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Drafted by:	Nicole Sanders – Permitting
Sponsors:	
Attachments:	None

1 ..Title

2 AN ORDINANCE relating to fossil fuel facilities and  
3 nonhydroelectric generation facilities requiring proof of  
4 financial responsibility and decommissioning planning;  
5 amending Ordinance 10870, Section 337, as amended, and  
6 K.C.C. 21A.08.100, Ordinance 10870, Section 443, as  
7 amended, and K.C.C. 21A.22.050, Ordinance 12020,  
8 Section 17, as amended, and K.C.C. 27A.30.060.

9 ..Body

10 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

11 SECTION 1. Ordinance 10870, Section 337, as amended, and K.C.C.

12 21A.08.100 are hereby amended to read as follows:

13 A. Regional land uses.

<b>P-Permitted Use</b>		<b>RESOURCE</b>			<b>R U R A L</b>	<b>RESIDENTI AL</b>			<b>COMMERCIAL/INDUS TRIAL</b>				
<b>C-Conditional Use</b>													
<b>S-Special Use</b>													
<b>SIC</b>	<b>SPECIFIC</b>	<b>A</b>	<b>F</b>	<b>M</b>	<b>R</b>	<b>U</b>	<b>R1</b>	<b>R1</b>	<b>N</b>	<b>C</b>	<b>RB</b>	<b>O</b>	<b>I</b>
<b>#</b>	<b>LAND USE</b>				<b>A</b>	<b>R</b>	<b>-8</b>	<b>2- 48</b>	<b>B</b>	<b>B</b>			<b>(15 )</b>

*	Jail						S	S	S	S	S	S	S
*	Jail Farm/Camp	S	S		S	S							
*	Work Release Facility				S1 9	S1 9	S	S	S	S	S	S	
*	Public Agency Animal Control Facility		S		S	S					S		P
*	Public Agency Training Facility		S		S3					S3	S3	S3	C4
*	Hydroelectric Generation Facility		C14 S		C1 4 S	C1 4 S	C1 4 S						
*	Non- hydroelectric Generation Facility	C12 S29	C12 S29	C12 S28	C1 2 S2 9	C1 2 S2 9	C1 2 S2 9	C1 2 S2 9	C1 2 S2 9	C1 2 S2 9	C12 S29	C1 2 S2 9	P1 2 S2 9
*	Renewable Energy Generation Facility	C28	C28	C	C	C	C	C	C	C	C	C	C

*	Fossil Fuel Facility												S27
*	Communication Facility (17)	C6c S	P		C6 c S	C6 c S	C6 c S	C6 c S	C6 c S	P	P	P	P
*	Earth Station	P6b C	P		C6 a S	C6 a S	C6 a S	C6 a S	P6 b C	P	P	P	P
*	Energy Resource Recovery Facility		S	S	S	S	S	S	S	S	S	S	S
*	Soil Recycling Facility		S	S	S								C
*	Landfill		S	S	S	S	S	S	S	S	S	S	S
*	Transfer Station			S	S	S	S	S	S	S	S		P
*	Wastewater Treatment Facility				S	S	S	S	S	S	S	S	C
*	Municipal Water Production	S	P13 S	S	S	S	S	S	S	S	S	S	S
*	Airport/Helipod	S7	S7		S	S	S	S	S	S	S	S	S

	rt												
*	Regional Transit Authority Facility				P2 5								
*	Rural Public Infrastructure Maintenance Facility				C2 3								P
*	Transit Bus Base					S	S	S	S	S	S	S	P
*	Transit Comfort Facility				P2 6	P2 6	P2 6	P2 6	P2 6	P26	P2 6	P2 6	
*	School Bus Base				C5 S2 0	C5 S	C5 S	C5 S	S	S	S	S	P
7948	Racetrack				S8	S8	S8	S8	S8	S8	S8	S8	S2 4
*	Regional Motor Sports Facility												P
*	County				P2								

	Fairgrounds Facility				1 S2 2								
*	Fairground									S	S		S
8422	Zoo/Wildlife Exhibit(2)		S9		S9	S	S	S		S	S		
7941	Stadium/Arena										S		S
8221 - 8222	College/Univer sity(1)	P10	P10		P1 0 C1 1 S1 8	P1 0 C1 1 S1 8	P1 0 C1 1 S S1	P1 0 C1 1 S S1	P1 0 C1 1 S S1	P	P	P	P
*	Zoo Animal Breeding Facility	P16	P16		P1 6								

14

B. Development conditions.

15

1. Except technical institutions. See vocational schools on general services land

16

use table, K.C.C. 21A.08.050.

17

2. Except arboretum. See K.C.C. 21A.08.040, recreation/cultural land use table.

18

3. Except weapons armories and outdoor shooting ranges.

19

4. Except outdoor shooting range.

20

5. Only in conjunction with an existing or proposed school.

- 21           6.a. Limited to no more than three satellite dish antennae.
- 22           b. Limited to one satellite dish antenna.
- 23           c. Limited to tower consolidations.
- 24           7. Limited to landing field for aircraft involved in forestry or agricultural
- 25 practices or for emergency landing sites.
- 26           8. Except racing of motorized vehicles.
- 27           9. Limited to wildlife exhibit.
- 28           10. Only as a reuse of a public school facility subject to K.C.C. chapter 21A.32.
- 29           11. Only as a reuse of a surplus nonresidential facility subject to K.C.C. chapter
- 30 21A.32.
- 31           12. Limited to gas extraction as an accessory use to a waste management
- 32 process, such as wastewater treatment, landfill waste management, livestock manure and
- 33 composting processes.
- 34           13. Excluding impoundment of water using a dam.
- 35           14. Limited to facilities that comply with the following:
- 36           a. Any new diversion structure shall not:
- 37               (1) exceed a height of eight feet as measured from the streambed; or
- 38               (2) impound more than three surface acres of water at the normal maximum
- 39 surface level;
- 40           b. There shall be no active storage;
- 41           c. The maximum water surface area at any existing dam or diversion shall not
- 42 be increased;

43 d. An exceedance flow of no greater than fifty percent in mainstream reach  
44 shall be maintained;

45 e. Any transmission line shall be limited to a:

46 (1) right-of-way of five miles or less; and

47 (2) capacity of two hundred thirty KV or less;

48 f. Any new, permanent access road shall be limited to five miles or less; and

49 g. The facility shall only be located above any portion of the stream used by  
50 anadromous fish.

51 15. For I-zoned sites located outside the urban growth area designated by the  
52 King County Comprehensive Plan, uses shown as a conditional or special use in K.C.C.  
53 21A.08.100.A, except for waste water treatment facilities and racetracks, shall be  
54 prohibited. All other uses, including waste water treatment facilities, shall be subject to  
55 the provisions for rural industrial uses in K.C.C. chapter 21A.12.

56 16. The operator of such a facility shall provide verification to the department of  
57 natural resources and parks or its successor organization that the facility meets or exceeds  
58 the standards of the Animal and Plant Health Inspection Service of the United States  
59 Department of Agriculture and the accreditation guidelines of the American Zoo and  
60 Aquarium Association.

61 17. The following provisions of the table apply only to major communication  
62 facilities. Minor communication facilities shall be reviewed in accordance with the  
63 processes and standard outlined in K.C.C. chapter 21A.27.

64 18. Only for facilities related to resource-based research.

65           19. Limited to work release facilities associated with natural resource-based  
66 activities.

67           20. Limited to projects which do not require or result in an expansion of sewer  
68 service outside the urban growth area, unless a finding is made that no cost-effective  
69 alternative technologies are feasible, in which case a tightline sewer sized only to meet  
70 the needs of the school bus base and serving only the school bus base may be used.  
71 Renovation, expansion, modernization or reconstruction of a school bus base is permitted  
72 but shall not require or result in an expansion of sewer service outside the urban growth  
73 area, unless a finding is made that no cost-effective alternative technologies are feasible,  
74 in which case a tightline sewer sized only to meet the needs of the school bus base.

75           21. Only in conformance with the King County Site Development Plan Report,  
76 through modifications to the plan of up to ten percent are allowed for the following:

- 77           a. building square footage;
- 78           b. landscaping;
- 79           c. parking;
- 80           d. building height; or
- 81           e. impervious surface.

82           22. A special use permit shall be required for any modification or expansion of  
83 the King County fairgrounds facility that is not in conformance with the King County  
84 Site Development Plan Report or that exceeds the allowed modifications to the plan  
85 identified in subsection B.21. of this section.

86           23. The facility shall be primarily devoted to rural public infrastructure  
87 maintenance and is subject to the following conditions:



- 88 a. The minimum site area shall be ten acres, unless:
- 89 (1) the facility is a reuse of a public agency yard; or
- 90 (2) the site is separated from a county park by a street or utility right-of-way;
- 91 b. Type 1 landscaping as provided in K.C.C. chapter 21A.16 shall be provided
- 92 between any stockpiling or grinding operations and adjacent residential zoned property;
- 93 c. Type 2 landscaping as provided in K.C.C. chapter 21A.16 shall be provided
- 94 between any office and parking lots and adjacent residential zoned property;
- 95 d. Access to the site does not use local access streets that abut residential zoned
- 96 property, unless the facility is a reuse of a public agency yard;
- 97 e. Structural setbacks from property lines shall be as follows:
- 98 (1) Buildings, structures and stockpiles used in the processing of materials
- 99 shall be no closer than:
- 100 (a) one hundred feet from any residential zoned properties, except that the
- 101 setback may be reduced to fifty feet when the grade where the building or structures are
- 102 proposed is fifty feet or greater below the grade of the residential zoned property;
- 103 (b) fifty feet from any other zoned property, except when adjacent to a
- 104 mineral extraction or materials processing site;
- 105 (c) the greater of fifty feet from the edge of any public street or the setback
- 106 from residential zoned property on the far side of the street; and
- 107 (2) Offices, scale facilities, equipment storage buildings and stockpiles shall
- 108 not be closer than fifty feet from any property line except when adjacent to M or F zoned
- 109 property or when a reuse of an existing building. Facilities necessary to control access to

110 the site, when demonstrated to have no practical alternative, may be located closer to the  
111 property line;

112 f. On-site clearing, grading or excavation, excluding that necessary for  
113 required access, roadway or storm drainage facility construction, shall not be permitted  
114 within fifty feet of any property line except along any portion of the perimeter adjacent to  
115 M or F zoned property. If native vegetation is restored, temporary disturbance resulting  
116 from construction of noise attenuation features located closer than fifty feet shall be  
117 permitted; and

118 g. Sand and gravel extraction shall be limited to forty thousand yards per year.

119 24. The following accessory uses to a motor race track operation are allowed if  
120 approved as part of the special use permit:

- 121 a. motocross;
- 122 b. autocross;
- 123 c. skidpad;
- 124 d. garage;
- 125 e. driving school; and
- 126 f. fire station.

127 25. Regional transit authority facilities shall be exempt from setback and height  
128 requirements.

129 26. Transit comfort facility shall:

- 130 a. only be located outside of the urban growth area boundary;
- 131 b. be exempt from street setback requirements; and
- 132 c. be no more than 200 square feet in size.

133           27.a. Required for all new, modified or expanded fossil fuel facilities.

134   Modification or expansion includes, but is not limited to:

135           (1) new uses or fuel types within existing facilities;

136           (2) changes to the type of refining, manufacturing or processing;

137           (3) changes in the methods or volumes of storage or transport of raw

138 materials or processed products;

139           (4) changes in the location of the facilities on-site;

140           (5) replacement of existing facilities;

141           (6) increases in power or water demands; or

142           (7) increases in production capacity.

143           b. Before filing an application with the department, the applicant shall hold a

144 community meeting in accordance with K.C.C. 20.20.035.

145           c. As part of permit application submittal for new, modified or expanded fossil

146 fuel facilities, the applicant shall submit the following documentation:

147           (1) an inventory of similar existing facilities in King County and neighboring

148 counties, including their locations and capacities;

149           (2) a forecast of the future needs for the facility;

150           (3) an analysis of the potential social and economic impacts and benefits to

151 jurisdictions and local communities receiving or surrounding the facility;

152           (4) an analysis of alternatives to the facility, including location, conservation,

153 demand management and other strategies;

154 (5) an analysis of economic and environmental impacts, including mitigation,  
155 of any similar existing facilities and of any new site(s) under consideration as an  
156 alternative to expansion of an existing facility;

157 (6) an extensive public involvement strategy which strives to effectively  
158 engage a wide range of racial, ethnic, cultural, and socio-economic groups, including  
159 communities that are the most impacted; and

160 (7) considered evaluation of any applicable prior review conducted by a  
161 public agency, local government or stakeholder group.

162 d. As part of permit application submittal, a greenhouse gas impact analysis  
163 shall be prepared by the applicant for all proposals for new, modified, or expanded fossil  
164 fuel facilities. The results of this analysis shall be used to identify and mitigate the  
165 impacts of such facilities.

166 e. As part of permit application submittal, the applicant shall demonstrate  
167 financial responsibility in an amount necessary to compensate for the maximum damages  
168 that might occur from an explosion resulting from a worst-case release, as defined in the  
169 Code of Federal Regulations 40 CFR 68.1, of flammable gases and flammable liquids.  
170 The amount of financial responsibility needed shall be determined by the director based  
171 on a study of the maximum potential damages.

172 (1) This study shall:

173 (a) incorporate the volume of oils, gases, refrigerants and other flammable  
174 or explosive chemicals stored, used or generated within the facility;

175 (b) consider such matters as the frequency of facility operations; facility  
176 layout and vegetation that could cause flammable vapor accumulation; the damages that

177 could result from the explosion to structures and public infrastructure; and the potential  
178 loss of life and injury to persons onsite and to members of the public;

179 (c) include modeling and disclosure of a nil or very low wind condition  
180 vapor cloud explosion scenario.

181 (d) be prepared by a person accredited in vapor cloud explosion analysis, or  
182 an equally qualified individual as authorized by the director, at the applicant's expense.

183 (e) undergo third-party validation by a qualified entity to be hired upon  
184 mutual agreement of the applicant and the department, at the applicant's expense.

185 (2) Financial responsibility shall be provided for the duration of fossil fuel  
186 facility operations, to be verified in periodic review of such facilities in keeping with  
187 K.C.C. Chapter 21A.22. Financial responsibility required by this section may be  
188 established by any one of, or a combination of, the following methods acceptable to the  
189 department:

190 (a) evidence of insurance;

191 (b) surety bonds issued by a bonding company authorized to do business in  
192 the United States;

193 (c) qualification as a self-insurer; or

194 (d) other evidence of financial responsibility deemed acceptable by the  
195 department.

196 (3) Where enforcement of this code provision would conflict with chapter  
197 36.32 RCW, the director may require the applicant to sign an agreement to complete  
198 retention of required financial responsibility consistent with K.C.C. 27A.30.060, in an

199 amount equivalent to that indicated by the study of the damages, prior to the issuance of a  
200 clearing and grading permit.

201 f. As part of permit application submittal, an applicant shall provide a  
202 decommissioning plan for the closure of the facility. This plan shall include, but need not  
203 be limited to, the following:

204 (1) listing of the hazardous substances, as defined in RCW 70A.305.020, that  
205 will be handled or generated within the facility; the range of potential release volumes  
206 requiring cleanup; and whether such releases have the potential to contaminate  
207 groundwater or surface waters on or adjacent to the site.

208 (2) the cleanup activities that would be required to address such hazardous  
209 substance.

210 (3) detailed estimates of the cost to implement the plan based on the cost of  
211 hiring a third party to conduct all activities; all cost estimates must be in current dollars  
212 and may not include a net present value adjustment or offsets for salvage value of wastes  
213 or other property.

214 (4) methods for estimating closure costs.

215 ((e))g. New, modified or expanded fossil fuel facilities shall:

216 (1) not be located within one thousand feet from any schools, medical care  
217 facilities, or places of assembly that have occupancies of greater than one thousand  
218 persons;

219 (2) not be located within two hundred fifty feet from a regulated wetland or  
220 aquatic area, except when a larger buffer is required under K.C.C. chapter 21A.24, the  
221 buffer in K.C.C. chapter 21A.24 shall apply;

- 222 (3) maintain an interior setback of at least two hundred feet;
- 223 (4) store fossil fuels completely within enclosed structures, tanks or similar
- 224 facilities; and
- 225 (5) be accessed directly to and from an arterial roadway.
- 226 28. Limited to uses that will not convert more than two acres of farmland or
- 227 forestland, or 2.5 percent of the farmland or forestland, whichever is less.
- 228 29.a. Before filing an application with the department, the applicant shall hold a
- 229 community meeting in accordance with K.C.C. 20.20.035.
- 230 b. As part of permit application submittal for non-hydroelectric generation
- 231 facilities, the applicant shall submit the following documentation:
- 232 (1) an inventory of similar existing facilities in King County and neighboring
- 233 counties, including their locations and capacities;
- 234 (2) a report demonstrating that the facility would serve a significant portion
- 235 of the county, metropolitan region or is part of a statewide or national system;
- 236 (3) a forecast of the future needs for the facility;
- 237 (4) an analysis of the potential social and economic impacts and benefits to
- 238 jurisdictions and local communities receiving or surrounding the facility;
- 239 (5) an analysis of alternatives to the facility, including location, conservation,
- 240 demand management and other strategies;
- 241 (6) an analysis of economic and environmental impacts, including mitigation,
- 242 of any similar existing facilities and of any new site(s) under consideration as an
- 243 alternative to expansion of an existing facility;

244 (7) an extensive public involvement strategy which strives to effectively  
245 engage a wide range of racial, ethnic, cultural and socioeconomic groups, including  
246 communities that are the most impacted; and

247 (8) considered evaluation of any applicable prior review conducted by a  
248 public agency, local government or stakeholder group.

249 c. As part of permit application submittal, a greenhouse gas impact analysis  
250 shall be prepared by the applicant. The results of this analysis shall be used to identify  
251 and mitigate the impacts of such facilities.

252 d. As part of permit application submittal, an applicant shall demonstrate  
253 financial responsibility in an amount as necessary to compensate for damages that might  
254 occur from an explosion resulting from a worst-case release, as defined in the Code of  
255 Federal Regulations § 68.1, of flammable gases and flammable liquids. The amount of  
256 financial responsibility needed shall be as determined by the director based on a study of  
257 the damages and the commercial availability and affordability of financial responsibility.

258 (1). This study shall:

259 (a) incorporate the volume of oils, gases, refrigerants and other flammable  
260 or explosive chemicals stored, used or generated within the facility.

261 (b) consider such matters as the frequency of facility operations; facility  
262 layout and vegetation that could cause flammable vapor accumulation; the damages that  
263 could result from the explosion to structures and public infrastructure; and the potential  
264 loss of life and injury to persons onsite and to members of the public,

265 (c) include modeling and disclosure of a nil or very low wind condition  
266 vapor cloud explosion scenario.



267 (d) be prepared by a professional engineer with expertise in vapor cloud  
268 explosion analysis, or an equally qualified individual as authorized by the director, at the  
269 applicant's expense.

270 (e) undergo third-party validation by a qualified entity to be hired upon  
271 mutual agreement of the applicant and the department, at the applicant's expense.

272 (2) Financial responsibility shall be provided for the duration of fossil fuel  
273 facility operations, to be verified in periodic review of such facilities in keeping with  
274 K.C.C. Chapter 21A.22. Financial responsibility required by this section may be  
275 established by any one of, or a combination of, the following methods acceptable to the  
276 department:

277 (a) evidence of insurance;

278 (b) surety bonds issued by a bonding company authorized to do business in  
279 the United States;

280 (c) qualification as a self-insurer;

281 (d) letters of credit; or

282 (e) other evidence of financial responsibility deemed acceptable by the  
283 department.

284 (3) Where enforcement of this code provision would conflict with chapter  
285 36.32 RCW, the applicant may sign an agreement with the director to complete retention  
286 of required financial responsibility consistent with K.C.C. 27A.30.060, in an amount  
287 equivalent to that indicated by the study of the damages, prior to the issuance of a  
288 clearing and grading permit.

289           (4) The requirement to demonstrate financial responsibility does not apply to  
290 installations of fossil-fuel powered generators that provide an ancillary electricity supply  
291 to facilities that are not categorized as a nonhydroelectric generation facility or fossil fuel  
292 facility.

293           SECTION 2. Ordinance 10870, Section 443, as amended, and K.C.C.  
294 21A.22.050 are hereby amended to read as follows:

295           A. In addition to the review conducted as part of the annual renewal of a mineral  
296 extraction or processing operating permit, coal mine permit or materials processing  
297 facility permit, the department shall conduct a periodic review of mineral extraction or  
298 processing, coal mine, materials processing facility or fossil fuel facility site design  
299 ~~((and))~~, operating standards and financial responsibility at five-year intervals from the  
300 date of issuance of the permit.

301           B. The periodic review is a Type 2 land use decision.

302           C. The periodic review shall:

303           1. Determine whether the site is operating consistent with all existing permit  
304 conditions and, if not, establish corrective actions; and

305           2. Apply the most current site design and operating standards to the site through  
306 additional or revised permit conditions as necessary to mitigate identifiable  
307 environmental, public health and public safety impacts.

308           SECTION 3. Ordinance 12020, Section 17, as amended, and K.C.C. 27A.30.060  
309 are hereby amended to read as follows:

310           **27A.30.060 Financial guarantee waivers.** Consistent with chapter 36.32 RCW,  
311 King County shall not require any state agency~~((s))~~ or unit of local government~~((, or gas~~

312 ~~company or electrical company (as those terms are defined in RCW 80.04.010))~~ to secure  
313 the performance of a permit requirement with a financial guarantee as a condition of  
314 issuing a permit or approval for a building construction project. The director, however,  
315 may require ~~((such))~~ a state agency or unit of local government, gas company or electric  
316 company to sign an agreement to complete required improvements, or to complete  
317 retention of required financial responsibility consistent with K.C.C. 21A.08.100, and  
318 protect the County's rights and duty to remedy unsatisfactory performance.

319 SECTION 4. Severability. If any provision of this ordinance or its application to  
320 any person or circumstance is held invalid, the remainder of the ordinance or the  
321 application of the provision to other persons or circumstances is not affected.