



Signature Report

Ordinance

Proposed No. 2019-0143.2

Sponsors Upthegrove

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

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

37 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

38 **SECTION 1. Findings:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 98 1. The escape of farmed salmon may threaten existing depressed salmon
99 populations, because large numbers of escapees would act as predators on wild juvenile
100 salmon, compete with wild juvenile and adult salmon for food, as well as compete for
101 spawning and rearing habitats;
- 102 2. Escaped farm salmon from commercial salmon net pens, especially if using
103 native salmon species, greatly increases the risks of genetic introgression with local wild
104 stocks, which would reduce the overall genetic fitness of already greatly stressed wild
105 salmon populations;
- 106 3. Small wild juvenile salmon can swim into commercial net pens and are at a
107 high risk of predation by farmed salmon. Similarly, other important prey for wild
108 salmon, seabirds and orcas, including, but not limited to, Pacific sand lance, surf smelt
109 and Pacific herring, are also at risk of being preyed upon if they swim into a commercial
110 net pen;
- 111 4. Dense aggregations of farmed salmon in commercial net pens increase the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

212 SECTION 2. The review and evaluation required by RCW 90.58.080(4) have
213 occurred, as described in the findings of this ordinance. The elements of the King
214 County shoreline master program ("SMP") in sections 5, 23, 24, 26, 27 and 29 through
215 38 of this ordinance and in Attachment A to this ordinance are hereby amended to read as
216 set forth in this ordinance and are incorporated herein by this reference. The remaining
217 portions of the county's SMP is unchanged. King County adopts these SMP revisions
218 and finds the amended SMP consistent with the requirements of chapter 90.58 RCW and
219 chapter 173-26 WAC, as they apply to these amendments.

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

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

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

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

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

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

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

- 250 g. K.C.C. 21A.24.133;
- 251 h. K.C.C. 21A.24.200;
- 252 i. K.C.C. 21A.24.210;
- 253 j. K.C.C. 21A.24.220;
- 254 k. (~~K.C.C. 21A.24.230~~;
- 255 ~~l. K.C.C. 21A.24.240~~;
- 256 ~~m. K.C.C. 21A.24.250~~;
- 257 ~~n. K.C.C. 21A.24.260~~;
- 258 ~~o.~~) K.C.C. 21A.24.275;
- 259 ((~~p.~~) l. K.C.C. 21A.24.280;
- 260 ((~~q.~~) m. K.C.C. 21A.24.290;
- 261 ((~~r.~~) n. K.C.C. 21A.24.300;
- 262 ((~~s.~~) o. K.C.C. 21A.24.310;
- 263 ((~~t.~~) p. K.C.C. 21A.24.316;
- 264 ((~~u.~~) q. K.C.C. 21A.24.325;
- 265 ((~~v.~~) r. K.C.C. 21A.24.335;
- 266 ((~~w.~~) s. K.C.C. 21A.24.340;
- 267 ((~~x.~~) t. K.C.C. 21A.24.358;
- 268 ((~~y.~~) u. K.C.C. 21A.24.365;
- 269 ((~~z.~~) v. K.C.C. 21A.24.380;
- 270 ((~~aa.~~) w. K.C.C. 21A.24.382;
- 271 ((~~bb.~~) x. K.C.C. 21A.24.386;
- 272 ((~~ee.~~) y. K.C.C. 21A.24.388; and

- 273 4. The following:
- 274 a. K.C.C. 20.18.040;
- 275 b. K.C.C. 20.18.050;
- 276 c. K.C.C. 20.18.056;
- 277 d. K.C.C. 20.18.057;
- 278 e. K.C.C. 20.18.058;
- 279 f. K.C.C. 20.22.160;
- 280 g. K.C.C. 20.24.510;
- 281 h. K.C.C. 21A.32.045;
- 282 i. K.C.C. 21A.44.090;
- 283 j. K.C.C. 21A.44.100; and
- 284 k. K.C.C. 21A.50.030.

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

290 C. Amendments to the shoreline master program do not apply to the shoreline
291 jurisdiction until approved by the Washington state Department of Ecology as provided
292 in RCW 90.58.090. The department of ~~((permitting and environmental review))~~ local
293 services, permitting division, shall, within ten days after the date of the Department of
294 Ecology's approval, file a copy of the Department of Ecology's approval, in the form of a
295 paper copy and an electronic copy, with the clerk of the council, who shall retain the

296 paper copy and forward electronic copies to all councilmembers, chief of staff, policy
297 staff director and the lead staff of the ((~~planning, rural service~~)) mobility and environment
298 committee, or its successor.

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

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

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

310 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
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

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

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

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

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

330 2. The period during which an environmental impact statement is being
331 prepared following a determination of significance under chapter 43.21C RCW, as set

332 forth in K.C.C. 20.44.050;

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

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

338 5. Any time extension mutually agreed upon by the applicant and the
339 department; and

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

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

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

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

350 2. Requires approval of a new fully contained community as provided in RCW
351 36.70A.350, master planned resort as provided in RCW 36.70A.360 or the siting of an
352 essential public facility as provided in RCW 36.70A.200; or

353 3. Is revised by the applicant, when the revisions will result in a substantial
354 change in a project's review requirements, as determined by the department, in which

355 case the period shall start from the date at which the revised project application is
356 determined to be complete.

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

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

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

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

378 21A.06.072B are hereby amended to read as follows:

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

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

386 A. Aquatic areas:

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

388 ~~((1-A))~~ all shorelines of the state, rivers, streams, marine waters and bodies of
389 open water, such as lakes, ponds and reservoirs;

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

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

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

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

401 NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 21A.06

402 a new section to read as follows:

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

406 NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 21A.06

407 a new section to read as follows:

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

411 NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 21A.06

412 a new section to read as follows:

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

415 NEW SECTION. SECTION 12. There is hereby added to K.C.C. chapter 21A.06

416 a new section to read as follows:

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

420 SECTION 13. Ordinance 16985, Section 89, as amended, and K.C.C.

421 21A.06.1081 are hereby amended to read as follows:

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

- 424 ~~A. The one hundred year floodplain;~~
425 ~~B. All associated wetlands; and~~
426 ~~C. All river deltas~~) A. Lands extending landward two hundred feet in all
427 directions as measured on a horizontal plane from the ordinary high water mark;
428 B. Floodways and contiguous floodplain areas landward two hundred feet from
429 such floodways;
430 C. All wetlands and river deltas associated with streams, lakes and tidal waters;
431 and
432 D. The one-hundred-year floodplain.

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

434 21A.06.1082 are hereby amended to read as follows:

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

- 439 A. Shorelines of statewide significance;
440 B. Shorelines on segments of streams upstream of a point where the mean annual
441 flow is twenty cubic feet per second or less and the wetlands associated with such
442 upstream segments; and
443 C. Shorelines on lakes less than twenty acres in size and wetlands associated with
444 such small lakes.

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

446 21A.06.1082B are hereby amended to read as follows:

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

450 SECTION 16. Ordinance 3688, Section 248, as amended, and K.C.C.
451 21A.06.1082D are hereby amended to read as follows:

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

455 SECTION 17. Ordinance 3688, Section 246, as amended, and K.C.C.
456 21A.06.1083, are hereby repealed.

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

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

461 SECTION 19. Ordinance 3688, Section 249, as amended, and K.C.C.
462 21A.06.1083A are hereby amended to read as follows:

463 Shorelines of statewide significance: those shorelines described in RCW
464 ((90.58.030(2)(e))) 90.58.030(2)(f) that are within the unincorporated portion of King
465 County.

466 SECTION 20. Ordinance 3688, Section 255, as amended, and K.C.C.
467 21A.06.1268 are hereby amended to read as follows:

468 Substantial development: any development that requires a shoreline
469 ((management)) substantial development permit, as defined in ((RCW 90.58.030(3)(e)))

470 WAC 173-27-040.

471 SECTION 21. Ordinance 10870, Section 323, as amended, and K.C.C.

472 21A.06.1391 are hereby amended to read as follows:

473 Wetland:

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

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

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

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

487 1. ~~((A-s))~~Surface water conveyances for drainage or irrigation;

488 2. ~~((A-g))~~Grass-lined swales;

489 3. ~~((A-e))~~Canals;

490 4. ~~((A-d))~~Detention facilities such as flow control ~~((facility))~~ facilities or
491 wetponds;

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

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

494 7. ~~((A-wet pond;~~

495 ~~8.))~~ Landscape amenities; or

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

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

498 highway.

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

500 21A.06.1395 are hereby amended to read as follows:

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

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

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

504 21A.24.045 are hereby amended to read as follows:

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

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

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

508 1. Critical aquifer recharge area;

509 2. Coal mine hazard area;

510 3. Erosion hazard area;

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

512 5. Landslide hazard area under forty percent slope;

513 6. Seismic hazard area; and

514 7. Volcanic hazard areas.

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

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

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

527 C. In the following table where an activity is included in more than one activity
 528 category, the numbered conditions applicable to the most specific description of the
 529 activity governs. Where more than one numbered condition appears for a listed activity,
 530 each of the relevant conditions specified for that activity within the given critical area
 531 applies. For alterations involving more than one critical area, compliance with the
 532 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
Structures					
Construction of new single detached dwelling unit			A 1	A 2	

Ordinance

Construction of a new tree-supported structure			A 64	A 64	A 64
Construction of nonresidential structure			A 3	A 3	A 3, 4
Maintenance or repair of existing structure	A 5	A	A	A	A 4
Expansion or replacement of existing structure	A 5, 7	A 5, 7	A 7, 8	A 6, 7, 8	A 4, 7
Interior remodeling	A	A	A	A	A
Construction of new dock or pier			A 9	A 9, 10, 11	
Maintenance, repair or replacement of dock or pier			A 12	A 10, 11	A 4
Grading					
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			
Clearing					
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
Forest Practices					
Forest management activity	A	A	A	A	A 25
Roads					
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	

Ordinance

Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16, 27
Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29
Maintenance of driveway, private access road, farm field access drive or parking lot	A	A	A 17	A 17	A 17, 27
Construction of a bridge or culvert as part of a driveway or private access road	A 39	A 39	A 39	A 39	A 39
Bridges or culverts					
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
Utilities and other infrastructure					
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	A 33	A 33	A 16, 32, 38	A 16, 40, 41	A 4, 37

Ordinance

existing surface water conveyance system					
Construction of new surface water flow control or surface water quality treatment facility			A 32	A 32	A 4, 32
Maintenance or repair of existing surface water flow control or surface water quality treatment facility	A 16	A 16	A 16	A 16	A 4
Construction of new flood protection facility			A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Flood risk reduction gravel removal	A 61	A 61	A 61	A 61	A 61
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing instream structure	A 16	A	A	A	A 4
Recreation					
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
Habitat, education and science projects					
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
Agriculture					
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

Ordinance

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
Other					
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

533 D. The following alteration conditions apply:

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

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

538 a. at least seventy-five percent of the lots abutting the shoreline of the lake or
539 seventy-five percent of the lake frontage, whichever constitutes the most developable

540 lake frontage, has existing density of four dwelling units per acre or more;

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

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

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

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

550 f. the alteration is no closer than:

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

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

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

562 g. to the maximum extent practical, alterations are mitigated on the

563 development proposal site by enhancing or restoring remaining critical area buffers.

564 3. Limited to nonresidential farm-structures in grazed or tilled wet meadows or

565 buffers of wetlands or aquatic areas where:

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

567 b. the structure is in compliance with an approved farm management plan in

568 accordance with K.C.C. 21A.24.051;

569 c. the structure is either:

570 (1) on or adjacent to existing nonresidential impervious surface areas,

571 additional impervious surface area is not created waterward of any existing impervious

572 surface areas and the area was not used for crop production;

573 (2) higher in elevation and no closer to the critical area than its existing

574 position; or

575 (3) at a location away from existing impervious surface areas that is

576 determined to be the optimum site in the farm management plan;

577 d. all best management practices associated with the structure specified in the

578 farm management plan are installed and maintained;

579 e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not

580 require the development of a farm management plan if required best management

581 practices are followed and the installation does not require clearing of critical areas or

582 their buffers; and

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

584 if:

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

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

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

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

593 4. No clearing, external construction or other disturbance in a wildlife habitat
594 conservation area is allowed during breeding seasons established under K.C.C.
595 21A.24.382.

596 5. Allowed for structures when:

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

598 b. the risk of landsliding is low; and

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

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

601 a. existing legally established primary structures if:

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

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

604 and

605 b. existing legally established accessory structures if:

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

608 (2) there is not an expansion of the footprint towards any source of channel

609 migration hazard, unless the applicant demonstrates that the location is less subject to risk
610 and has less impact on the critical area.

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

613 a. the expansion or replacement does not increase the footprint of a
614 nonresidential structure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

653 a. the vegetation where the alteration is proposed does not consist of dominant
654 native wetland herbaceous or woody vegetation six feet in width or greater and the lack

655 of this vegetation is not the result of any violation of law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

700 20. Harvesting of plants and plant materials, such as plugs, stakes, seeds or

701 fruits, for restoration and enhancement projects is allowed.

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

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

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

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

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

710 23. Allowed as follows:

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

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

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

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

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

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

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

724 accordance with the applicable public health standards within Marine Recovery Areas
725 adopted by the ((~~Seattle King County board of health~~) Public Health - Seattle & King
726 County and:

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

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

729 practicable;

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

731 or erosion;

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

733 system; and

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

735 hazard area.

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

737 and Wildlife and Washington state Department of Natural Resources Management

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

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

740 best available science.

741 26. Allowed only if:

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

743 area and its buffer;

744 b. the corridor is not located over habitat used for salmonid rearing or

745 spawning or by a species listed as endangered or threatened by the state or federal

746 government unless the department determines that there is no other feasible crossing site.

747 c. the corridor width is minimized to the maximum extent practical;
748 d. the construction occurs during approved periods for instream work;
749 e. the corridor will not change or diminish the overall aquatic area flow peaks,
750 duration or volume or the flood storage capacity; and

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

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

756 28. Allowed only if:

757 a. an alternative access is not available;

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

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

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

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

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

765 30. Allowed only if:

766 a. the new construction or replacement is made fish passable in accordance
767 with the most recent Washington state Department of Fish and Wildlife manuals or with
768 the National Marine and Fisheries Services guidelines for federally listed salmonid
769 species; and

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

771 31. Allowed if necessary to bring the bridge or culvert up to current standards

772 and if:

773 a. there is not another feasible alternative available with less impact on the

774 aquatic area and its buffer; and

775 b. to the maximum extent practical, the bridge or culvert is located to minimize

776 impacts to the aquatic area and its buffers.

777 32. Allowed in an existing roadway if conducted consistent with the regional

778 road maintenance guidelines.

779 33. Allowed outside the roadway if:

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

781 landslide or erosion;

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

783 construct the corridor; and

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

785 hazard area.

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

787 facilities within utility corridors if:

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

789 and critical area buffer;

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

791 practical:

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

793 species listed as endangered or threatened by the state or federal government unless the
794 department determines that there is no other feasible crossing site;

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

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

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

799 (1) the width is the minimized;

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

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

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

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

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

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

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

815 g. the utility corridor serves multiple purposes and properties to the maximum

816 extent practical;

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

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

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

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

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

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

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

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

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

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

837 38. Allowed if:

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

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

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

846 c. the conveyance and outfall are installed with hand equipment where
847 feasible;

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

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

850 39. Allowed only if:

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

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

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

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

858 e. bridge piers or abutments for bridge crossings are not placed within the
859 FEMA floodway, severe channel migration hazard area or waterward of the ordinary high
860 water mark.

861 40. Allowed for an open, vegetated stormwater management conveyance system

862 and outfall structure that simulates natural conditions if:

- 863 a. fish habitat features necessary for feeding, cover and reproduction are
- 864 included when appropriate;
- 865 b. vegetation is maintained and added adjacent to all open channels and ponds,
- 866 if necessary to prevent erosion, filter out sediments or shade the water; and
- 867 c. bioengineering techniques are used to the maximum extent practical.

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

- 869 a. necessary to avoid erosion of slopes; and
- 870 b. bioengineering techniques are used to the maximum extent practical.

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

- 873 a. if consistent with the Integrated Streambank Protection Guidelines
- 874 (Washington State Aquatic Habitat Guidelines Program, 2002) and if bioengineering
- 875 techniques are used to the maximum extent practical, unless the applicant demonstrates
- 876 that other methods provide equivalent structural stabilization and environmental function;
- 877 b. based on a critical areas report, the department determines that the new
- 878 flood protection facility will not cause significant impacts to upstream or downstream
- 879 properties; and
- 880 c. to prevent bank erosion for the protection of:
 - 881 (1) public roadways;
 - 882 (2) sole access routes in existence before February 16, 1995;
 - 883 (3) new primary dwelling units, accessory dwelling units or accessory living
 - 884 quarters and residential accessory structures located outside the severe channel migration

885 hazard area if:

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

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

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

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

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

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

904 (d) nonstructural measures are not feasible.

905 43. Applies to lawfully established existing structures if:

906 a. the height of the facility is not increased, unless the facility is being replaced
907 in a new alignment that is landward of the previous alignment and enhances aquatic area

908 habitat and process;

909 b. the linear length of the facility is not increased, unless the facility is being
910 replaced in a new alignment that is landward of the previous alignment and enhances
911 aquatic area habitat and process;

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

913 d. consistent with the Integrated Streambank Protection Guidelines
914 (Washington State Aquatic Habitat Guidelines Program, 2002) and bioengineering
915 techniques are used to the maximum extent practical;

916 e. the site is restored with appropriate native vegetation and erosion protection
917 materials; and

918 f. based on a critical areas report, the department determines that the
919 maintenance, repair, replacement or construction will not cause significant impacts to
920 upstream or downstream properties.

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

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

925 a. included as part of a project to evaluate, restore or improve habitat, and

926 b. sponsored or cosponsored by a public agency that has natural resource
927 management as a function or by a federally recognized tribe.

928 46. Allowed as long as the trail is not constructed of impervious surfaces that
929 will contribute to surface water run-off, unless the construction is necessary for soil
930 stabilization or soil erosion prevention or unless the trail system is specifically designed

931 and intended to be accessible to handicapped persons.

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

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

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

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

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

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

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

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

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

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

953 (1) located upland from the wetland edge or the ordinary high water mark of

954 an aquatic area;

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

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

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

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

961 48. Only if the maintenance:

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

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

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

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

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

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

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

975 50. Allowed in accordance with a scientific sampling permit issued by

976 Washington state Department of Fish and Wildlife or an incidental take permit issued

977 under Section 10 of the Endangered Species Act.

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

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

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

983 b. survey monument placement;

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

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

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

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

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

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

998 (2) is more than ten thousand square feet with tree cover at a uniform density
999 more than ninety trees per acre and with the predominant mainstream diameter of the

1000 trees at least four inches diameter at breast height, not including areas that are actively
1001 managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery
1002 stock;

1003 c. the activities are in compliance with an approved farm management plan in
1004 accordance with K.C.C. 21A.24.051; and

1005 d. all best management practices associated with the activities specified in the
1006 farm management plan are installed and maintained.

1007 55. Only allowed in grazed or tilled wet meadows or their buffers if:

1008 a. the facilities are designed to the standards of an approved farm management
1009 plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in
1010 accordance with K.C.C. chapter 21A.30;

1011 b. there is not a feasible alternative location available on the site; and

1012 c. the facilities are located close to the outside edge of the buffer to the
1013 maximum extent practical.

1014 56. Only allowed in:

1015 ~~a.~~(1) a severe channel migration hazard area located outside of the shorelines
1016 jurisdiction area(~~(s)~~);

1017 ~~(2)~~ (2) grazed or tilled wet meadow or wet meadow buffer; or

1018 ~~(3)~~ (3) aquatic area buffer; and only if:

1019 ~~((a-))~~ ~~b.~~(1) the applicant demonstrates that adverse impacts to the critical area
1020 and critical area buffers have been minimized;

1021 ~~((b-))~~ (2) there is not another feasible location available on the site that is
1022 located outside of the critical area or critical area buffer;

1023 ~~((e-))~~ (3) the farm pad is designed to the standards in an approved farm
1024 management plan in accordance with K.C.C. 21A.24.051; and
1025 ~~((d-))~~ (4) for proposals located in the severe channel migration hazard area,
1026 the farm pad or livestock manure storage facility is located where it is least subject to risk
1027 from channel migration.

1028 57. Allowed for new agricultural drainage in compliance with an approved farm
1029 management plan in accordance with K.C.C. 21A.24.051 and all best management
1030 practices associated with the activities specified in the farm management plan are
1031 installed and maintained.

1032 58. If the agricultural drainage is used by salmonids, maintenance shall be in
1033 compliance with an approved farm management plan in accordance with K.C.C.
1034 21A.24.051.

1035 59. Allowed within existing landscaped areas or other previously disturbed
1036 areas.

1037 60. Allowed for residential utility service distribution lines to residential
1038 dwellings, including, but not limited to, well water conveyance, septic system
1039 conveyance, water service, sewer service, natural gas, electrical, cable and telephone, if:

1040 a. there is no alternative location with less adverse impact on the critical area
1041 or the critical area buffer;

1042 b. the residential utility service distribution lines meet the all of the following,
1043 to the maximum extent practical:

1044 (1) are not located over habitat used for salmonid rearing or spawning or by a
1045 species listed as endangered or threatened by the state or federal government unless the

- 1046 department determines that there is no other feasible crossing site;
- 1047 (2) not located over a type S aquatic area;
- 1048 (3) paralleling the channel or following a down-valley route near the channel
- 1049 is avoided;
- 1050 (4) the width of clearing is minimized;
- 1051 (5) the removal of trees greater than twelve inches diameter at breast height is
- 1052 minimized;
- 1053 (6) an additional, contiguous and undisturbed critical area buffer, equal in
- 1054 area to the disturbed critical area buffer area is provided to protect the critical area;
- 1055 (7) access for maintenance is at limited access points into the critical area
- 1056 buffer.
- 1057 (8) the construction occurs during approved periods for instream work;
- 1058 (9) bored, drilled or other trenchless crossing is encouraged, and shall be
- 1059 laterally constructed at least four feet below the maximum depth of scour for the base
- 1060 flood; and
- 1061 (10) open trenching across Type O or Type N aquatic areas is only used
- 1062 during low flow periods or only within aquatic areas when they are dry.
- 1063 61. Allowed if sponsored or cosponsored by the countywide flood control zone
- 1064 district and the department determines that the project and its location:
- 1065 a. is the best flood risk reduction alternative practicable;
- 1066 b. is part of a comprehensive, long-term flood management strategy;
- 1067 c. is consistent with the King County Flood Hazard Management Plan policies;
- 1068 d. will have the least adverse impact on the ecological functions of the critical

1069 area or its buffer, including habitat for fish and wildlife that are identified for protection
1070 in the King County Comprehensive Plan; and

1071 e. has been subject to public notice in accordance with K.C.C. 20.44.060.

1072 62.a. Not allowed in wildlife habitat conservation areas;

1073 b. Only allowed if:

1074 (1) the project is sponsored or cosponsored by a public agency whose primary
1075 function deals with natural resources management;

1076 (2) the project is located on public land or on land that is owned by a
1077 nonprofit agency whose primary function deals with natural resources management;

1078 (3) there is not a feasible alternative location available on the site with less
1079 impact to the critical area or its associated buffer;

1080 (4) the aquatic area or wetland is not for salmonid rearing or spawning;

1081 (5) the project minimizes the footprint of structures and the number of access
1082 points to any critical areas; and

1083 (6) the project meets the following design criteria:

1084 (a) to the maximum extent practical size of platform shall not exceed one
1085 hundred square feet;

1086 (b) all construction materials for any structures, including the platform,
1087 pilings, exterior and interior walls and roof, are constructed of nontoxic material, such as
1088 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,
1089 fiberglass or cured concrete that the department determines will not have an adverse
1090 impact on water quality;

1091 (c) the exterior of any structures are sufficiently camouflaged using netting

1092 or equivalent to avoid any visual deterrent for wildlife species to the maximum extent
1093 practical. The camouflage shall be maintained to retain concealment effectiveness;

1094 (d) structures shall be located outside of the wetland or aquatic area
1095 landward of the Ordinary High Water Mark or open water component (if applicable) to
1096 the maximum extent practical on the site;

1097 (e) construction occurs during approved periods for work inside the
1098 Ordinary High Water Mark;

1099 (f) construction associated with bird blinds shall not occur from March 1
1100 through August 31, in order to avoid disturbance to birds during the breeding, nesting and
1101 rearing seasons;

1102 (g) to the maximum extent practical, provide accessibility for persons with
1103 physical disabilities in accordance with the International Building Code;

1104 (h) trail access is designed in accordance with public rules adopted by the
1105 department;

1106 (i) existing native vegetation within the critical area will remain undisturbed
1107 except as necessary to accommodate the proposal. Only minimal hand clearing of
1108 vegetation is allowed; and

1109 (j) disturbed bare ground areas around the structure must be replanted with
1110 native vegetation approved by the department.

1111 63. Not allowed in the severe channel migration zone, there is no alternative
1112 location with less adverse impact on the critical area and buffer and clearing is minimized
1113 to the maximum extent practical.

1114 64. Only structures wholly or partially supported by a tree and used as accessory

1115 living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the
1116 following:

1117 a. not allowed in wildlife habitat conservation areas or severe channel
1118 migration hazard areas;

1119 b. the structure's floor area shall not exceed two hundred square feet, excluding
1120 a narrow access stairway or landing leading to the structure;

1121 c. the structure shall be located as far from the critical area as practical, but in
1122 no case closer than seventy-five feet from the critical area;

1123 d. only one tree-supported structure within a critical area buffer is allowed on a
1124 lot;

1125 e. all construction materials for the structure, including the platform, pilings,
1126 exterior and interior walls and roof, shall be constructed of nontoxic material, such as
1127 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,
1128 fiberglass or cured concrete that the department determines will not have an adverse
1129 impact on water quality;

1130 f. to the maximum extent practical, the exterior of the structure shall be
1131 camouflaged with natural wood and earth tone colors to limit visual impacts to wildlife
1132 and visibility from the critical area. The camouflage shall be maintained to retain
1133 concealment effectiveness;

1134 g. the structure must not adversely impact the long-term health and viability of
1135 the tree. The evaluation shall include, but not be limited to, the following:

1136 (1) the quantity of supporting anchors and connection points to attach the tree
1137 house to the tree shall be the minimum necessary to adequately support the structure;

1138 (2) the attachments shall be constructed using the best available tree anchor
1139 bolt technology; and

1140 (3) an ISA Certified Arborist shall evaluate the tree proposed for placement
1141 of the tree house and shall submit a report discussing how the tree's long-term health and
1142 viability will not be negatively impacted by the tree house or associated infrastructure;

1143 h. exterior lighting shall meet the following criteria:

1144 (1) limited to the minimum quantity of lights necessary to meet the building
1145 code requirements to allow for safe exiting of the structure and stairway; and

1146 (2) exterior lights shall be fully shielded and shall direct light downward, in
1147 an attempt to minimize impacts to the nighttime environment;

1148 i. unless otherwise approved by the department, all external construction shall
1149 be limited to September 1 through March 1 in order to avoid disturbance to wildlife
1150 species during typical breeding, nesting and rearing seasons;

1151 j. trail access to the structure shall be designed in accordance with trail
1152 standards under subsection D.47. of this section;

1153 k. to the maximum extent practical, existing native vegetation shall be left
1154 undisturbed. Only minimal hand clearing of vegetation is allowed; and

1155 l. vegetated areas within the critical area buffer that are temporarily impacted
1156 by construction of the structure shall be restored by planting native vegetation according
1157 to a vegetation management plan approved by the department.

1158 65. Shoreline water dependent and shoreline water oriented uses are allowed in
1159 the aquatic area and aquatic area buffer of a Type S aquatic area if consistent with K.C.C.
1160 chapter 21A.25, chapter 90.58 RCW and the King County Comprehensive Plan.

- 1161 66. Only hydroelectric generating facilities meeting the requirements of K.C.C.
1162 21A.08.100B.14., and only as follows:
- 1163 a. there is not another feasible location within the aquatic area with less adverse
1164 impact on the critical area and its buffer;
 - 1165 b. the facility and corridor is not located over habitat used for salmonid rearing
1166 or spawning or by a species listed as endangered or threatened by the state or federal
1167 government unless the department determines that there is no other feasible location;
 - 1168 c. the facility is not located in Category I wetlands or Category II wetlands with
1169 a habitat score ((30)) of 8 points or greater;
 - 1170 d. the corridor width is minimized to the maximum extent practical;
 - 1171 e. paralleling the channel or following a down-valley route within an aquatic
1172 area buffer is avoided to the maximum extent practical;
 - 1173 f. the construction occurs during approved periods for instream work;
 - 1174 g. the facility and corridor will not change or adversely impact the overall
1175 aquatic area flow peaks, duration or volume or the flood storage capacity;
 - 1176 h. the facility and corridor is not located within a severe channel migration
1177 hazard area;
 - 1178 i. to the maximum extent practical, buildings will be located outside the buffer
1179 and away from the aquatic area or wetland;
 - 1180 j. to the maximum extent practical, access for maintenance is at limited access
1181 points into the critical area buffer rather than by a parallel maintenance road. If a parallel
1182 maintenance road is necessary the following standards are met:
1183 (1) to the maximum extent practical the width of the maintenance road is

1184 minimized and in no event greater than fifteen feet; and

1185 (2) the location of the maintenance road is contiguous to the utility corridor
1186 on the side of the utility corridor farthest from the critical area;

1187 k. the facility does not pose an unreasonable threat to the public health, safety
1188 or welfare on or off the development proposal site and is consistent with the general
1189 purposes of this chapter and the public interest; and

1190 l. the facility connects to or is an alteration to a public roadway, public trail, a
1191 utility corridor or utility facility or other infrastructure owned or operated by a public
1192 utility.

1193 67. Only hydroelectric generating facilities meeting the requirements of K.C.C.
1194 21A.08.100.B.14, and only as follows:

1195 a. there is not another feasible location with less adverse impact on the critical
1196 area and its buffer;

1197 b. the alterations will not subject the critical area to an increased risk of
1198 landslide or erosion;

1199 c. the corridor width is minimized to the maximum extent practical;

1200 d. vegetation removal is the minimum necessary to locate the utility or
1201 construct the corridor;

1202 e. the facility and corridor do not pose an unreasonable threat to the public
1203 health, safety or welfare on or off the development proposal site and is consistent with the
1204 general purposes of this chapter, and the public interest and significant risk of personal
1205 injury is eliminated or minimized in the landslide hazard area; and

1206 f. the facility connects to or is an alteration to a public roadway, public trail, a

1207 utility corridor or utility facility or other infrastructure owned or operated by a public
1208 utility.

1209 68. Only for a single detached dwelling unit on a lake twenty acres or larger
1210 and only as follows:

1211 a. the heat exchanger must be a closed loop system that does not draw water
1212 from or discharge to the lake;

1213 b. the lake bed shall not be disturbed, except as required by the county or a
1214 state or federal agency to mitigate for impacts of the heat exchanger;

1215 c. the in-water portion of system is only allowed where water depth exceeds
1216 six feet; and

1217 d. system structural support for the heat exchanger piping shall be attached to
1218 an existing dock or pier or be attached to a new structure that meets the requirements of
1219 K.C.C. 21A.25.180.

1220 69. Only for maintenance of agricultural waterways if:

1221 a. the purpose of the maintenance project is to improve agricultural production
1222 on a site predominately engaged in the practice of agriculture;

1223 b. the maintenance project is conducted in compliance with a hydraulic project
1224 approval issued by the Washington state Department of Fish and Wildlife pursuant to
1225 chapter 77.55 RCW;

1226 c. the maintenance project complies with the King County agricultural
1227 drainage assistance program as agreed to by the Washington state Department of Fish and
1228 Wildlife, the department of local services, permitting division, and the department of
1229 natural resources and parks, and as reviewed by the Washington state Department of

1230 Ecology;

1231 d. the person performing the maintenance and the land owner have attended
1232 training provided by King County on the King County agricultural drainage assistance
1233 program and the best management practices required under that program; and

1234 e. the maintenance project complies with K.C.C. chapter 16.82.

1235 SECTION 24. Ordinance 15051, Section 139, as amended, and K.C.C.

1236 21A.24.055 are hereby amended to read as follows:

1237 A. On a site zoned RA, the department may approve a modification of the
1238 minimum buffer widths for aquatic areas, wetlands and wildlife habitat conservation
1239 areas and maximum clearing restrictions through a rural stewardship plan for single
1240 family detached residential development in accordance with this section.

1241 B. The property owner or applicant shall develop the rural stewardship plan as
1242 part of a rural stewardship program offered or approved by King County and has the
1243 option of incorporating appropriate components of a county-approved farm management
1244 or a county-approved forest stewardship plan.

1245 C. In its evaluation of any proposed modification of the minimum buffer widths
1246 for aquatic areas, wetlands and wildlife habitat conservation areas and maximum clearing
1247 restrictions, the department shall consider the following factors:

1248 1. The existing condition of the drainage basin or marine shoreline as designated
1249 on the Basin and Shoreline Conditions Map;

1250 2. The existing condition of wetland and aquatic area buffers;

1251 3. The existing condition of wetland functions based on the adopted Washington
1252 State Wetland Rating System for Western Washington, Washington state

1253 ((d))Department of ((e))Ecology publication number ((04-06-025, published August
1254 2004)) 14-06-029, published October 2014;

- 1255 4. The location of the site in the drainage basin;
- 1256 5. The percentage of impervious surfaces and clearing on the site; and
- 1257 6. Any existing development on the site that was approved as a result of a
1258 variance or alteration exception that allowed development within a critical area or critical
1259 area buffer. If the existing development was approved through a variance or alteration
1260 exception, the rural stewardship plan shall demonstrate that the plan will result in
1261 enhancing the functions and values of critical areas located on the site as if the
1262 development approved through the variance or alteration exception had not occurred.

1263 D. A rural stewardship plan does not modify the requirement for permits for
1264 activities covered by the rural stewardship plan.

1265 E. Modifications of critical area buffers shall be based on the following
1266 prioritized goals:

- 1267 1. To the maximum extent practical, to avoid impacts to critical areas and, if
1268 applicable, to the shoreline jurisdiction;
- 1269 2. To avoid impacts to the higher quality wetland or aquatic area or the more
1270 protected fish or wildlife species, if there is a potential to affect more than one category
1271 of wetland or aquatic area or more than one species of native fish or wildlife;
- 1272 3. To maintain or enhance the natural hydrologic systems on the site to the
1273 maximum extent practical;
- 1274 4. To maintain, restore or enhance native vegetation;
- 1275 5. To maintain, restore or enhance the function and value of critical areas or

1276 critical area buffers located on the site;

1277 6. To minimize habitat fragmentation and enhance corridors between wetlands,
1278 riparian corridors, wildlife habitat conservation areas and other priority habitats;

1279 7. To minimize the impacts of development over time by implementing best
1280 management practices and meeting performance standards during the life of the
1281 development; and

1282 8. To monitor the effectiveness of the stewardship practices and implement
1283 additional practices through adaptive management to maintain, restore or enhance critical
1284 area functions when necessary.

1285 F. If a part or all of the site is located within the shoreline jurisdiction, the rural
1286 stewardship plan shall:

1287 1. Consider and be consistent with the goals of the Shoreline Management Act
1288 and the policies of the King County Shoreline Master Program;

1289 2. Consider the priorities of the King County Shoreline Protection and
1290 Restoration Plan; and

1291 3. Ensure no net loss of shoreline ecological functions.

1292 G. A rural stewardship plan may include, but is not limited to, the following
1293 elements:

1294 1. Critical areas designation under K.C.C. 21A.24.500;

1295 2. Identification of structures, cleared and forested areas and other significant
1296 features on the site;

1297 3. Location of wetlands and aquatic areas and their buffers, and wildlife habitat;

1298 4. Analysis of impacts of planned changes to any existing structures, for other

1299 changes to the site that involve clearing or grading or for new development;

1300 5. Site-specific best management practices that mitigate impacts of development

1301 and that protect and enhance the ecological values and functions of the site;

1302 6. A schedule for implementation of the elements of the rural stewardship plan;

1303 and

1304 7. A plan for monitoring the effectiveness of measures approved under the rural

1305 stewardship plan and to modify if adverse impacts occur.

1306 H. A rural stewardship plan may be developed as part of a program offered or

1307 approved by King County and shall include a site inspection by the county to verify that

1308 the plan is reasonably likely to accomplish the goals in subsection E. of this section to

1309 protect water quality, reduce flooding and erosion, maintain, restore or enhance the

1310 function and value of critical areas and their buffers and maintain or enhance native

1311 vegetation on the site of this section.

1312 I. A property owner who completes a rural stewardship plan that is approved by

1313 the county may be eligible for tax benefits under the public benefit rating system in

1314 accordance with K.C.C. 20.36.100.

1315 J. If a property owner withdraws from the rural stewardship plan, in addition to

1316 any applicable penalties under the public benefit rating system, the following apply:

1317 1. Mitigation is required for any structures constructed in critical area buffers

1318 under the rural stewardship plan; and

1319 2. The property owner shall apply for buffer averaging or an alteration

1320 exception, as appropriate, to permit any structure or use that has been established under

1321 the rural stewardship plan and that would not otherwise be permitted under this chapter.

1322 K. A rural stewardship plan is not effective until approved by the county. Before
1323 approval, the county may conduct a site inspection, which may be through a program
1324 offered or approved by King County, to verify that the plan is reasonably likely to
1325 accomplish the goals in subsection E. of this section.

1326 L. Once approved, activities carried out in compliance with the approved rural
1327 stewardship plan shall be deemed in compliance with this chapter. In the event of a
1328 potential code enforcement action, the department of local services, permitting division,
1329 shall first inform the department of natural resources and parks of the activity. Before
1330 taking code enforcement action, the department of local services, permitting division,
1331 shall consult with the department of natural resources and parks to determine whether the
1332 activity is consistent with the rural stewardship plan.

1333 SECTION 25. Ordinance 15051, Section 183, and K.C.C. 21A.24.318 are hereby
1334 amended to read as follows:

1335 A. Identification of wetlands and delineation of their boundaries shall be done in
1336 accordance with the approved federal wetland delineation manual and applicable regional
1337 supplement as set forth in WAC 173-22-035.

1338 B. Wetlands ~~((are classified))~~ shall be rated into category I, category II, category
1339 III and category IV based on the adopted Washington State Wetland Rating System for
1340 Western Washington, Washington state ~~((d))~~ Department of ~~((e))~~ Ecology publication
1341 number ~~((04-06-025, published August 2004))~~ 14-06-029, published October 2014.

1342 ~~((B-))~~ C. Wetland rating categories shall not recognize illegal modifications.

1343 SECTION 26. Ordinance 15051, Section 185, as amended, and K.C.C.
1344 21A.24.325 are hereby amended to read as follows:

1345 A. Except as otherwise provided in this section, buffers shall be provided from
 1346 the wetland edge as follows:

1347 ~~((A. In the Urban Growth Area, buffers for wetlands shall be established in
 1348 accordance with the following standards:~~

1349 ~~1. The standard buffer widths of the following table shall apply unless modified
 1350 in accordance with subsection A.2, A.3, C, or D. of this section:~~

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category I	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Estuarine	175 feet
Coastal Lagoon	175 feet
Habitat score from 31 to 36 points	225 feet
Habitat score from 20 to 30 points	150 feet plus 7.5 feet for each habitat score point above 20 points
Category I wetlands not meeting any of the criteria above	125 feet
Category II	
Estuarine	135 feet
Habitat score from 31 to 36 points	200 feet
Habitat score from 20 to 30 points	125 feet plus 7.5 feet for each habitat score point above 20 points
Category II wetlands not meeting any of the criteria above	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Category III wetlands not meeting any of the criteria above	75 feet
Category IV	50 feet

1351 ~~2. If a Category I or II wetland with habitat score greater than twenty points is
 1352 located within three hundred feet of a priority habitat area as defined by the Washington~~

1353 state Department of Fish and Wildlife, the buffer established by subsection A.1. of this
1354 section shall be increased by fifty feet unless:

1355 a.(i) ~~the applicant provides relatively undisturbed vegetated corridor at least~~
1356 ~~one hundred feet wide between the wetland and all priority habitat areas located within~~
1357 ~~three hundred feet of the wetland. The corridor shall be protected for the entire distance~~
1358 ~~between the wetland and the priority habitat through a conservation easement, native~~
1359 ~~growth protection easement or the equivalent; and~~

1360 (ii) ~~the applicable mitigation measures in subsection A.3.b. of this section are~~
1361 ~~provided; or~~

1362 b. ~~the wetland is a freshwater or deep freshwater wetland; and~~

1363 3. ~~Buffers calculated in accordance with subsection A.1. and A.2. of this section~~
1364 ~~shall be reduced as follows:~~

1365 a. ~~Buffers for all categories of wetlands shall be reduced by twenty five feet if~~
1366 ~~the applicant implements all applicable mitigation measures identified in subsection~~
1367 ~~A.3.b. of this section, or if the applicant proposes alternate mitigation to reduce the~~
1368 ~~impacts of the development and the department determines the alternative provides~~
1369 ~~equivalent mitigation.~~

1370 b. ~~The following mitigation measures may be used by an applicant to obtain a~~
1371 ~~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

1372

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

1373

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

1374

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

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LAND USE		
	HIGH IMPACT	MODERATE IMPACT	LOW IMPACT
Category I			
((Category I wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Natural Heritage Wetlands)) <u>Wetlands of High Conservation Value</u>	250 feet	190 feet	125 feet
Bog	250 feet	190 feet	125 feet
Estuarine	200 feet	150 feet	100 feet
Coastal Lagoon	200 feet	150 feet	100 feet
Forested	Buffer width to be based on score for habitat functions or water quality functions		
Habitat score from ((34)) 8 to ((36)) 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from ((29)) 6 to ((30)) 7 points (moderate level of	150 feet ((plus 15	110 feet ((plus 11.5	75 feet ((plus 7.5

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

1375 2. For purposes of this subsection ~~((B-))~~ A., unless the director determines a
1376 lesser level of impact is appropriate based on information provided by the applicant, the
1377 intensity of impact of the adjacent land use is determined as follows:
1378 a. ~~((h))~~ High impact includes:
1379 (1) sites zoned commercial or industrial;
1380 (2) commercial, institutional or industrial use on a site regardless of the
1381 zoning designation;
1382 (3) nonresidential use on a site zoned for residential use;
1383 (4) high-intensity active recreation use on a site regardless of zoning, such as
1384 golf courses, ball fields and similar use;

- 1385 (5) all sites within the Urban Growth Area; or
- 1386 (6) Residential zoning greater than one dwelling unit per acre;
- 1387 b. ~~((m))~~ Moderate impact includes:
- 1388 (1) residential uses on sites zoned ~~((rural))~~ residential one dwelling unit per
- 1389 acre or less;
- 1390 (2) residential use on a site zoned rural area, agriculture or forestry; ~~((o#))~~
- 1391 (3) agricultural uses without an approved farm management plan;
- 1392 (4) utility corridors or right-of-way shared by several utilities, including
- 1393 maintenance roads; or
- 1394 (5) moderate-intensity active recreation or open space use, such as paved
- 1395 trails, parks with biking, jogging and similar use; and
- 1396 c. ~~((l))~~ Low impact includes:
- 1397 (1) forestry use on a site regardless of zoning designation;
- 1398 (2) passive recreation uses, such as unpaved trails, nature viewing areas,
- 1399 fishing and camping areas, and other similar uses that do not require permanent
- 1400 structures, on a site regardless of zoning; ~~((o#))~~
- 1401 (3) agricultural uses carried out in accordance with an approved farm
- 1402 management plan and in accordance with K.C.C. 21A.24.045.D.53. and K.C.C.
- 1403 21A.24.045.D.54.; or
- 1404 (4) utility corridors without a maintenance road and little or no vegetation
- 1405 maintenance.
- 1406 ~~((c.))~~ B. The department may approve a modification of the minimum buffer
- 1407 width required by this section by averaging the buffer width if:

- 1408 1. The department determines that:
- 1409 a. ~~the ((ecological structure and function of the buffer after averaging is~~
1410 ~~equivalent to or greater than the structure and function before averaging)) buffer~~
1411 averaging will improve wetland protection if the wetland has significant differences in
1412 characteristics that affect habitat functions, such as a wetland with a forested component
1413 adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I
1414 area adjacent to a lower-rated area; or
- 1415 b. averaging includes the corridors of a wetland complex; and
- 1416 2. The resulting buffer meets the following standards:
- 1417 a. the total area of the buffer after averaging is equivalent to or greater than the
1418 area of the buffer before averaging;
- 1419 b. the additional buffer is contiguous with the standard buffer; ~~((and))~~
- 1420 c. ~~((if the buffer width averaging allows a structure or landscaped area to~~
1421 ~~intrude into the area that was buffer area before averaging, the resulting landscaped area~~
1422 ~~shall extend no more than fifteen feet from the edge of the structure's footprint toward the~~
1423 ~~reduced buffer)) the buffer at its narrowest point is never less than either seventy-five~~
1424 percent of the required width or seventy-five feet for Category I and II, fifty feet for
1425 Category III, and twenty-five feet for Category IV, whichever is greater;
- 1426 d. the averaged buffer will not result in degradation of wetland functions and
1427 values as demonstrated by a critical areas report from a qualified wetland professional;
1428 and
- 1429 e. the buffer is increased adjacent to the higher functioning area of habitat or
1430 more sensitive portion of the wetland and decreased adjacent to the lower-functioning or

1431 less-sensitive portion as demonstrated by a critical areas report from a qualified wetland
1432 professional.

1433 ~~((D-))~~ C. Wetland buffer widths shall also be subject to modifications under the
1434 following special circumstances:

1435 1. For wetlands containing documented habitat for endangered, threatened or
1436 species of local importance, the following shall apply:

1437 a. the department shall establish the appropriate buffer, based on a habitat
1438 assessment, to ensure that the buffer provides adequate protection for the sensitive
1439 species; and

1440 b. the department may apply the buffer ~~((increase rules in subsection A.2. of~~
1441 ~~this section, the buffer))~~ reduction rules in subsection ~~((A.3-))~~ C.6. of this section and the
1442 buffer averaging rules in subsection ~~((C-))~~ B. of this section;

1443 2. For a wetland buffer that includes a steep slope hazard area or landslide
1444 hazard area, the buffer width is the greater of the buffer width required by the wetland's
1445 category in this section or the top of the hazard area; ~~((and))~~

1446 3. For a wetland complex located outside the Urban Growth Area established by
1447 the King County Comprehensive Plan or located within the Urban Growth Area in a
1448 basin designated as "high" on the Basin and Shoreline Conditions Map, which is included
1449 as Attachment A to Ordinance 15051, the buffer width is determined as follows:

1450 a. the buffer width for each individual wetland in the complex is the same
1451 width as the buffer width required for the category of wetland;

1452 b. if the buffer of a wetland within the complex does not touch or overlap with
1453 at least one other wetland buffer in the complex, a corridor is required from the buffer of

1454 that wetland to one other wetland buffer in the complex considering the following
1455 factors:

1456 (1) the corridor is designed to support maintaining viable wildlife species that
1457 are commonly recognized to exclusively or partially use wetlands and wetland buffers
1458 during a critical life cycle stage, such as breeding, rearing or feeding;

1459 (2) the corridor minimizes fragmentation of the wetlands;

1460 (3) higher category wetlands are connected through corridors before lower
1461 category wetlands; and

1462 (4) the corridor width is a least twenty-five percent of the length of the
1463 corridor, but no less than twenty-five feet in width; and

1464 (5) shorter corridors are preferred over longer corridors;

1465 c. wetlands in a complex that are connected by an aquatic area that flows
1466 between the wetlands are not required to be connected through a corridor;

1467 d. the department may exclude a wetland from the wetland complex if the
1468 applicant demonstrates that the wetland is unlikely to provide habitat for wildlife species
1469 that are commonly recognized to exclusively or partially use wetlands and wetland
1470 buffers during a critical life cycle stage, such as breeding, rearing or feeding; and

1471 e. the alterations allowed in a wetland buffer in K.C.C. 21A.24.045 are
1472 allowed in corridors subject to the same conditions and requirements as wetland buffers
1473 as long as the alteration is designed so as not to disrupt wildlife movement through the
1474 corridor; ~~((and))~~

1475 4. Where a legally established roadway transects a wetland buffer, the
1476 department may approve a modification of the minimum required buffer width to the

1477 edge of the roadway if the part of the buffer on the other side of the roadway sought to be
1478 reduced:

1479 a. does not provide additional protection of the proposed development or the
1480 wetland; and

1481 b. provides insignificant biological, geological or hydrological buffer functions
1482 relating to the other portion of the buffer adjacent to the wetland; ~~((and))~~

1483 5. If the site has an approved rural stewardship plan under K.C.C. 21A.24.055,
1484 the buffer widths shall be established under the rural stewardship plan and shall not
1485 exceed the standard for a low impact land use, unless the department determines that a
1486 larger buffer is necessary to achieve no net loss of wetland ecological function; and

1487 6. The buffer widths required for proposed land uses with high intensity impacts
1488 to wetlands can be reduced to those required for moderate intensity impacts under the
1489 following conditions:

1490 a. For wetlands that score moderate or high for habitat, which means six points
1491 or higher, the width of the buffer can be reduced if both of the following criteria are met:

1492 (1) A relatively undisturbed vegetated corridor at least one-hundred feet wide
1493 is protected between the wetland and any other Priority Habitats as defined by the
1494 Washington state Department of Fish and Wildlife in the priority habitat and species list.

1495 The corridor must be protected for the entire distance between the wetland and the
1496 priority habitat and legally recorded via a conservation easement; and

1497 (2) Measures to minimize the impacts of different land uses on wetlands as
1498 identified in subsection C.6.b. of this section are applied; and

1499 b. For wetlands that score low for habitat, which means less than six points, the

1500 buffer width can be reduced to that required for moderate intensity impacts by applying
 1501 measures to minimize impacts of the proposed land uses, as follows:

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

1502 ~~((E-))~~ D. The department may approve a modification to the buffers established
 1503 in subsection ~~((s))~~ A. ~~((and B-))~~ of this section if the wetland was created or its
 1504 characterization was upgraded as part of a voluntary enhancement or restoration project.

1505 ~~((F-))~~ E. If the site is located within the shoreline jurisdiction, the department
 1506 shall determine that a proposal to reduce wetland buffers under this section will result in
 1507 no net loss of shoreline ecological functions.

1508 SECTION 27. Ordinance 10870, Section 481, as amended, and K.C.C.
 1509 21A.24.340 are hereby amended to read as follows:

1510 In addition to the requirements in K.C.C. 21A.24.125 and 21A.24.130, the

1511 following applies to mitigation to compensate for the adverse impacts associated with an
 1512 alteration to a wetland or wetland buffer:

1513 A. Mitigation measures must achieve equivalent or greater wetland functions,
 1514 including, but not limited to:

- 1515 1. Habitat complexity, connectivity and other biological functions; and
- 1516 2. Seasonal hydrological dynamics, as provided in the King County Surface
 1517 Water Design Manual;

1518 B. The following ratios of area of mitigation to area of alteration apply to
 1519 mitigation measures for permanent alterations:

- 1520 1. For alterations to a wetland buffer, a ratio of one to one; and
- 1521 2. For alterations to a wetland:

Category and type of wetland	Wetland reestablishment or creation	Wetland rehabilitation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)	Wetland enhancement only
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I forested	6:1	12:1	1:1 R/C and 10:1 E	Case-by-case
All other Category I (based on score for functions))	4:1	8:1	1:1 R/C and 6:1 E	Case-by-case
Category I (natural	Not allowed	6:1 rehabilitation of a	Case-by-case	Case-by-case

heritage site)) wetlands of high conservation value		((natural heritage site)) wetland of high conservation value		
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

1522 C. The following ratios of area of mitigation to area of alteration apply to
 1523 mitigation measures for temporary alterations where wetlands will not be impacted by
 1524 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

1525 D. The department may increase the mitigation ratios provided in subsections B.
 1526 and C. of this section under the following circumstances:

1527 1. The department determines there is uncertainty as to the probable success of
 1528 the proposed restoration or creation;

1529 2. A significant period of time will elapse between the impact caused by the
 1530 development proposal and the establishment of wetland functions at the mitigation site;

1531 3. The proposed mitigation will result in a lower category wetland or reduced
1532 functions relative to the wetland being impacted; or

1533 4. The alteration causing the impact was an unauthorized impact.

1534 E. The department may decrease the mitigation ratios provided in subsections B.
1535 and C. of this section under the following circumstances:

1536 1. The applicant demonstrates by documentation submitted by a qualified
1537 wetland specialist that the proposed mitigation actions have a very high likelihood of
1538 success based on hydrologic data and prior experience;

1539 2. The applicant demonstrates by documentation by a qualified wetland
1540 specialist that the proposed actions for compensation will provide functions and values
1541 that are significantly greater than the wetland being impacted;

1542 3. The applicant demonstrates that the proposed actions for mitigation have
1543 been conducted in advance of the impact caused by the development proposal and that
1544 the actions are successful; or

1545 4. In wetlands where several wetland hydrogeomorphic classes, including, but
1546 not limited to depressional, slope, riverine and flow through, are found within one
1547 delineated boundary, the department may decrease the ratios if:

1548 a. impacts to the wetland are all within an area that has a different
1549 hydrogeomorphic class from the one used to establish the category;

1550 b. the category of the area with a different class is lower than that of the entire
1551 wetland; and

1552 c. the applicant provides adequate hydrologic and geomorphic data to establish
1553 that the boundary between the hydrogeomorphic classes lies outside of the footprint of

1554 the impacts.

1555 F. For temporary alterations to a wetland or its buffer that are predominately
1556 woody vegetation, the department may require mitigation in addition to restoration of the
1557 altered wetland or buffer; and

1558 G. Mitigation of an alteration to a buffer of a wetland that occurs along an
1559 aquatic area lake shoreline in accordance with an allowed alteration under this chapter
1560 shall include, but is not limited to, on-site revegetation, maintenance and other restoration
1561 of the buffer or setback area to the maximum extent practical.

1562 SECTION 28. Ordinance 15051, Section 192, as amended, and K.C.C.

1563 21A.24.355 are hereby amended to read as follows:

1564 A. Aquatic areas are categorized or "typed" as follows:

1565 1. Type S waters include all aquatic areas inventoried as "shorelines of the state"
1566 under King County's Shoreline Master Program, K.C.C. (~~(Title 25)~~) chapter 21A.25, in
1567 accordance with chapter 90.58 RCW(~~(, including segments of streams where the mean~~
1568 ~~annual flow is more than twenty cubic feet per second, marine shorelines and lakes~~
1569 ~~twenty acres in size or greater))~~);

1570 2. Type F waters include all segments of aquatic areas that are not type S waters
1571 and that contain fish or fish habitat, including waters diverted for use by a federal, state or
1572 tribal fish hatchery from the point of diversion for one-thousand-five-hundred feet or the
1573 entire tributary if the tributary is highly significant for protection of downstream water
1574 quality;

1575 3. Type N waters include all segments of aquatic areas that are not type S or F
1576 waters and that are physically connected to type S or F waters by an above-ground

1577 channel system, stream or wetland; and

1578 4. Type O waters include all segments of aquatic areas that are not type S, F or
1579 N waters and that are not physically connected to type S, F or N waters by an above-
1580 ground channel system, pipe or culvert, stream or wetland.

1581 B. For the purposes of the water types in subsection A. of this section, an above-
1582 ground channel system is considered to be present if the one-hundred year floodplains of
1583 both the contributing and receiving waters are connected.

1584 C. The department may determine that an area upstream of a legal human-made
1585 barrier is not fish habitat considering the following factors:

1586 1. The human-made barrier is located beneath public infrastructure that is
1587 unlikely to be replaced and it is not feasible to remove the barrier without removing the
1588 public infrastructure;

1589 2. The human-made barrier is in the Urban Growth Area established by the
1590 King County Comprehensive Plan and is located beneath one or more dwelling units and
1591 it is not feasible to remove the barrier without removing the dwelling unit;

1592 3. The human-made barrier is located in a subbasin that is not designated "high"
1593 on the Basin and Shoreline Conditions Map which is included as Attachment A to
1594 Ordinance 15051; or

1595 4. The human-made barrier is not identified for removal by a public agency or
1596 in an adopted watershed plan.

1597 SECTION 29. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C.

1598 21A.25.020 are hereby amended to read as follows:

1599 The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-

1600 26 and 173-27 WAC apply within the shoreline jurisdiction. The definitions in chapter
1601 90.58 RCW and chapters 173-26 and 173-27 WAC apply if there is a conflict with the
1602 definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code
1603 shall apply where applicable and where not in conflict with the chapters of the RCW and
1604 the WAC listed in this section. In addition, the following definitions apply to this chapter
1605 unless the context clearly requires otherwise:

1606 A. "Development" means any development as defined in chapter ((90.58 RCW))
1607 173-27 WAC; and

1608 B. "Shoreline mixed use" means shoreline development that contains a water-
1609 dependent use combined with a water related, water enjoyment or a non-water-oriented
1610 use in a single building or on a single site in an integrated development proposal. Water
1611 dependent uses must comprise a significant portion of the floor area or site area in a
1612 shoreline mixed use development.

1613 SECTION 30. Ordinance 3688, Section 303, as amended, and K.C.C.
1614 21A.25.050 are hereby amended to read as follows:

1615 A. The requirements of the shoreline master program apply to all uses and
1616 development occurring within the shoreline jurisdiction. The King County shoreline
1617 jurisdiction consists of ((:

1618 ~~1. All water areas of the state, as defined in RCW 90.58.030, including~~
1619 ~~reservoirs and associated wetlands, together with the lands underlying them, except for:~~

1620 ~~a. lakes smaller than twenty acres and their associated wetlands; and~~

1621 ~~b. segments of rivers and streams and their associated wetlands where the~~
1622 ~~mean annual flow is less than twenty cubic feet per second;~~

1623 ~~2.a. The shorelands that extend landward in all directions as measured on a~~
1624 ~~horizontal plane for two hundred feet from the ordinary high water mark of the~~
1625 ~~waterbodies identified in subsection A.1. of this section;~~

1626 ~~b. the one hundred year floodplain and contiguous floodplain areas landward two~~
1627 ~~hundred feet from the one hundred year floodplain;~~

1628 ~~c. all wetlands and river deltas associated with the streams, lakes and tidal waters~~
1629 ~~that are subject to chapter 90.58 RCW.) shorelines, shorelines of statewide significance,~~
1630 ~~and shorelands as defined in RCW 90.58.030 and K.C.C. chapter 21A.06, and the one-~~
1631 ~~hundred-year floodplain.~~

1632 B. The shoreline jurisdiction does not include tribal reservation lands and lands
1633 held in trust by the federal government for tribes. Nothing in the King County
1634 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program or action taken under that program shall affect
1635 any treaty right to which the United States is a party.

1636 C. The lakes and segments of rivers and streams constituting the King County
1637 shoreline jurisdiction are set forth in Attachment K~~((-))~~ to Ordinance 17485. The King
1638 County shoreline jurisdiction is shown on a map adopted in chapter ~~((S))~~ 6 of the King
1639 County Comprehensive Plan. If there is a discrepancy between the map and the criteria
1640 established in subsection A. of this section, the criteria shall constitute the official King
1641 County shoreline jurisdiction. The county shall update the shoreline master program to
1642 reflect the new designation within three years of the discovery of the discrepancy.

1643 SECTION 31. Ordinance 16985, Section 31, as amended, and K.C.C.
1644 21A.25.100 are hereby amended to read as follows:

1645 A. The shoreline use table in this section determines whether a specific use is

1646 allowed within each of the shoreline environments. The shoreline environment is located
1647 on the vertical column and the specific use is located on the horizontal row of the table.
1648 The specific uses are grouped by the shoreline use categories in WAC 173-26-241. The
1649 specific uses are defined by those uses in K.C.C. chapter 21A.08. The table should be
1650 interpreted as follows:

1651 1. If the cell is blank in the box at the intersection of the column and the row,
1652 the use is prohibited in that shoreline environment;

1653 2. If the letter "P" appears in the box at the intersection of the column and the
1654 row, the use may be allowed within the shoreline environment;

1655 3. If the letter "C" appears in the box at the intersection of the column and the
1656 row, the use may be allowed within the shoreline environment subject to the shoreline
1657 conditional use review procedures specified in K.C.C. 21A.44.100.

1658 4. If a number appears in the box at the intersection of the column and the row,
1659 the use may be allowed subject to the appropriate review process in this section, the
1660 general requirements of this chapter and the specific development conditions indicated
1661 with the corresponding number in subsection C. of this section. If more than one number
1662 appears after a letter, all numbers apply.

1663 5. If more than one letter-number combination appears in the box at the
1664 intersection of the column and the row, the use is allowed in accordance with each letter-
1665 number combination.

1666 6. A shoreline use may be allowed in the aquatic environment only if that
1667 shoreline use is allowed in the adjacent shoreland environment.

1668 7. This section does not authorize a land use that is not allowed by the

1669 underlying zoning, but may add additional restrictions or conditions or prohibit specific
 1670 land uses within the shoreline jurisdiction. When there is a conflict between the
 1671 permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,
 1672 preference for shoreline uses shall first be given to water-dependent uses, then to water
 1673 related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction
 1674 must comply with all relevant county code provisions and with the King County
 1675 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program.

1676 B. Shoreline uses

((KEY P - Permitted Use.	((HIGH	((RESID	((RU	((CON	((RESO	((FOR	((NA	((AQU
C - Shoreline Conditional	HINT	ENTIA	RA	SERV	URCE))	EST	TUR	ATI
Use. Blank - Prohibited.	ENSI	E))	L))	ANC	<u>Resource</u>	R Y))	AL))	E))
Shoreline uses are allowed	T Y))	<u>Residential</u>	<u>Rural</u>	Y))		<u>Forestr</u>	<u>Natural</u>	<u>Aquatic</u>
only if the underlying	<u>High</u>			<u>Conserv</u>		<u>y</u>		
zoning allows the use.	<u>Intensity</u>			<u>ancy</u>				
Shoreline uses are allowed								
in the aquatic environment								
only if the adjacent upland								
environment allows the								
use)) P - Permitted Use C -								
Shoreline Conditional Use								
Blank - Prohibited.								
Shoreline uses are allowed								
only if the underlying								
zoning allows the use.								
Shoreline uses are allowed								
in the aquatic environment								
only if the adjacent upland								
environment allows the use.								
Agriculture								
Agriculture (K.C.C.		P	P	P	P	P	P1	

Ordinance

21A.08.090)								
Aquaculture (fish and wildlife management K.C.C. 21A.08.090)								
((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))
<u>Noncommercial native salmon net pens</u>	P2	P2	P2	P2	P2	P2	P2	P2
<u>Native non-salmonid finfish net pens</u>		C2	C2	C2				C2
<u>Geoduck aquaculture</u>	C2	C2	C2	C2	C2	C2	C2	C2
<u>Aquaculture, not otherwise listed</u>	P2	P2	P2	P2	P2	P2	P2	P2
Boating Facilities								
Marinas (K.C.C. 21A.08.040)	C3	C3	C3					C3
Commercial Development								
General services (K.C.C. 21A.08.050)	P4	P5	P5					
Business services, except SIC Industry No. 1611, automotive parking and off-street required parking lot (K.C.C. 21A.08.060)	P6							
Retail (K.C.C. 21A.08.070)	P7	P8						
Government Services								
Government services except commuter parking lot,	P9	P9	P9	P9	P9	P9	P9	C10

Ordinance

utility facility and private stormwater management facility (K.C.C. 21A.08.060)								
Forest Practices								
Forestry (K.C.C. 21A.08.090)		P11	P11	P11	P11	P11	C11	
Industry								
Manufacturing (K.C.C. 21A.08.080)	P12							
In-stream structural uses								
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
Mining								
Mineral uses (K.C.C. 21A.08.090)					C17	C17		C17
Recreational Development								
Recreational/cultural except for marinas and docks and	P18	P19	P19	P20		P19	P21	C

Ordinance

piers (K.C.C. 21A.08.040)								
Residential Development								
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
Transportation and parking								
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)								
Utilities								
Utility facility (K.C.C. 21A.08.060)	P26	P26	P26	P26	P26	P26	P26	C26
Regional land uses								
Regional uses except hydroelectric generation facility, wastewater treatment facility and municipal water production	P30							

(K.C.C. 21A.08.100)								
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1677

C. Development conditions:

1678

1. In the Natural environment, limited to low intensity agriculture, such as

1679

livestock use with an animal unit density of no more than one per two acres in the

1680

shoreline jurisdiction, seasonal hay mowing and related activities and horticulture not to

1681

exceed twenty percent of the site area located within the shoreline jurisdiction.

1682

2.a. The supporting infrastructure for aquaculture may be located landward of

1683

the aquaculture operation, subject to the limitations of K.C.C. Title 21A.

1684

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

1685

c. In aquatic areas adjacent to the residential shoreline environment, net pen

1686

facilities shall be located no closer than one thousand five hundred feet from the ordinary

1687

high water mark of this environment, unless the department allows a specific lesser

1688

distance that it determines is appropriate based upon a visual impact analysis. Other

1689

types of floating culture facilities may be located within one thousand five hundred feet

1690

of the ordinary high water mark if supported by a visual impact analysis.

1691

d. In aquatic areas adjacent to the rural shoreline environment, net pen

1692

facilities shall be located no closer than one thousand five hundred feet from the ordinary

1693

high water mark of this environment, unless the department allows a specific lesser

1694

distance that it determines is appropriate based upon a visual impact analysis.

1695

e. In the natural shoreline environment and aquatic areas adjacent to the natural

1696

shoreline environment, commercial net pens are prohibited and other aquaculture

1697

activities are limited to ((aquaculture)) activities that do not require structures, facilities

1698

or mechanized harvest practices and that will not alter the natural systems, features or

1699 character of the site (~~or alter natural systems or features~~).

1700 f. Farm-raised geoduck aquaculture requires a shoreline substantial
1701 development permit if a specific project or practice causes substantial interference with
1702 normal public use of the surface waters.

1703 g. A conditional use permit is required for new commercial geoduck
1704 aquaculture only, consistent with WAC 173-26-241(3)(b). All subsequent cycles of
1705 planting and harvest shall not require a new conditional use permit.

1706 3.a. New marinas are not allowed along the east shore of Maury Island, from
1707 Piner Point to Point Robinson.

1708 b. Marinas must meet the standards in K.C.C. 21A.25.120.

1709 4. Water dependent general services land uses in K.C.C. 21A.08.050 are
1710 allowed. Non-water dependent general services land uses in K.C.C. 21A.08.050 are only
1711 allowed on sites that are not contiguous with the ordinary high water mark or on sites that
1712 do not have an easement that provides direct access to the water.

1713 5.a. Water-dependent general services land uses in K.C.C. 21A.08.050 are
1714 allowed.

1715 b. Non-water-dependent general services land uses in K.C.C. 21A.08.050 are
1716 only allowed as part of a shoreline mixed-use development that includes water-dependent
1717 uses.

1718 c. Non-water-oriented general services land uses must provide a significant
1719 public benefit by helping to achieve one or more of the following shoreline master
1720 program goals:

1721 (1) economic development for water-dependent uses;

- 1722 (2) public access;
- 1723 (3) water-oriented recreation;
- 1724 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
- 1725 habitat; and
- 1726 (5) protection and restoration of historic properties.
- 1727 6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.
- 1728 Water-related business services uses are only allowed as part of a shoreline mixed-use
- 1729 development and only if they support a water-dependent use. The water-related business
- 1730 services uses must comprise less than one-half of the square footage of the structures or
- 1731 the portion of the site within the shoreline jurisdiction.
- 1732 7.a Water-dependent retail uses in K.C.C. 21A.08.050 are allowed.
- 1733 b. Non-water-dependent retail uses in K.C.C. 21A.08.050 are only allowed as
- 1734 part of a shoreline mixed-use development if the non-water-dependent retail use supports
- 1735 a water-dependent use. Non-water-dependent uses must comprise less than one-half of
- 1736 the square footage of the structures or the portion of the site within the shoreline
- 1737 jurisdiction.
- 1738 c. Non-water-oriented retail uses must provide a significant public benefit by
- 1739 helping to achieve one or more of the following shoreline master program goals:
- 1740 (1) economic development for water-dependent uses;
- 1741 (2) public access;
- 1742 (3) water-oriented recreation;
- 1743 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
- 1744 habitat; and

1745 (5) protection and restoration of historic properties.

1746 8. Water-dependent retail uses in K.C.C. 21A.08.050 are allowed. Non-water-
1747 dependent retail uses in K.C.C. 21A.08.050 are only allowed if the retail use provides a
1748 significant public benefit by helping to achieve one or more of the following shoreline
1749 master program goals:

1750 a. economic development for water-dependent uses;

1751 b. public access;

1752 c. water-oriented recreation;

1753 d. conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
1754 habitat; and

1755 e. protection and restoration of historic properties.

1756 9.a. Water-dependent government services in K.C.C. 21A.08.060 are allowed.

1757 b. Non-water-dependent government services in K.C.C. 21A.08.060 are only
1758 allowed as part of a shoreline mixed-use development if the non-water-dependent
1759 government use supports a water-dependent use. Non-water-dependent uses must
1760 comprise less than one-half of the square footage of the structures or the portion of the
1761 site within the shoreline jurisdiction. Only low-intensity water-dependent government
1762 services are allowed in the Natural environment.

1763 10. The following standards apply to government services uses within the
1764 Aquatic environment:

1765 a. Stormwater and sewage outfalls are allowed if upland treatment and
1766 infiltration to groundwater, streams or wetlands is not feasible and there is no impact on
1767 critical saltwater habitats, salmon migratory habitat and the nearshore zone. However,

1768 stormwater and sewage outfalls are not allowed in the Maury Island Aquatic Reserve,
1769 except from Piner Point to Point Robinson;

1770 b. Water intakes shall not be located near fish spawning, migratory or rearing
1771 areas. Water intakes must adhere to Washington state Department of Fish and Wildlife
1772 fish screening criteria. To the maximum extent practical, intakes should be placed at
1773 least thirty feet below the ordinary high water mark;

1774 c. Desalinization facilities shall not be located near fish spawning, migratory or
1775 rearing areas. Intakes should generally be placed deeper than thirty feet below the
1776 ordinary high water mark and must adhere to Washington state Department Fish and
1777 Wildlife fish screening criteria. Discharge of desalination wastewater or concentrated
1778 mineral is not allowed in the Maury Island Aquatic Reserve, except that outside the Inner
1779 and Outer Harbormaster Harbor, discharge may be considered if there is no impact on
1780 critical saltwater habitats, salmon migratory habitat and the nearshore zone;

1781 d. Cable crossings for telecommunications and power lines shall:

1782 (1) be routed around or drilled below aquatic critical habitat or species;

1783 (2) be installed in sites free of vegetation, as determined by physical or video
1784 seabed survey;

1785 (3) be buried, preferably using directional drilling, from the uplands to
1786 waterward of the deepest documented occurrence of native aquatic vegetation; and

1787 (4) use the best available technology;

1788 e. Oil, gas, water and other pipelines shall meet the same standards as cable
1789 crossings and in addition:

1790 (1) pipelines must be directionally drilled to depths of seventy feet or one half

1791 mile from the ordinary high water mark; and

1792 (2) use the best available technology for operation and maintenance;

1793 f. Breakwaters are not allowed within the Maury Island Aquatic Reserve or
1794 within the Aquatic environment adjacent to the Conservancy and Natural shorelines.

1795 11. In the Natural environment, limited to low intensity forest practices that
1796 conserve or enhance the health and diversity of the forest ecosystem or ecological and
1797 hydrologic functions conducted for the purpose of accomplishing specific ecological
1798 enhancement objectives. In all shoreline environments, forest practices must meet the
1799 standards in K.C.C. 21A.25.130.

1800 12. Manufacturing uses in the shoreline environment must give preference first
1801 to water-dependent manufacturing uses and second to water-related manufacturing uses:

1802 a. Non-water-oriented manufacturing uses are allowed only:

1803 (1) as part of a shoreline mixed-use development that includes a water-
1804 dependent use, but only if the water-dependent use comprises over fifty percent of the
1805 floor area or portion of the site within the shoreline jurisdiction;

1806 (2) on sites where navigability is severely limited; or

1807 (3) on sites that are not contiguous with the ordinary high water mark or on
1808 sites that do not have an easement that provides direct access to the water; and

1809 (4) all non-water-oriented manufacturing uses must also provide a significant
1810 public benefit, such as ecological restoration, environmental clean-up, historic
1811 preservation or water-dependent public education;

1812 b. public access is required for all manufacturing uses unless it would result in
1813 a public safety risk or is incompatible with the use;

1814 c. shall be located, designed and constructed in a manner that ensures that there
1815 are no significant adverse impacts to other shoreline resources and values.

1816 d. restoration is required for all new manufacturing uses;

1817 e. boat repair facilities are not permitted within the Maury Island Aquatic

1818 Reserve, except as follows:

1819 (1) engine repair or maintenance conducted within the engine space without
1820 vessel haul-out;

1821 (2) topside cleaning, detailing and bright work;

1822 (3) electronics servicing and maintenance;

1823 (4) marine sanitation device servicing and maintenance that does not require
1824 haul-out;

1825 (5) vessel rigging; and

1826 (6) minor repairs or modifications to the vessel's superstructure and hull
1827 above the waterline that do not exceed twenty-five percent of the vessel's surface area
1828 above the waterline.

1829 13. The water-dependent in-stream portion of a hydroelectric generation facility,
1830 wastewater treatment facility and municipal water production are allowed, including the
1831 upland supporting infrastructure, and shall provide for the protection and preservation, of
1832 ecosystem-wide processes, ecological functions, and cultural resources, including, but not
1833 limited to, fish and fish passage, wildlife and water resources, shoreline critical areas,
1834 hydrogeological processes, and natural scenic vistas.

1835 14. New in-stream portions of utility facilities may be located within the
1836 shoreline jurisdiction if:

- 1837 a. there is no feasible alternate location;
- 1838 b. provision is made to protect and preserve ecosystem-wide processes,
1839 ecological functions, and cultural resources, including, but not limited to, fish and fish
1840 passage, wildlife and water resources, shoreline critical areas, hydrogeological processes,
1841 and natural scenic vistas; and
- 1842 c. the use complies with the standards in K.C.C. 21A.25.260.
- 1843 15. Limited to in-stream infrastructure, such as bridges, and must consider the
1844 priorities of the King County Shoreline Protection and Restoration Plan when designing
1845 in-stream transportation facilities. In-stream structures shall provide for the protection
1846 and preservation, of ecosystem-wide processes, ecological functions, and cultural
1847 resources, including, but not limited to, fish and fish passage, wildlife and water
1848 resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
- 1849 16. Limited to hatchery and fish preserves.
- 1850 17. Mineral uses:
- 1851 a. must meet the standards in K.C.C. chapter 21A.22;
- 1852 b. must be dependent upon a shoreline location;
- 1853 c. must avoid and mitigate adverse impacts to the shoreline environment
1854 during the course of mining and reclamation to achieve no net loss of shoreline ecological
1855 function. In determining whether there will be no net loss of shoreline ecological
1856 function, the evaluation may be based on the final reclamation required for the site.
1857 Preference shall be given to mining proposals that result in the creation, restoration, or
1858 enhancement of habitat for priority species;
- 1859 d. must provide for reclamation of disturbed shoreline areas to achieve

1860 appropriate ecological functions consistent with the setting;

1861 e. may be allowed within the active channel of a river only as follows:

1862 (1) removal of specified quantities of sand and gravel or other materials at
1863 specific locations will not adversely affect the natural processes of gravel transportation
1864 for the river system as a whole;

1865 (2) the mining and any associated permitted activities will not have
1866 significant adverse impacts to habitat for priority species nor cause a net loss of
1867 ecological functions of the shoreline; and

1868 (3) if no review has been previously conducted under this subsection C.17.e.,
1869 prior to renewing, extending or reauthorizing gravel bar and other in-channel mining
1870 operations in locations where they have previously been conducted, the department shall
1871 require compliance with this subsection C.17.e. If there has been prior review, the
1872 department shall review previous determinations comparable to the requirements of this
1873 section C.17.e. to ensure compliance with this subsection under current site conditions;
1874 and

1875 f. Must comply with K.C.C. 21A.25.190.

1876 18. Only water-dependent recreational uses are allowed, except for public parks
1877 and trails, in the High Intensity environment and must meet the standards in K.C.C.
1878 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1879 19. Water-dependent and water-enjoyment recreational uses are allowed in the
1880 Residential, Rural and Forestry environments and must meet the standards in K.C.C.
1881 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

1882 20. In the Conservancy environment, only the following recreation uses are

1883 allowed and must meet the standards in K.C.C. 21A.25.140 for public access and K.C.C.
1884 21A.25.150 for recreation:

1885 a. parks; and

1886 b. trails.

1887 21. In the Natural environment, only passive and low-impact recreational uses
1888 are allowed.

1889 22. Single detached dwelling units must be located outside of the aquatic area
1890 buffer and set back from the ordinary high water mark to the maximum extent practical.

1891 23. Only allowed as part of a water-dependent shoreline mixed-use development
1892 where water-dependent uses comprise more than half of the square footage of the
1893 structures on the portion of the site within the shoreline jurisdiction.

1894 24. Residential accessory uses must meet the following standards:

1895 a. docks, piers, moorage, buoys, floats or launching facilities must meet the
1896 standards in K.C.C. 21A.25.180;

1897 b. residential accessory structures located within the aquatic area buffer shall
1898 be limited to a total footprint of one-hundred fifty square feet; and

1899 c. accessory structures shall be sited to preserve visual access to the shoreline
1900 to the maximum extent practical.

1901 25. New highway and street construction is allowed only if there is no feasible
1902 alternate location. Only low-intensity transportation infrastructure is allowed in the
1903 Natural environment.

1904 26. Utility facilities are subject to the standards in K.C.C. 21A.25.260.

1905 27. Only bed and breakfast guesthouses.

1906 28. Only in a marina.

1907 29. Transportation facilities are subject to the standards in K.C.C. 21A.25.280.

1908 30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260.

1909 SECTION 32. Ordinance 16985, Section 32, as amended, and K.C.C.

1910 21A.25.110 are hereby amended to read as follows:

1911 An applicant for an aquaculture facility must use the sequential measures in
1912 K.C.C. 21A.25.080. The following standards apply to aquaculture:

1913 A. Unless the applicant demonstrates that the substrate modification will result in
1914 an increase in native habitat diversity, aquaculture that involves little or no substrate
1915 modification shall be given preference over aquaculture that involves substantial
1916 substrate modification and the degree of proposed substrate modification shall be limited
1917 to the maximum extent practical.

1918 B. The installation of submerged structures, intertidal structures and floating
1919 structures shall be limited to the maximum extent practical.

1920 C. Aquaculture proposals that involve substantial substrate modification or
1921 sedimentation through dredging, trenching, digging, mechanical clam harvesting or other
1922 similar mechanisms, shall not be permitted in areas where the proposal would adversely
1923 impact critical saltwater habitats.

1924 D. Aquaculture activities that after implementation of mitigation measures would
1925 have a significant adverse impact on natural, dynamic shoreline processes or that would
1926 result in a net loss of shoreline ecological functions shall be prohibited.

1927 E. Aquaculture should not be located in areas that will result in significant
1928 conflicts with navigation or other water-dependent uses.

1929 F. Aquaculture facilities shall be designed, located and managed to prevent the
1930 spread of diseases to native aquatic life or the spread of new nonnative species.

1931 G. Aquaculture practices shall be designed to minimize use of artificial chemical
1932 substances and shall use chemical compounds that are least persistent and have the least
1933 impact on plants and animals. Herbicides and pesticides shall be used only in
1934 conformance with state and federal standard and to the minimum extent needed for the
1935 health of the aquaculture activity.

1936 H. Noncommercial native salmon net pen facilities that involve minimal
1937 supplemental feeding and limited use of chemicals or antibiotics as provided in
1938 subsection G. of this section may be located in King County marine waters if they are
1939 consistent with subsections S. and Y. of this section and are:

1940 1. (~~subsistence~~) Native salmon net pens operated by tribes with treaty fishing
1941 rights;

1942 2. (~~For~~) For the limited penned cultivation of wild salmon stocks during a limited
1943 portion of their lifecycle to enhance restoration of native stocks; or

1944 3. (~~implemented as mitigation for a development activity~~) For rearing to
1945 adulthood in order to harvest eggs as part of a captive brood stock recovery program for
1946 endangered species.

1947 I. If uncertainty exists regarding potential impacts of a proposed aquaculture
1948 activity and for all experimental aquaculture activities, unless otherwise provided for, the
1949 department may require baseline and periodic operational monitoring by a county-
1950 approved consultant, at the applicant's expense, and shall continue until adequate
1951 information is available to determine the success of the project and the magnitude of any

1952 probable significant adverse environmental impacts. Permits for such activities shall
1953 include specific performance measures and provisions for adjustment or termination of
1954 the project at any time if monitoring indicates significant, adverse environmental impacts
1955 that cannot be adequately mitigated.

1956 J. Aquaculture developments approved on an experimental basis shall not exceed
1957 five acres in area, except land-based projects and anchorage for floating systems, and
1958 three years in duration. The department may issue a new permit to continue an
1959 experimental project as many times as it determines is necessary and appropriate.

1960 K. The department may require aquaculture operations to carry liability insurance
1961 in an amount commensurate with the risk of injury or damage to any person or property
1962 as a result of the project. Insurance requirements shall not be required to duplicate
1963 requirements of other agencies.

1964 L. If aquaculture activities are authorized to use public facilities, such as boat
1965 launches or docks, King County may require the applicant to pay a portion of the cost of
1966 maintenance and any required improvements commensurate with the use of those
1967 facilities.

1968 M. New aquatic species that are not previously cultivated in Washington state
1969 shall not be introduced into King County saltwaters or freshwaters without prior written
1970 approval of the Director of the Washington state Department of Fish and Wildlife and the
1971 Director of the Washington Department of Health. This prohibition does not apply to:
1972 Pacific, Olympia, Kumamoto, Belon or Virginica oysters; Manila, Butter, or Littleneck
1973 clams; or Geoduck clams.

1974 N. Unless otherwise provided in the shoreline permit issued by the department,

1975 repeated introduction of an approved organism after harvest in the same location shall
1976 require approval by the county only at the time the initial aquaculture use permit is
1977 issued. Introduction, for purposes of this section, shall mean the placing of any aquatic
1978 organism in any area within the waters of King County regardless of whether it is a native
1979 or resident organism within the county and regardless of whether it is being transferred
1980 from within or without the waters of King County.

1981 O. For aquaculture projects, over-water structures shall be allowed only if
1982 necessary for the immediate and regular operation of the facility. Over-water structures
1983 shall be limited to the, storage of necessary tools and apparatus in containers of not more
1984 than three feet in height, as measured from the surface of the raft or dock.

1985 P. Except for the sorting or culling of the cultured organism after harvest and the
1986 washing or removal of surface materials or organisms before or after harvest, no
1987 processing of any aquaculture product shall occur in or over the water unless specifically
1988 approved by permit. All other processing and processing facilities shall be located
1989 landward of the ordinary high water mark.

1990 Q. Aquaculture wastes shall be disposed of in a manner that will ensure strict
1991 compliance with all applicable governmental waste disposal standards, including, but not
1992 limited to, the Federal Clean Water Act, Section 401, and chapter 90.48 RCW, Water
1993 Pollution Control. No garbage, wastes or debris shall be allowed to accumulate at the site
1994 of any aquaculture operation.

1995 R. Unless approved in writing by the National Marine Fisheries Service or the
1996 U.S. Fish and Wildlife Service, predator control shall not involve the killing or
1997 harassment of birds or mammals. Approved controls include, but are not limited to,

1998 double netting for seals, overhead netting for birds and three-foot high fencing or netting
1999 for otters. The use of other nonlethal, nonabusive predator control measures shall be
2000 contingent upon receipt of written approval from the National Marine Fisheries Service
2001 or the U.S. Fish and Wildlife Service, as required.

2002 S. ~~((Fish))~~ Finfish net pens and rafts shall meet the following criteria in addition
2003 to the other applicable regulations of this section:

2004 1. ~~((Fish))~~ Finfish net pens shall not be located in ~~((inner))~~ Quartermaster
2005 Harbor~~((, consistent with the recommendations in the Washington state Department of
2006 Natural Resources Maury Island Environmental Aquatic Reserve Final Management Plan
2007 (October 29, 2004)))~~. For the purposes of this subsection, "Quartermaster Harbor" means
2008 the area of Puget Sound north of a straight line drawn from the southwest tip of Maury
2009 Island, which is Piner Point, to the southeast tip of Vashon Island, which is Neill Point;

2010 2. ~~((Fish))~~ Finfish net pens shall meet, at a minimum, state approved
2011 administrative guidelines for the management of net pen cultures. In the event there is a
2012 conflict in requirements, the more restrictive requirement shall prevail;

2013 3. ~~((Fish))~~ Finfish net pens shall not occupy more than two surface acres of
2014 water area, excluding booming and anchoring requirements. Anchors that minimize
2015 disturbance to substrate, such as helical anchors, shall be employed. Such operations
2016 shall not use chemicals or antibiotics;

2017 4. Aquaculture proposals that include new or added net pens or rafts shall not be
2018 located closer than one nautical mile to any other aquaculture facility that includes net
2019 pens or rafts. The department may authorize a lesser distance if the applicant
2020 demonstrates to the satisfaction of the department that the proposal will be consistent

2021 with the environmental and aesthetic policies and objectives of this chapter and the
2022 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program. The applicant shall demonstrate to the
2023 satisfaction of the department that the cumulative impacts of existing and proposed
2024 operations would not be contrary to the policies and regulations of the program;

2025 5. Net cleaning activities shall be conducted on a frequent enough basis so as
2026 not to violate state water quality standards. When feasible, the cleaning of nets and other
2027 apparatus shall be accomplished by air drying, spray washing or hand washing; and

2028 6. In the event of a significant fish kill at the site of a net pen facility, the ~~((fin~~
2029 ~~fish))~~ finfish aquaculture operator shall submit a timely report to ~~((P))~~public ~~((H))~~health -
2030 Seattle~~((-))~~ & King County, ~~((E))~~environmental ~~((H))~~health ~~((D))~~division, and the
2031 department stating the cause of death and shall detail remedial actions to be implemented
2032 to prevent reoccurrence.

2033 T. All floating and submerged aquaculture structures and facilities in navigable
2034 waters shall be marked in accordance with United States Coast Guard requirements.

2035 U. The rights of treaty tribes to aquatic resources within their usual and
2036 accustomed areas shall be addressed through direct coordination between the applicant
2037 and the affected tribes through the permit review process.

2038 V. Aquaculture structures and equipment shall be of sound construction and shall
2039 be so maintained. Abandoned or unsafe structures and equipment shall be removed or
2040 repaired promptly by the owner. Where any structure might constitute a potential hazard
2041 to the public in the future, the department shall require the posting of a bond
2042 commensurate with the cost of removal or repair. The department may abate an
2043 abandoned or unsafe structure in accordance with K.C.C. Title 23.

2044 W. Aquaculture shall not be approved where it will adversely impact eelgrass and
2045 macroalgae.

2046 X. Commercial salmon net pens and nonnative marine finfish aquaculture are
2047 prohibited.

2048 Y. Finfish net pens shall be consistent with the applicable aquaculture regulations
2049 in this section and shall meet the following criteria and requirements:

2050 1. Each (~~commercial salmon~~) finfish net pen application shall provide a
2051 current, peer-reviewed science review of environmental issues related to (~~salmon~~)
2052 finfish net pen aquaculture;

2053 2. The department shall only approve a (~~commercial salmon~~) finfish net pen
2054 application if the department determines the scientific review demonstrates:

2055 a. that the project construction and activities will achieve no net loss of
2056 ecological function in a manner that has no significant adverse short-term impact and no
2057 documented adverse long-term impact to applicable elements of the environment,
2058 including, but not limited to, habitat for native salmonids, water quality, eel grass beds,
2059 other aquaculture, other native species, the benthic community below the net pen or other
2060 environmental attributes; and

2061 b. that the finfish net pen does not involve significant risk of cumulative
2062 adverse effects, including, but not limited to, risk of interbreeding with wild salmon or
2063 reduction of genetic fitness of wild stocks, parasite or disease transmission or other
2064 adverse effects on native species or threatened or endangered species and their habitats;

2065 3. The department's review shall:

2066 a. include an assessment of the risk to endangered species, non-endangered

2067 species, and other biota that could be affected by the finfish net pen; and

2068 b. evaluate and model water quality impacts utilizing current information,
2069 technology, and assessment models. The project proponent shall be financially
2070 responsible for this water quality assessment;

2071 4. (~~Commercial salmon~~) Finfish net pens shall be designed, constructed and
2072 maintained to prevent escapement of fish in all foreseeable circumstances, including, but
2073 not limited to, tide, wind and wave events of record, floating and submerged debris, and
2074 tidal action;

2075 5. (~~Commercial salmon~~) Finfish net pens shall not be located:

- 2076 a. within three hundred feet of an area containing eelgrass or a kelp bed;
2077 b. within one thousand five hundred feet of an ordinary high water mark; or
2078 c. in a designated Washington state Department of Natural Resources aquatic
2079 reserve((-));

2080 6. A (~~commercial salmon~~) finfish net pen may not be used to mitigate the
2081 impact of a development proposal; and

2082 7. For finfish net pens that are not noncommercial native salmon net pens,
2083 (~~(F)~~)the conditional use permit for (~~commercial salmon~~) the net pen must be renewed
2084 every five years. An updated scientific review shall be conducted as part of the renewal
2085 and shall include a new risk assessment and evaluation of the impact of the operation of
2086 the (~~salmon~~) finfish net pen during the previous five years.

2087 Z. Geoduck aquaculture shall be consistent with WAC 173-26-241(3)(b).

2088 SECTION 33. Ordinance 16985, Section 39, as amended, and K.C.C.

2089 21A.25.160 are hereby amended to read as follows:

2090 A. The shoreline modification table in this section determines whether a specific
2091 shoreline modification is allowed within each of the shoreline environments. The
2092 shoreline environment is located on the vertical column and the specific use is located on
2093 the horizontal row of the table. The specific modifications are grouped by the shoreline
2094 modification categories in WAC 173-26-231. The table should be interpreted as follows:

2095 1. If the cell is blank in the box at the intersection of the column and the row,
2096 the modification is prohibited in that shoreline environment;

2097 2. If the letter "P" appears in the box at the intersection of the column and the
2098 row, the modification may be allowed within the shoreline environment;

2099 3. If the letter "C" appears in the box at the intersection of the column and the
2100 row, the modification may be allowed within the shoreline environment subject to the
2101 shoreline conditional use review procedures specified in K.C.C. 21A.44.100;

2102 4. If a number appears in the box at the intersection of the column and the row,
2103 the modification may be allowed subject to the appropriate review process indicated in
2104 this section and the specific development conditions indicated with the corresponding
2105 number immediately following the table, and only if the underlying zoning allows the
2106 modification. If more than one number appears at the intersection of the column and
2107 row, both numbers apply; (~~and~~)

2108 5. If more than one letter-number combination appears in the box at the
2109 intersection of the column and the row, the modification is allowed within that shoreline
2110 environment subject to different sets of limitations or conditions depending on the review
2111 process indicated by the letter, the specific development conditions indicated in the
2112 development condition with the corresponding number immediately following the

2113 table((-));

2114 6. A shoreline modification may be allowed in the aquatic environment only if

2115 that shoreline modification is allowed in the adjacent shoreland environment((-)); and

2116 7. This section does not authorize a shoreline modification that is not allowed

2117 by the underlying zoning, but may add additional restrictions or conditions or prohibit

2118 specific modifications within the shoreline jurisdiction. All shoreline modifications in

2119 the shoreline jurisdiction must comply with all relevant county code provisions and with

2120 the King County ((S))shoreline ((M))master ((P))program.

2121 B. Shoreline modifications.

	High Intensity	Residential	Rural	Conservancy	Resource	Forestry	Natural	Aquatic
Shoreline stabilization								
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
Piers and docks								
Docks, piers, moorage, buoys, floats or launching facilities	P3	P3	P3	C3	C3	C3		P3 C3
Fill								
Filling	P4 C4	P4 C4	P4 C4	P4 C4	P4 C4	C4	C4	P4 C4
Breakwaters, jetties, groins and weirs								
Breakwaters, jetties, groins and weirs	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5
Dredging and dredge								

material disposal								
Excavation, dredging, dredge material disposal	P6 C6	P6 C6	P6 C6	P6 C6	P6 C6	C6	C6	P6 C6
Shoreline habitat and natural systems enhancement projects								
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7	P7	P7	P7
Vegetation management								
Removal of existing intact native vegetation	P8	P8	P8	P9	P8	P8	P9	P9

2122 C. Development conditions.

2123 1. New shoreline stabilization, including bulkheads, must meet the standards in
 2124 K.C.C. 21A.25.170;

2125 2.a. Flood protection facilities must be consistent with the standards in K.C.C.
 2126 chapter 21A.24, the King County Flood Hazard Management Plan adopted January 16,
 2127 2007, and the Integrated Stream Protection Guidelines (Washington state departments of
 2128 Fish and Wildlife, Ecology and Transportation, 2003). New structural flood hazard
 2129 protection measures are allowed in the shoreline jurisdiction only when the applicant
 2130 demonstrates by a scientific and engineering analysis that the structural measures are
 2131 necessary to protect existing development, that nonstructural measures are not feasible
 2132 and that the impact on ecological functions and priority species and habitats can be
 2133 successfully mitigated so as to assure no net loss of shoreline ecological functions. New
 2134 flood protection facilities designed as shoreline stabilization must meet the standards in

2135 K.C.C. 21A.25.170.

2136 b. Relocation, replacement or expansion of existing flood control facilities
2137 within the Natural environment are permitted, subject to the requirements of the King
2138 county Flood Hazard Reduction Plan and consistent with the Washington State Aquatic
2139 Guidelines Program's Integrated Streambank Protection Guidelines and bioengineering
2140 techniques used to the maximum extent practical. New facilities would only be permitted
2141 consistent with an approved watershed resources inventory area (WRIA) salmon recovery
2142 plan under chapter 77.85 RCW.

2143 3. Docks, piers, moorage, buoys, floats or launching facilities must meet the
2144 standards in K.C.C. 21A.25.180;

2145 4.a. Filling must meet the standards in K.C.C. 21A.25.190.

2146 b. A shoreline conditional use permit is required to:

2147 (1) Place fill waterward of the ordinary high water mark for any use except
2148 ecological restoration or for the maintenance and repair of flood protection facilities; and

2149 (2) Dispose of dredged material within shorelands or wetlands within a
2150 channel migration zone;

2151 c. Fill shall not be placed in critical saltwater habitats except when all of the
2152 following conditions are met:

2153 (1) ~~(F)~~the public's need for the proposal is clearly demonstrated and the
2154 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

2155 (2) ~~(A)~~avoidance of impacts to critical saltwater habitats by an alternative
2156 alignment or location is not feasible or would result in unreasonable and disproportionate
2157 cost to accomplish the same general purpose;

2158 (3) ~~((F))~~the project including any required mitigation, will result in no net
2159 loss of ecological functions associated with critical saltwater habitat; and

2160 (4) ~~((F))~~the project is consistent with the state's interest in resource protection
2161 and species recovery.

2162 d. In a channel migration zone, any filling shall protect shoreline ecological
2163 functions, including channel migration.

2164 5.a. Breakwaters, jetties, groins and weirs:

2165 (1) are only allowed where necessary to support water dependent uses, public
2166 access, approved shoreline stabilization or other public uses, as determined by the
2167 director;

2168 (2) are not allowed in the Maury Island Aquatic Reserve except as part of a
2169 habitat restoration project or as an alternative to construction of a shoreline stabilization
2170 structure;

2171 (3) shall not intrude into or over critical saltwater habitats except when all of
2172 the following conditions are met:

2173 (a) the public's need for the structure is clearly demonstrated and the
2174 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

2175 (b) avoidance of impacts to critical saltwater habitats by an alternative
2176 alignment or location is not feasible or would result in unreasonable and disproportionate
2177 cost to accomplish the same general purpose;

2178 (c) the project including any required mitigation, will result in no net loss of
2179 ecological functions associated with critical saltwater habitat; and

2180 (d) the project is consistent with the state's interest in resource protection

2181 and species recovery.

2182 b. Groins are only allowed as part of a restoration project sponsored or
2183 cosponsored by a public agency that has natural resource management as a primary
2184 function.

2185 c. A conditional shoreline use permit is required, except for structures installed
2186 to protect or restore shoreline ecological functions.

2187 6. Excavation, dredging and filling must meet the standards in K.C.C.

2188 21A.25.190. A shoreline conditional use permit is required to dispose of dredged
2189 material within shorelands or wetlands within a channel migration zone.

2190 7.a. If the department determines the primary purpose is restoration of the
2191 natural character and ecological functions of the shoreline, a shoreline habitat and natural
2192 systems enhancement project may include shoreline modification of vegetation, removal
2193 of nonnative or invasive plants, shoreline stabilization, including the installation of large
2194 woody debris, dredging and filling. Mitigation actions identified through biological
2195 assessments required by the National Marine Fisheries Services and applied to flood
2196 hazard mitigation projects may include shoreline modifications of vegetation, removal of
2197 nonnative or invasive plants, shoreline stabilization, including the installation of large
2198 woody debris, dredging and filling.

2199 b. Within the Urban Growth Area, the county may grant relief from shoreline
2200 master program development standards and use regulations resulting from shoreline
2201 restoration projects consistent with criteria and procedures in WAC 173-27-215.

2202 8. Within the critical area and critical area buffer, vegetation removal is subject
2203 to K.C.C. chapter 21A.24.

2204 9. Except for forest practices conducted under K.C.C. 21A.25.130, existing
2205 native vegetation located outside of the critical area and critical area buffer shall be
2206 retained to the maximum extent practical. Within the critical area and critical area buffer,
2207 vegetation removal is subject to K.C.C. chapter 21A.24.

2208 SECTION 34. Ordinance 3688, Section 801, as amended, and K.C.C.
2209 21A.25.290 are hereby amended to read as follows:

2210 A. Development within the shoreline jurisdiction, including preferred uses and
2211 uses that are exempt from permit requirements, shall be undertaken only if that
2212 development is consistent with the policies of RCW 90.58.020, chapter 173-26 WAC and
2213 the King County shoreline master program and will not result in a net loss of shoreline
2214 ecological functions or in a significant adverse impact to shoreline uses, resources and
2215 values, such as navigation, recreation and public access. The proponent of a shoreline
2216 development shall employ measures to mitigate adverse impacts on shoreline functions
2217 and processes following the sequencing requirements of K.C.C. 21A.25.080.

2218 B. A substantial development permit shall be required for all proposed uses and
2219 modifications within the shoreline jurisdiction unless the proposal is specifically exempt
2220 from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040
2221 or is exempted by RCW 90.58.140, WAC 173-27-044 or WAC 173-27-045. If a
2222 proposal is exempt from the definition of substantial development, a written statement of
2223 exemption is required for any proposed uses and modifications if:

- 2224 1. WAC 173-27-050 applies; or
- 2225 2. The proposed use or modification will occur waterward of the ordinary high
2226 water mark, ((E))except for the maintenance of agricultural drainage that is not used by

2227 salmonids or as otherwise provided in subsection F. of this section (~~(, the proposed use or~~
2228 ~~modification will occur waterward of the ordinary high water mark)).~~

2229 C. Whether or not a written statement of exemption is required, all permits issued
2230 for development activities within the shoreline jurisdiction shall include a record of
2231 review indicating compliance with the shoreline master program and regulations.

2232 D. As necessary to ensure consistency of the project with the shoreline master
2233 program and this chapter, the department may attach conditions of approval to a
2234 substantial development permit or a statement of exemption or to the approval of a
2235 development proposal that does not require either.

2236 E. The department may issue a programmatic statement of exemption as follows:

2237 1. For an activity for which a statement of exemption is required, the activity
2238 shall:

2239 a. be repetitive and part of a maintenance program or other similar program;

2240 b. have the same or similar identifiable impacts, as determined by the
2241 department, each time the activity is repeated at all sites covered by the programmatic
2242 statement of exemption; and

2243 c. be suitable to having standard conditions that will apply to any and all sites;

2244 2. The department shall uniformly apply conditions to each activity authorized
2245 under the programmatic statement of exemption at all locations covered by the statement
2246 of exemption. The department may require that the applicant develop and propose the
2247 uniformly applicable conditions as part of the statement of exemption application and
2248 may approve, modify or reject any of the applicant's proposed conditions. The
2249 department shall not issue a programmatic statement of exemption until applicable

2250 conditions are developed and approved;

2251 3. Activities authorized under a programmatic statement of exemption shall be
2252 subject to inspection by the department. The applicant may be required to notify the
2253 department each time work subject to the programmatic statement of exemption is
2254 undertaken for the department to schedule inspections. In addition, the department may
2255 require the applicant to submit periodic status reports. The frequency, method and
2256 contents of the notifications and reports shall be specified as conditions in the
2257 programmatic statement of exemption;

2258 4. The department may require revisions, impose new conditions or otherwise
2259 modify the programmatic statement of exemption or withdraw the programmatic
2260 statement of exemption and require that the applicant apply for a standard statement of
2261 exemption, if the department determines that:

2262 a. ~~((F))~~the programmatic statement of exemption or activities authorized under
2263 the statement of exemption no longer comply with law;

2264 b. ~~((F))~~the programmatic statement of exemption does not provide adequate
2265 regulation of the activity;

2266 c. ~~((F))~~the programmatic statement of exemption conditions or the manner in
2267 which the conditions are implemented are not adequate to protect against the impacts
2268 resulting from the activity; or

2269 d. ~~((A))~~a site requires site-specific regulation; and

2270 5. If an activity covered by a programmatic statement of exemption also
2271 requires other county, state and federal approvals, to the extent feasible, the department
2272 shall attempt to incorporate conditions that comply with those other approvals into the

2273 programmatic statement of exemption.

2274 F. A statement of exemption is not required for maintenance of agricultural
2275 drainage or agricultural waterways used by salmonids if:

2276 1. The maintenance project is conducted in compliance with a hydraulic project
2277 approval issued by the Washington state Department of Fish and Wildlife pursuant to
2278 chapter 77.55 RCW;

2279 2. The maintenance project complies with the King County agricultural drainage
2280 assistance program as agreed to by the Washington state Department of Fish and
2281 Wildlife, the department of local services, permitting division, and the department of
2282 natural resources and parks, and as reviewed by the Washington state Department of
2283 Ecology;

2284 3. The person performing the agricultural drainage maintenance and the land
2285 owner has attended training provided by King County on the King County agricultural
2286 drainage assistance program and the best management practices required under that
2287 program;

2288 4. The maintenance project complies with the requirements of K.C.C. chapter
2289 16.82; and

2290 5. The project is not subject to federal permitting related to the U.S. Army
2291 Corps of Engineers Section 10 or Section 404 permits.

2292 SECTION 35. Ordinance 3688, Section 805, as amended, and K.C.C.
2293 21A.44.100 are hereby amended to read as follows:

2294 A. A shoreline conditional use shall be granted by the department for conditional
2295 uses identified in K.C.C. 21A.25.100 and 21A.25.160 as shoreline conditional uses only

2296 if the applicant demonstrates that the review criteria of WAC 173-27-160 have been met.

2297 B. A shoreline conditional use may be granted by the department for uses not
2298 ((identified)) classified as conditional uses in K.C.C. 21A.25.100 and 21A.25.160 only if
2299 the applicant demonstrates that:

- 2300 1. The criteria in subsection A. of this section have been met;
- 2301 2. The use is not specifically prohibited in the shoreline environment;
- 2302 3. The use clearly requires specific site location on the shoreline not provided
2303 for under the shoreline master program; and
- 2304 4. Extraordinary circumstances preclude reasonable use of the property in a
2305 manner consistent with the use regulations of the K.C.C. chapter 21A.25.

2306 C. The burden of proving that a proposed shoreline conditional use meets the
2307 criteria enumerated in this section shall be on the applicant. Absence of that proof shall
2308 be grounds for denial of the application.

2309 SECTION 36. Ordinance 18767, Section 11, is hereby repealed.

2310 SECTION 37. The executive shall submit sections 5, 23, 24, 26, 27 and 29
2311 through 36 of this ordinance to the state Department of Ecology for its approval, as
2312 provided in RCW 90.58.090.

2313 SECTION 38. Sections 5, 23, 24, 26, 27 and 29 through 36 of this ordinance take
2314 effect within the shoreline jurisdiction fourteen days after the state Department of
2315 Ecology provides written notice of final action stating that the proposal is approved, in
2316 accordance with RCW 90.58.909. The executive shall provide the written notice of final
2317 action to the clerk of the council.

2318 SECTION 39. Severability. If any provision of this ordinance or its application

2319 to any person or circumstance is held invalid, the remainder of the ordinance or the
2320 application of the provision to other persons or circumstances is not affected.
2321

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Rod Dembowski, Chair

ATTEST:

Melani Pedroza, Clerk of the Council

APPROVED this ____ day of _____, ____.

Dow Constantine, County Executive

Attachments: A. 2019 Shoreline Master Program Periodic Review, Amendments to Chapter 6 of the 2016 King County Comprehensive Plan, dated July 2, 2019