



2019 Shoreline Master Program Periodic Review

**Amendments to Chapter 6 of the
2016 King County Comprehensive Plan**

As allowed by K.C.C. 20.18.030.A.5

July 2, 2019

Make the following changes to Chapter 6 of the 2016 King County Comprehensive Plan, as amended.

On page 6-5, amend the text as follows:

3. Shoreline jurisdiction under the Shoreline Management Act

Shorelines of the State in King County, as defined by the Shoreline Management Act, include ~~((all marine waters, lakes greater than 20 acres, and rivers and streams with a minimum of 20 cubic feet per second mean annual flow))~~ the total of all shorelines and shorelines of statewide significance. ~~((The shoreline jurisdiction includes these water bodies and shorelands.))~~ Shorelines include ((S))shorelands, which are defined as those ~~((areas))~~ lands extending landward for 200 feet from the ordinary high water mark, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all associated wetlands and river deltas. King County currently includes the 100-year floodplain in its shoreline jurisdiction. Shoreline jurisdiction under the Shoreline Management Act does not include tribal reservation lands or lands held in trust by the federal government for the tribes.

On page 6-7, amend the text as follows:

King County Shoreline Map Folio and List (September 2010): The Shoreline Map Folio includes all maps produced and referenced as part of the Shoreline Master Program ~~((update)),~~ with the exception of those maps included in this chapter. The King County Shoreline List includes all streams and lakes within the shoreline jurisdiction. All geographic information can be found at: <http://www.kingcounty.gov/shorelines>

On page 6-11, amend the text as follows:

2. King County's Shoreline Master Program is intended to be consistent with the Shoreline Management Act & Guidelines

King County's Shoreline Master Program is intended to be consistent with the required elements of the Department of Ecology's guidelines for implementing the Shoreline Management Act that are found in Chapters 173-26 and 173-27 of the Washington Administrative Code ~~((173-26 and 173-28)).~~ King County's Shoreline Master Program shall be interpreted consistently with the Shoreline Management Act. In the event of a conflict between Shoreline Management Act and King County's Shoreline Master Program, the Shoreline Master Program should be interpreted to give meaning and effect to the Shoreline Management Act.

- S-102 King County's Shoreline Master Program is to be interpreted consistently with the policies and requirements of the Shoreline Management Act (Revised Code of Washington 90.58).
- S-103 King County's Shoreline Master Program is to be interpreted consistently with the required elements of the shoreline guidelines found in Chapters 173-26 and 173-27 of the Washington Administrative Code ((173-26 and 173-28)).

On page 6-13, amend the text as follows:

c. "Shorelands"

Shorelines includes "associated shorelands" which are defined in the Shoreline Management Act as follows: "Shorelands" or "shoreland areas" means those lands extending landward for ~~((200))~~ two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of ~~((this chapter))~~ [Chapter 90.58 RCW].

On page 6-14, amend the text as follows:

e. Options to extend geographic jurisdiction over shorelines and shorelines of statewide significance

The Shoreline Management Act gives King County two options concerning the scope of its shoreline jurisdiction.

The first option allows the county to include 100-year floodplains:

Any county or city may determine that portion of a ~~((100))~~ one-hundred-year flood plain to be included in its ~~((M))~~master ~~((P))~~program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward ~~((200))~~ two hundred feet therefrom. (Revised Code of Washington ~~((90.58.030(2)(f)(i)))~~ 90.58.030(2)(d)(i))

In its original Shoreline Master Program adopted in 1977, King County included the 100-year floodplain. The continued regulation of the 100-year floodplain is necessary to comply with certain federal requirements under the National Flood Insurance Program. Therefore, King County continues to extend its shoreline jurisdiction to cover 100-year floodplains.

- S-106 King County includes within its shoreline jurisdiction the 100-year floodplains of shorelines of the state.

The second option allows the extension of shoreline jurisdiction to include land necessary for buffers for critical areas that extend beyond the 200 foot shoreland jurisdiction:

Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A (~~(Revised Code of Washington)~~) RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 (~~(Revised Code of Washington)~~) RCW, except conversions to (~~(non-forest land)~~) nonforestland use, on lands subject to the provisions of this subsection (~~((2)(f)(ii))~~) (2)(d)(ii) are not subject to additional regulations under (~~(this chapter)~~) [Chapter 90.58 RCW]. (~~(Revised Code of Washington 90.58.030((2)(f)(ii))~~) (2)(d)(ii))

King County is not exercising its option to extend its shoreline jurisdiction to include lands for buffers for critical areas.

On page 6-29, amend the text as follows:

~~((IV.)) VI. Shoreline Environment Designations~~

On page 6-47, amend policy S-621 as follows:

S-621 In determining appropriate mitigation measures applicable to shoreline development, the mitigation sequencing requirements described in Washington Administrative Code (~~(173-26-202(d)(e))~~) 173-26-201(2)(e) require that lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

On page 6-49, amend policy S-624 as follows:

S-624 Development regulations for geologically hazardous areas shall meet the minimum requirements in Washington Administrative Code (~~(365-190-080(4))~~) 365-190-120.

On page 6-53, amend the text as follows:

C. Frequently Flooded Areas and Channel Migration Hazard Areas

The King County (~~(2006)~~) 2013 Flood Hazard Management Plan was adopted as a functional plan of the King County Comprehensive Plan. The Flood Plan outlines the policies, programs,

and projects that King County uses to reduce the risk from flooding and channel migration. The King County ((2006)) 2013 Flood Hazard Management Plan was reviewed for consistency with the Shoreline Management Act and determined to be consistent with it. King County maps Channel Migration Hazard Areas and applies critical areas regulations to assure that channel migration can be accommodated.

On page 6-60, amend the text as follows:

a. General Aquaculture

Aquaculture is the culture or farming of ((food)) fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Aquaculture is dependent on the use of the water area and, when consistent with goals for aesthetics, public access, control of pollution and prevention of damage to the environment, ((is a preferred use of the water area. Aquaculture is a growing industry of statewide significance. Aquaculture)) should be ((accommodated)) allowed so long as it does not result in a net loss of shoreline ecological processes and functions. The visual and aesthetic impacts of aquaculture should not overwhelm adjacent land uses.

On page 6-62, amend policies S-716 and S-717 as follows:

S-716 Aquaculture is a water-dependent use and ~~((is a preferred))~~ should be an allowed use of the shoreline when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for native species, (Washington Administrative Code 173-26-241(3)(b)).

S-716a King County shall prohibit nonnative marine finfish aquaculture.

S-717 Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The technology associated with some forms of aquaculture is still experimental and in formative states. Therefore, when implementing development regulations related to aquaculture, King County should provide flexibility in its development regulations governing the siting of aquaculture facilities, where appropriate. Those regulations shall require avoidance of adverse impacts to existing uses, to the maximum extent practical, and no net loss in shoreline ecological functions and processes. If King County determines that certain types aquaculture involve a significant risk of net

loss in shoreline ecological functions or cumulative adverse effects on the environment or native species and their habitats, the County may prohibit or condition such uses in its development regulations.

S-718 Aquaculture activities shall be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological processes and functions. Aquaculture permits shall not be ~~((permitted))~~ approved where it would result in net loss of shoreline ecological functions; net loss of habitat for native species including eelgrass, kelp, and other macroalgae; adverse impacts to other habitat conservation areas; or interference with navigation or other water-dependent uses.

On page 6-62, after policy S-727, insert the following:

S-727a King County should ensure proper management of upland uses in the shoreline jurisdiction to avoid degradation of water quality of existing shellfish areas, including adoption of additional protections from impacts of geoduck aquaculture.

b. Net Pens

One specific type of aquaculture is a net pen, which is a type of large cage used to farm finfish in open water. These net pens allow for the exchange of water between the farm and the surrounding environment. In 2017, a large commercial net pen near Cypress Island collapsed and released hundreds of thousands of nonnative salmon into King County's shorelines of statewide significance.

Following this incident, King County reviewed its net pens regulations in 2018 for potential impacts on native species and found that commercial salmon net pen aquaculture operations generally have adverse environmental and ecological impacts that do not appear to meet the SMA standard of 'no net loss of ecological function.' These adverse impacts include increased disease transmission, increased water quality impacts, competition for food and habitat, predation on local native salmon, and genetic introgression.

King County's native salmon runs are among the Puget Sound region's most precious and irreplaceable natural resources. King County, area tribes, the state, the region and the federal government have collectively invested hundreds of millions of dollars over many years to help protect and restore native salmon species. The impacts of net pens to native salmon outlined above would threaten years of work and millions of dollars in investments.

The environmental and ecological risks associated with commercial salmon net pens may also apply to other finfish net pens, including net pens for noncommercial native salmon and commercial native finfish, but there is a lack of current information regarding these risks. The

Department of Ecology’s Shoreline Master Program Handbook lists only three references to guide local jurisdictions in how to regulate net pens, all of which predate the Endangered Species Act listings of Southern Resident Puget Sound Orcas, Puget Sound Chinook salmon, and Puget Sound steelhead as threatened. The Department of Ecology acknowledges in the handbook that interim net pen guidelines from the 1980s are out of date and caution should be used if relying on them.

In response to the Cypress Island incident, the Washington State Legislature adopted Engrossed House Bill 2957 prohibiting new or expanded leases for nonnative marine finfish aquaculture. House Bill 2957 also directed state agencies to continue updating guidance and informational resources for planning and permitting marine net pen aquaculture. State agencies were further directed to seek advice and assistance from the Northwest Indian Fisheries Commission, national centers for coastal ocean science, and to invite consultation with universities and federally recognized Indian tribes. The applicable state agencies must report to the legislature in late 2019.

S-272b King County shall prohibit new commercial salmon net pen aquaculture operations to avoid adverse impacts on native salmon runs.

S-272c King County shall support tribal treaty fishing rights, including operation of noncommercial native salmon net pens for temporary rearing and brood stock recovery programs.

S-727d King County shall review and condition the siting of net pens to ensure they apply all necessary environmental and ecological protections and meet the standard of no adverse impacts and no net loss of ecological function.

S-727e King County shall revisit its policies and regulations associated with net pens, including the prohibition on commercial native salmon net pens, during the next statutory-required periodic review of this program. At that time, additional research and guidance from the state is expected to be available.

Upon final adoption, the council shall: incorporate the adopted changes into the 2016 King County Comprehensive Plan, as amended; correct any scrivener’s errors; update the table of contents, cover page, and plan headers; and provide an electronic copy to the executive.