



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

### Ordinance 19034

**Proposed No.** 2019-0143.3

**Sponsors** Upthegrove

1 AN ORDINANCE relating to comprehensive planning and  
2 shoreline environment regulations; amending Ordinance  
3 263, Article 2, Section 1, as amended, and K.C.C.  
4 20.12.010, Ordinance 3692, Section 2, as amended, and  
5 K.C.C. 20.12.200, Ordinance 12196, Section 17, as  
6 amended, and K.C.C. 20.20.100, Ordinance 3688, Section  
7 202, as amended, and K.C.C. 21A.06.072B, Ordinance  
8 15051, Section 7, as amended, and K.C.C. 21A.06.072C,  
9 Ordinance 16985, Section 89, and K.C.C. 21A.06.1081,  
10 Ordinance 15051, Section 97, and K.C.C. 21A.06.1082,  
11 Ordinance 16985, Section 92, and K.C.C. 21A.06.1082B,  
12 Ordinance 3688, Section 248, as amended, and K.C.C.  
13 21A.06.1082D, Ordinance 3688, Section 249, as amended,  
14 and K.C.C. 21A.06.1083A, Ordinance 3688, Section 255,  
15 as amended, and K.C.C. 21A.06.1268, Ordinance 10870,  
16 Section 323, as amended, and K.C.C. 21A.06.1391,  
17 Ordinance 10870, Section 319, as amended, and K.C.C.  
18 21A.06.1395, Ordinance 15051, Section 137, as amended,  
19 and K.C.C. 21A.24.045, Ordinance 15051, Section 139, as

20 amended, and K.C.C. 21A.24.055, Ordinance 15051,  
21 Section 183, and K.C.C. 21A.24.318, Ordinance 15051,  
22 Section 185, as amended, and K.C.C. 21A.24.325,  
23 Ordinance 10870, Section 481, as amended, and K.C.C.  
24 21A.24.340, Ordinance 15051, Section 192, as amended,  
25 and K.C.C. 21A.24.355, Ordinance 3688, Chapter 2 (part),  
26 as amended, and K.C.C. 21A.25.020, Ordinance 3688,  
27 Section 303, as amended, and K.C.C. 21A.25.050,  
28 Ordinance 16985, Section 31, as amended, and K.C.C.  
29 21A.25.100, Ordinance 16985, Section 32, as amended,  
30 and K.C.C. 21A.25.110, Ordinance 16985, Section 39, as  
31 amended, and K.C.C. 21A.25.160, Ordinance 3688, Section  
32 801, as amended, and K.C.C. 21A.25.290 and Ordinance  
33 3688, Section 805, as amended, and K.C.C. 21A.44.100,  
34 repealing Ordinance 3688, Section 246, as amended, and  
35 K.C.C. 21A.06.1083 and Ordinance 18767, Section 11, and  
36 adding new sections to K.C.C. chapter 21A.06.

37 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

38 **SECTION 1. Findings:**

39 A. The Shoreline Management Act ("SMA") requires King County to develop  
40 and administer a shoreline master program. King County adopted a comprehensive  
41 update of its shoreline master program ("SMP") as required by RCW 90.58.080(2) via  
42 Ordinance 16985 and Ordinance 17485.

43           B. The Growth Management Act and King County Code chapter 20.18 requires  
44 that amendments to the King County Comprehensive Plan be considered no more than  
45 once per year, except that amendments may be considered more frequently to address  
46 amendments to the SMP under chapter 90.58 RCW.

47           C. RCW 90.58.080(4) requires King County to periodically review and, if  
48 necessary, revise the SMP on or before June 30, 2019.

49           D. The review process is intended to bring the SMP into compliance with  
50 requirements of the SMA or state rules that have been added or changed since the last  
51 SMP comprehensive update, ensure the SMP remains consistent with amended  
52 comprehensive plans and regulations, and incorporate amendments deemed necessary to  
53 reflect changed circumstances, new information or improved data.

54           E. King County used the state Department of Ecology's checklist of legislative  
55 and rule amendments to review amendments to chapter 90.58 RCW and department  
56 guidelines that have occurred since the master program was last amended, and determine  
57 if local amendments are needed to maintain compliance in accordance with WAC 173-  
58 26-090(3)(b)(i).

59           F. King County reviewed changes to the comprehensive plan and development  
60 regulations to determine if the SMP policies and regulations remain consistent with them  
61 in accordance with WAC 173-26-090(3)(b)(ii). King County considered whether to  
62 incorporate any amendments needed to reflect changed circumstances, new information  
63 or improved data in accordance with WAC 173-26-090(3)(b)(iii).

64           G. Net pen aquaculture is the practice of raising fish in an underwater net that  
65 serves as a pen. Two main types of net pen aquaculture exist in Washington -

66 commercial pens containing salmon raised for market and enhancement pens raising  
67 native salmon for release into the wild or to adulthood as part of a program to conserve a  
68 population's genetics.

69 H. Under King County's SMP, commercial salmon net pens are currently  
70 prohibited on shorelines with and adjacent to a "natural" environmental designation,  
71 within one thousand five hundred feet of the ordinary high water mark, and within the  
72 Maury Island Aquatic Reserve. K.C.C. 21A.25.110 also currently includes regulations  
73 that strictly condition the siting of commercial salmon net pens based on scientific review  
74 of the net pen's environmental impacts, including requiring demonstration that the salmon  
75 net pen will achieve no net loss of ecological function.

76 I. King County's native salmon runs are among the Puget Sound region's most  
77 precious and irreplaceable natural resources. Many native salmon species have become  
78 extinct or are on the verge of extinction. Chinook salmon and steelhead trout populations  
79 in King County are listed as threatened under the Endangered Species Act, with  
80 populations roughly at five percent of their historic numbers. To reverse this trend and to  
81 help preserve one of the unique and most precious attributes of our region, King County,  
82 area tribes, the state, the region and the federal government have collectively invested  
83 hundreds of millions of dollars over many years to help restore native salmon species.

84 J. Southern Puget Sound resident orcas are listed as threatened under the  
85 Endangered Species Act and rely heavily on Chinook salmon for much of their diet.  
86 When they feed in King County waters, they typically feed on coho and chum salmon  
87 produced from local streams.

88 K. In 2017, in order to further support orca and salmon populations and the

89 health of the Salish Sea, King County adopted a six-month moratorium on commercial  
90 nonnative salmon net pen aquaculture facilities via Ordinance 18617 to allow the county  
91 to comprehensively review its net pen regulations as part of the 2019 SMP periodic  
92 update. The moratorium was extended by another six months via Ordinance 18736 and  
93 by another six months in via Ordinance 18808. The moratorium expired May 2019.

94 L. King County's review of net pen regulations has found that commercial  
95 salmon net pen aquaculture generally has environmental and ecological adverse impacts  
96 associated with their operations that do not appear to meet the SMA standard of "no net  
97 loss of ecological function." Those adverse impacts include:

98 1. The escape of farmed salmon may threaten existing depressed salmon  
99 populations, because large numbers of escapees would act as predators on wild juvenile  
100 salmon, compete with wild juvenile and adult salmon for food, as well as compete for  
101 spawning and rearing habitats;

102 2. Escaped farm salmon from commercial salmon net pens, especially if using  
103 native salmon species, greatly increases the risks of genetic introgression with local wild  
104 stocks, which would reduce the overall genetic fitness of already greatly stressed wild  
105 salmon populations;

106 3. Small wild juvenile salmon can swim into commercial net pens and are at a  
107 high risk of predation by farmed salmon. Similarly, other important prey for wild  
108 salmon, seabirds and orcas, including, but not limited to, Pacific sand lance, surf smelt  
109 and Pacific herring, are also at risk of being preyed upon if they swim into a commercial  
110 net pen;

111 4. Dense aggregations of farmed salmon in commercial net pens increase the

112 risks of spreading diseases and parasites to wild salmon that migrate past or near the net  
113 pen;

114           5. Even in areas with strong currents, over time uneaten food and animal wastes  
115 build up on the bed of Puget Sound below dense aggregations of farmed salmon,  
116 eventually creating anoxic, or dead zones below the net pens, creating a clear loss of  
117 ecological function in the shoreline environment; and

118           6. The large amount of nutrients generated by commercial salmon net pens pose  
119 significant water quality concerns anywhere in King County's marine waters, but  
120 especially in semienclosed areas like Quartermaster Harbor that have low flushing rates.

121           M. Many operational aspects of commercial salmon net pens generally are not  
122 consistent with existing policies within King County's SMP in Chapter 6 of the King  
123 County Comprehensive Plan, including:

124           1. Policy S-720 notes a preference for aquaculture that does not require  
125 structures, especially floating structures. The policy also states a preference for  
126 aquaculture that involves little to no supplemental food, pesticides or antibiotics as part of  
127 the operation. Commercial salmon net pens are floating structures that require the  
128 addition of food and antibiotics to raise the salmon and are one of the most intensive  
129 types of aquaculture operations and do not generally meet the policy direction;

130           2. Policy S-719 indicates that aquaculture facilities shall be designed, operated,  
131 and located so as not to spread disease to native aquatic life. Commercial salmon net  
132 pens are open to the natural environment. They are not designed to contain diseases and  
133 do not avoid intermingling with wild salmon, either through escapement of fish from the  
134 net pens or through entry of native juvenile salmon into the net pen. That increases the

135 risk that diseases or parasites would be spread to wild salmon stocks

136           3. Policy S-721 notes that aquaculture activities shall not be permitted if they  
137 involve significant risks of cumulative adverse impacts to water quality, benthic and  
138 pelagic organisms or wild fish populations, or adverse effects on native species or  
139 threatened or endangered species and their habitats. As noted in subsections L. and M.1.  
140 and 2. of this section, commercial salmon net pens have a variety of impacts, which taken  
141 cumulatively create significant risks to struggling wild populations of Endangered  
142 Species Act listed salmon; and

143           4. Policies S-717 and S-718 indicate that aquaculture operations should not have  
144 adverse impacts and not be permitted if they result in a net loss of ecological function.  
145 As noted in subsections L. and M.1., 2. and 3. of this section, commercial salmon net  
146 pens have potential adverse impacts that lead to losses of ecological function.

147           N. As currently operated, commercial salmon net pen aquaculture poses adverse  
148 impacts to native fish and the region's efforts to restore native salmon runs in Puget  
149 Sound.

150           O. There are currently no active commercial salmon or finfish net pens or  
151 pending applications for them in King County.

152           P. The siting of any new commercial salmon net pen aquaculture operation along  
153 King County's limited marine shorelines would threaten years of work and millions of  
154 dollars in investments to protect Puget Sound's native salmon species. Given the risks to  
155 native salmon stocks outlined in these findings and the conflicts with adopted policies,  
156 this ordinance prohibits commercial net pens for both nonnative and native salmon.

157           Q. King County currently prohibits all fish net pens within Inner Quartermaster

158 Harbor, the area between Vashon and Maury Islands. Due to the sensitive shoreline areas  
159 in Quartermaster Harbor and significant water quality concerns within in this area, this  
160 ordinance prohibits all fish net pens, for both native and nonnative fish, in all of  
161 Quartermaster Harbor. This will protect sensitive shoreline environments, water quality,  
162 habitat, and prevent impacts on wild fish survival.

163 R. King County continues to support Tribal treaty fishing rights, including the  
164 operation of noncommercial native salmon net pens for temporary rearing and brood  
165 stock recovery programs. This ordinance updates regulations for noncommercial native  
166 salmon net pens to more explicitly state this allowance and to clarify the siting  
167 conditions. This ordinance will not affect Tribal operation of noncommercial pens for  
168 temporary rearing of young Puget Sound salmon outside of Quartermaster Harbor.

169 S. While aquaculture is an historic, water-dependent use of Washington's  
170 shorelines, the state Department of Ecology's Shoreline Master Program Handbook lists  
171 only three references to guide local jurisdictions in how to regulate finfish net pens, all of  
172 which predate the Endangered Species Act listings of southern Puget Sound resident  
173 orcas, Puget Sound Chinook salmon and Puget Sound steelhead as threatened. The state  
174 Department of Ecology acknowledges in the handbook that interim net pen guidelines  
175 from the 1980s are out of date and caution should be used if relying on them.

176 T. In 2018, the Washington state Legislature adopted Engrossed House Bill 2957,  
177 which became Chapter 179, Laws of Washington 2018, prohibiting new or expanded  
178 leases for nonnative marine finfish aquaculture. To be consistent with this change in  
179 state law, this ordinance updates the county's shoreline regulations to prohibit nonnative  
180 marine finfish aquaculture.

181 U. Chapter 179, Laws of Washington 2018, also directed state agencies to  
182 continue updating guidance and informational resources for planning and permitting  
183 marine net pen aquaculture. State agencies were further directed to seek advice and  
184 assistance from the Northwest Indian Fisheries Commission, national centers for coastal  
185 ocean science, and to invite consultation with universities and federally recognized Indian  
186 tribes. The applicable state agencies must report to the legislature by November 1, 2019.

187 V. Given the lack of current information regarding the risks of commercial net  
188 pens for other native marine finfish on other species and treaty rights, and the pending  
189 update of guidance for marine finfish aquaculture, this ordinance updates the county's  
190 shoreline regulations to strongly condition siting other native marine finfish net pen uses  
191 rather than prohibiting this use at this time.

192 W. In recognition of the state's intent to study this issue in greater depth and to  
193 issue new guidance in late 2019 that will address local shoreline permitting, the county  
194 will revisit its policies and regulations associated with net pens for native marine finfish,  
195 including the prohibition on commercial native salmon net pens, during the next  
196 statutory-required periodic review of this program under RCW 90.58.080, when  
197 additional research and guidance from the state is expected to be available.

198 X. King County developed a public participation program for the 2019 SMP  
199 periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and  
200 encourage participation of interested persons and private entities, tribes, and applicable  
201 agencies having interests and responsibilities relating to shorelines. King County has  
202 followed its adopted public participation program, including development of a project  
203 website, providing a public review and comment period and hosting public meetings.

204 Y. King County consulted with the state Department of Ecology during the  
205 drafting of the 2019 SMP amendments. The county worked collaboratively with the state  
206 Department of Ecology to address local interests while ensuring the amendments are  
207 consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance  
208 with WAC 173-26-104.

209 Z. This ordinance completes King County's required process for the 2019 SMP  
210 periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines in  
211 chapter 173-26 WAC.

212 SECTION 2. The review and evaluation required by RCW 90.58.080(4) have  
213 occurred, as described in the findings of this ordinance. The elements of the King  
214 County shoreline master program ("SMP") in sections 5 and 23 through 36 of this  
215 ordinance and in Attachment A to this ordinance are hereby amended to read as set forth  
216 in this ordinance and are incorporated herein by this reference. The remaining portions  
217 of the county's SMP is unchanged. King County adopts these SMP revisions and finds  
218 the amended SMP consistent with the requirements of chapter 90.58 RCW and chapter  
219 173-26 WAC, as they apply to these amendments.

220 SECTION 3. Attachment A to this ordinance is adopted as amendments to the  
221 2016 King County Comprehensive Plan, as adopted in Ordinance 18427 and its  
222 attachments and as amended by Ordinance 18623 and Ordinance 18810.

223 SECTION 4. Ordinance 263, Article 2, Section 1, as amended, and K.C.C.  
224 20.12.010 are hereby amended to read as follows:

225 A. Under the King County Charter, the state Constitution and the Washington  
226 state Growth Management Act, chapter 36.70A RCW, King County adopted the 1994

227 King County Comprehensive Plan via Ordinance 11575 and declared it to be the  
228 Comprehensive Plan for King County until amended, repealed or superseded. The  
229 Comprehensive Plan has been reviewed and amended multiple times since its adoption in  
230 1994. Amendments to the 1994 Comprehensive Plan to-date are currently reflected in the  
231 2016 King County Comprehensive Plan, as adopted in Ordinance 18427 and as amended  
232 by Ordinance 18623 (~~and~~), Ordinance 18810 and this ordinance. The Comprehensive  
233 Plan shall be the principal planning document for the orderly physical development of the  
234 county and shall be used to guide subarea plans, functional plans, provision of public  
235 facilities and services, review of proposed incorporations and annexations, development  
236 regulations and land development decisions.

237 SECTION 5. Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200 are  
238 hereby amended to read as follows:

239 A. The King County shoreline master program consists of the following elements  
240 in effect on the effective date of this ordinance:

- 241 1. The King county Comprehensive Plan chapter six;
- 242 2. K.C.C. chapter 21A.25;
- 243 3. The following sections of K.C.C. chapter 21A.24:
  - 244 a. K.C.C. 21A.24.045;
  - 245 b. K.C.C. 21A.24.051;
  - 246 c. K.C.C. 21A.24.055;
  - 247 d. K.C.C. 21A.24.070.A., D. and E.;
  - 248 e. K.C.C. 21A.24.125;
  - 249 f. K.C.C. 21A.24.130;

- 250 g. K.C.C. 21A.24.133;
- 251 h. K.C.C. 21A.24.200;
- 252 i. K.C.C. 21A.24.210;
- 253 j. K.C.C. 21A.24.220;
- 254 k. ~~((K.C.C. 21A.24.230;~~
- 255 ~~l. K.C.C. 21A.24.240;~~
- 256 ~~m. K.C.C. 21A.24.250;~~
- 257 ~~n. K.C.C. 21A.24.260;~~
- 258 ~~o.)) K.C.C. 21A.24.275;~~
- 259 ~~((p.)) l. K.C.C. 21A.24.280;~~
- 260 ~~((q.)) m. K.C.C. 21A.24.290;~~
- 261 ~~((r.)) n. K.C.C. 21A.24.300;~~
- 262 ~~((s.)) o. K.C.C. 21A.24.310;~~
- 263 ~~((t.)) p. K.C.C. 21A.24.316;~~
- 264 ~~((u.)) q. K.C.C. 21A.24.318;~~
- 265 r. K.C.C. 21A.24.325;
- 266 ~~((v.)) s. K.C.C. 21A.24.335;~~
- 267 ~~((w.)) t. K.C.C. 21A.24.340;~~
- 268 ~~((x.)) u. K.C.C. 21A.24.355;~~
- 269 v. K.C.C. 21A.24.358;
- 270 ~~((y.)) w. K.C.C. 21A.24.365;~~
- 271 ~~((z.)) x. K.C.C. 21A.24.380;~~
- 272 ~~((aa.)) y. K.C.C. 21A.24.382;~~

273           ~~((bb-))~~ z. K.C.C. 21A.24.386;

274           ~~((ee-))~~ aa. K.C.C. 21A.24.388; and

275           4. The following:

276           a. K.C.C. 20.18.040;

277           b. K.C.C. 20.18.050;

278           c. K.C.C. 20.18.056;

279           d. K.C.C. 20.18.057;

280           e. K.C.C. 20.18.058;

281           f. K.C.C. 20.22.160;

282           g. K.C.C. 20.24.510;

283           h. K.C.C. 21A.32.045;

284           i. K.C.C. 21A.44.090;

285           j. K.C.C. 21A.44.100; and

286           k. K.C.C. 21A.50.030.

287           B. The shoreline management goals and policies constitute the official policy of

288 King ~~((e))~~ County regarding areas of the county subject to shoreline management

289 jurisdiction under chapter 90.58 RCW. As provided by WAC 173-26-191(2)(a), King

290 County's local administrative, enforcement and permit review procedures shall conform

291 to chapter 90.58 RCW but shall not be a part of the master program.

292           C. Amendments to the shoreline master program do not apply to the shoreline

293 jurisdiction until approved by the Washington state Department of Ecology as provided

294 in RCW 90.58.090. The department of ~~((permitting and environmental review))~~ local

295 services, permitting division, shall, within ten days after the date of the Department of

296 Ecology's approval, file a copy of the Department of Ecology's approval, in the form of a  
297 paper copy and an electronic copy, with the clerk of the council, who shall retain the  
298 paper copy and forward electronic copies to all councilmembers, chief of staff, policy  
299 staff director and the lead staff of the ((~~planning, rural service~~)) mobility and environment  
300 committee, or its successor.

301 SECTION 6. Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100  
302 are hereby amended to read as follows:

303 A. The department shall issue its Type 3 or Type 4 recommendation to the office  
304 of the hearing examiner within one hundred fifty days from the date the department  
305 notifies the applicant that the application is complete. The periods for action by an  
306 examiner shall be governed by K.C.C. chapter 20.22 and the rules of the office of the  
307 hearing examiner.

308 B.1. Except as otherwise provided in subsection B.2. of this section, the  
309 department shall issue its final decision on a Type 1 or Type 2 decision within one  
310 hundred twenty days from the date the department notified the applicant that the  
311 application is complete.

312 2. The following periods apply to the type of land use permit indicated:

- |    |   |         |
|----|---|---------|
| a. | New residential building permits  | 90 days |
| b. | Residential remodels  | 40 days |
| c. | Residential appurtenances, such as decks and garages                                    | 15 days |
| d. | Residential appurtenances, such as decks and garages that<br>require substantial review | 40 days |

- e. Clearing and grading 90 days
- f. Department of public health review 40 days
- g. Type 1 temporary use permit for a homeless encampment 30 days
- h. Type 2 temporary use permit for a homeless encampment 40 days

313 C. The following periods shall be excluded from the times specified in  
314 subsections A.~~((and))~~, B. and H. of this section:

315 1. Any period during which the applicant has been requested by the department,  
316 the examiner or the council to correct plans, perform required studies or provide  
317 additional information, including road variances and variances required under K.C.C.  
318 chapter 9.04. The period shall be calculated from the date of notice to the applicant of  
319 the need for additional information until the earlier of the date the county advises the  
320 applicant that the additional information satisfies the county's request or fourteen days  
321 after the date the information has been provided. If the county determines that  
322 corrections, studies or other information submitted by the applicant is insufficient, it shall  
323 notify the applicant of the deficiencies and the procedures of this section shall apply as if  
324 a new request for information had been made.

325 a. The department shall set a reasonable deadline for the submittal of  
326 corrections, studies or other information, and shall provide written notification to the  
327 applicant. The department may extend the deadline upon receipt of a written request  
328 from an applicant providing satisfactory justification for an extension.

329 b. When granting a request for a deadline extension, the department shall give  
330 consideration to the number of days between the department receiving the request for a  
331 deadline extension and the department mailing its decision regarding that request;

332           2. The period during which an environmental impact statement is being  
333 prepared following a determination of significance under chapter 43.21C RCW, as set  
334 forth in K.C.C. 20.44.050;

335           3. The period during which an appeal is pending that prohibits issuing the  
336 permit;

337           4. Any period during which an applicant fails to post the property, if required by  
338 this chapter, following the date notice is required until an affidavit of posting is provided  
339 to the department by the applicant;

340           5. Any time extension mutually agreed upon by the applicant and the  
341 department; and

342           6. Any time during which there is an outstanding fee balance that is sixty days  
343 or more past due.

344           D. Failure by the applicant to submit corrections, studies or other information  
345 acceptable to the department after two written requests under subsection C. of this section  
346 shall be cause for the department to cancel or deny the application.

347           E. The time limits established in this section shall not apply if a proposed  
348 development:

349           1. Requires either: an amendment to the Comprehensive Plan or a development  
350 regulation; or modification or waiver of a development regulation as part of a  
351 demonstration project;

352           2. Requires approval of a new fully contained community as provided in RCW  
353 36.70A.350, master planned resort as provided in RCW 36.70A.360 or the siting of an  
354 essential public facility as provided in RCW 36.70A.200; or

355           3. Is revised by the applicant, when the revisions will result in a substantial  
356 change in a project's review requirements, as determined by the department, in which  
357 case the period shall start from the date at which the revised project application is  
358 determined to be complete.

359           F. The time limits established in this section may be exceeded on more complex  
360 projects. If the department is unable to issue its Type 1 or Type 2 decision or its Type 3  
361 or Type 4 recommendation within the time limits established by this section, it shall  
362 provide written notice of this fact to the applicant. The notice shall include a statement of  
363 reasons why the time limits have not been met and an estimated date for issuance of the  
364 notice of a Type 1 or Type 2 decision or a Type 3 or Type 4 recommendation.

365           G. The department shall require that all plats, short plats, building permits,  
366 clearing and grading permits, conditional use permits, special use permits, site  
367 development permits, shoreline substantial development permits, binding site plans,  
368 urban planned development permits or fully contained community permits issued for  
369 development activities on or within five hundred feet of designated agricultural lands,  
370 forest lands or mineral resource lands contain a notice that the subject property is within  
371 or near designated agricultural lands, forest lands or mineral resource lands on which a  
372 variety of commercial activities may occur that are not compatible with residential  
373 development for certain periods of limited duration.

374           H. To the greatest extent practicable, the department shall make a final  
375 determination on all permits required for a Washington state Department of  
376 Transportation project on a state highway as defined in RCW 46.04.560 with an  
377 estimated cost of less than five hundred million dollars no later than ninety days after

378 receipt of a complete permit application.

379 SECTION 7. Ordinance 3688, Section 202, as amended, and K.C.C.

380 21A.06.072B are hereby amended to read as follows:

381 Aquaculture: the culture or farming of ~~((fin fish))~~ finfish, shellfish, algae or other  
382 plants or animals in fresh or marine waters. Aquaculture does not include: related  
383 commercial or industrial uses such as wholesale or retail sales; or final processing,  
384 packing or freezing. "Aquaculture" does not include the harvest of wild geoduck  
385 associated with the state-managed wildstock geoduck fishery.

386 SECTION 8. Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C  
387 are hereby amended to read as follows:

388 A. Aquatic areas:

389 ~~((A.))~~ 1. ((Any-n)) Nonwetland water features including:

390 ~~((1.-A))~~all shorelines of the state, rivers, streams, marine waters and bodies of  
391 open water, such as lakes, ponds and reservoirs;

392 2. ((Conveyance systems, such as a ditch, if any portion of the contributing  
393 water is from an aquatic area listed in subsection A.1. of this section;

394 3.)) Impoundments, such as ((a)) reservoirs or ponds, if any portion of the  
395 contributing water is from ((an aquatic area)) a nonwetland water feature listed in  
396 subsection A.1. of this section; and

397 3. Above-ground open water conveyance systems, such as ditches, if any  
398 portion of the contributing water is from either a wetland or a nonwetland water feature  
399 listed in subsection A.1. or A.2. of this section, or both.

400 B. "Aquatic areas" does not include water features where the source of

401 contributing water is entirely artificial, including, but not limited to, ((a)) ground water  
402 wells.

403 NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 21A.06  
404 a new section to read as follows:

405 Commercial salmon net pens: underwater net facilities used for the raising of  
406 salmonid species, whether or not they are indigenous to the Puget Sound region for  
407 commercial purposes.

408 NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 21A.06  
409 a new section to read as follows:

410 Geoduck aquaculture: the culture or farming of geoduck, excluding the harvest of  
411 wild geoduck associated with the state-managed wildstock geoduck fishery, including  
412 planting and harvesting activities.

413 NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 21A.06  
414 a new section to read as follows:

415 Nonnative marine finfish aquaculture: the culture or farming of marine finfish  
416 that are not indigenous to the Puget Sound region.

417 NEW SECTION. SECTION 12. There is hereby added to K.C.C. chapter 21A.06  
418 a new section to read as follows:

419 Noncommercial native salmon net pens: underwater net facilities used for the  
420 raising of salmonid species indigenous to the Puget Sound region for the purposes of  
421 species recovery and restoration, or tribal or recreational catch.

422 SECTION 13. Ordinance 16985, Section 89, as amended, and K.C.C.  
423 21A.06.1081 are hereby amended to read as follows:

424 Shorelands: ((areas landward of the ordinary high water mark along shorelines  
425 ~~extending landward two hundred feet, and also including:~~

426 ~~A. The one hundred year floodplain;~~

427 ~~B. All associated wetlands; and~~

428 ~~C. All river deltas)) A. Lands extending landward two hundred feet in all  
429 directions as measured on a horizontal plane from the ordinary high water mark;~~

430 B. Floodways and contiguous floodplain areas landward two hundred feet from  
431 such floodways;

432 C. All wetlands and river deltas associated with streams, lakes and tidal waters;  
433 and

434 D. The one-hundred-year floodplain.

435 SECTION 14. Ordinance 15051, Section 97, as amended, and K.C.C.

436 21A.06.1082 are hereby amended to read as follows:

437 Shoreline: ((~~those lands defined as shorelines of the state in the Shorelines~~  
438 ~~Management Act of 1971, chapter 90.58 RCW.)) all of the water areas of the state,  
439 including reservoirs, and their associated shorelands, together with the lands underlying  
440 them; except:~~

441 A. Shorelines of statewide significance;

442 B. Shorelines on segments of streams upstream of a point where the mean annual  
443 flow is twenty cubic feet per second or less and the wetlands associated with such  
444 upstream segments; and

445 C. Shorelines on lakes less than twenty acres in size and wetlands associated with  
446 such small lakes.

447            SECTION 15. Ordinance 16985, Section 92, as amended, and K.C.C.

448    21A.06.1082B are hereby amended to read as follows:

449            Shoreline jurisdiction: all shorelines of the state, including shorelines, shorelines  
450 of statewide significance, ((and)) shorelands ((in unincorporated King County.)) and the  
451 one-hundred-year floodplain.

452            SECTION 16. Ordinance 3688, Section 248, as amended, and K.C.C.

453    21A.06.1082D are hereby amended to read as follows:

454            Shoreline variance: an adjustment in the application of the regulations of the  
455 shoreline management master program consistent with WAC ((173-14)) 173-27-170 and  
456 K.C.C. 21A.44.090.

457            SECTION 17. Ordinance 3688, Section 246, as amended, and K.C.C.

458    21A.06.1083, are hereby repealed.

459            NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 21A.06  
460 a new section to read as follows:

461            Shorelines of the state: the total of all shorelines and shorelines of statewide  
462 significance, including the one hundred year floodplain.

463            SECTION 19. Ordinance 3688, Section 249, as amended, and K.C.C.

464    21A.06.1083A are hereby amended to read as follows:

465            Shorelines of statewide significance: those shorelines described in RCW  
466 ((90.58.030(2)(e))) 90.58.030(2)(f) that are within the unincorporated portion of King  
467 County.

468            SECTION 20. Ordinance 3688, Section 255, as amended, and K.C.C.

469    21A.06.1268 are hereby amended to read as follows:

470 Substantial development: any development that requires a shoreline  
471 ~~((management))~~ substantial development permit, as defined in ~~((RCW 90.58.030(3)(e)))~~  
472 WAC 173-27-040.

473 SECTION 21. Ordinance 10870, Section 323, as amended, and K.C.C.  
474 21A.06.1391 are hereby amended to read as follows:

475 Wetland:

476 A. ~~((a))~~ An area that is ~~((not an aquatic area and that is))~~ inundated or saturated by  
477 ground or surface water at a frequency and duration sufficient to support, and under  
478 normal circumstances does support~~((s))~~, a prevalence of vegetation typically adapted for  
479 life in saturated soil conditions. ~~((For purposes of this definition:~~

480 ~~A.))~~ B. Wetlands ~~((shall be delineated using the wetland delineation manual~~  
481 ~~required by RCW 36.70A.175; and~~

482 ~~B. Except for artificial features intentionally made for the purpose of mitigation,~~  
483 ~~"wetland" does not include an artificial feature made from a nonwetland area, which may~~  
484 ~~include, but is not limited to:))~~ generally include swamps, marshes, bogs and similar  
485 areas. Wetlands may include those artificial wetlands intentionally created from  
486 nonwetland areas created to mitigate conversion of wetlands.

487 C. Wetlands do not include those artificially created wetlands intentionally  
488 created from nonwetland sites, including, but not limited to:

- 489 1. ~~((A-s))~~ Surface water conveyances for drainage or irrigation;
- 490 2. ~~((A-g))~~ Grass-lined swales;
- 491 3. ~~((A-e))~~ Canals;
- 492 4. ~~((A-d))~~ Detention facilities such as flow control ~~((facility))~~ facilities or

493 wetponds;

494 5. ~~((A-w))~~ Wastewater treatment ~~((facility))~~ facilities;

495 6. ~~((A-f))~~ Farm ponds;

496 7. ~~((A-wetpond;~~

497 &)) Landscape amenities; or

498 9. ~~((A))~~ Those wetlands created after July 1, 1990, that ~~((was))~~ were

499 unintentionally ~~((made))~~ created as a result of the construction of a road, street or

500 highway.

501 SECTION 22. Ordinance 10870, Section 319, as amended, and K.C.C.

502 21A.06.1395 are hereby amended to read as follows:

503 Wetland edge: the line delineating the outer edge of a wetland, consistent with

504 the wetland delineation manual required by ~~((RCW 36.70A.175))~~ RCW 90.58.380.

505 SECTION 23. Ordinance 15051, Section 137, as amended, and K.C.C.

506 21A.24.045 are hereby amended to read as follows:

507 A. Within the following seven critical areas and their buffers all alterations are

508 allowed if the alteration complies with the development standards, impact avoidance and

509 mitigation requirements and other applicable requirements established in this chapter:

510 1. Critical aquifer recharge area;

511 2. Coal mine hazard area;

512 3. Erosion hazard area;

513 4. Flood hazard area except in the severe channel migration hazard area;

514 5. Landslide hazard area under forty percent slope;

515 6. Seismic hazard area; and

516 7. Volcanic hazard areas.

517 B. Within the following seven critical areas and their buffers, unless allowed as  
 518 an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in  
 519 subsection C. of this section are allowed if the alteration complies with conditions in  
 520 subsection D. of this section and the development standards, impact avoidance and  
 521 mitigation requirements and other applicable requirements established in this chapter:

- 522 1. Severe channel migration hazard area;
- 523 2. Landslide hazard area over forty percent slope;
- 524 3. Steep slope hazard area;
- 525 4. Wetland;
- 526 5. Aquatic area;
- 527 6. Wildlife habitat conservation area; and
- 528 7. Wildlife habitat network.

529 C. In the following table where an activity is included in more than one activity  
 530 category, the numbered conditions applicable to the most specific description of the  
 531 activity governs. Where more than one numbered condition appears for a listed activity,  
 532 each of the relevant conditions specified for that activity within the given critical area  
 533 applies. For alterations involving more than one critical area, compliance with the  
 534 conditions applicable to each critical area is required.

A= alteration is allowed Numbers indicate applicable development condition in subsection D. of this section	Landslide Hazard Over 40% and Buffer	Steep Slope Hazard and Buffer	Wetland and Buffer	Aquatic Area and Buffer and Severe Channel Migration	Wildlife Habitat Conservation Area and Wildlife Habitat Network
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Ordinance 19034

<b>Structures</b>					
Construction of new single detached dwelling unit			A 1	A 2	
Construction of a new tree-supported structure			A 64	A 64	A 64
Construction of nonresidential structure			A 3	A 3	A 3, 4
Maintenance or repair of existing structure	A 5	A	A	A	A 4
Expansion or replacement of existing structure	A 5, 7	A 5, 7	A 7, 8	A 6, 7, 8	A 4, 7
Interior remodeling	A	A	A	A	A
Construction of new dock or pier			A 9	A 9, 10, 11	
Maintenance, repair or replacement of dock or pier			A 12	A 10, 11	A 4
<b>Grading</b>					
Grading		A 13		A 14	A 4, 14
Construction of new slope stabilization	A 15	A 15	A 15	A 15	A 4, 15
Maintenance of existing slope stabilization	A 16	A 13	A 17	A 16, 17	A 4
Mineral extraction	A	A			
<b>Clearing</b>					
Clearing	A 18	A 18	A 18, 20	A 14, 18, 20	A 4, 14, 18, 20
Cutting firewood		A 21	A 21	A 21	A 4, 21
Vegetation management	A 19	A 19	A 19	A 19	A 4, 19
Removal of vegetation for fire safety	A 22	A 22	A 22	A 22	A 4, 22
Removal of noxious weeds or invasive vegetation	A 23	A 23	A 23	A 23	A 4, 23
<b>Forest Practices</b>					
Forest management activity	A	A	A	A	A 25
<b>Roads</b>					
Construction of new public road right-of-way structure on unimproved right-of-way			A 26	A 26	
Construction of new road in a plat			A 26	A 26	
Maintenance of public road right-of-way	A 16	A 16	A 16	A 16	A 16, 27

Ordinance 19034

structure					
Expansion beyond public road right-of-way structure	A	A	A 26	A 26	
Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16, 27
Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29
Maintenance of driveway, private access road, farm field access drive or parking lot	A	A	A 17	A 17	A 17, 27
Construction of a bridge or culvert as part of a driveway or private access road	A 39	A 39	A 39	A 39	A 39
<b>Bridges or culverts</b>					
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 27
Construction of a new bridge	A 16, 39	A 16, 39	A 16, 39	A 16, 39	A 4, 16, 39
Replacement of bridge or culvert	A 16	A 16	A 16	A 16, 30	A 16, 27
Expansion of bridge or culvert	A 16, 17	A 16, 17	A 16, 17, 31	A 17, 31	A 4
<b>Utilities and other infrastructure</b>					
Construction of new utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34	A 32, 34	A 27, 32, 35
Construction or maintenance of a hydroelectric generating facility	A 67	A 67	A 66	A 66	A 4, 66
Construction of a new residential utility service distribution line	A 32, 33	A 32, 33	A 32, 60	A 32, 60	A 27, 32, 60
Maintenance, repair or replacement of utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34, 36	A 32, 34, 36	A 4, 32, 37
Construction of a new on-site sewage disposal system or well	A 24	A 24	A 63	A 63	
Maintenance or repair of existing well	A 37	A 37	A 37	A 37	A 4, 37
Maintenance or repair of on-site sewage disposal system	A	A	A	A 37	A 4
Construction of new surface water conveyance system	A 32, 33	A 32, 33	A 32, 38	A 32, 38	A 4

Ordinance 19034

Construction, maintenance or repair of in-water heat exchanger			A 68	A 68	
Maintenance, repair or replacement of existing surface water conveyance system	A 33	A 33	A 16, 32, 38	A 16, 40, 41	A 4, 37
Construction of new surface water flow control or surface water quality treatment facility			A 32	A 32	A 4, 32
Maintenance or repair of existing surface water flow control or surface water quality treatment facility	A 16	A 16	A 16	A 16	A 4
Construction of new flood protection facility			A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Flood risk reduction gravel removal	A 61	A 61	A 61	A 61	A 61
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing instream structure	A 16	A	A	A	A 4
<b>Recreation</b>					
Construction of new trail	A 46	A 46	A 47	A 47	A 4, 47
Maintenance of outdoor public park facility, trail or publicly improved recreation area	A 48	A 48	A 48	A 48	A 4, 48
<b>Habitat, education and science projects</b>					
Habitat restoration or enhancement project	A 49	A 49	A 49	A 49	A 4, 49
Scientific sampling for salmonids			A 50	A 50	A 50
Drilling and testing for critical areas report	A 51	A 51	A 51, 52	A 51, 52	A 4
Environmental education project	A 62	A 62	A 62	A 62	A 62
<b>Agriculture</b>					
Horticulture activity including tilling,	A 53	A 53	A 53, 54	A 53, 54	A 53, 54

discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity					
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of a commercial fish farm			A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of livestock manure storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction of a livestock heavy use area			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of a farm pad			A 56	A 56	
Construction of agricultural drainage			A 57	A 57	A 4, 57
Maintenance or replacement of agricultural drainage	A 23, 58	A 23, 58	A 23, 53, 54, 58	A 23, 53, 54, 58	A 4, 23, 53, 54, 58
Maintenance of agricultural waterway			A 69	A 69	
Construction or maintenance of farm pond, fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
<b>Other</b>					
Shoreline water dependent or shoreline water oriented use				A 65	
Excavation of cemetery graves in established and approved cemetery	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A
Maintenance of lawn, landscaping or garden for personal consumption	A 59	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	A 17	A 17	A 17	A 4, 17

535 D. The following alteration conditions apply:

536 1. Limited to farm residences in grazed or tilled wet meadows and subject to the  
 537 limitations of subsection D.3. of this section.

538 2. Only allowed in a buffer of a lake that is twenty acres or larger on a lot that

539 was created before January 1, 2005, if:

540           a. at least seventy-five percent of the lots abutting the shoreline of the lake or  
541 seventy-five percent of the lake frontage, whichever constitutes the most developable  
542 lake frontage, has existing density of four dwelling units per acre or more;

543           b. the development proposal, including mitigation required by this chapter, will  
544 have the least adverse impact on the critical area;

545           c. existing native vegetation within the critical area buffer will remain  
546 undisturbed except as necessary to accommodate the development proposal and required  
547 building setbacks;

548           d. access is located to have the least adverse impact on the critical area and  
549 critical area buffer;

550           e. the site alteration is the minimum necessary to accommodate the  
551 development proposal and in no case in excess of five thousand square feet;

552           f. the alteration is no closer than:

553               (1) on a site with a shoreline environment designation of high intensity or  
554 residential, the greater of twenty-five feet or the average of the setbacks on adjacent lots  
555 on either side of the subject property, as measured from the ordinary high water mark of  
556 the lake shoreline;

557               (2) on a site with a shoreline environment designation of rural, conservancy,  
558 resource or forestry, the greater of fifty feet or the average of the setbacks on adjacent  
559 lots on either side of the subject property, as measured from the ordinary high water mark  
560 ((the lake shoreline)); and

561               (3) on a site with a shoreline environment designation of natural, the greater

562 of one hundred feet or the average of the setbacks on adjacent lots on either side of the  
563 subject property, as measured from the ordinary high water mark; and

564 g. to the maximum extent practical, alterations are mitigated on the  
565 development proposal site by enhancing or restoring remaining critical area buffers.

566 3. Limited to nonresidential farm-structures in grazed or tilled wet meadows or  
567 buffers of wetlands or aquatic areas where:

568 a. the site is predominantly used for the practice of agriculture;

569 b. the structure is in compliance with an approved farm management plan in  
570 accordance with K.C.C. 21A.24.051;

571 c. the structure is either:

572 (1) on or adjacent to existing nonresidential impervious surface areas,  
573 additional impervious surface area is not created waterward of any existing impervious  
574 surface areas and the area was not used for crop production;

575 (2) higher in elevation and no closer to the critical area than its existing  
576 position; or

577 (3) at a location away from existing impervious surface areas that is  
578 determined to be the optimum site in the farm management plan;

579 d. all best management practices associated with the structure specified in the  
580 farm management plan are installed and maintained;

581 e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not  
582 require the development of a farm management plan if required best management  
583 practices are followed and the installation does not require clearing of critical areas or  
584 their buffers; and

585 f. in a severe channel migration hazard area portion of an aquatic buffer only

586 if:

587 (1) there is no feasible alternative location on-site;

588 (2) the structure is located where it is least subject to risk from channel

589 migration;

590 (3) the structure is not used to house animals or store hazardous substances;

591 and

592 (4) the total footprint of all accessory structures within the severe channel

593 migration hazard area will not exceed the greater of one thousand square feet or two

594 percent of the severe channel migration hazard area on the site.

595 4. No clearing, external construction or other disturbance in a wildlife habitat

596 conservation area is allowed during breeding seasons established under K.C.C.

597 21A.24.382.

598 5. Allowed for structures when:

599 a. the landslide hazard poses little or no risk of injury;

600 b. the risk of landsliding is low; and

601 c. there is not an expansion of the structure.

602 6. Within a severe channel migration hazard area allowed for:

603 a. existing legally established primary structures if:

604 (1) there is not an increase of the footprint of any existing structure; and

605 (2) there is not a substantial improvement as defined in K.C.C. 21A.06.1270;

606 and

607 b. existing legally established accessory structures if:

608 (1) additions to the footprint will not make the total footprint of all existing  
609 structures more than one-thousand square feet; and

610 (2) there is not an expansion of the footprint towards any source of channel  
611 migration hazard, unless the applicant demonstrates that the location is less subject to risk  
612 and has less impact on the critical area.

613 7. Allowed only in grazed wet meadows or the buffer or building setback  
614 outside a severe channel migration hazard area if:

615 a. the expansion or replacement does not increase the footprint of a  
616 nonresidential structure;

617 b.(1) for a legally established dwelling unit, the expansion or replacement,  
618 including any expansion of a legally established accessory structure allowed under this  
619 subsection B.7.b., does not increase the footprint of the dwelling unit and all other  
620 structures by more than one thousand square feet, not including any expansion of a  
621 drainfield made necessary by the expansion of the dwelling unit. To the maximum extent  
622 practical, the replacement or expansion of a drainfield in the buffer should be located  
623 within areas of existing lawn or landscaping, unless another location will have a lesser  
624 impact on the critical area and its buffer;

625 (2) for a structure accessory to a dwelling unit, the expansion or replacement  
626 is located on or adjacent to existing impervious surface areas and does not result in a  
627 cumulative increase in the footprint of the accessory structure and the dwelling unit by  
628 more than one thousand square feet;

629 (3) the location of the expansion has the least adverse impact on the critical  
630 area; and

631 (4) a comparable area of degraded buffer area shall be enhanced through  
632 removal of nonnative plants and replacement with native vegetation in accordance with  
633 an approved landscaping plan;

634 c. the structure was not established as the result of an alteration exception,  
635 variance, buffer averaging or reasonable use exception;

636 d. to the maximum extent practical, the expansion or replacement is not  
637 located closer to the critical area or within the relic of a channel that can be connected to  
638 an aquatic area; and

639 e. The expansion of a residential structure in the buffer of a Type S aquatic  
640 area that extends towards the ordinary high water mark requires a shoreline variance if:

641 (1) the expansion is within thirty-five feet of the ordinary high water mark; or

642 (2) the expansion is between thirty-five and fifty feet of the ordinary high  
643 water mark and the area of the expansion extending towards the ordinary high water mark  
644 is greater than three hundred square feet.

645 8. Allowed upon another portion of an existing impervious surface outside a  
646 severe channel migration hazard area if:

647 a. except as otherwise allowed under subsection D.7. of this section, the  
648 structure is not located closer to the critical area;

649 b. except as otherwise allowed under subsection D.7. of this section, the  
650 existing impervious surface within the critical area or buffer is not expanded; and

651 c. the degraded buffer area is enhanced through removal of nonnative plants  
652 and replacement with native vegetation in accordance with an approved landscaping plan.

653 9. Limited to piers or seasonal floating docks in a category II, III or IV wetland

654 or its buffer or along a lake shoreline or its buffer where:

655           a. the vegetation where the alteration is proposed does not consist of dominant  
656 native wetland herbaceous or woody vegetation six feet in width or greater and the lack  
657 of this vegetation is not the result of any violation of law;

658           b. the wetland or lake shoreline is not a salmonid spawning area;

659           c. hazardous substances or toxic materials are not used; and

660           d. if located in a freshwater lake, the pier or dock conforms to the standards for  
661 docks under K.C.C. 21A.25.180.

662           10. Allowed on type N or O aquatic areas if hazardous substances or toxic  
663 materials are not used.

664           11. Allowed on type S or F aquatic areas outside of the severe channel  
665 migration hazard area if in compliance with K.C.C. 21A.25.180.

666           12. When located on a lake, must be in compliance with K.C.C. 21A.25.180.

667           13. Limited to regrading and stabilizing of a slope formed as a result of a legal  
668 grading activity.

669           14. The following are allowed in the severe channel migration hazard area if  
670 conducted more than one hundred sixty-five feet from the ordinary high water mark in  
671 the rural area and natural resource lands and one-hundred fifteen feet from the ordinary  
672 high water mark in the urban area:

673           a. grading of up to fifty cubic yards on lot less than five acres; and

674           b. clearing of up to one-thousand square feet or up to a cumulative thirty-five  
675 percent of the severe channel migration hazard area.

676           15. Only where erosion or landsliding threatens a structure, utility facility,

677 roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent  
678 practical, stabilization work does not disturb the slope and its vegetative cover and any  
679 associated critical areas.

680           16. Allowed when performed by, at the direction of or authorized by a  
681 government agency in accordance with regional road maintenance guidelines.

682           17. Allowed when not performed under the direction of a government agency  
683 only if:

684           a. the maintenance or expansion does not involve the use of herbicides,  
685 hazardous substances, sealants or other liquid oily substances in aquatic areas, wetlands  
686 or their buffers; and

687           b. when maintenance, expansion or replacement of bridges or culverts involves  
688 water used by salmonids:

689           (1) the work is in compliance with ditch standards in public rule; and

690           (2) the maintenance of culverts is limited to removal of sediment and debris  
691 from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or  
692 damaged bank or channel immediately adjacent to the culvert and shall not involve the  
693 excavation of a new sediment trap adjacent to the inlet.

694           18. Allowed for the removal of hazard trees and vegetation as necessary for  
695 surveying or testing purposes.

696           19. The limited trimming, pruning or removal of vegetation under a vegetation  
697 management plan approved by the department:

698           a. in steep slope and landslide hazard areas, for the making and maintenance of  
699 view corridors; and

700           b. in all critical areas for habitat enhancement, invasive species control or  
701 forest management activities.

702           20. Harvesting of plants and plant materials, such as plugs, stakes, seeds or  
703 fruits, for restoration and enhancement projects is allowed.

704           21. Cutting of firewood is subject to the following:

705           a. within a wildlife habitat conservation area, cutting firewood is not allowed;

706           b. within a wildlife network, cutting shall be in accordance with a management  
707 plan approved under K.C.C. 21A.24.386; and

708           c. within a critical area buffer, cutting shall be for personal use and in  
709 accordance with an approved forest management plan or rural stewardship plan.

710           22. Allowed only in buffers if in accordance with best management practices  
711 approved by the King County fire marshal.

712           23. Allowed as follows:

713           a. if conducted in accordance with an approved forest management plan, farm  
714 management plan or rural stewardship plan; or

715           b. without an approved forest management plan, farm management plan or  
716 rural stewardship plan, only if:

717           (1) removal is undertaken with hand labor, including hand-held mechanical  
718 tools, unless the King County noxious weed control board otherwise prescribes the use of  
719 riding mowers, light mechanical cultivating equipment or herbicides or biological control  
720 methods;

721           (2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;

722           (3) the cleared area is revegetated with native vegetation and stabilized

723 against erosion; and

724 (4) herbicide use is in accordance with federal and state law;

725 24. Allowed to repair or replace existing on site wastewater disposal systems in

726 accordance with the applicable public health standards within Marine Recovery Areas

727 adopted by the ((~~Seattle King County board of health~~)) Public Health - Seattle & King

728 County and:

729 a. there is no alternative location available with less impact on the critical area;

730 b. impacts to the critical area are minimized to the maximum extent

731 practicable;

732 c. the alterations will not subject the critical area to increased risk of landslide

733 or erosion;

734 d. vegetation removal is the minimum necessary to accommodate the septic

735 system; and

736 e. significant risk of personal injury is eliminated or minimized in the landslide

737 hazard area.

738 25. Only if in compliance with published Washington state Department of Fish

739 and Wildlife and Washington state Department of Natural Resources Management

740 standards for the species. If there are no published Washington state standards, only if in

741 compliance with management standards determined by the county to be consistent with

742 best available science.

743 26. Allowed only if:

744 a. there is not another feasible location with less adverse impact on the critical

745 area and its buffer;

746           b. the corridor is not located over habitat used for salmonid rearing or  
747 spawning or by a species listed as endangered or threatened by the state or federal  
748 government unless the department determines that there is no other feasible crossing site.

749           c. the corridor width is minimized to the maximum extent practical;

750           d. the construction occurs during approved periods for instream work;

751           e. the corridor will not change or diminish the overall aquatic area flow peaks,  
752 duration or volume or the flood storage capacity; and

753           f. no new public right-of-way is established within a severe channel migration  
754 hazard area.

755           27. To the maximum extent practical, during breeding season established under  
756 K.C.C. 21A.24.382, land clearing machinery such as bulldozers, graders or other heavy  
757 equipment are not operated within a wildlife habitat conservation area.

758           28. Allowed only if:

759           a. an alternative access is not available;

760           b. impact to the critical area is minimized to the maximum extent practical  
761 including the use of walls to limit the amount of cut and fill necessary;

762           c. the risk associated with landslide and erosion is minimized;

763           d. access is located where it is least subject to risk from channel migration; and

764           e. construction occurs during approved periods for instream work.

765           29. Only if in compliance with a farm management plan in accordance with  
766 K.C.C. 21A.24.051.

767           30. Allowed only if:

768           a. the new construction or replacement is made fish passable in accordance

769 with the most recent Washington state Department of Fish and Wildlife manuals or with  
770 the National Marine and Fisheries Services guidelines for federally listed salmonid  
771 species; and

772           b. the site is restored with appropriate native vegetation.

773           31. Allowed if necessary to bring the bridge or culvert up to current standards  
774 and if:

775           a. there is not another feasible alternative available with less impact on the  
776 aquatic area and its buffer; and

777           b. to the maximum extent practical, the bridge or culvert is located to minimize  
778 impacts to the aquatic area and its buffers.

779           32. Allowed in an existing roadway if conducted consistent with the regional  
780 road maintenance guidelines.

781           33. Allowed outside the roadway if:

782           a. the alterations will not subject the critical area to an increased risk of  
783 landslide or erosion;

784           b. vegetation removal is the minimum necessary to locate the utility or  
785 construct the corridor; and

786           c. significant risk of personal injury is eliminated or minimized in the landslide  
787 hazard area.

788           34. Limited to the pipelines, cables, wires and support structures of utility  
789 facilities within utility corridors if:

790           a. there is no alternative location with less adverse impact on the critical area  
791 and critical area buffer;

792           b. new utility corridors meet the all of the following to the maximum extent  
793 practical:

794           (1) are not located over habitat used for salmonid rearing or spawning or by a  
795 species listed as endangered or threatened by the state or federal government unless the  
796 department determines that there is no other feasible crossing site;

797           (2) the mean annual flow rate is less than twenty cubic feet per second; and

798           (3) paralleling the channel or following a down-valley route near the channel  
799 is avoided;

800           c. to the maximum extent practical utility corridors are located so that:

801           (1) the width is the minimized;

802           (2) the removal of trees greater than twelve inches diameter at breast height is  
803 minimized;

804           (3) an additional, contiguous and undisturbed critical area buffer, equal in  
805 area to the disturbed critical area buffer area including any allowed maintenance roads, is  
806 provided to protect the critical area;

807           d. to the maximum extent practical, access for maintenance is at limited access  
808 points into the critical area buffer rather than by a parallel maintenance road. If a parallel  
809 maintenance road is necessary the following standards are met:

810           (1) to the maximum extent practical the width of the maintenance road is  
811 minimized and in no event greater than fifteen feet; and

812           (2) the location of the maintenance road is contiguous to the utility corridor  
813 on the side of the utility corridor farthest from the critical area;

814           e. the utility corridor or facility will not adversely impact the overall critical

815 area hydrology or diminish flood storage capacity;

816 f. the construction occurs during approved periods for instream work;

817 g. the utility corridor serves multiple purposes and properties to the maximum  
818 extent practical;

819 h. bridges or other construction techniques that do not disturb the critical areas  
820 are used to the maximum extent practical;

821 i. bored, drilled or other trenchless crossing is laterally constructed at least four  
822 feet below the maximum depth of scour for the base flood;

823 j. bridge piers or abutments for bridge crossing are not placed within the  
824 FEMA floodway or the ordinary high water mark;

825 k. open trenching is only used during low flow periods or only within aquatic  
826 areas when they are dry. The department may approve open trenching of type S or F  
827 aquatic areas only if there is not a feasible alternative and equivalent or greater  
828 environmental protection can be achieved; and

829 l. minor communication facilities may collocate on existing utility facilities if:

830 (1) no new transmission support structure is required; and

831 (2) equipment cabinets are located on the transmission support structure.

832 35. Allowed only for new utility facilities in existing utility corridors.

833 36. Allowed for onsite private individual utility service connections or private  
834 or public utilities if the disturbed area is not expanded and no hazardous substances,  
835 pesticides or fertilizers are applied.

836 37. Allowed if the disturbed area is not expanded, clearing is limited to the  
837 maximum extent practical and no hazardous substances, pesticides or fertilizers are

838 applied.

839 38. Allowed if:

840 a. conveying the surface water into the wetland or aquatic area buffer and  
841 discharging into the wetland or aquatic area buffer or at the wetland or aquatic area edge  
842 has less adverse impact upon the wetland or aquatic area or wetland or aquatic area buffer  
843 than if the surface water were discharged at the buffer's edge and allowed to naturally  
844 drain through the buffer;

845 b. the volume of discharge is minimized through application of low impact  
846 development and water quality measures identified in the King County Surface Water  
847 Design Manual;

848 c. the conveyance and outfall are installed with hand equipment where  
849 feasible;

850 d. the outfall shall include bioengineering techniques where feasible; and

851 e. the outfall is designed to minimize adverse impacts to critical areas.

852 39. Allowed only if:

853 a. there is no feasible alternative with less impact on the critical area and its  
854 buffer;

855 b. to the maximum extent practical, the bridge or culvert is located to minimize  
856 impacts to the critical area and its buffer;

857 c. the bridge or culvert is not located over habitat used for salmonid rearing or  
858 spawning unless there is no other feasible crossing site;

859 d. construction occurs during approved periods for in-stream work; and

860 e. bridge piers or abutments for bridge crossings are not placed within the

861 FEMA floodway, severe channel migration hazard area or waterward of the ordinary high  
862 water mark.

863 40. Allowed for an open, vegetated stormwater management conveyance system  
864 and outfall structure that simulates natural conditions if:

865 a. fish habitat features necessary for feeding, cover and reproduction are  
866 included when appropriate;

867 b. vegetation is maintained and added adjacent to all open channels and ponds,  
868 if necessary to prevent erosion, filter out sediments or shade the water; and

869 c. bioengineering techniques are used to the maximum extent practical.

870 41. Allowed for a closed, tightlined conveyance system and outfall structure if:

871 a. necessary to avoid erosion of slopes; and

872 b. bioengineering techniques are used to the maximum extent practical.

873 42. Allowed in a severe channel migration hazard area or an aquatic area buffer  
874 to prevent bank erosion only:

875 a. if consistent with the Integrated Streambank Protection Guidelines  
876 (Washington State Aquatic Habitat Guidelines Program, 2002) and if bioengineering  
877 techniques are used to the maximum extent practical, unless the applicant demonstrates  
878 that other methods provide equivalent structural stabilization and environmental function;

879 b. based on a critical areas report, the department determines that the new  
880 flood protection facility will not cause significant impacts to upstream or downstream  
881 properties; and

882 c. to prevent bank erosion for the protection of:

883 (1) public roadways;

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884 (2) sole access routes in existence before February 16, 1995;

885 (3) new primary dwelling units, accessory dwelling units or accessory living  
886 quarters and residential accessory structures located outside the severe channel migration  
887 hazard area if:

888 (a) the site is adjacent to or abutted by properties on both sides containing  
889 buildings or sole access routes protected by legal bank stabilization in existence before  
890 February 16, 1995. The buildings, sole access routes or bank stabilization must be  
891 located no more than six hundred feet apart as measured parallel to the migrating  
892 channel; and

893 (b) the new primary dwelling units, accessory dwelling units, accessory  
894 living quarters or residential accessory structures are located no closer to the aquatic area  
895 than existing primary dwelling units, accessory dwelling units, accessory living quarters  
896 or residential accessory structures on abutting or adjacent properties; or

897 (4) existing primary dwelling units, accessory dwelling units, accessory living  
898 quarters or residential accessory structures if:

899 (a) the structure was in existence before the adoption date of a King County  
900 Channel Migration Zone hazard map that applies to that channel, if such a map exists;

901 (b) the structure is in imminent danger, as determined by a geologist,  
902 engineering geologist or geotechnical engineer;

903 (c) the applicant has demonstrated that the existing structure is at risk, and  
904 the structure and supporting infrastructure cannot be relocated on the lot further from the  
905 source of channel migration; and

906 (d) nonstructural measures are not feasible.

- 907           43. Applies to lawfully established existing structures if:
- 908           a. the height of the facility is not increased, unless the facility is being replaced
- 909 in a new alignment that is landward of the previous alignment and enhances aquatic area
- 910 habitat and process;
- 911           b. the linear length of the facility is not increased, unless the facility is being
- 912 replaced in a new alignment that is landward of the previous alignment and enhances
- 913 aquatic area habitat and process;
- 914           c. the footprint of the facility is not expanded waterward;
- 915           d. consistent with the Integrated Streambank Protection Guidelines
- 916 (Washington State Aquatic Habitat Guidelines Program, 2002) and bioengineering
- 917 techniques are used to the maximum extent practical;
- 918           e. the site is restored with appropriate native vegetation and erosion protection
- 919 materials; and
- 920           f. based on a critical areas report, the department determines that the
- 921 maintenance, repair, replacement or construction will not cause significant impacts to
- 922 upstream or downstream properties.
- 923           44. Allowed in type N and O aquatic areas if done in least impacting way at
- 924 least impacting time of year, in conformance with applicable best management practices,
- 925 and all affected instream and buffer features are restored.
- 926           45. Allowed in a type S or F water when such work is:
- 927           a. included as part of a project to evaluate, restore or improve habitat, and
- 928           b. sponsored or cosponsored by a public agency that has natural resource
- 929 management as a function or by a federally recognized tribe.

930           46. Allowed as long as the trail is not constructed of impervious surfaces that  
931 will contribute to surface water run-off, unless the construction is necessary for soil  
932 stabilization or soil erosion prevention or unless the trail system is specifically designed  
933 and intended to be accessible to handicapped persons.

934           47. Not allowed in a wildlife habitat conservation area. Otherwise, allowed in  
935 the buffer or for crossing a category II, III or IV wetland or a type F, N or O aquatic area,  
936 if:

937           a. the trail surface is made of pervious materials, except that public  
938 multipurpose trails may be made of impervious materials if they meet all the  
939 requirements in K.C.C. chapter 9.12. A trail that crosses a wetland or aquatic area shall  
940 be constructed as a raised boardwalk or bridge;

941           b. to the maximum extent practical, buffers are expanded equal to the width of  
942 the trail corridor including disturbed areas;

943           c. there is not another feasible location with less adverse impact on the critical  
944 area and its buffer;

945           d. the trail is not located over habitat used for salmonid rearing or spawning or  
946 by a species listed as endangered or threatened by the state or federal government unless  
947 the department determines that there is no other feasible crossing site;

948           e. the trail width is minimized to the maximum extent practical;

949           f. the construction occurs during approved periods for instream work; and

950           g. the trail corridor will not change or diminish the overall aquatic area flow  
951 peaks, duration or volume or the flood storage capacity.

952           h. the trail may be located across a critical area buffer for access to a viewing

953 platform or to a permitted dock or pier;

954 i. A private viewing platform may be allowed if it is:

955 (1) located upland from the wetland edge or the ordinary high water mark of  
956 an aquatic area;

957 (2) located where it will not be detrimental to the functions of the wetland or  
958 aquatic area and will have the least adverse environmental impact on the critical area or  
959 its buffer;

960 (3) limited to fifty square feet in size;

961 (4) constructed of materials that are nontoxic; and

962 (5) on footings located outside of the wetland or aquatic area.

963 48. Only if the maintenance:

964 a. does not involve the use of herbicides or other hazardous substances except  
965 for the removal of noxious weeds or invasive vegetation;

966 b. when salmonids are present, the maintenance is in compliance with ditch  
967 standards in public rule; and

968 c. does not involve any expansion of the roadway, lawn, landscaping, ditch,  
969 culvert, engineered slope or other improved area being maintained.

970 49. Limited to alterations to restore habitat forming processes or directly restore  
971 habitat function and value, including access for construction, as follows:

972 a. projects sponsored or cosponsored by a public agency that has natural  
973 resource management as a primary function or by a federally recognized tribe;

974 b. restoration and enhancement plans prepared by a qualified biologist; or

975 c. conducted in accordance with an approved forest management plan, farm

976 management plan or rural stewardship plan.

977           50. Allowed in accordance with a scientific sampling permit issued by  
978 Washington state Department of Fish and Wildlife or an incidental take permit issued  
979 under Section 10 of the Endangered Species Act.

980           51. Allowed for the minimal clearing and grading, including site access,  
981 necessary to prepare critical area reports.

982           52. The following are allowed if associated spoils are contained:

983           a. data collection and research if carried out to the maximum extent practical  
984 by nonmechanical or hand-held equipment;

985           b. survey monument placement;

986           c. site exploration and gage installation if performed in accordance with state-  
987 approved sampling protocols and accomplished to the maximum extent practical by  
988 hand-held equipment and; or similar work associated with an incidental take permit  
989 issued under Section 10 of the Endangered Species Act or consultation under Section 7 of  
990 the Endangered Species Act.

991           53. Limited to activities in continuous existence since January 1, 2005, with no  
992 expansion within the critical area or critical area buffer. "Continuous existence" includes  
993 cyclical operations and managed periods of soil restoration, enhancement or other fallow  
994 states associated with these horticultural and agricultural activities.

995           54. Allowed for expansion of existing or new agricultural activities where:

996           a. the site is predominantly involved in the practice of agriculture;

997           b. there is no expansion into an area that:

998           (1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest

999 practice permit; or

1000 (2) is more than ten thousand square feet with tree cover at a uniform density  
1001 more than ninety trees per acre and with the predominant mainstream diameter of the  
1002 trees at least four inches diameter at breast height, not including areas that are actively  
1003 managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery  
1004 stock;

1005 c. the activities are in compliance with an approved farm management plan in  
1006 accordance with K.C.C. 21A.24.051; and

1007 d. all best management practices associated with the activities specified in the  
1008 farm management plan are installed and maintained.

1009 55. Only allowed in grazed or tilled wet meadows or their buffers if:

1010 a. the facilities are designed to the standards of an approved farm management  
1011 plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in  
1012 accordance with K.C.C. chapter 21A.30;

1013 b. there is not a feasible alternative location available on the site; and

1014 c. the facilities are located close to the outside edge of the buffer to the  
1015 maximum extent practical.

1016 56. Only allowed in:

1017 a.(1) a severe channel migration hazard area located outside of the shorelines  
1018 jurisdiction area((~~7~~));

1019 (2) grazed or tilled wet meadow or wet meadow buffer; or

1020 (3) aquatic area buffer; and only if:

1021 ((~~a~~)) b.(1) the applicant demonstrates that adverse impacts to the critical area

1022 and critical area buffers have been minimized;

1023            ~~((b.))~~ (2) there is not another feasible location available on the site that is  
1024 located outside of the critical area or critical area buffer;

1025            ~~((c.))~~ (3) the farm pad is designed to the standards in an approved farm  
1026 management plan in accordance with K.C.C. 21A.24.051; and

1027            ~~((d.))~~ (4) for proposals located in the severe channel migration hazard area,  
1028 the farm pad or livestock manure storage facility is located where it is least subject to risk  
1029 from channel migration.

1030            57. Allowed for new agricultural drainage in compliance with an approved farm  
1031 management plan in accordance with K.C.C. 21A.24.051 and all best management  
1032 practices associated with the activities specified in the farm management plan are  
1033 installed and maintained.

1034            58. If the agricultural drainage is used by salmonids, maintenance shall be in  
1035 compliance with an approved farm management plan in accordance with K.C.C.  
1036 21A.24.051.

1037            59. Allowed within existing landscaped areas or other previously disturbed  
1038 areas.

1039            60. Allowed for residential utility service distribution lines to residential  
1040 dwellings, including, but not limited to, well water conveyance, septic system  
1041 conveyance, water service, sewer service, natural gas, electrical, cable and telephone, if:

1042            a. there is no alternative location with less adverse impact on the critical area  
1043 or the critical area buffer;

1044            b. the residential utility service distribution lines meet the all of the following,

1045 to the maximum extent practical:

1046 (1) are not located over habitat used for salmonid rearing or spawning or by a  
1047 species listed as endangered or threatened by the state or federal government unless the  
1048 department determines that there is no other feasible crossing site;

1049 (2) not located over a type S aquatic area;

1050 (3) paralleling the channel or following a down-valley route near the channel  
1051 is avoided;

1052 (4) the width of clearing is minimized;

1053 (5) the removal of trees greater than twelve inches diameter at breast height is  
1054 minimized;

1055 (6) an additional, contiguous and undisturbed critical area buffer, equal in  
1056 area to the disturbed critical area buffer area is provided to protect the critical area;

1057 (7) access for maintenance is at limited access points into the critical area  
1058 buffer.

1059 (8) the construction occurs during approved periods for instream work;

1060 (9) bored, drilled or other trenchless crossing is encouraged, and shall be  
1061 laterally constructed at least four feet below the maximum depth of scour for the base  
1062 flood; and

1063 (10) open trenching across Type O or Type N aquatic areas is only used  
1064 during low flow periods or only within aquatic areas when they are dry.

1065 61. Allowed if sponsored or cosponsored by the countywide flood control zone  
1066 district and the department determines that the project and its location:

1067 a. is the best flood risk reduction alternative practicable;

- 1068           b. is part of a comprehensive, long-term flood management strategy;
- 1069           c. is consistent with the King County Flood Hazard Management Plan policies;
- 1070           d. will have the least adverse impact on the ecological functions of the critical
- 1071 area or its buffer, including habitat for fish and wildlife that are identified for protection
- 1072 in the King County Comprehensive Plan; and
- 1073           e. has been subject to public notice in accordance with K.C.C. 20.44.060.
- 1074           62.a. Not allowed in wildlife habitat conservation areas;
- 1075           b. Only allowed if:
- 1076               (1) the project is sponsored or cosponsored by a public agency whose primary
- 1077 function deals with natural resources management;
- 1078               (2) the project is located on public land or on land that is owned by a
- 1079 nonprofit agency whose primary function deals with natural resources management;
- 1080               (3) there is not a feasible alternative location available on the site with less
- 1081 impact to the critical area or its associated buffer;
- 1082               (4) the aquatic area or wetland is not for salmonid rearing or spawning;
- 1083               (5) the project minimizes the footprint of structures and the number of access
- 1084 points to any critical areas; and
- 1085               (6) the project meets the following design criteria:
- 1086                   (a) to the maximum extent practical size of platform shall not exceed one
- 1087 hundred square feet;
- 1088                   (b) all construction materials for any structures, including the platform,
- 1089 pilings, exterior and interior walls and roof, are constructed of nontoxic material, such as
- 1090 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,

1091 fiberglass or cured concrete that the department determines will not have an adverse  
1092 impact on water quality;

1093 (c) the exterior of any structures are sufficiently camouflaged using netting  
1094 or equivalent to avoid any visual deterrent for wildlife species to the maximum extent  
1095 practical. The camouflage shall be maintained to retain concealment effectiveness;

1096 (d) structures shall be located outside of the wetland or aquatic area  
1097 landward of the Ordinary High Water Mark or open water component (if applicable) to  
1098 the maximum extent practical on the site;

1099 (e) construction occurs during approved periods for work inside the  
1100 Ordinary High Water Mark;

1101 (f) construction associated with bird blinds shall not occur from March 1  
1102 through August 31, in order to avoid disturbance to birds during the breeding, nesting and  
1103 rearing seasons;

1104 (g) to the maximum extent practical, provide accessibility for persons with  
1105 physical disabilities in accordance with the International Building Code;

1106 (h) trail access is designed in accordance with public rules adopted by the  
1107 department;

1108 (i) existing native vegetation within the critical area will remain undisturbed  
1109 except as necessary to accommodate the proposal. Only minimal hand clearing of  
1110 vegetation is allowed; and

1111 (j) disturbed bare ground areas around the structure must be replanted with  
1112 native vegetation approved by the department.

1113 63. Not allowed in the severe channel migration zone, there is no alternative

1114 location with less adverse impact on the critical area and buffer and clearing is minimized  
1115 to the maximum extent practical.

1116           64. Only structures wholly or partially supported by a tree and used as accessory  
1117 living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the  
1118 following:

1119           a. not allowed in wildlife habitat conservation areas or severe channel  
1120 migration hazard areas;

1121           b. the structure's floor area shall not exceed two hundred square feet, excluding  
1122 a narrow access stairway or landing leading to the structure;

1123           c. the structure shall be located as far from the critical area as practical, but in  
1124 no case closer than seventy-five feet from the critical area;

1125           d. only one tree-supported structure within a critical area buffer is allowed on a  
1126 lot;

1127           e. all construction materials for the structure, including the platform, pilings,  
1128 exterior and interior walls and roof, shall be constructed of nontoxic material, such as  
1129 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,  
1130 fiberglass or cured concrete that the department determines will not have an adverse  
1131 impact on water quality;

1132           f. to the maximum extent practical, the exterior of the structure shall be  
1133 camouflaged with natural wood and earth tone colors to limit visual impacts to wildlife  
1134 and visibility from the critical area. The camouflage shall be maintained to retain  
1135 concealment effectiveness;

1136           g. the structure must not adversely impact the long-term health and viability of

1137 the tree. The evaluation shall include, but not be limited to, the following:

1138 (1) the quantity of supporting anchors and connection points to attach the tree  
1139 house to the tree shall be the minimum necessary to adequately support the structure;

1140 (2) the attachments shall be constructed using the best available tree anchor  
1141 bolt technology; and

1142 (3) an ISA Certified Arborist shall evaluate the tree proposed for placement  
1143 of the tree house and shall submit a report discussing how the tree's long-term health and  
1144 viability will not be negatively impacted by the tree house or associated infrastructure;

1145 h. exterior lighting shall meet the following criteria:

1146 (1) limited to the minimum quantity of lights necessary to meet the building  
1147 code requirements to allow for safe exiting of the structure and stairway; and

1148 (2) exterior lights shall be fully shielded and shall direct light downward, in  
1149 an attempt to minimize impacts to the nighttime environment;

1150 i. unless otherwise approved by the department, all external construction shall  
1151 be limited to September 1 through March 1 in order to avoid disturbance to wildlife  
1152 species during typical breeding, nesting and rearing seasons;

1153 j. trail access to the structure shall be designed in accordance with trail  
1154 standards under subsection D.47. of this section;

1155 k. to the maximum extent practical, existing native vegetation shall be left  
1156 undisturbed. Only minimal hand clearing of vegetation is allowed; and

1157 l. vegetated areas within the critical area buffer that are temporarily impacted  
1158 by construction of the structure shall be restored by planting native vegetation according  
1159 to a vegetation management plan approved by the department.

1160           65. Shoreline water dependent and shoreline water oriented uses are allowed in  
1161 the aquatic area and aquatic area buffer of a Type S aquatic area if consistent with K.C.C.  
1162 chapter 21A.25, chapter 90.58 RCW and the King County Comprehensive Plan.

1163           66. Only hydroelectric generating facilities meeting the requirements of K.C.C.  
1164 21A.08.100B.14., and only as follows:

1165           a. there is not another feasible location within the aquatic area with less adverse  
1166 impact on the critical area and its buffer;

1167           b. the facility and corridor is not located over habitat used for salmonid rearing  
1168 or spawning or by a species listed as endangered or threatened by the state or federal  
1169 government unless the department determines that there is no other feasible location;

1170           c. the facility is not located in Category I wetlands or Category II wetlands with  
1171 a habitat score (~~(≥8)~~) of 8 points or greater;

1172           d. the corridor width is minimized to the maximum extent practical;

1173           e. paralleling the channel or following a down-valley route within an aquatic  
1174 area buffer is avoided to the maximum extent practical;

1175           f. the construction occurs during approved periods for instream work;

1176           g. the facility and corridor will not change or adversely impact the overall  
1177 aquatic area flow peaks, duration or volume or the flood storage capacity;

1178           h. the facility and corridor is not located within a severe channel migration  
1179 hazard area;

1180           i. to the maximum extent practical, buildings will be located outside the buffer  
1181 and away from the aquatic area or wetland;

1182           j. to the maximum extent practical, access for maintenance is at limited access

1183 points into the critical area buffer rather than by a parallel maintenance road. If a parallel  
1184 maintenance road is necessary the following standards are met:

1185 (1) to the maximum extent practical the width of the maintenance road is  
1186 minimized and in no event greater than fifteen feet; and

1187 (2) the location of the maintenance road is contiguous to the utility corridor  
1188 on the side of the utility corridor farthest from the critical area;

1189 k. the facility does not pose an unreasonable threat to the public health, safety  
1190 or welfare on or off the development proposal site and is consistent with the general  
1191 purposes of this chapter and the public interest; and

1192 l. the facility connects to or is an alteration to a public roadway, public trail, a  
1193 utility corridor or utility facility or other infrastructure owned or operated by a public  
1194 utility.

1195 67. Only hydroelectric generating facilities meeting the requirements of K.C.C.  
1196 21A.08.100.B.14, and only as follows:

1197 a. there is not another feasible location with less adverse impact on the critical  
1198 area and its buffer;

1199 b. the alterations will not subject the critical area to an increased risk of  
1200 landslide or erosion;

1201 c. the corridor width is minimized to the maximum extent practical;

1202 d. vegetation removal is the minimum necessary to locate the utility or  
1203 construct the corridor;

1204 e. the facility and corridor do not pose an unreasonable threat to the public  
1205 health, safety or welfare on or off the development proposal site and is consistent with the

1206 general purposes of this chapter, and the public interest and significant risk of personal  
1207 injury is eliminated or minimized in the landslide hazard area; and

1208           f. the facility connects to or is an alteration to a public roadway, public trail, a  
1209 utility corridor or utility facility or other infrastructure owned or operated by a public  
1210 utility.

1211           68. Only for a single detached dwelling unit on a lake twenty acres or larger  
1212 and only as follows:

1213           a. the heat exchanger must be a closed loop system that does not draw water  
1214 from or discharge to the lake;

1215           b. the lake bed shall not be disturbed, except as required by the county or a  
1216 state or federal agency to mitigate for impacts of the heat exchanger;

1217           c. the in-water portion of system is only allowed where water depth exceeds  
1218 six feet; and

1219           d. system structural support for the heat exchanger piping shall be attached to  
1220 an existing dock or pier or be attached to a new structure that meets the requirements of  
1221 K.C.C. 21A.25.180.

1222           69. Only for maintenance of agricultural waterways if:

1223           a. the purpose of the maintenance project is to improve agricultural production  
1224 on a site predominately engaged in the practice of agriculture;

1225           b. the maintenance project is conducted in compliance with a hydraulic project  
1226 approval issued by the Washington state Department of Fish and Wildlife pursuant to  
1227 chapter 77.55 RCW;

1228           c. the maintenance project complies with the King County agricultural

1229 drainage assistance program as agreed to by the Washington state Department of Fish and  
1230 Wildlife, the department of local services, permitting division, and the department of  
1231 natural resources and parks, and as reviewed by the Washington state Department of  
1232 Ecology;

1233 d. the person performing the maintenance and the land owner have attended  
1234 training provided by King County on the King County agricultural drainage assistance  
1235 program and the best management practices required under that program; and

1236 e. the maintenance project complies with K.C.C. chapter 16.82.

1237 SECTION 24. Ordinance 15051, Section 139, as amended, and K.C.C.  
1238 21A.24.055 are hereby amended to read as follows:

1239 A. On a site zoned RA, the department may approve a modification of the  
1240 minimum buffer widths for aquatic areas, wetlands and wildlife habitat conservation  
1241 areas and maximum clearing restrictions through a rural stewardship plan for single  
1242 family detached residential development in accordance with this section.

1243 B. The property owner or applicant shall develop the rural stewardship plan as  
1244 part of a rural stewardship program offered or approved by King County and has the  
1245 option of incorporating appropriate components of a county-approved farm management  
1246 or a county-approved forest stewardship plan.

1247 C. In its evaluation of any proposed modification of the minimum buffer widths  
1248 for aquatic areas, wetlands and wildlife habitat conservation areas and maximum clearing  
1249 restrictions, the department shall consider the following factors:

1250 1. The existing condition of the drainage basin or marine shoreline as designated  
1251 on the Basin and Shoreline Conditions Map;

- 1252           2. The existing condition of wetland and aquatic area buffers;
- 1253           3. The existing condition of wetland functions based on the adopted Washington
- 1254 State Wetland Rating System for Western Washington, Washington state
- 1255 ~~((d))Department of ((e))Ecology publication number ((04-06-025, published August~~
- 1256 ~~2004)) 14-06-029, published October 2014;~~
- 1257           4. The location of the site in the drainage basin;
- 1258           5. The percentage of impervious surfaces and clearing on the site; and
- 1259           6. Any existing development on the site that was approved as a result of a
- 1260 variance or alteration exception that allowed development within a critical area or critical
- 1261 area buffer. If the existing development was approved through a variance or alteration
- 1262 exception, the rural stewardship plan shall demonstrate that the plan will result in
- 1263 enhancing the functions and values of critical areas located on the site as if the
- 1264 development approved through the variance or alteration exception had not occurred.
- 1265           D. A rural stewardship plan does not modify the requirement for permits for
- 1266 activities covered by the rural stewardship plan.
- 1267           E. Modifications of critical area buffers shall be based on the following
- 1268 prioritized goals:
- 1269           1. To the maximum extent practical, to avoid impacts to critical areas and, if
- 1270 applicable, to the shoreline jurisdiction;
- 1271           2. To avoid impacts to the higher quality wetland or aquatic area or the more
- 1272 protected fish or wildlife species, if there is a potential to affect more than one category
- 1273 of wetland or aquatic area or more than one species of native fish or wildlife;
- 1274           3. To maintain or enhance the natural hydrologic systems on the site to the

1275 maximum extent practical;

1276 4. To maintain, restore or enhance native vegetation;

1277 5. To maintain, restore or enhance the function and value of critical areas or  
1278 critical area buffers located on the site;

1279 6. To minimize habitat fragmentation and enhance corridors between wetlands,  
1280 riparian corridors, wildlife habitat conservation areas and other priority habitats;

1281 7. To minimize the impacts of development over time by implementing best  
1282 management practices and meeting performance standards during the life of the  
1283 development; and

1284 8. To monitor the effectiveness of the stewardship practices and implement  
1285 additional practices through adaptive management to maintain, restore or enhance critical  
1286 area functions when necessary.

1287 F. If a part or all of the site is located within the shoreline jurisdiction, the rural  
1288 stewardship plan shall:

1289 1. Consider and be consistent with the goals of the Shoreline Management Act  
1290 and the policies of the King County Shoreline Master Program;

1291 2. Consider the priorities of the King County Shoreline Protection and  
1292 Restoration Plan; and

1293 3. Ensure no net loss of shoreline ecological functions.

1294 G. A rural stewardship plan may include, but is not limited to, the following  
1295 elements:

1296 1. Critical areas designation under K.C.C. 21A.24.500;

1297 2. Identification of structures, cleared and forested areas and other significant

1298 features on the site;

1299           3. Location of wetlands and aquatic areas and their buffers, and wildlife habitat;

1300           4. Analysis of impacts of planned changes to any existing structures, for other

1301 changes to the site that involve clearing or grading or for new development;

1302           5. Site-specific best management practices that mitigate impacts of development

1303 and that protect and enhance the ecological values and functions of the site;

1304           6. A schedule for implementation of the elements of the rural stewardship plan;

1305 and

1306           7. A plan for monitoring the effectiveness of measures approved under the rural

1307 stewardship plan and to modify if adverse impacts occur.

1308           H. A rural stewardship plan may be developed as part of a program offered or

1309 approved by King County and shall include a site inspection by the county to verify that

1310 the plan is reasonably likely to accomplish the goals in subsection E. of this section to

1311 protect water quality, reduce flooding and erosion, maintain, restore or enhance the

1312 function and value of critical areas and their buffers and maintain or enhance native

1313 vegetation on the site of this section.

1314           I. A property owner who completes a rural stewardship plan that is approved by

1315 the county may be eligible for tax benefits under the public benefit rating system in

1316 accordance with K.C.C. 20.36.100.

1317           J. If a property owner withdraws from the rural stewardship plan, in addition to

1318 any applicable penalties under the public benefit rating system, the following apply:

1319           1. Mitigation is required for any structures constructed in critical area buffers

1320 under the rural stewardship plan; and

1321           2. The property owner shall apply for buffer averaging or an alteration  
1322 exception, as appropriate, to permit any structure or use that has been established under  
1323 the rural stewardship plan and that would not otherwise be permitted under this chapter.

1324           K. A rural stewardship plan is not effective until approved by the county. Before  
1325 approval, the county may conduct a site inspection, which may be through a program  
1326 offered or approved by King County, to verify that the plan is reasonably likely to  
1327 accomplish the goals in subsection E. of this section.

1328           L. Once approved, activities carried out in compliance with the approved rural  
1329 stewardship plan shall be deemed in compliance with this chapter. In the event of a  
1330 potential code enforcement action, the department of local services, permitting division,  
1331 shall first inform the department of natural resources and parks of the activity. Before  
1332 taking code enforcement action, the department of local services, permitting division,  
1333 shall consult with the department of natural resources and parks to determine whether the  
1334 activity is consistent with the rural stewardship plan.

1335           SECTION 25. Ordinance 15051, Section 183, and K.C.C. 21A.24.318 are hereby  
1336 amended to read as follows:

1337           A. Identification of wetlands and delineation of their boundaries shall be done in  
1338 accordance with the approved federal wetland delineation manual and applicable regional  
1339 supplement as set forth in WAC 173-22-035.

1340           B. Wetlands ~~((are classified))~~ shall be rated into category I, category II, category  
1341 III and category IV based on the adopted Washington State Wetland Rating System for  
1342 Western Washington, Washington state ~~((d))~~Department of ~~((e))~~Ecology publication  
1343 number ~~((04-06-025, published August 2004))~~ 14-06-029, published October 2014.

1344 ((B.)) C. Wetland rating categories shall not recognize illegal modifications.

1345 SECTION 26. Ordinance 15051, Section 185, as amended, and K.C.C.

1346 21A.24.325 are hereby amended to read as follows:

1347 A. Except as otherwise provided in this section, buffers shall be provided from  
 1348 the wetland edge as follows:

1349 ((A. In the Urban Growth Area, buffers for wetlands shall be established in  
 1350 accordance with the following standards:

1351 1. The standard buffer widths of the following table shall apply unless modified  
 1352 in accordance with subsection A.2, A.3, C. or D. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
<b>Category I</b>	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Estuarine	175 feet
Coastal Lagoon	175 feet
Habitat score from 31 to 36 points	225 feet
Habitat score from 20 to 30 points	150 feet plus 7.5 feet for each habitat score point above 20 points
Category I wetlands not meeting any of the criteria above	125 feet
<b>Category II</b>	
Estuarine	135 feet
Habitat score from 31 to 36 points	200 feet
Habitat score from 20 to 30 points	125 feet plus 7.5 feet for each habitat score point above 20 points
Category II wetlands not meeting any of the criteria above	100 feet
<b>Category III</b>	
Habitat score from 20 to 28 points	125 feet

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Category III wetlands not meeting any of the criteria above	75 feet
Category IV	50 feet

1353           ~~2. If a Category I or II wetland with habitat score greater than twenty points is~~  
1354 ~~located within three hundred feet of a priority habitat area as defined by the Washington~~  
1355 ~~state Department of Fish and Wildlife, the buffer established by subsection A.1. of this~~  
1356 ~~section shall be increased by fifty feet unless:~~

1357           ~~a.(i) the applicant provides relatively undisturbed vegetated corridor at least~~  
1358 ~~one hundred feet wide between the wetland and all priority habitat areas located within~~  
1359 ~~three hundred feet of the wetland. The corridor shall be protected for the entire distance~~  
1360 ~~between the wetland and the priority habitat through a conservation easement, native~~  
1361 ~~growth protection easement or the equivalent; and~~

1362           ~~(ii) the applicable mitigation measures in subsection A.3.b. of this section are~~  
1363 ~~provided; or~~

1364           ~~b. the wetland is a freshwater or deep freshwater wetland; and~~

1365           ~~3. Buffers calculated in accordance with subsection A.1. and A.2. of this section~~  
1366 ~~shall be reduced as follows:~~

1367           ~~a. Buffers for all categories of wetlands shall be reduced by twenty-five feet if~~  
1368 ~~the applicant implements all applicable mitigation measures identified in subsection~~  
1369 ~~A.3.b. of this section, or if the applicant proposes alternate mitigation to reduce the~~  
1370 ~~impacts of the development and the department determines the alternative provides~~  
1371 ~~equivalent mitigation.~~

1372           ~~b. The following mitigation measures may be used by an applicant to obtain a~~  
1373 ~~reduced buffer width under subsection A.1. of this section:~~

Disturbance	Measures to minimize impacts	Activities that may cause the disturbance
Lights	Direct lights away from wetland	Parking lots, warehouses, manufacturing, high density residential
Noise	Place activity that generates noise away from the wetland.	manufacturing, high density residential
Toxic runoff	Route all new untreated runoff away from wetland, or Covenants limiting use of pesticides within 150 ft of wetland, or Implement integrated pest management program	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces using low impact development measures identified in the King County Surface Water Design Manual	Any impermeable surface, lawns, tilling
Pets and Human disturbance	Privacy fencing or landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets	Residential areas
Dust	BMP's for dust	Filled fields
Degraded buffer condition	Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for a three year period after completion to assure at least 80% survival of plantings	All activities potentially requiring buffers

1374

**B. For a wetland located outside the Urban Growth Area:))**

1375

1. The buffers shown on the following table apply unless modified in

1376

accordance with subsections ((C. and D.)) B., C., D. and E. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LAND USE		
	HIGH IMPACT	MODERATE IMPACT	LOW IMPACT
<b>Category I</b>			
((Category I wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Natural Heritage Wetlands)) <u>Wetlands of High Conservation Value</u>	250 feet	190 feet	125 feet
Bog	250 feet	190 feet	125 feet
Estuarine	200 feet	150 feet	100 feet

Coastal Lagoon	200 feet	150 feet	100 feet
Forested	Buffer width to be based on score for habitat functions or water quality functions		
Habitat score from <del>((34))</del> 8 to <del>((36))</del> 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from <del>((20))</del> 6 to <del>((30))</del> 7 points (moderate level of function)	150 feet ((plus 15 feet for each habitat point above 20))	110 feet ((plus 11.5 feet for each habitat point above 20))	75 feet ((plus 7.5 feet for each habitat point above 20))
Category I wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
<b>Category II</b>			
<del>((Category II wetlands not meeting any of the criteria below</del>	100 feet	75 feet	50 feet))
Estuarine	150 feet	110 feet	75 feet
<del>((Interdunal</del>	150 feet	110 feet	75 feet))
Habitat score from <del>((34))</del> 8 to <del>((36))</del> 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from <del>((20))</del> 6 to <del>((30))</del> 7 points (moderate level of function)	150 feet ((plus 15 feet for each habitat point above 20))	110 feet ((plus 11.5 feet for each habitat point above 20))	75 feet ((plus 7.5 feet for each habitat point above 20))
Category II wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
<b>Category III</b>			
<del>((Category III wetlands not meeting any of the criteria below</del>	80 feet	60 feet	40 feet))
Habitat score from 8 to 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from <del>((20))</del> 6 to <del>((28))</del> 7 points (moderate level of function)	150 feet	110 feet	75 feet
Category III wetlands not meeting any of the criteria above	80 feet	60 feet	40 feet
<b>Category IV</b>			
	50 feet	40 feet	25 feet

1377 2. For purposes of this subsection ~~((B.))~~ A., unless the director determines a  
 1378 lesser level of impact is appropriate based on information provided by the applicant, the  
 1379 intensity of impact of the adjacent land use is determined as follows:

1380 a. ~~((h))~~ High impact includes:

1381 (1) sites zoned commercial or industrial;

1382 (2) commercial, institutional or industrial use on a site regardless of the

- 1383 zoning designation;
- 1384 (3) nonresidential use on a site zoned for residential use;
- 1385 (4) high-intensity active recreation use on a site regardless of zoning, such as
- 1386 golf courses, ball fields and similar use;
- 1387 (5) all sites within the Urban Growth Area; or
- 1388 (6) Residential zoning greater than one dwelling unit per acre;
- 1389 b. ~~((m))~~ Moderate impact includes:
- 1390 (1) residential uses on sites zoned ~~((rural))~~ residential one dwelling unit per
- 1391 acre or less;
- 1392 (2) residential use on a site zoned rural area, agriculture or forestry; ~~((e))~~
- 1393 (3) agricultural uses without an approved farm management plan;
- 1394 (4) utility corridors or right-of-way shared by several utilities, including
- 1395 maintenance roads; or
- 1396 (5) moderate-intensity active recreation or open space use, such as paved
- 1397 trails, parks with biking, jogging and similar use; and
- 1398 c. ~~((l))~~ Low impact includes:
- 1399 (1) forestry use on a site regardless of zoning designation;
- 1400 (2) passive recreation uses, such as unpaved trails, nature viewing areas,
- 1401 fishing and camping areas, and other similar uses that do not require permanent
- 1402 structures, on a site regardless of zoning; ~~((e))~~
- 1403 (3) agricultural uses carried out in accordance with an approved farm
- 1404 management plan and in accordance with K.C.C. 21A.24.045.D.53. and K.C.C.
- 1405 21A.24.045.D.54.; or

1406           (4) utility corridors without a maintenance road and little or no vegetation  
1407 maintenance.

1408           ~~((C-))~~ B. The department may approve a modification of the minimum buffer  
1409 width required by this section by averaging the buffer width if:

1410           1. The department determines that:

1411           a. ~~the ((ecological structure and function of the buffer after averaging is~~  
1412 ~~equivalent to or greater than the structure and function before averaging))~~ buffer  
1413 averaging will improve wetland protection if the wetland has significant differences in  
1414 characteristics that affect habitat functions, such as a wetland with a forested component  
1415 adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I  
1416 area adjacent to a lower-rated area; or

1417           b. averaging includes the corridors of a wetland complex; and

1418           2. The resulting buffer meets the following standards:

1419           a. the total area of the buffer after averaging is equivalent to or greater than the  
1420 area of the buffer before averaging;

1421           b. the additional buffer is contiguous with the standard buffer; ~~((and))~~

1422           c. ~~((if the buffer width averaging allows a structure or landscaped area to~~  
1423 ~~intrude into the area that was buffer area before averaging, the resulting landscaped area~~  
1424 ~~shall extend no more than fifteen feet from the edge of the structure's footprint toward the~~  
1425 ~~reduced buffer))~~ the buffer at its narrowest point is never less than either seventy-five  
1426 percent of the required width or seventy-five feet for Category I and II, fifty feet for  
1427 Category III, and twenty-five feet for Category IV, whichever is greater;

1428           d. the averaged buffer will not result in degradation of wetland functions and

1429 values as demonstrated by a critical areas report from a qualified wetland professional;

1430 and

1431 e. the buffer is increased adjacent to the higher functioning area of habitat or

1432 more sensitive portion of the wetland and decreased adjacent to the lower-functioning or

1433 less-sensitive portion as demonstrated by a critical areas report from a qualified wetland

1434 professional.

1435 ~~((D.))~~ C. Wetland buffer widths shall also be subject to modifications under the

1436 following special circumstances:

1437 1. For wetlands containing documented habitat for endangered, threatened or  
1438 species of local importance, the following shall apply:

1439 a. the department shall establish the appropriate buffer, based on a habitat  
1440 assessment, to ensure that the buffer provides adequate protection for the sensitive  
1441 species; and

1442 b. the department may apply the buffer ~~((increase rules in subsection A.2. of  
1443 this section, the buffer))~~ reduction rules in subsection ~~((A.3.))~~ C.6. of this section and the  
1444 buffer averaging rules in subsection ~~((C.))~~ B. of this section;

1445 2. For a wetland buffer that includes a steep slope hazard area or landslide  
1446 hazard area, the buffer width is the greater of the buffer width required by the wetland's  
1447 category in this section or the top of the hazard area; ~~((and))~~

1448 3. For a wetland complex located outside the Urban Growth Area established by  
1449 the King County Comprehensive Plan or located within the Urban Growth Area in a  
1450 basin designated as "high" on the Basin and Shoreline Conditions Map, which is included  
1451 as Attachment A to Ordinance 15051, the buffer width is determined as follows:

1452 a. the buffer width for each individual wetland in the complex is the same  
1453 width as the buffer width required for the category of wetland;

1454 b. if the buffer of a wetland within the complex does not touch or overlap with  
1455 at least one other wetland buffer in the complex, a corridor is required from the buffer of  
1456 that wetland to one other wetland buffer in the complex considering the following  
1457 factors:

1458 (1) the corridor is designed to support maintaining viable wildlife species that  
1459 are commonly recognized to exclusively or partially use wetlands and wetland buffers  
1460 during a critical life cycle stage, such as breeding, rearing or feeding;

1461 (2) the corridor minimizes fragmentation of the wetlands;

1462 (3) higher category wetlands are connected through corridors before lower  
1463 category wetlands; and

1464 (4) the corridor width is a least twenty-five percent of the length of the  
1465 corridor, but no less than twenty-five feet in width; and

1466 (5) shorter corridors are preferred over longer corridors;

1467 c. wetlands in a complex that are connected by an aquatic area that flows  
1468 between the wetlands are not required to be connected through a corridor;

1469 d. the department may exclude a wetland from the wetland complex if the  
1470 applicant demonstrates that the wetland is unlikely to provide habitat for wildlife species  
1471 that are commonly recognized to exclusively or partially use wetlands and wetland  
1472 buffers during a critical life cycle stage, such as breeding, rearing or feeding; and

1473 e. the alterations allowed in a wetland buffer in K.C.C. 21A.24.045 are  
1474 allowed in corridors subject to the same conditions and requirements as wetland buffers

1475 as long as the alteration is designed so as not to disrupt wildlife movement through the  
1476 corridor; ~~((and))~~

1477 4. Where a legally established roadway transects a wetland buffer, the  
1478 department may approve a modification of the minimum required buffer width to the  
1479 edge of the roadway if the part of the buffer on the other side of the roadway sought to be  
1480 reduced:

1481 a. does not provide additional protection of the proposed development or the  
1482 wetland; and

1483 b. provides insignificant biological, geological or hydrological buffer functions  
1484 relating to the other portion of the buffer adjacent to the wetland; ~~((and))~~

1485 5. If the site has an approved rural stewardship plan under K.C.C. 21A.24.055,  
1486 the buffer widths shall be established under the rural stewardship plan and shall not  
1487 exceed the standard for a low impact land use, unless the department determines that a  
1488 larger buffer is necessary to achieve no net loss of wetland ecological function; and

1489 6. The buffer widths required for proposed land uses with high intensity impacts  
1490 to wetlands can be reduced to those required for moderate intensity impacts under the  
1491 following conditions:

1492 a. For wetlands that score moderate or high for habitat, which means six points  
1493 or higher, the width of the buffer can be reduced if both of the following criteria are met:

1494 (1) A relatively undisturbed vegetated corridor at least one-hundred feet wide  
1495 is protected between the wetland and any other Priority Habitats as defined by the  
1496 Washington state Department of Fish and Wildlife in the priority habitat and species list.  
1497 The corridor must be protected for the entire distance between the wetland and the

---

1498 priority habitat and legally recorded via a conservation easement; and

1499 (2) Measures to minimize the impacts of different land uses on wetlands as  
 1500 identified in subsection C.6.b. of this section are applied; and

1501 b. For wetlands that score low for habitat, which means less than six points, the  
 1502 buffer width can be reduced to that required for moderate intensity impacts by applying  
 1503 measures to minimize impacts of the proposed land uses, as follows:

<u>Disturbance</u>	<u>Measures to minimize impacts</u>
<u>Lights</u>	<u>Direct lights away from wetland.</u>
<u>Noise</u>	<u>Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional ten-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.</u>
<u>Toxic runoff</u>	<u>Route all new untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.</u>
<u>Stormwater runoff</u>	<u>Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use low impact intensity development techniques identified in the King County Surface Water Design Manual.</u>
<u>Change in water regime</u>	<u>Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns.</u>
<u>Pets and human disturbance</u>	<u>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion. Place wetland and its buffer in a separate tract or protect with a conservation easement.</u>
<u>Dust</u>	<u>Use best management practices to control dust.</u>

1504 ~~((B.))~~ D. The department may approve a modification to the buffers established  
 1505 in subsection ~~((s))~~ A. ~~((and B.))~~ of this section if the wetland was created or its  
 1506 characterization was upgraded as part of a voluntary enhancement or restoration project.

1507 ~~((F.))~~ E. If the site is located within the shoreline jurisdiction, the department  
 1508 shall determine that a proposal to reduce wetland buffers under this section will result in

1509 no net loss of shoreline ecological functions.

1510 SECTION 27. Ordinance 10870, Section 481, as amended, and K.C.C.

1511 21A.24.340 are hereby amended to read as follows:

1512 In addition to the requirements in K.C.C. 21A.24.125 and 21A.24.130, the  
 1513 following applies to mitigation to compensate for the adverse impacts associated with an  
 1514 alteration to a wetland or wetland buffer:

1515 A. Mitigation measures must achieve equivalent or greater wetland functions,  
 1516 including, but not limited to:

- 1517 1. Habitat complexity, connectivity and other biological functions; and
- 1518 2. Seasonal hydrological dynamics, as provided in the King County Surface  
 1519 Water Design Manual;

1520 B. The following ratios of area of mitigation to area of alteration apply to  
 1521 mitigation measures for permanent alterations:

- 1522 1. For alterations to a wetland buffer, a ratio of one to one; and
- 1523 2. For alterations to a wetland:

Category and type of wetland	Wetland reestablishment or creation	Wetland rehabilitation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)	Wetland enhancement only
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1

Category I forested	6:1	12:1	1:1 R/C and 10:1 E	Case-by-case
All other Category I ((based on score for functions))	4:1	8:1	1:1 R/C and 6:1 E	Case-by-case
Category I ((natural heritage site)) wetlands of high conservation value	Not allowed	6:1 rehabilitation of a ((natural heritage site)) wetland of high conservation value	Case-by-case	Case-by-case
Category I coastal lagoon	Not allowed	6:1 rehabilitation of a coastal lagoon	Case-by-case	Case-by-case
Category I bog	Not allowed	6:1 rehabilitation of a bog	Case-by-case	Case-by-case
Category I estuarine	Case-by-case	6:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case

1524 C. The following ratios of area of mitigation to area of alteration apply to  
 1525 mitigation measures for temporary alterations where wetlands will not be impacted by  
 1526 permanent fill material:

Wetland category	Permanent conversion of forested and shrub wetlands into emergent wetlands			Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities		
	Enhancement	Rehabilitation	Creation or restoration	Enhancement	Rehabilitation	Creation or restoration
Category I	6:1	4.5:1	3:1	3:1	2:1	1.5:1
Category II	3:1	2:1	1.5:1	1.5:1	1:1	.75:1
Category III	2:1	1.5:1	1:1	1:1	.75:1	.5:1
Category IV	1.5:1	1:1	.75:1	Not applicable	Not applicable	Not applicable

1527 D. The department may increase the mitigation ratios provided in subsections B.  
 1528 and C. of this section under the following circumstances:

1529           1. The department determines there is uncertainty as to the probable success of  
1530 the proposed restoration or creation;

1531           2. A significant period of time will elapse between the impact caused by the  
1532 development proposal and the establishment of wetland functions at the mitigation site;

1533           3. The proposed mitigation will result in a lower category wetland or reduced  
1534 functions relative to the wetland being impacted; or

1535           4. The alteration causing the impact was an unauthorized impact.

1536           E. The department may decrease the mitigation ratios provided in subsections B.  
1537 and C. of this section under the following circumstances:

1538           1. The applicant demonstrates by documentation submitted by a qualified  
1539 wetland specialist that the proposed mitigation actions have a very high likelihood of  
1540 success based on hydrologic data and prior experience;

1541           2. The applicant demonstrates by documentation by a qualified wetland  
1542 specialist that the proposed actions for compensation will provide functions and values  
1543 that are significantly greater than the wetland being impacted;

1544           3. The applicant demonstrates that the proposed actions for mitigation have  
1545 been conducted in advance of the impact caused by the development proposal and that  
1546 the actions are successful; or

1547           4. In wetlands where several wetland hydrogeomorphic classes, including, but  
1548 not limited to depressional, slope, riverine and flow through, are found within one  
1549 delineated boundary, the department may decrease the ratios if:

1550           a. impacts to the wetland are all within an area that has a different  
1551 hydrogeomorphic class from the one used to establish the category;

1552           b. the category of the area with a different class is lower than that of the entire  
1553 wetland; and

1554           c. the applicant provides adequate hydrologic and geomorphic data to establish  
1555 that the boundary between the hydrogeomorphic classes lies outside of the footprint of  
1556 the impacts.

1557           F. For temporary alterations to a wetland or its buffer that are predominately  
1558 woody vegetation, the department may require mitigation in addition to restoration of the  
1559 altered wetland or buffer; and

1560           G. Mitigation of an alteration to a buffer of a wetland that occurs along an  
1561 aquatic area lake shoreline in accordance with an allowed alteration under this chapter  
1562 shall include, but is not limited to, on-site revegetation, maintenance and other restoration  
1563 of the buffer or setback area to the maximum extent practical.

1564           SECTION 28. Ordinance 15051, Section 192, as amended, and K.C.C.  
1565 21A.24.355 are hereby amended to read as follows:

1566           A. Aquatic areas are categorized or "typed" as follows:

1567           1. Type S waters include all aquatic areas inventoried as "shorelines of the state"  
1568 under King County's Shoreline Master Program, K.C.C. (~~(Title 25)~~) chapter 21A.25, in  
1569 accordance with chapter 90.58 RCW(~~(, including segments of streams where the mean~~  
1570 ~~annual flow is more than twenty cubic feet per second, marine shorelines and lakes~~  
1571 ~~twenty acres in size or greater))~~);

1572           2. Type F waters include all segments of aquatic areas that are not type S waters  
1573 and that contain fish or fish habitat, including waters diverted for use by a federal, state or  
1574 tribal fish hatchery from the point of diversion for one-thousand-five-hundred feet or the

1575 entire tributary if the tributary is highly significant for protection of downstream water  
1576 quality;

1577           3. Type N waters include all segments of aquatic areas that are not type S or F  
1578 waters and that are physically connected to type S or F waters by an above-ground  
1579 channel system, stream or wetland; and

1580           4. Type O waters include all segments of aquatic areas that are not type S, F or  
1581 N waters and that are not physically connected to type S, F or N waters by an above-  
1582 ground channel system, pipe or culvert, stream or wetland.

1583           B. For the purposes of the water types in subsection A. of this section, an above-  
1584 ground channel system is considered to be present if the one-hundred year floodplains of  
1585 both the contributing and receiving waters are connected.

1586           C. The department may determine that an area upstream of a legal human-made  
1587 barrier is not fish habitat considering the following factors:

1588           1. The human-made barrier is located beneath public infrastructure that is  
1589 unlikely to be replaced and it is not feasible to remove the barrier without removing the  
1590 public infrastructure;

1591           2. The human-made barrier is in the Urban Growth Area established by the  
1592 King County Comprehensive Plan and is located beneath one or more dwelling units and  
1593 it is not feasible to remove the barrier without removing the dwelling unit;

1594           3. The human-made barrier is located in a subbasin that is not designated "high"  
1595 on the Basin and Shoreline Conditions Map which is included as Attachment A to  
1596 Ordinance 15051; or

1597           4. The human-made barrier is not identified for removal by a public agency or

1598 in an adopted watershed plan.

1599 SECTION 29. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C.

1600 21A.25.020 are hereby amended to read as follows:

1601 The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-  
1602 26 and 173-27 WAC apply within the shoreline jurisdiction. The definitions in chapter  
1603 90.58 RCW and chapters 173-26 and 173-27 WAC apply if there is a conflict with the  
1604 definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code  
1605 shall apply where applicable and where not in conflict with the chapters of the RCW and  
1606 the WAC listed in this section. In addition, the following definitions apply to this chapter  
1607 unless the context clearly requires otherwise:

1608 A. "Development" means any development as defined in chapter ((90.58 RCW))  
1609 173-27 WAC; and

1610 B. "Shoreline mixed use" means shoreline development that contains a water-  
1611 dependent use combined with a water related, water enjoyment or a non-water-oriented  
1612 use in a single building or on a single site in an integrated development proposal. Water  
1613 dependent uses must comprise a significant portion of the floor area or site area in a  
1614 shoreline mixed use development.

1615 SECTION 30. Ordinance 3688, Section 303, as amended, and K.C.C.

1616 21A.25.050 are hereby amended to read as follows:

1617 A. The requirements of the shoreline master program apply to all uses and  
1618 development occurring within the shoreline jurisdiction. The King County shoreline  
1619 jurisdiction consists of ((:

1620 ~~1. All water areas of the state, as defined in RCW 90.58.030, including~~

1621 ~~reservoirs and associated wetlands, together with the lands underlying them, except for:~~

1622 ~~a. lakes smaller than twenty acres and their associated wetlands; and~~

1623 ~~b. segments of rivers and streams and their associated wetlands where the~~

1624 ~~mean annual flow is less than twenty cubic feet per second;~~

1625 ~~2.a. The shorelands that extend landward in all directions as measured on a~~

1626 ~~horizontal plane for two hundred feet from the ordinary high water mark of the~~

1627 ~~waterbodies identified in subsection A.1. of this section;~~

1628 ~~b. the one hundred year floodplain and contiguous floodplain areas landward two~~

1629 ~~hundred feet from the one hundred year floodplain;~~

1630 ~~c. all wetlands and river deltas associated with the streams, lakes and tidal waters~~

1631 ~~that are subject to chapter 90.58 RCW.) shorelines, shorelines of statewide significance,~~

1632 ~~and shorelands as defined in RCW 90.58.030 and K.C.C. chapter 21A.06, and the one-~~

1633 ~~hundred-year floodplain.~~

1634 B. The shoreline jurisdiction does not include tribal reservation lands and lands

1635 held in trust by the federal government for tribes. Nothing in the King County

1636 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program or action taken under that program shall affect

1637 any treaty right to which the United States is a party.

1638 C. The lakes and segments of rivers and streams constituting the King County

1639 shoreline jurisdiction are set forth in Attachment K~~((:))~~ to Ordinance 17485. The King

1640 County shoreline jurisdiction is shown on a map adopted in chapter ~~((S))~~ 6 of the King

1641 County Comprehensive Plan. If there is a discrepancy between the map and the criteria

1642 established in subsection A. of this section, the criteria shall constitute the official King

1643 County shoreline jurisdiction. The county shall update the shoreline master program to

1644 reflect the new designation within three years of the discovery of the discrepancy.

1645 SECTION 31. Ordinance 16985, Section 31, as amended, and K.C.C.

1646 21A.25.100 are hereby amended to read as follows:

1647 A. The shoreline use table in this section determines whether a specific use is  
1648 allowed within each of the shoreline environments. The shoreline environment is located  
1649 on the vertical column and the specific use is located on the horizontal row of the table.  
1650 The specific uses are grouped by the shoreline use categories in WAC 173-26-241. The  
1651 specific uses are defined by those uses in K.C.C. chapter 21A.08. The table should be  
1652 interpreted as follows:

1653 1. If the cell is blank in the box at the intersection of the column and the row,  
1654 the use is prohibited in that shoreline environment;

1655 2. If the letter "P" appears in the box at the intersection of the column and the  
1656 row, the use may be allowed within the shoreline environment;

1657 3. If the letter "C" appears in the box at the intersection of the column and the  
1658 row, the use may be allowed within the shoreline environment subject to the shoreline  
1659 conditional use review procedures specified in K.C.C. 21A.44.100.

1660 4. If a number appears in the box at the intersection of the column and the row,  
1661 the use may be allowed subject to the appropriate review process in this section, the  
1662 general requirements of this chapter and the specific development conditions indicated  
1663 with the corresponding number in subsection C. of this section. If more than one number  
1664 appears after a letter, all numbers apply.

1665 5. If more than one letter-number combination appears in the box at the  
1666 intersection of the column and the row, the use is allowed in accordance with each letter-

1667 number combination.

1668 6. A shoreline use may be allowed in the aquatic environment only if that  
 1669 shoreline use is allowed in the adjacent shoreland environment.

1670 7. This section does not authorize a land use that is not allowed by the  
 1671 underlying zoning, but may add additional restrictions or conditions or prohibit specific  
 1672 land uses within the shoreline jurisdiction. When there is a conflict between the  
 1673 permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,  
 1674 preference for shoreline uses shall first be given to water-dependent uses, then to water  
 1675 related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction  
 1676 must comply with all relevant county code provisions and with the King County  
 1677 ((S))shoreline ((M))master ((P))program.

1678 B. Shoreline uses

((KEY P - Permitted Use. C - Shoreline Conditional Use. Blank - Prohibited. Shoreline uses are allowed only if the underlying zoning allows the use. Shoreline uses are allowed in the aquatic environment only if the adjacent upland environment allows the use)) P - Permitted Use C - Shoreline Conditional Use Blank - Prohibited. Shoreline uses are allowed only if the underlying zoning allows the use.	((HIGH INTENSITY)) High Intensity	((RESIDENTIAL)) Residential	((RURAL)) Rural	((CONSERVANCY)) Conservancy	((RESOURCE)) Resource	((FORESTRY)) Forestry	((NATURAL)) Natural	((AQUATIC)) Aquatic
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<u>Shoreline uses are allowed in the aquatic environment only if the adjacent upland environment allows the use.</u>								
<b>Agriculture</b>								
Agriculture (K.C.C. 21A.08.090)		P	P	P	P	P	P1	
<b><u>Aquaculture (fish and wildlife management K.C.C. 21A.08.090)</u></b>								
<u>((Aquaculture (fish and wildlife management, K.C.C. 21A.08.090)</u>	P2	P2	P2	P2	P2	P2	P2	P2))
<u>Nonnative marine finfish aquaculture</u>								
Commercial salmon net pens	((C2	C2	C2	C2	C2	C2		C2))
<u>Noncommercial native salmon net pens</u>	P2	P2	P2	P2	P2	P2	P2	P2
<u>Native non-salmonid finfish net pens</u>		C2	C2	C2				C2
<u>Geoduck aquaculture</u>	C2	C2	C2	C2	C2	C2	C2	C2
<u>Aquaculture, not otherwise listed</u>	P2	P2	P2	P2	P2	P2	P2	P2
<b>Boating Facilities</b>								
Marinas (K.C.C. 21A.08.040)	C3	C3	C3					C3
<b>Commercial Development</b>								
General services (K.C.C. 21A.08.050)	P4	P5	P5					
Business services, except SIC Industry No. 1611, automotive parking and off-	P6							

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street required parking lot (K.C.C. 21A.08.060)								
Retail (K.C.C. 21A.08.070)	P7	P8						
<b>Government Services</b>								
Government services except commuter parking lot, utility facility and private stormwater management facility (K.C.C., 21A.08.060)	P9	C10						
<b>Forest Practices</b>								
Forestry (K.C.C. 21A.08.090)		P11	P11	P11	P11	P11	C11	
<b>Industry</b>								
Manufacturing (K.C.C. 21A.08.080)	P12							
<b>In-stream structural uses</b>								
Hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)	C13	C13	C13			C13		C13
In-stream utility facilities (K.C.C. 21A.08.060)	P14	C14						
In-stream transportation portion of SIC 1611 highway and street construction (K.C.C. 21A.08.060)								C15
In-stream fish and wildlife management, except aquaculture (K.C.C. 21A.08.090)								C16

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<b>Mining</b>								
Mineral uses (K.C.C. 21A.08.090)					C17	C17		C17
<b>Recreational Development</b>								
Recreational/cultural except for marinas and docks and piers (K.C.C. 21A.08.040)	P18	P19	P19	P20		P19	P21	C
<b>Residential Development</b>								
Single detached dwelling units (K.C.C. 21A.08.030)		P	P	P	P	C22	C22	
Townhouse, apartment, mobile home park, cottage housing (K.C.C. 21A.08.030)	P23	P			P			
Group residences (K.C.C. 21A.08.030)	P23	P						
Accessory uses (K.C.C. 21A.08.030)	P24	P24	P24	P24	P24	C22 and 24	C22 and 24	
Temporary lodging (K.C.C. 21A.08.030)	P23	P27	P27	C27	C27			
Live-aboards	P28	P28	P28					P28
<b>Transportation and parking</b>								
Transportation facilities	P29	P29	P29	C29	P29	P29	C29	C29
Commuter parking lot (K.C.C. 21A.08.060)								
Automotive parking (K.C.C. 21A.08.060)								
Off-street required parking lot (K.C.C. 21A.08.060)								
<b>Utilities</b>								
Utility facility (K.C.C. 21A.08.060)	P26	P26	P26	P26	P26	P26	P26	C26

Regional land uses								
Regional uses except hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)	P30							

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C. Development conditions:

1. In the Natural environment, limited to low intensity agriculture, such as livestock use with an animal unit density of no more than one per two acres in the shoreline jurisdiction, seasonal hay mowing and related activities and horticulture not to exceed twenty percent of the site area located within the shoreline jurisdiction.
- 2.a. The supporting infrastructure for aquaculture may be located landward of the aquaculture operation, subject to the limitations of K.C.C. Title 21A.
- b. The aquaculture operation must meet the standards in K.C.C. 21A.25.110.
- c. In aquatic areas adjacent to the residential shoreline environment, net pen facilities shall be located no closer than one thousand five hundred feet from the ordinary high water mark of this environment, unless the department allows a specific lesser distance that it determines is appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within one thousand five hundred feet of the ordinary high water mark if supported by a visual impact analysis.
- d. In aquatic areas adjacent to the rural shoreline environment, net pen facilities shall be located no closer than one thousand five hundred feet from the ordinary high water mark of this environment, unless the department allows a specific lesser distance that it determines is appropriate based upon a visual impact analysis.

1697 e. In the natural shoreline environment and aquatic areas adjacent to the natural  
1698 shoreline environment, commercial net pens are prohibited and other aquaculture  
1699 activities are limited to ((aquaculture)) activities that do not require structures, facilities  
1700 or mechanized harvest practices and that will not alter the natural systems, features or  
1701 character of the site ((or alter natural systems or features)).

1702 f. Farm-raised geoduck aquaculture requires a shoreline substantial  
1703 development permit if a specific project or practice causes substantial interference with  
1704 normal public use of the surface waters.

1705 g. A conditional use permit is required for new commercial geoduck  
1706 aquaculture only, consistent with WAC 173-26-241(3)(b). All subsequent cycles of  
1707 planting and harvest shall not require a new conditional use permit.

1708 3.a. New marinas are not allowed along the east shore of Maury Island, from  
1709 Piner Point to Point Robinson.

1710 b. Marinas must meet the standards in K.C.C. 21A.25.120.

1711 4. Water dependent general services land uses in K.C.C. 21A.08.050 are  
1712 allowed. Non-water dependent general services land uses in K.C.C. 21A.08.050 are only  
1713 allowed on sites that are not contiguous with the ordinary high water mark or on sites that  
1714 do not have an easement that provides direct access to the water.

1715 5.a. Water-dependent general services land uses in K.C.C. 21A.08.050 are  
1716 allowed.

1717 b. Non-water-dependent general services land uses in K.C.C. 21A.08.050 are  
1718 only allowed as part of a shoreline mixed-use development that includes water-dependent  
1719 uses.

1720 c. Non-water-oriented general services land uses must provide a significant  
1721 public benefit by helping to achieve one or more of the following shoreline master  
1722 program goals:

1723 (1) economic development for water-dependent uses;

1724 (2) public access;

1725 (3) water-oriented recreation;

1726 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife  
1727 habitat; and

1728 (5) protection and restoration of historic properties.

1729 6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.

1730 Water-related business services uses are only allowed as part of a shoreline mixed-use  
1731 development and only if they support a water-dependent use. The water-related business  
1732 services uses must comprise less than one-half of the square footage of the structures or  
1733 the portion of the site within the shoreline jurisdiction.

1734 7.a Water-dependent retail uses in K.C.C. 21A.08.050 are allowed.

1735 b. Non-water-dependent retail uses in K.C.C. 21A.08.050 are only allowed as  
1736 part of a shoreline mixed-use development if the non-water-dependent retail use supports  
1737 a water-dependent use. Non-water-dependent uses must comprise less than one-half of  
1738 the square footage of the structures or the portion of the site within the shoreline  
1739 jurisdiction.

1740 c. Non-water-oriented retail uses must provide a significant public benefit by  
1741 helping to achieve one or more of the following shoreline master program goals:

1742 (1) economic development for water-dependent uses;

- 1743 (2) public access;
- 1744 (3) water-oriented recreation;
- 1745 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
- 1746 habitat; and
- 1747 (5) protection and restoration of historic properties.

1748 8. Water-dependent retail uses in K.C.C. 21A.08.050 are allowed. Non-water-

1749 dependent retail uses in K.C.C. 21A.08.050 are only allowed if the retail use provides a

1750 significant public benefit by helping to achieve one or more of the following shoreline

1751 master program goals:

- 1752 a. economic development for water-dependent uses;
- 1753 b. public access;
- 1754 c. water-oriented recreation;
- 1755 d. conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
- 1756 habitat; and
- 1757 e. protection and restoration of historic properties.

1758 9.a. Water-dependent government services in K.C.C. 21A.08.060 are allowed.

1759 b. Non-water-dependent government services in K.C.C. 21A.08.060 are only

1760 allowed as part of a shoreline mixed-use development if the non-water-dependent

1761 government use supports a water-dependent use. Non-water-dependent uses must

1762 comprise less than one-half of the square footage of the structures or the portion of the

1763 site within the shoreline jurisdiction. Only low-intensity water-dependent government

1764 services are allowed in the Natural environment.

1765 10. The following standards apply to government services uses within the

1766 Aquatic environment:

1767           a. Stormwater and sewage outfalls are allowed if upland treatment and  
1768 infiltration to groundwater, streams or wetlands is not feasible and there is no impact on  
1769 critical saltwater habitats, salmon migratory habitat and the nearshore zone. However,  
1770 stormwater and sewage outfalls are not allowed in the Maury Island Aquatic Reserve,  
1771 except from Piner Point to Point Robinson;

1772           b. Water intakes shall not be located near fish spawning, migratory or rearing  
1773 areas. Water intakes must adhere to Washington state Department of Fish and Wildlife  
1774 fish screening criteria. To the maximum extent practical, intakes should be placed at  
1775 least thirty feet below the ordinary high water mark;

1776           c. Desalinization facilities shall not be located near fish spawning, migratory or  
1777 rearing areas. Intakes should generally be placed deeper than thirty feet below the  
1778 ordinary high water mark and must adhere to Washington state Department Fish and  
1779 Wildlife fish screening criteria. Discharge of desalination wastewater or concentrated  
1780 mineral is not allowed in the Maury Island Aquatic Reserve, except that outside the Inner  
1781 and Outer Harbormaster Harbor, discharge may be considered if there is no impact on  
1782 critical saltwater habitats, salmon migratory habitat and the nearshore zone;

1783           d. Cable crossings for telecommunications and power lines shall:

1784               (1) be routed around or drilled below aquatic critical habitat or species;

1785               (2) be installed in sites free of vegetation, as determined by physical or video  
1786 seabed survey;

1787               (3) be buried, preferably using directional drilling, from the uplands to  
1788 waterward of the deepest documented occurrence of native aquatic vegetation; and

1789 (4) use the best available technology;

1790 e. Oil, gas, water and other pipelines shall meet the same standards as cable

1791 crossings and in addition:

1792 (1) pipelines must be directionally drilled to depths of seventy feet or one half

1793 mile from the ordinary high water mark; and

1794 (2) use the best available technology for operation and maintenance;

1795 f. Breakwaters are not allowed within the Maury Island Aquatic Reserve or

1796 within the Aquatic environment adjacent to the Conservancy and Natural shorelines.

1797 11. In the Natural environment, limited to low intensity forest practices that

1798 conserve or enhance the health and diversity of the forest ecosystem or ecological and

1799 hydrologic functions conducted for the purpose of accomplishing specific ecological

1800 enhancement objectives. In all shoreline environments, forest practices must meet the

1801 standards in K.C.C. 21A.25.130.

1802 12. Manufacturing uses in the shoreline environment must give preference first

1803 to water-dependent manufacturing uses and second to water-related manufacturing uses:

1804 a. Non-water-oriented manufacturing uses are allowed only:

1805 (1) as part of a shoreline mixed-use development that includes a water-

1806 dependent use, but only if the water-dependent use comprises over fifty percent of the

1807 floor area or portion of the site within the shoreline jurisdiction;

1808 (2) on sites where navigability is severely limited; or

1809 (3) on sites that are not contiguous with the ordinary high water mark or on

1810 sites that do not have an easement that provides direct access to the water; and

1811 (4) all non-water-oriented manufacturing uses must also provide a significant

1812 public benefit, such as ecological restoration, environmental clean-up, historic  
1813 preservation or water-dependent public education;

1814 b. public access is required for all manufacturing uses unless it would result in  
1815 a public safety risk or is incompatible with the use;

1816 c. shall be located, designed and constructed in a manner that ensures that there  
1817 are no significant adverse impacts to other shoreline resources and values.

1818 d. restoration is required for all new manufacturing uses;

1819 e. boat repair facilities are not permitted within the Maury Island Aquatic

1820 Reserve, except as follows:

1821 (1) engine repair or maintenance conducted within the engine space without  
1822 vessel haul-out;

1823 (2) topside cleaning, detailing and bright work;

1824 (3) electronics servicing and maintenance;

1825 (4) marine sanitation device servicing and maintenance that does not require  
1826 haul-out;

1827 (5) vessel rigging; and

1828 (6) minor repairs or modifications to the vessel's superstructure and hull  
1829 above the waterline that do not exceed twenty-five percent of the vessel's surface area  
1830 above the waterline.

1831 13. The water-dependent in-stream portion of a hydroelectric generation facility,  
1832 wastewater treatment facility and municipal water production are allowed, including the  
1833 upland supporting infrastructure, and shall provide for the protection and preservation, of  
1834 ecosystem-wide processes, ecological functions, and cultural resources, including, but not

1835 limited to, fish and fish passage, wildlife and water resources, shoreline critical areas,  
1836 hydrogeological processes, and natural scenic vistas.

1837 14. New in-stream portions of utility facilities may be located within the  
1838 shoreline jurisdiction if:

1839 a. there is no feasible alternate location;

1840 b. provision is made to protect and preserve ecosystem-wide processes,  
1841 ecological functions, and cultural resources, including, but not limited to, fish and fish  
1842 passage, wildlife and water resources, shoreline critical areas, hydrogeological processes,  
1843 and natural scenic vistas; and

1844 c. the use complies with the standards in K.C.C. 21A.25.260.

1845 15. Limited to in-stream infrastructure, such as bridges, and must consider the  
1846 priorities of the King County Shoreline Protection and Restoration Plan when designing  
1847 in-stream transportation facilities. In-stream structures shall provide for the protection  
1848 and preservation, of ecosystem-wide processes, ecological functions, and cultural  
1849 resources, including, but not limited to, fish and fish passage, wildlife and water  
1850 resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

1851 16. Limited to hatchery and fish preserves.

1852 17. Mineral uses:

1853 a. must meet the standards in K.C.C. chapter 21A.22;

1854 b. must be dependent upon a shoreline location;

1855 c. must avoid and mitigate adverse impacts to the shoreline environment

1856 during the course of mining and reclamation to achieve no net loss of shoreline ecological  
1857 function. In determining whether there will be no net loss of shoreline ecological

1858 function, the evaluation may be based on the final reclamation required for the site.

1859 Preference shall be given to mining proposals that result in the creation, restoration, or  
1860 enhancement of habitat for priority species;

1861 d. must provide for reclamation of disturbed shoreline areas to achieve  
1862 appropriate ecological functions consistent with the setting;

1863 e. may be allowed within the active channel of a river only as follows:

1864 (1) removal of specified quantities of sand and gravel or other materials at  
1865 specific locations will not adversely affect the natural processes of gravel transportation  
1866 for the river system as a whole;

1867 (2) the mining and any associated permitted activities will not have  
1868 significant adverse impacts to habitat for priority species nor cause a net loss of  
1869 ecological functions of the shoreline; and

1870 (3) if no review has been previously conducted under this subsection C.17.e.,  
1871 prior to renewing, extending or reauthorizing gravel bar and other in-channel mining  
1872 operations in locations where they have previously been conducted, the department shall  
1873 require compliance with this subsection C.17.e. If there has been prior review, the  
1874 department shall review previous determinations comparable to the requirements of this  
1875 section C.17.e. to ensure compliance with this subsection under current site conditions;  
1876 and

1877 f. Must comply with K.C.C. 21A.25.190.

1878 18. Only water-dependent recreational uses are allowed, except for public parks  
1879 and trails, in the High Intensity environment and must meet the standards in K.C.C.

1880 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1881           19. Water-dependent and water-enjoyment recreational uses are allowed in the  
1882 Residential, Rural and Forestry environments and must meet the standards in K.C.C.  
1883 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1884           20. In the Conservancy environment, only the following recreation uses are  
1885 allowed and must meet the standards in K.C.C. 21A.25.140 for public access and K.C.C.  
1886 21A.25.150 for recreation:

- 1887           a. parks; and
- 1888           b. trails.

1889           21. In the Natural environment, only passive and low-impact recreational uses  
1890 are allowed.

1891           22. Single detached dwelling units must be located outside of the aquatic area  
1892 buffer and set back from the ordinary high water mark to the maximum extent practical.

1893           23. Only allowed as part of a water-dependent shoreline mixed-use development  
1894 where water-dependent uses comprise more than half of the square footage of the  
1895 structures on the portion of the site within the shoreline jurisdiction.

1896           24. Residential accessory uses must meet the following standards:

- 1897           a. docks, piers, moorage, buoys, floats or launching facilities must meet the  
1898 standards in K.C.C. 21A.25.180;
- 1899           b. residential accessory structures located within the aquatic area buffer shall  
1900 be limited to a total footprint of one-hundred fifty square feet; and
- 1901           c. accessory structures shall be sited to preserve visual access to the shoreline  
1902 to the maximum extent practical.

1903           25. New highway and street construction is allowed only if there is no feasible

1904 alternate location. Only low-intensity transportation infrastructure is allowed in the  
1905 Natural environment.

1906 26. Utility facilities are subject to the standards in K.C.C. 21A.25.260.

1907 27. Only bed and breakfast guesthouses.

1908 28. Only in a marina.

1909 29. Transportation facilities are subject to the standards in K.C.C. 21A.25.280.

1910 30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260.

1911 SECTION 32. Ordinance 16985, Section 32, as amended, and K.C.C.

1912 21A.25.110 are hereby amended to read as follows:

1913 An applicant for an aquaculture facility must use the sequential measures in  
1914 K.C.C. 21A.25.080. The following standards apply to aquaculture:

1915 A. Unless the applicant demonstrates that the substrate modification will result in  
1916 an increase in native habitat diversity, aquaculture that involves little or no substrate  
1917 modification shall be given preference over aquaculture that involves substantial  
1918 substrate modification and the degree of proposed substrate modification shall be limited  
1919 to the maximum extent practical.

1920 B. The installation of submerged structures, intertidal structures and floating  
1921 structures shall be limited to the maximum extent practical.

1922 C. Aquaculture proposals that involve substantial substrate modification or  
1923 sedimentation through dredging, trenching, digging, mechanical clam harvesting or other  
1924 similar mechanisms, shall not be permitted in areas where the proposal would adversely  
1925 impact critical saltwater habitats.

1926 D. Aquaculture activities that after implementation of mitigation measures would

1927 have a significant adverse impact on natural, dynamic shoreline processes or that would  
1928 result in a net loss of shoreline ecological functions shall be prohibited.

1929 E. Aquaculture should not be located in areas that will result in significant  
1930 conflicts with navigation or other water-dependent uses.

1931 F. Aquaculture facilities shall be designed, located and managed to prevent the  
1932 spread of diseases to native aquatic life or the spread of new nonnative species.

1933 G. Aquaculture practices shall be designed to minimize use of artificial chemical  
1934 substances and shall use chemical compounds that are least persistent and have the least  
1935 impact on plants and animals. Herbicides and pesticides shall be used only in  
1936 conformance with state and federal standard and to the minimum extent needed for the  
1937 health of the aquaculture activity.

1938 H. Noncommercial native salmon net pen facilities that involve minimal  
1939 supplemental feeding and limited use of chemicals or antibiotics as provided in  
1940 subsection G. of this section may be located in King County marine waters if they are  
1941 consistent with subsections S. and Y. of this section and are:

1942 1. ~~((subsistence))~~ Native salmon net pens operated by tribes with treaty fishing  
1943 rights;

1944 2. ~~((f))~~ For the limited penned cultivation of wild salmon stocks during a limited  
1945 portion of their lifecycle to enhance restoration of native stocks; or

1946 3. ~~((implemented as mitigation for a development activity))~~ For rearing to  
1947 adulthood in order to harvest eggs as part of a captive brood stock recovery program for  
1948 endangered species.

1949 I. If uncertainty exists regarding potential impacts of a proposed aquaculture

1950 activity and for all experimental aquaculture activities, unless otherwise provided for, the  
1951 department may require baseline and periodic operational monitoring by a county-  
1952 approved consultant, at the applicant's expense, and shall continue until adequate  
1953 information is available to determine the success of the project and the magnitude of any  
1954 probable significant adverse environmental impacts. Permits for such activities shall  
1955 include specific performance measures and provisions for adjustment or termination of  
1956 the project at any time if monitoring indicates significant, adverse environmental impacts  
1957 that cannot be adequately mitigated.

1958           J. Aquaculture developments approved on an experimental basis shall not exceed  
1959 five acres in area, except land-based projects and anchorage for floating systems, and  
1960 three years in duration. The department may issue a new permit to continue an  
1961 experimental project as many times as it determines is necessary and appropriate.

1962           K. The department may require aquaculture operations to carry liability insurance  
1963 in an amount commensurate with the risk of injury or damage to any person or property  
1964 as a result of the project. Insurance requirements shall not be required to duplicate  
1965 requirements of other agencies.

1966           L. If aquaculture activities are authorized to use public facilities, such as boat  
1967 launches or docks, King County may require the applicant to pay a portion of the cost of  
1968 maintenance and any required improvements commensurate with the use of those  
1969 facilities.

1970           M. New aquatic species that are not previously cultivated in Washington state  
1971 shall not be introduced into King County saltwaters or freshwaters without prior written  
1972 approval of the Director of the Washington state Department of Fish and Wildlife and the

1973 Director of the Washington Department of Health. This prohibition does not apply to:  
1974 Pacific, Olympia, Kumomoto, Belon or Virginica oysters; Manila, Butter, or Littleneck  
1975 clams; or Geoduck clams.

1976 N. Unless otherwise provided in the shoreline permit issued by the department,  
1977 repeated introduction of an approved organism after harvest in the same location shall  
1978 require approval by the county only at the time the initial aquaculture use permit is  
1979 issued. Introduction, for purposes of this section, shall mean the placing of any aquatic  
1980 organism in any area within the waters of King County regardless of whether it is a native  
1981 or resident organism within the county and regardless of whether it is being transferred  
1982 from within or without the waters of King County.

1983 O. For aquaculture projects, over-water structures shall be allowed only if  
1984 necessary for the immediate and regular operation of the facility. Over-water structures  
1985 shall be limited to the, storage of necessary tools and apparatus in containers of not more  
1986 than three feet in height, as measured from the surface of the raft or dock.

1987 P. Except for the sorting or culling of the cultured organism after harvest and the  
1988 washing or removal of surface materials or organisms before or after harvest, no  
1989 processing of any aquaculture product shall occur in or over the water unless specifically  
1990 approved by permit. All other processing and processing facilities shall be located  
1991 landward of the ordinary high water mark.

1992 Q. Aquaculture wastes shall be disposed of in a manner that will ensure strict  
1993 compliance with all applicable governmental waste disposal standards, including, but not  
1994 limited to, the Federal Clean Water Act, Section 401, and chapter 90.48 RCW, Water  
1995 Pollution Control. No garbage, wastes or debris shall be allowed to accumulate at the site

1996 of any aquaculture operation.

1997 R. Unless approved in writing by the National Marine Fisheries Service or the  
1998 U.S. Fish and Wildlife Service, predator control shall not involve the killing or  
1999 harassment of birds or mammals. Approved controls include, but are not limited to,  
2000 double netting for seals, overhead netting for birds and three-foot high fencing or netting  
2001 for otters. The use of other nonlethal, nonabusive predator control measures shall be  
2002 contingent upon receipt of written approval from the National Marine Fisheries Service  
2003 or the U.S. Fish and Wildlife Service, as required.

2004 S. ~~((Fish))~~ Finfish net pens and rafts shall meet the following criteria in addition  
2005 to the other applicable regulations of this section:

2006 1. ~~((Fish))~~ Finfish net pens shall not be located in ~~((inner))~~ Quartermaster  
2007 Harbor~~((, consistent with the recommendations in the Washington state Department of  
2008 Natural Resources Maury Island Environmental Aquatic Reserve Final Management Plan  
2009 (October 29, 2004)))~~. For the purposes of this subsection, "Quartermaster Harbor" means  
2010 the area of Puget Sound north of a straight line drawn from the southwest tip of Maury  
2011 Island, which is Piner Point, to the southeast tip of Vashon Island, which is Neill Point;

2012 2. ~~((Fish))~~ Finfish net pens shall meet, at a minimum, state approved  
2013 administrative guidelines for the management of net pen cultures. In the event there is a  
2014 conflict in requirements, the more restrictive requirement shall prevail;

2015 3. ~~((Fish))~~ Finfish net pens shall not occupy more than two surface acres of  
2016 water area, excluding booming and anchoring requirements. Anchors that minimize  
2017 disturbance to substrate, such as helical anchors, shall be employed. Such operations  
2018 shall not use chemicals or antibiotics;

2019           4. Aquaculture proposals that include new or added net pens or rafts shall not be  
2020 located closer than one nautical mile to any other aquaculture facility that includes net  
2021 pens or rafts. The department may authorize a lesser distance if the applicant  
2022 demonstrates to the satisfaction of the department that the proposal will be consistent  
2023 with the environmental and aesthetic policies and objectives of this chapter and the  
2024 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program. The applicant shall demonstrate to the  
2025 satisfaction of the department that the cumulative impacts of existing and proposed  
2026 operations would not be contrary to the policies and regulations of the program;

2027           5. Net cleaning activities shall be conducted on a frequent enough basis so as  
2028 not to violate state water quality standards. When feasible, the cleaning of nets and other  
2029 apparatus shall be accomplished by air drying, spray washing or hand washing; and

2030           6. In the event of a significant fish kill at the site of a net pen facility, the ~~((fin~~  
2031 ~~fish))~~ finfish aquaculture operator shall submit a timely report to ~~((P))~~public ~~((H))~~health -  
2032 Seattle~~(( - ))~~ & King County, ~~((E))~~environmental ~~((H))~~health ~~((D))~~division, and the  
2033 department stating the cause of death and shall detail remedial actions to be implemented  
2034 to prevent reoccurrence.

2035           T. All floating and submerged aquaculture structures and facilities in navigable  
2036 waters shall be marked in accordance with United States Coast Guard requirements.

2037           U. The rights of treaty tribes to aquatic resources within their usual and  
2038 accustomed areas shall be addressed through direct coordination between the applicant  
2039 and the affected tribes through the permit review process.

2040           V. Aquaculture structures and equipment shall be of sound construction and shall  
2041 be so maintained. Abandoned or unsafe structures and equipment shall be removed or

2042 repaired promptly by the owner. Where any structure might constitute a potential hazard  
2043 to the public in the future, the department shall require the posting of a bond  
2044 commensurate with the cost of removal or repair. The department may abate an  
2045 abandoned or unsafe structure in accordance with K.C.C. Title 23.

2046 W. Aquaculture shall not be approved where it will adversely impact eelgrass and  
2047 macroalgae.

2048 X. Commercial salmon net pens and nonnative marine finfish aquaculture are  
2049 prohibited.

2050 Y. Finfish net pens shall be consistent with the applicable aquaculture regulations  
2051 in this section and shall meet the following criteria and requirements:

2052 1. Each ~~((commercial salmon))~~ finfish net pen application shall provide a  
2053 current, peer-reviewed science review of environmental issues related to ~~((salmon))~~  
2054 finfish net pen aquaculture;

2055 2. The department shall only approve a ~~((commercial salmon))~~ finfish net pen  
2056 application if the department determines the scientific review demonstrates:

2057 a. that the project construction and activities will achieve no net loss of  
2058 ecological function in a manner that has no significant adverse short-term impact and no  
2059 documented adverse long-term impact to applicable elements of the environment,  
2060 including, but not limited to, habitat for native salmonids, water quality, eel grass beds,  
2061 other aquaculture, other native species, the benthic community below the net pen or other  
2062 environmental attributes; and

2063 b. that the finfish net pen does not involve significant risk of cumulative  
2064 adverse effects, including, but not limited to, risk of interbreeding with wild salmon or

2065 reduction of genetic fitness of wild stocks, parasite or disease transmission or other  
2066 adverse effects on native species or threatened or endangered species and their habitats;

2067 3. The department's review shall:

2068 a. include an assessment of the risk to endangered species, non-endangered  
2069 species, and other biota that could be affected by the finfish net pen; and

2070 b. evaluate and model water quality impacts utilizing current information,  
2071 technology, and assessment models. The project proponent shall be financially  
2072 responsible for this water quality assessment;

2073 4. ~~((Commercial salmon))~~ Finfish net pens shall be designed, constructed and  
2074 maintained to prevent escapement of fish in all foreseeable circumstances, including, but  
2075 not limited to, tide, wind and wave events of record, floating and submerged debris, and  
2076 tidal action;

2077 5. ~~((Commercial salmon))~~ Finfish net pens shall not be located:

2078 a. within three hundred feet of an area containing eelgrass or a kelp bed;

2079 b. within one thousand five hundred feet of an ordinary high water mark; or

2080 c. in a designated Washington state Department of Natural Resources aquatic  
2081 reserve((-));

2082 6. A ~~((commercial salmon))~~ finfish net pen may not be used to mitigate the  
2083 impact of a development proposal; and

2084 7. For finfish net pens that are not noncommercial native salmon net pens,

2085 ~~((F))~~the conditional use permit for ~~((commercial salmon))~~ the net pen must be renewed  
2086 every five years. An updated scientific review shall be conducted as part of the renewal  
2087 and shall include a new risk assessment and evaluation of the impact of the operation of

2088 the ((salmon)) finfish net pen during the previous five years.

2089 Z. Geoduck aquaculture shall be consistent with WAC 173-26-241(3)(b).

2090 SECTION 33. Ordinance 16985, Section 39, as amended, and K.C.C.

2091 21A.25.160 are hereby amended to read as follows:

2092 A. The shoreline modification table in this section determines whether a specific  
2093 shoreline modification is allowed within each of the shoreline environments. The  
2094 shoreline environment is located on the vertical column and the specific use is located on  
2095 the horizontal row of the table. The specific modifications are grouped by the shoreline  
2096 modification categories in WAC 173-26-231. The table should be interpreted as follows:

2097 1. If the cell is blank in the box at the intersection of the column and the row,  
2098 the modification is prohibited in that shoreline environment;

2099 2. If the letter "P" appears in the box at the intersection of the column and the  
2100 row, the modification may be allowed within the shoreline environment;

2101 3. If the letter "C" appears in the box at the intersection of the column and the  
2102 row, the modification may be allowed within the shoreline environment subject to the  
2103 shoreline conditional use review procedures specified in K.C.C. 21A.44.100;

2104 4. If a number appears in the box at the intersection of the column and the row,  
2105 the modification may be allowed subject to the appropriate review process indicated in  
2106 this section and the specific development conditions indicated with the corresponding  
2107 number immediately following the table, and only if the underlying zoning allows the  
2108 modification. If more than one number appears at the intersection of the column and  
2109 row, both numbers apply; ((and))

2110 5. If more than one letter-number combination appears in the box at the

2111 intersection of the column and the row, the modification is allowed within that shoreline  
 2112 environment subject to different sets of limitations or conditions depending on the review  
 2113 process indicated by the letter, the specific development conditions indicated in the  
 2114 development condition with the corresponding number immediately following the  
 2115 table((-));

2116 6. A shoreline modification may be allowed in the aquatic environment only if  
 2117 that shoreline modification is allowed in the adjacent shoreland environment((-)); and

2118 7. This section does not authorize a shoreline modification that is not allowed  
 2119 by the underlying zoning, but may add additional restrictions or conditions or prohibit  
 2120 specific modifications within the shoreline jurisdiction. All shoreline modifications in  
 2121 the shoreline jurisdiction must comply with all relevant county code provisions and with  
 2122 the King County ((S))shoreline ((M))master ((P))program.

2123 B. Shoreline modifications.

	High Intensity	Residential	Rural	Conservancy	Resource	Forestry	Natural	Aquatic
<b>Shoreline stabilization</b>								
Shoreline stabilization, not including flood protection facilities	P1	P1	P1	C1	P1	C1		P1 C1
Flood protection facilities	P2	P2	P2	P2	P2		P2	P2
<b>Piers and docks</b>								
Docks, piers, moorage, buoys, floats or launching facilities	P3	P3	P3	C3	C3	C3		P3 C3
<b>Fill</b>								
Filling	P4 C4	P4 C4	P4	P4 C4	P4 C4	C4	C4	P4 C4

			C4					
<b>Breakwaters, jetties, groins and weirs</b>								
Breakwaters, jetties, groins and weirs	P5 C5							
<b>Dredging and dredge material disposal</b>								
Excavation, dredging, dredge material disposal	P6 C6	C6	C6	P6 C6				
<b>Shoreline habitat and natural systems enhancement projects</b>								
Habitat and natural systems enhancement projects	P7							
<b>Vegetation management</b>								
Removal of existing intact native vegetation	P8	P8	P8	P9	P8	P8	P9	P9

2124 C. Development conditions.

2125 1. New shoreline stabilization, including bulkheads, must meet the standards in  
 2126 K.C.C. 21A.25.170;

2127 2.a. Flood protection facilities must be consistent with the standards in K.C.C.  
 2128 chapter 21A.24, the King County Flood Hazard Management Plan adopted January 16,  
 2129 2007, and the Integrated Stream Protection Guidelines (Washington state departments of  
 2130 Fish and Wildlife, Ecology and Transportation, 2003). New structural flood hazard  
 2131 protection measures are allowed in the shoreline jurisdiction only when the applicant  
 2132 demonstrates by a scientific and engineering analysis that the structural measures are

2133 necessary to protect existing development, that nonstructural measures are not feasible  
2134 and that the impact on ecological functions and priority species and habitats can be  
2135 successfully mitigated so as to assure no net loss of shoreline ecological functions. New  
2136 flood protection facilities designed as shoreline stabilization must meet the standards in  
2137 K.C.C. 21A.25.170.

2138           b. Relocation, replacement or expansion of existing flood control facilities  
2139 within the Natural environment are permitted, subject to the requirements of the King  
2140 county Flood Hazard Reduction Plan and consistent with the Washington State Aquatic  
2141 Guidelines Program's Integrated Streambank Protection Guidelines and bioengineering  
2142 techniques used to the maximum extent practical. New facilities would only be permitted  
2143 consistent with an approved watershed resources inventory area (WRIA) salmon recovery  
2144 plan under chapter 77.85 RCW.

2145           3. Docks, piers, moorage, buoys, floats or launching facilities must meet the  
2146 standards in K.C.C. 21A.25.180;

2147           4.a. Filling must meet the standards in K.C.C. 21A.25.190.

2148           b. A shoreline conditional use permit is required to:

2149           (1) Place fill waterward of the ordinary high water mark for any use except  
2150 ecological restoration or for the maintenance and repair of flood protection facilities; and

2151           (2) Dispose of dredged material within shorelands or wetlands within a  
2152 channel migration zone;

2153           c. Fill shall not be placed in critical saltwater habitats except when all of the  
2154 following conditions are met:

2155           (1) ~~((F))~~the public's need for the proposal is clearly demonstrated and the

2156 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

2157           (2) ~~((A))~~ avoidance of impacts to critical saltwater habitats by an alternative  
2158 alignment or location is not feasible or would result in unreasonable and disproportionate  
2159 cost to accomplish the same general purpose;

2160           (3) ~~((F))~~ the project including any required mitigation, will result in no net  
2161 loss of ecological functions associated with critical saltwater habitat; and

2162           (4) ~~((F))~~ the project is consistent with the state's interest in resource protection  
2163 and species recovery.

2164           d. In a channel migration zone, any filling shall protect shoreline ecological  
2165 functions, including channel migration.

2166           5.a. Breakwaters, jetties, groins and weirs:

2167           (1) are only allowed where necessary to support water dependent uses, public  
2168 access, approved shoreline stabilization or other public uses, as determined by the  
2169 director;

2170           (2) are not allowed in the Maury Island Aquatic Reserve except as part of a  
2171 habitat restoration project or as an alternative to construction of a shoreline stabilization  
2172 structure;

2173           (3) shall not intrude into or over critical saltwater habitats except when all of  
2174 the following conditions are met:

2175           (a) the public's need for the structure is clearly demonstrated and the  
2176 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

2177           (b) avoidance of impacts to critical saltwater habitats by an alternative  
2178 alignment or location is not feasible or would result in unreasonable and disproportionate

2179 cost to accomplish the same general purpose;

2180 (c) the project including any required mitigation, will result in no net loss of  
2181 ecological functions associated with critical saltwater habitat; and

2182 (d) the project is consistent with the state's interest in resource protection  
2183 and species recovery.

2184 b. Groins are only allowed as part of a restoration project sponsored or  
2185 cosponsored by a public agency that has natural resource management as a primary  
2186 function.

2187 c. A conditional shoreline use permit is required, except for structures installed  
2188 to protect or restore shoreline ecological functions.

2189 6. Excavation, dredging and filling must meet the standards in K.C.C.

2190 21A.25.190. A shoreline conditional use permit is required to dispose of dredged  
2191 material within shorelands or wetlands within a channel migration zone.

2192 7.a. If the department determines the primary purpose is restoration of the  
2193 natural character and ecological functions of the shoreline, a shoreline habitat and natural  
2194 systems enhancement project may include shoreline modification of vegetation, removal  
2195 of nonnative or invasive plants, shoreline stabilization, including the installation of large  
2196 woody debris, dredging and filling. Mitigation actions identified through biological  
2197 assessments required by the National Marine Fisheries Services and applied to flood  
2198 hazard mitigation projects may include shoreline modifications of vegetation, removal of  
2199 nonnative or invasive plants, shoreline stabilization, including the installation of large  
2200 woody debris, dredging and filling.

2201 b. Within the Urban Growth Area, the county may grant relief from shoreline

2202 master program development standards and use regulations resulting from shoreline  
2203 restoration projects consistent with criteria and procedures in WAC 173-27-215.

2204 8. Within the critical area and critical area buffer, vegetation removal is subject  
2205 to K.C.C. chapter 21A.24.

2206 9. Except for forest practices conducted under K.C.C. 21A.25.130, existing  
2207 native vegetation located outside of the critical area and critical area buffer shall be  
2208 retained to the maximum extent practical. Within the critical area and critical area buffer,  
2209 vegetation removal is subject to K.C.C. chapter 21A.24.

2210 SECTION 34. Ordinance 3688, Section 801, as amended, and K.C.C.  
2211 21A.25.290 are hereby amended to read as follows:

2212 A. Development within the shoreline jurisdiction, including preferred uses and  
2213 uses that are exempt from permit requirements, shall be undertaken only if that  
2214 development is consistent with the policies of RCW 90.58.020, chapter 173-26 WAC and  
2215 the King County shoreline master program and will not result in a net loss of shoreline  
2216 ecological functions or in a significant adverse impact to shoreline uses, resources and  
2217 values, such as navigation, recreation and public access. The proponent of a shoreline  
2218 development shall employ measures to mitigate adverse impacts on shoreline functions  
2219 and processes following the sequencing requirements of K.C.C. 21A.25.080.

2220 B. A substantial development permit shall be required for all proposed uses and  
2221 modifications within the shoreline jurisdiction unless the proposal is specifically exempt  
2222 from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040  
2223 or is exempted by RCW 90.58.140, WAC 173-27-044 or WAC 173-27-045. If a  
2224 proposal is exempt from the definition of substantial development, a written statement of

2225 exemption is required for any proposed uses and modifications if:

2226 1. WAC 173-27-050 applies; or

2227 2. The proposed use or modification will occur waterward of the ordinary high

2228 water mark, ((E))except for the maintenance of agricultural drainage that is not used by

2229 salmonids or as otherwise provided in subsection F. of this section (~~(, the proposed use or~~

2230 ~~modification will occur waterward of the ordinary high water mark)~~).

2231 C. Whether or not a written statement of exemption is required, all permits issued

2232 for development activities within the shoreline jurisdiction shall include a record of

2233 review indicating compliance with the shoreline master program and regulations.

2234 D. As necessary to ensure consistency of the project with the shoreline master

2235 program and this chapter, the department may attach conditions of approval to a

2236 substantial development permit or a statement of exemption or to the approval of a

2237 development proposal that does not require either.

2238 E. The department may issue a programmatic statement of exemption as follows:

2239 1. For an activity for which a statement of exemption is required, the activity

2240 shall:

2241 a. be repetitive and part of a maintenance program or other similar program;

2242 b. have the same or similar identifiable impacts, as determined by the

2243 department, each time the activity is repeated at all sites covered by the programmatic

2244 statement of exemption; and

2245 c. be suitable to having standard conditions that will apply to any and all sites;

2246 2. The department shall uniformly apply conditions to each activity authorized

2247 under the programmatic statement of exemption at all locations covered by the statement

2248 of exemption. The department may require that the applicant develop and propose the  
2249 uniformly applicable conditions as part of the statement of exemption application and  
2250 may approve, modify or reject any of the applicant's proposed conditions. The  
2251 department shall not issue a programmatic statement of exemption until applicable  
2252 conditions are developed and approved;

2253           3. Activities authorized under a programmatic statement of exemption shall be  
2254 subject to inspection by the department. The applicant may be required to notify the  
2255 department each time work subject to the programmatic statement of exemption is  
2256 undertaken for the department to schedule inspections. In addition, the department may  
2257 require the applicant to submit periodic status reports. The frequency, method and  
2258 contents of the notifications and reports shall be specified as conditions in the  
2259 programmatic statement of exemption;

2260           4. The department may require revisions, impose new conditions or otherwise  
2261 modify the programmatic statement of exemption or withdraw the programmatic  
2262 statement of exemption and require that the applicant apply for a standard statement of  
2263 exemption, if the department determines that:

2264           a. ~~((F))~~the programmatic statement of exemption or activities authorized under  
2265 the statement of exemption no longer comply with law;

2266           b. ~~((F))~~the programmatic statement of exemption does not provide adequate  
2267 regulation of the activity;

2268           c. ~~((F))~~the programmatic statement of exemption conditions or the manner in  
2269 which the conditions are implemented are not adequate to protect against the impacts  
2270 resulting from the activity; or

2271 d. ((A))a site requires site-specific regulation; and

2272 5. If an activity covered by a programmatic statement of exemption also  
2273 requires other county, state and federal approvals, to the extent feasible, the department  
2274 shall attempt to incorporate conditions that comply with those other approvals into the  
2275 programmatic statement of exemption.

2276 F. A statement of exemption is not required for maintenance of agricultural  
2277 drainage or agricultural waterways used by salmonids if:

2278 1. The maintenance project is conducted in compliance with a hydraulic project  
2279 approval issued by the Washington state Department of Fish and Wildlife pursuant to  
2280 chapter 77.55 RCW;

2281 2. The maintenance project complies with the King County agricultural drainage  
2282 assistance program as agreed to by the Washington state Department of Fish and  
2283 Wildlife, the department of local services, permitting division, and the department of  
2284 natural resources and parks, and as reviewed by the Washington state Department of  
2285 Ecology;

2286 3. The person performing the agricultural drainage maintenance and the land  
2287 owner has attended training provided by King County on the King County agricultural  
2288 drainage assistance program and the best management practices required under that  
2289 program;

2290 4. The maintenance project complies with the requirements of K.C.C. chapter  
2291 16.82; and

2292 5. The project is not subject to federal permitting related to the U.S. Army  
2293 Corps of Engineers Section 10 or Section 404 permits.

2294            SECTION 35. Ordinance 3688, Section 805, as amended, and K.C.C.

2295            21A.44.100 are hereby amended to read as follows:

2296            A. A shoreline conditional use shall be granted by the department for conditional  
2297            uses identified in K.C.C. 21A.25.100 and 21A.25.160 as shoreline conditional uses only  
2298            if the applicant demonstrates that the review criteria of WAC 173-27-160 have been met.

2299            B. A shoreline conditional use may be granted by the department for uses not  
2300            ~~((identified))~~ classified as conditional uses in K.C.C. 21A.25.100 and 21A.25.160 only if  
2301            the applicant demonstrates that:

- 2302            1. The criteria in subsection A. of this section have been met;
- 2303            2. The use is not specifically prohibited in the shoreline environment;
- 2304            3. The use clearly requires specific site location on the shoreline not provided  
2305            for under the shoreline master program; and
- 2306            4. Extraordinary circumstances preclude reasonable use of the property in a  
2307            manner consistent with the use regulations of the K.C.C. chapter 21A.25.

2308            C. The burden of proving that a proposed shoreline conditional use meets the  
2309            criteria enumerated in this section shall be on the applicant. Absence of that proof shall  
2310            be grounds for denial of the application.

2311            SECTION 36. Ordinance 18767, Section 11, is hereby repealed.

2312            SECTION 37. The executive shall submit sections 5 and 23 through 36 of this  
2313            ordinance to the state Department of Ecology for its approval, as provided in RCW  
2314            90.58.090.

2315            SECTION 38. Sections 5 and 23 through 36 of this ordinance take effect within  
2316            the shoreline jurisdiction fourteen days after the state Department of Ecology provides

2317 written notice of final action stating that the proposal is approved, in accordance with  
2318 RCW 90.58.909. The executive shall provide the written notice of final action to the  
2319 clerk of the council.

2320 SECTION 39. Severability. If any provision of this ordinance or its application

2321 to any person or circumstance is held invalid, the remainder of the ordinance or the  
2322 application of the provision to other persons or circumstances is not affected.  
2323

Ordinance 19034 was introduced on 5/1/2019 and hearing held/closed and passed as amended by the Metropolitan King County Council on 12/4/2019, by the following vote:

Yes: 8 - Mr. von Reichbauer, Mr. Gossett, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci  
No: 1 - Ms. Lambert



KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

A blue ink handwritten signature of Rod Dembowski.

Rod Dembowski, Chair

ATTEST:

A blue ink handwritten signature of Melani Pedroza.

Melani Pedroza, Clerk of the Council

APPROVED this 16 day of DECEMBER 2019

A blue ink handwritten signature of Dow Constantine.

Dow Constantine, County Executive

RECEIVED  
2019 DEC 17 AM 9:41  
CLERK  
KING COUNTY COUNCIL

**Attachments:** A. 2019 Shoreline Master Program Periodic Review, Amendments to Chapter 6 of the 2016 King County Comprehensive Plan, dated July 2, 2019



**King County**

**2019 Shoreline Master Program Periodic Review**

**Amendments to Chapter 6 of the  
2016 King County Comprehensive Plan**

As allowed by K.C.C. 20.18.030.A.5

July 2, 2019

*Make the following changes to Chapter 6 of the 2016 King County Comprehensive Plan, as amended.*

*On page 6-5, amend the text as follows:*

**3. Shoreline jurisdiction under the Shoreline Management Act**

Shorelines of the State in King County, as defined by the Shoreline Management Act, include ~~((all marine waters, lakes greater than 20 acres, and rivers and streams with a minimum of 20 cubic feet per second mean annual flow))~~ the total of all shorelines and shorelines of statewide significance. ~~((The shoreline jurisdiction includes these water bodies and shorelands.))~~ Shorelines include ((S))shorelands, which are defined as those ~~((areas))~~ lands extending landward for 200 feet from the ordinary high water mark, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all associated wetlands and river deltas. King County currently includes the 100-year floodplain in its shoreline jurisdiction. Shoreline jurisdiction under the Shoreline Management Act does not include tribal reservation lands or lands held in trust by the federal government for the tribes.

*On page 6-7, amend the text as follows:*

**King County Shoreline Map Folio and List (September 2010):** The Shoreline Map Folio includes all maps produced and referenced as part of the Shoreline Master Program ~~((update))~~, with the exception of those maps included in this chapter. The King County Shoreline List includes all streams and lakes within the shoreline jurisdiction. All geographic information can be found at: <http://www.kingcounty.gov/shorelines>

*On page 6-11, amend the text as follows:*

**2. King County's Shoreline Master Program is intended to be consistent with the Shoreline Management Act & Guidelines**

King County's Shoreline Master Program is intended to be consistent with the required elements of the Department of Ecology's guidelines for implementing the Shoreline Management Act that are found in Chapters 173-26 and 173-27 of the Washington Administrative Code ~~((173-26 and 173-28))~~. King County's Shoreline Master Program shall be interpreted consistently with the Shoreline Management Act. In the event of a conflict between Shoreline Management Act and King County's Shoreline Master Program, the Shoreline Master Program should be interpreted to give meaning and effect to the Shoreline Management Act.

- S-102 King County's Shoreline Master Program is to be interpreted consistently with the policies and requirements of the Shoreline Management Act (Revised Code of Washington 90.58).
- S-103 King County's Shoreline Master Program is to be interpreted consistently with the required elements of the shoreline guidelines found in Chapters 173-26 and 173-27 of the Washington Administrative Code (~~(173-26 and 173-28)~~).

*On page 6-13, amend the text as follows:*

**c. "Shorelands"**

Shorelines includes "associated shorelands" which are defined in the Shoreline Management Act as follows: "Shorelands" or "shoreland areas" means those lands extending landward for ~~((200))~~ two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of ~~((this chapter))~~ [Chapter 90.58 RCW].

*On page 6-14, amend the text as follows:*

**e. Options to extend geographic jurisdiction over shorelines and shorelines of statewide significance**

The Shoreline Management Act gives King County two options concerning the scope of its shoreline jurisdiction.

The first option allows the county to include 100-year floodplains:

Any county or city may determine that portion of a ~~((100))~~ one-hundred-year flood plain to be included in its ~~((M))~~master ~~((P))~~program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward ~~((200))~~ two hundred feet therefrom. (Revised Code of Washington ~~((90.58.030(2)(f)(i)))~~ 90.58.030(2)(d)(i))

In its original Shoreline Master Program adopted in 1977, King County included the 100-year floodplain. The continued regulation of the 100-year floodplain is necessary to comply with certain federal requirements under the National Flood Insurance Program. Therefore, King County continues to extend its shoreline jurisdiction to cover 100-year floodplains.

- S-106 King County includes within its shoreline jurisdiction the 100-year floodplains of shorelines of the state.

The second option allows the extension of shoreline jurisdiction to include land necessary for buffers for critical areas that extend beyond the 200 foot shoreland jurisdiction:

Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A ~~((Revised Code of Washington))~~ RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 ~~((Revised Code of Washington))~~ RCW, except conversions to ~~((non-forest land))~~ nonforestland use, on lands subject to the provisions of this subsection ~~((2)(f)(ii))~~ (2)(d)(ii) are not subject to additional regulations under ~~((this chapter))~~ [Chapter 90.58 RCW]. ~~(Revised Code of Washington 90.58.030((2)(f)(ii)) (2)(d)(ii))~~

King County is not exercising its option to extend its shoreline jurisdiction to include lands for buffers for critical areas.

*On page 6-29, amend the text as follows:*

**((IV.)) VI. Shoreline Environment Designations**

*On page 6-47, amend policy S-621 as follows:*

S-621                    In determining appropriate mitigation measures applicable to shoreline development, the mitigation sequencing requirements described in Washington Administrative Code ~~((173-26-202(d)(e)))~~ 173-26-201(2)(e) require that lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

*On page 6-49, amend policy S-624 as follows:*

S-624                    Development regulations for geologically hazardous areas shall meet the minimum requirements in Washington Administrative Code ~~((365-190-080(4)))~~ 365-190-120.

*On page 6-53, amend the text as follows:*

**C. Frequently Flooded Areas and Channel Migration Hazard Areas**

The King County ~~((2006))~~ 2013 Flood Hazard Management Plan was adopted as a functional plan of the King County Comprehensive Plan. The Flood Plan outlines the policies, programs,

and projects that King County uses to reduce the risk from flooding and channel migration. The King County ((2006)) 2013 Flood Hazard Management Plan was reviewed for consistency with the Shoreline Management Act and determined to be consistent with it. King County maps Channel Migration Hazard Areas and applies critical areas regulations to assure that channel migration can be accommodated.

*On page 6-60, amend the text as follows:*

**a. General Aquaculture**

Aquaculture is the culture or farming of ~~((food))~~ fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Aquaculture is dependent on the use of the water area and, when consistent with goals for aesthetics, public access, control of pollution and prevention of damage to the environment, ~~((is a preferred use of the water area. Aquaculture is a growing industry of statewide significance. Aquaculture))~~ should be ~~((accommodated))~~ allowed so long as it does not result in a net loss of shoreline ecological processes and functions. The visual and aesthetic impacts of aquaculture should not overwhelm adjacent land uses.

*On page 6-62, amend policies S-716 and S-717 as follows:*

**S-716** Aquaculture is a water-dependent use and ~~((is a preferred))~~ should be an allowed use of the shoreline when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for native species, (Washington Administrative Code 173-26-241(3)(b)).

**S-716a** King County shall prohibit nonnative marine finfish aquaculture.

**S-717** Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The technology associated with some forms of aquaculture is still experimental and in formative states. Therefore, when implementing development regulations related to aquaculture, King County should provide flexibility in its development regulations governing the siting of aquaculture facilities, where appropriate. Those regulations shall require avoidance of adverse impacts to existing uses, to the maximum extent practical, and no net loss in shoreline ecological functions and processes. If King County determines that certain types aquaculture involve a significant risk of net

loss in shoreline ecological functions or cumulative adverse effects on the environment or native species and their habitats, the County may prohibit or condition such uses in its development regulations.

S-718 Aquaculture activities shall be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological processes and functions. Aquaculture permits shall not be ((permitted)) approved where it would result in net loss of shoreline ecological functions; net loss of habitat for native species including eelgrass, kelp, and other macroalgae; adverse impacts to other habitat conservation areas; or interference with navigation or other water-dependent uses.

*On page 6-62, after policy S-727, insert the following:*

S-727a King County should ensure proper management of upland uses in the shoreline jurisdiction to avoid degradation of water quality of existing shellfish areas, including adoption of additional protections from impacts of geoduck aquaculture.

### **b. Net Pens**

One specific type of aquaculture is a net pen, which is a type of large cage used to farm finfish in open water. These net pens allow for the exchange of water between the farm and the surrounding environment. In 2017, a large commercial net pen near Cypress Island collapsed and released hundreds of thousands of nonnative salmon into King County's shorelines of statewide significance.

Following this incident, King County reviewed its net pens regulations in 2018 for potential impacts on native species and found that commercial salmon net pen aquaculture operations generally have adverse environmental and ecological impacts that do not appear to meet the SMA standard of 'no net loss of ecological function.' These adverse impacts include increased disease transmission, increased water quality impacts, competition for food and habitat, predation on local native salmon, and genetic introgression.

King County's native salmon runs are among the Puget Sound region's most precious and irreplaceable natural resources. King County, area tribes, the state, the region and the federal government have collectively invested hundreds of millions of dollars over many years to help protect and restore native salmon species. The impacts of net pens to native salmon outlined above would threaten years of work and millions of dollars in investments.

The environmental and ecological risks associated with commercial salmon net pens may also apply to other finfish net pens, including net pens for noncommercial native salmon and commercial native finfish, but there is a lack of current information regarding these risks. The

Department of Ecology's Shoreline Master Program Handbook lists only three references to guide local jurisdictions in how to regulate net pens, all of which predate the Endangered Species Act listings of Southern Resident Puget Sound Orcas, Puget Sound Chinook salmon, and Puget Sound steelhead as threatened. The Department of Ecology acknowledges in the handbook that interim net pen guidelines from the 1980s are out of date and caution should be used if relying on them.

In response to the Cypress Island incident, the Washington State Legislature adopted Engrossed House Bill 2957 prohibiting new or expanded leases for nonnative marine finfish aquaculture. House Bill 2957 also directed state agencies to continue updating guidance and informational resources for planning and permitting marine net pen aquaculture. State agencies were further directed to seek advice and assistance from the Northwest Indian Fisheries Commission, national centers for coastal ocean science, and to invite consultation with universities and federally recognized Indian tribes. The applicable state agencies must report to the legislature in late 2019.

**S-272b King County shall prohibit new commercial salmon net pen aquaculture operations to avoid adverse impacts on native salmon runs.**

**S-272c King County shall support tribal treaty fishing rights, including operation of noncommercial native salmon net pens for temporary rearing and brood stock recovery programs.**

**S-272d King County shall review and condition the siting of net pens to ensure they apply all necessary environmental and ecological protections and meet the standard of no adverse impacts and no net loss of ecological function.**

**S-272e King County shall revisit its policies and regulations associated with net pens, including the prohibition on commercial native salmon net pens, during the next statutory-required periodic review of this program. At that time, additional research and guidance from the state is expected to be available.**

*Upon final adoption, the council shall: incorporate the adopted changes into the 2016 King County Comprehensive Plan, as amended; correct any scrivener's errors; update the table of contents, cover page, and plan headers; and provide an electronic copy to the executive.*