

Title 12 STORM WATER DRAINAGE

Chapter 12.04 GENERAL PROVISIONS

12.04.010 Declaration of title.

This title shall be known as the "Storm Water Management Ordinance."*
(Ord. 199 (1996) § 1.10, 1996)

*Editor's Note: Chapters 12.04 - 12.32, as adopted by Ordinance 199 (1996), comprise the "Storm Water Management Ordinance."

12.04.020 Storm water management standards and specifications.

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, Exhibit A attached to the ordinance codified in this title and incorporated herein by this reference is adopted as the Kitsap County Stormwater Design Manual. All references to this title shall include the Kitsap County Stormwater Design Manual. The director may amend the Kitsap County Stormwater Design Manual, with the approval of the Kitsap County board of commissioners, as necessary to reflect changing conditions and technology. All requirements contained in the Kitsap County Stormwater Design Manual, together with any amendments thereto, must be complied with as provided in Section 12.04.030.

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

- (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 by the board of commissioners;
- (C) The granting of the technical deviation will produce a compensating or comparable result which is in the public interest;
- (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 board of commissioners may, following a public hearing, grant a variance from the provisions of this title, provided that all of the following criteria are met:

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

(3) Water Quality. For circumstances or conditions related to water quality which are not specifically addressed within the scope of this title, the preferred method for selection, design and implementation of storm water management practices shall be the most current edition of the Washington State Department of Ecology publication, Stormwater

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Management Manual for the Puget Sound Basin, or a subsequent manual adopted by WSDOE.

(Ord. 199 (1996) § 1.20, 1996)

12.04.030 Applicability.

The provisions of this title shall apply to all site development activities requiring land use permits and approvals as defined in Chapter 12.08, both public and private, within the bounds of unincorporated Kitsap County. The provisions of Chapter 12.24 (Operation and Maintenance) shall also apply to existing storm water facilities in unincorporated Kitsap County. The provisions of Chapter 12.30 (Water Quality) shall apply to all situations and circumstances throughout unincorporated Kitsap County. No site development activities requiring land use permits and approvals shall be initiated prior to issuance of a site development activity permit.

(Ord. 199 (1996) § 1.40, 1996)

12.04.040 Applicability of other ordinances and permits.

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

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

(Ord. 199 (1996) § 1.45, 1996)

12.04.050 Administration.

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

(Ord. 199 (1996) § 1.46, 1996)

12.04.060 Appeals.

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An aggrieved party may appeal any administrative interpretation or departmental ruling related to this title to the Kitsap County board of commissioners.
(Ord. 199 (1996) § 1.60, 1996)

12.08.010 Definitions.

The following definitions of terms shall apply to this title:

1."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.

2."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 ordinance on a form furnished by the county and paying the required application fees.

3."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.

4."Beneficial use" means any activity that allows the owner to gain the use intended by the development activity, as so stated by the applicant at the time of application for a Kitsap County site development activity permit.

5."Best management practices" ("BMP") means physical, structural and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by Kitsap County as accepted BMP's.

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

7."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.

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

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9."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.

10."Clearing" or "land clearing" means the surface removal of vegetation.

11."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.

12."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.

13."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.

14."County" means Kitsap County.

15."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.

16."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.

17."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.

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

19."Director" means:

A. The director of the Kitsap County department of public works or his designee for the administration of the stormwater maintenance program; or

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

20."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.

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

22."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.

23."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.

24."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.

25."Erosion control design storm" means the two-year frequency, twenty-four hour duration storm event used for analysis and design of sedimentation and erosion control facilities.

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

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

28."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.

29."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.

30."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.

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

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

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. Commonly accepted hydrograph methods include the Soft Conservation Service TR-55 Method and the Santa Barbara Urban Hydrograph Method.

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 greywater systems.

36."Impervious surface" means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted subgrade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces. The initial 5,000 square feet of permeable pavement systems meeting the criteria set forth in Exhibit A (Kitsap County Stormwater Design Manual) shall not be considered impervious surfaces.

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

38."Land use permits and approvals" means any use or development of land that requires Kitsap County action in legislation, administration or approval, 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;

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- (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.

39."Maintenance" means any activity which is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property which may directly impair the functions of the 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 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 includes the creation or cumulative addition of five thousand square feet or greater of impervious surface area from the pre-development conditions; or

(b) For sites outside census defined urban areas or urban growth areas includes the creation or cumulative addition of impervious surface that results in 5.0% or greater of the development site being covered in impervious surface or the creation or cumulative addition of ten thousand square feet of impervious surface from the pre-development conditions, 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.

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43."Manual" means Exhibit A of the ordinance codified in this chapter entitled 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."Non-forestry use" means an active use of land which is incompatible with timber growing.

46."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.

47."Oil/water separator" means a structure or device used to remove suspended, floating or dispersed oil and greasy solids from water.

48."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.

49."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.

50."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.

51."Pre-development conditions" means site conditions as they existed prior to manmade alterations other than those alterations that have been made with a prior Kitsap County approved storm drainage plan, or alterations that existed prior to September 21, 1987.*

52."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.

53."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.

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The project engineer shall be licensed in the state of Washington and qualified by experience or examination.

54. "Redevelopment" means any land-disturbing activity occurring on existing developed property.

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

56. "SEPA" means the Washington State Environmental Policy Act.

57. "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.

58. "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."

59. "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.

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

61. "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.

62. "Source control BMP" means a best management practice (BMP) that is intended to prevent pollutants from entering storm water. Examples include erosion control practices, maintenance of storm water facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump.

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63. "Stabilized" means the application of BMP's 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.

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

65. "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.

66. "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, biofiltration/biofilter facilities, wetponds, wetland forebays, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

67. "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.

68. "Technical deviation" means permission granted by the director to deviate from the provisions of the manual.

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

70. Water Quality Design Storm Event. The water quality design storm, used for the design of water quality treatment facilities, shall be the six-month, twenty-four-hour storm event. In that the precipitation data from isopluvial maps is not available for the six-month, twenty-four-hour storm event, the design engineer can use sixty-four percent of the two-year, twenty-four-hour precipitation as equivalent to the six-month, twenty-four-hour precipitation.

71. "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.

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72."Wetland" means those areas of Kitsap County that are defined by separate ordinance, regulation or statute as wetlands.

73."Wetpond" means a storm water basin which is intended to maintain a permanent pool of water equal to the post-development runoff volume of the six-month frequency, twenty-four-hour duration design storm.
(Ord. 375 (2007) § 1, 2007: Ord. 290 (2002) § 1, 2002: Ord. 199 (1996) § 2.10, 1996)

Chapter 12.10 PERMITS

Proposed site development activities shall be reviewed by the Kitsap County department of community development to determine the permits required.
(Ord. 290 (2002) § 2, 2002: Ord. 199 (1996) § 3.10, 1996)

12.10.020 Expiration of existing construction plan approval.

Any construction plans previously approved by Kitsap County shall expire six months after the effective date of the ordinance codified in this chapter. The director may extend the expiration date if the project is under construction and progressing satisfactorily towards final completion.
(Ord. 199 (1996) § 3.15, 1996)

12.10.030 Site development activity 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:

- (1) Site development or redevelopment activities that meet the definition of a major development;
- (2) Site development or redevelopment activities that require connection to a public storm drainage system;
- (3) Grading activities that result in the movement of 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.

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(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 wetland, stream, lake, Puget Sound, as established by separate ordinance or by the Kitsap County department of community development.

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

(Ord. 290 (2002) § 3, 2002: Ord. 199 (1996) § 3.21 (part), 1996)

12.10.040 Exemptions.

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

Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program, shall be exempt from the provisions of this chapter. Road construction activities undertaken by Kitsap County road department shall be exempt from the administrative requirements of this title, but shall comply fully with the technical requirements contained herein.

Grading activities described in Section 12.16.090 are exempt from the provisions of this chapter.

Residential lots 2.5 acres or larger shall be exempt from the provisions of Sections 12.20.030 and 12.20.080 unless otherwise determined by the director. Cases where the exemption does not apply includes, but is not limited to, sites within or adjacent to critical areas or watersheds, steep or unstable slopes, or where the cumulative impacts of development warrant. Site development activities taking place on individual lots of 2.5 acres or larger, which meet the definition of a major development, are not exempt from the requirements of Chapter 12.20. Proposed access roadways serving residential lots larger than 2.5 acres which meet the definition of a major development, are not exempt from the requirements of Chapter 12.20.

(Ord. 199 (1996) § 3.21 (part), 1996)

12.10.050 Permit requirements.

The director shall establish requirements for the issuance of site development activity permits, subject to the following criteria:

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(1) All site development activities shall comply with the standards, specifications and requirements contained in the Stormwater Design Manual.

(2) The director shall establish fees for site development activity permits. Site development activity permit fees shall include fees for the review of permit applications and documents and for inspections during construction. Site development activity permit fees, including permit application fees, shall be detailed in the Kitsap County Development Permit Fee Schedule (Section 21.06.100).

(Ord. 291 (2002) § 5, 2002 Ord. 199 (1996) § 3.22, 1996)

12.10.060 Professional engineer required when.

Unless otherwise required by Chapter 12.14 or 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.

(Ord. 199 (1996) § 3.23, 1996)

12.10.070 Off-site analysis.

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 12.20.030(6) and Section 12.20.080(6), prepared by a qualified professional engineer and based on a field investigation of the development's off-site contributing and receiving drainage areas.

(Ord. 199 (1996) § 3.24, 1996)

12.10.080 Geotechnical analysis.

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 qualified engineer. The geotechnical analysis shall address the

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effects of groundwater interception and infiltration, seepage, potential slip planes and changes in soil bearing strength.

(Ord. 199 (1996) § 3.25, 1996)

12.10.090 Soils analysis.

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

(Ord. 199 (1996) § 3.26, 1996)

12.10.100 Permit modifications.

Proposed modifications to an approved 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.

(Ord. 290 (2002) § 4, 2002: Ord. 199 (1996) § 3.30, 1996)

12.10.110 Erosion and sedimentation control.

All final drainage, grading, clearing or other site development plans requiring acceptance from the Kitsap County department of public works shall include a plan for the control of erosion and sedimentation as required in Sections 12.14.010 and 12.14.020, for the period beginning with the commencement of site development activity and continuing without interruption until permanent site stabilization is achieved.

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

(Ord. 199 (1996) § 3.40, 1996)

Chapter 12.12 COVENANTS, SURETIES AND LIABILITY INSURANCE

12.12.010 Site stabilization.

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Prior to the issuance of a site development activity permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety for site stabilization and erosion and sedimentation control. In addition, the owner may be required to provide a certificate of commercial liability insurance.

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

(Ord. 199 (1996) § 4.10, 1996)

12.12.020 Performance covenant for site stabilization.

For project sites with less than five acres of land disturbing activity, a performance covenant may be recorded in lieu of performance surety for site stabilization prior to issuance of the site development activity permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with the 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.

(Ord. 199 (1996) § 4.11, 1996)

12.20.030 Performance surety 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 five 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. The minimum amount of the bond shall be five thousand dollars; or

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(2) One 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.

(Ord. 199 (1996) § 4.12, 1996)

12.12.040 Performance bond for uncompleted site improvements.

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

All performance bonds shall run continuously until released by the county, and shall not be subject to an expiration or cancellation date.

(Ord. 199 (1996) § 4.20, 1996)

12.12.050 Commercial liability insurance.

The owner of any project must provide a certificate of liability insurance to the department of public works prior to issuance of a site development activity permit. The liability insurance shall remain in force until final project approval is issued by the county. The commercial liability insurance shall be in the amount of not less than one million dollars 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.
(Ord. 199 (1996) § 4.30, 1996)

12.12.060 Maintenance bonds.

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

Prior to the final approval of construction and release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two 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. At the end of this time, the county will inspect the system and, when the facility is acceptable and eighty percent of

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the lots in that phase have been improved, the county will take over the maintenance and operations of the system. In the event that eighty percent 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.

(Ord. 199 (1996) § 4.40, 1996)

Chapter 12.14 EROSION AND SEDIMENT CONTROL

12.14.010 Minor developments.

(a) All minor developments, as defined in this title, shall be required to control erosion and sedimentation during construction, to permanently stabilize soil exposed during construction, and to comply with the minor development requirements described in subsection (b)(1) through (5) of this section.

(b) Minor Development Requirements.

(1) Construction Access Route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of soils and debris onto public roads.

(2) Stabilization of Denuded Area. All exposed soils shall be stabilized by suitable application of 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.

(3) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMP's

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

(5) 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.
(Ord. 199 (1996) §§ 5.10, 5.11, 1996)

12.14.020 Major developments.

Any new development meeting the definition of a major development, shall comply with Section 12.14.040. For any redevelopment project meeting the definition of a major development, those portions of the site that are being redeveloped shall comply with Section 12.14.040.
(Ord. 199 (1996) § 5.20, 1996)

12.14.030 Erosion and sedimentation control plan required.

Compliance with the erosion and sedimentation control requirements of Section 12.14.040 shall be demonstrated through the implementation of an approved erosion and sedimentation control plan.
(Ord. 199 (1996) § 5.21, 1996)

12.14.040 Major development erosion and sedimentation control minimum requirements.

(1) Stabilization and Sediment Trapping. All exposed and unworked soils, including soil stockpiles, shall be stabilized by suitable application of BMP's which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include, but are not limited to vegetative establishment, mulching, plastic covering, and the early application of gravel base on areas to be paved. From October 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.

(2) Delineation of Clearing and Easement Limits. Clearing limits, setbacks, buffers and sensitive or critical areas such as steep slopes, wetlands and riparian corridors shall be clearly marked in the field and inspected by the Kitsap County department of community development prior to commencement of land clearing activities.

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(3) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filters, dikes or mulching, or by a combination of these measures and other appropriate BMP's.

(4) Timing and Stabilization of Sediment Trapping Measures. Sediment ponds and traps, perimeter dikes, sediment barriers and other BMP's intended to trap sediment on-site shall be constructed as a first step in grading. These BMP's shall be functional before additional land disturbing activities take place. Earthen structures such as dams, dikes and diversions shall be stabilized according to the timing indicated in subsection (1) of this section.

(5) Slope Stabilization. Cut and fill slopes shall be constructed in a manner that will minimize erosion. Roughened soil surfaces are preferred to smooth surfaces. Interceptors should be constructed at the top of long, steep slopes which have significant areas above that contribute runoff. Concentrated runoff should not be allowed to flow down the face of a cut or fill slope unless contained within an adequate channel or pipe slope drain. Wherever a slope face crosses a water seepage plane, adequate drainage or other protection should be provided. In addition, slopes should be stabilized in accordance with subsection (1) of this section.

(6) Controlling Off-Site Erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the development site by the implementation of appropriate BMP's to minimize adverse downstream impacts.

(7) Stabilization of Temporary Conveyance Channels and Outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a two-year frequency, twenty-four-hour duration storm for the post-development condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(8) Storm Drain Inlet Protection. All storm drain inlets made operable during construction shall be protected so that storm water runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment. After proper written application, the requirement for inlet protection may be waived by the director on a site-specific basis when the conveyance system downstream of the inlet discharges to an appropriate on-site sediment control BMP, including but not limited to sediment ponds or traps, and the conveyance system will be adequately cleaned following site stabilization.

(9) Underground Utility Construction. The construction of underground utility lines shall be limited, where feasible, to no more than five hundred feet of open trench at any one time. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of the trench. Dewatering devices shall discharge to an

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appropriate sediment trap or pond, preceded by adequate energy dissipation, prior to runoff leaving the site.

(10) Constructed Access Routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road by use of appropriate BMP's such as a stabilized construction entrance. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly, as a minimum, at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(11) Removal of Temporary BMP's. All temporary erosion and sediment control BMP's shall be removed within thirty days after final site stabilization is achieved or after the temporary BMP's are no longer needed. Trapped sediment shall be removed or stabilized on-site. Disturbed soil areas resulting from removal of temporary BMP's shall be permanently stabilized. The removal of temporary erosion and sediment control BMP's may not be required for those projects, such as single-family plats, that will be followed by additional construction under a different permit. In these circumstances, the need for removing or retaining the measures will be evaluated on a site-specific basis.

(12)Dewatering Construction Sites. Dewatering devices shall discharge into an appropriate sediment trap or pond designed to accept such a discharge, preceded by adequate energy dissipation, prior to runoff leaving the site.

(13) Control of Pollutants Other Than Sediment on Construction Sites. All pollutants other than sediment that occur on-site during construction shall be handled and legally disposed of in a manner that does not cause contamination of surface waters. Pollutants of concern include, but are not limited to, fuels, lubricants, solvents, concrete byproducts and construction materials.

(14) Maintenance. All temporary and permanent erosion and sediment control BMP's shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the manual. The applicant shall be responsible for assuring that any such facilities damaged during floods, storms or other adverse weather conditions are immediately returned to normal operating condition.

(15) Financial Liability. A performance covenant or performance surety shall be required for all projects, to ensure compliance with the approved erosion and sediment control plan, as outlined in Chapter 12.12.

(Ord. 199 (1996) § 5.30, 1996)

12.14.050 Erosion control design storm event

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

(Ord. 199 (1996) § 5.40, 1996)

Chapter 12.16 GRADING

12.16.010 Authority of the director.

The director is the designated agent for the issuance of site development activity permits for grading, and shall have the authority to prepare regulations and set administrative procedures to carry out the purposes and intent of this chapter.

(Ord. 199 (1996) § 6.05, 1996)

12.16.020 Grading plan required.

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

(Ord. 199 (1996) § 6.10, 1996)

12.16.030 Abbreviated grading plan.

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

(Ord. 199 (1996) § 6.11, 1996)

12.16.040 Erosion and sedimentation control.

The grading plan shall include a temporary erosion and sedimentation control plan. The plan shall clearly indicate the construction sequence for establishment of all erosion and sedimentation control work, both temporary and permanent. The plan shall conform to all requirements and standards for erosion and sedimentation control set forth in Chapter 12.14.

(Ord. 199 (1996) § 6.12, 1996)

12.16.050 Drainage.

(a) All grading activities shall conform to the requirements of this title concerning storm water management.

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(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.

(Ord. 199 (1996) § 6.13, 1996)

12.16.060 Minimum grading standards.

This title sets forth minimum standards which shall apply to grading activities as described in Section 12.10.030. For circumstances not specifically addressed in this title or the Stormwater Design Manual, the provisions of the Uniform Building Code as currently in effect and adopted in Title 14 of this code, shall apply.

(Ord. 199 (1996) § 6.14, 1996)

12.16.070 Hazards.

Whenever the director determines that an existing excavation, embankment or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use or stability of a public way, critical drainage area, or drainage channel, such conditions shall become a violation of Section 12.32.130.

(Ord. 199 (1996) § 6.15, 1996)

12.16.080 Additional review.

Permits regulating grading activities for major developments may be subject to review and recommendation of approval by the Kitsap County department of community development.

(Ord. 199 (1996) § 6.16, 1996)

12.16.090 Permit exemptions.

The following grading activities shall not require the issuance of a site development activity permit:

(1) Excavation for utilities, or for wells or tunnels allowed under separate permit by other agencies;

(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt the placement of any fill material removed from such an excavation, and shall not exempt any excavation beyond the limits of the basement or footing excavations nor exempt excavations having an unsupported height greater than five feet after the completion of such a structure;

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(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 one 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 Bremerton-Kitsap County health district;

(7) Mining, quarrying, excavating, processing and/or stockpiling of rock, sand, gravel, aggregate or clay where established and provided by law, and a permit for said activity has been issued by the state of Washington or the federal government, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous land and the activities meet the minimum requirements of this 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.
(Ord. 199 (1996) § 6.20, 1996)

12.16.100 Changes in site topography.

(a) The maximum surface gradient on any artificially created slope shall be two feet of horizontal run to one foot of vertical fall (2:1). This gradient may be increased to that gradient which can be demonstrated through engineering calculations to be stable, if, in the opinion of the director, it has been demonstrated by the applicant through engineering calculations performed by a qualified professional engineer that surface erosion can be controlled to that erosion rate equal to a properly stabilized 2:1 slope under the same conditions.

(b) The applicant shall, at all times, protect adjacent private properties and public rights-of-way or easements from damage occurring during grading operations. The applicant shall restore public improvements damaged by his/her operations.

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(c) The applicant shall be responsible for obtaining and coordinating all required state or federal permits associated with the filling of wetlands or other regulated activities.

(Ord. 199 (1996) § 6.30, 1996)

12.16.110 Rockeries and retaining structures.

Any rockery or other retaining structure greater than four feet in height shall be permitted under a separate building permit issued by the Kitsap County department of community development.

(Ord. 199 (1996) § 6.40, 1996)

12.16.120 Maintenance.

It shall be the responsibility of the applicant to maintain all erosion control and drainage facilities in good operating condition at all times, as required in Chapter 12.14.

(Ord. 199 (1996) § 6.50, 1996)

12.16.130 Progress of work.

All work permitted under this title shall proceed continuously to completion in an expeditious manner unless otherwise authorized by the director, with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the project site. Site development activity permits, issued for grading only, shall expire six months after issuance.

(Ord. 199 (1996) § 6.60, 1996)

12.16.140 Expiration of existing grading permits.

Any grading permit issued by Kitsap County and currently valid as of the effective date of the ordinance codified in this chapter shall expire six months after the effective date of said ordinance.

(Ord. 199 (1996) § 6.70, 1996)

Chapter 12.20 Stormwater Management

12.20.010 Redevelopment activities.

Where redevelopment activities meet the definition of a major development, the requirements of this chapter shall apply to that portion of the site that is being

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redeveloped. In addition, where one or more of the following conditions exist, the requirements of this chapter shall apply, to the maximum extent practicable, for the entire site, including adjoining parcels, if they are part of the project:

- (1) Existing sites greater than one acre in size with fifty percent or more impervious surface;
- (2) Sites that discharge to a receiving water that has a documented water quality problem. Subject to local priorities, a documented water quality problem includes, but is not limited to, water bodies:
 - (A) Listed in reports required under Section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses,
 - (B) Listed under Section 304(1)(1)(A)(i), 304(1)(1)(A)(ii), or 304(1)(1)(B) of the Clean Water Act as not expected to meet water quality standards or water quality goals,
 - (C) Listed in Washington State's Nonpoint Source Assessment required under Section 316(a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards;
- (3) Sites where the need for additional storm water control measures have been identified through a basin plan, watershed ranking process, or through Growth Management Act planning.
(Ord. 199 (1996) § 7.05, 1996)

12.20.020 Approved hydrological methods for design.

Estimation of peak storm water runoff rates used in the design of storm water quantity control facilities shall utilize hydrograph methods of analysis approved by the director. The design of storage facilities that are a part of storm water quantity control facilities shall be designed using methods approved by the director.
(Ord. 199 (1996) § 7.10, 1996)

12.20.030 Storm water quantity control - Engineered flow control.

The following minimum requirements for storm water quantity control shall apply to all land developments that meet the definition of a major development and create ten thousand square feet or greater of new impervious surface:

- (1) All surface water and storm water entering the development site in its pre-development state shall be received at the naturally occurring or otherwise legally existing locations. All surface water and storm water leaving the development site shall be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from adjacent

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downstream properties, except, diversion which will correct an existing manmade downstream problem may be permitted by the director. For the purposes of this title, "naturally occurring location" means the location of those channels, swales and pre-existing and established systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, site inspections, decisions of a court of law, or other means determined appropriate by the director.

(2) The post-development peak storm water discharge rates from the development site for the two-, ten- and one-hundred-year, twenty-four-hour duration storm events shall at no time exceed the pre-development peak storm water runoff rates for the same design storm events, except as expressly permitted by this title. Also, where storm water directly or indirectly discharges to open channels or streams, streambank erosion protection is required; the post-development peak storm water discharge rate from the development site for the two-year, twenty-four-hour duration storm event shall not exceed fifty percent of the pre-development peak storm water runoff rate for the same design storm event. The director may require that runoff from a development site be controlled for additional design storm events.

(3) Closed depressions shall be analyzed using hydrograph routing methods. Infiltration shall be addressed where appropriate. If a proposed project will discharge runoff to an existing closed depression that has greater than five thousand square feet of water surface area at overflow elevation, the following requirements must be met:

(A) Case 1: The pre-development one-hundred-year, seven-day and twenty-four-hour duration design storms from the drainage basin tributary to the closed depression are routed into the closed depression using only infiltration as outflow. If the design storms do not overflow the closed depression, no runoff may leave the site for the same storm events following development of a proposed project. This may be accomplished by excavating additional volume in the closed depression subject to all applicable requirements. If a portion of the depression is located off the project site, impacts to adjacent properties shall be evaluated.

(B) Case 2: The pre-development one-hundred-year, seven-day and twenty-four-hour duration design storm events from the drainage basin tributary to the closed depression are routed to the closed depression using only infiltration as outflow, and overflow occurs. The closed depression shall then be analyzed as a detention/infiltration pond. The required performance, therefore, shall not exceed the pre-development runoff rates for fifty percent of the two-year and one hundred percent of the ten-year and one-hundred-year, twenty-four-hour duration and one-hundred-year, seven-day duration design storms. This will require that a control structure, emergency overflow spillway, access road, and other applicable design criteria be met. If the facility will be maintained by Kitsap County, the closed depression shall be placed in a dedicated tract. If the facility will be privately maintained, the tract shall be located within a drainage easement. If a portion of the depression is located off the project site, impacts to adjacent properties shall be evaluated.

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(C) Case 3: When a proposed project is contributory to a closed depression located off-site, the volume of runoff discharged may not be increased for the two-, ten- and one-hundred-year, twenty-four-hour duration, and the one-hundred-year, seven-day duration storm events. The exception to this requirement is in the case where discharge would not result in an increase in water surface elevation of greater than 0.01-foot for the one-hundred-year storm events.

(4) Land developments shall provide storm water quantity control facilities designed to meet, as a minimum performance standard, the requirements of this chapter, except in the following circumstances:

(A) The development site discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, where runoff quantity control is not required by other governmental agencies and streambank or shoreline erosion will not occur.

(B) The development site discharges to a regional storm water facility approved by the director to receive the developed site runoff.

(C) The development site discharges to a receiving body of water (lake, wetland, etc.) where it can be demonstrated by the applicant, to the satisfaction of the director, that storm water quantity control is not warranted.

(5) In the event that conditions downstream from a proposed development site are determined by the director to be exceptionally sensitive to potential storm water discharges from the subject site, the director may require a factor of safety be applied to the total retention/detention storage volume and/or a reduction of allowable storm water release rates.

(6) Submittals for all proposed development projects shall include an analysis of downstream water quantity impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to, excessive streambank erosion, flooding, surcharging of existing closed drainage conveyance facilities, discharge to closed depressions, and discharge to existing off-site runoff control facilities.

(7) Retention facilities and open storm water quantity control facilities shall not be located in dedicated public road rights-of-way.

(8) Reasonable access for maintenance, as determined by the director, shall be provided to all storm water facilities.

(9) As the first priority, streambank erosion control BMP's shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality

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is protected. Streambank erosion control BMP's shall be selected, designed and maintained according to the manual. Streambank erosion control BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

(10) Where storm water detention is proposed to meet storm water quantity controls, volume correction factors as outlined in the manual shall be applied to increase pond size.

(Ord. 375 (2007) § 2, 2007; Ord. 199 (1996) § 7.20, 1996)

12.20.035 Storm water quantity control - Prescriptive flow control.

All minor developments creating greater than 2,000 square feet of new impervious surface and major developments creating less than 10,000 square feet of new impervious surface shall:

(1) Implement either individual downspout infiltration or roof downspout dispersion per the Kitsap County Stormwater Design Manual to the maximum extent possible; or

(2) Discharge to a regional water quantity control facility designed to receive the developed site runoff.

(Ord. 375 (2007) § 4, 2007)

12.20.040 Storm water quality control.

Water quality best management practices (BMP's) shall be used to the maximum extent practicable to control pollution in storm water. Water quality BMP's shall be used to comply with the standards of this title, including those contained in the manual. Construction and post-development water quality BMP's shall be utilized for all major development activities. Said water quality BMP's shall provide runoff water quality treatment for all storm events with intensities less than or equal to the water quality design storm event, as defined in Section 12.20.080(2).

(Ord. 199 (1996) § 7.30, 1996)

12.20.050 Illicit discharges.

Illicit discharges, as described in Section 12.30.020, or illicit connections to a storm water drainage system, as described in Section 12.30.030, are prohibited.

(Ord. 199 (1996) § 7.32, 1996)

12.20.060 Experimental best management practices.

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In those instances where appropriate best management practices are not in the manual, experimental BMP's may be considered. In an effort to improve storm water quality technology, experimental BMP's are encouraged as a means of solving problems in a manner not addressed by the manual. Experimental BMP's must be approved by the director. The director may require that the performance of experimental BMP's be monitored to document their effectiveness for future use.
(Ord. 199 (1996) § 7.33, 1996)

12.20.070 Incorporation into storm water quantity control facilities.

Water quality BMP's may be incorporated into the design of storm water quantity control facilities where appropriate.
(Ord. 199 (1996) § 7.34, 1996)

12.20.080 Minimum requirements - Major developments.

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

(1) Source Control of Pollution. Source control BMP's shall be applied to all projects to the maximum extent practicable.

(2) Storm Water Treatment BMP's. Treatment BMP's shall be sized to capture and treat developed runoff from the water quality design storm, defined as the six-month, twenty-four-hour duration storm event. For the purpose of this title, the precipitation from a six-month, twenty-four-hour storm event shall be considered equivalent to sixty-four percent of the precipitation from a two-year, twenty-four-hour storm event. All treatment BMP's shall be selected, designed and maintained according to the manual. Storm water treatment BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

All major developments shall provide treatment of storm water discharge utilizing wetponds, bioretention facilities, dispersion, and/or biofiltration BMP's. Other water quality BMP's may only be substituted subject to the granting by the director subject to the provisions of the Stormwater Design Manual.

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

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(4) Presettling Basin. All storm water, prior to discharge to a facility designed to utilize infiltration, shall pass through an appropriate storm water treatment BMP designed to remove suspended solids.

(5) Water Quality Sensitive Areas. Where the director determines that these major development minimum requirements do not provide adequate protection of water quality sensitive areas, either on-site or within the drainage basin in which the development is located, more stringent controls shall be required to protect water quality. An adopted and implemented basin plan may be used to develop requirements for specific water quality sensitive areas.

(6) Downstream Analysis and Mitigation. All major developments shall conduct an analysis of downstream water quality impacts resulting from the project and shall provide for mitigation of these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, streambank erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants.

(7) Oil/Water Separators. All storm water from paved areas subject to motor vehicle traffic shall flow through a spill-containment type oil/water separator prior to discharge. Development sites that include use, storage or maintenance of heavy equipment, and those development sites that include storage or transfer of petroleum products, shall utilize appropriately sized API or CPS-type oil/water separators or a Washington State Department of Ecology approved equivalent.

(Ord. 375 (2007) § 3, 2007: Ord. 199 (1996) § 7.35, 1996)

12.20.090 Storm water conveyance facilities.

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

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

(c) Existing drainage ways and/or other conveyance facilities downstream from proposed developments that are identified within the scope of the downstream portion of the off-site drainage analysis, shall have sufficient capacity to convey, without flooding or otherwise damaging existing or proposed structures, the post-development peak storm water discharge for the twenty-four-year storm event. All newly constructed downstream drainageways and/or conveyance facilities shall have sufficient capacity to

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convey the post-development peak storm water discharge for the one-hundred-year storm event. Downstream improvements or additional on-site storm water quantity control measures shall be provided to eliminate any potential downstream flooding or other damage that may occur following completion of the proposed development. The director has the authority to waive the requirement for downstream improvements.

(d) Drainage through closed conveyance structures such as pipes shall not discharge directly onto the surface of a public road.
(Ord. 199 (1996) § 7.40, 1996)

12.20.100 Easements, tracts and covenants.

(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 or tracts. The drainage easements shall be granted to the parties responsible for providing on-going maintenance of the systems.

Drainage easements through structures is 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 public right-of-way, separate tracts dedicated to Kitsap County, or drainage easements located in designated open space. The exception is for storm water conveyance pipes that may be located within easements on private property, provided that all catch basins can be accessed without entering private property.

(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/PUD's, and shall be contained in any covenants required for a development.

(Ord. 199 (1996) § 7.50, 1996)

12.20.110 Wetlands.

The following requirements apply only to situations where storm water discharges directly or indirectly into a wetland, and must be met in addition to meeting the requirements in major development minimum requirement, Section 12.20.080(2), Storm Water Treatment BMP's:

(1) Storm water discharges to wetlands must be controlled and treated to the same extent as all other discharges, with the goal of meeting State Water Quality and Groundwater Quality Standards.

(2) Discharges to wetlands shall maintain the hydroperiod and flows of pre-development site conditions to the extent necessary to protect the characteristic functions of the

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wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.

(3) Created wetlands that are intended to mitigate for loss of wetland acreage, function and value shall not be designed to also treat storm water.

(4) In order for constructed wetlands to be considered treatment systems, they must be constructed in areas which are not designated as wetland or wetland buffer or in other areas which are not in conflict with designated critical areas and associated buffers, and they must be managed for storm water treatment. If these systems are not managed and maintained in accordance with the manual for a period exceeding three years, these systems may no longer be considered constructed wetlands.

(5) Wetland BMP's shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the Kitsap County department of community development.

(Ord. 199 (1996) § 7.60, 1996)

12.20.120 Regional facilities.

When the director has determined that the public would benefit by the establishment of a regional storm water facility which would serve as an alternative to the construction of separate on-site drainage facilities, the director may recommend to the board that a regional storm water facility be constructed which would serve more than one development in providing storm water quantity and/or quality control. In the event that a regional storm water facility is required by the board, such a regional storm water facility shall be located outside of fish-bearing streams, unless otherwise accepted by the Washington State Department of Fish and Wildlife. All future developments constructed on lands designated by the board to be served by the regional facility shall, at the time of issuance of a site development activity permit for a development, be required to contribute a fair share to the cost of land purchase, design and construction of the regional facility. In the event that a proposed regional storm water facility is not yet in operation at the time of completion of construction of a development that is to be served by the regional facility, the applicant for the development shall be required to provide temporary storm water quantity and quality controls. Temporary quantity and quality controls may be constructed in temporary easements, rather than in separate tracts. (Ord. 199 (1996) § 7.70, 1996)

12.20.130 Basin planning.

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, storm water treatment, streambank erosion

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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 BMP's for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the above requirements until the basin plan is formally adopted and fully implemented by Kitsap County.
(Ord. 199 (1996) § 7.80, 1996)

Chapter 12.24 OPERATION AND MAINTENANCE

12.24.010 Maintenance of storm water facilities by owners.

(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.
(Ord. 199 (1996) § 8.10, 1996)

12.24.020 Maintenance covenant required for privately maintained drainage facilities.

(a) Prior to the beneficial use of a development constructed under a site development activity permit, the owner shall record a maintenance covenant which guarantees Kitsap County that the storm water facilities shall be properly operated, maintained and inspected. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the Kitsap County auditor.

(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.
(Ord. 199 (1996) § 8.11, 1996)

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12.24.030 County acceptance of new storm water facilities.

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/PUD'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 mylar as-built drawings have been provided to Kitsap County.
(Ord. 199 (1996) § 8.12, 1996)

12.24.040 County acceptance of existing storm water facilities.

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/PUD's 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

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(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.
(Ord. 199 (1996) § 8.13, 1996)

12.24.050 County inspections of privately maintained storm water facilities.

(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 Section 12.32.030.
(Ord. 199 (1996) § 8.14, 1996)

12.24.060 Inspection schedule.

The director is authorized to establish a master inspection and maintenance schedule to inspect appropriate storm water facilities that are not owned and operated by Kitsap County. The party (or parties) responsible for maintenance and operation shall be identified. Critical storm water facilities, as so deemed by the director, may require a more frequent inspection schedule.
(Ord. 199 (1996) § 8.15, 1996)

Chapter 12.28 CRITICAL DRAINAGE AREAS

12.28.010 Special drainage improvements.

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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.

(Ord. 199 (1996) § 9.10, 1996)

12.28.020 Designation.

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 of groundwater, aquifers or sole source aquifers;

(7) Any lands that drain to a natural feature that is a closed depression;

(8) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;

(9) Any lands that are established by law as shellfish protection areas;

(10) Any lands determined by the director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

(Ord. 199 (1996) § 9.20, 1996)

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12.28.030 Conflicting information.

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

(Ord. 199 (1996) § 9.30, 1996)

Chapter 12.30 WATER QUALITY

12.30.010 Purpose.

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

(Ord. 199 (1996) § 10.10, 1996)

12.30.020 Illicit discharges.

Illicit discharges to storm water drainage systems are prohibited.

(Ord. 199 (1996) § 10.20, 1996)

12.30.030 Illicit connections and uses.

The storm water system of Kitsap County, natural and artificial, may only be used to convey storm water runoff. "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. 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.

(Ord. 199 (1996) § 10.21, 1996)

12.30.040 Pollution control device maintenance.

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

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(Ord. 375 (2007) § 5, 2007: Ord. 199 (1996) § 10.22, 1996)

12.30.050 Test procedure.

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 the Code of Federal Regulations, Part 136.

(Ord. 199 (1996) § 10.31, 1996)

12.30.060 Exemptions.

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 operating on-site domestic sewage systems;

(4) Properly applied agricultural chemicals and materials.

(Ord. 199 (1996) § 10.70, 1996)

Chapter 12.32 ENFORCEMENT

12.32.010 Violations of this title.

The placement, construction or installation of any structure, or the connection to a public storm drainage facility, or the discharge to a public storm drainage facility, or grading, which violates the provisions of this title shall be and the same is declared to be unlawful and a public nuisance and may be abated as such through the use of the Civil Enforcement Ordinance (Chapter 2.116 of this code), civil penalties and stop-work orders, as well as any other remedies which are set forth in this title, including, but not limited to, revocation of any permits. If the department chooses to utilize the civil enforcement ordinance, then a violation of any provision of this title shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued or permitted. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources.

(Ord. 199-A (1997) § 1, 1997: Ord. 199 (1996) § 11.10, 1996)

12.32.020 Inspection.

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(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 insure 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.

(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 project, and any part thereof reasonably related to the violation, during regular business hours, and at any other time reasonable in the circumstances. The applicant for any site development activity permit under Section 12.10.030 shall, as a condition of issuance of such permit, agree in writing that such access to the project site, which inhibits the collection of information relevant to enforcement of the provisions of this title, shall be grounds for issuance of a stop work order by the director or his designee.

(Ord. 199 (1996) § 11.15, 1996)

12.32.030 Inspection procedures.

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

(1) If the property or any building or structure on the property is unoccupied, the director or his assignee shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry.

(2) If after reasonable effort, the director or his assignee is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the site or of the storm water drainage system creates an imminent hazard to persons or property, the inspector may enter.

(Ord. 199 (1996) § 11.16, 1996)

12.32.040 Stop work orders.

"Stop work order" means a written notice, signed by the director or his assignee, that is posted on the site of a construction activity, which order states that a violation of a Kitsap County ordinance has occurred and that all construction-related activity, except for erosion and sedimentation control activities authorized by the director, is to cease until further notice. The director may cause a stop work order to be issued whenever the director has reason to believe that there is a violation of the terms of this 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.

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(Ord. 199 (1996) § 11.20, 1996)

12.32.050 Cumulative civil penalty.

Every person who violates this title, or the conditions of an accepted site development activity permit plan, may incur a civil penalty. The penalty shall not be less than one hundred dollars or exceed one thousand dollars for each violation. This penalty shall be in addition to any other penalty provided by law. Each and every such violation shall be a separate and distinct offense, and each day of continued or repeated violation shall constitute a separate violation.

(Ord. 199 (1996) § 11.30, 1996)

12.32.060 Aiding or abetting.

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

(Ord. 199 (1996) § 11.31, 1996)

12.32.070 Order to maintain or repair.

The director shall have the authority to issue to an owner or person an order to maintain or repair a component of a 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.

(Ord. 199 (1996) § 11.40, 1996)

12.32.080 Notice of violation - Assessment of penalty.

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.

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(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 cumulative civil penalty in the amount of not less than one hundred dollars and not exceeding one thousand dollars per day shall be assessed against the person to whom the notice of violation is directed for each and every day following the date set for correction on which the violation continues; and

(F) A statement that the director's determination of violation may be appealed to the Kitsap County board of commissioners by filing written notice of appeal, in duplicate, with the board within twenty days of service of the notice of violation. The per diem civil penalty shall not accrue during the pendency of such administrative appeal unless the violation was determined by the director to be hazardous and to require immediate corrective action or was determined by the director to constitute a temporary erosion control measure.

(2) The notice of violation shall be served upon the person(s) to whom it is directed either personally or by complaint in superior court proceedings or by mailing a copy of the notice of violation by certified mail.

(Ord. 199 (1996) § 11.41, 1996)

12.32.090 Appeal and disposition.

A notice of violation issued pursuant to this chapter shall have the following appeal options:

(1) Within thirty days from the date of receipt of the notice of violation, the aggrieved person may make application for relief from penalty to the director. Such application shall contain any information relevant to the situation that the aggrieved party believes the director should consider. The director may cancel, lower or affirm the penalty.

(2) Within fifteen days from the date of receipt of the director's response to said application for relief from penalty, the aggrieved party may appeal to the Kitsap County board of commissioners. The aggrieved person shall be entitled to have the appeal

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considered by the board at its next available regularly scheduled meeting date following the filing of the appeal. The board shall issue their decision within fifteen days of the completion of the hearing. The aggrieved party shall be notified by certified mail of the determination of the board.

(Ord. 199 (1996) § 11.42, 1996)

12.32.100 Liability for costs of investigation.

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

(Ord. 199 (1996) § 11.50, 1996)

12.32.110 Collection of civil penalty.

The civil penalty constitutes a personal obligation of the person(s) to whom the notice of violation is directed. Penalties imposed under this chapter shall become due and payable thirty days after receiving notice of penalty unless an appeal is filed. The prosecuting attorney, on behalf of the county, is authorized to collect the civil penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem penalties so long as the violation continues.

(Ord. 199 (1996) § 11.60, 1996)

12.32.120 Compromise settlement and disposition of suits.

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

(Ord. 199 (1996) § 11.70, 1996)

12.32.130 Hazards.

(a) Whenever the director determines that any existing construction site, erosion/sedimentation problem or drainage facility poses a hazard to public safety or substantially endangers property, or adversely affects the condition or capacity of the drainage facilities, or adversely affects the safety and operation of county right-of-way, or violates state water pollution laws, the person to whom the permit was issued, or the person or persons holding title to the property within which the drainage facility is located, shall upon receipt of notice in writing from the director, repair or otherwise

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address the cause of the hazardous situation in conformance with the requirements of this chapter.

(b) Should the director have reasonable cause to believe that the situation is so adverse as to preclude written notice, he may take the measures necessary to eliminate the hazardous situation, provided that he or she shall first make a reasonable effort to locate the owner before acting, in accordance with Section 12.32.030. In such instances, the person or persons holding title to the subject property shall be obligated for the payment to Kitsap County of all costs incurred by the county. If costs are incurred and a bond pursuant to this chapter or other county requirement has been posted, the director shall have the authority to collect against the bond to cover costs incurred.

(Ord. 199 (1996) § 11.80, 1996)

Chapter 12.36
SURFACE AND STORM WATER MANAGEMENT PROGRAM

12.36.010 Title.

This chapter shall be titled "Surface and Storm Water Management Program."
(Ord. 156 (1993) § 1, 1993)

12.36.020 Purpose.

The purpose of this chapter is to promote and protect the public health, safety and welfare by establishing a comprehensive approach to surface and storm water management pursuant to RCW Chapter 36.89. This surface and storm water management program seeks to protect life and property from storm, waste, flood or surplus surface waters, protect water quality by preventing siltation, contamination and erosion of the county's waterways, protect aquifers, provide shellfish protection, assure compliance with federal and state surface water management and water quality regulations and legislation, increase public education and citizen involvement, and encourage the preservation of natural drainage systems.
(Ord. 156 (1993) § 2, 1993)

12.36.030 Definitions.

1. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to capital projects, public education activities, land use management regulations adopted by ordinance for managing surface and storm water quality and quantity management facilities and features within individual sub-basins.
2. "Best management practices" ("BMP's") means physical, structural and/or management practices that, when used singly or in combination, prevent or reduce pollution of water.
3. "County" means the unincorporated areas of Kitsap County, Washington, or as indicated by the context, may mean the department of public works, public works director, county engineer, or other official, officer, employee or agency representing the county in the discharge of his or her duties.
4. "Director" means the director of Kitsap County department of public works or his or her designee.
5. "Interlocal agreement" means any contract between the county and other incorporated areas of Kitsap County or other government entities pursuant to RCW Chapter 39.34, which delineates the terms, conditions and relationships of the parties regarding the plan, design, construction, operation, maintenance and funding of surface and storm water management systems within the incorporated area or service area of a government entity.
6. "Storm water control facilities" means any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood or surplus waters wherever located within the county.

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7. "Watershed action plan" means a local watershed planning process to identify the problems, needs and action steps to reduce nonpoint pollution, enhance water quality, and protect beneficial uses.
(Ord. 156 (1993) § 3, 1993)

12.36.040 Program creation and authority.

Kitsap County hereby creates a surface and storm water management program (SSWM) to implement comprehensive county-wide surface and storm water management. SSWM shall be administered by the Kitsap County department of public works, who shall have the authority, subject to approval by the county commissioners, to exercise all lawful powers necessary and appropriate for the construction, acquisition and condemnation of property rights, maintenance, management, operations and regulation of storm drainage and surface water runoff systems including, without limitation, all lawful powers to fix, alter, regulate and control the rates and charges for the use thereof.
(Ord. 156 (1993) § 4, 1993)

12.36.050 SSWM program elements.

SSWM shall establish a program that includes the following elements: basin and watershed planning, education, capital improvements, operations and maintenance, monitoring, source control and shellfish protection (the "program").

(1) Basin and Watershed Planning. SSWM shall develop, coordinate and implement basin and watershed action plans to control surface and storm water runoff in the county.

(2) Education. SSWM shall develop and implement a program to educate the public about land use and human activities which impact water quality and surface water management. SSWM shall also develop citizen involvement programs to monitor streams and implement restoration programs consistent with approved basin and watershed action plans.

(3) Capital Improvements. SSWM shall develop a five-year capital improvement program which defines the program's activities related to the acquisition, construction, replacement or renovation of capital facilities or equipment needed to address the surface and storm water management program objectives of the county. SSWM shall submit the capital improvement program to the county commissioners for review and approval and shall submit annually a plan and budget for implementation.

(4) Operations and Maintenance. SSWM shall develop and implement an operations and maintenance program, including inspection and enforcement, to assure that all public and private drainage and storm water control facilities in the county are functional and effective. SSWM shall perform the operations and maintenance of all county-owned storm water control facilities. SSWM shall coordinate the transfer of county maintenance responsibility for private residential storm water control facilities under existing covenants, dedications or resolutions to the SSWM program.

(5) Monitoring. SSWM shall develop and implement a program to monitor the ambient water quality of rivers, streams, lakes and wetlands, to evaluate the effectiveness of source controls and BMP's implemented under the basin and watershed action plans. Water quality monitoring activities shall be coordinated between

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agencies within the county, and the results of monitoring activities shall be communicated to residents, agencies and other interested persons.

(6) Source Control. SSWM shall develop and implement a source control program to improve water quality. The source control program shall reduce herbicide and pesticide usage, strengthen the on-site sewage system correction, moderate risk waste control and wellhead protection programs, strengthen the use of BMP's and implement a boat waste control program. SSWM may provide financial assistance through low-interest loans, grants and cost sharing for the restoration of streams, repair on-site sewage disposal systems and agricultural practice improvements.

(7) Shellfish Protection. SSWM shall develop and implement shellfish protection program elements to accomplish the proposes outlined in RCW Chapter 90.72. SSWM shall coordinate the implementation of program elements that provide increased shellfish protection with other counties, municipalities or special purpose districts that may establish shellfish protection programs or districts through interlocal agreements; however, this chapter shall not be construed to establish a shellfish protection district. (Ord. 156 (1993) § 5, 1993)

12.36.060 Administration.

SSWM shall be administered by the department of public works, and the director shall have the authority to implement the program as defined in this chapter. No provision of this chapter shall prevent municipalities, county agencies departments or special districts from adopting, administering or enforcing other ordinances and regulations to protect surface and storm water quality.

(Ord. 156 (1993) § 6, 1993)

12.36.070 Program coordination.

SSWM shall coordinate surface and storm water management programs and services by forming interlocal or operating agreements with other departments, governmental entities or special districts in order to achieve a comprehensive approach to surface water management. SSWM shall endeavor to eliminate or reduce duplication and to achieve the maximum program benefit in the most efficient manner. The director shall submit an operating plan, budget and an annual report to the county commissioners for review and approval.

(Ord. 156 (1993) § 7, 1993)

12.36.080 Program funding.

SSWM shall be funded by rates and service charges to be established by separate ordinance. SSWM and any participating municipality, agency, department or special districts may solicit additional funds through grants, if available, to supplement program funding.

(Ord. 156 (1993) § 8, 1993)

12.36.090 Right-of-entry.

Whenever necessary to examine the property characteristics of a particular parcel for the purposes of implementing this chapter, the director may enter any property at reasonable times in compliance with the following procedures:

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(1) If such property is occupied, the director shall present identification credentials, state the reason for entry and request entry.

(2) If such property is unoccupied, the director shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry.

(3) Unless entry is consented to by the owner or person in control of any property, the director, prior to entry, shall obtain a search warrant as authorized by the laws of the state of Washington.

(Ord. 156 (1993) § 9, 1993)

12.36.100 Enforcement.

(a) Where storm water control facilities not maintained by the county have been abandoned, neglected or are not functioning adequately as designed, SSWM shall have the authority to inspect the facility and advise the property owner(s) in writing of the duty to repair and/or maintain the facility. If the property owner(s) fails to repair and/or maintain the facility within thirty days, SSWM may issue a notice of violation providing the property owner(s) with a written description of the corrective action that must be taken, the time period in which the corrective action must be performed, and the civil penalty for failure to perform the corrective action. The civil penalty shall be established under the SSWM rate ordinance. In the event that the property owner(s) fails to take the required corrective action, SSWM shall report the violation to the county prosecutor, who shall have the authority to collect the civil penalty by use of appropriate legal remedies.

(b) In addition to, or as an alternative to, the above procedure for notice of violation, SSWM shall have the authority to negotiate with a property owner(s) to obtain the owner's consent for SSWM to perform the corrective repair or maintenance action, at the property owner's sole expense.

(c) If storm water control facilities on or serving private residential property meet the performance standards established by the county drainage ordinance, as now or hereafter amended, the county may accept the maintenance responsibility for the storm water control facilities, provided that the property owner dedicates the underlying land to the county in fee or provides the county with an easement or right-of-way in a form acceptable to the county.

(d) Whenever the director determines that a storm water control facility poses a hazardous condition to public health, life or property, or adversely affects the condition or capacity of the drainage facilities, or adversely affects the safety or operation of county right-of-way or other property owned or maintained by the county, and the director has reasonable cause to believe that the hazardous condition is so adverse as to preclude the written notice of violation procedure described above, the director may take measures limited to those necessary to eliminate the hazardous condition, provided that the director takes reasonable steps to locate and advise the property owner(s) of the hazardous condition. In such event, the property owner(s) shall be obligated to reimburse the county for the reasonable costs of performing the corrective action.

(Ord. 156 (1993) § 10, 1993)

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12.36.110 Appeals.

Disputes and appeals pertaining to a notice of violation shall be processed pursuant to this section:

(1) Within twenty days after receipt of a notice of violation, the property owner(s) shall request in writing a meeting with the director to attempt to informally resolve the dispute.

(2) If the dispute is not resolved pursuant to subsection (1) of this section, the property owner(s) shall submit a written explanation of his or her position to the director within ten days following the meeting with the director. Such written materials must fully explain the position of the property owner(s) and must, as appropriate, include engineering or other supporting data, drawings, field information and argument concerning the applicable legal authorities. The written materials submitted to the director must indicate that the property owner(s) is invoking the review process set forth in this section.

(3) Upon receipt of the materials described in subsection (2), the director shall review such materials and shall within ten days set forth the county's position on the dispute in writing. This report shall be transmitted to the property owner(s) by certified mail.

(4) If the property owner(s) is dissatisfied with the position set forth by the director, he or she may appeal the dispute to the Kitsap County board of commissioners by filing a written notice of appeal with the director within ten days of receipt of the written report.

(5) Upon receipt of an appeal, the director shall transmit to the board a copy of the written explanation as described in subsection (2) and the report of the county's position as described in subsection (3), which shall constitute the record.

(6) Upon receipt of the materials as set forth in subsection (5), the board shall schedule a public hearing at which to consider the appeal and shall notify the property owner(s) at least ten days prior to the public hearing. The board's decision shall be based on the record transmitted by the director, and both the director and the property owner(s) shall be permitted to present ten minutes of oral argument. The board shall notify the property owner(s) and the director of its decision in writing by certified mail within fifteen days upon completion of the hearing.

(Ord. 156 (1993) § 11, 1993)

Chapter 12.40

SURFACE AND STORM WATER MANAGEMENT PROGRAM RATE STRUCTURE

12.40.010 Title.

The ordinance codified in this chapter shall be titled "Surface and Storm Water Management Program Rate Structure."

(Ord. 165 (1994) § 1.0, 1994)

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12.40.020 Purpose.

It is the purpose of this chapter to provide for revenue for the Kitsap County surface and storm water management program to plan, manage, construct, maintain, use and carry out activities related thereto. This chapter provides these revenues by fixing rates and charges pursuant to RCW 36.89.080 for the furnishing of service to those served or receiving benefits, or to be served or to receive benefits from any drainage facility, or contributing to surface water runoff within Kitsap County. This authority is being invoked in order to minimize property damage, promote and protect the public health, safety and welfare, minimize water quality degradation by preventing siltation, contamination and erosion of the county's waterways, protect aquifers, insure the safety of county roads and rights-of-way, increase educational and recreational opportunities, encourage the retention of open space and foster other beneficial public uses.

(Ord. 165 (1994) § 2.0, 1994)

12.40.030 Applicability.

The requirements of this chapter shall apply to all parcels of real property in unincorporated Kitsap County, including public and private property.

(Ord. 165 (1994) § 3.0, 1994)

12.40.040 Definitions.

For the purposes of this chapter:

1. "Agricultural uses" means those activities involving land use for nonclassified agriculture and related activities and open space farming and agriculture as defined by the Kitsap County Zoning Ordinance.
2. "Apartment" means a residential structure accommodating five or more dwelling units; residential hotels and condominiums; hotels and motels; institutional lodging; or retirement apartments as defined by the Kitsap County Zoning Ordinance.
3. "Commercial uses" means those activities involving land used for retail, office, and marina condominiums; wholesale trade; retail trade in building materials, hardware, or farm equipment, in general merchandise, in food, in automobiles, tires, marine craft, aircraft, and accessories, in apparel and accessories, in furniture, home furnishings and equipment, in eating and drinking, or in other retail trades; finance, insurance, or real estate; personal services; marinas; resorts and group camps; veterinarian services; or miscellaneous services as defined by Kitsap County Zoning Ordinance.
4. "County" means the unincorporated areas of Kitsap County, Washington, or as indicated by the context, may mean the department of public works, public works director, county engineer, or other official, officer, employee or agency representing the county in the discharge of his or her duties.
5. "County roads" means public rights-of-way, excluding state roads, in the unincorporated areas of Kitsap County.
6. "Director" means the director of Kitsap County department of public works or his or her designee.
7. "Equivalent service unit" ("ESU") means the average estimated amount of impervious surface area on a single-family residential parcel. For the purposes of calculating the service charges in Section [12.40.050](#) for property classes 3 – 6, 8 and 9, an ESU shall be defined as 4,200 square feet of impervious surface area.

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8. "Forest land" means land classified or designated as forest land pursuant to Chapter 84.33 RCW; noncommercial forest and state forest; or open space timber as defined by Kitsap County Zoning Ordinance.

9. "Impervious surfaces" means hard-surfaced areas which prevent or retard the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow than under natural conditions. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt roads, sidewalks and paving, walkways, patio areas, driveways, parking lots or storage areas and gravel, hard-packed dirt, oiled or other surfaces which similarly impede the natural infiltration of surface water or runoff patterns existent prior to development.

10. "Industrial uses" means those activities involving land used for manufacturing of food products, apparel and fabric, lumber and wood products, furniture and fixtures, paper products, printing and publishing, chemical, petroleum products, plastics, leather goods, stone, clay and glass, fabricated metal products, precision instruments, and miscellaneous manufacturing; railroad, motor vehicle, aircraft, marine craft transportation; automobile parking; communications; other transportation, communication, or utilities; water systems; sanitary land fills; or auto wrecking yards as defined by the Kitsap County Zoning Ordinance.

11. "Institutional establishments/uses" means those activities involving land used for hospitals, convalescent centers, contract construction services; governmental services; educational services; miscellaneous services; churches; cultural activities and nature exhibitions; public assembly; or recreational activities as defined by the Kitsap County Zoning Ordinance.

12. "Multifamily residence" means a residential structure accommodating two, three or four dwelling units as defined by Kitsap County Zoning Ordinance.

13. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for real property purposes, and a tax lot number assigned by the Kitsap County assessor.

14. "Service charges" means the amount owed after applying the appropriate rate to a particular parcel of real property based upon factors established by this chapter.

15. "Single-family residence" means a residential structure accommodating one dwelling unit, including mobilehomes as defined by Kitsap County Zoning Ordinance.

16. "State roads" means state highway rights-of-way as defined in RCW 90.03.520.

17. "Undeveloped land" means unimproved land, and land used for railroad transportation, unimproved forest land, unimproved agricultural land, parks, cemeteries, other resource production and open space as defined by the Kitsap County Zoning Ordinance.

18. "Unimproved agricultural land" means land defined as agricultural land with no residential structures.

19. "Unimproved forest land" means land defined as forest land with no residential structures.

20. "Unit rate" means the dollar amount charged per single-family residence or one ESU.

(Ord. 327 (2004) § 1, 2004: Ord. 319 (2004) § 1, 2004: Ord. 165-A (1995), § 1.0, 1995; Ord. 165 (1994) § 4.0, 1994)

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12.40.050 Rate structure.

(a) The rates and service charges shall be based on the service provided and relative contribution of surface and storm water runoff from a given parcel to the storm water control facilities. The average estimated percentage of impervious surfaces on the parcel, the land use classification, the total parcel acreage and/or measured impervious surface area will be used to determine the relative contribution of surface and storm water runoff from the parcel.

(b) The board of county commissioners shall establish from time to time, by resolution, the unit rate applied to each class of property identified below:

Class of Property	Basis of Service Charge
(1) Single-family residence.	A unit rate per single-family residence based on one ESU.
(2) Multifamily residence.	Number of dwelling units times the unit rate.
(3) Apartments.	Estimated or measured impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU but not less than one, times the unit rate. In the absence of measured impervious surface area, impervious surface area shall be estimated by multiplying the gross parcel size by a density of development factor of fifty-one percent.
(4) Commercial uses.	Estimated or measured impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU but not less than one, times the unit rate. In the absence of measured impervious surface area, impervious surface area shall be estimated by multiplying the gross parcel size by a density of development factor of sixty-two percent.
(5) Industrial uses.	Estimated or measured impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU but not less than one, times the unit rate. In the absence of measured impervious surface area, impervious surface area shall be estimated by multiplying the gross parcel size by a density of development factor of thirty-four percent.
(6) Institutional uses.	Estimated or measured impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU but not less than one, times the unit rate. In the absence of measured impervious surface area, impervious surface area shall be estimated by multiplying the gross parcel size by a density of development factor of forty-one percent.
(7) Undeveloped land.	No charge.
(8) County roads.	Estimated or measured impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU times the unit rate.
(9) State roads.	Thirty percent of the base rate for impervious surface area divided by the square footage of one ESU, rounded to the nearest ESU times the unit rate.

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(c) Rainwater Harvesting Rate Reduction. Any new or remodeled commercial building (as defined by Section [12.40.050](#), subsections (b)(3) through (6)) that utilizes rainwater harvesting may receive a 50% rate reduction for those surfaces from which the rain is harvested. In order to obtain the rate reduction, the proponent must demonstrate through an analysis prepared by a licensed professional engineer that the system will result in zero surface water discharge for all storm events contained in Section [12.20.030](#) of this code, using the hydrologic methods described in Section [12.20.020](#). The proponent is responsible for requesting the credit. The rate reduction will become effective for the calendar year following the request.

(d) 100% Retention/Infiltration Rate Reduction. Any new or remodeled commercial development (as defined by Section [12.40.050](#), subsections (b)(3) through (6)) that utilizes 100% infiltration of all site rain runoff water may receive a 50% rate reduction. In order to obtain the rate reduction, the proponent must demonstrate through an analysis prepared by a licensed professional engineer that the system will result in zero surface water discharge for all storm events contained in Section [12.20.030](#) of this code, using the hydrologic methods described in Section [12.20.020](#). The proponent is responsible for requesting the credit. The rate reduction will become effective for the calendar year following the request.

(e) Direct Discharge to Tidally Influenced Waters Rate Reduction. Any new or remodeled commercial development (defined by Section [12.40.050](#), subsections (b)(3) through (6)) that discharges directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, may receive a 50% rate reduction. In order to obtain the rate reduction, the proponent must demonstrate through an analysis prepared by a licensed professional engineer that the system conforms to the requirements of Sections [12.20.030](#)(4)(A) and [12.20.040](#) of this code, and that the site does not discharge surface runoff except through the direct discharge system. The proponent is responsible for requesting the credit. The rate reduction will become effective for the calendar year following the request.

(Ord. 315 (2004) § 1, 2004: Ord. 165-A (1995) § 2.0, 1995; Ord. 165 (1994) § 5.0, 1994)

12.40.055 Unit rates.

(1) The unit rate shall be \$57.30 per year per ESU or single-family residence for property classes 1 through 6, 8 and 9 listed in Section [12.40.050](#)(b), starting January 1, 2007.

(2) The unit rate shall be \$62.30 per year per ESU or single-family residence for property classes 1 through 6, 8 and 9 listed in Section [12.40.050](#)(b), starting January 1, 2008.

(3) The unit rate shall be \$67.30 per year per ESU or single-family residence for property classes 1 through 6, 8 and 9 listed in section [12.40.050](#) (b) starting January 1, 2009.

(4) The unit rate shall be \$69.80 per year per ESU or single-family residence for property classes 1 through 6, 8 and 9 listed in section [12.40.050](#) (b) starting January 1, 2010.

(Ord. 360 (2006) § 1, 2006: Ord. 327 (2004) § 2, 2004: Ord. 319 (2004) § 2, 2004)

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12.40.060 Billing.

(a) All property subject to rates and service charges pursuant to this chapter shall be assessed annually. Billing statements shall be included on the annual property tax statements. Properties which do not receive a property tax statement will receive a separate rate and service charge billing statement.

(b) The total amount of the service charge shall be due and payable on or before the thirtieth day of April, and shall be delinquent after that date; however, if one-half of such service charge is paid on or before the thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October and shall be delinquent after that date.

(Ord. 165 (1994) § 6.0, 1994)

12.40.070 Service charge adjustments and appeals.

(a) Any person billed for service charges may file a "request for service charge adjustment" with the director within thirty days of the date of the bill. However, filing of such a request does not extend the period for payment of the charge.

(b) A request for service charge adjustment may be granted or approved by the director, subject to the county assessor's review if modification of the assessor's database is recommended, only when one of the following conditions exists:

(1) The parcel is owned and is the personal residence of a person or persons determined by the county assessor as qualified for a low income senior citizen exemption authorized under RCW 84.36.381; parcels qualifying hereunder shall be given the same percentage reduction in the service charge as in RCW 84.36.381;

(2) The acreage of the parcel charged is in error;

(3) The parcel is nonresidential and the actual impervious surface area of the parcel, as established by a licensed surveyor or engineer, is more than fifty percent of an equivalent service unit greater than or less than the estimated or measured impervious surface area used in determining the charge;

(4) Parcels owned or leased by a public school district which provides activities which directly benefit the surface and storm water management program. The activities may include: curriculum specific to the issues and problems of surface and storm water management, and student activities in the community to expose students to the efforts required to restore, monitor or enhance the surface and storm water management system. Pursuant to RCW 36.89.085, the amount of the service charge adjustment shall be determined by the director based upon the cost of the activities to the school district, but not to exceed the value of the activity to the surface and storm water management program. Determination of which activities qualify for the surface and storm water management service charge reduction will be made by the director. Reductions in surface and storm water management service charges will only be granted to school districts which provide programs that have been evaluated by the director. The service charge adjustment for the school district activity may be applied to any parcel in the service area which is owned or operated by the school district;

(5) The service charge bill was otherwise not calculated in accordance with the terms of this chapter; or

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(6) The parcel exists in its natural unimproved condition and will remain in its natural unimproved condition with no allowable human activities or manmade improvements which adversely affect water quantity or quality.

(c) Service charge adjustments will only apply to the bill then due and payable, and bills subsequently issued. In the event that the county replaces estimated impervious surface area with measured impervious surface area, in the absence of an appeal, such actual impervious surface area will be used for future bills.

(d) The property owner shall have the burden of proving that the service charge adjustment should be granted.

(e) Decisions on requests for service charge adjustment shall be made by the director based on information submitted by the applicant and by the public works department within thirty days of the adjustment request, except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the service charge for the current year, the applicant shall be refunded the amount overpaid in the current year.

(f) If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase and service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in Section [12.40.060](#).

(g) Decisions of the director on requests for service charge adjustments shall be final unless within thirty days of the date the decision was mailed, the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the Kitsap County board of county commissioners.

(Ord. 165 (1994) § 7.0, 1994)

12.40.080 Use of funds.

Service charges collected under this chapter shall be deposited into a special fund or funds to be used only for the purpose of paying all or any part of the cost and expense of maintaining and operating storm water control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the surface and storm water management program and drainage facilities.

(Ord. 165 (1994) § 8.0, 1994)

12.40.090 Lien for delinquent charges and foreclosures.

(a) Delinquent service charges shall bear interest as provided in RCW 36.89.090 and 36.89.092 at the rate of twelve percent per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

(b) The county shall have a lien for delinquent service charges, including interest thereon, against any property subject to service charges; the lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. Such liens shall be effective and shall be enforced and foreclosed in the manner provided by RCW 36.94.150; except that the service charge lien shall be effective for a

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total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county records and elections division, as provided for in RCW 36.89.093. In accordance with RCW 36.89.094, the county may commence to foreclose a surface water management service charge lien after three years from the date surface water management charges become delinquent, in lieu of the provisions provided for in RCW 36.94.150.
(Ord. 165 (1994) § 9.0, 1994)