

Summary of Proposed Ordinance relating to King County Shoreline Master Program 2019 Periodic Update

This summary fulfills Washington State Growth Management Act and King County Code (K.C.C.) 20.18.100 requirements for a “plain language summary.”

King County is performing a periodic review of its Shoreline Master Program as required by the Washington State Shoreline Management Act. This Proposed Ordinance reflects proposed changes resulting from that review. The proposed changes include updates to the code to be consistent with state law, and updates to regulations for aquaculture and finfish net pens. The following is a summary of the changes in the Proposed Ordinance.

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1	n/a	n/a	Adopts findings for the amendments to the Shoreline Master Program.	
2	n/a	n/a	Reflects adoption of amendments to the Shoreline Master Program.	The State Department of Ecology encourages adoption of such language.
3	n/a	n/a	Reflects adoption of amendments to the 2016 King County Comprehensive Plan, as amended.	Related to the amendments to Chapter 6 of the Comprehensive Plan in Attachment A to the Proposed Ordinance.
4	20.12.010	States that the 2016 Comprehensive Plan, as amended, is the current comprehensive plan.	Adds that this ordinance also amends the 2016 Comprehensive Plan.	Related to the amendments to Chapter 6 of the Comprehensive Plan in Attachment A to the Proposed Ordinance.
5	20.12.200	Lists the elements of the Shoreline Master Program, including Chapter 6 of the Comprehensive Plan and certain sections of K.C.C. Titles 20 and 21A.	Removes sections K.C.C. 21A.24.230, 21A.24.240, 21A.24.250, and 21A.24.260 from the elements of the Shoreline Master Program.	The floodplain is still part of our Shoreline Master Program jurisdiction, but the State Department of Ecology has indicated that Shoreline Master Program does not need to regulate the flood-specific development requirements (such as building heights, flow through capacity in basements, etc).
6	20.20.100	Requires the Permitting Division of the Department of Local Services (Department) to issue Type 3 or Type 4 permitting decisions within 150 days. Exempts certain permitting decisions from normal permit review deadlines.	Requires the Permitting Division of the Department of Local Services (Department) to issue Type 3 or Type 4 permitting decisions within 150 days. Adds a new exemption from normal permit review deadlines; the new exemption directs that that the Department should make final determinations on certain Washington State Department of Transportation projects within 90 days.	There is no change in the code language for Type 3 or Type 4 permitting decisions. The grey highlighted language for “Type 3 and Type 4” decisions was added to the code in Ordinance 18230 but not underlined as required by K.C.C. 1.24.075. It is being added now in correct legislative format, consistent with previous legislative intent, to address this issue. The legislature adopted this 90-day target for local review of certain Washington State Department of Transportation permits (RCW

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				47.01.584 and WAC 173-27-125). Adding it to the code is not required – but it is encouraged by the state Shorelines Master Program checklist to help ensure consistency with the state statute. The language here generally mirrors the RCW that encourages this 90-day target.
7	21A.06.072B	Defines the term “aquaculture” to include the culture or farming of, among other things, fin fish and geoducks.	Changes “fin fish” to “finfish”. States that “aquaculture” does not include the harvest of wild geoduck associated with state managed wildstock geoduck fishery.	Technical correction. Geoduck language required by state Shorelines Master Program checklist (WAC 173-26-020(2) and WAC 173-26-241(3)(b)).
8	21A.06.072C	Defines the term “aquatic areas” as, among other things, non-wetland water features that include conveyance systems such as a ditch.	Aquatic areas that include “conveyance systems” is changed to include both wetland and non-wetland water features, and only applies to above-ground systems.	Definition is updated to include contributing water that might come from either aquatic areas listed in Subsections A.1 and A.2 (non-wetland water features) and/or wetlands. This change is proposed to address the need to appropriately regulate situations where a wetland overflows into an excavated ditch and then flows to another area. The addition of “above-ground systems” is intended to exclude drain tiles from the “aquatic areas” definition to better support the needs of agriculture.
9	21A.06.1391	Requires wetlands to be delineated using the wetland delineation manual required by RCW 36.70A.175.	Requires wetlands to be delineated using the wetland delineation manual required by WAC 173-22-035.	Required by state Shoreline Master Program checklist, which requires use of the approved federal wetland delineation manual and applicable regional supplements per WAC 173-22-035. This state change replaces the WAC re: the state delineation manual, which has since been repealed; as a result, the current RCW reference no longer applies here.
10	21A.24.045	Adopts the table of allowed alterations to critical areas, with certain conditions. Condition #66 limits hydroelectric generating facilities from being sited in Category I or II wetlands with a habitat score of 30 points or higher.	Makes formatting corrections to condition #56. Amends condition #66 to change the habitat score to 8 points or higher.	Technical correction requested by the Code Reviser. Changes the habitat score to reflect the new scoring structure in the State’s most current wetland rating system manual; required by state Shoreline Master Program checklist.
11	21A.24.055	Adopts allowance of modifications to minimum buffer widths and clearing restrictions on Rural Area zoned sites, through the use of a rural stewardship plan. The department is required to consider, among other things, the condition of wetland functions based on the WA State 2004 wetland rating system manual.	Updates to the 2014 wetland rating system manual.	Updates the manual reference to the State’s most current wetland rating system manual; required by state Shoreline Master Program checklist.

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12	21A.24.318	Adopts classifications of wetlands based on the 2004 WA State wetland rating system manual.	Updates to the 2014 WA State wetland rating system manual.	Updates the manual reference to the State's most current wetland rating system manual; required by state Shoreline Master Program checklist.
13	21A.24.325	Adopts the buffers for various wetlands categories, based on applicable habitat scores.	<ul style="list-style-type: none"> • Amends the habitat scores. • Replaces "Natural Heritage Wetlands" term with "Wetlands of High Conservation Value". • Removes stair-stepping of buffer footage based on incremental habitat score points. • Clarifies the subsections that address modifications to the buffer tables. • Formatting corrections. 	<p>Updates the manual reference to the State's most current wetland rating system manual; required by state Shoreline Master Program checklist.</p> <ul style="list-style-type: none"> • Changes the habitat score to reflect the new scoring structure in the State's most current wetland rating system manual. • Replaces "Natural Heritage Wetlands" term with "Wetlands of High Conservation Value", consistent with changes in the State's most current wetland rating system manual. • Buffer calculations are streamlined and made clearer by removing stair-stepping of buffer footage, as the stair-stepping adds complexity and costs for applicants and county staff while only providing minimal additional environmental protections. • Technical clarification to call out all of the subsections that address modifications to the buffer tables, as currently only some of the current applicable code sections are referenced. • Technical corrections requested by the Code Reviser.
14	21A.24.340	Adopts ratios for mitigation areas to compensate for adverse impacts associated with an alteration to a wetland or a buffer. The ratios are broken out by wetland category	Replaces "Natural Heritage Wetlands" term with "Wetlands of High Conservation Value".	Replaces "Natural Heritage Wetlands" term with "Wetlands of High Conservation Value", consistent with changes in the State's most current wetland rating system manual.
15	21A.25.020	<p>States that the definitions for the County's shoreline jurisdiction are found in K.C.C. 21A.06, RCW 90.58 RCW and WAC 173-26; and that if there is a conflict with K.C.C. 21A.06, the definitions in RCW 90.58 RCW and WAC 173-26 apply.</p> <p>Defines the term "development" as defined in RCW Chapter 90.58.</p>	<p>Adds WAC 173-27 to the definitions that apply to the County's shoreline jurisdiction.</p> <p>Updates the definition of "development" to be as defined in WAC 173-27.</p>	<p>Technical correction to reflect that the County currently uses definitions in both WAC 173-26 and 173-27.</p> <p>Required by state Shoreline Master Program checklist to reflect new definition for development. The state definition for "development" now excludes dismantling or</p>

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16	21A.25.050	<ul style="list-style-type: none"> Adopts criteria for what King County’s shoreline jurisdiction consists of, which includes (among other things) the one hundred year floodplain. States that a list of lakes, rivers, and streams constituting the shoreline jurisdiction is adopted in Attachment K to Ordinance 17485, and a map of the shoreline jurisdiction is adopted in Chapter 6 of the King County Comprehensive Plan. States that if there is a discrepancy between the map and the criteria, the criteria shall overrule. 	<p>In addition to the one hundred year floodplain being part of the shoreline jurisdiction, lands that are 200 feet landward of the floodway is also added to the shoreline jurisdiction.</p> <p>Adds a requirement that, if a discrepancy between the map and the criteria is discovered, the Shoreline Master Program will be updated within three years of the discovery.</p>	<p>removing structures if there is no other associated development or re-development.</p> <p>Required by the Shorelines Master Act in RCW 90.58.030(2)(d)(i). Similar language was previously included in the Code, but was erroneously removed in 2018 in Ordinance 18767.</p> <p>Required by the state Shoreline Master Program checklist (WAC 173-18-046 and 173-20-046) to ensure that the adopted list and map of shoreline jurisdiction stays current and consistent with the criteria.</p>
17	21A.25.100	<p>K.C.C. 21A.25.100.B is the table of permitted shoreline uses, which currently allows “aquaculture” as a permitted use subject to development condition #2 and “commercial salmon net pens” as a conditional use subject to development condition #2.</p> <p>K.C.C. 21A.25.100.C is the list of development conditions for the uses in the table, which currently includes development condition #2, which includes various conditions for various aquaculture uses (including consistency with K.C.C. 21A.25.110).</p>	<p>Format of the table is updated.</p> <p>Substantive changes made to the use table to reflect different types of aquaculture and net pen uses (all are subject to development condition #2):</p> <ul style="list-style-type: none"> Adds nonnative marine finfish aquaculture as a prohibited use; Prohibits commercial native salmon net pens; Creates a separate use for noncommercial native salmon net pens (currently allowed under K.C.C. 21A.25.110) and adds requirements for permit review; Creates a separate use for commercial native finfish net pens (currently allowed under K.C.C. 21A.25.110) and adds requirement for a shoreline conditional use permit; Creates a separate use for geoduck aquaculture (currently allowed under K.C.C. 21A.25.110), and adds a requirement for a shoreline conditional use permit; and Allows other aquaculture as a permitted use, consistent with previous allowance. 	<p>Technical changes to make the format of the table consistent with other tables in K.C.C. Title 21A.</p> <p>For the changes in the table:</p> <ul style="list-style-type: none"> Prohibits nonnative marine finfish aquaculture (such as Atlantic salmon net pens), consistent with recent state change. Commercial native salmon net pens are prohibited to provide additional environmental, ecological, and wildlife protections. Technical clarification to reflect existing allowance for noncommercial salmon net pens, which is already allowed per 21A.25.110.H (which includes tribal rights). It is being added here for clarity and consistency with the prohibition of some finfish aquaculture; and adds requirements for permit review to ensure environmental, ecological, and wildlife protections. Technical clarification to reflect existing allowance for commercial native finfish (non-salmon) net pens, which is already allowed per 21A.25.110. It is being added here for clarity and consistency with the prohibition of some finfish aquaculture; and adds a new conditional use permit

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			<p>Development condition #2 is amended to:</p> <ul style="list-style-type: none"> • Prohibits commercial net pens in the natural shoreline environment and in areas adjacent to the natural shoreline environment; • Makes a technical clarification related to alterations to natural systems, features, and characters; and • Reflects that some farm-raised geoduck aquaculture requires a shoreline substantial development permit and that that a conditional use permit is required for new commercial geoduck aquaculture. 	<p>requirement to ensure environmental, ecological, and wildlife protections.</p> <ul style="list-style-type: none"> • Geoduck aquaculture is required by state Shoreline Master Program checklist (WAC 173-26-241(3)(b)) to be a conditional use (previously addressed via the “aquaculture” use as a permitted use). • The existing “aquaculture” use in the table is clarified to be “other aquaculture” to reflect the addition of the specific aquaculture uses listed above, and is allowed as a permitted use consistent with current code. <p>For the changes in the development condition:</p> <ul style="list-style-type: none"> • The prohibition of commercial net pens in and adjacent to natural environment is to implement Comprehensive Plan policy S-527; • Technical clarification for ease of reading; and • The development condition changes for geoduck aquaculture are required by state Shoreline Master Program checklist (WAC 173-26-241(3)(b)).
18	21A.25.110	<p>Requires aquaculture that involves substantial substrate modification to result in an increase in habitat diversity.</p> <p>Certain noncommercial salmon net pen facilities are allowed to be located in King County marine waters.</p> <p>Fish net pens are prohibited in inner Quartermaster Harbor.</p> <p>Commercial salmon net pens are allowed, subject to certain conditions.</p>	<p>Adds “native” to “habitat diversity”.</p> <p>Noncommercial salmon net pens are only allowed for “native” salmon, and states that the noncommercial net pens must be consistent with subsections S and Y of this code section (which includes certain prohibitions on and standards for finfish net pens). Removes “subsistence” limitation of noncommercial salmon net pens for tribes with treaty fishing rights, removes allowance of noncommercial salmon net pens for mitigation of development activity, and adds allowance for noncommercial salmon net pens for brood stock.</p> <p>Fish net pens are prohibited in all of Quartermaster Harbor, and the geography of Quartermaster Harbor is defined.</p>	<p>Technical correction to reflect existing intent re: habitat diversity.</p> <p>For the noncommercial salmon net pens changes:</p> <ul style="list-style-type: none"> • Reflects that this allowance is now only for <i>native</i> salmon, consistent with the recent state changes re: non-native marine finfish aquaculture; • Clarifies that noncommercial salmon net pens are currently prohibited in inner Quartermaster Harbor per subsection S (which is now also proposed to be prohibited in all of Quartermaster Harbor, per below) and are currently subject to the standards of this subsection; • Adds permit requirements of subsection Y to ensure environmental, ecological, and wildlife protections;

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			<p>Commercial salmon net pens are prohibited. Adds permit review requirements regarding the adverse effects of finfish net pens.</p> <p>Adds a new prohibition on all non-native marine finfish aquaculture.</p> <p>Adds a new requirement that geoduck aquaculture be consistent with WAC 173-26-241(3)(b).</p>	<ul style="list-style-type: none"> • Removes “subsistence” requirement for tribal fishing rights, as it is not consistent with the range of fishing rights allowed and intended for tribes; • Removes allowance of net pens for development mitigation, as it is not consistent with County policy goals re: limiting the use and impacts of net pens; and; • Adds allowance for brood stock to reflect net pen activities requested by the tribes. <p>Expands existing prohibition on all fish net pens (native and non-native, commercial and non-commercial, salmon and other finfish) from <i>inner</i> Quartermaster Harbor to <i>all of</i> Quartermaster Harbor; and defines the geography of Quartermaster Harbor, for clarity on where the prohibition applies. This proposed change goes beyond the recent state changes re: non-native marine finfish aquaculture, as King County desires to ensure additional environmental, ecological, and wildlife protections throughout Quartermaster Harbor. This change is consistent with and advances the Executive’s Clean Water and Healthy Habitat Agenda and the sensitive environmental and ecological nature of Quartermaster Harbor.</p> <p>The new prohibition for commercial salmon net pens is to provide additional environmental, ecological, and wildlife protections.</p> <p>The new permit review requirements for commercial salmon net pens are to provide additional environmental, ecological, and wildlife protections.</p> <p>The new prohibition on non-native marine finfish aquaculture (such as Atlantic salmon net pens) is consistent with recent state changes.</p> <p>The geoduck change is required by state Shoreline Master Program checklist – related to the requirements for aquaculture that would</p>

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				be subject to a conditional use permit. The WAC also includes other process and criteria requirements.
19	21A.25.160	<p>K.C.C. 21A.25.160.B is the table of permitted shoreline modifications, which currently allows “habitat and natural systems enhancement projects” as a permitted modification subject to development condition #7.</p> <p>K.C.C. 21A.25.160.C is the list of development conditions for the modifications in the table, which currently includes development condition #7 for habitat and natural systems enhancement projects, which allows for certain kinds of shoreline modifications.</p>	Development condition #7 is expanded to allow the County to grant relief from Shoreline Master Program development standards for certain shoreline restoration projects within the Urban Growth Area	Allowed (but not required) by state Shoreline Master Program checklist (RCW 90.58.580 and WAC 173-27-215) to provide some regulatory relief for shoreline restoration projects. This relief option is only allowed within the Urban Growth Area, per state regulations.
20	21A.25.290	<p>Exemptions for shoreline substantial development permits include:</p> <ul style="list-style-type: none"> • Uses exempt from the definition of “substantial development” in RCW 90.58.030 and WAC 173-27-040; and • Exemptions in RCW 90.58.140. 	<p>The exemptions for shoreline substantial development permits is expanded to also include exemptions in WAC 173-27-044 and 173-27-045.</p> <p>Formatting corrections.</p>	<p>Required by state Shoreline Master Program checklist, which exempts the following from local government review under the Shoreline Management Act:</p> <ul style="list-style-type: none"> • remedial hazardous substance cleanup actions, • boatyard improvements to meet National Pollutant Discharge Elimination System permit requirements, and • Washington State Department of Transportation facility maintenance and safety improvements. <p>Technical corrections requested by the Code Reviser.</p>
21	n/a	n/a	Repeals Section 11 of Ordinance 18767.	Related to the code changes in K.C.C. 21A.25.050 in Section 16 above. Repeals erroneous removal of language required by the state regarding flood areas within the shoreline jurisdiction.
22	n/a	n/a	Directs the Executive to submit the adopted version of Sections 5, 10, 11, and 13-21 of this ordinance to the State Department of Ecology for approval.	Required by RCW 90.58.090 and K.C.C. 20.12.200.
23	n/a	n/a	States that Sections 5, 10, 11, and 13-21 of the adopted version of this ordinance does not take effect until 14 days after the State Department of Ecology provides written notice of approval, and requires the Executive to	Required by RCW 90.58.090 and K.C.C. 20.12.200.

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			provide written notice of this approval to the Clerk of the Council.	
24	n/a	n/a	Severability	Standard severability language