use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

- A. An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;
- B. An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;
- C. An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);
- D. A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.

2. Oil/Water Separators. All storm water from impervious areas subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to surface discharge off site.

#### **12.18.080 Phosphorus Treatment Requirements**

Phosphorus treatment is required for the following:

- a. Kitsap Lake
- b. Those waterbodies reported under section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses due to phosphorus;

c. Those listed in Washington State's Nonpoint Source Assessment required under section 319(a) of the Clean Water Act due to nutrients.

### **12.18.090 Enhanced Treatment Requirements**

Enhanced treatment for reduction in dissolved metals (primarily Copper and Zinc) is required for the following project sites that discharge to fish-bearing streams, lakes, or to waters or conveyance systems tributary to fish-bearing streams or lakes:

1. Industrial project sites,
2. Commercial project sites,
3. Multi-family project sites, and
4. High AADT roads as follows:

A. Within Urban Growth Management Areas:

(1) Fully controlled and partially controlled limited access highways with Annual Average Daily Traffic (AADT) counts of 15,000 or more

(2) All other roads with an AADT of 7,500 or greater

B. Outside of Urban Growth Management Areas:

(1) Roads with an AADT of 15,000 or greater unless discharging to a 4th Strahler order stream or larger;

(2) Roads with an AADT of 30,000 or greater if discharging to a 4th Strahler order stream or larger (as determined using 1:24,000 scale maps to delineate stream order).

### **12.18.100 Basic Treatment Requirements**

Basic Treatment applies to:

1. Project sites that discharge to the ground, UNLESS:

A. The soil suitability criteria for infiltration treatment are met; (see the Manual for soil suitability criteria) or

B. The project uses infiltration strictly for flow control and not treatment and the discharge is within ¼-mile of a phosphorus sensitive lake (use a Phosphorus Treatment facility), or within ¼ mile of a fish-bearing stream, or a lake (use an Enhanced Treatment facility).

2. Residential projects not otherwise needing phosphorus control as designated by USEPA, the Department of Ecology, or by the Kitsap County; and

3. Project sites discharging directly to salt waters; and

4. Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams;

5. Landscaped areas of industrial, commercial, and multi-family project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the Basic Treatment requirement shall apply when the runoff from the areas subject to the Basic Treatment requirement comprise 50% or more of the total runoff.

#### **12.18.110 Flow Control (Minimum Requirement #7):**

Except as provided in 12.18.120, the following require construction of flow control facilities and/or land use management BMPs that result in stormwater discharges that match developed condition discharge durations to pre-developed condition durations for the range of pre-developed discharge rates from 50% of the 2-year peak flow up to the full 50-year peak flow.

1. Projects in which the total of effective impervious surfaces is 10,000 square feet or more, or
2. Projects that convert  $\frac{3}{4}$  acres or more of native vegetation to lawn or landscape, or convert 2.5 acres or more of native vegetation to pasture, and from which there is a surface discharge in a natural or man-made conveyance system from the site, or
3. Projects located within Urban Growth Areas or census defined urbanized areas that through a combination of effective impervious surfaces and converted pervious surfaces cause a 0.1 cubic feet per second increase in the 100-year flow frequency as estimated using the Western Washington Hydrology Model or other approved model.

#### **12.18.120 Flow Control Exemption**

Flow control is not required for projects that discharge directly to the Puget Sound if all the following are satisfied:

1. Direct discharge to the exempt receiving water does not result in the diversion of drainage from any perennial stream classified as Types 1, 2, 3, or 4 in the State of Washington Interim Water Typing System, or Types "S", "F", or "Np" in the Permanent Water Typing System, or from any category I, II, or III wetland; and
2. Flow splitting devices or drainage BMP's are applied to route natural runoff volumes from the project site to any downstream Type 5 stream or category IV wetland:
  - (a) Design of flow splitting devices or drainage BMP's will be based on continuous hydrologic modeling analysis. The design will assure that flows delivered to Type 5

stream reaches will approximate, but in no case exceed, durations ranging from 50% of the 2-year to the 50-year peak flow.

(b) Flow splitting devices or drainage BMP's that deliver flow to category IV wetlands will also be designed using continuous hydrologic modeling to preserve pre-project wetland hydrologic conditions unless specifically waived or exempted by regulatory agencies with permitting jurisdiction; and

3. The project site must be drained by a conveyance system that is comprised entirely of manmade conveyance elements (e.g., pipes, ditches, outfall protection, etc.) and extends to the ordinary high water line of the exempt receiving water; and

4. The conveyance system between the project site and the exempt receiving water shall have sufficient hydraulic capacity to convey discharges from future build-out conditions (under current zoning) of the site, and the existing condition from nonproject areas from which runoff is or will be collected; and

5. Any erodible elements of the manmade conveyance system must be adequately stabilized to prevent erosion

6. Shoreline erosion is avoided through the use of appropriate energy dissipation or other protective measures.

#### **12.18.130 Wetlands Protection (Minimum Requirement #8):**

1. Discharges to wetlands shall maintain the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses. The hydrologic analysis shall use the existing land cover condition to determine the existing hydrologic conditions unless directed otherwise by a regulatory agency with jurisdiction.

2. Stormwater treatment and flow control facilities shall not be built within a natural vegetated buffer, except for:

(a) necessary conveyance systems as approved by the Permittee; or

(b) as allowed in wetlands approved for hydrologic modification and/or treatment in accordance with Guidesheet 1B in Appendix I-D of the Stormwater Management Manual for Western Washington (2005).

3. An adopted and implemented basin plan prepared in accordance with the provisions of KCC 12.20.130 may be used to develop requirements for wetlands that are tailored to a specific basin.

#### **12.18.140 Operation and Maintenance (Minimum Requirement #9):**

All stormwater facilities shall be operated and maintained in accordance with KCC 12.24.

**Section 34.** Kitsap County Code Section 12.20.010 “Redevelopment activities,” adopted by Ordinance 199-1996, is amended as follows:

(1) For road-related projects, runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the Minimum Requirements listed in chapter 12.18 if the new impervious surfaces total 5,000 square feet or more and total 50% or more of the existing impervious surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right-of-way or easement.

(2) Other types of redevelopment projects shall comply with all the Minimum Requirements listed in chapter 12.18 for the new and replaced impervious surfaces if the total of new plus replaced impervious surfaces is 5,000 square feet or more, and the valuation of proposed improvements – including interior improvements – exceeds 50% of the assessed value of the existing site improvements.

**Section 35.** Kitsap County Code Section 12.20.020 “Approved hydrological methods for design,” adopted by Ordinance 199-1996, is amended as follows:

Estimation of peak storm water runoff rates used in the design of storm water quantity control facilities shall utilize the latest version of the Western Washington Hydrology Model. The design of storage facilities that are a part of storm water quantity control facilities shall be designed using methods contained in the Manual.

**Section 36.** Kitsap County Code Section 12.20.040 “Storm water quality control,” adopted by Ordinance 199-1996, is amended as follows:

Water quality best management practices (BMPs) shall be used on either a volume or flow rate basis.

(1) Water Quality Design for Volume based Treatments:

A. The 91st percentile, 24-hour runoff volume indicated by the latest version of the Western Washington Hydrology Model shall be used. –or–

B. 91% of the volume of runoff volume of the time series estimated by the latest version of the Western Washington Hydrology Model is treated.

(2) Water Quality Design for Flow rate based Treatments:

A. Preceding Detention Facilities or when Detention Facilities are not required:

The flow rate at or below which 91% of the runoff volume, as estimated by the latest version of the Western Washington Hydrology Model, is treated.

B. Downstream of Detention Facilities:

The water quality design flow rate must be the full 2-year release rate from the detention facility.

(3) Water Quality Design for Infiltration based Treatments: 91% of the volume of runoff volume of the time series as estimated by the latest version of the Western Washington Hydrology Model is infiltrated through the treatment media.

**Section 37.** Kitsap County Code Section 12.20.060 “Experimental best management practices,” adopted by Ordinance 199-1996, is amended as follows:

In those instances where appropriate best management practices are not in the Manual, experimental BMPs may be considered. In an effort to improve storm water 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.

**Section 38.** Kitsap County Code Section 12.20.070 “Incorporation into storm water quantity control facilities,” adopted by Ordinance 199-1996, is amended as follows:

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

**Section 39.** Kitsap County Code Section 12.20.080 “Minimum requirements - Major developments,” adopted by Ordinance 199-1996 and last amended by Ordinance 375-2007, is amended as follows

1. Major developments shall comply with all the minimum requirements listed in chapter 12.18 “Minimum Requirements”.
2. Major developments may meet these Minimum Requirements for an equivalent (flow and pollution characteristics) area within the same site. For public roads' projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.

**NEW SECTION. Section 40.** A new section is added to Chapter 12.20 Kitsap County Code, “Stormwater Management,” as follows:

12.20.085 Minimum requirements - Minor developments.

1. Minor developments that
  - (a) creates or adds 2,000 square feet, or greater, of new, replaced, or new plus replaced impervious surface area; or
  - (b) has land disturbing activity of 7,000 square feet or greater

shall comply with minimum requirements contained in sections 12.18.010, 12.18.020, 12.18.030, 12.18.040, and 12.18.050 (Minimum Requirements #1 through #5).

2. Minor developments that fall under these thresholds shall comply with the following minimum erosion control criteria:

(a) 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.

(b) Stabilization of Denuded Area. All exposed soils shall be stabilized by suitable application of BMP's, 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 BMP's shall be selected, designed and maintained in accordance with the manual. From October first to April thirtieth, no soils shall remain unstabilized for more than two days. From May first to September thirtieth, no soils shall remain unstabilized for more than seven 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 twelve hours as site and weather conditions dictate.

(c) 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 BMP's.

(d) Maintenance. All erosion and sediment control BMP's shall be regularly inspected and maintained to ensure continued performance of their intended function.

(e) Other BMP's. Any adverse effects of increased runoff resulting from land disturbing and/or land development activities shall be controlled by appropriate BMP's.

**Section 41.** Kitsap County Code Section 12.20.090 "Storm water conveyance facilities," adopted by Ordinance 199-1996, is amended as follows:

(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 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 one of the following methods:

- (1) the rational method as shown in the Manual or;
- (2) the Santa Barbara Urban Hydrology (SBUH) Event model method. The SBUH method is defined in the Stormwater Management Manual for Western Washington (2005) or;
- (3) the latest version of the Western Washington Hydrology Model (WWHM)

(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 one-hundred-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.

**Section 42.** Kitsap County Code Section 12.20.100 “Easements, tracts and covenants,” adopted by Ordinance 199-1996, is amended as follows:

(a) Drainage easements shall be provided in a proposed development for all storm water conveyance systems that are not located in public rights-of-way. The drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems. Drainage easements through structures are not permitted.

(b) Storm water facilities that are to be maintained by Kitsap County, together with maintenance access roads to the facilities, shall be located in the public right-of-way, in separate tracts dedicated to Kitsap County, or in drainage easements granted to Kitsap County.

(c) 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, and shall be contained in any covenants required for a development.

**Section 43.** Kitsap County Code Section 12.20.130 “Basin planning,” adopted by Ordinance 199-1996, is amended as follows:

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, storm water treatment, flow 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 storm water quantity or quality control addressed in this title, 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 title 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 by the State Department of Ecology and Kitsap County and fully implemented by Kitsap County.

**Section 44.** Kitsap County Code Section 12.24.010 “Maintenance of stormwater facilities by owners,” adopted by Ordinance 199-1996, is amended as follows:

(a) Any person or persons holding title to a nonresidential property for which storm water facilities and BMP's have been required by Kitsap County shall be responsible for the continual operation, maintenance and repair of the storm water facilities and BMP's in accordance with the provisions of this title.

(b) For privately maintained storm water facilities, the maintenance requirements specified in this title, including the Manual, shall be enforced against the owner(s) of the subject property served by the storm water facility.

**Section 45.** Kitsap County Code Section 12.24.020 “Maintenance covenant required for privately maintained drainage facilities,” adopted by Ordinance 199-1996, is amended as follows:

(a) Prior to the use of a development constructed under a site development activity permit, the owner shall record a maintenance covenant which guarantees Kitsap County that the storm water facilities shall be properly operated, maintained and inspected, and which gives Kitsap County the authority to enter and inspect the facility, and to take any necessary enforcement action as per KCC 12.32. 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.

(b) The director may require the owners of existing storm water 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 storm water facilities subject to the requirements of this title.

(c) Maintenance covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject storm water facilities is accepted by Kitsap County.

**Section 46.** Kitsap County Code Section 12.24.030 “County acceptance of new storm water facilities,” adopted by Ordinance 199-1996, is amended as follows:

The county may accept for maintenance those new residential storm water facilities constructed under an accepted site development activity permit that meet the following conditions:

(1) Improvements in residential plats/PBD's have been completed on at least eighty percent 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 years; and

(3) All drainage facilities reconstructed during the maintenance period have been accepted by the director; and

(4) The storm water facility, as designed and constructed, conforms to the provisions of this title; and

(5) All easements and tracts required under this title, 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 as-built drawings have been provided to Kitsap County. A professional engineer shall certify that both the vertical and horizontal alignment meet the design objectives.

**Section 47.** Kitsap County Code Section 12.24.040 "County acceptance of existing storm water facilities," adopted by Ordinance 199-1996, is amended as follows:

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

(1) Improvements in residential plats/PBDs have been completed on at least eighty percent of the lots; and

(2) An inspection by the director has determined that the storm water facilities are functioning as designed; and

(3) The storm water facilities have had at least two 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 storm water facilities submit a petition containing the signatures of the title holders of more than fifty percent of the lots served by the storm water facilities requesting that the county maintain the storm water facilities; and

(5) All easements required under this title, entitling the county to properly operate and maintain the subject storm water 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 storm water facilities show proof of the correction of any defects in the drainage facilities, as required by the director.

**Section 48.** Kitsap County Code Section 12.24.050 “County inspections of privately maintained storm water facilities,”, adopted by Ordinance 199-1996, is amended as follows:

(a) The director is authorized to develop an inspection program for privately owned and maintained storm water facilities in Kitsap County. The purpose of this inspection program shall be to determine if the storm water facilities, conveyance structures and water quality facilities are in good working order and are properly maintained, and to ensure that storm water quality BMP's are in place and that non-point source pollution control is being implemented.

(b) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this title has been or is being committed, the inspector is authorized to inspect during regular working hours and at other reasonable times any and all storm water drainage facilities within Kitsap County to determine compliance with the provisions of this title.

(c) Prior to making any inspections, the director or his assignee shall follow the procedures delineated in KCC 12.32.030.

**Section 49.** Kitsap County Code Section 12.28.010 Special drainage improvements,” adopted by Ordinance 199-1996, is amended as follows:

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 title. For particularly sensitive drainage areas, the director may specify the general type of drainage improvements required.

**Section 50.** Kitsap County Code Section 12.28.020 “Designation,” adopted by Ordinance 199-1996, is amended as follows:

The following are designated as critical drainage areas:

(1) All lands having a slope of thirty percent 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) Geologically hazardous areas and historically documented unstable slopes;

- (3) All lands within two hundred 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 or protection of groundwater, aquifers or sole source aquifers;
- (7) Any lands that drain to 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.

**Section 51.** Kitsap County Code Section 12.30.030 “Illicit connections and uses,” adopted by Ordinance 199-1996, is amended as follows:

The storm water system of Kitsap County, natural and artificial, may only be used to convey storm water runoff. Violation of this chapter can result in enforcement action being taken as prescribed in Chapter 12.32.

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

**Section 52.** Kitsap County Code Section 12.30.040 “Pollution control device maintenance,” adopted by Ordinance 199-1996, is amended as follows:

Owners and operators of oil/water separators, wet ponds, bioretention facilities, pervious pavement systems, biofiltration/biofilter facilities, sand filters, vaults, 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.

**Section 53.** Kitsap County Code Section 12.30.050 “Test procedure,” adopted by Ordinance 199-1996, is amended as follows:

In the event that water quality testing is utilized in determining whether a violation of this chapter has occurred, the water quality test procedures shall be followed as described in the most recent edition of Title 40 Code of Federal Regulations, Part 136.

**Section 54.** Kitsap County Code Section 12.30.060 “Exemptions,” adopted by Ordinance 199-1996, is amended as follows:

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

- (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 applied agricultural chemicals and materials

**Section 55.** Kitsap County Code Section 12.32.010 “Violations of this title,” adopted by Ordinance 199-1996, is amended 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, or any other activity that violates the provisions of this title shall be and the same is declared to be unlawful and a public nuisance. As such, any person who causes, aids or abets a violation of this title has committed a civil infraction and shall be subject to the citations, orders, sanctions and remedies adopted in this chapter. Additionally, any person who willfully or knowingly causes, aids or abets a code violation of this title by any act of commission or omission is guilty of a misdemeanor.

Violations of this title may be abated through the use of the Civil Enforcement Ordinance (Chapter 2.116 of this code), through civil or criminal penalties through stop-work orders, or through any other remedies forth in this title, including, but not limited to, revocation of any permits. Each violation shall constitute a separate violation 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. Such choice will also not preclude the department’s ability to also pursue other actions.

**Section 56.** Kitsap County Code Section 12.32.020 “Inspection,” adopted by Ordinance 199-1996, is amended as follows:

(a) 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 12.10.030 during regular business hours for the purpose of on-site review and to ensure compliance with the terms of such permit. The applicant for any such permit shall agree in writing, as a condition of issuance thereof, that such access shall be permitted for such purposes, however consent shall first be requested as per KCC 12.32.030.

(b) Inspection For Cause. Whenever there is cause to believe that a violation of this title has been or is being committed, the director or his designee is authorized to inspect the property associated with the alleged violation, and any part thereof reasonably related to the violation, during regular business hours, and at any other time reasonable in the circumstances in accordance with KCC 12.32.030. The applicant for any site development activity permit issued under Section 12.10.030 shall, as a condition of issuance of such permit, agree in writing that such access to the project site is allowed for this purpose and that any action, that inhibits the collection of information relevant to enforcement of the provisions of this title, shall be grounds for issuance of a stop work order by the director or his designee.

**Section 57.** Kitsap County Code Section 12.32.030 "Inspection procedures," adopted by Ordinance 199-1996, is amended as follows:

Prior to making any inspections, the director or his designee 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 designee 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 designee is unable to locate the owner or other person(s) having charge or control of the property the director or his designee shall enter as allowed by written consent pursuant to the permit or as otherwise allowed by law. If the director or his designee, and has reason to believe the condition of the site or of the storm water drainage system creates an imminent hazard to persons or property, he may enter.

**Section 58.** Kitsap County Code Section 12.32.040 "Stop work orders," adopted by Ordinance 199-1996, is amended as follows:

"Stop work order" means a written notice, signed by the director or his designee, 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 title. 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.

**Section 59.** Kitsap County Code Section 12.32.070 “Order to maintain or repair,” adopted by Ordinance 199-1996, is amended as follows:

The director shall have the authority to issue to an owner or person an order to maintain or repair a component of a storm water facility or BMP to bring it in compliance with this title. 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.

**Section 60.** Kitsap County Code Section 12.32.080 “Notice of violation - Assessment of penalty,” adopted by Ordinance 199-1996, is amended as follows:

Whenever the director has found that a violation of this title 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 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 violation is (1) a misdemeanor if willingly or knowingly committed and may be prosecuted as such or (2) a civil infraction subject to a cumulative civil penalty in the amount of not less than one hundred dollars and not exceeding one thousand dollars per day 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 Hearing Examiner by filing written notice of appeal, in accordance with KCC 21.04. 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.

**Section 61.** Kitsap County Code Section 12.32.090 “Appeal and disposition,” adopted by Ordinance 199-1996, is amended as follows:

A notice of violation issued pursuant to this chapter is a Type 1 decision that may be appealed as provided in KCC 21.04.120.

**Section 62.** Kitsap County Code Section 12.32.130 “Hazards,” adopted by Ordinance 199-1996, is hereby renumbered to 12. 32.120 “Hazards.”

**Section 63.** Kitsap County Code Section 12.10.020 “Expiration of existing construction plan approval,” adopted by Ordinance 199-1996, is repealed.

**Section 64.** Kitsap County Code Section 12.10.110 “Erosion and sedimentation control,” adopted by Ordinance 199-1996, is repealed.

**Section 65.** Kitsap County Code Chapter 12.14 “Erosion And Sediment Control,” adopted by Ordinance 199-1996, is repealed.

**Section 66.** Kitsap County Code Section 12.16.040 “Erosion and sedimentation control,” adopted by Ordinance 199-1996, is repealed.

**Section 67.** Kitsap County Code Section 12.16.060 “Minimum grading standards,” adopted by Ordinance 199-1996, is repealed.

**Section 68.** Kitsap County Code Section 12.16.080 “Additional review,” adopted by Ordinance 199-1996, is repealed.

**Section 69.** Kitsap County Code 12.16.140 “Expiration of existing grading permits,” adopted by Ordinance 199-1996, is repealed.

**Section 70.** Kitsap County Code 12.20.030 “Storm water quantity control - Engineered flow control,” last amended by Ordinance 375-2007, is repealed.

**Section 71.** Kitsap County Code 12.20.035 “Storm water quantity control - Prescriptive flow control,” adopted by Ordinance 375-2007, is repealed.

**Section 72.** Kitsap County Code 12.20.110 “Wetlands”, adopted by Ordinance 199-1996, is repealed.

**Section 73.** Kitsap County Code 12.30.010 "Purpose," adopted by Ordinance 199-1996, is repealed.

**Section 74.** Kitsap County Code 12.32.060 "Aiding or abetting," adopted by Ordinance 199-1996, is repealed.

**Section 75.** Kitsap County Code 12.32.120 "Compromise settlement and disposition of suits," adopted by Ordinance 199-1996, is repealed.

**Effective Dates:**

Sections 5 (definition #35 only), 51, 55, 56, 57, 58, 59, 60, 61, 62, 74, and 75 shall take effect August 15, 2009

All other sections of this ordinance shall take effect on January 1, 2010.

**Clerical / Typographical Error:** Should this Ordinance, upon being enacted by the Kitsap County Board of Commissioners during its deliberations on \_\_\_\_\_, have anything inadvertently left out or in error upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

**Severability:** If any sentence, section, provision, or clause of this ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

Dated: \_\_\_\_\_, 2009

ATTEST:

KITSAP COUNTY BOARD OF  
COMMISSIONERS

\_\_\_\_\_  
Opal Robertson  
Clerk of the Board

\_\_\_\_\_  
Charlotte Garrido, Chair

Approved as to form

\_\_\_\_\_  
Steve Bauer, Commissioner

\_\_\_\_\_  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Josh Brown, Commissioner