



**Signature Report**

**Ordinance**

**Proposed No.** 2019-0143.1

**Sponsors**

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 10870, Section 323, as amended, and K.C.C.  
10 21A.06.1391, Ordinance 15051, Section 137, as amended,  
11 and K.C.C. 21A.24.045, Ordinance 15051, Section 139, as  
12 amended, and K.C.C. 21A.24.055, Ordinance 15051,  
13 Section 183, and K.C.C. 21A.24.318, Ordinance 15051,  
14 Section 185, as amended, and K.C.C. 21A.24.325,  
15 Ordinance 16267, Section 59, as amended, and K.C.C.  
16 21A.24.340, Ordinance 3688, Chapter 2 (part), as amended,  
17 and K.C.C. 21A.25.020, Ordinance 3688, Section 303, as  
18 amended, and K.C.C. 21A.25.050, Ordinance 16985,  
19 Section 31, as amended, and K.C.C. 21A.25.100,

20 Ordinance 16985, Section 32, as amended, and K.C.C.  
21 21A.25.110, Ordinance 16985, Section 39, as amended,  
22 and K.C.C. 21A.25.160 and Ordinance 3688, Section 801,  
23 as amended, and K.C.C. 21A.25.290 and repealing  
24 Ordinance 18767, Section 11.

25 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

26 **SECTION 1. Findings:**

27 A. The Shoreline Management Act ("SMA") requires King County to develop  
28 and administer a shoreline master program ("SMP"). King County adopted a  
29 comprehensive SMP update as required by RCW 90.58.080(2) via Ordinance 16985 and  
30 Ordinance 17485.

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

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

37 D. The review process is intended to bring the SMP into compliance with  
38 requirements of the SMA or state rules that have been added or changed since the last  
39 SMP amendment, ensure the SMP remains consistent with amended comprehensive plans  
40 and regulations, and incorporate amendments deemed necessary to reflect changed  
41 circumstances, new information or improved data.

42 E. King County used the state Department of Ecology's checklist of legislative

43 and rule amendments to review amendments to chapter 90.58 RCW and department  
44 guidelines that have occurred since the master program was last amended, and determine  
45 if local amendments are needed to maintain compliance in accordance with WAC 173-  
46 26-090(3)(b)(i).

47 F. King County reviewed changes to the comprehensive plan and development  
48 regulations to determine if the shoreline master program policies and regulations remain  
49 consistent with them in accordance with WAC 173-26-090(3)(b)(ii). King County  
50 considered whether to incorporate any amendments needed to reflect changed  
51 circumstances, new information or improved data in accordance with WAC 173-26-  
52 090(3)(b)(iii).

53 G. Net pen aquaculture is the practice of raising fish in an underwater net that  
54 serves as a pen. Two main types of net pen aquaculture exist in Washington -  
55 commercial pens containing salmon raised for market and enhancement pens raising  
56 native salmon for release into the wild or to adulthood as part of a program to conserve a  
57 population's genetics.

58 H. Under King County's shoreline jurisdiction, commercial salmon net pens are  
59 currently prohibited on shorelines adjacent to a "natural" environmental designation,  
60 within one thousand five hundred feet of the ordinary high water mark, and within the  
61 Maury Island Aquatic Reserve. K.C.C. 21A.25.110 also currently includes regulations  
62 that strictly condition the siting of commercial salmon net pens based on scientific review  
63 of the net pen's environmental impacts, including requiring demonstration that the salmon  
64 net pen will achieve no net loss of ecological function.

65 I. King County's native salmon runs are among the Puget Sound region's most

66 precious and irreplaceable natural resources. Many native salmon species have become  
67 extinct or have been on the verge of extinction. Chinook salmon and steelhead trout  
68 populations in King County are listed as threatened under the Endangered Species Act,  
69 with populations roughly at five percent of their historic numbers. To reverse this trend  
70 and to help preserve one of the unique and most precious attributes of our region, King  
71 County, area tribes, the state, the region and the federal government have collectively  
72 invested hundreds of millions of dollars over many years to help restore native salmon  
73 species.

74 J. Southern Puget Sound Resident Orcas are listed as threatened under the  
75 Endangered Species Act and rely heavily on Chinook salmon for much of their diet.  
76 When they feed in King County waters, they typically feed on coho and chum salmon  
77 produced from local streams.

78 K. In 2017, in order to further support orca and salmon populations and the  
79 health of the Salish Sea, King County adopted a six-month moratorium on commercial  
80 nonnative salmon net pen aquaculture facilities via Ordinance 18617 to allow the county  
81 to comprehensively review its net pen regulations as part of the 2019 SMP periodic  
82 update. The moratorium was extended by another six months via Ordinance 18736 and  
83 by another six months in via Ordinance 18808. The moratorium will expire in 2019.

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

88 1. The escape of farmed salmon may threaten existing depressed salmon

89 populations, because large numbers of escapees would act as predators on wild juvenile  
90 salmon, compete with wild juvenile and adult salmon for food, as well as compete for  
91 spawning and rearing habitats;

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

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

101           4. Dense aggregations of farmed salmon in commercial net pens increase the  
102 risks of spreading diseases and parasites to wild salmon that migrate past or near the net  
103 pen;

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

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

111           M. Many operational aspects of commercial salmon net pens generally are not

112 consistent with existing policies within King County's SMP in Chapter 6 of the King  
113 County Comprehensive Plan, including:

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

120           2. Policy S-719 indicates that aquaculture facilities shall be designed, operated,  
121 and located so as not to spread disease to native aquatic life. Commercial salmon net  
122 pens are open to the natural environment. They are not designed to contain diseases and  
123 do not avoid intermingling with wild salmon, either through escapement of fish from the  
124 net pens or through entry of native juvenile salmon into the net pen. That increases the  
125 risk that diseases or parasites would be spread to wild salmon stocks

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

133           4. Policies S-717 and S-718 indicate that aquaculture operations should not have  
134 adverse impacts and not be permitted if they result in a net loss of ecological function.

135 As noted in subsections L. and M.1., 2. and 3. of this section, commercial salmon net  
136 pens have potential adverse impacts that lead to losses of ecological function.

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

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

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

147 Q. King County currently prohibits all fish net pens within Inner Quartermaster  
148 Harbor, the area between Vashon and Maury Islands. Due to the sensitive shoreline areas  
149 in Quartermaster Harbor and significant water quality concerns within in this area, this  
150 ordinance prohibits all fish net pens, for both native and nonnative fish, in all of  
151 Quartermaster Harbor. This will protect sensitive shoreline environments, water quality,  
152 habitat, and prevent impacts on wild fish survival. This will not affect Tribal operation of  
153 noncommercial pens for temporary rearing of young Puget Sound Salmon outside of  
154 Quartermaster Harbor.

155 R. King County continues to support Tribal treaty fishing rights, including the  
156 operation of noncommercial native salmon net pens for temporary rearing and brood  
157 stock recovery programs. This ordinance updates regulations for noncommercial native

158 salmon net pens to more explicitly state this allowance and to clarify the siting  
159 conditions.

160         S. While aquaculture is an historic, water-dependent use of Washington's  
161 shorelines, the state Department of Ecology's Shoreline Master Program Handbook lists  
162 only three references to guide local jurisdictions in how to regulate finfish net pens, all of  
163 which predate the Endangered Species Act listings of Southern Resident Puget Sound  
164 Orcas, Puget Sound Chinook salmon and Puget Sound steelhead as threatened. The state  
165 Department of Ecology acknowledges in the handbook that interim net pen guidelines  
166 from the 1980s are out of date and caution should be used if relying on them.

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

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

178         V. Given the lack of current information regarding the risks of commercial net  
179 pens for other native marine finfish on other species and treaty rights, and the pending  
180 update of guidance for marine finfish aquaculture, this ordinance updates the county's



181 shoreline regulations to strongly condition siting other native marine finfish net pen uses  
182 rather than prohibiting this use at this time.

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

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

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

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

203 SECTION 2. The review and evaluation required by RCW 90.58.080(4) have

204 occurred, as described in the findings of this ordinance. The elements of the King  
205 County shoreline master program ("SMP") in sections 5, 10, 11, and 13 through 21 of this  
206 ordinance and in Attachment A to this ordinance are hereby amended to read as set forth  
207 in this ordinance and are incorporated herein by this reference. The remaining portions  
208 of the county's SMP is unchanged. King County adopts these SMP revisions and finds  
209 the amended SMP consistent with the requirements of chapter 90.58 RCW and chapter  
210 173-26 WAC, as they apply to these amendments.

211         SECTION 3. Attachment A to this ordinance is adopted as amendments to the  
212 2016 King County Comprehensive Plan, as adopted in Ordinance 18472 and its  
213 attachments and as amended by Ordinance 18623 and Ordinance 18810.

214         SECTION 4. Ordinance 263, Article 2, Section 1, as amended, and K.C.C.  
215 20.12.010 are each hereby amended to read as follows:

216         A. Under the King County Charter, the state Constitution and the Washington  
217 state Growth Management Act, chapter 36.70A RCW, King County adopted the 1994  
218 King County Comprehensive Plan via Ordinance 11575 and declared it to be the  
219 Comprehensive Plan for King County until amended, repealed or superseded. The  
220 Comprehensive Plan has been reviewed and amended multiple times since its adoption in  
221 1994. Amendments to the 1994 Comprehensive Plan to-date are currently reflected in the  
222 2016 King County Comprehensive Plan, as adopted in Ordinance 18427 and as amended  
223 by Ordinance 18623 (~~and~~), Ordinance 18810 and this ordinance. The Comprehensive  
224 Plan shall be the principal planning document for the orderly physical development of the  
225 county and shall be used to guide subarea plans, functional plans, provision of public  
226 facilities and services, review of proposed incorporations and annexations, development

227 regulations and land development decisions.

228           SECTION 5. Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200 are

229 each hereby amended to read as follows:

230           A. The King County shoreline master program consists of the following elements

231 in effect on the effective date of this ordinance:

232           1. The King county Comprehensive Plan chapter six;

233           2. K.C.C. chapter 21A.25;

234           3. The following sections of K.C.C. chapter 21A.24:

235           a. K.C.C. 21A.24.045;

236           b. K.C.C. 21A.24.051;

237           c. K.C.C. 21A.24.055;

238           d. K.C.C. 21A.24.070.A., D. and E.;

239           e. K.C.C. 21A.24.125;

240           f. K.C.C. 21A.24.130;

241           g. K.C.C. 21A.24.133;

242           h. K.C.C. 21A.24.200;

243           i. K.C.C. 21A.24.210;

244           j. K.C.C. 21A.24.220;

245           k. (~~K.C.C. 21A.24.230;~~

246           l. ~~K.C.C. 21A.24.240;~~

247           m. ~~K.C.C. 21A.24.250;~~

248           n. ~~K.C.C. 21A.24.260;~~

249           o.)) K.C.C. 21A.24.275;

- 250            (~~p~~) l. K.C.C. 21A.24.280;
- 251            (~~q~~) m. K.C.C. 21A.24.290;
- 252            (~~r~~) n. K.C.C. 21A.24.300;
- 253            (~~s~~) o. K.C.C. 21A.24.310;
- 254            (~~t~~) p. K.C.C. 21A.24.316;
- 255            (~~u~~) q. K.C.C. 21A.24.325;
- 256            (~~v~~) r. K.C.C. 21A.24.335;
- 257            (~~w~~) s. K.C.C. 21A.24.340;
- 258            (~~x~~) t. K.C.C. 21A.24.358;
- 259            (~~y~~) u. K.C.C. 21A.24.365;
- 260            (~~z~~) v. K.C.C. 21A.24.380;
- 261            (~~aa~~) w. K.C.C. 21A.24.382;
- 262            (~~bb~~) x. K.C.C. 21A.24.386;
- 263            (~~ee~~) y. K.C.C. 21A.24.388; and
- 264            4. The following:
- 265            a. K.C.C. 20.18.040;
- 266            b. K.C.C. 20.18.050;
- 267            c. K.C.C. 20.18.056;
- 268            d. K.C.C. 20.18.057;
- 269            e. K.C.C. 20.18.058;
- 270            f. K.C.C. 20.22.160;
- 271            g. K.C.C. 20.24.510;
- 272            h. K.C.C. 21A.32.045;

- 273 i. K.C.C. 21A.44.090;
- 274 j. K.C.C. 21A.44.100; and
- 275 k. K.C.C. 21A.50.030.

276 B. The shoreline management goals and policies constitute the official policy of  
277 King ((e))County regarding areas of the county subject to shoreline management  
278 jurisdiction under chapter 90.58 RCW. As provided by WAC 173-26-191(2)(a), King  
279 County's local administrative, enforcement and permit review procedures shall conform  
280 to chapter 90.58 RCW but shall not be a part of the master program.

281 C. Amendments to the shoreline master program do not apply to the shoreline  
282 jurisdiction until approved by the Washington state Department of Ecology as provided  
283 in RCW 90.58.090. The department of permitting and environmental review shall, within  
284 ten days after the date of the Department of Ecology's approval, file a copy of the  
285 Department of Ecology's approval, in the form of a paper copy and an electronic copy,  
286 with the clerk of the council, who shall retain the paper copy and forward electronic  
287 copies to all councilmembers, chief of staff, policy staff director and the lead staff of the  
288 planning, rural service and environment committee, or its successor.

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

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

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

300 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 |

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

303 1. Any period during which the applicant has been requested by the department,  
304 the examiner or the council to correct plans, perform required studies or provide  
305 additional information, including road variances and variances required under K.C.C.  
306 chapter 9.04. The period shall be calculated from the date of notice to the applicant of  
307 the need for additional information until the earlier of the date the county advises the  
308 applicant that the additional information satisfies the county's request or fourteen days  
309 after the date the information has been provided. If the county determines that

310 corrections, studies or other information submitted by the applicant is insufficient, it shall  
311 notify the applicant of the deficiencies and the procedures of this section shall apply as if  
312 a new request for information had been made.

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

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

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

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

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

328           5. Any time extension mutually agreed upon by the applicant and the  
329 department; and

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

332           D. Failure by the applicant to submit corrections, studies or other information

333 acceptable to the department after two written requests under subsection C. of this section  
334 shall be cause for the department to cancel or deny the application.

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

337 1. Requires either: an amendment to the Comprehensive Plan or a development  
338 regulation; or modification or waiver of a development regulation as part of a  
339 demonstration project;

340 2. Requires approval of a new fully contained community as provided in RCW  
341 36.70A.350, master planned resort as provided in RCW 36.70A.360 or the siting of an  
342 essential public facility as provided in RCW 36.70A.200; or

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

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

353 G. The department shall require that all plats, short plats, building permits,  
354 clearing and grading permits, conditional use permits, special use permits, site  
355 development permits, shoreline substantial development permits, binding site plans,



356 urban planned development permits or fully contained community permits issued for  
357 development activities on or within five hundred feet of designated agricultural lands,  
358 forest lands or mineral resource lands contain a notice that the subject property is within  
359 or near designated agricultural lands, forest lands or mineral resource lands on which a  
360 variety of commercial activities may occur that are not compatible with residential  
361 development for certain periods of limited duration.

362 H. To the greatest extent practicable, the department shall make a final  
363 determination on all permits required for a Washington state Department of  
364 Transportation project on a state highway as defined in RCW 46.04.560 with an  
365 estimated cost of less than five hundred million dollars no later than ninety days after  
366 receipt of a complete permit application.

367 SECTION 7. Ordinance 3688, Section 202, as amended, and K.C.C.  
368 21A.06.072B are each hereby amended to read as follows:

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

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

376 A. Aquatic areas:

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

378 ~~1-A))all shorelines of the state, rivers, streams, marine waters and bodies of~~

379 open water, such as lakes, ponds and reservoirs;

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

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

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

388 B. "Aquatic areas" does not include water features where the source of  
389 contributing water is entirely artificial, including, but not limited to, ~~((a))~~ ground water  
390 wells.

391 SECTION 9. Ordinance 10870, Section 323, as amended, and K.C.C.

392 21A.06.1391 are each hereby amended to read as follows:

393 Wetland: an area that is not an aquatic area and that is inundated or saturated by  
394 ground or surface water at a frequency and duration sufficient to support, and under  
395 normal circumstances supports, a prevalence of vegetation typically adapted for life in  
396 saturated soil conditions. For purposes of this definition:

397 A. Wetlands shall be delineated using the wetland delineation manual required by  
398 ~~((RCW 36.70A.175))~~ WAC 173-22-035; and

399 B. Except for artificial features intentionally made for the purpose of mitigation,  
400 "wetland" does not include an artificial feature made from a nonwetland area, which may  
401 include, but is not limited to:

- 402 1. A surface water conveyance for drainage or irrigation;
- 403 2. A grass-lined swale;
- 404 3. A canal;
- 405 4. A flow control facility;
- 406 5. A wastewater treatment facility;
- 407 6. A farm pond;
- 408 7. A wetpond;
- 409 8. Landscape amenities; or
- 410 9. A wetland created after July 1, 1990, that was unintentionally made as a
- 411 result of construction of a road, street or highway.

412 SECTION 10. Ordinance 15051, Section 137, as amended, and K.C.C.

413 21A.24.045 are each hereby amended to read as follows:

414 A. Within the following seven critical areas and their buffers all alterations are  
415 allowed if the alteration complies with the development standards, impact avoidance and  
416 mitigation requirements and other applicable requirements established in this chapter:

- 417 1. Critical aquifer recharge area;
- 418 2. Coal mine hazard area;
- 419 3. Erosion hazard area;
- 420 4. Flood hazard area except in the severe channel migration hazard area;
- 421 5. Landslide hazard area under forty percent slope;
- 422 6. Seismic hazard area; and
- 423 7. Volcanic hazard areas.

424 B. Within the following seven critical areas and their buffers, unless allowed as

425 an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in  
 426 subsection C. of this section are allowed if the alteration complies with conditions in  
 427 subsection D. of this section and the development standards, impact avoidance and  
 428 mitigation requirements and other applicable requirements established in this chapter:

- 429 1. Severe channel migration hazard area;
- 430 2. Landslide hazard area over forty percent slope;
- 431 3. Steep slope hazard area;
- 432 4. Wetland;
- 433 5. Aquatic area;
- 434 6. Wildlife habitat conservation area; and
- 435 7. Wildlife habitat network.

436 C. In the following table where an activity is included in more than one activity  
 437 category, the numbered conditions applicable to the most specific description of the  
 438 activity governs. Where more than one numbered condition appears for a listed activity,  
 439 each of the relevant conditions specified for that activity within the given critical area  
 440 applies. For alterations involving more than one critical area, compliance with the  
 441 conditions applicable to each critical area is required.

A= alternation 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
<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

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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 structure	A 16	A 16	A 16	A 16	A 16, 27
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

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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
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

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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, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
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

442 D. The following alteration conditions apply:

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

445 2. Only allowed in a buffer of a lake that is twenty acres or larger on a lot that  
 446 was created before January 1, 2005, if:

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

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

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

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

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



459 f. the alteration is no closer than:

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

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

468 (3) on a site with a shoreline environment designation of natural, the greater  
469 of one hundred feet or the average of the setbacks on adjacent lots on either side of the  
470 subject property, as measured from the ordinary high water mark; and

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

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

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

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

478 c. the structure is either:

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

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

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

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

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

492 f. in a severe channel migration hazard area portion of an aquatic buffer only  
493 if:

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

495 (2) the structure is located where it is least subject to risk from channel  
496 migration;

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

499 (4) the total footprint of all accessory structures within the severe channel  
500 migration hazard area will not exceed the greater of one thousand square feet or two  
501 percent of the severe channel migration hazard area on the site.

502 4. No clearing, external construction or other disturbance in a wildlife habitat  
503 conservation area is allowed during breeding seasons established under K.C.C.  
504 21A.24.382.

- 505           5. Allowed for structures when:
- 506           a. the landslide hazard poses little or no risk of injury;
- 507           b. the risk of landsliding is low; and
- 508           c. there is not an expansion of the structure.
- 509           6. Within a severe channel migration hazard area allowed for:
- 510           a. existing legally established primary structures if:
- 511               (1) there is not an increase of the footprint of any existing structure; and
- 512               (2) there is not a substantial improvement as defined in K.C.C. 21A.06.1270;
- 513   and
- 514           b. existing legally established accessory structures if:
- 515               (1) additions to the footprint will not make the total footprint of all existing
- 516   structures more than one-thousand square feet; and
- 517               (2) there is not an expansion of the footprint towards any source of channel
- 518   migration hazard, unless the applicant demonstrates that the location is less subject to risk
- 519   and has less impact on the critical area.
- 520           7. Allowed only in grazed wet meadows or the buffer or building setback
- 521   outside a severe channel migration hazard area if:
- 522           a. the expansion or replacement does not increase the footprint of a
- 523   nonresidential structure;
- 524           b.(1) for a legally established dwelling unit, the expansion or replacement,
- 525   including any expansion of a legally established accessory structure allowed under this
- 526   subsection B.7.b., does not increase the footprint of the dwelling unit and all other
- 527   structures by more than one thousand square feet, not including any expansion of a

528 drainfield made necessary by the expansion of the dwelling unit. To the maximum extent  
529 practical, the replacement or expansion of a drainfield in the buffer should be located  
530 within areas of existing lawn or landscaping, unless another location will have a lesser  
531 impact on the critical area and its buffer;

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

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

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

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

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

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

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

549 (2) the expansion is between thirty-five and fifty feet of the ordinary high

550 water mark and the area of the expansion extending towards the ordinary high water mark

551 is greater than three hundred square feet.

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

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

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

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

560           9. Limited to piers or seasonal floating docks in a category II, III or IV wetland  
561 or its buffer or along a lake shoreline or its buffer where:

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

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

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

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

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

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

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

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

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

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

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

583           15. Only where erosion or landsliding threatens a structure, utility facility,  
584 roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent  
585 practical, stabilization work does not disturb the slope and its vegetative cover and any  
586 associated critical areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

619 23. Allowed as follows:

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

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

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

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

629 (3) the cleared area is revegetated with native vegetation and stabilized  
630 against erosion; and

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

632 24. Allowed to repair or replace existing on site wastewater disposal systems in  
633 accordance with the applicable public health standards within Marine Recovery Areas  
634 adopted by the Seattle King County board of health and:

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

636 b. impacts to the critical area are minimized to the maximum extent  
637 practicable;

638 c. the alterations will not subject the critical area to increased risk of landslide  
639 or erosion;

640 d. vegetation removal is the minimum necessary to accommodate the septic  
641 system; and

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



643 hazard area.

644           25. Only if in compliance with published Washington state Department of Fish  
645 and Wildlife and Washington state Department of Natural Resources Management  
646 standards for the species. If there are no published Washington state standards, only if in  
647 compliance with management standards determined by the county to be consistent with  
648 best available science.

649           26. Allowed only if:

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

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

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

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

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

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

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

664           28. Allowed only if:

665           a. an alternative access is not available;

- 666           b. impact to the critical area is minimized to the maximum extent practical  
667 including the use of walls to limit the amount of cut and fill necessary;  
668           c. the risk associated with landslide and erosion is minimized;  
669           d. access is located where it is least subject to risk from channel migration; and  
670           e. construction occurs during approved periods for instream work.

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

673           30. Allowed only if:

- 674           a. the new construction or replacement is made fish passable in accordance  
675 with the most recent Washington state Department of Fish and Wildlife manuals or with  
676 the National Marine and Fisheries Services guidelines for federally listed salmonid  
677 species; and  
678           b. the site is restored with appropriate native vegetation.

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

- 681           a. there is not another feasible alternative available with less impact on the  
682 aquatic area and its buffer; and  
683           b. to the maximum extent practical, the bridge or culvert is located to minimize  
684 impacts to the aquatic area and its buffers.

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

687           33. Allowed outside the roadway if:

- 688           a. the alterations will not subject the critical area to an increased risk of

689 landslide or erosion;

690           b. vegetation removal is the minimum necessary to locate the utility or

691 construct the corridor; and

692           c. significant risk of personal injury is eliminated or minimized in the landslide

693 hazard area.

694           34. Limited to the pipelines, cables, wires and support structures of utility

695 facilities within utility corridors if:

696           a. there is no alternative location with less adverse impact on the critical area

697 and critical area buffer;

698           b. new utility corridors meet the all of the following to the maximum extent

699 practical:

700           (1) are not located over habitat used for salmonid rearing or spawning or by a

701 species listed as endangered or threatened by the state or federal government unless the

702 department determines that there is no other feasible crossing site;

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

704           (3) paralleling the channel or following a down-valley route near the channel

705 is avoided;

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

707           (1) the width is the minimized;

708           (2) the removal of trees greater than twelve inches diameter at breast height is

709 minimized;

710           (3) an additional, contiguous and undisturbed critical area buffer, equal in

711 area to the disturbed critical area buffer area including any allowed maintenance roads, is

712 provided to protect the critical area;

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

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

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

720           e. the utility corridor or facility will not adversely impact the overall critical  
721 area hydrology or diminish flood storage capacity;

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

723           g. the utility corridor serves multiple purposes and properties to the maximum  
724 extent practical;

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

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

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

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

735           1. minor communication facilities may collocate on existing utility facilities if:

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

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

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

739           36. Allowed for onsite private individual utility service connections or private

740 or public utilities if the disturbed area is not expanded and no hazardous substances,

741 pesticides or fertilizers are applied.

742           37. Allowed if the disturbed area is not expanded, clearing is limited to the

743 maximum extent practical and no hazardous substances, pesticides or fertilizers are

744 applied.

745           38. Allowed if:

746           a. conveying the surface water into the wetland or aquatic area buffer and

747 discharging into the wetland or aquatic area buffer or at the wetland or aquatic area edge

748 has less adverse impact upon the wetland or aquatic area or wetland or aquatic area buffer

749 than if the surface water were discharged at the buffer's edge and allowed to naturally

750 drain through the buffer;

751           b. the volume of discharge is minimized through application of low impact

752 development and water quality measures identified in the King County Surface Water

753 Design Manual;

754           c. the conveyance and outfall are installed with hand equipment where

755 feasible;

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

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

- 758           39. Allowed only if:
- 759           a. there is no feasible alternative with less impact on the critical area and its
- 760 buffer;
- 761           b. to the maximum extent practical, the bridge or culvert is located to minimize
- 762 impacts to the critical area and its buffer;
- 763           c. the bridge or culvert is not located over habitat used for salmonid rearing or
- 764 spawning unless there is no other feasible crossing site;
- 765           d. construction occurs during approved periods for in-stream work; and
- 766           e. bridge piers or abutments for bridge crossings are not placed within the
- 767 FEMA floodway, severe channel migration hazard area or waterward of the ordinary high
- 768 water mark.
- 769           40. Allowed for an open, vegetated stormwater management conveyance system
- 770 and outfall structure that simulates natural conditions if:
- 771           a. fish habitat features necessary for feeding, cover and reproduction are
- 772 included when appropriate;
- 773           b. vegetation is maintained and added adjacent to all open channels and ponds,
- 774 if necessary to prevent erosion, filter out sediments or shade the water; and
- 775           c. bioengineering techniques are used to the maximum extent practical.
- 776           41. Allowed for a closed, tightlined conveyance system and outfall structure if:
- 777           a. necessary to avoid erosion of slopes; and
- 778           b. bioengineering techniques are used to the maximum extent practical.
- 779           42. Allowed in a severe channel migration hazard area or an aquatic area buffer
- 780 to prevent bank erosion only:

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

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

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

789 (1) public roadways;

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

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

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

799 (b) the new primary dwelling units, accessory dwelling units, accessory  
800 living quarters or residential accessory structures are located no closer to the aquatic area  
801 than existing primary dwelling units, accessory dwelling units, accessory living quarters  
802 or residential accessory structures on abutting or adjacent properties; or

803 (4) existing primary dwelling units, accessory dwelling units, accessory living

804 quarters or residential accessory structures if:

805 (a) the structure was in existence before the adoption date of a King County

806 Channel Migration Zone hazard map that applies to that channel, if such a map exists;

807 (b) the structure is in imminent danger, as determined by a geologist,

808 engineering geologist or geotechnical engineer;

809 (c) the applicant has demonstrated that the existing structure is at risk, and

810 the structure and supporting infrastructure cannot be relocated on the lot further from the

811 source of channel migration; and

812 (d) nonstructural measures are not feasible.

813 43. Applies to lawfully established existing structures if:

814 a. the height of the facility is not increased, unless the facility is being replaced

815 in a new alignment that is landward of the previous alignment and enhances aquatic area

816 habitat and process;

817 b. the linear length of the facility is not increased, unless the facility is being

818 replaced in a new alignment that is landward of the previous alignment and enhances

819 aquatic area habitat and process;

820 c. the footprint of the facility is not expanded waterward;

821 d. consistent with the Integrated Streambank Protection Guidelines

822 (Washington State Aquatic Habitat Guidelines Program, 2002) and bioengineering

823 techniques are used to the maximum extent practical;

824 e. the site is restored with appropriate native vegetation and erosion protection

825 materials; and

826 f. based on a critical areas report, the department determines that the



827 maintenance, repair, replacement or construction will not cause significant impacts to  
828 upstream or downstream properties.

829           44. Allowed in type N and O aquatic areas if done in least impacting way at  
830 least impacting time of year, in conformance with applicable best management practices,  
831 and all affected instream and buffer features are restored.

832           45. Allowed in a type S or F water when such work is:

- 833           a. included as part of a project to evaluate, restore or improve habitat, and
- 834           b. sponsored or cosponsored by a public agency that has natural resource  
835 management as a function or by a federally recognized tribe.

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

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

- 843           a. the trail surface is made of pervious materials, except that public  
844 multipurpose trails may be made of impervious materials if they meet all the  
845 requirements in K.C.C. chapter 9.12. A trail that crosses a wetland or aquatic area shall  
846 be constructed as a raised boardwalk or bridge;
- 847           b. to the maximum extent practical, buffers are expanded equal to the width of  
848 the trail corridor including disturbed areas;
- 849           c. there is not another feasible location with less adverse impact on the critical

850 area and its buffer;

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

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

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

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

858           h. the trail may be located across a critical area buffer for access to a viewing  
859 platform or to a permitted dock or pier;

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

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

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

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

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

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

869           48. Only if the maintenance:

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

872               b. when salmonids are present, the maintenance is in compliance with ditch

873 standards in public rule; and

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

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

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

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

881 c. conducted in accordance with an approved forest management plan, farm  
882 management plan or rural stewardship plan.

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

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

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

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

891 b. survey monument placement;

892 c. site exploration and gage installation if performed in accordance with state-  
893 approved sampling protocols and accomplished to the maximum extent practical by

894 hand-held equipment and; or similar work associated with an incidental take permit

895 issued under Section 10 of the Endangered Species Act or consultation under Section 7 of

896 the Endangered Species Act.

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

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

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

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

904           (1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest  
905 practice permit; or

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

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

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

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

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

919           b. there is not a feasible alternative location available on the site; and  
920           c. the facilities are located close to the outside edge of the buffer to the  
921 maximum extent practical.

922           56. Only allowed in:

923           a.(1) a severe channel migration hazard area located outside of the shorelines  
924 jurisdiction area(~~(c)~~);

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

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

927           (~~(a)~~) b.(1) the applicant demonstrates that adverse impacts to the critical area  
928 and critical area buffers have been minimized;

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

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

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

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

940           58. If the agricultural drainage is used by salmonids, maintenance shall be in  
941 compliance with an approved farm management plan in accordance with K.C.C.

942 21A.24.051.

943 59. Allowed within existing landscaped areas or other previously disturbed  
944 areas.

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

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

950 b. the residential utility service distribution lines meet the all of the following,  
951 to the maximum extent practical:

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

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

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

958 (4) the width of clearing is minimized;

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

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

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

965 (8) the construction occurs during approved periods for instream work;  
966 (9) bored, drilled or other trenchless crossing is encouraged, and shall be  
967 laterally constructed at least four feet below the maximum depth of scour for the base  
968 flood; and

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

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

- 973 a. is the best flood risk reduction alternative practicable;
- 974 b. is part of a comprehensive, long-term flood management strategy;
- 975 c. is consistent with the King County Flood Hazard Management Plan policies;
- 976 d. will have the least adverse impact on the ecological functions of the critical  
977 area or its buffer, including habitat for fish and wildlife that are identified for protection  
978 in the King County Comprehensive Plan; and
- 979 e. has been subject to public notice in accordance with K.C.C. 20.44.060.

980 62.a. Not allowed in wildlife habitat conservation areas;

981 b. Only allowed if:

982 (1) the project is sponsored or cosponsored by a public agency whose primary  
983 function deals with natural resources management;

984 (2) the project is located on public land or on land that is owned by a  
985 nonprofit agency whose primary function deals with natural resources management;

986 (3) there is not a feasible alternative location available on the site with less  
987 impact to the critical area or its associated buffer;

988 (4) the aquatic area or wetland is not for salmonid rearing or spawning;

989 (5) the project minimizes the footprint of structures and the number of access  
990 points to any critical areas; and

991 (6) the project meets the following design criteria:

992 (a) to the maximum extent practical size of platform shall not exceed one  
993 hundred square feet;

994 (b) all construction materials for any structures, including the platform,  
995 pilings, exterior and interior walls and roof, are constructed of nontoxic material, such as  
996 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,  
997 fiberglass or cured concrete that the department determines will not have an adverse  
998 impact on water quality;

999 (c) the exterior of any structures are sufficiently camouflaged using netting  
1000 or equivalent to avoid any visual deterrent for wildlife species to the maximum extent  
1001 practical. The camouflage shall be maintained to retain concealment effectiveness;

1002 (d) structures shall be located outside of the wetland or aquatic area  
1003 landward of the Ordinary High Water Mark or open water component (if applicable) to  
1004 the maximum extent practical on the site;

1005 (e) construction occurs during approved periods for work inside the  
1006 Ordinary High Water Mark;

1007 (f) construction associated with bird blinds shall not occur from March 1  
1008 through August 31, in order to avoid disturbance to birds during the breeding, nesting and  
1009 rearing seasons;

1010 (g) to the maximum extent practical, provide accessibility for persons with



1011 physical disabilities in accordance with the International Building Code;

1012 (h) trail access is designed in accordance with public rules adopted by the

1013 department;

1014 (i) existing native vegetation within the critical area will remain undisturbed

1015 except as necessary to accommodate the proposal. Only minimal hand clearing of

1016 vegetation is allowed; and

1017 (j) disturbed bare ground areas around the structure must be replanted with

1018 native vegetation approved by the department.

1019 63. Not allowed in the severe channel migration zone, there is no alternative

1020 location with less adverse impact on the critical area and buffer and clearing is minimized

1021 to the maximum extent practical.

1022 64. Only structures wholly or partially supported by a tree and used as accessory

1023 living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the

1024 following:

1025 a. not allowed in wildlife habitat conservation areas or severe channel

1026 migration hazard areas;

1027 b. the structure's floor area shall not exceed two hundred square feet, excluding

1028 a narrow access stairway or landing leading to the structure;

1029 c. the structure shall be located as far from the critical area as practical, but in

1030 no case closer than seventy-five feet from the critical area;

1031 d. only one tree-supported structure within a critical area buffer is allowed on a

1032 lot;

1033 e. all construction materials for the structure, including the platform, pilings,

1034 exterior and interior walls and roof, shall be constructed of nontoxic material, such as  
1035 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,  
1036 fiberglass or cured concrete that the department determines will not have an adverse  
1037 impact on water quality;

1038           f. to the maximum extent practical, the exterior of the structure shall be  
1039 camouflaged with natural wood and earth tone colors to limit visual impacts to wildlife  
1040 and visibility from the critical area. The camouflage shall be maintained to retain  
1041 concealment effectiveness;

1042           g. the structure must not adversely impact the long-term health and viability of  
1043 the tree. The evaluation shall include, but not be limited to, the following:

1044                 (1) the quantity of supporting anchors and connection points to attach the tree  
1045 house to the tree shall be the minimum necessary to adequately support the structure;

1046                 (2) the attachments shall be constructed using the best available tree anchor  
1047 bolt technology; and

1048                 (3) an ISA Certified Arborist shall evaluate the tree proposed for placement  
1049 of the tree house and shall submit a report discussing how the tree's long-term health and  
1050 viability will not be negatively impacted by the tree house or associated infrastructure;

1051           h. exterior lighting shall meet the following criteria:

1052                 (1) limited to the minimum quantity of lights necessary to meet the building  
1053 code requirements to allow for safe exiting of the structure and stairway; and

1054                 (2) exterior lights shall be fully shielded and shall direct light downward, in  
1055 an attempt to minimize impacts to the nighttime environment;

1056           i. unless otherwise approved by the department, all external construction shall

1057 be limited to September 1 through March 1 in order to avoid disturbance to wildlife  
1058 species during typical breeding, nesting and rearing seasons;

1059 j. trail access to the structure shall be designed in accordance with trail  
1060 standards under subsection D.47. of this section;

1061 k. to the maximum extent practical, existing native vegetation shall be left  
1062 undisturbed. Only minimal hand clearing of vegetation is allowed; and

1063 l. vegetated areas within the critical area buffer that are temporarily impacted  
1064 by construction of the structure shall be restored by planting native vegetation according  
1065 to a vegetation management plan approved by the department.

1066 65. Shoreline water dependent and shoreline water oriented uses are allowed in  
1067 the aquatic area and aquatic area buffer of a Type S aquatic area if consistent with K.C.C.  
1068 chapter 21A.25, chapter 90.58 RCW and the King County Comprehensive Plan.

1069 66. Only hydroelectric generating facilities meeting the requirements of K.C.C.  
1070 21A.08.100B.14., and only as follows:

1071 a. there is not another feasible location within the aquatic area with less adverse  
1072 impact on the critical area and its buffer;

1073 b. the facility and corridor is not located over habitat used for salmonid rearing  
1074 or spawning or by a species listed as endangered or threatened by the state or federal  
1075 government unless the department determines that there is no other feasible location;

1076 c. the facility is not located in Category I wetlands or Category II wetlands with  
1077 a habitat score ((~~30~~) 8) points or greater;

1078 d. the corridor width is minimized to the maximum extent practical;

1079 e. paralleling the channel or following a down-valley route within an aquatic

1080 area buffer is avoided to the maximum extent practical;

1081 f. the construction occurs during approved periods for instream work;

1082 g. the facility and corridor will not change or adversely impact the overall

1083 aquatic area flow peaks, duration or volume or the flood storage capacity;

1084 h. the facility and corridor is not located within a severe channel migration

1085 hazard area;

1086 i. to the maximum extent practical, buildings will be located outside the buffer

1087 and away from the aquatic area or wetland;

1088 j. to the maximum extent practical, access for maintenance is at limited access

1089 points into the critical area buffer rather than by a parallel maintenance road. If a parallel

1090 maintenance road is necessary the following standards are met:

1091 (1) to the maximum extent practical the width of the maintenance road is

1092 minimized and in no event greater than fifteen feet; and

1093 (2) the location of the maintenance road is contiguous to the utility corridor

1094 on the side of the utility corridor farthest from the critical area;

1095 k. the facility does not pose an unreasonable threat to the public health, safety

1096 or welfare on or off the development proposal site and is consistent with the general

1097 purposes of this chapter and the public interest; and

1098 l. the facility connects to or is an alteration to a public roadway, public trail, a

1099 utility corridor or utility facility or other infrastructure owned or operated by a public

1100 utility.

1101 67. Only hydroelectric generating facilities meeting the requirements of K.C.C.

1102 21A.08.100.B.14, and only as follows:

1103 a. there is not another feasible location with less adverse impact on the critical  
1104 area and its buffer;

1105 b. the alterations will not subject the critical area to an increased risk of  
1106 landslide or erosion;

1107 c. the corridor width is minimized to the maximum extent practical;

1108 d. vegetation removal is the minimum necessary to locate the utility or  
1109 construct the corridor;

1110 e. the facility and corridor do not pose an unreasonable threat to the public  
1111 health, safety or welfare on or off the development proposal site and is consistent with the  
1112 general purposes of this chapter, and the public interest and significant risk of personal  
1113 injury is eliminated or minimized in the landslide hazard area; and

1114 f. the facility connects to or is an alteration to a public roadway, public trail, a  
1115 utility corridor or utility facility or other infrastructure owned or operated by a public  
1116 utility.

1117 68. Only for a single detached dwelling unit on a lake twenty acres or larger  
1118 and only as follows:

1119 a. the heat exchanger must be a closed loop system that does not draw water  
1120 from or discharge to the lake;

1121 b. the lake bed shall not be disturbed, except as required by the county or a  
1122 state or federal agency to mitigate for impacts of the heat exchanger;

1123 c. the in-water portion of system is only allowed where water depth exceeds  
1124 six feet; and

1125 d. system structural support for the heat exchanger piping shall be attached to

1126 an existing dock or pier or be attached to a new structure that meets the requirements of  
1127 K.C.C. 21A.25.180.

1128 69. Only for maintenance of agricultural waterways if:

1129 a. the purpose of the maintenance project is to improve agricultural production  
1130 on a site predominately engaged in the practice of agriculture;

1131 b. the maintenance project is conducted in compliance with a hydraulic project  
1132 approval issued by the Washington state Department of Fish and Wildlife pursuant to  
1133 chapter 77.55 RCW;

1134 c. the maintenance project complies with the King County agricultural  
1135 drainage assistance program as agreed to by the Washington state Department of Fish and  
1136 Wildlife, the department of local services, permitting division, and the department of  
1137 natural resources and parks, and as reviewed by the Washington state Department of  
1138 Ecology;

1139 d. the person performing the maintenance and the land owner have attended  
1140 training provided by King County on the King County agricultural drainage assistance  
1141 program and the best management practices required under that program; and

1142 e. the maintenance project complies with K.C.C. chapter 16.82.

1143 SECTION 11. Ordinance 15051, Section 139, as amended, and K.C.C.  
1144 21A.24.055 are each hereby amended to read as follows:

1145 A. On a site zoned RA, the department may approve a modification of the  
1146 minimum buffer widths for aquatic areas, wetlands and wildlife habitat conservation  
1147 areas and maximum clearing restrictions through a rural stewardship plan for single  
1148 family detached residential development in accordance with this section.

1149           B. The property owner or applicant shall develop the rural stewardship plan as  
1150 part of a rural stewardship program offered or approved by King County and has the  
1151 option of incorporating appropriate components of a county-approved farm management  
1152 or a county-approved forest stewardship plan.

1153           C. In its evaluation of any proposed modification of the minimum buffer widths  
1154 for aquatic areas, wetlands and wildlife habitat conservation areas and maximum clearing  
1155 restrictions, the department shall consider the following factors:

1156           1. The existing condition of the drainage basin or marine shoreline as designated  
1157 on the Basin and Shoreline Conditions Map;

1158           2. The existing condition of wetland and aquatic area buffers;

1159           3. The existing condition of wetland functions based on the adopted Washington  
1160 State Wetland Rating System for Western Washington, Washington state department of  
1161 ecology publication number ((~~04-06-025, published August 2004~~)) 14-06-029, published  
1162 October 2014;

1163           4. The location of the site in the drainage basin;

1164           5. The percentage of impervious surfaces and clearing on the site; and

1165           6. Any existing development on the site that was approved as a result of a  
1166 variance or alteration exception that allowed development within a critical area or critical  
1167 area buffer. If the existing development was approved through a variance or alteration  
1168 exception, the rural stewardship plan shall demonstrate that the plan will result in  
1169 enhancing the functions and values of critical areas located on the site as if the  
1170 development approved through the variance or alteration exception had not occurred.

1171           D. A rural stewardship plan does not modify the requirement for permits for

1172 activities covered by the rural stewardship plan.

1173 E. Modifications of critical area buffers shall be based on the following

1174 prioritized goals:

1175 1. To the maximum extent practical, to avoid impacts to critical areas and, if

1176 applicable, to the shoreline jurisdiction;

1177 2. To avoid impacts to the higher quality wetland or aquatic area or the more

1178 protected fish or wildlife species, if there is a potential to affect more than one category

1179 of wetland or aquatic area or more than one species of native fish or wildlife;

1180 3. To maintain or enhance the natural hydrologic systems on the site to the

1181 maximum extent practical;

1182 4. To maintain, restore or enhance native vegetation;

1183 5. To maintain, restore or enhance the function and value of critical areas or

1184 critical area buffers located on the site;

1185 6. To minimize habitat fragmentation and enhance corridors between wetlands,

1186 riparian corridors, wildlife habitat conservation areas and other priority habitats;

1187 7. To minimize the impacts of development over time by implementing best

1188 management practices and meeting performance standards during the life of the

1189 development; and

1190 8. To monitor the effectiveness of the stewardship practices and implement

1191 additional practices through adaptive management to maintain, restore or enhance critical

1192 area functions when necessary.

1193 F. If a part or all of the site is located within the shoreline jurisdiction, the rural

1194 stewardship plan shall:



1195           1. Consider and be consistent with the goals of the Shoreline Management Act  
1196 and the policies of the King County Shoreline Master Program;

1197           2. Consider the priorities of the King County Shoreline Protection and  
1198 Restoration Plan; and

1199           3. Ensure no net loss of shoreline ecological functions.

1200           G. A rural stewardship plan may include, but is not limited to, the following  
1201 elements:

1202           1. Critical areas designation under K.C.C. 21A.24.500;

1203           2. Identification of structures, cleared and forested areas and other significant  
1204 features on the site;

1205           3. Location of wetlands and aquatic areas and their buffers, and wildlife habitat;

1206           4. Analysis of impacts of planned changes to any existing structures, for other  
1207 changes to the site that involve clearing or grading or for new development;

1208           5. Site-specific best management practices that mitigate impacts of development  
1209 and that protect and enhance the ecological values and functions of the site;

1210           6. A schedule for implementation of the elements of the rural stewardship plan;  
1211 and

1212           7. A plan for monitoring the effectiveness of measures approved under the rural  
1213 stewardship plan and to modify if adverse impacts occur.

1214           H. A rural stewardship plan may be developed as part of a program offered or  
1215 approved by King County and shall include a site inspection by the county to verify that  
1216 the plan is reasonably likely to accomplish the goals in subsection E. of this section to  
1217 protect water quality, reduce flooding and erosion, maintain, restore or enhance the

1218 function and value of critical areas and their buffers and maintain or enhance native  
1219 vegetation on the site of this section.

1220 I. A property owner who completes a rural stewardship plan that is approved by  
1221 the county may be eligible for tax benefits under the public benefit rating system in  
1222 accordance with K.C.C. 20.36.100.

1223 J. If a property owner withdraws from the rural stewardship plan, in addition to  
1224 any applicable penalties under the public benefit rating system, the following apply:

1225 1. Mitigation is required for any structures constructed in critical area buffers  
1226 under the rural stewardship plan; and

1227 2. The property owner shall apply for buffer averaging or an alteration  
1228 exception, as appropriate, to permit any structure or use that has been established under  
1229 the rural stewardship plan and that would not otherwise be permitted under this chapter.

1230 K. A rural stewardship plan is not effective until approved by the county. Before  
1231 approval, the county may conduct a site inspection, which may be through a program  
1232 offered or approved by King County, to verify that the plan is reasonably likely to  
1233 accomplish the goals in subsection E. of this section.

1234 L. Once approved, activities carried out in compliance with the approved rural  
1235 stewardship plan shall be deemed in compliance with this chapter. In the event of a  
1236 potential code enforcement action, the department of local services, permitting division,  
1237 shall first inform the department of natural resources and parks of the activity. Before  
1238 taking code enforcement action, the department of local services, permitting division,  
1239 shall consult with the department of natural resources and parks to determine whether the  
1240 activity is consistent with the rural stewardship plan.

1241            SECTION 12. Ordinance 15051, Section 183, and K.C.C. 21A.24.318 are each  
 1242 hereby amended to read as follows:

1243            A. Wetlands are classified into category I, category II, category III and category  
 1244 IV based on the adopted Washington State Wetland Rating System for Western  
 1245 Washington, Washington state department of ecology publication number ((04-06-025,  
 1246 ~~published August 2004~~)) 14-06-029, published October 2014.

1247            B. Wetland rating categories shall not recognize illegal modifications.

1248            SECTION 13. Ordinance 15051, Section 185, as amended, and K.C.C.  
 1249 21A.24.325 are each hereby amended to read as follows:

1250            Except as otherwise provided in this section, buffers shall be provided from the  
 1251 wetland edge as follows:

1252            A. In the Urban Growth Area, buffers for wetlands shall be established in  
 1253 accordance with the following standards:

1254            1. The standard buffer widths of the following table shall apply unless modified  
 1255 in accordance with subsection A.2, A.3, C., ~~(D., E. or F.)~~ of this section:

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
<b>Category I</b>	
<del>((Natural Heritage Wetlands))</del> Wetlands of High Conservation Value	215 feet
Bog	215 feet
Estuarine	175 feet
Coastal Lagoon	175 feet
Habitat score from <del>((31))</del> 8 to <del>((36))</del> 9 points (high function)	225 feet
Habitat score from <del>((20))</del> 6 to <del>((30))</del> 7 points (moderate function)	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 <del>((31))</del> 8 to <del>((36))</del> 9 points (high function)	200 feet
Habitat score from <del>((20))</del> 6 to <del>((30))</del> 7 points (moderate function)	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 8 to 9 points (high function)	200 feet
Habitat score from <del>((20))</del> 6 to <del>((28))</del> 7 points (moderate function)	125 feet
Category III wetlands not meeting any of the criteria above	75 feet
<b>Category IV</b>	50 feet

1256           2. If a Category I or II wetland with habitat score greater than twenty points is  
 1257 located within three hundred feet of a priority habitat area as defined by the Washington  
 1258 state Department of Fish and Wildlife, the buffer established by subsection A.1. of this  
 1259 section shall be increased by fifty feet unless:

1260           a.(i) the applicant provides relatively undisturbed vegetated corridor at least  
 1261 one hundred feet wide between the wetland and all priority habitat areas located within  
 1262 three hundred feet of the wetland. The corridor shall be protected for the entire distance  
 1263 between the wetland and the priority habitat through a conservation easement, native  
 1264 growth protection easement or the equivalent; and

1265           (ii) the applicable mitigation measures in subsection A.3.b. of this section are  
 1266 provided; or

1267           b. the wetland is a freshwater or deep freshwater wetland; and

1268           3. Buffers calculated in accordance with subsection A.1. and A.2. of this section  
 1269 shall be reduced as follows:

1270           a. Buffers for all categories of wetlands shall be reduced by twenty-five feet if

1271 the applicant implements all applicable mitigation measures identified in subsection  
 1272 A.3.b. of this section, or if the applicant proposes alternate mitigation to reduce the  
 1273 impacts of the development and the department determines the alternative provides  
 1274 equivalent mitigation((-)); and

1275 b. The following mitigation measures may be used by an applicant to obtain a  
 1276 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	Tilled 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

1277 B. For a wetland located outside the Urban Growth Area:

1278 1. The buffers shown on the following table apply unless modified in  
 1279 accordance with subsections C. and D., E. and F. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LAND USE		
	HIGH IMPACT	MODERATE	LOW IMPACT

	IMPACT		
<b>Category I</b>			
Category I wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
<del>((Natural Heritage Wetlands))</del> <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
Habitat score from <del>((34))</del> 8 to <del>((36))</del> 9 points ( <u>high function</u> )	300 feet	225 feet	150 feet
Habitat score from <del>((29))</del> 6 to <del>((30))</del> 7 points ( <u>moderate function</u> )	150 feet <del>((plus 15 feet for each habitat point above 20))</del>	110 feet <del>((plus 11.5 feet for each habitat point above 20))</del>	75 feet <del>((plus 7.5 feet for each habitat point above 20))</del>
<b>Category II</b>			
Category II wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Estuarine	150 feet	110 feet	75 feet
Interdunal	150 feet	110 feet	75 feet
Habitat score from <del>((34))</del> 8 to <del>((36))</del> 9 points ( <u>high function</u> )	300 feet	225 feet	150 feet
Habitat score from <del>((29))</del> 6 to <del>((30))</del> 7 points ( <u>moderate function</u> )	150 feet <del>((plus 15 feet for each habitat point above 20))</del>	110 feet <del>((plus 11.5 feet for each habitat point above 20))</del>	75 feet <del>((plus 7.5 feet for each habitat point above 20))</del>
<b>Category III</b>			
Category III wetlands not meeting any of the criteria below	80 feet	60 feet	40 feet
Habitat score from 8 to 9 points ( <u>high function</u> )	300	225	150
Habitat score from <del>((29))</del> 6 to <del>((28))</del> 7 points ( <u>moderate function</u> )	150 feet	110 feet	75 feet
<b>Category IV</b>	50 feet	40 feet	25 feet

1280 2. For purposes of this subsection B., unless the director determines a lesser

1281 level of impact is appropriate based on information provided by the applicant, the

1282 intensity of impact of the adjacent land use is determined as follows:

1283 a. ~~((h))~~ High impact includes:

1284 (1) sites zoned commercial or industrial;

1285 (2) commercial or industrial use on a site regardless of the zoning

1286 designation;

1287 (3) nonresidential use on a site zoned for residential use; or

1288 (4) active recreation use on a site regardless of zoning;

1289 b. ~~((m))~~ Moderate impact includes:

1290 (1) residential uses on sites zoned rural residential;

1291 (2) residential use on a site zoned agriculture or forestry; or

1292 (3) agricultural uses without an approved farm management plan; and

1293 c. ~~((l))~~ Low impact includes:

1294 (1) forestry use on a site regardless of zoning designation;

1295 (2) passive recreation uses, such as trails, nature viewing areas, fishing and

1296 camping areas, and other similar uses that do not require permanent structures, on a site

1297 regardless of zoning; or

1298 (3) agricultural uses carried out in accordance with an approved farm

1299 management plan.

1300 C. The department may approve a modification of the minimum buffer width

1301 required by this section by averaging the buffer width if:

1302 1. The department determines that:

1303 a. the ecological structure and function of the buffer after averaging is

1304 equivalent to or greater than the structure and function before averaging; or

1305 b. averaging includes the corridors of a wetland complex; and

1306 2. The resulting buffer meets the following standards:

1307 a. the total area of the buffer after averaging is equivalent to or greater than the

1308 area of the buffer before averaging;

- 1309           b. the additional buffer is contiguous with the standard buffer; and  
1310           c. if the buffer width averaging allows a structure or landscaped area to intrude  
1311 into the area that was buffer area before averaging, the resulting landscaped area shall  
1312 extend no more than fifteen feet from the edge of the structure's footprint toward the  
1313 reduced buffer.

1314           D. Wetland buffer widths shall also be subject to modifications under the  
1315 following special circumstances:

1316           1. For wetlands containing documented habitat for endangered, threatened or  
1317 species of local importance, the following shall apply:

1318           a. the department shall establish the appropriate buffer, based on a habitat  
1319 assessment, to ensure that the buffer provides adequate protection for the sensitive  
1320 species; and

1321           b. the department may apply the buffer increase rules in subsection A.2. of this  
1322 section, the buffer reduction rules in subsection A.3. of this section and the buffer  
1323 averaging rules in subsection C. of this section;

1324           2. For a wetland buffer that includes a steep slope hazard area or landslide  
1325 hazard area, the buffer width is the greater of the buffer width required by the wetland's  
1326 category in this section or the top of the hazard area; and

1327           3. For a wetland complex located outside the Urban Growth Area established by  
1328 the King County Comprehensive Plan or located within the Urban Growth Area in a  
1329 basin designated as "high" on the Basin and Shoreline Conditions Map, which is included  
1330 as Attachment A to Ordinance 15051, the buffer width is determined as follows:

1331           a. the buffer width for each individual wetland in the complex is the same



1332 width as the buffer width required for the category of wetland;

1333           b. if the buffer of a wetland within the complex does not touch or overlap with  
1334 at least one other wetland buffer in the complex, a corridor is required from the buffer of  
1335 that wetland to one other wetland buffer in the complex considering the following  
1336 factors:

1337           (1) the corridor is designed to support maintaining viable wildlife species that  
1338 are commonly recognized to exclusively or partially use wetlands and wetland buffers  
1339 during a critical life cycle stage, such as breeding, rearing or feeding;

1340           (2) the corridor minimizes fragmentation of the wetlands;

1341           (3) higher category wetlands are connected through corridors before lower  
1342 category wetlands; and

1343           (4) the corridor width is a least twenty-five percent of the length of the  
1344 corridor, but no less than twenty-five feet in width; and

1345           (5) shorter corridors are preferred over longer corridors;

1346           c. wetlands in a complex that are connected by an aquatic area that flows  
1347 between the wetlands are not required to be connected through a corridor;

1348           d. the department may exclude a wetland from the wetland complex if the  
1349 applicant demonstrates that the wetland is unlikely to provide habitat for wildlife species  
1350 that are commonly recognized to exclusively or partially use wetlands and wetland  
1351 buffers during a critical life cycle stage, such as breeding, rearing or feeding; and

1352           e. the alterations allowed in a wetland buffer in K.C.C. 21A.24.045 are  
1353 allowed in corridors subject to the same conditions and requirements as wetland buffers  
1354 as long as the alteration is designed so as not to disrupt wildlife movement through the

1355 corridor; and

1356           4. Where a legally established roadway transects a wetland buffer, the  
1357 department may approve a modification of the minimum required buffer width to the  
1358 edge of the roadway if the part of the buffer on the other side of the roadway sought to be  
1359 reduced:

1360           a. does not provide additional protection of the proposed development or the  
1361 wetland; and

1362           b. provides insignificant biological, geological or hydrological buffer functions  
1363 relating to the other portion of the buffer adjacent to the wetland; and

1364           5. If the site has an approved rural stewardship plan under K.C.C. 21A.24.055,  
1365 the buffer widths shall be established under the rural stewardship plan and shall not  
1366 exceed the standard for a low impact land use, unless the department determines that a  
1367 larger buffer is necessary to achieve no net loss of wetland ecological function.

1368           E. The department may approve a modification to the buffers established in  
1369 subsections A. and B. of this section if the wetland was created or its characterization was  
1370 upgraded as part of a voluntary enhancement or restoration project.

1371           F. If the site is located within the shoreline jurisdiction, the department shall  
1372 determine that a proposal to reduce wetland buffers under this section will result in no net  
1373 loss of shoreline ecological functions.

1374           SECTION 14. Ordinance 16267, Section 59, as amended, and K.C.C.  
1375 21A.24.340 are each hereby amended to read as follows:

1376           In addition to the requirements in K.C.C. 21A.24.125 and 21A.24.130, the  
1377 following applies to mitigation to compensate for the adverse impacts associated with an

1378 alteration to a wetland or wetland buffer:

1379           A. Mitigation measures must achieve equivalent or greater wetland functions,

1380 including, but not limited to:

1381           1. Habitat complexity, connectivity and other biological functions; and

1382           2. Seasonal hydrological dynamics, as provided in the King County Surface

1383 Water Design Manual;

1384           B. The following ratios of area of mitigation to area of alteration apply to

1385 mitigation measures for permanent alterations:

1386           1. For alterations to a wetland buffer, a ratio of one to one; and

1387           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
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E	Case-by-case
Category I (( <del>natural</del> heritage-site)) <u>wetlands of high conservation</u>	Not allowed	6:1 rehabilitation of a (( <del>natural heritage-site</del> )) <u>wetland of high</u>	Case-by-case	Case-by-case

<u>value</u>		<u>conservation value</u>		
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

1388 C. The following ratios of area of mitigation to area of alteration apply to  
 1389 mitigation measures for temporary alterations where wetlands will not be impacted by  
 1390 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

1391 D. The department may increase the mitigation ratios provided in subsections B.  
 1392 and C. of this section under the following circumstances:

- 1393 1. The department determines there is uncertainty as to the probable success of  
 1394 the proposed restoration or creation;
- 1395 2. A significant period of time will elapse between the impact caused by the  
 1396 development proposal and the establishment of wetland functions at the mitigation site;
- 1397 3. The proposed mitigation will result in a lower category wetland or reduced  
 1398 functions relative to the wetland being impacted; or

1399 4. The alteration causing the impact was an unauthorized impact.

1400 E. The department may decrease the mitigation ratios provided in subsections B.

1401 and C. of this section under the following circumstances:

1402 1. The applicant demonstrates by documentation submitted by a qualified  
1403 wetland specialist that the proposed mitigation actions have a very high likelihood of  
1404 success based on hydrologic data and prior experience;

1405 2. The applicant demonstrates by documentation by a qualified wetland  
1406 specialist that the proposed actions for compensation will provide functions and values  
1407 that are significantly greater than the wetland being impacted;

1408 3. The applicant demonstrates that the proposed actions for mitigation have  
1409 been conducted in advance of the impact caused by the development proposal and that  
1410 the actions are successful; or

1411 4. In wetlands where several wetland hydrogeomorphic classes, including, but  
1412 not limited to depressional, slope, riverine and flow through, are found within one  
1413 delineated boundary, the department may decrease the ratios if:

1414 a. impacts to the wetland are all within an area that has a different  
1415 hydrogeomorphic class from the one used to establish the category;

1416 b. the category of the area with a different class is lower than that of the entire  
1417 wetland; and

1418 c. the applicant provides adequate hydrologic and geomorphic data to establish  
1419 that the boundary between the hydrogeomorphic classes lies outside of the footprint of  
1420 the impacts.

1421 F. For temporary alterations to a wetland or its buffer that are predominately

1422 woody vegetation, the department may require mitigation in addition to restoration of the  
1423 altered wetland or buffer; and

1424 G. Mitigation of an alteration to a buffer of a wetland that occurs along an  
1425 aquatic area lake shoreline in accordance with an allowed alteration under this chapter  
1426 shall include, but is not limited to, on-site revegetation, maintenance and other restoration  
1427 of the buffer or setback area to the maximum extent practical.

1428 SECTION 15. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C.  
1429 21A.25.020 are each hereby amended to read as follows:

1430 The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-  
1431 26 and 173-27 WAC apply within the shoreline jurisdiction. The definitions in chapter  
1432 90.58 RCW and chapters 173-26 and 173-27 WAC apply if there is a conflict with the  
1433 definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code  
1434 shall apply where applicable and where not in conflict with the chapters of the RCW and  
1435 the WAC listed in this section. In addition, the following definitions apply to this chapter  
1436 unless the context clearly requires otherwise:

1437 A. "Development" means any development as defined in chapter ~~((90.58 RCW))~~  
1438 173-27 WAC; and

1439 B. "Shoreline mixed use" means shoreline development that contains a water-  
1440 dependent use combined with a water related, water enjoyment or a non-water-oriented  
1441 use in a single building or on a single site in an integrated development proposal. Water  
1442 dependent uses must comprise a significant portion of the floor area or site area in a  
1443 shoreline mixed use development.

1444 SECTION 16. Ordinance 3688, Section 303, as amended, and K.C.C.

1445 21A.25.050 are each hereby amended to read as follows:

1446 A. The King County shoreline jurisdiction consists of:

1447 1. All water areas of the state, as defined in RCW 90.58.030, including  
1448 reservoirs and associated wetlands, together with the lands underlying them, except for:

1449 a. lakes smaller than twenty acres and their associated wetlands; and

1450 b. segments of rivers and streams and their associated wetlands where the  
1451 mean annual flow is less than twenty cubic feet per second; ~~((and))~~

1452 2.~~((a-))~~ The shorelands that extend landward in all directions as measured on a  
1453 horizontal plane for two hundred feet from the ordinary high water mark of the  
1454 waterbodies identified in subsection A.1. of this section;

1455 ~~((b-))~~ 3. ~~((t))~~The one hundred year floodplain ~~((and contiguous floodplain areas~~  
1456 ~~landward two hundred feet from the one hundred year floodplain))~~; ~~((and))~~

1457 4. Two hundred feet landward from the floodway established in federal  
1458 emergency management agency flood insurance rate maps; and

1459 ~~((e-))~~ 5. ~~((a))~~All wetlands and river deltas associated with the streams, lakes and  
1460 tidal waters that are subject to chapter 90.58 RCW.

1461 B. The shoreline jurisdiction does not include tribal reservation lands and lands  
1462 held in trust by the federal government for tribes. Nothing in the King County  
1463 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program or action taken under that program shall affect  
1464 any treaty right to which the United States is a party.

1465 C. The lakes and segments of rivers and streams constituting the King County  
1466 shoreline jurisdiction are set forth in Attachment K~~((r))~~ to Ordinance 17485. The King  
1467 County shoreline jurisdiction is shown on a map adopted in chapter ~~((S))~~ 6 of the King

1468 County Comprehensive Plan. If there is a discrepancy between the map and the criteria  
1469 established in subsection A. of this section, the criteria shall constitute the official King  
1470 County shoreline jurisdiction. The county shall update the shoreline master program to  
1471 reflect the new designation within three years of the discovery of the discrepancy.

1472 SECTION 17. Ordinance 16985, Section 31, as amended, and K.C.C.

1473 21A.25.100 are each hereby amended to read as follows:

1474 A. The shoreline use table in this section determines whether a specific use is  
1475 allowed within each of the shoreline environments. The shoreline environment is located  
1476 on the vertical column and the specific use is located on the horizontal row of the table.  
1477 The specific uses are grouped by the shoreline use categories in WAC 173-26-241. The  
1478 specific uses are defined by those uses in K.C.C. chapter 21A.08. The table should be  
1479 interpreted as follows:

1480 1. If the cell is blank in the box at the intersection of the column and the row,  
1481 the use is prohibited in that shoreline environment;

1482 2. If the letter "P" appears in the box at the intersection of the column and the  
1483 row, the use may be allowed within the shoreline environment;

1484 3. If the letter "C" appears in the box at the intersection of the column and the  
1485 row, the use may be allowed within the shoreline environment subject to the shoreline  
1486 conditional use review procedures specified in K.C.C. 21A.44.100.

1487 4. If a number appears in the box at the intersection of the column and the row,  
1488 the use may be allowed subject to the appropriate review process in this section, the  
1489 general requirements of this chapter and the specific development conditions indicated  
1490 with the corresponding number in subsection C. of this section. If more than one number



1491 appears after a letter, all numbers apply.

1492           5. If more than one letter-number combination appears in the box at the  
 1493 intersection of the column and the row, the use is allowed in accordance with each letter-  
 1494 number combination.

1495           6. A shoreline use may be allowed in the aquatic environment only if that  
 1496 shoreline use is allowed in the adjacent shoreland environment.

1497           7. This section does not authorize a land use that is not allowed by the  
 1498 underlying zoning, but may add additional restrictions or conditions or prohibit specific  
 1499 land uses within the shoreline jurisdiction. When there is a conflict between the  
 1500 permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,  
 1501 preference for shoreline uses shall first be given to water-dependent uses, then to water  
 1502 related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction  
 1503 must comply with all relevant county code provisions and with the King County  
 1504 ~~(S)~~shoreline ~~(M)~~master ~~(P)~~program.

1505           B. Shoreline uses

<del>(KEY P - Permitted Use. C</del> <del>-Shoreline Conditional Use.</del> <del>Blank - Prohibited. Shoreline</del> 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)) <u>P - Permitted</u> <u>Use C - Shoreline</u>	<del>(H I G</del> H I N T E N S I T Y)) <u>High</u> <u>Intensity</u>	<del>(R E S I D</del> E N T I A L)) <u>Residential</u>	<del>(R U</del> R A L)) <u>Rural</u>	<del>(C O N S E</del> R V A N C Y)) <u>Conservancy</u>	<del>(R E S O</del> U R C E)) <u>Resource</u>	<del>(F O R</del> E S T R Y)) <u>Forestry</u>	<del>(N A</del> T U R A L)) <u>Natural</u>	<del>(A Q U</del> A T I C)) <u>Aquatic</u>
--	---	---	---	---	---	--	---	---

Ordinance

<u>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.</u>								
<b>Agriculture</b>								
Agriculture (K.C.C. 21A.08.090)		P	P	P	P	P	P1	
<b>Aquaculture</b>								
((Aquaculture (fish and wildlife management, K.C.C. 21A.08.090)	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))
Noncommercial native salmon net pens	P2	P2	P2	P2	P2	P2	P2	P2
Other native finfish net pens		C2	C2	C2				C2
Geoduck aquaculture	C2	C2	C2	C2	C2	C2	C2	C2
Other aquaculture (fish and wildlife management, K.C.C. 21A.08.090)	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,	P6							

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automotive parking and off-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	P9	P9	P9	P9	P9	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	P14	P14	P14	P14	P14	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
<b>Mining</b>								

Ordinance

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
<b>Regional land uses</b>								
Regional uses except	P30							

hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)								
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1506 C. Development conditions:

1507 1. In the Natural environment, limited to low intensity agriculture, such as  
1508 livestock use with an animal unit density of no more than one per two acres in the  
1509 shoreline jurisdiction, seasonal hay mowing and related activities and horticulture not to  
1510 exceed twenty percent of the site area located within the shoreline jurisdiction.

1511 2.a. The supporting infrastructure for aquaculture may be located landward of  
1512 the aquaculture operation, subject to the limitations of K.C.C. Title 21A.

1513 b. The aquaculture operation must meet the standards in K.C.C. 21A.25.110.

1514 c. In aquatic areas adjacent to the residential shoreline environment, net pen  
1515 facilities shall be located no closer than one thousand five hundred feet from the ordinary  
1516 high water mark of this environment, unless the department allows a specific lesser  
1517 distance that it determines is appropriate based upon a visual impact analysis. Other  
1518 types of floating culture facilities may be located within one thousand five hundred feet  
1519 of the ordinary high water mark if supported by a visual impact analysis.

1520 d. In aquatic areas adjacent to the rural shoreline environment, net pen  
1521 facilities shall be located no closer than one thousand five hundred feet from the ordinary  
1522 high water mark of this environment, unless the department allows a specific lesser  
1523 distance that it determines is appropriate based upon a visual impact analysis.

1524 e. In the natural shoreline environment and aquatic areas adjacent to the natural  
1525 shoreline environment, commercial net pens are prohibited and other aquaculture

1526 activities are limited to ((aquaculture)) activities that do not require structures, facilities  
1527 or mechanized harvest practices and that will not alter the natural systems, features or  
1528 character of the site ((or alter natural systems or features)).

1529 f. Farm-raised geoduck aquaculture requires a shoreline substantial  
1530 development permit if a specific project or practice causes substantial interference with  
1531 normal public use of the surface waters.

1532 g. A conditional use permit is required for new commercial geoduck  
1533 aquaculture only, consistent with WAC 173-26-241(3)(b). All subsequent cycles of  
1534 planting and harvest shall not require a new conditional use permit.

1535 3.a. New marinas are not allowed along the east shore of Maury Island, from  
1536 Piner Point to Point Robinson.

1537 b. Marinas must meet the standards in K.C.C. 21A.25.120.

1538 4. Water dependent general services land uses in K.C.C. 21A.08.050 are  
1539 allowed. Non-water dependent general services land uses in K.C.C. 21A.08.050 are only  
1540 allowed on sites that are not contiguous with the ordinary high water mark or on sites that  
1541 do not have an easement that provides direct access to the water.

1542 5.a. Water-dependent general services land uses in K.C.C. 21A.08.050 are  
1543 allowed.

1544 b. Non-water-dependent general services land uses in K.C.C. 21A.08.050 are  
1545 only allowed as part of a shoreline mixed-use development that includes water-dependent  
1546 uses.

1547 c. Non-water-oriented general services land uses must provide a significant  
1548 public benefit by helping to achieve one or more of the following shoreline master

1549 program goals:

1550 (1) economic development for water-dependent uses;

1551 (2) public access;

1552 (3) water-oriented recreation;

1553 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife

1554 habitat; and

1555 (5) protection and restoration of historic properties.

1556 6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.

1557 Water-related business services uses are only allowed as part of a shoreline mixed-use  
1558 development and only if they support a water-dependent use. The water-related business  
1559 services uses must comprise less than one-half of the square footage of the structures or  
1560 the portion of the site within the shoreline jurisdiction.

1561 7.a Water-dependent retail uses in K.C.C. 21A.08.050 are allowed.

1562 b. Non-water-dependent retail uses in K.C.C. 21A.08.050 are only allowed as  
1563 part of a shoreline mixed-use development if the non-water-dependent retail use supports  
1564 a water-dependent use. Non-water-dependent uses must comprise less than one-half of  
1565 the square footage of the structures or the portion of the site within the shoreline  
1566 jurisdiction.

1567 c. Non-water-oriented retail uses must provide a significant public benefit by  
1568 helping to achieve one or more of the following shoreline master program goals:

1569 (1) economic development for water-dependent uses;

1570 (2) public access;

1571 (3) water-oriented recreation;

1572 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife  
1573 habitat; and

1574 (5) protection and restoration of historic properties.

1575 8. Water-dependent retail uses in K.C.C. 21A.08.050 are allowed. Non-water-  
1576 dependent retail uses in K.C.C. 21A.08.050 are only allowed if the retail use provides a  
1577 significant public benefit by helping to achieve one or more of the following shoreline  
1578 master program goals:

1579 a. economic development for water-dependent uses;

1580 b. public access;

1581 c. water-oriented recreation;

1582 d. conservation of critical areas, scenic vistas, aesthetics or fish and wildlife  
1583 habitat; and

1584 e. protection and restoration of historic properties.

1585 9.a. Water-dependent government services in K.C.C. 21A.08.060 are allowed.

1586 b. Non-water-dependent government services in K.C.C. 21A.08.060 are only  
1587 allowed as part of a shoreline mixed-use development if the non-water-dependent  
1588 government use supports a water-dependent use. Non-water-dependent uses must  
1589 comprise less than one-half of the square footage of the structures or the portion of the  
1590 site within the shoreline jurisdiction. Only low-intensity water-dependent government  
1591 services are allowed in the Natural environment.

1592 10. The following standards apply to government services uses within the  
1593 Aquatic environment:

1594 a. Stormwater and sewage outfalls are allowed if upland treatment and



1595 infiltration to groundwater, streams or wetlands is not feasible and there is no impact on  
1596 critical saltwater habitats, salmon migratory habitat and the nearshore zone. However,  
1597 stormwater and sewage outfalls are not allowed in the Maury Island Aquatic Reserve,  
1598 except from Piner Point to Point Robinson;

1599           b. Water intakes shall not be located near fish spawning, migratory or rearing  
1600 areas. Water intakes must adhere to Washington state Department of Fish and Wildlife  
1601 fish screening criteria. To the maximum extent practical, intakes should be placed at  
1602 least thirty feet below the ordinary high water mark;

1603           c. Desalinization facilities shall not be located near fish spawning, migratory or  
1604 rearing areas. Intakes should generally be placed deeper than thirty feet below the  
1605 ordinary high water mark and must adhere to Washington state Department Fish and  
1606 Wildlife fish screening criteria. Discharge of desalination wastewater or concentrated  
1607 mineral is not allowed in the Maury Island Aquatic Reserve, except that outside the Inner  
1608 and Outer Harbormaster Harbor, discharge may be considered if there is no impact on  
1609 critical saltwater habitats, salmon migratory habitat and the nearshore zone;

1610           d. Cable crossings for telecommunications and power lines shall:

1611               (1) be routed around or drilled below aquatic critical habitat or species;

1612               (2) be installed in sites free of vegetation, as determined by physical or video  
1613 seabed survey;

1614               (3) be buried, preferably using directional drilling, from the uplands to  
1615 waterward of the deepest documented occurrence of native aquatic vegetation; and

1616               (4) use the best available technology;

1617           e. Oil, gas, water and other pipelines shall meet the same standards as cable

1618 crossings and in addition:

1619 (1) pipelines must be directionally drilled to depths of seventy feet or one half  
1620 mile from the ordinary high water mark; and

1621 (2) use the best available technology for operation and maintenance;

1622 f. Breakwaters are not allowed within the Maury Island Aquatic Reserve or  
1623 within the Aquatic environment adjacent to the Conservancy and Natural shorelines.

1624 11. In the Natural environment, limited to low intensity forest practices that  
1625 conserve or enhance the health and diversity of the forest ecosystem or ecological and  
1626 hydrologic functions conducted for the purpose of accomplishing specific ecological  
1627 enhancement objectives. In all shoreline environments, forest practices must meet the  
1628 standards in K.C.C. 21A.25.130.

1629 12. Manufacturing uses in the shoreline environment must give preference first  
1630 to water-dependent manufacturing uses and second to water-related manufacturing uses:

1631 a. Non-water-oriented manufacturing uses are allowed only:

1632 (1) as part of a shoreline mixed-use development that includes a water-  
1633 dependent use, but only if the water-dependent use comprises over fifty percent of the  
1634 floor area or portion of the site within the shoreline jurisdiction;

1635 (2) on sites where navigability is severely limited; or

1636 (3) on sites that are not contiguous with the ordinary high water mark or on  
1637 sites that do not have an easement that provides direct access to the water; and

1638 (4) all non-water-oriented manufacturing uses must also provide a significant  
1639 public benefit, such as ecological restoration, environmental clean-up, historic  
1640 preservation or water-dependent public education;

1641           b. public access is required for all manufacturing uses unless it would result in  
1642 a public safety risk or is incompatible with the use;

1643           c. shall be located, designed and constructed in a manner that ensures that there  
1644 are no significant adverse impacts to other shoreline resources and values.

1645           d. restoration is required for all new manufacturing uses;

1646           e. boat repair facilities are not permitted within the Maury Island Aquatic  
1647 Reserve, except as follows:

1648           (1) engine repair or maintenance conducted within the engine space without  
1649 vessel haul-out;

1650           (2) topside cleaning, detailing and bright work;

1651           (3) electronics servicing and maintenance;

1652           (4) marine sanitation device servicing and maintenance that does not require  
1653 haul-out;

1654           (5) vessel rigging; and

1655           (6) minor repairs or modifications to the vessel's superstructure and hull  
1656 above the waterline that do not exceed twenty-five percent of the vessel's surface area  
1657 above the waterline.

1658           13. The water-dependent in-stream portion of a hydroelectric generation facility,  
1659 wastewater treatment facility and municipal water production are allowed, including the  
1660 upland supporting infrastructure, and shall provide for the protection and preservation, of  
1661 ecosystem-wide processes, ecological functions, and cultural resources, including, but not  
1662 limited to, fish and fish passage, wildlife and water resources, shoreline critical areas,  
1663 hydrogeological processes, and natural scenic vistas.

- 1664           14. New in-stream portions of utility facilities may be located within the  
1665 shoreline jurisdiction if:
- 1666           a. there is no feasible alternate location;
  - 1667           b. provision is made to protect and preserve ecosystem-wide processes,  
1668 ecological functions, and cultural resources, including, but not limited to, fish and fish  
1669 passage, wildlife and water resources, shoreline critical areas, hydrogeological processes,  
1670 and natural scenic vistas; and
  - 1671           c. the use complies with the standards in K.C.C. 21A.25.260.
- 1672           15. Limited to in-stream infrastructure, such as bridges, and must consider the  
1673 priorities of the King County Shoreline Protection and Restoration Plan when designing  
1674 in-stream transportation facilities. In-stream structures shall provide for the protection  
1675 and preservation, of ecosystem-wide processes, ecological functions, and cultural  
1676 resources, including, but not limited to, fish and fish passage, wildlife and water  
1677 resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
- 1678           16. Limited to hatchery and fish preserves.
- 1679           17. Mineral uses:
- 1680           a. must meet the standards in K.C.C. chapter 21A.22;
  - 1681           b. must be dependent upon a shoreline location;
  - 1682           c. must avoid and mitigate adverse impacts to the shoreline environment
- 1683 during the course of mining and reclamation to achieve no net loss of shoreline ecological  
1684 function. In determining whether there will be no net loss of shoreline ecological  
1685 function, the evaluation may be based on the final reclamation required for the site.  
1686 Preference shall be given to mining proposals that result in the creation, restoration, or

1687 enhancement of habitat for priority species;

1688           d. must provide for reclamation of disturbed shoreline areas to achieve

1689 appropriate ecological functions consistent with the setting;

1690           e. may be allowed within the active channel of a river only as follows:

1691           (1) removal of specified quantities of sand and gravel or other materials at

1692 specific locations will not adversely affect the natural processes of gravel transportation

1693 for the river system as a whole;

1694           (2) the mining and any associated permitted activities will not have

1695 significant adverse impacts to habitat for priority species nor cause a net loss of

1696 ecological functions of the shoreline; and

1697           (3) if no review has been previously conducted under this subsection C.17.e.,

1698 prior to renewing, extending or reauthorizing gravel bar and other in-channel mining

1699 operations in locations where they have previously been conducted, the department shall

1700 require compliance with this subsection C.17.e. If there has been prior review, the

1701 department shall review previous determinations comparable to the requirements of this

1702 section C.17.e. to ensure compliance with this subsection under current site conditions;

1703 and

1704           f. Must comply with K.C.C. 21A.25.190.

1705           18. Only water-dependent recreational uses are allowed, except for public parks

1706 and trails, in the High Intensity environment and must meet the standards in K.C.C.

1707 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1708           19. Water-dependent and water-enjoyment recreational uses are allowed in the

1709 Residential, Rural and Forestry environments and must meet the standards in K.C.C.

1710 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1711           20. In the Conservancy environment, only the following recreation uses are  
1712 allowed and must meet the standards in K.C.C. 21A.25.140 for public access and K.C.C.  
1713 21A.25.150 for recreation:

1714           a. parks; and

1715           b. trails.

1716           21. In the Natural environment, only passive and low-impact recreational uses  
1717 are allowed.

1718           22. Single detached dwelling units must be located outside of the aquatic area  
1719 buffer and set back from the ordinary high water mark to the maximum extent practical.

1720           23. Only allowed as part of a water-dependent shoreline mixed-use development  
1721 where water-dependent uses comprise more than half of the square footage of the  
1722 structures on the portion of the site within the shoreline jurisdiction.

1723           24. Residential accessory uses must meet the following standards:

1724           a. docks, piers, moorage, buoys, floats or launching facilities must meet the  
1725 standards in K.C.C. 21A.25.180;

1726           b. residential accessory structures located within the aquatic area buffer shall  
1727 be limited to a total footprint of one-hundred fifty square feet; and

1728           c. accessory structures shall be sited to preserve visual access to the shoreline  
1729 to the maximum extent practical.

1730           25. New highway and street construction is allowed only if there is no feasible  
1731 alternate location. Only low-intensity transportation infrastructure is allowed in the  
1732 Natural environment.

1733 26. Utility facilities are subject to the standards in K.C.C. 21A.25.260.

1734 27. Only bed and breakfast guesthouses.

1735 28. Only in a marina.

1736 29. Transportation facilities are subject to the standards in K.C.C. 21A.25.280.

1737 30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260.

1738 SECTION 18. Ordinance 16985, Section 32, as amended, and K.C.C.

1739 21A.25.110 are each hereby amended to read as follows:

1740 An applicant for an aquaculture facility must use the sequential measures in  
1741 K.C.C. 21A.25.080. The following standards apply to aquaculture:

1742 A. Unless the applicant demonstrates that the substrate modification will result in  
1743 an increase in native habitat diversity, aquaculture that involves little or no substrate  
1744 modification shall be given preference over aquaculture that involves substantial  
1745 substrate modification and the degree of proposed substrate modification shall be limited  
1746 to the maximum extent practical.

1747 B. The installation of submerged structures, intertidal structures and floating  
1748 structures shall be limited to the maximum extent practical.

1749 C. Aquaculture proposals that involve substantial substrate modification or  
1750 sedimentation through dredging, trenching, digging, mechanical clam harvesting or other  
1751 similar mechanisms, shall not be permitted in areas where the proposal would adversely  
1752 impact critical saltwater habitats.

1753 D. Aquaculture activities that after implementation of mitigation measures would  
1754 have a significant adverse impact on natural, dynamic shoreline processes or that would  
1755 result in a net loss of shoreline ecological functions shall be prohibited.

1756 E. Aquaculture should not be located in areas that will result in significant  
1757 conflicts with navigation or other water-dependent uses.

1758 F. Aquaculture facilities shall be designed, located and managed to prevent the  
1759 spread of diseases to native aquatic life or the spread of new nonnative species.

1760 G. Aquaculture practices shall be designed to minimize use of artificial chemical  
1761 substances and shall use chemical compounds that are least persistent and have the least  
1762 impact on plants and animals. Herbicides and pesticides shall be used only in  
1763 conformance with state and federal standard and to the minimum extent needed for the  
1764 health of the aquaculture activity.

1765 H. Noncommercial native salmon net pen facilities that involve minimal  
1766 supplemental feeding and limited use of chemicals or antibiotics as provided in  
1767 subsection G. of this section may be located in King County marine waters if they are  
1768 consistent with subsections S. and Y. of this section and are:

1769 1. ~~((subsistence))~~ Native salmon net pens operated by tribes with treaty fishing  
1770 rights;

1771 2. ~~((§))~~ For the limited penned cultivation of wild salmon stocks during a limited  
1772 portion of their lifecycle to enhance restoration of native stocks; or

1773 3. ~~((implemented as mitigation for a development activity))~~ For rearing to  
1774 adulthood in order to harvest eggs as part of a captive brood stock recovery program for  
1775 endangered species.

1776 I. If uncertainty exists regarding potential impacts of a proposed aquaculture  
1777 activity and for all experimental aquaculture activities, unless otherwise provided for, the  
1778 department may require baseline and periodic operational monitoring by a county-



1779 approved consultant, at the applicant's expense, and shall continue until adequate  
1780 information is available to determine the success of the project and the magnitude of any  
1781 probable significant adverse environmental impacts. Permits for such activities shall  
1782 include specific performance measures and provisions for adjustment or termination of  
1783 the project at any time if monitoring indicates significant, adverse environmental impacts  
1784 that cannot be adequately mitigated.

1785           J. Aquaculture developments approved on an experimental basis shall not exceed  
1786 five acres in area, except land-based projects and anchorage for floating systems, and  
1787 three years in duration. The department may issue a new permit to continue an  
1788 experimental project as many times as it determines is necessary and appropriate.

1789           K. The department may require aquaculture operations to carry liability insurance  
1790 in an amount commensurate with the risk of injury or damage to any person or property  
1791 as a result of the project. Insurance requirements shall not be required to duplicate  
1792 requirements of other agencies.

1793           L. If aquaculture activities are authorized to use public facilities, such as boat  
1794 launches or docks, King County may require the applicant to pay a portion of the cost of  
1795 maintenance and any required improvements commensurate with the use of those  
1796 facilities.

1797           M. New aquatic species that are not previously cultivated in Washington state  
1798 shall not be introduced into King County saltwaters or freshwaters without prior written  
1799 approval of the Director of the Washington state Department of Fish and Wildlife and the  
1800 Director of the Washington Department of Health. This prohibition does not apply to:  
1801 Pacific, Olympia, Kumomoto, Belon or Virginica oysters; Manila, Butter, or Littleneck

1802 clams; or Geoduck clams.

1803           N. Unless otherwise provided in the shoreline permit issued by the department,  
1804 repeated introduction of an approved organism after harvest in the same location shall  
1805 require approval by the county only at the time the initial aquaculture use permit is  
1806 issued. Introduction, for purposes of this section, shall mean the placing of any aquatic  
1807 organism in any area within the waters of King County regardless of whether it is a native  
1808 or resident organism within the county and regardless of whether it is being transferred  
1809 from within or without the waters of King County.

1810           O. For aquaculture projects, over-water structures shall be allowed only if  
1811 necessary for the immediate and regular operation of the facility. Over-water structures  
1812 shall be limited to the, storage of necessary tools and apparatus in containers of not more  
1813 than three feet in height, as measured from the surface of the raft or dock.

1814           P. Except for the sorting or culling of the cultured organism after harvest and the  
1815 washing or removal of surface materials or organisms before or after harvest, no  
1816 processing of any aquaculture product shall occur in or over the water unless specifically  
1817 approved by permit. All other processing and processing facilities shall be located  
1818 landward of the ordinary high water mark.

1819           Q. Aquaculture wastes shall be disposed of in a manner that will ensure strict  
1820 compliance with all applicable governmental waste disposal standards, including, but not  
1821 limited to, the Federal Clean Water Act, Section 401, and chapter 90.48 RCW, Water  
1822 Pollution Control. No garbage, wastes or debris shall be allowed to accumulate at the site  
1823 of any aquaculture operation.

1824           R. Unless approved in writing by the National Marine Fisheries Service or the

1825 U.S. Fish and Wildlife Service, predator control shall not involve the killing or  
1826 harassment of birds or mammals. Approved controls include, but are not limited to,  
1827 double netting for seals, overhead netting for birds and three-foot high fencing or netting  
1828 for otters. The use of other nonlethal, nonabusive predator control measures shall be  
1829 contingent upon receipt of written approval from the National Marine Fisheries Service  
1830 or the U.S. Fish and Wildlife Service, as required.

1831 S. ~~((Fish))~~ Finfish net pens and rafts shall meet the following criteria in addition  
1832 to the other applicable regulations of this section:

1833 1. ~~((Fish))~~ Finfish net pens shall not be located in ~~((inner))~~ Quartermaster  
1834 Harbor~~((, consistent with the recommendations in the Washington state Department of~~  
1835 ~~Natural Resources Maury Island Environmental Aquatic Reserve Final Management Plan~~  
1836 ~~(October 29, 2004)))~~. For the purposes of this subsection, "Quartermaster Harbor" means  
1837 the area of Puget Sound north of a straight line drawn from the southwest tip of Maury  
1838 Island, which is Piner Point, to the southeast tip of Vashon Island, which is Neill Point;

1839 2. ~~((Fish))~~ Finfish net pens shall meet, at a minimum, state approved  
1840 administrative guidelines for the management of net pen cultures. In the event there is a  
1841 conflict in requirements, the more restrictive requirement shall prevail;

1842 3. ~~((Fish))~~ Finfish net pens shall not occupy more than two surface acres of  
1843 water area, excluding booming and anchoring requirements. Anchors that minimize  
1844 disturbance to substrate, such as helical anchors, shall be employed. Such operations  
1845 shall not use chemicals or antibiotics;

1846 4. Aquaculture proposals that include new or added net pens or rafts shall not be  
1847 located closer than one nautical mile to any other aquaculture facility that includes net

1848 pens or rafts. The department may authorize a lesser distance if the applicant  
1849 demonstrates to the satisfaction of the department that the proposal will be consistent  
1850 with the environmental and aesthetic policies and objectives of this chapter and the  
1851 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program. The applicant shall demonstrate to the  
1852 satisfaction of the department that the cumulative impacts of existing and proposed  
1853 operations would not be contrary to the policies and regulations of the program;

1854           5. Net cleaning activities shall be conducted on a frequent enough basis so as  
1855 not to violate state water quality standards. When feasible, the cleaning of nets and other  
1856 apparatus shall be accomplished by air drying, spray washing or hand washing; and

1857           6. In the event of a significant fish kill at the site of a net pen facility, the ~~((fin~~  
1858 ~~fish))~~ finfish aquaculture operator shall submit a timely report to ~~((P))~~public ~~((H))~~health -  
1859 Seattle~~((-))~~ & King County, ~~((E))~~environmental ~~((H))~~health ~~((D))~~division, and the  
1860 department stating the cause of death and shall detail remedial actions to be implemented  
1861 to prevent reoccurrence.

1862           T. All floating and submerged aquaculture structures and facilities in navigable  
1863 waters shall be marked in accordance with United States Coast Guard requirements.

1864           U. The rights of treaty tribes to aquatic resources within their usual and  
1865 accustomed areas shall be addressed through direct coordination between the applicant  
1866 and the affected tribes through the permit review process.

1867           V. Aquaculture structures and equipment shall be of sound construction and shall  
1868 be so maintained. Abandoned or unsafe structures and equipment shall be removed or  
1869 repaired promptly by the owner. Where any structure might constitute a potential hazard  
1870 to the public in the future, the department shall require the posting of a bond

1871 commensurate with the cost of removal or repair. The department may abate an  
1872 abandoned or unsafe structure in accordance with K.C.C. Title 23.

1873 W. Aquaculture shall not be approved where it will adversely impact eelgrass and  
1874 macroalgae.

1875 X. Commercial salmon net pens (~~(shall meet the following criteria and~~  
1876 ~~requirements:))~~ are prohibited.

1877 Y. Finfish net pens shall be consistent with the applicable aquaculture regulations  
1878 in this section and shall meet the following criteria and requirements:

1879 1. Each (~~(commercial salmon))~~ finfish net pen application shall provide a  
1880 current, peer-reviewed science review of environmental issues related to (~~(salmon))~~  
1881 finfish net pen aquaculture;

1882 2. The department shall only approve a (~~(commercial salmon))~~ finfish net pen  
1883 application if the department determines the scientific review demonstrates:

1884 a. that the project construction and activities will achieve no net loss of  
1885 ecological function in a manner that has no significant adverse short-term impact and no  
1886 documented adverse long-term impact to applicable elements of the environment,  
1887 including, but not limited to, habitat for native salmonids, water quality, eel grass beds,  
1888 other aquaculture, other native species, the benthic community below the net pen or other  
1889 environmental attributes; and

1890 b. that the finfish net pen does not involve significant risk of cumulative  
1891 adverse effects, including, but not limited to, risk of interbreeding with wild salmon or  
1892 reduction of genetic fitness of wild stocks, parasite or disease transmission or other  
1893 adverse effects on native species or threatened or endangered species and their habitats;

1894 3. The department's review shall:

1895 a. include an assessment of the risk to endangered species, non-endangered  
1896 species, and other biota that could be affected by the finfish net pen; and

1897 b. evaluate and model water quality impacts utilizing current information,  
1898 technology, and assessment models. The project proponent shall be financially  
1899 responsible for this water quality assessment;

1900 4. (~~Commercial salmon~~) Finfish net pens shall be designed, constructed and  
1901 maintained to prevent escapement of fish in all foreseeable circumstances, including, but  
1902 not limited to, tide, wind and wave events of record, floating and submerged debris, and  
1903 tidal action;

1904 5. (~~Commercial salmon~~) Finfish net pens shall not be located:

- 1905 a. within three hundred feet of an area containing eelgrass or a kelp bed;  
1906 b. within one thousand five hundred feet of an ordinary high water mark; or  
1907 c. in a designated Washington state Department of Natural Resources aquatic  
1908 reserve.

1909 6. A (~~commercial salmon~~) finfish net pen may not be used to mitigate the  
1910 impact of a development proposal; and

1911 7. For finfish net pens that are not noncommercial native salmon net pens,  
1912 (~~(F)~~)the conditional use permit for (~~commercial salmon~~) the net pen must be renewed  
1913 every five years. An updated scientific review shall be conducted as part of the renewal  
1914 and shall include a new risk assessment and evaluation of the impact of the operation of  
1915 the (~~salmon~~) finfish net pen during the previous five years.

1916 Z. All forms of nonnative marine finfish aquaculture is prohibited.

1917 AA. Geoduck aquaculture shall be consistent with WAC 173-26-241(3)(b).

1918 SECTION 19. Ordinance 16985, Section 39, as amended, and K.C.C.

1919 21A.25.160 are each hereby amended to read as follows:

1920 A. The shoreline modification table in this section determines whether a specific  
1921 shoreline modification is allowed within each of the shoreline environments. The  
1922 shoreline environment is located on the vertical column and the specific use is located on  
1923 the horizontal row of the table. The specific modifications are grouped by the shoreline  
1924 modification categories in WAC 173-26-231. The table should be interpreted as follows:

1925 1. If the cell is blank in the box at the intersection of the column and the row,  
1926 the modification is prohibited in that shoreline environment;

1927 2. If the letter "P" appears in the box at the intersection of the column and the  
1928 row, the modification may be allowed within the shoreline environment;

1929 3. If the letter "C" appears in the box at the intersection of the column and the  
1930 row, the modification may be allowed within the shoreline environment subject to the  
1931 shoreline conditional use review procedures specified in K.C.C. 21A.44.100;

1932 4. If a number appears in the box at the intersection of the column and the row,  
1933 the modification may be allowed subject to the appropriate review process indicated in  
1934 this section and the specific development conditions indicated with the corresponding  
1935 number immediately following the table, and only if the underlying zoning allows the  
1936 modification. If more than one number appears at the intersection of the column and  
1937 row, both numbers apply; (~~and~~)

1938 5. If more than one letter-number combination appears in the box at the  
1939 intersection of the column and the row, the modification is allowed within that shoreline

1940 environment subject to different sets of limitations or conditions depending on the review  
 1941 process indicated by the letter, the specific development conditions indicated in the  
 1942 development condition with the corresponding number immediately following the  
 1943 table((:-));

1944 6. A shoreline modification may be allowed in the aquatic environment only if  
 1945 that shoreline modification is allowed in the adjacent shoreland environment((:-)); and

1946 7. This section does not authorize a shoreline modification that is not allowed  
 1947 by the underlying zoning, but may add additional restrictions or conditions or prohibit  
 1948 specific modifications within the shoreline jurisdiction. All shoreline modifications in  
 1949 the shoreline jurisdiction must comply with all relevant county code provisions and with  
 1950 the King County ((S))shoreline ((M))master ((P))program.

1951 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 C4	P4 C4	P4 C4	C4	C4	P4 C4
<b>Breakwaters, jetties, groins</b>								



<b>and weirs</b>								
Breakwaters, jetties, groins and weirs	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5
<b>Dredging and dredge material disposal</b>								
Excavation, dredging, dredge material disposal	P6 C6	P6 C6	P6 C6	P6 C6	P6 C6	C6	C6	P6 C6
<b>Shoreline habitat and natural systems enhancement projects</b>								
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7	P7	P7	P7
<b>Vegetation management</b>								
Removal of existing intact native vegetation	P8	P8	P8	P9	P8	P8	P9	P9

1952 C. Development conditions.

1953 1. New shoreline stabilization, including bulkheads, must meet the standards in  
1954 K.C.C. 21A.25.170;

1955 2.a. Flood protection facilities must be consistent with the standards in K.C.C.  
1956 chapter 21A.24, the King County Flood Hazard Management Plan adopted January 16,  
1957 2007, and the Integrated Stream Protection Guidelines (Washington state departments of  
1958 Fish and Wildlife, Ecology and Transportation, 2003). New structural flood hazard  
1959 protection measures are allowed in the shoreline jurisdiction only when the applicant  
1960 demonstrates by a scientific and engineering analysis that the structural measures are  
1961 necessary to protect existing development, that nonstructural measures are not feasible  
1962 and that the impact on ecological functions and priority species and habitats can be  
1963 successfully mitigated so as to assure no net loss of shoreline ecological functions. New  
1964 flood protection facilities designed as shoreline stabilization must meet the standards in

1965 K.C.C. 21A.25.170.

1966           b. Relocation, replacement or expansion of existing flood control facilities  
1967 within the Natural environment are permitted, subject to the requirements of the King  
1968 county Flood Hazard Reduction Plan and consistent with the Washington State Aquatic  
1969 Guidelines Program's Integrated Streambank Protection Guidelines and bioengineering  
1970 techniques used to the maximum extent practical. New facilities would only be permitted  
1971 consistent with an approved watershed resources inventory area (WRIA) salmon recovery  
1972 plan under chapter 77.85 RCW.

1973           3. Docks, piers, moorage, buoys, floats or launching facilities must meet the  
1974 standards in K.C.C. 21A.25.180;

1975           4.a. Filling must meet the standards in K.C.C. 21A.25.190.

1976           b. A shoreline conditional use permit is required to:

1977           (1) Place fill waterward of the ordinary high water mark for any use except  
1978 ecological restoration or for the maintenance and repair of flood protection facilities; and

1979           (2) Dispose of dredged material within shorelands or wetlands within a  
1980 channel migration zone;

1981           c. Fill shall not be placed in critical saltwater habitats except when all of the  
1982 following conditions are met:

1983           (1) ~~((F))~~the public's need for the proposal is clearly demonstrated and the  
1984 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

1985           (2) ~~((A))~~avoidance of impacts to critical saltwater habitats by an alternative  
1986 alignment or location is not feasible or would result in unreasonable and disproportionate  
1987 cost to accomplish the same general purpose;

1988                   (3) ~~((F))~~the project including any required mitigation, will result in no net  
1989 loss of ecological functions associated with critical saltwater habitat; and

1990                   (4) ~~((F))~~the project is consistent with the state's interest in resource protection  
1991 and species recovery.

1992                   d. In a channel migration zone, any filling shall protect shoreline ecological  
1993 functions, including channel migration.

1994                   5.a. Breakwaters, jetties, groins and weirs:

1995                   (1) are only allowed where necessary to support water dependent uses, public  
1996 access, approved shoreline stabilization or other public uses, as determined by the  
1997 director;

1998                   (2) are not allowed in the Maury Island Aquatic Reserve except as part of a  
1999 habitat restoration project or as an alternative to construction of a shoreline stabilization  
2000 structure;

2001                   (3) shall not intrude into or over critical saltwater habitats except when all of  
2002 the following conditions are met:

2003                   (a) the public's need for the structure is clearly demonstrated and the  
2004 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

2005                   (b) avoidance of impacts to critical saltwater habitats by an alternative  
2006 alignment or location is not feasible or would result in unreasonable and disproportionate  
2007 cost to accomplish the same general purpose;

2008                   (c) the project including any required mitigation, will result in no net loss of  
2009 ecological functions associated with critical saltwater habitat; and

2010                   (d) the project is consistent with the state's interest in resource protection

2011 and species recovery.

2012           b. Groins are only allowed as part of a restoration project sponsored or  
2013 cosponsored by a public agency that has natural resource management as a primary  
2014 function.

2015           c. A conditional shoreline use permit is required, except for structures installed  
2016 to protect or restore shoreline ecological functions.

2017           6. Excavation, dredging and filling must meet the standards in K.C.C.

2018 21A.25.190. A shoreline conditional use permit is required to dispose of dredged  
2019 material within shorelands or wetlands within a channel migration zone.

2020           7.a. If the department determines the primary purpose is restoration of the  
2021 natural character and ecological functions of the shoreline, a shoreline habitat and natural  
2022 systems enhancement project may include shoreline modification of vegetation, removal  
2023 of nonnative or invasive plants, shoreline stabilization, including the installation of large  
2024 woody debris, dredging and filling. Mitigation actions identified through biological  
2025 assessments required by the National Marine Fisheries Services and applied to flood  
2026 hazard mitigation projects may include shoreline modifications of vegetation, removal of  
2027 nonnative or invasive plants, shoreline stabilization, including the installation of large  
2028 woody debris, dredging and filling.

2029           b. Within the Urban Growth Area, the county may grant relief from shoreline  
2030 master program development standards and use regulations resulting from shoreline  
2031 restoration projects consistent with criteria and procedures in WAC 173-27-215.

2032           8. Within the critical area and critical area buffer, vegetation removal is subject  
2033 to K.C.C. chapter 21A.24.

2034 9. Except for forest practices conducted under K.C.C. 21A.25.130, existing  
2035 native vegetation located outside of the critical area and critical area buffer shall be  
2036 retained to the maximum extent practical. Within the critical area and critical area buffer,  
2037 vegetation removal is subject to K.C.C. chapter 21A.24.

2038 SECTION 20. Ordinance 3688, Section 801, as amended, and K.C.C.  
2039 21A.25.290 are each hereby amended to read as follows:

2040 A. Development within the shoreline jurisdiction, including preferred uses and  
2041 uses that are exempt from permit requirements, shall be undertaken only if that  
2042 development is consistent with the policies of RCW 90.58.020, chapter 173-26 WAC the  
2043 King County shoreline master program and will not result in a net loss of shoreline  
2044 ecological functions or in a significant adverse impact to shoreline uses, resources and  
2045 values, such as navigation, recreation and public access. The proponent of a shoreline  
2046 development shall employ measures to mitigate adverse impacts on shoreline functions  
2047 and processes following the sequencing requirements of K.C.C. 21A.25.080.

2048 B. A substantial development permit shall be required for all proposed uses and  
2049 modifications within the shoreline jurisdiction unless the proposal is specifically exempt  
2050 from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040  
2051 or is exempted by RCW 90.58.140, WAC 173-27-044 or WAC 173-27-045. If a  
2052 proposal is exempt from the definition of substantial development, a written statement of  
2053 exemption is required for any proposed uses and modifications if:

2054 1. WAC 173-27-050 applies; or

2055 2. Except for the maintenance of agricultural drainage that is not used by  
2056 salmonids or as otherwise provided in subsection F. of this section, the proposed use or

2057 modification will occur waterward of the ordinary high water mark.

2058           C. Whether or not a written statement of exemption is required, all permits issued  
2059 for development activities within the shoreline jurisdiction shall include a record of  
2060 review indicating compliance with the shoreline master program and regulations.

2061           D. As necessary to ensure consistency of the project with the shoreline master  
2062 program and this chapter, the department may attach conditions of approval to a  
2063 substantial development permit or a statement of exemption or to the approval of a  
2064 development proposal that does not require either.

2065           E. The department may issue a programmatic statement of exemption as follows:

2066           1. For an activity for which a statement of exemption is required, the activity  
2067 shall:

2068           a. be repetitive and part of a maintenance program or other similar program;

2069           b. have the same or similar identifiable impacts, as determined by the  
2070 department, each time the activity is repeated at all sites covered by the programmatic  
2071 statement of exemption; and

2072           c. be suitable to having standard conditions that will apply to any and all sites;

2073           2. The department shall uniformly apply conditions to each activity authorized  
2074 under the programmatic statement of exemption at all locations covered by the statement  
2075 of exemption. The department may require that the applicant develop and propose the  
2076 uniformly applicable conditions as part of the statement of exemption application and  
2077 may approve, modify or reject any of the applicant's proposed conditions. The  
2078 department shall not issue a programmatic statement of exemption until applicable  
2079 conditions are developed and approved;

2080           3. Activities authorized under a programmatic statement of exemption shall be  
2081 subject to inspection by the department. The applicant may be required to notify the  
2082 department each time work subject to the programmatic statement of exemption is  
2083 undertaken for the department to schedule inspections. In addition, the department may  
2084 require the applicant to submit periodic status reports. The frequency, method and  
2085 contents of the notifications and reports shall be specified as conditions in the  
2086 programmatic statement of exemption;

2087           4. The department may require revisions, impose new conditions or otherwise  
2088 modify the programmatic statement of exemption or withdraw the programmatic  
2089 statement of exemption and require that the applicant apply for a standard statement of  
2090 exemption, if the department determines that:

2091           a. ~~((F))~~the programmatic statement of exemption or activities authorized under  
2092 the statement of exemption no longer comply with law;

2093           b. ~~((F))~~the programmatic statement of exemption does not provide adequate  
2094 regulation of the activity;

2095           c. ~~((F))~~the programmatic statement of exemption conditions or the manner in  
2096 which the conditions are implemented are not adequate to protect against the impacts  
2097 resulting from the activity; or

2098           d. ~~((A))~~a site requires site-specific regulation; and

2099           5. If an activity covered by a programmatic statement of exemption also  
2100 requires other county, state and federal approvals, to the extent feasible, the department  
2101 shall attempt to incorporate conditions that comply with those other approvals into the  
2102 programmatic statement of exemption.

2103 F. A statement of exemption is not required for maintenance of agricultural  
2104 drainage or agricultural waterways used by salmonids if:

2105 1. The maintenance project is conducted in compliance with a hydraulic project  
2106 approval issued by the Washington Department of Fish and Wildlife pursuant to chapter  
2107 77.55 RCW;

2108 2. The maintenance project complies with the King County agricultural drainage  
2109 assistance program as agreed to by the Washington state Department of Fish and  
2110 Wildlife, the department of local services, permitting division, and the department of  
2111 natural resources and parks, and as reviewed by the Washington state Department of  
2112 Ecology;

2113 3. The person performing the agricultural drainage maintenance and the land  
2114 owner has attended training provided by King County on the King County agricultural  
2115 drainage assistance program and the best management practices required under that  
2116 program;

2117 4. The maintenance project complies with the requirements of K.C.C. chapter  
2118 16.82; and

2119 5. The project is not subject to federal permitting related to the U.S. Army  
2120 Corps of Engineers Section 10 or Section 404 permits.

2121 SECTION 21. Ordinance 18767, Section 11, is hereby repealed.

2122 SECTION 22. In accordance with K.C.C. 20.12.200, the executive shall submit  
2123 sections 5, 10, 11, and 13 through 21 of this ordinance to the state Department of Ecology  
2124 for its approval, as provided in RCW 90.58.090.

2125 SECTION 23. Sections 5, 10, 11, and 13 through 21 of this ordinance take effect



2126 within the shoreline jurisdiction fourteen days after the state Department of Ecology  
2127 provides written notice of final action stating that the proposal is approved, in accordance  
2128 with RCW 90.58.909. The executive shall provide the written notice of final action to the  
2129 clerk of the council.

2130           SECTION 24. Severability. If any provision of this ordinance or its application

2131 to any person or circumstance is held invalid, the remainder of the ordinance or the  
2132 application of the provision to other persons or circumstances is not affected.  
2133

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Rod Dembowski, Chair

ATTEST:

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Melani Pedroza, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Dow Constantine, County Executive

**Attachments:** A. 2019 Shoreline Master Program Periodic Update