

**Kitsap County Stormwater Design Manual and Code Update
Public Comment Response Matrix**

Comment No. and Author	Volume	Section	Comment	Response	Edit
1 Kitsap Building Association (KBA)	I	4.2.5	We appreciate the addition of this clarification regarding compliance with Minimum Requirement #5: "If all BMPs in the list are infeasible, then the designer must document the site conditions and infeasibility criteria used to deem each BMP infeasible. This documentation will demonstrate compliance with Minimum Requirement #5."	We wish we could take credit, but this is an addition in the 2019 Ecology manual (Volume I, Section 3.4.5 MR#5: On-site Stormwater Management).	No change
2, KBA	I	4.1.2	This language makes redevelopment more difficult. In addition, how is interior improvement value calculated - this can become quite subjective. "For all other projects: the valuation of the proposed improvement, including interior improvements, exceeds 50% of the assessed value of the existing site improvements."	This is an addition in the 2019 Ecology manual (Volume I, Section 3.3: Applicability of the Minimum Requirements).	No change
3, KBA	I	4.2.6 4.2.7 4.2.8	Threshold Discharge Areas: We would like to note for the record that Kitsap County is more restrictive than DOE by not allowing the use of TDAs. This is not in the best interest of Kitsap County, particularly in the affordable housing arena and on road construction/maintenance projects. We believe that TDAs are recognized by Ecology because they understand that small sites can't be designed down to the nth degree. Suggested Change: Continue to use the KCSDM as written in regards to restrictions on TDAs but allow engineers to submit requests to be allowed to use TDAs as specified by the WDOE Manual for projects when the engineer believes it makes sense. This process would occur for a test period. At the end of the test period, perhaps until the next update, assessment can be made whether or not to include TDA's in the manual.	The 2007 NPDES permit issued by the Department of Ecology contained a provision in section 55, item 4 that stated, "Permittees shall not repeal existing local requirements to control stormwater that go beyond the requirements of this permit for new development and redevelopment sites." This required Kitsap County to continue the practices implemented since that initial permit. In 2009, The Board of Commissioners adopted the Water is a Resource Policy in 2009 and reaffirmed the policy in 2016. This policy was the guiding document behind not allowing sites to be divided into smaller TDAs that could lead to higher discharge flow rates than would be allowed under the current site application method. In particular, the policy directs DCD in its creation of development regulations, to use the guiding principles of the policy. The guiding principles that direct minimizing runoff are: - Preserve natural hydrology -First, preserve natural hydrology by preventing the creation of stormwater runoff -Where runoff is unavoidable, ensure it is free of pollutants - Maintain Natural Low Energy Flow Regime -Reduce Runoff's pollutant carrying capacity -Reduce Runoff's destructive potential.	No change. This item will be highlighted in the training.
4, KBA	II	3.5.1	Vol 2 pg 47 Source Control: Are covered dumpster enclosures back? Didn't Kitsap County abandon the implementation of this requirement?	This is a clarification of the requirement per the 2019 Ecology Manual, Volume IV, Chapter 4, S427 Source Control BMPs.	No change. This item will be highlighted in the training.
Comment No.	Volume	Section	Comment	Response	Edit
5, KBA	II	5.3.2	Vol 2 Pg 91 Full Dispersion: It is disappointing that buffers cannot be used for dispersion flow path lengths. This seems to go against the promotion of LID and MR#5. This will limit the ability to utilize dispersion. Suggestion: Allow dispersion to occur within a wetland buffer given proper determination by the project biologist that the wetland itself already provides water quality treatment function and using dispersion will be superior and promote the overall system function compared to using another BMP. Update the CAO to allow for greater than 25% administrative buffer reductions if the reduction is to be used for dispersion flow path.	Kitsap County is following the limitations set forth by Ecology, specifically in the 2019 Ecology manual, Volume V, Chapter 3, Section V-3.1, BMP T5.30, where it states: "The dispersion area is not allowed in critical area buffers or on slopes steeper than 20%."	No change
6, KBA	II	1.1.4	Does the UIC requirement apply to bioretention facilities with underdrains or only to infiltration trenches with perforated pipe? What is the purpose of this requirement? It feels like just another hoop with little added benefit. What is the process – does the engineer need to contact DOE every time an infiltration trench is proposed prior to submitting an SDAP? Is this required for SFRs, too?	Per Ecology's UIC program requirements (Volume I, Section I-2.14 Underground Injection Control [UIC] Program), bioretention facilities with underdrains are considered a UIC if "intending to infiltrate water from a perforated pipe below the treatment soil". This program stems from the federal Safe Drinking Water Act and Ecology implemented this program on behalf of the US EPA. All UIC wells must be registered except "wells at single-family homes (or duplexes) receiving only residential roof runoff used to collect stormwater runoff from roof surfaces on an individual home (or duplex) or for basement flooding control". Refer to Volume I, Chapter 1-4 of the 2019 Ecology manual for more information.	No change. This item will be highlighted in the training.
7, KBA	Appendix G	G.3.4	What is the purpose for requiring large PITs to be documented and staked by a licensed land surveyor? Locations can be estimated by measuring or on handheld devices - requiring a land surveyor adds unnecessary costs.	This is a requirement per the 2019 Ecology manual, Volume V, Section V-5.4 Determining the Design Infiltration Rate of the Native Soils.	No change

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8, KBA	Appendix G	N/A	Why is grain size analyses no longer an option for determining infiltration rates? Suggestion: KC continue to use the policy, outside the manual, to allow gradation for infiltration in soils not glacially consolidated (note, DOE allows this). Allow that policy to continue to be utilized when the engineer can make the argument site should qualify. Simply don't throw out the policy that was created because it makes sense.	No change from 2016 Kitsap manual.	No change
9, KBA	N/A	N/A	We would like to understand which figures and charts changed and what the changes are. We were not provided the "file for Public Draft figures"	The updated figure packet is provided on the Stormwater Manual Update website (www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx). A list of new and updated figures can be found in the Key Changes Matrix (also posted on the Stormwater Manual Update website).	No change. This item will be highlighted in the training.
Comment No. and Author	Volume	Section	Comment	Response	Edit
10, KBA	N/A	N/A	We would like to note that KPUD has rainfall gauges all over Kitsap County, yet WWHM has zero information from Kitsap County. While this is beyond the scope of the current manual revisions, we would like to see WWHM be updated to include rainfall data from Kitsap versus being forced to use rain gauges in Quilcene, Seatac and Everett.	Comment noted	No change
11, KBA	I	4.2.5	Table 4.3 doesn't cover greater than 5 acres sites inside a UA	If the sites falls into this category, the list approach cannot be used; the designer must use Table 4.2.	No change. This item will be highlighted in the training.
12, KBA	I	4.2.5	List 2B doesn't allow full dispersion on downspouts, why?	This is a carry over from the 2016 Kitsap manual; Table 4.2 shows that new and redevelopment projects have the option to do Full Dispersion; or LID Performance Standard; or List #2B. If we had added Full Dispersion to the list, for example in List #2A, users would then be required to evaluate it first and use it if not demonstrated to be infeasible. This provides more flexibility.	No change. This item will be highlighted in the training.
13, KBA	I	4.2.5	Why is permeable pavement #1 on the hard surface table for rural areas. Why is rural more stringent than UGA/UA?	This is a carry over from the 2016 Kitsap manual; same response as above.	No change. This item will be highlighted in the training.
14, KBA	II	Chapter 8	The critical drainage area maps were recently updated, but are now reverting back to the previous maps. Can the county better show and define on the maps the problem areas/culverts/systems? In addition, have any county stormwater SWMM upgrade projects addressed any of the critical drainage area concerns – e.g., Manchester, Koch Creek update at the ACE pond etc.? If so, the critical drainage areas should be updated accordingly.	Specific assets cannot be shown due to the scaling of the maps. The CDAs identify the problem areas or areas that are environmentally sensitive. Yes, Manchester and Koch Creek both have had capital projects constructed to address known stormwater issues. However, most of Manchester still is considered a CDA; Koch Creek was not designated as a CDA in the 2016 Kitsap manual. The maps have been updated accordingly and have removed the Gamblewood, Edgewater and Miller Bay Estates areas as well as a portion of Manchester that was addressed by the stormwater park.	Maps have been updated. Changes will be covered in the training.
15, KBA	N/A	N/A	Can bioswales be added as a runoff treatment option?	Water quality data still suggests that biofiltration swales and filter strips do not consistently perform at a level equal to the basic treatment standard.	No change
16, KBA	II	1.5.3	Why can't a performance surety be accepted in lieu of construction completion for subdivisions with private roads?	Historically performance sureties have been difficult to collect and therefore not able to be used to finish improvements that the developer did not complete.	No change
17, KBA	II	5.3.2	Section 5.3.2 – why aren't small PITs allowed for projects with >=1 acre of impervious? Did DOE make this change?	The 2016 Kitsap manual did not match 2019 Ecology manual for this size project. Edited to comply with the 2019 Ecology manual.	No change. Infiltration feasibility assessment will be covered in the training.
Comment No. and Author	Volume	Section	Comment	Response	Edit
18, KBA	II	5.4.8	Section 5.4.8 – why is infiltration under impermeable pavements not allowed in lieu of permeable pavement?	Sentence was revised to clarify that infiltration under impermeable pavements is only allowed outside of public rights of way.	Rejected deletion and revised sentence to read, "While not explicitly addressed in this section, infiltration may be allowed under impermeable pavements, outside of public rights of way, in lieu of permeable pavement."
19, KBA	N/A	N/A	Were changes made to the "Site Assessment and Planning Packet"? It was not included in the appendices.	No changes were made to Appendix C. See the full PDF Manual posted on the Stormwater Manual Update website (www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx).	No change. This item will be highlighted in the training.
20, KBA	Appendix A	Glossary	The definition of steep slopes needs to have a sentence added that manmade slopes aren't covered under the definition. If a slope was designed at 2:1, then a future development shouldn't require another Geotech just because it exceeds 30% and shows up on the map.	All slopes are included due to site conditions changing over time.	No change

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21, Kitsap Alliance of Property Owners (KAPO)	N/A	N/A	What is the problem we are trying to solve?	Compliance with state and federal law, as well as ease of use by practitioners. Update of stormwater design requirements and code (collectively the Stormwater Design Manual (SDM) and KCC Title 12 Stormwater Drainage) will bring Kitsap County Code into compliance with the Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (National Pollutant Discharge Elimination System (NPDES) permit) in accordance with state and federal law, specifically RCW 90.48 and the Clean Water Act.	No change
22, KAPO	N/A	N/A	How are existing regulations failing to address the problem?	The current edition of the SDM and portions of T 12's code are not consistent with provisions of its state permit. The existing County SDM and code does not include all the required provisions listed in Appendix I of the NPDES permit.	No change
23, KAPO	N/A	N/A	What is the cost to the public and private sectors to implement new regulations?	With limited exception for commercial projects (ie, both commercial and industrial), the costs are expected to be the same as current costs of development. Specifically, with the exception of commercial projects that meet the newly required redevelopment standards of the proposed KCC 12.20, we expect the cost compared to current regulations to be the same. Since each residential or commercial development project is often different (eg, scale of development, topography, soils conditions, proximity to critical areas), it is impossible to give an accurate cost estimate for this change. However, DCD is providing a range of its current costs for better understanding of stormwater regulations implementation—see the following DCD Fee Schedule Excerpt and Examples for more information.	No change
23, KAPO	N/A	N/A	No discussion of need for stormwater regulations, including by DOE.	DOE has provided rationale for each of its milestone updates. Each update has built on a better understanding of the importance of management of stormwater runoff. The latest Fact Sheet is available as a Supporting Document at https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Western-Washington-Phase-II-Municipal-Stormwater	No change
25, KAPO	N/A	N/A	Kitsap County failed to review 1990's EPA regulations that DOE based its regulations upon.	Kitsap County cannot speak to 1990's review, but appealed the 2007 permit. Kitsap County joined 30 cities in an appeal on the basis that it went beyond the federal standard of "Maximum Extent Practicable". This appeal included extensive research and testimony by Kitsap County, the 30 cities, and the law firm of Foster-Pepper.	No change
26, KAPO	N/A	N/A	No review of stormwater problems prior to 2010 or whether proposed regulations were too broad.	In the context of stormwater impact, Kitsap County and its streams, wetlands, and marine waters have been studied extensively, and historical developments have been documented to have deficient stormwater facilities and treatment. Extensive research has been conducted by University of Washington since the early 1990's regarding the impacts of urbanization on the environment of the Puget Sound lowlands. Much of that work has included Kitsap County streams, wetlands, and marine waters. Additionally, urbanized areas of Kitsap County such as Silverdale have been subject of repeated flooding due to inadequacy of storm systems built in the mid 1980's to handle runoff created during large storms. Rural residential areas developed prior to modern stormwater regulations such as Driftwood Keys, Gamblewood, Miller Bay Estates and portions of Manchester have required extensive investments of public dollars to reduce flooding and improve water quality in these areas.	No change
27, KAPO	N/A	N/A	No minimum required regulations that would meet DOE requirements were considered.	The 2007 appeal focused on minimum requirements and was centered on the minimum requirements set forth in the NPDES permit vs state and federal law.	No change
28, KAPO	N/A	N/A	Citizens have not been given 'legal reference points' to be informed of proposed changes.	It is unclear what this comment refers to, but the legal requirements have been noted previously and are widely available to those who wish to be more informed.	No change
29, KAPO	N/A	N/A	No cost estimates have been provided for proposed ordinances and the SDM.	Kitsap County has previously provided cost estimates: Kitsap County Public Works provided the Board of County Commissioners several cost estimates of the impact of the proposed regulations on existing road projects at several public work sessions. Additionally (and again in 2016), the County made the DOE cost study widely available to the public to review the impact of the proposed regulations. The most impacted type of development was the small commercial development. As a result of this large projected cost impact, the Board made an exception for these types of development to reduce the cost of development. The exemption was passed with ordinance 448-2010. For more perspective on DCD's fee and review costs see the following DCD Fee Schedule Excerpt and Examples.	No change
30, KAPO	N/A	N/A	No analysis of 'compounding regulations' was provided.	By state law, projects must vest to the code/SDM in effect at time of submittal. Projects vested to an earlier standard are able to build under those prior standards.	No change

DCD FEE SCHEDULE EXCERPT AND PROJECT EXAMPLES

FEE SCHEDULE EXCERPT

The permit application types shown below are representative of the most common stormwater reviews that occur within DCD’s Development Services and Engineering Division. The table shows the proportionate share of stormwater review.

Permit App Type	What is the Permit for?	Total Permit Fee*	Avg DCD Stormwater Review Portion in Hours/\$**
Site Development Application Permit (SDAP) – Single Family Residence	Single family residence	\$2645.20	11 / \$1450
SDAP – Commercial	Commercial/industrial development	\$5657.10	23.6 / \$3070
SDAP – Land Subdivision	Final grading and infrastructure for a subdivision >9 lots	\$5591.00	33.7 / \$4380
SDAP – Grading 3 (largest grading permit)	Large grading permit >5000 cubic yards	\$3716.40	19.3 / \$2500
Preliminary Plat	Preliminary approval of subdivision >9 lots	\$8530.60	16.9 / \$2202

* Includes 2020 fees for: Health District, Public Works, technology, and for Preliminary Plats also Hearing Examiner costs

** The hours shown, from analysis of 2019 hours, do not include land use review nor environmental review (ie, the difference between the total fee costs and the stormwater review costs). Costs shown are averages. Costs can increase or decrease depending on quality of submittals, size and complexity of project, project alterations, proposed method of stormwater treatment, and site constraints (including critical areas, topography and soils permeability).

PROJECT EXAMPLES

While the above Fee Schedule items represent DCD costs to review, the examples below represent the permit application requirements needed for their review to be declared complete for review. These are typically provided by the applicant’s consultants, for example a certified engineer.

Note the items mentioned below are only stormwater review submittal items. There are other items and reports needed for complete Kitsap County Code review of an application by other divisions, and the following is generally a comprehensive list of submittal items. Of course, specific requirements depend on several variables, including permit type, project type and scope, site constraints, complexity and other conditions:

*Kitsap County Department of Community Development
Stormwater Design Manual and Title 12 Update
June 26, 2020*

SEPA questionnaire, Traffic Impact Analysis, Landscape Plan, Wetland report or certification, Geotech report, Hydrogeological report, Water and Sewer Availability documents, Septic BSA or Building Clearance, Parking Analysis, bonding documents, covenant documents, architectural documents (typically for design districts).

Examples include:

Urban Commercial

- SDAP-COMM, 20 02192, Clear Creek Apartments (large project, 148 units)
 - Stormwater Review Items: Engineering stormwater & drainage report, project narrative, stormwater worksheets, stormwater pollution prevention plan (SWPPP) & narrative, permit questionnaire, maintenance covenant, Operations & Maintenance (O & M) manual

- SDAP-COMM, 20-00441, Coppertop Storage - Self Storage and Vehicle Self Storage
 - Stormwater Review Items: Engineering stormwater & drainage report, project narrative, stormwater worksheets, SWPPP & narrative, permit questionnaire, post construction soil quality worksheet, maintenance covenant, Operation & Maintenance (O&M) manual

Urban Residential

- R-SFR-BP, 16-00817, Mills Single Family Residence (small project)
 - Stormwater Review Items: Residential stormwater worksheet, SWPPP plan & narrative

- SDAP-LSUB, 14-03053, Woodbridge Phase 1 (major development, 42 lots)
 - Stormwater Review Items: Engineering storm & drainage report, project narrative, stormwater worksheets, SWPPP & narrative, permit questionnaire, maintenance covenant, O & M manual

Rural Residential (*Outside Census Urbanized Area*)

- SDAP-GRADING 3, 18-01898, Bennett's Addition, Phase 1 (large project, 30 lots)
 - Stormwater Review Items: Engineering storm & drainage report, project narrative, stormwater worksheets, SWPPP plan & narrative, permit questionnaire, maintenance covenant, O & M manual

Angie Silva

From: Berni Kenworthy <berni.kenworthy@axislandconsulting.com>
Sent: Monday, May 18, 2020 12:59 PM
To: Angie Silva
Cc: Russ Shilet; Norman Olson; 'Pat Fuhrer'; Mark Eisses; Levi Holmes; ellrosscardoso@gmail.com
Subject: Stormwater Comments

Hi Angie,

Thank you for the updated matrix and first draft redlines– those were helpful to understand the changes that were made. Please see our stormwater comments/questions below and forward along:

1. We appreciate the addition of this clarification regarding compliance with Minimum Requirement #5:

is necessary for that surface

If all BMPs in the list are infeasible, then the designer must document the site conditions and infeasibility criteria used to deem each BMP infeasible. This documentation will demonstrate compliance with Minimum Requirement #5.

Feasibility shall be determined by evaluation against:

1. Design criteria, limitations, and infeasibility criteria identified for each BMP in Volume II, Chapter 5 of this manual; and
2. Competing Needs Criteria listed in [Volume I, Section 3.4.5 of the Ecology Manual](#).

2. This language makes redevelopment more difficult. In addition, how is interior improvement value calculated – this can become quite subjective.

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

If runoff from new hard surfaces, converted vegetation areas, and replaced hard surfaces is not separated from runoff from other existing surfaces within the project site or the site, the guidance in [Volume III, Section 2.4 of the Ecology Manual Appendix III B of the Ecology Manual for off-site inflow](#) shall be used to size the detention facilities.

4.1.3 Regional Facilities

Regional facilities may be allowed as an alternative method to meet Minimum F #6, #7, and/or #8. The County will require an engineering report to be submitted if the regional facility meets the Minimum Requirements for the sites that drain to Appendix I-D of the Ecology Manual for details.

4.2 Minimum Requirements

This is so subjective....will lead to disputes. Is this the Assessor's "Land Value", or what other valuation exists for "existing site improvements"?

3. Threshold Discharge Areas: We would like to note for the record that Kitsap County is more restrictive than DOE by not allowing the use of TDAs. This is not in the best interest of Kitsap County, particularly in the affordable housing arena and on road construction/maintenance projects. We believe that TDAs are recognized by Ecology because they understand that small sites can't be designed down to the nth degree. Suggested Change: Continue to use the KCSDM as written in regards to restrictions on TDAs but allow engineers to submit requests to be allowed to use TDAs as specified by the WDOE Manual for projects when the engineer believes it makes sense. This process would occur for a test period. At the end of the test

period, perhaps until the next update, assessment can be made whether or not to include TDA's in the manual.

4. Vol 2 pg 47 Source Control: Are covered dumpster enclosures back? Didn't Kitsap County abandon the implementation of this requirement?
5. Vol 2 Pg 91 Full Dispersion: It is disappointing that buffers cannot be used for dispersion flow path lengths. This seems to go against the promotion of LID and MR#5. This will limit the ability to utilize dispersion. Suggestion: Allow dispersion to occur within a wetland buffer given proper determination by the project biologist that the wetland itself already provides water quality treatment function and using dispersion will be superior and promote the overall system function compared to using another BMP. Update the CAO to allow for greater than 25% administrative buffer reductions if the reduction is to be used for dispersion flow path.
6. Does the UIC requirement apply to bioretention facilities with underdrains or only to infiltration trenches with perforated pipe? What is the purpose of this requirement? It feels like just another hoop with little added benefit. What is the process – does the engineer need to contact DOE every time an infiltration trench is proposed prior to submitting an SDAP? Is this required for SFRs, too?
7. What is the purpose for requiring large PITs to be documented and staked by a licensed land surveyor? Locations can be estimated by measuring or on handheld devices - requiring a land surveyor adds unnecessary costs.
8. Why is grain size analyses no longer an option for determining infiltration rates? Suggestion: KC continue to use the policy, outside the manual, to allow gradation for infiltration in soils not glacially consolidated (note, DOE allows this). Allow that policy to continue to be utilized when the engineer can make the argument site should qualify. Simply don't throw out the policy that was created because it makes sense.
9. We would like to understand which figures and charts changed and what the changes are. We were not provided the "file for Public Draft figures".

The Developer may choose to perform Steps 2 through 5 concurrently, or in series. Larger projects may benefit from consulting with a licensed professional early in project development.

Refer to [\(See separate file for Public Review Draft figures\)](#)

[Figure 5.1](#) ~~Figure 5.4~~ for a flowchart illustrating these steps for completing an infiltration feasibility assessment.

Step 1: Evaluate Horizontal Setbacks and Site Constraints

10. We would like to note that KPUD has rainfall gauges all over Kitsap County, yet WWHM has zero information from Kitsap County. While this is beyond the scope of the current manual revisions, we would like to see WWHM be updated to include rainfall data from Kitsap versus being forced to use rain gauges in Quilcene, Seatac and Everett.
11. Table 4.3 doesn't cover greater than 5 acres sites inside a UA.
12. List 2B doesn't allow full dispersion on downspouts, why?
13. Why is permeable pavement #1 on the hard surface table for rural areas. Why is rural more stringent than UGA/UA?

- 14. The critical drainage area maps were recently updated, but are now reverting back to the previous maps. Can the county better show and define on the maps the problem areas/culverts/systems? In addition, have any county stormwater SWMM upgrade projects addressed any of the critical drainage area concerns – e.g., Manchester, Koch Creek update at the ACE pond etc.? If so, the critical drainage areas should be updated accordingly.**
- 15. Can bioswales be added as a runoff treatment option?**
- 16. Why can't a performance surety be accepted in lieu of construction completion for subdivisions with private roads?**
- 17. Section 5.3.2 – why aren't small PITs allowed for projects with ≥ 1 acre of impervious? Did DOE make this change?**
- 18. Section 5.4.8 – why is infiltration under impermeable pavements not allowed in lieu of permeable pavement?**
- 19. Were changes made to the "Site Assessment and Planning Packet"? It was not included in the appendices.**
- 20. The definition of steep slopes needs to have a sentence added that manmade slopes aren't covered under the definition. If a slope was designed at 2:1, then a future development shouldn't require another Geotech just because it exceeds 30% and shows up on the map.**



June 16, 2020

Planning Commission
KITSAP COUNTY
619 Division Street, MS-36
Port Orchard, Washington 98366

SUBJECT: Kitsap County Stormwater Design Manual - Volume I - Project Minimum Requirements and Site Planning - KAPO'S Opposition To Such Regulations

Honorable Commissioners:

KITSAP ALLIANCE OF PROPERTY OWNERS (KAPO) over the years has maintained a vigil against over regulation and regulation for regulation sake. We have been consistent in continually bringing the question - "what is the problem we are trying to solve? to the forefront. The next question to be examined in the public debate is: "how are the existing regulations failing to address the problem? While answering these questions we want to know what types of studies have been performed to document problem(s) or the ineffective measures applied in the past. And equally important is: "what is the cost to the public and private sectors to implement new regulations."

Any regulation, existing or proposed that is crafted without first answering the above basic questions, is by definition "regulation for regulation sake." Volume 1 of the Stormwater Design Manual fits that definition. It is that fact and other issues as outlined in this review response, that explains why KAPO is opposed to these new stormwater design regulations.

KAPO knows it is costly to actually study the environment (to include the regulatory environment) and it is much easier to just propose regulations because somebody thinks it might be a good idea. The problem with that approach is that regulations get piled on top of other regulations and nobody ever takes the time to make the analysis of whether we even need all of the regulations a county or city has adopted.

Speaking first to this last point consider if you will, the fact that Kitsap County has had stormwater regulations in effect since the early 1980s. The first ordinance was about 150 pages in length. In the early 1990s that first ordinance was amended to become more restrictive than the first. Still, between 1992-93 and February 2010, there were many, many projects approved - residential, commercial, industrial and institutional.

"The small landholders are the most precious part of a state." - Thomas Jefferson

All of these projects and developments have functioning storm water control systems with water quality controls. Between the years 1985 and 2009, there were only two documented instances in which stormwater infrastructure failed to perform as designed. One such failure was in the Chico area and the failure in that system was attributed to improper maintenance. The other was in South Kitsap where the “K-Mart Shopping Center” is found. In this instance, the issue was not design failure, it was a “procedure problem.” County Public Works staff would not let the developer make the final connection to his storm pond, in the midst of a huge storm event. Had the developer been allowed to hook his storm collection system to his already improved pond, serious adverse damage to downstream properties could have been avoided.

All storm water design parameters were contained in the stormwater regulations and by any serious analysis they were not just effective for that time period but continue to function without adverse impacts to downstream properties or the “environment” even twenty-four years later. So why was it necessary in February 2010 to adopt a “Stormwater Design Manual?” The simple answer is/was, “the State made us do it.”

Even with that anathema response from the County’s elected officials, the design guidelines were adopted without the following analysis having been a part of the decision-making process:

1. Obviously, there was no discussion of the “actual need” for more regulations being the antecedent reason for the regulations. Even the State Department of Ecology made no such assessment prior to adopting their regulations and forcing local jurisdictions to do the same. DOE even ignored the testimony to that effect during their own public hearings. No, that department had another agenda.
2. Other than a summary reference to the regulations adopted for the nation by the Environmental Protection Agency (EPA) that supposedly DOE took as a mandate for their own regulations, virtually nobody in Kitsap County saw or evaluated the EPA regulations. Worse yet, nobody in Kitsap County made analysis of the EPA regulations to see if the 1990’s ordinance was in or out of compliance with those regulations.
3. No analysis was performed to determine whether or not a.) Kitsap County had problems with stormwater controls in effect prior to 2010 that were not being addressed or b.) whether Kitsap County’s environmental conditions would satisfy the “one size fits all” conditions in other counties in the state assumed by DOE’s in their ordinance compliance guidelines.
4. No analysis was performed by Kitsap County staff to determine the “minimum required” regulations that would conform to either EPA or DOE’s adopted ordinance provision guidelines.
5. Kitsap County citizens and property owners having been given no “legal reference points,” could not provide “informed critique” of the then promulgated regulations.

6. Neither Kitsap County staff, appointed nor elected officials made any cost estimates for what either the price tag would be to the County or those in the private sector to actually implement, not just the new stormwater control ordinance but the design guidelines attached thereto. As an incidental note, even DOE knew as early as 2002-2003 that the costs associated with stormwater infrastructure compliant with their guidelines would be some 2-4 times the cost of workable systems designed in accordance with 1990 ordinances. Clearly, neither DOE nor Kitsap County cared a whit about such increased costs.
7. Kitsap County officials made no “compounding regulations” assessment to determine how other ordinances would be impacted by the adoption of the design guidelines. For example, in the building permit process even proposed single-family dwellings on existing lots cannot be approved without providing 4-5 exhibits addressing stormwater control issues and performing the on-site soils analysis and percolation rate data necessary to demonstrate compliance with stormwater design controls, none of which was necessary in the 1990s.

Sadly, the citizens of Kitsap County to include the property owners represented by KAPO are without the benefit of the analysis outlined in the above seven items in this review of the 2020 Stormwater Design Manual - Volume I. Further, the “red text” and “blue text” is lacking in any reference data as to “who” proposed the changes and “why.” Pertinent to the “why” question: what is the need for the red or blue text regulatory measures? Is it for example, so that the Design Regulations can be more in compliance with DOE regulations, to facilitate development of property in the County or to bring more clarity to the regulations?

Regarding the questions about what prompts the changes in the Design Guidelines, it is clear the proposed ordinance changes will not facilitate the development of property in Kitsap County - more about this in a moment. The red or blue text is not about bringing more clarity to regulations. At the end of the day there are 200+ pages of regulatory measures to be implemented and that is only Volume I. Clarity is achieved by eliminating, not adding to or replacing one requirement with another.

Pertinent to the issue of impeding not facilitating development, consider the fact that our private sector engineers spend on the average 1 ½ - 2-months in storm drainage facility design (also including utility systems) for any given subdivision or commercial/industrial development proposal; and that is just to get to “preliminary design proposals.” The cost of their work is approximately \$16,000.00. Then Kitsap County’s review time (overlooking for the moment permit application fees) along with that of other planning staff is some 4 - 6-months if one is lucky (often it is longer for reasons that can be explained later).

Once preliminary approval is obtained, then the final design work can commence. Final design work is performed under the auspicious of Site Development Activity Permit (SDAP) approval. The private sector cost for “final storm drainage facility design” (to include provisions for other utilities) will range from a low of \$25,000 for simple systems to \$100,000 - \$200,000 for larger projects and more complicated

systems. Again, there is a minimum of 2 - 3-months design work to prepare “design manual” compliant facility proposals.

Following submittal of the SDAP, Kitsap County rarely finishes their “first redline” review in less than 8-weeks. Then it is back to the engineer for revisions. This “resubmittal” process can take any where from a couple of weeks to two-months depending on the revisions requested and the time available by the engineer to address the issues or provide supplemental information. So, a “best case scenario” for final storm drainage design and approval is 4 - 6-months and that is on top of the 4-6 months already spent in the “preliminary plan review process.”

More than one project has been “stopped cold” because of the “design requirements” for stormwater infrastructure. In the aggregate the costs of compliance with Kitsap County’s Stormwater Design Manual are staggering and way beyond the means of most citizens in Kitsap County. But coupled with permit processing delays, especially in the spring of the year, more than just a few developers and project proponents have had to delay their developments from one year to the next, sometimes losing their financing in the intervening months or years - just due to this one aspect of project approval - stormwater design manual compliance.

One might ask, “who cares” about the cost of regulation implementation or the costs a project proponent has to assume? The answer seems to be “nobody” involved in County government and in some city governments as well. When jurisdictions adopt regulations for the sake of having a set of regulations like everybody else or because the “state made me do it,” costs of regulation implementation, to include lost projects, is a by-product of “oh well, so be it.”

Does that attitude about regulation implementation exist in Kitsap County? Clearly it does. One testimony is the fact that even when the “lie” of the “no cost to regulation adoption is exposed, the County has steadfastly refused to undertake such an assessment and/or analysis. Aside from the upfront costs the developer or project proponent assumes, the real costs are born by the consumer when he, she or they go to by a house or goods and services in the commercial marketplace.

Consider these two aspects of just the housing market - the average price of a new home in unincorporated Kitsap County is \$370,000.00 and the average rent for a home or apartment is \$1,773.00 (data source, Realtor.Com). Compared to the “medium household income” of the County which is \$71,610 (2018 dollars) (data source US Census Bureau QuickFacts: Kitsap County, Washington). According to the Affordable & Fair Housing Analysis provided the Planning Commission by KAPO on February 4th of this year, approximately 50% of the households in Kitsap County cannot afford to buy a new or used homes (with similar features). Also, the demographics for rent indicate that the same scenario is applicable to renters as well.

On aspect of the “supply and demand” equation has to do with the number of housing units available in the marketplace. Too few and the price per house goes up. Too

many and the housing costs drop. Likely, balance is never quite reached, but supply of housing seems to be way short of demand in the County. According to ECONorthwest's findings in their City of Bremerton & Kitsap County Affordable Housing Recommendations Report published May 2020, they cite the fact on Page 11, that Kitsap County together with its cities need an additional 25,147 total housing units by 2036 or 1,480 new units per year to serve the projected population increase.

Current production of housing units per year per new residents is about 42 homes per 100 residents. In the period between 2010 - 2017 only 3,600 new dwelling units were made available (an adjusted number). So, in that seven-year time period 514 units per year were produced compared to a need of 1,400 per year, yielding perhaps as many as 10,360 in that same seven-year period rather than only 3,600.

Typically, all government sponsored studies like ECONorthwest's, recommend only "government solutions" and most often for increased speed in permit processing. In some instances, the "government solution" is for "innovative programs" of one kind or another. Neither these so-called solutions have worked well in other jurisdictions and they ignore a reality that means they cannot possibly have any significant impact on housing supply. Why you ask? Because of the requirements of all other existing regulations. In the case of "innovative programs," new regulations have to be created, thereby increasing the regulatory environment. And the "new regulations," when created neither suspend nor repeal the other impinging regulations.....like storm drainage facility design. Also relevant are zoning and critical area ordinances.

Back to who is bearing the cost burden staff, appointed and elected officials do not even want to consider. Of course, it is the consumer. But the impact is really on the whole populism of county born most poignantly by the people in income groups with less than median levels of household income.

For many of the reasons highlighted in this letter, KAPO recommends against adopting the June 2020 2nd Draft set of regulations until the three questions laid out in the first paragraph of this letter and the seven items outlined on pages 2 & 3 are addressed as they should have been in the 2009-2010 era. KAPO is well aware that suspension of adoption of these set of design regulations, may not be well received by the State Department of Ecology personnel, but what matters is what is best for the citizens of this County. Adopting regulations for the sake of regulation is not in the best interests of either the property owners or the citizens of Kitsap County.

Respectfully submitted,



William M. Palmer, President
KITSAP ALLIANCE OF PROPERTY OWNERS.