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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 10870, Section 337, as amended, and K.C.C. 21A.08.100 are hereby amended to read as follows:

A. Regional land uses.

<table>
<thead>
<tr>
<th>P-Permitted Use</th>
<th>RESOURCE</th>
<th>RURAL</th>
<th>RESIDENTIAL</th>
<th>COMMERCIAL/INDUSTRIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-Conditional Use</td>
<td>SPECIFIC LAND USE</td>
<td>A</td>
<td>F</td>
<td>M</td>
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<tr>
<td>S-Special Use</td>
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<tr>
<td>*</td>
<td>Jail</td>
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<td>*</td>
<td>Jail Farm/Camp</td>
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<td>*</td>
<td>Work Release Facility</td>
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<td>*</td>
<td>Public Agency Animal Control Facility</td>
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<td>*</td>
<td>Public Agency Training Facility</td>
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<tr>
<td>*</td>
<td>Hydroelectric Generation Facility</td>
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<td>*</td>
<td>Non-hydroelectric Generation Facility</td>
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<td>*</td>
<td>Renewable Energy Generation Facility</td>
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<td>*</td>
<td>Facility Type</td>
<td>Column 1</td>
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<td>Column 3</td>
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<tr>
<td>*</td>
<td>Fossil Fuel Facility</td>
<td>C6c</td>
<td>P</td>
<td>C6</td>
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<td>*</td>
<td>Communication Facility (17)</td>
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<td>*</td>
<td>Earth Station</td>
<td>P6b</td>
<td>P</td>
<td>C6</td>
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<td>*</td>
<td>Energy Resource Recovery Facility</td>
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<td>*</td>
<td>Soil Recycling Facility</td>
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<td>*</td>
<td>Landfill</td>
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<td>*</td>
<td>Transfer Station</td>
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<td>*</td>
<td>Wastewater Treatment Facility</td>
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<td>Municipal Water Production</td>
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<td>*</td>
<td>Airport/Helipo</td>
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<td>rt</td>
<td>Regional Transit Authority Facility</td>
<td>P2</td>
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<td>*</td>
<td>Rural Public Infrastructure Maintenance Facility</td>
<td>C2</td>
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<td>*</td>
<td>Transit Bus Base</td>
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<td>*</td>
<td>Transit Comfort Facility</td>
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<td>*</td>
<td>School Bus Base</td>
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<td>7948</td>
<td>Racetrack</td>
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<td>Regional Motor Sports Facility</td>
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<td>*</td>
<td>County</td>
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<tr>
<td>Fairgrounds Facility</td>
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<td>S2</td>
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<tr>
<td>* Fairground</td>
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<td>8422</td>
<td>Zoo/Wildlife Exhibit(2)</td>
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<td>7941</td>
<td>Stadium/Arena</td>
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<td>8221</td>
<td>College/University(1)</td>
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<td>P10</td>
<td>P1</td>
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<tr>
<td>* Zoo Animal Breeding Facility</td>
<td>P16</td>
<td>P16</td>
<td>P1</td>
<td>6</td>
</tr>
</tbody>
</table>

B. Development conditions.

1. Except technical institutions. See vocational schools on general services land use table, K.C.C. 21A.08.050.


3. Except weapons armories and outdoor shooting ranges.

4. Except outdoor shooting range.

5. Only in conjunction with an existing or proposed school.
6.a. Limited to no more than three satellite dish antennae.

b. Limited to one satellite dish antenna.

c. Limited to tower consolidations.

7. Limited to landing field for aircraft involved in forestry or agricultural practices or for emergency landing sites.

8. Except racing of motorized vehicles.

9. Limited to wildlife exhibit.

10. Only as a reuse of a public school facility subject to K.C.C. chapter 21A.32.

11. Only as a reuse of a surplus nonresidential facility subject to K.C.C. chapter 21A.32.

12. Limited to gas extraction as an accessory use to a waste management process, such as wastewater treatment, landfill waste management, livestock manure and composting processes.


14. Limited to facilities that comply with the following:

a. Any new diversion structure shall not:

   (1) exceed a height of eight feet as measured from the streambed; or

   (2) impound more than three surface acres of water at the normal maximum surface level;

b. There shall be no active storage;

c. The maximum water surface area at any existing dam or diversion shall not be increased;
d. An exceedance flow of no greater than fifty percent in mainstream reach shall be maintained;

e. Any transmission line shall be limited to:

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

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

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

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

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

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

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

18. Only for facilities related to resource-based research.
19. Limited to work release facilities associated with natural resource-based activities.

20. Limited to projects which do not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the school bus base and serving only the school bus base may be used.

Renovation, expansion, modernization or reconstruction of a school bus base is permitted but shall not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the school bus base.

21. Only in conformance with the King County Site Development Plan Report, through modifications to the plan of up to ten percent are allowed for the following:
   a. building square footage;
   b. landscaping;
   c. parking;
   d. building height; or
   e. impervious surface.

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

23. The facility shall be primarily devoted to rural public infrastructure maintenance and is subject to the following conditions:
a. The minimum site area shall be ten acres, unless:
   (1) the facility is a reuse of a public agency yard; or
   (2) the site is separated from a county park by a street or utility right-of-way;

b. Type 1 landscaping as provided in K.C.C. chapter 21A.16 shall be provided
   between any stockpiling or grinding operations and adjacent residential zoned property;

c. Type 2 landscaping as provided in K.C.C. chapter 21A.16 shall be provided
   between any office and parking lots and adjacent residential zoned property;

d. Access to the site does not use local access streets that abut residential zoned
   property, unless the facility is a reuse of a public agency yard;

e. Structural setbacks from property lines shall be as follows:
   (1) Buildings, structures and stockpiles used in the processing of materials
   shall be no closer than:
      (a) one hundred feet from any residential zoned properties, except that the
   setback may be reduced to fifty feet when the grade where the building or structures are
   proposed is fifty feet or greater below the grade of the residential zoned property;
      (b) fifty feet from any other zoned property, except when adjacent to a
   mineral extraction or materials processing site;
      (c) the greater of fifty feet from the edge of any public street or the setback
   from residential zoned property on the far side of the street; and
   (2) Offices, scale facilities, equipment storage buildings and stockpiles shall
   not be closer than fifty feet from any property line except when adjacent to M or F zoned
   property or when a reuse of an existing building. Facilities necessary to control access to
the site, when demonstrated to have no practical alternative, may be located closer to the property line;

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

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

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

a. motocross;

b. autocross;

c. skidpad;

d. garage;

e. driving school; and

f. fire station.

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

26. Transit comfort facility shall:

a. only be located outside of the urban growth area boundary;

b. be exempt from street setback requirements; and

c. be no more than 200 square feet in size.
a. Required for all new, modified or expanded fossil fuel facilities.
Modification or expansion includes, but is not limited to:

1. new uses or fuel types within existing facilities;
2. changes to the type of refining, manufacturing or processing;
3. changes in the methods or volumes of storage or transport of raw materials or processed products;
4. changes in the location of the facilities on-site;
5. replacement of existing facilities;
6. increases in power or water demands; or
7. increases in production capacity.

b. Before filing an application with the department, the applicant shall hold a community meeting in accordance with K.C.C. 20.20.035.

c. As part of permit application submittal for new, modified or expanded fossil fuel facilities, the applicant shall submit the following documentation:

1. an inventory of similar existing facilities in King County and neighboring counties, including their locations and capacities;
2. a forecast of the future needs for the facility;
3. an analysis of the potential social and economic impacts and benefits to jurisdictions and local communities receiving or surrounding the facility;
4. an analysis of alternatives to the facility, including location, conservation, demand management and other strategies;
(5) an analysis of economic and environmental impacts, including mitigation, of any similar existing facilities and of any new site(s) under consideration as an alternative to expansion of an existing facility;

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

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

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

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

(1) This study shall:

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

(b) consider such matters as the frequency of facility operations; facility layout and vegetation that could cause flammable vapor accumulation; the damages that
could result from the explosion to structures and public infrastructure; and the potential
loss of life and injury to persons onsite and to members of the public;
(c) include modeling and disclosure of a nil or very low wind condition
vapor cloud explosion scenario.
(d) be prepared by a person accredited in vapor cloud explosion analysis, or
an equally qualified individual as authorized by the director, at the applicant’s expense.
(e) undergo third-party validation by a qualified entity to be hired upon
mutual agreement of the applicant and the department, at the applicant’s expense.
(2) Financial responsibility shall be provided for the duration of fossil fuel
facility operations, to be verified in periodic review of such facilities in keeping with
K.C.C. Chapter 21A.22. Financial responsibility required by this section may be
established by any one of, or a combination of, the following methods acceptable to the
department:
(a) evidence of insurance;
(b) surety bonds issued by a bonding company authorized to do business in
the United States;
(c) qualification as a self-insurer; or
(d) other evidence of financial responsibility deemed acceptable by the
department.
(3) Where enforcement of this code provision would conflict with chapter
36.32 RCW, the director may require the applicant to sign an agreement to complete
retention of required financial responsibility consistent with K.C.C. 27A.30.060, in an
amount equivalent to that indicated by the study of the damages, prior to the issuance of a clearing and grading permit.

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

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

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

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

(4) methods for estimating closure costs.

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

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

(2) not be located within two hundred fifty feet from a regulated wetland or aquatic area, except when a larger buffer is required under K.C.C. chapter 21A.24, the buffer in K.C.C. chapter 21A.24 shall apply;
(3) maintain an interior setback of at least two hundred feet;
(4) store fossil fuels completely within enclosed structures, tanks or similar facilities; and
(5) be accessed directly to and from an arterial roadway.

28. Limited to uses that will not convert more than two acres of farmland or forestland, or 2.5 percent of the farmland or forestland, whichever is less.

29.a. Before filing an application with the department, the applicant shall hold a community meeting in accordance with K.C.C. 20.20.035.
b. As part of permit application submittal for non-hydroelectric generation facilities, the applicant shall submit the following documentation:

(1) an inventory of similar existing facilities in King County and neighboring counties, including their locations and capacities;
(2) a report demonstrating that the facility would serve a significant portion of the county, metropolitan region or is part of a statewide or national system;
(3) a forecast of the future needs for the facility;
(4) an analysis of the potential social and economic impacts and benefits to jurisdictions and local communities receiving or surrounding the facility;
(5) an analysis of alternatives to the facility, including location, conservation, demand management and other strategies;
(6) an analysis of economic and environmental impacts, including mitigation, of any similar existing facilities and of any new site(s) under consideration as an alternative to expansion of an existing facility;
an extensive public involvement strategy which strives to effectively 
engage a wide range of racial, ethnic, cultural and socioeconomic groups, including 
communities that are the most impacted; and 

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

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

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

(1). This study shall:

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

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

(c) include modeling and disclosure of a nil or very low wind condition 
vapor cloud explosion scenario.
(d) be prepared by a professional engineer with expertise in vapor cloud explosion analysis, or an equally qualified individual as authorized by the director, at the applicant’s expense.

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

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

(a) evidence of insurance;

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

(c) qualification as a self-insurer;

(d) letters of credit; or

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

(3) Where enforcement of this code provision would conflict with chapter 36.32 RCW, the applicant may sign an agreement with the director to complete retention of required financial responsibility consistent with K.C.C. 27A.30.060, in an amount equivalent to that indicated by the study of the damages, prior to the issuance of a clearing and grading permit.
(4) The requirement to demonstrate financial responsibility does not apply to installations of fossil-fuel powered generators that provide an ancillary electricity supply to facilities that are not categorized as a nonhydroelectric generation facility or fossil fuel facility.

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

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

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

C. The periodic review shall:

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

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

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

27A.30.060 Financial guarantee waivers. Consistent with chapter 36.32 RCW, King County shall not require any state agency or unit of local government...
company or electrical company (as those terms are defined in RCW 80.04.010)) to secure the performance of a permit requirement with a financial guarantee as a condition of issuing a permit or approval for a building construction project. The director, however, may require ((such)) a state agency or unit of local government, gas company or electric company to sign an agreement to complete required improvements, or to complete retention of required financial responsibility consistent with K.C.C. 21A.08.100, and protect the County's rights and duty to remedy unsatisfactory performance.

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