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**Proposed Motion 2019-0143.2**  
**Shoreline Master Program Periodic Review Amendments**  
**December 4, 2019**

#	1 <sup>st</sup> Line	Sponsor	Proposed Change
<i>These items were voted on at the August 21, 2019 Council meeting</i>			
<b>1</b>	66	Upthegrove	<b>Term clarification.</b> Changes salmon to salmonid in the findings and within the zoning code. Salmonid includes a family of species beyond those with a common name of salmon (such as steelhead trout).
<b>2</b>	419	Upthegrove	<b>Removes "recreational catch"</b> from the noncommercial salmon net pen definition.  Noncommercial native salmon net pens: underwater net facilities used for the raising of salmonid species indigenous to the Puget Sound region for the purposes of species recovery and restoration, or tribal or recreational catch.
<b>3</b>	1409	Upthegrove	<b>Buffer averaging.</b> This amendment would allow buffer averaging when necessary for reasonable use of the site that could not be accomplished without averaging.
<b>4</b>	1507	Upthegrove	<b>Removes alteration allowances for small Category IV wetlands.</b> This amendment would remove an existing allowance for relocation of Category IV wetlands less than 2,500 square feet
<b>5</b>	2309	Lambert	<b>Best Available Science Report.</b> Requires the Executive to complete a report establishing local best available science for wetlands in King County.
<b>T1</b>	Title	Upthegrove	<b>Title amendment to conform title to changes made in AMD 4.</b>
<b>6</b>	214	Upthegrove <i>Carried</i>	<b>Wetland and stream classification to be include into the SMP.</b> Currently the SMP includes critical areas provisions (including wetland and streams), but does not include the method in which they are classified and categorized. This amendment would add two code sections into the list of codes that comprise the SMP and send these two sections to Ecology for review.
<b>7</b>	1615	Upthegrove <i>Carried</i>	<b>Corrects legislative mark up.</b> Text was previously shown as existing text (not underlined) and is corrected to show as new text (underlined).

11/1/19  
SMP Code Sections

Sponsor: Upthegrove

Proposed No.: 2019-0143

jlh  
DU → carried

1 **AMENDMENT TO PROPOSED ORDINANCE 2019-0143, VERSION 2**

2 On page 10, beginning on line 214, strike "5, 23, 24, 26, 27 and 29 through 38of" and  
3 insert "5 and 23 through 36 of"

4 On page 12, beginning on line 264, strike lines 264 through 272 and insert:

5 ~~((t.))~~ q. K.C.C. 21A.24.318;

6 r. K.C.C. 21A.24.325;

7 ~~((v.))~~ s. K.C.C. 21A.24.335;

8 ~~((w.))~~ t. K.C.C. 21A.24.340;

9 ✓ ~~((x.))~~ u. K.C.C. 21A.24.355;

10 ✓ v. K.C.C. 21A.24.358;



11 ~~((y.))~~ w. K.C.C. 21A.24.365;

12 ~~((z.))~~ x. K.C.C. 21A.24.380;

13 ~~((aa.))~~ y. K.C.C. 21A.24.382;

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

15 ~~((ee.))~~ aa. K.C.C. 21A.24.388; and"

16 On page 114, beginning on line 2310, strike lines 2310 through 2317, and insert:

17 "SECTION 37. The executive shall submit sections 5 and 23 through 36 of this

18 ordinance to the state Department of Ecology for its approval, as provided in RCW

19 90.58.090.

20           SECTION 38. Sections 5 and 23 through 36 of this ordinance take effect within  
21 the shoreline jurisdiction fourteen days after the state Department of Ecology provides  
22 written notice of final action stating that the proposal is approved, in accordance with  
23 RCW 90.58.909. The executive shall provide the written notice of final action to the  
24 clerk of the council."

25

26 **EFFECT:** Adds K.C.C. 21A.24.318 and K.C.C. 21A.24.355 as elements of the shoreline  
27 master program and directs inclusion of these sections into the transmittal to the state  
28 Department of Ecology.

11/1/19

Shoreline Jurisdiction

Sponsor: Upthegrove

jlh  
DU → carried

Proposed No.: 2019-0143

1 **AMENDMENT TO PROPOSED ORDINANCE 2019-0143, VERSION 2**

2 On page 79, beginning on line 1615, strike "A. The requirements of the shoreline master  
3 program apply to all uses and development occurring within the shoreline jurisdiction."  
4 and insert "A. The requirements of the shoreline master program apply to all uses and  
5 development occurring within the shoreline jurisdiction."

6

7 **EFFECT:** Corrects text to reflect legislative mark-up.

**TO:** Jenny Ngo, Senior Legislative Analyst – King County Policy Staff  
**CC:** Erin Auzins, Supervising Legislative Analyst – King County Policy Staff,  
Christine Jensen, Legislative/Policy Analyst, King County Department of Local Services,  
Jackie Chandler, Shoreline Administrator, WA Department of Ecology

**FROM:** Misty Blair, Senior Shoreline Planner, WA Department of Ecology

**Date:** October 29, 2019

**Subject:** King County SMP Periodic Review - Determination of initial concurrence

**Sent via email to:** [Jenny.Ngo@kingcounty.gov](mailto:Jenny.Ngo@kingcounty.gov); [Erin.Auzins@kingcounty.gov](mailto:Erin.Auzins@kingcounty.gov);  
[Christine.Jensen@kingcounty.gov](mailto:Christine.Jensen@kingcounty.gov); [jcha461@ecy.wa.gov](mailto:jcha461@ecy.wa.gov)

### Brief Description of Proposed Amendment

King County (County) has submitted Shoreline Master Program (SMP) amendments to Ecology for initial determination of concurrence to comply with periodic review requirements of RCW 90.58.080(4). The County has elected to utilize the optional joint review process for SMP amendments available per WAC 173-26-104; therefore Ecology is required under WAC 173-26-104(3)(b) to make an initial determination of consistency with applicable laws and rules. The County proposes amendments to bring the SMP into compliance with requirements of the Act or State Rules that have been added or changed since the County's comprehensive SMP update, fix miscellaneous errors and references, update the critical areas regulations that are incorporated by reference into the SMP, and address different types of aquaculture with specific development standards and use regulations.

## FINDINGS OF FACT

### Need for amendment

The County's comprehensive update to their SMP was completed in 2010. The County subsequently amended the SMP with the adoption of Ordinance Nos 17539, 17841, and 17878 updating the County's flood management provisions and establishing an allowance for up to five (5) alluvial fan management pilot projects within the Snoqualmie River watershed basin, which became effective on April 19, 2017 after Ecology final action. The County also has an outstanding SMP amendment (Ordinances 18767 and 18791), which was submitted to Ecology on October 24, 2018 and will be finalized along with this SMP Periodic Review amendment.

King County has nearly 2,000 miles of shoreline along major lakes and rivers and Vashon-Maury Island. These shorelines provide habitat for fish and wildlife, places for public enjoyment and space for wide-ranging waterfront land uses.

The proposed amendments are needed to comply with the statutory deadline for a periodic review of the County's Shoreline Master Program pursuant to RCW 90.58.080(4). The County has identified that this periodic review will result in amendments to the SMP to address updates to the Act or implementing State Rules, changed local circumstances, new information and improved data.

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SMP provisions to be changed by the amendment as proposed

The County's proposed changes fall primarily into two categories:

- Required changes incorporating State law (RCW 90.58) or State rule (WAC 173-26 & WAC 173-27);
- Locally initiated changes to address implementation issues or fix errors identified by staff and to more specifically address different types of aquaculture uses.

The County filled out the Ecology SMP Periodic Review checklist to address requirements of the act or state rules that have been added or changed since the last SMP amendment. Those proposed changes along with the County's locally initiated proposed changes modify the following King County Code (KCC) sections:

**SMP provisions to be changed by the amendment as proposed**

**King County Comprehensive Plan Chapter 6**

**Section 3. Shoreline jurisdiction under the Shoreline Management Act** (On page 6-5) is amended to simplify the reference to *the total of all shorelines and shorelines of statewide significance*. This section already goes on to fine shorelines to include shorelands extending 200 feet from the OHWM, floodways and contiguous floodplain areas landward 200 feet, associated wetlands and river deltas, and the one-hundred-year floodplain. These terms are all defined elsewhere in the KCC.

**King County Shoreline Map Folio and List** (On page 6-7) is amended to clarify that all streams and lakes within the shoreline jurisdiction are included on the Shoreline list.

**Section 2. King County's Shoreline Master Program is intended to be consistent with the Shoreline Management Act & Guidelines** (On page 6-11) is amended to update and correct the Washington Administrative Code references.

**c. "Shorelands"** (On page 6-13) is modified to replace "200" with "two hundred" and to replace a reference to the Comp Plan Chapter 6 with a reference to the RCW 90.58 (SMA).

**e. Options to extend geographic jurisdiction over shorelines and shorelines of statewide significance** (On page 6-14) is amended to replace "100" with "one hundred" and "200" with "two hundred." This section is also modified to correct SMA references consistent with RCW 90.58.030(2)(d)(i) and RCW 90.58.030(2)(d)(ii).

**Text on page 6-29, 6-47, and 6-49** are modified to correct numbering/formatting or to reference the correct Washington Administrative Code.

**C. Frequently Flooded Areas and Channel Migration Hazard Areas** (On page 6-53) is amended to replace the 2006 reference with the updated 2013 Flood Hazard Management Plan.

**a. General Aquaculture** (On page 6-60) is amended to improve consistency with WAC 173-26-241(3)(b).

**Policy S-716a and S-727a are added and S-717 and S-718 are modified** (On page 6-62).

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

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

*S-718 Aquaculture activities shall be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological processes and functions. Aquaculture permits*

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*shall not be ((permitted)) approved where it would result in net loss of shoreline ecological functions; net loss of habitat for native species including eelgrass, kelp, and other macroalgae; adverse impacts to other habitat conservation areas; or interference with navigation or other water-dependent uses.*

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

**b. Net Pens new section is added as follows:**

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

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

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

The environmental and ecological risks associated with commercial salmon net pens may also apply to other finfish net pens, including net pens for noncommercial native salmon and commercial native finfish, but there is a lack of current information regarding these risks. The Department of Ecology's Shoreline Master Program Handbook lists only three references to guide local jurisdictions in how to regulate net pens, all of which predate the Endangered Species Act listings of Southern Resident Puget Sound Orcas, Puget Sound Chinook salmon, and Puget Sound steelhead as threatened. The Department of Ecology acknowledges in the handbook that interim net pen guidelines from the 1980s are out of date and caution should be used if relying on them.

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

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

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

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

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

## **20.12 COMPREHENSIVE PLAN**

*KCC 20.12.010 Comprehensive Plan adopted* This narrative section is amended to reference the ordinance proposed here to ensure this most recent amendment is acknowledged within the Comprehensive Plan.

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*KCC 20.12.200 Shoreline master program* **Subsection A.** – Edits made to remove KCC 21A24.230, 240, 250, and 260 from the list of Critical Areas Regulations incorporated by reference into the SMP.

**Subsection C.** – Updated to replace the term *department of permitting and environmental review* with *local services, permitting division* and replace the term *planning, rural service* with *mobility* to accurately identify current County departments and committees.

## **20.20 PROCEDURES FOR LAND USE PERMIT APPLICATIONS, PUBLIC NOTICE, HEARINGS AND APPEALS**

*KCC 20.20.100 Permit Issuance* Language added in Subsection H to address WSDOT state highway project ninety day permit processing goal as identified with the Periodic Review Checklist, item 2015a.

## **21A.06 TECHNICAL TERMS AND LAND USE DEFINITIONS**

*KCC 21A.06.72B Aquaculture* Minor edits made to this definition for consistency with WAC 173-26-241(3)(b) as identified in the Periodic Review Checklist, item 2011b.

*KCC 21A.06.72B Aquatic area* Edits made to this definition related to the nonwetland water features are locally initiated to address implementation issues identified by County.

*KCC 21A.06 NEW DEFINITIONS ADDED FOR Commercial salmonid net pens, Geoduck aquaculture, nonnative marine finfish aquaculture, Noncommercial native salmonid net pens.* Changes proposed to address Periodic Review Checklist item 2011b and for locally initiated amendment goal of separating different types of aquaculture for the purpose of creating and implementing development standards and use regulations for each.

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

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

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

**Noncommercial native salmonid net pens:** underwater net facilities used for the raising of salmonid species indigenous to the Puget Sound region for the purposes of species recovery and restoration or tribal catch.

*KCC 21A.06.1081 Shorelands, 1082 Shoreline, 1082B Shoreline Jurisdiction, 1082D Shoreline variance, 1083A Shorelines of statewide significance, 1268 Substantial development* Edits made to these definitions for consistency with RCW 90.58.030.

*KCC 21A.06.1391 Wetland and 1395 Wetland edge* Proposed edits for consistency with RCW 90.58.030 and to update reference to RCW 90.58.380. Changes proposed to address Periodic Review Checklist item 2011a.

## **21A.24 CRITICAL AREAS**

*KCC 21A.24.045 Allowed alterations* Edits include minor renumbering within footnote 56, and edits necessary to footnote 66 to reflect the new 2014 wetland rating system habitat score scale. Changes proposed to address Periodic Review Checklist item 2016b.

*KCC 21A.24.055 Rural stewardship plans* Modifications necessary to update wetland rating system reference to most current version, publication number 14-06-029, published October 2014. Changes proposed to address Periodic Review Checklist item 2016b.

*KCC 21A.24.318 Wetlands – categories* Modifications necessary to update wetland rating system reference to most current version, publication number 14-06-029, published October 2014 and to include a reference to WAC 173-22-035 for the use of the approved federal wetland delineation manual for wetland identification and delineation. Changes proposed to address Periodic Review Checklist item 2016b and 2011a.

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*KCC 21A.24.325 Wetlands – buffers* Modifications necessary to update and simplify wetland buffer width tables and text, consistent with the most current, accurate, and relevant scientific and technical information available from Ecology. This includes updating the habitat score scale consistent with the new 2014 rating system numbering. Changes proposed to address Periodic Review Checklist item 2016b.

*KCC 21A.24.335 Wetlands – development standards and alterations* Edits made to remove **subsection C.**, which previously allowed alterations to Category IV wetlands of less than 2,500 square feet without avoidance and minimization. This modification to delete this allowance is consistent with Ecology recommendations, wetland protection best management practices and no net loss standards.

*KCC 21A.24.340 Wetlands – development standards and alterations* **Subsection B.2** wetland alteration mitigation ratio table is modified to replace the term “natural heritage site” with “wetland of high conservation value” and the reference to Category I wetlands “based on score for functions” is replaced with “all other” to align with terms used in Ecology’s wetland guidance. Changes proposed to address Periodic Review Checklist item 2016b.

*KCC 21A.24.340 Aquatic areas – water types* **Subsection A.1** is modified to simplify the cross reference to the County’s SMP.

## 21A.25 SHORELINES

*KCC 21A.25.020 Definitions* Modified to add reference to WAC 173-27 addressing Periodic Review Checklist item 2017b.

*KCC 21A.25.050 Shoreline jurisdiction delineated* **Subsection A** is simplified to reference shorelines, shorelines of statewide significance, shorelands, and the one-hundred-year floodplain, as defined in RCW 90.58.030 and KCC 21A.06 rather than duplicating the definition here. A reference to updating the SMP to fix mapping discrepancy within three years of discovery is added to **Subsection C**. Changes proposed to address Periodic Review Checklist item 2007b.

*KCC 21A.25.100 Shoreline use* Changes proposed to address Periodic Review Checklist item 2011b and for locally initiated amendment goal of separating different types of aquaculture for the purpose of creating and implementing development standards and use regulations for each. The **Shoreline uses table in Subsection B.** is updated to incorporate formatting changes and to clarify that *shoreline uses are allowed only if the underlying zoning allow the use* and within the Aquatic SED *only if the adjacent upland environment allows the use*. Within the table, the use allowances for Aquaculture are separated into multiple subcategories including: Nonnative marine finfish and Commercial salmonid net pens, which are both proposed as prohibited uses; Noncommercial native salmonid net pens and Aquaculture (no otherwise listed), which are proposed as a permitted use in all SEDs; Native nonsalmonid finfish net pens, which are proposed as a CUP in the Residential, Rural, Conservancy and adjacent Aquatic SEDs; and Geoduck aquaculture is proposed as a CUP in all SEDs. As noted in the use table, all Aquaculture uses would be subject to **footnote 2**, which provides:

- a. The supporting infrastructure for aquaculture may be located landward of the aquaculture operation, subject to the limitations of K.C.C. Title 21A.
- b. The aquaculture operation must meet the standards in K.C.C. 21A.25.110.
- c. In aquatic areas adjacent to the residential shoreline environment, net pen facilities shall be located no closer than one thousand five hundred feet from the ordinary high water mark of this environment, unless the department allows a specific lesser distance that it determines is appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within one thousand five hundred feet of the ordinary high water mark if supported by a visual impact analysis.
- d. In aquatic areas adjacent to the rural shoreline environment, net pen facilities shall be located no closer than one thousand five hundred feet from the ordinary high water mark of this environment, unless the department allows a specific lesser distance that it determines is appropriate based

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upon a visual impact analysis.

- e. In the natural shoreline environment and aquatic areas adjacent to the natural shoreline environment, commercial net pens are prohibited and other aquaculture activities are limited to ((aquaculture)) activities that do not require structures, facilities or mechanized harvest practices and that will not alter the natural systems, features or character of the site ((~~or alter natural systems or features~~)).
- f. Farm-raised geoduck aquaculture requires a shoreline substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters.
- g. A conditional use permit is required for new commercial geoduck aquaculture only, consistent with WAC 173-26-241(3)(b). All subsequent cycles of planting and harvest shall not require a new conditional use permit.

*KCC 21A.25.110 Aquaculture* Changes proposed to address Periodic Review Checklist item 2011b and for locally initiated amendment goal of separating different types of aquaculture for the purpose of creating and implementing development standards and use regulations for each. **Subsection A** is modified to clarify that the desired habitat diversity is related to habitat for native species. **Subsection H** is modified for internal consistency with the use table of KCC 21A.25.100.B, KCC 21A.25.110.S & Y, and to add clarity regarding the types of operations that would be considered Noncommercial native salmonid net pen facilities. **Subsection S** is modified to replace the term “fish” with “finfish” for internal consistency. The current prohibition on fish net pens within the inner Quartermaster Harbor is expanded to all finfish net pens in all of Quartermaster Harbor. A detailed description of the limits of Quartermaster Harbor is also added. **Subsection X** is modified to clarify that commercial salmonid net pens and nonnative marine finfish aquaculture are prohibited, consistent with the proposed use table in KCC 21A.25.100.B. **Subsection Y** is added to house the specific regulations that previously applied to all commercial salmon net pens, but now apply to allowed finfish net pen applications. A requirement for cumulative adverse effects review is added along with a new section requiring that geoduck aquaculture shall be consistent with WAC 173-26-241(3)(b).

*KCC 21A.25.160 Shoreline Modification* This Section is updated to incorporate formatting changes and to add a reference to the relief mechanism provided for in WAC 173-27-215 to grant relief from SMP development standards and use regulations resulting from restoration projects within the UGA. Changes proposed to address Periodic Review Checklist item 2009a.

*KCC 21A.25.290 Development limitations - mitigation - substantial development - record of review - conditions of approval - programmatic statement of exemption -exception to statement of exemption* This section is updated to add references to WAC 173-27-044 and 045, as well as provide clarification around when a written statement of exemption is required addressing Periodic Review Checklist item 2017.c.

*KCC 21A.44.100 Shoreline conditional use* This section for consistency with WAC 173-27.

*\*Additionally the County proposes to repeal the portion of Ordinance 18767 identified as Section 11* This is repealed to address issues identified by Ecology during the State approval process for the adoption of this ordinance in the shoreline jurisdiction. This section is repealed and replaced with language provided in this ordinance.

## **Amendment History, Review Process**

The County prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. The County provided public notice of the SMP Periodic Review process and promoted public input as outlined in their Public Participation Plan via:

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- A public comment period on early draft and scoping from November 1 to November 30, 2018. Mailed postcards to all shoreline property owners (9000 unique addresses), email messages to project stakeholders, released a series of messages on social media including Facebook, Twitter, and Nextdoor.
- A public meeting at Vashon High School on November 17, 2018 from 10am to Noon;
- County's website – <https://www.kingcounty.gov/services/environment/water-and-land/shorelines.aspx> provided background information, updates on the periodic review, and a means to comment on the process.
- Shoreline Master Plan - Online Open House – Story map  
<https://www.kingcounty.gov/services/environment/water-and-land/shorelines/story-map.aspx>

The County used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, to determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The County also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The County considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The County consulted with Ecology and solicited comments throughout the review process.

Ecology provided pre-public comment period feedback to County Legislative staff on May 30, 2019, in the form of a summary of issues identified by Ecology related to critical areas protection incorporation. Ecology made recommendations regarding the use of Ecology's 2014 Wetland Rating System and associated wetland buffer table modifications necessary for consistency with the most current, accurate, and complete scientific and technical information available as required per WAC 173-26-201(2)(a). The County addresses these concerns prior to the start of the joint local/state comment period.

The County and Ecology held a joint local/state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on July 17, 2019 and continued through August 23, 2019, at 5pm. A joint local/state public hearing was held on August 21, 2019, at 10:30 a.m. at the King County Council Chambers (10<sup>th</sup> floor of the courthouse). The County provided notice to local interested parties, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii). The County published notice of the comment period and public hearing in the Seattle Times on July 17, 2019. Ecology distributed notice of the joint comment period and public hearing to state interested parties on or before July 17, 2019.

On July 25, 2019, the County issued a SEPA Determination of Non-Significance for this proposal under WAC 197-11-340(2).

Futurewise and Washington Environmental Council provided a joint comment letter on August 19, 2019 and Futurewise provided testimony at the August 21, 2019 public hearing before County Council. Comments were in support of amended wetland regulations and new aquaculture development standards and use regulations. The commenters recommended updates to: the landslide hazard regulations and riparian buffers. The commenters also requested new policies or regulations to: address wildfire danger setbacks, protect instream flows, require site investigations for archeological and historic preservation, address sea level rise, protect wells and aquifers from salt water contamination,

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and require more documentation of no net loss and cumulative impacts. The County summarized and provided responses to these comments as part of this initial submittal.

The County provided their initial submittal of the proposed SMP amendments to Ecology pursuant to WAC 173-26-104 via email on September 5, 2019 and the submittal was determined to be complete. This began Ecology's review and initial determination.

*Consistency with Chapter 90.58 RCW*

The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

*Consistency with applicable guidelines (Chapter 173-26 WAC, Part III)*

The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Periodic Review Checklist, which was completed by the County.

*Consistency with SEPA Requirements*

The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments. Ecology did not comment on the DNS.

*Other Studies or Analyses supporting the SMP update*

Ecology also reviewed documents prepared for the County in support of the SMP amendment. These documents include a public participation plan, periodic review checklist, Outreach Summary, 2019 Shoreline Master Program (SMP) Proposed Net Pen Regulations Map, King County Executive's Clean Water, Healthy Habitat agenda, and staff reports prepared in preparation for local adoption.

**Summary of Issues Identified by Ecology as Relevant to Its Decision**

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines. WAC 173-26-186(11) specifies that Ecology "shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020."

Based on review of the proposed amendments to the SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the County, the following issue remains relevant to Ecology's final decision on the proposed amendments to the County's SMP:

*The incorporation of Critical Areas Regulations into the SMP*

The County's SMP consists of the King County Comprehensive Plan Chapter 6; KCC Chapter 21A.25; a subset of KCC Chapter 21A.24 including subsections .045, .051, .055, .070A., D. and E., .125, .130, .133, .200, .210, .220, .275, .280, .290, .300, .310, .316, .325, .335, .340, .358, .365, .380, .382, .386, and .388; KCC 20.18.040, .050, .056, .057 and .058; KCC 20.22.160; KCC 20.24.510; KCC 21A.32.045; KCC 21A.44.090 and .100; KCC 21A.50.030.

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**Recommended Change: K.C.C. 21A.24.318 and .355 should be added to the list of elements that comprise the King County shoreline master program contained in K.C.C. 20.12.200.** These sections establish how wetlands are delineated and rated and how streams are typed. Including these provisions within the SMP will help to ensure the critical areas provisions incorporated into the SMP include the most current, accurate, and appropriate scientific and technical information. This will also help to ensure the enough detail is contained within the SMP for proper implementation of the wetland and stream policies and regulations. (WAC 173-26-191(2)(a)(ii)(A)). Ecology also recommends including a specific dated ordinance in this section to help reduce any confusion over which version of these regulations have been incorporated by reference for use in the shoreline jurisdiction.

**K.C.C. 20.12.200 - A.** The King County shoreline master program consists of the following elements in effect on the effective date of this ordinance (add Ordinance # and effective date here):

1. The King county Comprehensive Plan chapter six;
2. K.C.C. chapter 21A.25;
3. The following sections of K.C.C. chapter 21A.24:

\*\*\*\*\*

- ~~((t.))~~ p. K.C.C. 21A.24.316;
- q. K.C.C. 21A.24.318;
- ~~((u.))~~ r. K.C.C. 21A.24.325;
- ~~((v.))~~ s. K.C.C. 21A.24.335;
- ~~((w.))~~ t. K.C.C. 21A.24.340;
- u. K.C.C. 21A.24.355;
- ~~((x.))~~ v. K.C.C. 21A.24.358;

Therefore SECTION 25: 21A.24.318 and SECTION 29: 21A.24.355 should also be added to the list of amendments sent to Ecology for final action.

SECTION 38. The executive shall submit sections 5, 23, ~~24, 26, 27, 28 and 30~~ through 37 of this ordinance to the state Department of Ecology for its approval, as provided in RCW 90.58.090.

SECTION 39. Sections 5, 23, ~~24, 26, 27, 28 and 30~~ through 37 of this ordinance take effect within the shoreline jurisdiction fourteen days after the state Department of Ecology provides written notice of final action stating that the proposal is approved, in accordance with RCW 90.58.909. The executive shall provide the written notice of final action to the clerk of the council.

## INITIAL DETERMINATION

After review by Ecology of the complete record submitted, Ecology has determined that the County's proposed amendments, including the modifications identified above, are consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

## Next Steps

- Consider the changes recommended to resolve the issue identified by Ecology. Please let me know if you would like to discuss alternative approaches for resolving this issue.
- If this issue is resolved prior to local adoption, we anticipate being able to approve your SMP Periodic Review amendment promptly after formal submittal is provided consistent with WAC 173-26-110.
- With the repeal of Ordinance 18767 - SECTION 11, Ecology will also be able to approve the outstanding 2018 SMP amendment.