

**Title 12 Redlines
June 2020**

STORM WATER DRAINAGE

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12.04.010 Declaration of title.

This title shall be known as the “Storm Water Management Ordinance.”*

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

* **Editor’s Note:** Chapters 12.04 – 12.40, as adopted by Ordinance 540 (2016), Section 4 (Attachment 1), 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, these regulations include the Kitsap County Stormwater Design Manual (Kitsap manual) that is incorporated herein by this reference. ~~A copy of the Kitsap manual is available for inspection or purchase upon request.~~ The Kitsap manual may consist of one or more documents each of which may be amended as necessary to reflect changing conditions and technology. All requirements contained in the Kitsap manual, together with any amendments thereto, must be complied with as provided in Section 12.04.030.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.04.025 Technical deviations and variances.

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

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

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

(A) The variance is for project-specific design criteria based on site-specific conditions. All jurisdiction-wide variances must be approved by the Department of Ecology; and

(B) The requirements of this title impose a severe and unexpected economic hardship on the applicant. The determination of a severe and unexpected economic hardship shall involve the consideration, in writing, of all of the following:

- i. The current (pre-project) use of the site; and
- ii. How the application of this title restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of the ordinance codified in this title; and
- iii. The possible remaining uses of the site if the variance were not granted; and
- iv. The uses of the site that would have been allowed prior to the adoption of the ordinance codified in this title; and
- v. A comparison of the estimated amount and percentage of value loss as a result of the requirements of this title versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the ordinance codified in this title; and
- vi. The feasibility for the owner to alter the project to comply with the requirements of this title; and

(C) The variance will not increase the risk to the public health and welfare, nor be injurious to other properties in the vicinity, to properties downstream or to the quality of the waters of the state; and

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

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

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 (Illicit Discharge Detection and Elimination) 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.04.040 Applicability of other ordinances and permits.

Any land development that 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.04.050 Administration.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.04.060 Appeals.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.08

DEFINITIONS

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12.08.005 Definitions.

The following definitions of terms shall apply to this title.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.010 Abbreviated grading plan.

“Abbreviated grading plan” means a grading plan that does not require the seal of a professional civil engineer.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.015 Accepted performance of construction.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.020 Agricultural uses.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.025 Apartment.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.030 Applicant.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.035 Basin plan.

“Basin plan” means a plan and all implementing regulations and procedures including, but not limited to, capital projects, public education activities, and land use management regulations adopted by ordinance for managing surface and storm water quality and quantity management facilities and drainage features within individual sub-basins.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.040 Beneficial use.

“Beneficial use” means uses of waters of the state, which include but are not limited to use for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, recreation, generation of electric power and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.045 Best management practices (BMP).

“Best management practices (BMP)” means the schedule of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to receiving waters.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.050 Bioretention facilities.

“Bioretention facilities” means engineered facilities that treat storm water by passing it through a specified soil profile, and either retain or detain the treated storm water for flow attenuation. Refer to the [Chapter 5 of Volume II of the Kitsap manual Stormwater Management Manual for Western Washington \(Ecology Manual\)](#), ~~Chapter 7 of Volume V~~ for bioretention BMP types and design specifications.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.055 Board.

“Board” means the Kitsap County board of commissioners or their assigns.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.060 Bond.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.065 Certified erosion and sediment control lead (CESCL).

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.070 Clearing.

“Clearing” means the destruction and/or removal of vegetation by manual, mechanical, or chemical methods.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.075 Closed depressions.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.080 Commercial uses.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.085 Comprehensive drainage plan.

“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 flow control and runoff treatment~~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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.090 Contiguous land.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.095 Converted vegetation (areas).

“Converted vegetation (areas)” means surfaces on a project site where native vegetation, pasture, scrub/shrub, or unmaintained nonnative vegetation (e.g., Himalayan blackberry, Scotch broom) are converted to lawn or landscaped areas, or where native vegetation is converted to pasture.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.100 County.

“County” means:

- (A) Kitsap County and the unincorporated areas of Kitsap County, Washington; or
- (B) As indicated by the context, may mean the department of community development, community development director, 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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.105 County roads.

“County roads” means public rights-of-way, excluding state roads, in the unincorporated areas of Kitsap County.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.110 Critical drainage area.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.115 Design storm event.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.120 Detention facilities.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.125 Developed site.

“Developed site” means the condition of the development site following completion of construction of the development including all approved phases of construction.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.130 Director.

“Director” means:

(A) The director of the Kitsap County department of public works or designee for the administration of the stormwater management program of Chapters 12.36 and 12.40 and the stormwater maintenance program of Chapter 12.24; or

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.135 Dispersion.

“Dispersion” means the release of 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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.140 Diversion.

“Diversion” means the routing of stormwater to other than its natural discharge location.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.145 Drainage feature.

“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 stormwater runoff.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.150 Drainage plan.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.155 Easement.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.160 Ecology Manual.

“Ecology Manual” means the ~~2019~~²⁰¹² Stormwater Management Manual for Western Washington, ~~published~~^{amended} in ~~July 2019~~^{December 2014}.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.165 Effective impervious surface.

“Effective impervious surface” means those impervious surfaces that are connected via sheet flow or discrete conveyance to a storm water drainage system. Impervious surfaces are considered ineffective if: (1) the runoff is dispersed through at least one hundred feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion” as described in Chapter 5 of Volume ~~IIV~~ of the Kitsap manualEcology Manual; (2) residential roof runoff is infiltrated in accordance with downspout full infiltration systems in Chapter 5 ofBMP T5.10A in Volume ~~IIII~~ of the Kitsap manualEcology Manual; or (3) approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.170 Engineer.

Engineer. See “professional engineer.”

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.175 Equivalent service unit (ESU).

“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 Chapter 12.40, an ESU shall be defined as four thousand two hundred square feet of impervious surface area.

(Ord. 549 (2017) § 1, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.180 Existing stormwater facilities.

“Existing stormwater facilities” means those facilities constructed or under permitted construction prior to the effective date of the ordinance codified in this chapter.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.183 Flow control best management practices (BMPs).

“Flow control best management practices (BMPs)” means strategies that control the volume rate, frequency, and flow duration of stormwater surface runoff. Flow control BMPs include, but are not limited to, detention ponds, detention tanks, and detention vaults.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.185 Forested land.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.187 Functional soils.

“Functional soils” means soils that provide important stormwater functions including: water infiltration; nutrient, sediment, and pollutant adsorption; sediment and pollutant biofiltration; water inflow storage and transmission; and pollutant decomposition.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.190 Geologist.

“Geologist” means a person who is licensed in the state of Washington and meets all experience and training requirements in accordance with Chapter 308-15 WAC, as now or hereafter amended. The state provides for two specializations: engineering geology and hydrogeology.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.195 Geotechnical engineer.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.200 Geotechnical report and geological report.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.205 Green stormwater infrastructure (GSI).

“Green stormwater infrastructure (GSI)” is also known as low impact development (LID). Refer to the definition for “low impact development (LID),” which is the preferred term used by the county.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.210 Green stormwater solutions (GSS).

“Green stormwater solutions (GSS)” is also known as low impact development (LID). Refer to the definition for “low impact development (LID),” which is the preferred term used by the county.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.215 Grading.

“Grading” means any excavating, filling or embanking of earth materials.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.220 Hard surface.

“Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.225 High-use site.

“High-use site” means sites that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High-use sites include:

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.230 Hydrograph.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.235 Hydrograph method.

“Hydrograph method” means a method of estimating a hydrograph using a mathematical simulation.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.240 Illicit discharge.

“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 gray water systems. The following shall not be considered illicit discharges unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or ground water:

- (A) Diverted stream flows.

- (B) Rising ground waters.
- (C) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)).
- (D) Uncontaminated pumped ground water.
- (E) Foundation drains.
- (F) Air conditioning condensation.
- (G) Irrigation water from agricultural sources that is commingled with urban storm water.
- (H) Springs.
- (I) Uncontaminated water from crawl space pumps.
- (J) Footing drains.
- (K) Flows from riparian habitats and wetlands.
- (L) Non-storm water discharges covered by and compliant with another NPDES permit.
- (M) Discharges from emergency fire-fighting activities.
- (N) Discharges from potable water sources, including water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water so long as the discharges are dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in storm water drainage systems.
- (O) Discharges from lawn watering and other irrigation runoff.
- (P) Dechlorinated swimming pool, spa, and hot tub discharges so long as the discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized if necessary, volumetrically and velocity controlled to prevent resuspension of sediments in the MS4. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be discharged to storm water drainage systems.
- (Q) Street and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents. At active construction sites, street sweeping must be performed prior to washing the street.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.245 Impervious surface.

“Impervious surface” means a nonvegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A nonvegetated 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, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.250 Industrial uses.

“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, chemicals, 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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.255 Institutional establishments/uses.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.260 Kitsap manual.

“Kitsap manual” means the Kitsap County Stormwater Design Manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.265 Land disturbing activity.

“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, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Storm water facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.270 Land use permits and approvals.

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

- (A) Preliminary plat subdivision;
- (B) Final plat subdivision;
- (C) Performance based development (PBD) including residential and commercial;
- (D) Site plan review;
- (E) Conditional use permit (CUP);
- (F) Zoning variance;

- (G) Short plat subdivision;
- (H) Large lot subdivision;
- (I) Grading permit;
- (J) Shoreline substantial development permit;
- (K) Shoreline conditional use permit;
- (L) SEPA and EIS reviews;
- (M) Binding site plan;
- (N) Building permit;
- (O) Permitted uses under Title 17.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.275 Large project.

“Large project” means a project for which all nine of the minimum requirements apply in accordance with Section 12.20.010.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.280 Low impact development (LID).

“Low impact development (LID)” means a storm water and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed storm water management practices that are integrated into a project design. LID is also known as green storm water infrastructure (GSI) or green storm water solutions (GSS). LID is the preferred term used by the county.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.285 Low impact development (LID) best management practices (BMPs).

“Low impact development (LID) best management practices (BMPs)” means distributed storm water management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, ~~roof~~ downspout full infiltration controls, downspout dispersion systems, perforated stub-out connections, full dispersion, post-construction soil quality and depth, minimal~~minimum~~ excavation foundations, vegetated roofs, and rainwater harvesting~~water reuse~~.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.290 Maintenance.

“Maintenance” means repair and maintenance and includes activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and approved and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type of structure, as long as the functioning characteristics of the original structure are not changed. One example is the replacement of a collapsed, fish blocking, round culvert with a new box culvert under the same span, or width, of roadway. In regard to storm water facilities, maintenance includes assessment to ensure ongoing proper operation,

removal of built up pollutants (i.e., sediments), replacement of failed or failing treatment media, and other actions taken to correct defects as identified in the BMP design guidance maintenance standards of Chapter 4, within the Kitsap manual Volume V of the Ecology Manual. See also pavement maintenance exemptions in Section 12.10.040(4).

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.295 Maintenance covenant.

“Maintenance covenant” means a binding agreement between Kitsap County and the person or persons holding title to a property served by a storm water facility whereby the property owner promises to, among other things, maintain certain storm water facilities; grants Kitsap County the right to enter the subject property to inspect and to make certain repairs or perform certain maintenance procedures on the storm water control facilities when such repairs or maintenance have not been performed by the property owner; and promises to reimburse Kitsap County for the cost should the county perform such repairs or maintenance.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.300 Maintenance schedule.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.305 Multifamily residence.

“Multifamily residence” means a residential structure accommodating two, three or four dwelling units as defined by Kitsap County zoning ordinance.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.310 Native vegetation.

“Native vegetation” means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. The list of native and indigenous plant species for Kitsap County may be obtained from the department of community development.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.315 New development.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.318 New impervious surface.

“New impervious surface” means a surface that is:

- changed from a pervious surface to an impervious surface (e.g. resurfacing by upgrading from dirt to gravel, a bituminous surface treatment (“chip seal”), asphalt, concrete, or an impervious structure); or
- upgraded from gravel to chip seal, asphalt, concrete, or an impervious structure; or

- upgraded from chip seal to asphalt, concrete, or an impervious structure.

Note that if asphalt or concrete has been overlaid by a chip seal, the existing condition should be considered as asphalt or concrete.

12.08.320 Nonforestry use.

“Nonforestry use” means an active use of land which is incompatible with timber growing.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.325 Off-site drainage analysis.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.330 On-site storm water management best management practices (BMPs).

“On-site storm water management best management practices (BMPs)” is a synonym for low impact development (LID) BMPs, as used in this code. Storm water management BMPs include those that serve to infiltrate, disperse, and retain storm water runoff on site.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.335 Operation and maintenance manual.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.340 Owner.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.345 Parcel.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.350 Pollution.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.355 Pollution-generating hard surface (PGHS).

“Pollution-generating hard surface (PGHS)” means those hard surfaces considered to be a significant source of pollutants in storm water runoff. See the listing of surfaces under “pollution-generating impervious surface.”

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.360 Pollution-generating impervious surface (PGIS).

“Pollution-generating impervious surface (PGIS)” means those impervious surfaces considered to be a significant source of pollutants in storm water runoff. Such surfaces include those ~~which that~~ are subject to any of the following: vehicular use; industrial activities (as further defined in the glossary of the Ecology Manual); ~~or~~ storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall. ~~Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. mMetal roofs are also considered to be PGIS unless they are coated with an inert, nonleachable material (e.g., baked-on enamel coating); or roofs that are subject to venting significant amounts of dusts, mites, or fumes from manufacturing, commercial, or other indoor activities.~~ A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly used surfaces: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular equipment storage yards, and airport runways.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.365 Pollution-generating pervious surfaces (PGPS).

“Pollution-generating pervious surfaces (PGPS)” means any ~~pervious nonhard~~ surface subject to any of the following: vehicular use, industrial activities (as further defined in the glossary of the Ecology Manual); ~~or~~ storage of erodible or leachable materials, wastes, or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall; ~~use of pesticides and fertilizers; or loss of soil.~~ Typical PGPS include lawns; and landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.370 Predevelopment (or predeveloped) conditions.

“Predevelopment (or predeveloped) conditions” means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The predeveloped condition shall be assumed to be a forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.372 Project.

“Project” means any proposed action to alter or develop a site.

12.08.375 Project site.

“Project site” means that portion of a property, properties, or right-of-way subject to land disturbing activities, new hard surfaces, or replaced hard surfaces.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.380 Professional engineer.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.385 Project engineer.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.390 Receiving waters.

“Receiving waters” means bodies of water or surface water systems to which surface runoff is discharged via a point source of storm water or via sheet flow, and ground water to which surface runoff is directed by infiltration.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.395 Redevelopment.

“Redevelopment” means development on a site that is already substantially developed (i.e., has thirty-five percent or more of existing hard impervious surface coverage) by one or more of the following: the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.400 Replaced hard surface.

“Replaced hard surface” means:

- (A) For structures, the removal and replacement of hard surfaces down to the foundation.
- (B) For other hard surfaces, the removal down to bare soil or base course and replacement.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.405 Replaced impervious surface.

“Replaced impervious surface” means:

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.410 SEPA.

“SEPA” means the Washington State Environmental Policy Act, Chapter 43.21C RCW.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.415 Service charges.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.420 Shorelines of the state.

“Shorelines of the state” means the total of all “shorelines” and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030, also known as the Shoreline Management Act, Chapter 90.58 RCW.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.425 Single-family residence.

“Single-family residence” means a residential structure accommodating one dwelling unit, including mobile homes as defined by Kitsap County zoning ordinance.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.430 Site.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.435 Site development activity.

“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.”

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.440 Site development activity permit plan.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.445 Small project.

“Small project” means a project for which not all of the nine minimum requirements apply in accordance with Section 12.20.010.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.450 Soils ~~investigation~~ report.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

~~12.08.455 Soils engineer.~~

~~“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.~~

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.460 Source control BMP.

“Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with storm water through physical separation of areas or careful management of activities that are sources of pollutants. The Ecology Manual separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering storm water. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering storm water. See [Chapter 3 of Volume IIIV of the Kitsap manual Ecology Manual](#) for details.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.465 Stabilized.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.470 State roads.

“State roads” means state highway rights-of-way as defined in RCW 90.03.520.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.475 Stormwater or storm water.

“Stormwater” or “storm water” means the ~~surface water runoff that results from all natural forms of precipitation during and following precipitation and snowmelt events, including surface runoff, drainage or interflow.~~

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.480 Storm water facility or storm water control facility.

“Storm water facility” or “storm water control 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. Also known as or sometimes referred to as BMPs.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.485 Storm water quality control.

“Storm water quality control” means the control of the introduction of pollutants into storm water and the process of separating pollutants from storm water. Storm water quality control facilities include, but are not limited to, source controls, pervious pavement systems, wetponds, oil/water separators, constructed wetlands and erosion and sedimentation control facilities.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.490 Storm water quantity control.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.495 Storm water system.

“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 best management practices/facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate or divert storm water.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.500 Technical deviation.

“Technical deviation” means permission granted by the director to deviate from the provisions of the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.505 Runoff treatment best management practices (BMPs).

“Runoff treatment best management practices (BMPs)” means strategies to reduce levels of pollutant loads. Runoff treatment BMPs include simple gravity settling of particulate pollutants, centrifugal separation, filtration, biological uptake, and media or soil absorption. Runoff treatment BMPs include, but are not limited to, permeable pavement systems, wetponds, oil/water separators, and stormwater treatment wetlands.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.510 Undeveloped land.

“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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.515 Unimproved agricultural land.

“Unimproved agricultural land” means land defined as agricultural land with no residential structures.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.520 Unimproved forest land.

“Unimproved forest land” means land defined as forest land with no residential structures.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.525 Unit rate.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.530 Variance.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.535 Vehicular use.

“Vehicular use” means regular use of a surface by motor vehicles. The following are subject to regular vehicular use: roads, unvegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unrestricted access fire lanes, vehicular equipment storage yards, and airport runways. The following are not considered subject to regular vehicular use: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, restricted access fire lanes, and infrequently used maintenance access roads.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.540 Watershed action plan.

“Watershed action plan” means a local watershed planning process to identify the problems, needs and action steps to reduce non-point pollution, enhance water quality, and protect beneficial uses.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.545 Water quality sensitive area.

“Water quality sensitive area” means areas that are sensitive to a change in water quality, including, but not limited to, lakes, ground water management areas, ground water special protection areas, sole source aquifers, critical aquifer recharge areas, wellhead protection areas, closed depressions, fish spawning and rearing habitat, wildlife habitat and shellfish protection areas.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.08.550 Wetland.

“Wetland” means those areas of Kitsap County that qualify as wetlands under Title 19, Critical Areas Ordinance.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.10

PERMITS

Sections:

- 12.10.010 Review by department of community development.
- 12.10.030 Site development activity permits required.
- 12.10.040 Exemptions.
- 12.10.050 Permit requirements.
- 12.10.055 Permit duration.
- 12.10.060 Professional engineer required.
- 12.10.070 Downstream analysis.
- 12.10.080 Geotechnical analysis.
- 12.10.090 Soils analysis.
- 12.10.100 Permit modifications.

12.10.010 Review by department of community development.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 thresholds requiring minimum requirements Nos. 1 through 9 to be met, as indicated by Figures ~~I-4.12.4.1~~ and ~~I-4.22.4.2~~ in Section 12.20.010;
- (2) Site development or redevelopment activities that require connection to a public storm water drainage system, except those actions undertaken by the Kitsap County public works department;
- (3) Grading activities that result in the movement of one hundred fifty cubic yards or more of earth;
- (4) Grading activities that will result in a temporary or permanent slope having a steepness exceeding three to one (three feet horizontal to one foot vertical) and having a total slope height, measured vertically from toe of slope to top of slope, exceeding five feet;
- (5) Grading activities that include the construction of embankment berms which will result in the impoundment of water to a depth exceeding eighteen inches and/or with a maximum volume exceeding two thousand five hundred cubic feet of water;
- (6) Grading activities that will result in the diversion of existing drainage courses, both natural and manmade, from their natural point of entry or exit from the grading site;
- (7) Any land clearing or grading on slopes steeper than thirty percent, or within the mandatory setback of a steep slope, wetland, stream, lake, or Puget Sound, as established by other titles of this code.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.040 Exemptions.

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

- (1) Commercial Agriculture. Commercial agriculture practices involving working the land for production are generally exempt. However, the conversion from timber-land to agriculture and the construction of impervious surfaces are not exempt.
- (2) Grading. Grading activities described in Section 12.16.070 are exempt from the provisions of this chapter.
- (3) Forest Practices. Forest practices regulated under WAC Title 222, except for Class IV general forest practices that are conversions from timber-land to other uses, are exempt from the provisions of the minimum requirements.
- (4) Road Maintenance. The following road maintenance practices are exempt from minimum requirements: pothole and square cut patching, overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage, shoulder grading, reshaping/regrading drainage systems, crack sealing, resurfacing with in-kind material without expanding the road prism, pavement preservation activities that do not expand the road prism, and vegetation maintenance.

The following road maintenance practices are exempt only outside a census-defined urban area or an urban growth area, but are not exempt when within a census-defined urban area or an urban growth area.

- (A) Removing and replacing an asphalt or concrete pavement~~a paved surface~~ to base course or lower, or repairing the roadway base. These are considered replaced hard surfaces. If impervious surfaces are not expanded, the minimum requirements Nos. 1 through 5 of the Ecology Manual apply. However, in most cases, only minimum requirement No. 2, construction storm water pollution prevention, will be germane.
 - (B) Extending the pavement edge without increasing the size of the road prism, or paving graveled shoulders. These are considered new hard impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for redevelopment projects are met.
 - (C) Resurfacing by upgrading from dirt to gravel, asphalt, or concrete; upgrading from gravel to asphalt or concrete; or upgrading from~~a bituminous surface treatment (“chip seal”)~~ to asphalt, or concrete; upgrading from gravel to chip seal, asphalt, or concrete; or upgrading from chip seal to asphalt or concrete. These are considered new impervious surfaces and are subject to the minimum requirements that are triggered when the thresholds identified for redevelopment projects are met.
- (5) Underground Utilities. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to minimum requirement No. 2, construction storm water pollution prevention.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.050 Permit requirements.

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

- (1) Compliance with all applicable regulations, including Title 12, and compliance with the standards, specifications and requirements contained in the Kitsap manual.
- (2) Payment of the applicable permit fees established by the county in Section 21.10.010.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.055 Permit duration.

(1) Approved but Not Issued. Except as provided in Section 12.16.110, site development activity permits must be issued within three hundred sixty-five days of permit application approval, and will automatically expire at the end of three hundred sixty-five days unless an extension is granted by the director. The length of extension period shall not exceed three hundred sixty-five days, and no more than two extensions shall be granted. At the end of the extension period, the permit will be automatically closed if it is still unissued. A closed permit may not be reissued or reactivated.

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

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

(Ord. 550 (2018) § 4, 2018; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.060 Professional engineer required.

Unless otherwise required by Chapter 12.16, site development activity permit applications shall require the submittal of documents prepared by a qualified professional engineer when one of the following conditions exists:

(1) Any land use, building, or development on real property that meets the thresholds requiring minimum requirements Nos. 1 through 9 to be met, as indicated by Figures [I-4.12.4.1](#) and [I-4.22.4.2](#) in Section 12.20.010; 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.

(4) Whenever an engineer is required by the Kitsap manual, including but not limited to design of conveyance, on-site storm water management, flow control, and ~~runoff~~~~water quality~~ treatment BMPs.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.070 Downstream analysis.

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

(1) All site development activity permit applications that meet any of the criteria listed in Section 12.10.060;

(2) All large projects in accordance with the definition in Chapter 12.08;

(3) All project sites located within critical drainage areas.

The analysis shall extend a minimum of one-fourth of a mile downstream from the project. The existing or potential impacts to be evaluated and mitigated shall include excessive sedimentation, erosion, discharges to ground water contributing or recharge zones, violations of water quality standards, and spills and discharges of priority pollutants. The downstream analysis shall include, along with other required submittal documents, an off-site drainage analysis prepared by a qualified professional engineer in accordance with the requirements of the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 professional geotechnical engineer or licensed engineering geologist. The geotechnical analysis requirements vary depending on the amount of impervious area infiltrated on the project site and shall include a map of investigation and testing locations, soil characteristics, and depth to groundwater (if encountered), at a minimum. The geotechnical analysis may also require groundwater monitoring, characterization of infiltration receptor, and groundwater mounding and seepage analysis~~address the effects of~~ ground water interception and infiltration, seepage, potential slip planes and changes in soil bearing strength.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.090 Soils analysis.

All site development activity permit applications that meet any of the following criteria shall include a soils investigation report, meeting the requirements provided in the Kitsap manual:

- (1) Listed in Section 12.10.060; or
- (2) As required by the Kitsap manual; or
- (3) Where the soils underlying the proposed project have not been mapped; or
- (4) Where existing soils maps of the project site are inconsistent; or
- (5) Where the director deems that existing soils maps of the project site are not of sufficient resolution to allow proper engineering analysis.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.10.100 Permit modifications.

Proposed modifications to an issued site development activity permit must be submitted to the department of community development and be reviewed for compliance with this title. Substantial proposed modifications, as determined by the director, shall require additional review fees and shall require reissuance of the required permit. Minor proposed modifications may be accepted by the director without requiring the reissuance of the accepted permit or the payment of additional review fees.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.12

COVENANTS, SURETIES AND LIABILITY INSURANCE

Sections:

- 12.12.010 Site stabilization.
- 12.12.020 Performance bond for site stabilization.
- 12.12.030 Performance covenant for site stabilization.
- 12.12.040 Performance bond for uncompleted subdivision improvements.
- 12.12.050 Commercial liability insurance.
- 12.12.060 Maintenance bonds.

12.12.010 Site stabilization.

Prior to the issuance of a site development activity permit and prior to beginning any construction activity on a project site, the owner of the project will be required to record a performance covenant or post a performance surety, in the form of a bond as defined in Section 12.12.020, for site stabilization and erosion and sedimentation control.

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

Bonding or covenants for site stabilization are not required for projects constructed or owned by Kitsap County.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.12.020 Performance bond for site stabilization.

For project sites with one or more acres of land disturbing activity, a performance bond shall be posted prior to issuance of a site development activity permit to guarantee Kitsap County that temporary erosion and sedimentation control and permanent site stabilization measures will perform in accordance with this title. The amount of the performance bond shall be as follows:

- (1) One hundred fifty percent of the estimated cost of performing minor grading and installing temporary erosion and sedimentation control, and permanent site stabilization measures to bring the construction site into compliance with this title. A cost estimate shall be submitted by the project engineer subject to the approval of the director or his/her designee. The minimum amount of the bond shall be \$5,000.00; or
- (2) Ten thousand dollars per acre of land disturbing activity. No engineer's estimate is required.

If the site work is determined by the director to be in violation of this title, 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.12.030 Performance covenant for site stabilization.

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

perform in accordance with this title. 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 community development will record a document that extinguishes the performance covenant.

If the site work is determined by the director to be in violation of this title, 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.12.040 Performance bond for uncompleted subdivision improvements.

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

All performance bonds shall run continuously until released by the county. Once twenty-five percent of the lots have been issued building permits, no further building permits shall be issued until the bonded work has been completed, the performance bond released, and a maintenance bond established in accordance with Section 12.12.060. If the site improvements are not completed within a period of eighteen months from the date of performance bond issuance, the county may, with thirty days' written notice, collect the bond and complete the unfinished site improvements.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.12.050 Commercial liability insurance.

The owner of any project must provide a certificate of liability insurance to Kitsap County prior to issuance of a site development activity permit. The liability insurance shall remain in force until final project approval is issued by the county. The commercial liability insurance shall be in the amount of not less than \$1,000,000.00 combined single limit bodily injury and property damage, with a \$2,000,000.00 aggregate. Such insurance shall include Kitsap County, its officers and employees as additional insureds, with respect to the terms and conditions of the policy.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.12.060 Maintenance bonds.

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

After the final approval of construction and prior to release of any performance sureties, a maintenance bond must be posted and maintained by the project owner for a period of two years. The maintenance bond shall guarantee the storm water facilities and roads constructed under permit against design defects and/or failures in workmanship, and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. Prior to the expiration period, Kitsap County will evaluate performance of the bonded facilities and, if not functioning as designed, will require the project owner to fix. Kitsap County also has the authority to collect on the bond and repair or maintain the facility.

Kitsap County may accept properly functioning facilities in accordance with Chapter 12.24. Until such time as the county accepts maintenance, the developer must secure the proper functioning and maintenance of the facility and such shall be a condition of final plat approval.

The amount of the maintenance bond shall be twenty-five percent of the estimated construction cost of the storm water facilities and roads requiring maintenance, or \$5,000.00, whichever is greater. The construction cost of the facilities requiring maintenance shall be estimated by the project engineer, subject to the approval of the director.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.16

GRADING

Sections:

- 12.16.010 Purpose.
- 12.16.020 Authority of the director.
- 12.16.030 Grading plan required.
- 12.16.040 Abbreviated grading plan.
- 12.16.050 Drainage.
- 12.16.060 Hazards.
- 12.16.070 Permit exemptions.
- 12.16.080 Changes in topography.
- 12.16.090 Rockeries and retaining structures.
- 12.16.100 Maintenance.
- 12.16.110 Progress of work.

12.16.010 Purpose.

This chapter sets forth the minimum standards that shall apply to grading activities as described in Section 12.10.030. For circumstances not specifically addressed in this chapter or in the Kitsap manual, the provisions of the International Building Code, as currently in effect and adopted in Title 14, shall apply.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.020 Authority of the director.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.030 Grading plan required.

The following projects shall require an approved engineered grading plan:

- (1) Grading projects meeting the criteria of Section 12.10.060;
- (2) Grading projects with five thousand cubic yards or more of cut and fill;
- (3) Grading projects that include land disturbing activity of one or more acres;
- (4) Site development projects that include any activities listed in Section 12.10.030, and do not meet the grading permit exemptions of Section 12.16.070.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.040 Abbreviated grading plan.

Small grading projects that trigger minimum requirements Nos. 1 through 5 only, as indicated by Figures ~~I-4.12.4.1~~ and ~~I-4.22.4.2~~ in Section 12.20.010, may submit an abbreviated grading plan in lieu of an engineered grading plan, unless engineering is otherwise required.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.050 Drainage.

- (1) All grading activities, whether a permit is required or not, shall conform to the requirements of this title concerning storm water management.
- (2) Where required by the director, all discharge of runoff from the project site shall be of like quality, flow rate and velocity as that which flowed from the project site prior to the work for which the site development activity permit has been issued.
- (3) Storm water flows shall be accepted onto, and shall be discharged from, a project site at the natural or otherwise legally existing locations.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.060 Hazards.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.070 Permit exemptions.

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

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

(10) Emergency sandbagging, diking, ditching, filling or similar work during or after periods of extreme weather conditions when done to protect life or property;

(11) Maintenance activities within public rights-of-way performed by Kitsap County personnel. However, exemption from the site development activity permit does not constitute an exemption from the other requirements of this title.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.080 Changes in topography.

(1) 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.

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

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.090 Rockeries and retaining structures.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.100 Maintenance.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.16.110 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 one hundred and eighty days after issuance.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.20

STORM WATER MANAGEMENT

Sections:

- 12.20.010 Minimum requirements for new and redevelopment projects.
- 12.20.020 Approved hydrological methods for design.
- 12.20.040 Storm water management facility design requirements.
- 12.20.050 Illicit discharges.
- 12.20.060 Emerging technologies.
- 12.20.090 Storm water conveyance facilities.
- 12.20.100 Easements, tracts and covenants.
- 12.20.120 Regional facilities.
- 12.20.130 Watershed planning.

12.20.010 Minimum requirements for new and redevelopment projects.

Not all minimum requirements apply to every development or redevelopment project. The applicability varies depending on the project type and size. This section identifies thresholds that determine the applicability of the minimum requirements for new and redevelopment projects and is consistent with the Ecology Manual. Use the flow charts in Figures [I-4.12-4.1](#) and [I-4.22-4.2](#) to determine which of the minimum requirements apply. The minimum requirements are presented in Section 4.2, Volume I of the Kitsap manual.

- (1) New Development. All new development shall be required to comply with minimum requirement No. 2.
 - (A) The following new development shall comply with minimum requirements Nos. 1 through 5 for the new and replaced hard surfaces and for the land disturbed when the development:
 - 1. Results in two thousand square feet, or greater, of new plus replaced hard surface area; or
 - 2. Has land disturbing activity of seven thousand square feet or greater.
 - (B) The following new development shall comply with minimum requirements Nos. 1 through 9 for the new and replaced hard surfaces and the converted vegetation areas when the development:
 - 1. Includes grading involving the movement of five thousand cubic yards or more of material; or
 - 2. For sites located inside census defined urban areas:
 - a. Results in five thousand square feet, or greater, of new plus replaced hard surface area, or
 - b. Converts three-quarters acre, or more, of vegetation to lawn or landscaped areas, or
 - c. Converts two and one-half acres, or more, of native vegetation to pasture.
 - 3. For sites located outside census defined urban areas or UGAs, results in ten thousand square feet or more of new plus replaced hard surface area, or results in five percent or more of hard surface area covering the lot area (whichever is greater).
- (2) Redevelopment. All redevelopment shall be required to comply with minimum requirement No. 2.
 - (A) The following redevelopment shall comply with minimum requirements Nos. 1 through 5 for the new and replaced hard surfaces and the land disturbed when the development:

1. Results in two thousand square feet, or more, of new plus replaced hard surface area, or
2. Has land disturbing activity of seven thousand square feet or greater.

(B) The following redevelopment shall comply with minimum requirements Nos. 1 through 9 for the new and replaced hard surfaces and converted vegetation areas when the development:

1. Includes grading involving the movement of five thousand cubic yards or more of material; or
2. For sites located inside census defined urban areas:

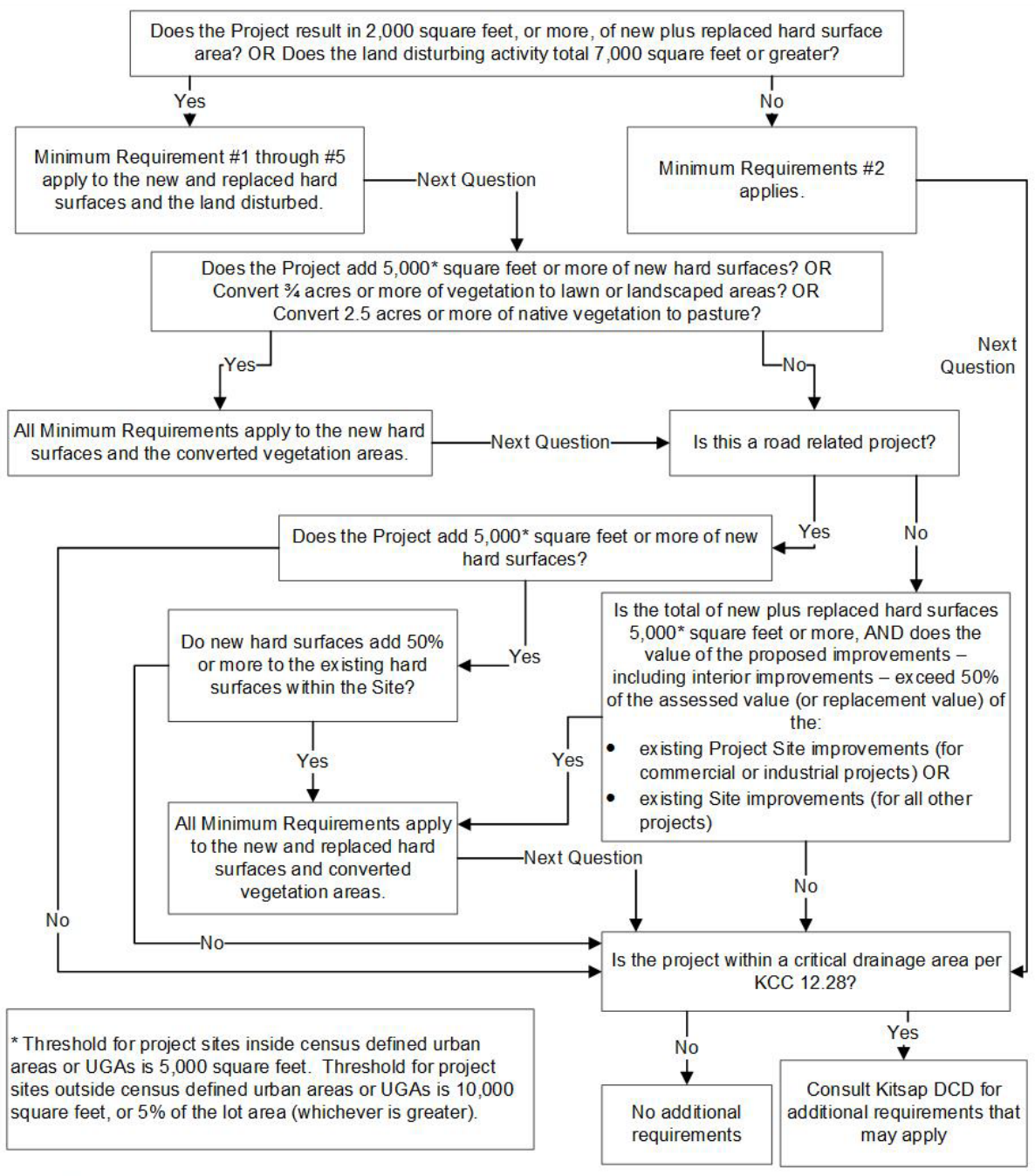
- a. Adds five thousand square feet or more of new hard surfaces, or
- b. Converts three-quarters acres, or more, of vegetation to lawn or landscaped areas, or
- c. Converts two and one-half acres, or more, of native vegetation to pasture, ~~or~~

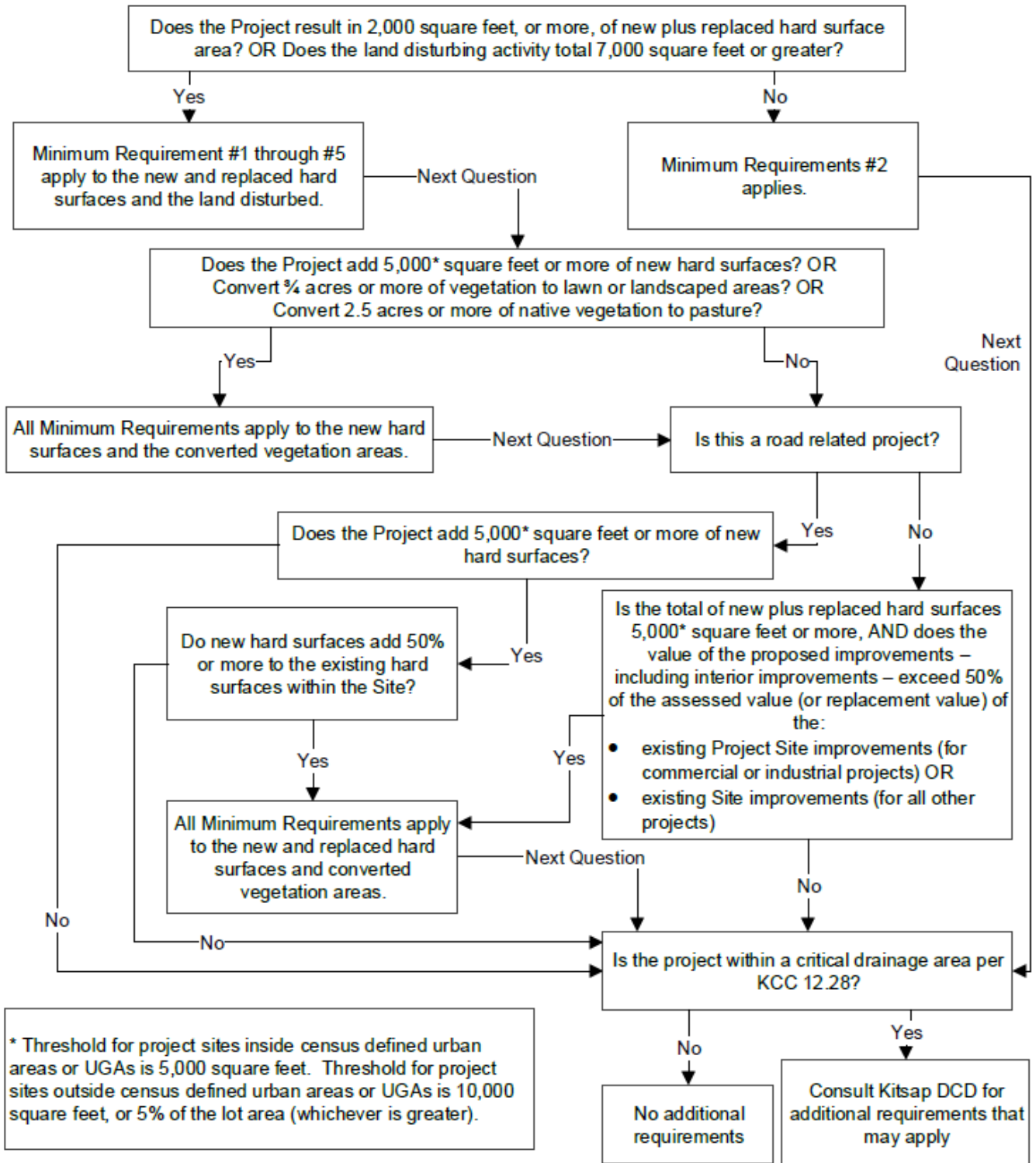
d. Is a road-related project that adds five thousand square feet or more of new plus replaced hard surfaces, and:

ii. For commercial or industrial projects: the valuation of proposed improvements, including interior improvements, exceeds 50% of the assessed value of the existing project site improvements.

iii. For all other projects: the valuation of the proposed improvements, including interior improvements, exceeds 50% of the assessed value of the existing site improvements.

3. For sites located outside census defined urban areas or UGAs, adds ten thousand square feet or more of new hard surface area, or results in five percent or more of hard surface area covering the lot area (whichever is greater).





(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.020 Approved hydrological methods for design.

Estimation of peak storm water runoff rates, volumes, and durations used in the design of storm water management facilities, including conveyance, on-site storm water management, flow control, and runoff treatment best management practices, shall utilize the approved methods identified in the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.040 Storm water management facility and best management practice (BMP) design requirements.

Storm water conveyance facilities and on-site storm water management, flow control, and ~~runoff water quality~~ treatment best management practices (BMPs) shall be designed and used in accordance with the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.060 Manufactured treatment devices~~Emerging technologies.~~

~~Proprietary~~^{New} technologies shall be evaluated following Ecology's technology assessment protocols (TAPE and CTAPE), as detailed in the Kitsap manual. Functionally equivalent BMPs approved by Ecology as equivalent to existing ~~runoff water quality~~ treatment technologies may be used.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.090 Storm water conveyance facilities.

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

(2) Estimation of peak storm water runoff rates used in the design of water conveyance facilities shall use one of the following methods:

- (A) The rational method as shown in the Kitsap manual; or
- (B) The Santa Barbara Urban Hydrograph (SBUH) event model method as shown in the Kitsap manual; or
- (C) The latest version of the Western Washington hydrology model (WWHM2012), or its successor, as approved by the Washington State Department of Ecology; or
- (D) The MGSFlood model.

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

development. The director has the authority to waive the requirement for downstream improvements when the variance criteria of Section 12.04.025(2) have been demonstrated.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.100 Easements, tracts and covenants.

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

(2) Storm water best management practices/facilities that are to be maintained by Kitsap County, together with maintenance access roads to the facilities, shall be located in the public right-of-way, in separate tracts to be dedicated to Kitsap County, or in drainage easements to be granted to Kitsap County. Kitsap County will not accept any dedication or maintenance obligations unless and until the conditions of Chapter 12.24 are met. Wording to this effect shall appear on the face of all final plats, and shall be contained in any covenants required for a development.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.120 Regional facilities.

When the director has determined that the public would benefit by the establishment of a regional storm water facility that 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 flow control~~storm water quantity~~ and/or runoff treatment~~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 flow control~~quantity~~ and runoff treatment best management practices (BMPs)~~quality controls~~. Temporary flow control~~quantity~~ and runoff treatment BMPs~~quality controls~~ may be constructed in temporary easements, rather than in separate tracts.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.20.130 Watershed planning.

An adopted and implemented basin plan tailored to a specific basin may be used to develop requirements for source control, runoff~~storm water~~ treatment, flow control, wetlands and water quality sensitive areas. Adopted and implemented watershed-scale basin plans may be used to modify any or all of the minimum requirements for ~~storm water quantity or quality control~~flow control or runoff treatment addressed in this title; provided, that the level of protection for surface or ~~ground water~~groundwater 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. Watershed plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from watershed plans shall not

modify any of the above requirements until the watershed plan is formally adopted by the State Department of Ecology and Kitsap County and fully implemented by Kitsap County.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.24

OPERATION AND MAINTENANCE

Sections:

- 12.24.010 Maintenance of storm water facilities by owners.
- 12.24.020 Maintenance covenant required for privately maintained drainage facilities.
- 12.24.030 County acceptance of new residential storm water facilities.
- 12.24.040 County acceptance of existing storm water facilities.
- 12.24.050 County inspections of privately maintained storm water facilities.
- 12.24.060 Inspection schedule.

12.24.010 Maintenance of storm water best management practices (BMPs)/facilities by owners.

- (1) Any person or persons holding title to a nonresidential property for which storm water facilities and BMPs have been required by Kitsap County shall be responsible for the continual operation, maintenance and repair of the storm water facilities and BMPs in accordance with the provisions of this title.
- (2) For privately maintained storm water facilities, the maintenance requirements specified in this title, including the Kitsap manual, shall be enforced against the owner(s) of the subject property served by the storm water facility.
- (3) Storm water maintenance shall be performed in accordance with the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.24.020 Maintenance covenant required for privately maintained drainage-best management practices (BMPs)/facilities.

- (1) Prior to the use of a development constructed under a site development activity permit, the owner shall record a maintenance covenant which guarantees Kitsap County that the storm water BMPs/facilities shall be properly operated, maintained and inspected, and which gives Kitsap County the authority to enter and inspect the BMP/facility, and to take any necessary enforcement action as per Chapter 12.32. The restrictions set forth in such covenant shall be included in any instrument of conveyance of the subject property and shall be recorded with the Kitsap County auditor.
- (2) The director may require the owners of existing storm water BMPs/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 BMPs/facilities subject to the requirements of this title.
- (3) Maintenance covenants shall remain in force for the life of the development, or until the responsibility for the operation and maintenance of the subject storm water BMPs/facilities is accepted by Kitsap County.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.24.030 County acceptance of new residential storm water BMPs/facilities.

The county may accept for maintenance those new residential storm water BMPs/facilities constructed under an accepted site development activity permit that has been approved by public works and that meet the following conditions:

- (1) Improvements in residential plats have been completed on at least eighty percent of the lots, unless waived by the director; and

- (2) All ~~drainage-storm water BMPs~~/facilities have been inspected and accepted by the director and said ~~drainage-storm water BMPs~~/facilities have been in satisfactory operation for at least two years; and
- (3) All ~~drainage-storm water BMPs~~/facilities reconstructed during the maintenance period have been accepted by the director; and
- (4) The storm water ~~BMP~~/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-BMP~~/facility, have been conveyed to Kitsap County and have been recorded with the Kitsap County auditor; and
- (6) For nonstandard ~~drainage-BMPs~~/facilities, an operation and maintenance manual, including a maintenance schedule, has been submitted to and accepted by Kitsap County; and
- (7) A complete and accurate set of reproducible as-built drawings has been provided to Kitsap County. A professional engineer shall certify that both the vertical and horizontal alignment meet the design objectives.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.24.040 County acceptance of existing storm water ~~BMPs~~/facilities.

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

- (1) Improvements in residential plats/PBDs have been completed on at least eighty percent of the lots; and
- (2) An inspection by the director has determined that the storm water ~~BMPs~~/facilities are functioning as designed; and
- (3) The storm water ~~BMPs~~/facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the director; and
- (4) The person or persons holding title to the properties served by the storm water ~~BMPs~~/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 ~~BMPs~~/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 ~~BMPs~~/facilities show proof of the correction of any defects in the drainage facilities, as required by the director.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.24.050 County inspections of privately maintained storm water ~~BMPs~~/facilities.

(1) The director is authorized to develop a county inspection program for privately owned and maintained storm water facilities in Kitsap County. The purpose of this inspection program shall be for the county to determine if the ~~flow control~~storm water ~~BMPs~~/facilities, conveyance structures and ~~water quality~~runoff treatment ~~BMPs~~/facilities are in good working order and are properly maintained, and to ensure that storm water ~~quality~~ BMPs are in place and that nonpoint source pollution control is being implemented.

(2) Whenever the provisions of the inspection program are being implemented, or whenever there is cause to believe that a violation of this 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-BMPs~~/facilities within Kitsap County to determine compliance with the provisions of this title.

(3) Prior to making any inspections, the director or assignee shall follow the procedures delineated in Section 12.32.030.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 BMPs/facilities, as so deemed by the director, may require a more frequent inspection schedule.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.28

CRITICAL DRAINAGE AREAS

Sections:

- 12.28.010 Special drainage improvements.
- 12.28.020 Designation.
- 12.28.030 Conflicting information.

12.28.010 Special drainage improvements.

In order to mitigate or eliminate potential drainage-related impacts on critical drainage areas, the director may require drainage improvements in excess of those required in other sections of this title. These improvements in critical drainage areas may be required even if the development does not meet the thresholds requiring the minimum requirements to be met as stated in Section 12.20.010. For particularly sensitive drainage areas, the director may specify the general type of drainage improvements required.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 approved topographic mapping, such as LIDAR, 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 as defined in Title 19 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 identified as critical areas in any comprehensive drainage plan, or defined as critical drainage areas by separate ordinance;
- (5) All lands that are classified as wetlands as defined by any separate Kitsap County ordinance or policy;
- (6) Any lands that have existing local requirements for the management or protection of ground water, aquifers or sole source aquifers;
- (7) Any lands that drain to a closed depression;
- (8) Any lands that have existing local or state requirements for the protection of particular fish or wildlife habitats;
- (9) Any lands that are established by law as shellfish protection areas;
- (10) Any lands determined by the director to have a high potential for drainage and water quality problems, and/or are sensitive to the effects of construction or development.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.30

ILLICIT DISCHARGE DETECTION AND ELIMINATION

Sections:

- 12.30.020 Illicit discharges.
- 12.30.030 Illicit connections and uses.
- 12.30.040 Pollution control device maintenance.
- 12.30.050 Test procedure.
- 12.30.060 Exemptions.

12.30.020 Illicit discharges.

Illicit discharges to storm water drainage systems are prohibited.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 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 ~~ground water~~groundwater are prohibited and shall be eliminated.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.30.040 Runoff treatment BMP/facility~~Pollution control device~~ maintenance.

Owners and operators of oil/water separators, wet ponds, bioretention facilities, permeable pavement systems, sand filters, vaults, sediment and erosion control systems, infiltration systems, and any other runoff treatment BMPs/facilities~~pollution control devices~~ shall operate and maintain such ~~control devices~~BMPs/facilities to assure that performance meets the intended level of pollutant removal. Recommended maintenance schedules for these BMPs/facilities~~devices~~ are included in the Kitsap manual.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 Title 40 Code of Federal Regulations, Part 136.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.32

ENFORCEMENT

Sections:

- 12.32.010 Violations of this title.
- 12.32.020 Inspection.
- 12.32.030 Inspection procedures.
- 12.32.035 Special enforcement provisions.
- 12.32.040 Stop work orders.
- 12.32.050 Cumulative civil penalty.
- 12.32.070 Order to maintain or repair.
- 12.32.080 Notice of violation – Assessment of penalty.
- 12.32.090 Appeal and disposition.
- 12.32.100 Liability for costs of investigation.
- 12.32.110 Collection of civil penalty.
- 12.32.120 Hazards.
- 12.32.130 Violations and abatement.

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, or any other activity that violates the provisions of this title shall be and the same is declared to be unlawful and a public nuisance. As such, any person who causes, aids or abets a violation of this title has committed a civil infraction and shall be subject to the citations, orders, sanctions and remedies adopted in this chapter and the civil enforcement ordinance (Chapter 2.116) as now or hereafter amended. Additionally, any person who willfully or knowingly causes, aids or abets a code violation of this title by any act of commission or omission is guilty of a misdemeanor.

Violations of this title may be abated through the use of the civil enforcement ordinance (Chapter 2.116), through civil or criminal penalties, through stop work orders, or through any other remedies set forth in this title, including, but not limited to, revocation of any permits. Each violation shall constitute a separate violation for each and every day or portion thereof during which the violation is committed, continued or permitted. The choice of enforcement action taken and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources. Such choice will not preclude the department's ability to also pursue other actions.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.020 Inspection.

(1) Routine Inspections. The director shall have access to any site for which a site development activity permit has been issued pursuant to this title during regular business hours for the purpose of on-site review and to ensure compliance with the terms of such permit. The applicant for any such permit shall agree in writing, as a condition of issuance thereof, that such access shall be permitted for such purposes; however, consent shall first be requested as per Section 12.32.030.

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

(3) Inspection. Projects where work is completed, but not inspected, shall receive a stop work order. No further work or inspections will be authorized until all required inspections for completed work have been approved. Testing, including infiltration and other nondestructive tests, may be required to verify compliance with Kitsap County Code.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.030 Inspection procedures.

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

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.035 Special enforcement provisions.

(1) Analysis Conducted by State-Certified Laboratory. As part of any investigation of a potential violation of this chapter, water samples shall be analyzed by a state-certified water quality laboratory capable of conducting the necessary analyses.

(2) Assessment for Laboratory Costs. If a violation of this chapter is found to exist through the use of water quality testing, the person responsible for the violation may be assessed the county's actual costs in conducting the laboratory analyses described in subsection (1) of this section.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.040 Stop work orders.

“Stop work order” means a written notice, signed by the director, that is posted on the site of a construction activity, stating 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.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 \$100.00 or exceed \$1,000.00.00 for each violation. This penalty shall be in addition to any other penalty provided by law. Each and every such violation shall be a separate and distinct offense, and each day of continued or repeated violation shall constitute a separate violation.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

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.

- (1) The notice of violation shall contain:
 - (A) The name and address of the property owner;
 - (B) The street address, when available, or a legal description sufficient to identify the building, structure, premises or land upon or within which the violation is occurring;
 - (C) A statement of the nature of such violation(s);
 - (D) A statement of the action that is required to be taken within twenty-one days from the date of service of the notice of violation, unless the director has determined the violation to be hazardous and to be requiring immediate corrective action, or unless the corrective action constitutes a temporary erosion control measure;
 - (E) A statement that a violation is (1) a misdemeanor if willingly or knowingly committed and may be prosecuted as such or (2) a civil infraction subject to a cumulative civil penalty in the amount of not less than \$100.00 and not exceeding \$1,000.00 per day for each and every day following the date set for correction on which the violation continues; and
 - (F) A statement that the director's determination of violation may be appealed to the Kitsap County hearing examiner by filing written notice of appeal, in accordance with Chapter 21.04. The per diem civil penalty shall not accrue during the pendency of such administrative appeal unless the violation was determined by the director to be hazardous and to require immediate corrective action or was determined by the director to constitute a temporary erosion control measure.
- (2) The notice of violation shall be served upon the person(s) to whom it is directed either personally or by complaint in superior court proceedings or by mailing a copy of the notice of violation by certified mail.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.090 Appeal and disposition.

A notice of violation issued pursuant to this chapter is a Type 1 decision that may be appealed as provided in Section 21.04.290, Appeals.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.120 Hazards.

(1) Whenever the director determines that any existing construction site, erosion/sedimentation problem or drainage facility poses a hazard to public safety or substantially endangers property, or adversely affects the condition or capacity of the drainage facilities, or adversely affects the safety and operation of county right-of-way, or violates state water pollution laws, the person to whom the permit was issued, 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 address the cause of the hazardous situation in conformance with the requirements of this title.

(2) Should the director have reasonable cause to believe that the situation is so adverse as to preclude written notice, he or she 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.32.130 Violations and abatement.

(1) The violation of or failure to comply with any of the provisions of this chapter is unlawful. The remedies and penalties provided in this section, whether civil or criminal, shall be cumulative and shall be in addition to any other remedy provided by law. Authority to enforce provisions of this chapter is granted to the public works director.

(2) Abatement. If a violation of this chapter presents an imminent and material risk of danger to persons, property or the public health, safety, welfare, or the environment, the county may summarily and without prior notice take any lawful action necessary to abate the violation. The county may assess any costs incurred by the county against the person responsible for the violation. Notice of such abatement, including the reason for it, shall be mailed or given to the person responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the county or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate risks.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.36

STORM WATER MANAGEMENT PROGRAM

Sections:

- 12.36.010 Title.
- 12.36.020 Purpose.
- 12.36.040 Program authority and administration.
- 12.36.050 Program elements.
- 12.36.060 Program coordination.
- 12.36.080 Program funding.
- 12.36.090 Right-of-entry.
- 12.36.100 Enforcement.
- 12.36.110 Appeals.

12.36.010 Title.

This chapter shall be titled “Storm Water Management Program.”

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.020 Purpose.

The purpose of this chapter is to promote and protect the public health, safety and welfare by ensuring a comprehensive approach to storm water management pursuant to Chapter 36.89 RCW. The 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.040 Program authority and administration.

The storm water management program (program) is a program within the Kitsap County department of public works that implements the county’s comprehensive county-wide storm water management policies and practices. The program shall be administered by the storm water division of Kitsap County department of public works, and the director thereof shall have the authority, subject to approval by the county commissioners, to implement this chapter and exercise all lawful powers necessary and appropriate for the construction, acquisition and condemnation of property rights, maintenance, management, operations and regulation of storm water best management practices/facilities~~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.

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 storm water quality.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.050 Program elements.

The program 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. The program develops, coordinates and implements basin and watershed action plans to control surface and storm water runoff in the county.

(2) Education. The program develops and implements activities to educate the public about land use and human activities that impact water quality and storm water management. The program also develops citizen involvement opportunities to monitor streams and implement restoration programs consistent with approved basin and watershed action plans.

(3) Capital Improvements. The program develops six-year capital improvement plans that define the activities related to the acquisition, construction, replacement or renovation of capital facilities or equipment needed to address the storm water management program objectives of the county. Each capital improvement plan shall be submitted to the county commissioners for review and approval along with a plan and budget for implementation.

(4) Operations and Maintenance. The program develops and implements operations and maintenance activities, including inspection and enforcement, to assure that all public and private drainage and storm water control facilities in the county are functional and effective. The program also performs the operations and maintenance of all county-owned storm water control facilities, and coordinates the transfer of county maintenance responsibility for private residential storm water control facilities to the county.

(5) Monitoring. The program develops and implements activities to monitor the ambient water quality of rivers, streams, lakes and wetlands, and evaluates the effectiveness of source controls and BMPs implemented under the basin and watershed action plans. Water quality monitoring activities are coordinated between agencies within the county, and the results of monitoring activities shall be communicated to residents, agencies and other interested persons.

(6) Source Control. The program develops and implements source control activities for existing development to improve water quality and focuses on reducing herbicide and pesticide usage, strengthening the on-site sewage system correction and wellhead protection programs, and strengthening the use of BMPs. The program may also provide financial assistance through low-interest loans, grants and cost sharing for the restoration of streams, repair of on-site sewage disposal systems, on-site low impact development BMPs and agricultural practice improvements.

(7) Shellfish Protection. The program develops and implements shellfish protection activities to accomplish the purposes outlined in Chapter 90.72 RCW. The program also coordinates the implementation of activities that provide increased shellfish protection with other counties, municipalities or special purpose districts that may establish shellfish protection programs or districts. This section, however, shall not be construed to establish a shellfish protection district.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.060 Program coordination.

Program activities and services may be coordinated through agreements with other departments, governmental entities or special districts in order to achieve a comprehensive approach to storm water management. The program 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.080 Program funding.

The program shall be funded by rates and service charges established through Chapter 12.40. The program and any participating municipality, agency, department or special districts may solicit additional funds through grants, if available, to supplement program funding.

(Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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:

- (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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.36.100 Enforcement.

(1) Notice of Violation. Where storm water control facilities not maintained by the county have been abandoned, neglected or are not functioning adequately as designed, the KCPW 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, public works 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. In the event that the property owner(s) fails to take the required corrective action, public works shall report the violation to the county prosecutor, who shall have the authority to collect the civil penalty by use of appropriate legal remedies.

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

(3) Transfer of Maintenance. If storm water control facilities on or serving private residential property meet the criteria in Chapter 12.24, the county may accept the maintenance responsibility for the storm water control facilities.

(4) Emergencies. 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. 540 (2016) § 4 (Att. 1) (part), 2016)

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) of this section, 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) of this section and the report of the county's position as described in subsection (3) of this section, which shall constitute the record.

(6) Upon receipt of the materials as set forth in subsection (5) of this section, 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. 540 (2016) § 4 (Att. 1) (part), 2016)

Chapter 12.40

STORMWATER MANAGEMENT PROGRAM RATE STRUCTURE

Sections:

- 12.40.010 Title.
- 12.40.020 Purpose.
- 12.40.030 Applicability.
- 12.40.040 Rate structure.
- 12.40.050 Unit rates.
- 12.40.060 Billing.
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12.40.010 Title.

The ordinance codified in this chapter shall be titled “Stormwater Management Program Rate Structure.”

(Ord. 549 (2017) § 2, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.40.020 Purpose.

The purpose of this chapter is to establish the regulatory fees necessary to carry out the stormwater management program contemplated within RCW 36.89.020 and Chapter 12.36 by fixing rates and charges pursuant to RCW 36.89.080. These fees support the furnishing of surface and stormwater-related services to those properties that are or may be served by a storm water drainage system, those that receive or may receive benefits from any storm water drainage system, and those properties contributing to storm water~~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, pollution, and damage to water resources; protect drinking water aquifers; ensure the safety of county roads and rights-of-way; increase educational and recreational opportunities; encourage the retention of open space; and foster other generally beneficial public uses.

(Ord. 549 (2017) § 3, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.40.040 Rate structure.

All property shall have a base service charge of one equivalent service unit (ESU), which is four thousand two hundred square feet of impervious surface area as defined in Chapter 12.08 KCC, except when modified by measured impervious surface area as provided herein. This base charge contemplates not only the direct impacts of parcel impervious surface on runoff to the county storm water drainage system, but also the indirect impacts of the land use on the county roads and other public infrastructure that are impacted by stormwater and which the county manages for the protection of life and property.

(1) Single-family residential property shall have the service charge of one ESU multiplied by the unit rate. Such service charge will not be affected by the existence of other uses of the property so long as the single-family residential use is the primary use.

(2) State roads shall have a service charge of thirty percent of the base service charge in accordance with RCW 90.03.525.

(3) County roads shall have a service charge of measured impervious surface area divided by square foot of one ESU (four thousand two hundred), rounded to the nearest ESU but not less than one, multiplied by the unit rate.

(4) Undeveloped land shall have no service charge.

(5) All other property shall have the service charge of measured impervious surface area divided by the square footage of one ESU (four thousand two hundred), rounded to the nearest ESU but not less than one, multiplied by the unit rate. These service charges may be reduced as follows:

(A) **Rainwater Harvesting Rate Reduction.** Any developed parcel that is retrofitted for rainwater harvesting may receive a fifty percent rate reduction for those surfaces from which the rain is harvested. To be eligible for this fifty percent 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 using the hydrologic methods described in the current Kitsap County or Washington Department of Ecology Stormwater Design Manual. The proponent is responsible for requesting the credit. The rate reduction will become effective for the calendar year following the request. Annual inspections by the department of public works to ensure proper operation and maintenance will be required to retain this rate reduction.

(B) **Full Infiltration Rate Reduction.** Any developed parcel that adds approved techniques (such as dispersion, bioretention, or infiltration) to attain one hundred percent infiltration of all site rain runoff water may receive a fifty percent rate reduction. To be eligible for this fifty percent 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 using the hydrologic methods described in the current Kitsap County or Washington Department of Ecology Stormwater Design Manual. The proponent is responsible for requesting the credit. The rate reduction will become effective for the calendar year following the request. Annual inspections by the department of public works to ensure proper operation and maintenance will be required to retain this rate reduction.

(C) **Direct Discharge to Tidally Influenced Waters Rate Reduction.** Any developed parcel that is modified to discharge directly into Puget Sound, or directly into the tidally influenced areas of rivers and streams discharging into Puget Sound, and that utilizes approved techniques to meet current water quality treatment standards, may receive a fifty percent rate reduction. In order to obtain the fifty percent rate reduction, the proponent must demonstrate through an analysis prepared by a licensed professional engineer that the system conforms to the requirements of the current Kitsap County or Washington Department of Ecology Stormwater Design Manual (SDM), using the hydrologic methods described in the SDM, 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. Annual inspections by the department of public works to ensure proper operation and maintenance will be required to retain this rate reduction.

(Ord. 549 (2017) § 4, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016. Formerly 12.40.050)

12.40.050 Unit rates.

The unit rate for each ESU shall be established through resolution by the board of county commissioners and may be adjusted from time to time as reasonably necessary.

(Ord. 549 (2017) § 5, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016. Formerly 12.40.055)

12.40.060 Billing.

- (1) 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.
- (2) 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. 540 (2016) § 4 (Att. 1) (part), 2016)

12.40.070 Service charge adjustments and appeals.

- (1) 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.
 - (2) 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:
 - (A) 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;
 - (B) The acreage of the parcel charged is in error;
 - (C) 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;
 - (D) Parcels owned or leased by a public school district which provides activities which directly benefit the stormwater management program. The activities may include: curriculum specific to the issues and problems of stormwater management, and student activities in the community to expose students to the efforts required to restore, monitor or enhance the stormwater 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 stormwater management program. Determination of which activities qualify for the stormwater management service charge reduction will be made by the director. Reductions in stormwater 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;
 - (E) The service charge bill was otherwise not calculated in accordance with the terms of this chapter; or
 - (F) 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.
- (3) 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.

- (4) The property owner shall have the burden of proving that the service charge adjustment should be granted.
- (5) 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.
- (6) 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.
- (7) 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. 549 (2017) § 6, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

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 stormwater control facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing, maintaining and improving the stormwater management program and drainage facilities.

(Ord. 549 (2017) § 7, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)

12.40.090 Lien for delinquent charges and foreclosures.

- (1) 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.
- (2) 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 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 stormwater management service charge lien after three years from the date stormwater management charges become delinquent, in lieu of the provisions provided for in RCW 36.94.150.

(Ord. 549 (2017) § 8, 2017; Ord. 540 (2016) § 4 (Att. 1) (part), 2016)