



Kitsap County Department of Public Works

Staff Report and Recommendation Adopt New Code to Kitsap County Code Title 12 Source Control of Existing Development Ordinance

Report Date: April 22, 2022

Hearing Date: May 3, 2022

Background

On July 1, 2019, the Washington State Department of Ecology reissued the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit (permit) for Kitsap County, effective August 1, 2019 through July 31, 2024. The update includes new requirements for permittees to implement a Source Control Program for Existing Development. The proposed ordinance is one element of that program.

The purpose of the Source Control Program and proposed ordinance is to prevent and reduce pollutants from getting into the stormwater system and is focused on pollutant generating sources associated with existing land uses and activities. This is achieved by ensuring the proper application of operational best management practices (BMPs) to prevent pollutants from entering the stormwater system. This program will bridge the gap between the Kitsap County Department of Community Development's existing requirements for new and redevelopment, which require structural stormwater controls to prevent pollution, and the Kitsap County Public Works Illicit Discharge Detection and Elimination Program, which deals with spills that have already occurred.

The Source Control (Business/Site) Inspection Program will focus primarily on education and technical assistance. The proposed ordinance will require the application of source control BMPs for pollutant generating businesses/sites. Voluntary compliance is expected to be the norm. Kitsap County is required by the permit to adopt this ordinance by August 1, 2022.

The principal internal Kitsap County team responsible for this proposed ordinance included Public Works Stormwater Division staff.

Department Recommendation

Public Works recommends that the Planning Commission recommend approval and consider the proposed ordinance at a public hearing with subsequent deliberation and findings.

This report and recommendation are based on information available at the time of publication. If new relevant and material facts are submitted, this staff report may be revised along with the associated department recommendation.

Justification of Recommendation

As noted earlier, this new ordinance was necessitated by the Department of Ecology requirements as outlined in the permit. Additionally, Public Works believes this proposed ordinance along with the Source Control (Business/Site) Inspection Program will allow Kitsap County to prevent and reduce pollutants from entering storm and surface waters.

Other Alternatives Considered

NA

Policy Implications

Kitsap County Code Section 21.08.100.F requires recommendations going to the Planning Commission to also undergo policy review as well as to examine other initiatives that are supportive of the proposal. The Department of Public Works has reviewed the proposal against the County Mission and Vision statements, the 2016 Comprehensive Plan, Countywide Planning Policies, the Growth Management Act, the current Capital Facilities Plan, and local circumstances.

County Mission

The proposal is required in order to maintain compliance with the permit. Public Works believes the proposal is supportive of the Kitsap County Mission:

Kitsap County government exists to protect and promote the safety, health and welfare of our citizens in an efficient, accessible and effective manner.

County Vision

The proposal supports elements of the Kitsap County Vision Statement:

Safe and Healthy Communities - People are protected and secure, care about their

neighborhoods and are proud of where they live, work and play.

- o Protected Natural Resources and Systems - Education, land use planning and coordinated efforts assure that the forests, clean air and water that Kitsap is known for are sustained for the benefit of current and future generations.
- o Inclusive Government - County government conducts all activities in a manner that encourages citizen involvement, enhances public trust and promotes understanding.
- o Effective and Efficient County Services - County government continuously assesses its purpose, promotes and rewards innovation and improvement, fosters employee development and uses effective methods and technologies to produce significant positive results and lasting benefits for citizens.

Public Works finds the proposed changes to Title 12 to have a substantial relationship to the public's general health, safety and welfare.

County Comprehensive Plan

The proposal is supported by vision elements of the Comprehensive Plan 2016-2036 Vision: County Government. County government that is accountable and accessible; encourages citizen participation; seeks to operate as efficiently as possible; and works with citizens, governmental entities and tribal governments to meet collective needs fairly while respecting individual and property rights.

Overall, Title 12 is supportive of responsible development throughout Kitsap County.

However, the proposal is specifically supported by Comprehensive Plan policies:

- Land Use Policy 33. Recognize and adopt Western Washington Phase II Municipal Stormwater National Pollutant Discharge Elimination System Permit requirements for low impact development.
- Land Use Policy 54. In accordance with RCW 36.70A.070{5}(c):
 - o to preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,
 - o reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,
 - o *protect critical areas, as provided in RCW 36.10A.060, and surface water and groundwater resources, and, (emphasis added)*
 - o protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.

- Environment Policy 17. Safeguard the quality and quantity of long-term water supplies by identifying and protecting critical aquifer recharge areas, and utilizing Low Impact Development {LID} site planning principles to the greatest extent possible for reducing stormwater runoff.

Additionally, the proposal is supported by the Water as a Resource policy, reaffirmed by Resolution 134-2016:

- Kitsap County continues to carry out its programs under the "Water as a Resource" policy (Kitsap County Resolution 109-2009) that cooperatively addresses water as a resource not a waste stream. The policy supports and is in keeping with continuing the Comprehensive Plan Internal Review Team as a vital coordinating body. (pg 3-43, 5th bullet)

Countywide Planning Policies

The Kitsap Countywide Planning Policies are the framework for growth management in Kitsap County and developed through the Kitsap Regional Coordinating Council. The latest Countywide Planning Policies were adopted by the Kitsap County Board of Commissioners by ordinance in 2021 (Ordinance 601-2021). The Kitsap Countywide Planning Policies are required by the Growth Management Act and address 14 separate elements, ranging from urban growth areas to affordable housing. The following policies are supportive of the proposed changes to T 12:

- o Policies for Natural Environment (NE-5) Protection of water quality and quantity is accomplished by reducing the amount of toxins and pathogens in our water supply.
 - a. The County and Cities should adopt policies in their Comprehensive Plans to reflect that surface and storm water and aquifer recharge areas should be treated as a resource.
 - b. The County and Cities should continue to be models for low-impact development and implement such programs whenever practical
 - c. The County and Cities should develop and implement a program, as funding allows and where feasible, to retrofit infrastructure to current standards in surface and storm water management programs.

Growth Management Act

The Washington State legislature, through the Growth Management Act (GMA), Chapter 36.70A Revised Code of Washington (RCW), requires certain counties and cities to plan for

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population growth in ways that, among other things, encourages development in urban areas; reduces sprawl in the rural areas; protects open space, recreation, and the environment; provides sustainable economic development and protects the health, safety, and high quality of life enjoyed by residents of this state. Kitsap County is subject to the requirements of GMA.

GMA, through RCW 36.70A.130, also requires Kitsap County to continually review and evaluate its Comprehensive Plan and development regulations. The opportunities provided for citizen participation used in the preparation of the draft amendments are consistent with the requirements of the Growth Management Act.

Relationship to the Capital Facilities Plan

The proposal is by itself not directly related to the County Capital Facilities Plan, nor are programmatic requirements or improvements discussed in the Capital Facilities Plan. However, the 2020-2025 Capital Facilities Plan includes substantial investment in stormwater upgrades that will use Title 12 as a whole. The County's Stormwater Capital Facilities Plan includes 9 capital projects in the immediate six-year planning period at a cost of \$21 million.

Local Circumstances

Given the nature of required and necessary changes, discussed earlier, local circumstances support moving the proposal through legislative review and approval.

Public Involvement and Outreach

A public outreach plan has been created for this proposed ordinance with a priority audience of existing businesses, property owners and the general public. A public draft of the proposed ordinance is available online via the Kitsap County website (kcowa.us/BMPOrdinance) which includes a form to submit public comments. Invitations were sent to stakeholder groups for individual presentations. A postcard mailer containing the proposed ordinance language, ordinance webpage address and an invitation to the webinar information session scheduled for April 26, 2022 was sent out to all businesses meeting the permit definition of potential pollution generating sources. This information was also posted through the County's social media channels.

The remaining proposed schedule is as follows:

- 4/26/2022 Public Information Session (Open House) Webinar
- 5/4/2022 Central Kitsap Community Council presentation -regular meeting
- 5/5/2022 Kitsap Builders Association presentation - regular meeting
- 5/5/2022 Suquamish Citizens Advisory Council presentation - regular meeting

List of stakeholder groups contacted:

- Chamber of Commerce (South Kitsap, Silverdale, Greater Kingston)
- Kitsap Economic Development Alliance
- Kitsap Builder's Association
- Kingston & Manchester Community Advisory Councils
- Central Kitsap & Suquamish Community Advisory Councils
- Suquamish Tribe
- Port Gamble S'Klallam Tribe
- Point No Point Treaty Council

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