



Legislation Details (With Text)

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Type: Ordinance **Status:** Passed

File created: 7/24/2017 **In control:** Planning, Rural Service and Environment Committee

On agenda: **Final action:** 7/16/2018

Enactment date: 7/25/2018 **Enactment #:** 18767

Title: AN ORDINANCE relating to permitting and zoning; amending Ordinance 3692, Section 2, as amended, and K.C.C 20.12.200, Ordinance 3688, Section 228, as amended, and K.C.C. 21A.06.738, Ordinance 3688, Section 201, as amended, and K.C.C. 21A.06.913, Ordinance 3688, Section 247, as amended, and K.C.C. 21A.06.1082A, Ordinance 10870, Section 297, as amended, and K.C.C. 21A.06.1285, Ordinance 10870, Section 317, as amended, and K.C.C. 21A.06.1385, Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045, Ordinance 10870, Section 454, as amended, and K.C.C. 21A.24.070, Ordinance 10870, Section 467, as amended, and K.C.C. 21A.24.200, Ordinance 3688, Chapter 2 (part), as amended, and K.C.C. 21A.25.020, Ordinance 3688, Section 303, as amended, and K.C.C. 21A.25.050, Ordinance 3688, Section 302, as amended, and K.C.C. 21A.25.060, Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160, Ordinance 3688, Section 409(4), as amended, and K.C.C. 21A.25.180, Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290, Ordinance 3688, Section 802, as amended, and K.C.C. 21A.25.300, Ordinance 3688, Section 806, as amended, and K.C.C. 21A.25.310 and Ordinance 3688, Section 805, as amended, and K.C.C 21A.44.100 and repealing Ordinance 16985, Section 4, as amended, and K.C.C. 20.12.205.

Sponsors: Rod Dembowski

Indexes: Executive Services, Permits, Shoreline Management, Zoning

Code sections: 20.12.200 -, 20.12.205 - ., 21A.06.1082A - ., 21A.06.1285 -, 21A.06.513 - *, 21A.06.913 - *, 21A.24.020 -, 21A.24.045 -, 21A.24.070 -, 21A.24.072 - *, 21A.24.170 -, 21A.24.200 -, 21A.24.500 -, 21A.24.550 - *, 21A.25.020 - *, 21A.25.050 - *, 21A.25.160 - *, 21A.25.180 - *, 21A.25.290 - *, 21A.25.300 - *, 21A.25.310 - *, 21A.44.100 - *

Attachments: 1. Ordinance 18767.pdf, 2. 2017-0244 legislative review form.pdf, 3. 2017-0244 transmittal letter, 4. 2017-0244 advertising, 5. 2017-0244 Commerce-Notice-60-Day, 6. 2017-0244 Fiscal Note, 7. 2017-0244 Plain Language Summary, 8. 2017-0244 Regulatory Note Checklist of Criteria, 9. 2017-0244 shoreline SEPA, 10. 2017-0244 Shorelines and Critical Areas 3-14-17, 11. AckLetter 01-17.pdf, 12. 2017-0244_SR_ShorelineCodeOmnibus_041718.docx, 13. 2017-0244_ATT2_DraftStriker.docx, 14. 2017-0244_ATT3_SummaryMatrix.pdf, 15. 2017-0244_ATT6_ExecStaffRationale.docx, 16. 2017-0244 Seattle Times publish 4/25/18, 17. 2017-0244_SR_ShorelineCodeOmnibus_050118.docx, 18. 2017-0244_ATT2_S1.pdf, 19. 2017-0244_ATT3_T1.pdf, 20. 2017-0244_ATT4_StrikerRedline.pdf, 21. 2017-0244_ATT5_SummaryMatrix.pdf, 22. 2017-0244_ATT6_Transmittal_Letter.pdf, 23. 2017-0244_ATT8_ExecStaffRationale.pdf, 24. 2017-0244 Affidavit of Pub - Seattle Times 4-25-18.pdf, 25. 2017-0244_ATT3_T1.docx, 26. 2017-0244_ATT4_StrikerRedline.pdf, 27. 2017-0244_ATT5_SummaryMatrix.docx, 28. 2017-0244_ATT8_ExecStaffRationale.docx, 29. 2017-0244_RevisedSR_ShorelineCodeOmnibus.docx, 30. 2017-0244_SR_dated_070318_ShorelineCodeOmnibus.docx, 31. 2017-0244_ATT2_S1.docx, 32. 2017-0244 adoption notice per Erin.doc, 33. 2017-0244 AckLetter 8-18.pdf, 34. 18767 Affidavit pub - - Adoption Notice - Seattle Times - 8/8/18, 35. AppAsSubLtr, 36. AttAFinCon, 37. FW King County SMP Submittal.msg, 38. Ecology-SMP-Approval-Ords-18767-18791-19034

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------------------|--------------|--------|
| 7/16/2018 | 2 | Metropolitan King County Council | Passed | Pass |
| 7/16/2018 | 2 | Metropolitan King County Council | Hearing Held | |

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|-----------|---|---|--|------|
| 7/3/2018 | 1 | Planning, Rural Service and Environment Committee | Recommended Do Pass Substitute Consent | Pass |
| 5/29/2018 | 1 | Metropolitan King County Council | Hearing Held | |
| 5/1/2018 | 1 | Planning, Rural Service and Environment Committee | Deferred | |
| 4/17/2018 | 1 | Planning, Rural Service and Environment Committee | Deferred | |
| 4/2/2018 | 1 | Metropolitan King County Council | Re-referred | |
| 1/16/2018 | 1 | Metropolitan King County Council | Reintroduced | |
| 7/24/2017 | 1 | Metropolitan King County Council | Introduced and Referred | |

Clerk 07/03/2018

AN ORDINANCE relating to permitting and zoning; amending Ordinance 3692, Section 2, as amended, and K.C.C 20.12.200, Ordinance 3688, Section 228, as amended, and K.C.C. 21A.06.738, Ordinance 3688, Section 201, as amended, and K.C.C. 21A.06.913, Ordinance 3688, Section 247, as amended, and K.C.C. 21A.06.1082A, Ordinance 10870, Section 297, as amended, and K.C.C. 21A.06.1285, Ordinance 10870, Section 317, as amended, and K.C.C. 21A.06.1385, Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045, Ordinance 10870, Section 454, as amended, and K.C.C. 21A.24.070, Ordinance 10870, Section 467, as amended, and K.C.C. 21A.24.200, Ordinance 3688, Chapter 2 (part), as amended, and K.C.C. 21A.25.020, Ordinance 3688, Section 303, as amended, and K.C.C. 21A.25.050, Ordinance 3688, Section 302, as amended, and K.C.C. 21A.25.060, Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160, Ordinance 3688, Section 409(4), as amended, and K.C.C. 21A.25.180, Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290, Ordinance 3688, Section 802, as amended, and K.C.C. 21A.25.300, Ordinance 3688, Section 806, as amended, and K.C.C. 21A.25.310 and Ordinance 3688, Section 805, as amended, and K.C.C 21A.44.100 and repealing Ordinance 16985, Section 4, as amended, and K.C.C. 20.12.205.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200 are each hereby amended to read as follows:

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

~~((A.))~~ 1. The King county ~~((shoreline management goals and policies in chapter 5 of the King County Comprehensive Plan. The shoreline management goals and policies constitute the official policy of King County regarding areas of the county subject to shoreline management jurisdiction under RCW chapter 90.58;~~ and)) Comprehensive Plan chapter six;

~~((B. The King County Code sections identified in K.C.C. 20.12.205))~~ 2. K.C.C. chapter 21A.25;

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

a. K.C.C. 21A.24.045;

b. K.C.C. 21A.24.051;

c. K.C.C. 21A.24.055;

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

e. K.C.C. 21A.24.125;

f. K.C.C.21A.24.130;

g. K.C.C. 21A.24.133;

h. K.C.C. 21A.24.200;

i. K.C.C. 21A.24.210;

j. K.C.C. 21A.24.220;

k. K.C.C. 21A.24.230;

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

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

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

o. K.C.C. 21A.24.275;

p. K.C.C. 21A.24.280;

q. K.C.C. 21A.24.290;

r. K.C.C. 21A.24.300;

s. K.C.C. 21A.24.310;

t. K.C.C. 21A.24.316;

u. K.C.C. 21A.24.325;

v. K.C.C. 21A.24.335;

w. K.C.C. 21A.24.340;

x. K.C.C. 21A.24.358;

y. K.C.C. 21A.24.365;

z. K.C.C. 21A.24.380;

aa. K.C.C. 21A.24.382;

bb. K.C.C. 21A.24.386;

cc. K.C.C. 21A.24.388; and

4. The following:

a. K.C.C. 20.18.040;

b. K.C.C. 20.18.050;

c. K.C.C. 20.18.056;

d. K.C.C. 20.18.057;

e. K.C.C. 20.18.058;

f. K.C.C. 20.22.160;

g. K.C.C. 20.24.510;

h. K.C.C. 21A.32.045;

i. K.C.C. 21A.44.090;

j. K.C.C. 21A.44.100; and

k. K.C.C. 21A.50.030.

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

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

SECTION 2. Ordinance 3688, Section 228, as amended, and K.C.C. 21A.06.738 are each hereby amended to read as follows:

A. The King County shoreline management goals and policies, set forth in King County Comprehensive Plan Chapter ~~((5))~~ 6, that guide environmental designations, shoreline protection, shoreline use and shoreline modifications; and

B. The development regulations identified in K.C.C. ~~((20.12.205))~~ 20.12.200.

SECTION 3. Ordinance 3688, Section 201, as amended, and K.C.C. 21A.06.913 are each hereby amended to read as follows:

Public access: the ability of the general public to reach, touch ~~((and))~~ or enjoy the water's edge, to

travel on the waters of the state and to view the water and the shoreline from adjacent locations.

SECTION 4. Ordinance 3688, Section 247, as amended, and K.C.C. 21A.06.1082A are each hereby amended to read as follows:

Shoreline conditional use: a shoreline use that is allowed only if it meets the criteria established in K.C.C. (~~(25.32.050, as recodified by Ordinance 16985, and is subject to conditions of approval)~~) 21A.44.100.

SECTION 5. Ordinance 10870, Section 297, as amended, and K.C.C. 21A.06.1285 are each hereby amended to read as follows:

Trails: human-made pathways, including elevated boardwalks, bridges and stairs, designed and intended for use by pedestrians, bicyclists, equestrians((;)) and other nonmotorized recreational users.

SECTION 6. Ordinance 10870, Section 317, as amended, and K.C.C. 21A.06.1385 are each hereby amended to read as follows:

Water dependent use: a use or portion of a use that cannot exist in a location that is not adjacent to the water and is dependent on the water by reason of the intrinsic nature of its operations.

SECTION 7. Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045 are each hereby amended to read as follows:

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

1. Critical aquifer recharge area;
2. Coal mine hazard area;
3. Erosion hazard area;
4. Flood hazard area except in the severe channel migration hazard area;
5. Landslide hazard area under forty percent slope;
6. Seismic hazard area; and

7. Volcanic hazard areas.

B. Within the following seven critical areas and their buffers, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in subsection C. of this section are allowed if the alteration complies with conditions in subsection D. of this section and the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter:

1. Severe channel migration hazard area;
2. Landslide hazard area over forty percent slope;
3. Steep slope hazard area;
4. Wetland;
5. Aquatic area;
6. Wildlife habitat conservation area; and
7. Wildlife habitat network.

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

| <p>(KEY</p> <p>Letter "A" in a cell means alteration is allowed</p> <p>A number in a cell means the corresponding numbered condition in subsection D. of this section applies</p> | | <p>LAN-OVER SLIP-40% DEH AND AZA BUFF RD ER</p> | <p>STE-AN EPS DBU LOP FFE EHAR ZAR D</p> | <p>WETL-BUFF AND AER ND</p> | <p>AQ-BUF-CH UATFERAAN CARNDS NE EA AEVERLM ND E IGR ATI ON</p> | <p>WILD-AND LIFE ANET REA WOR K))</p> |
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|--|---|--------------------------------------|---------------------------|---|--|
| "Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network | | | | | |
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| ACTIVITY | | | | | |
| A= alternation is allowed Numbers indicate applicable condition in subsection D. of this section | <u>Landslide Hazard Over 40% and Buffer</u> | <u>Steep Slope Hazard and Buffer</u> | <u>Wetland and Buffer</u> | <u>Aquatic Area and Buffer and Severe Channel Migration</u> | <u>Wildlife Habitat Conservation Area and Wildlife Habitat Network</u> |
| Structures | | | | | |
| Construction of new single detached dwelling unit | | | A 1 | A 2 | |
| 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 | | | 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 |

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|---|----------|----------|--------------|--------------|-----------------|
| Expansion beyond public road right-of way structure | A | A | A 26 | A 26 | |
| Repair, replacement or modification within the road right-of-way | 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 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 generator | A 67 | A 67 | A 66 | A 66 | A 4, 66 |
| Construction of a new residential utility service distribution system | A 32, 33 | A 32, 33 | A 32, 60 | A 32, 60 | A 27, 32, 60 |
| Maintenance, repair or replacement of utility corridor or 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 | 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 structure | | | A 68 | A 68 | |
| Maintenance, repair or replacement of existing surface water conveyance system | A 33 | A 33 | A 16, 32, 38 | A 16, 40, 41 | A 4, 37 |
| Construction of new surface water flow control or treatment facility | | | A 32 | A 32 | A 4, 32 |
| Maintenance or repair of existing surface water flow control or 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 structure modification | 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 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 |

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| Agriculture | | | | | |
| Horticulture activity including tilling, discing, plowing, preparing soil, rotating crops and related activity | A 53 | A 53 | A 53, 54 | A 53, 54 | A 53, 54 |
| Grazing livestock | A 53 | A 53 | A 53, 54 | A 53, 54 | A 53, 54 |
| Construction or maintenance of a commercial fish pond | | | A 53, 54 | A 53, 54 | A 53, 54 |
| Construction or maintenance of livestock manure storage | | | 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 | A 53 | A 53 | A 53, 54 | A 53, 54 | A 53, 54 |
| Other | | | | | |
| Shoreline water dependent or shoreline water oriented development | | | | A 65 | |
| Excavation of cemetery graves in established and existing cemeteries | A | A | A | A | A |
| Maintenance of cemetery graves | A | A | A | A | A |
| Maintenance of lawn, landscaping or garden for public use | 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 |

D. The following alteration conditions apply:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of subsection D.3. of this section.
2. Only allowed in a buffer of a lake that is twenty acres or larger on a lot that was created before January 1, 2005, if:
 - a. at least seventy-five percent of the lots abutting the shoreline of the lake or seventy-five percent of the lake frontage, whichever constitutes the most developable lake frontage, has existing density of four dwelling units per acre or more;
 - b. the development proposal, including mitigation required by this chapter, will have the least adverse impact on the critical area;
 - c. existing native vegetation within the critical area buffer will remain undisturbed except as necessary to accommodate the development proposal and required building setbacks;
 - d. access is located to have the least adverse impact on the critical area and critical area buffer;

e. the site alteration is the minimum necessary to accommodate the development proposal and in no case in excess ((of a development footprint)) of five thousand square feet;

f. the alteration is no closer than:

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

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

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

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

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

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

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

c. the structure is either:

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

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

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

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

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

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

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

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

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

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

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

5. Allowed for structures when:

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

b. the risk of landsliding is low; and

c. there is not an expansion of the structure.

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

a. existing legally established primary structures if:

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

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

b. existing legally established accessory structures if:

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

(2) there is not an expansion of the footprint towards any source of channel migration hazard, unless the applicant demonstrates that the location is less subject to risk and has less impact on the critical area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21A.25.180.

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

11. Allowed on type S or F aquatic areas outside of the severe channel migration hazard area if in

compliance with K.C.C. 21A.25.180.

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

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

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

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

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

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

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

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

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

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

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

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

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

purposes.

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

- a. in steep slope and landslide hazard areas, for the making and maintenance of view corridors; and
- b. in all critical areas for habitat enhancement, invasive species control or forest management activities.

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

21. Cutting of firewood is subject to the following:

- a. within a wildlife habitat conservation area, cutting firewood is not allowed;
- b. within a wildlife network, cutting shall be in accordance with a management plan approved under K.C.C. 21A.24.386; and
- c. within a critical area buffer, cutting shall be for personal use and in accordance with an approved forest management plan or rural stewardship plan.

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

23. Allowed as follows:

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

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

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

- (2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;
- (3) the cleared area is revegetated with native vegetation and stabilized against erosion; and
- (4) herbicide use is in accordance with federal and state law;

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

- a. there is no alternative location available with less impact on the critical area;
- b. impacts to the critical area are minimized to the maximum extent practicable;
- c. the alterations will not subject the critical area to increased risk of landslide or erosion;
- d. vegetation removal is the minimum necessary to accommodate the septic system; and
- e. significant risk of personal injury is eliminated or minimized in the landslide hazard area.

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

26. Allowed only if:

- a. there is not another feasible location with less adverse impact on the critical area and its buffer;
- b. the corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the state or federal government unless the department determines that there is no other feasible crossing site.
- c. the corridor width is minimized to the maximum extent practical;
- d. the construction occurs during approved periods for instream work;
- e. the corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity; and

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

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

28. Allowed only if:

a. an alternative access is not available;

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

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

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

e. construction occurs during approved periods for instream work.

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

30. Allowed only if:

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

b. the site is restored with appropriate native vegetation.

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

a. there is not another feasible alternative available with less impact on the aquatic area and its buffer; and

b. to the maximum extent practical, the bridge or culvert is located to minimize impacts to the aquatic area and its buffer's.

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

33. Allowed outside the roadway if:

- a. the alterations will not subject the critical area to an increased risk of landslide or erosion;
- b. vegetation removal is the minimum necessary to locate the utility or construct the corridor; and
- c. significant risk of personal injury is eliminated or minimized in the landslide hazard area.

34. Limited to the pipelines, cables, wires and support structures of utility facilities within utility corridors if:

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

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

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

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

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

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

(1) the width is the minimized;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38. Allowed if:

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

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

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

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

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

39. Allowed only if:

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

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

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

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

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

40. Allowed for an open, vegetated stormwater management conveyance system and outfall structure that simulates natural conditions if:

a. fish habitat features necessary for feeding, cover and reproduction are included when appropriate;

b. vegetation is maintained and added adjacent to all open channels and ponds, if necessary to prevent erosion, filter out sediments or shade the water; and

c. bioengineering techniques are used to the maximum extent practical.

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

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

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

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

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

c. to prevent bank erosion for the protection of:

- (1) public roadways;
- (2) sole access routes in existence before February 16, 1995;
- (3) new primary dwelling units, accessory dwelling units or accessory living quarters and residential accessory structures located outside the severe channel migration hazard area if:

residential accessory structures located outside the severe channel migration hazard area if:

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

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

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

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

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

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

(d) nonstructural measures are not feasible.

43. Applies to lawfully established existing structures if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) located upland from the wetland edge or the ordinary high water mark of an aquatic area;
- (2) located where it will not be detrimental to the functions of the wetland or aquatic area and will have the least adverse environmental impact on the critical area or its buffer;
- (3) limited to fifty square feet in size;
- (4) constructed of materials that are nontoxic; and
- (5) on footings located outside of the wetland or aquatic area.

48. Only if the maintenance:

- a. does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;
- b. when salmonids are present, the maintenance is in compliance with ditch standards in public rule; and
- c. does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

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

- a. projects sponsored or cosponsored by a public agency that has natural resource management as a primary function or by a federally recognized tribe;
- b. restoration and enhancement plans prepared by a qualified biologist; or
- c. conducted in accordance with an approved forest management plan, farm management plan or rural stewardship plan.

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

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

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

- a. data collection and research if carried out to the maximum extent practical by nonmechanical or hand-held equipment;
- b. survey monument placement;
- c. site exploration and gage installation if performed in accordance with state-approved sampling protocols and accomplished to the maximum extent practical by hand-held equipment and; or similar work associated with an incidental take permit issued under Section 10 of the Endangered Species Act or consultation under Section 7 of the Endangered Species Act.

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

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

- a. the site is predominantly involved in the practice of agriculture;
- b. there is no expansion into an area that:
 - (1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest practice permit; or
 - (2) is more than ten thousand square feet with tree cover at a uniform density more than ninety trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;
- c. the activities are in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051; and
- d. all best management practices associated with the activities specified in the farm management plan are installed and maintained.

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

- a. the facilities are designed to the standards of an approved farm management plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in accordance with K.C.C. chapter 21A.30;
- b. there is not a feasible alternative location available on the site; and
- c. the facilities are located close to the outside edge of the buffer to the maximum extent practical.

56. Only allowed in: 1) a severe channel migration hazard area located outside of the shorelines jurisdiction area, 2) grazed or tilled wet meadow or wet meadow buffer or 3) aquatic area buffer and only if:

- a. the applicant demonstrates that adverse impacts to the critical area and critical area buffers have been minimized;
- b. there is not another feasible location available on the site that is located outside of the critical area or critical area buffer; (~~and~~)
- c. the farm pad is designed to the standards in an approved farm management plan in accordance with K.C.C. 21A.24.051; and
- d. for proposals located in the severe channel migration hazard area, the farm pad or livestock manure storage facility is located where it is least subject to risk from channel migration.

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

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

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

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

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

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

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

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

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

(4) the width of clearing is minimized;

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

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

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

(8) the construction occurs during approved periods for instream work;

(9) bored, drilled or other trenchless crossing is encouraged, and shall be laterally constructed at least four feet below the maximum depth of scour for the base flood; and

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

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

a. is the best flood risk reduction alternative practicable;

b. is part of a comprehensive, long-term flood management strategy;

c. is consistent with the King County Flood Hazard Management Plan policies;

d. will have the least adverse impact on the ecological functions of the critical area or its buffer, including habitat for fish and wildlife that are identified for protection in the King County Comprehensive Plan; and

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

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

b. Only allowed if:

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

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

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

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

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

(6) the project meets the following design criteria:

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

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

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

- (d) structures shall be located outside of the wetland or aquatic area landward of the Ordinary High Water Mark or open water component (if applicable) to the maximum extent practical on the site;
- (e) construction occurs during approved periods for work inside the Ordinary High Water Mark;
- (f) construction associated with bird blinds shall not occur from March 1 through August 31, in order to avoid disturbance to birds during the breeding, nesting and rearing seasons;
- (g) to the maximum extent practical, provide accessibility for persons with physical disabilities in accordance with the International Building Code;
- (h) trail access is designed in accordance with public rules adopted by the department;
- (i) existing native vegetation within the critical area will remain undisturbed except as necessary to accommodate the proposal. Only minimal hand clearing of vegetation is allowed; and
- (j) disturbed bare ground areas around the structure must be replanted with native vegetation approved by the department.

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

64. Only structures wholly or partially supported by a tree and used as accessory living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the following:

- a. not allowed in wildlife habitat conservation areas or severe channel migration hazard areas;
- b. the structure's floor area shall not exceed two hundred square feet, excluding a narrow access stairway or landing leading to the structure;
- c. the structure shall be located as far from the critical area as practical, but in no case closer than seventy-five feet from the critical area;
- d. only one tree-supported structure within a critical area buffer is allowed on a lot;
- e. all construction materials for the structure, including the platform, pilings, exterior and interior walls and roof, shall be constructed of nontoxic material, such as nontreated wood, vinyl-coated wood,

nongalvanized steel, plastic, plastic wood, fiberglass or cured concrete that the department determines will not have an adverse impact on water quality;

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

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

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

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

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

h. exterior lighting shall meet the following criteria:

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

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

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

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

k. to the maximum extent practical, existing native vegetation shall be left undisturbed. Only

minimal hand clearing of vegetation is allowed; and

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

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

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

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

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

c. the facility is not located in Category I wetlands or Category II wetlands with a habitat score 30 points or greater

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

e. paralleling the channel or following a down-valley route within an aquatic area buffer is avoided to the maximum extent practical;

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

g. the facility and corridor will not change or adversely impact the overall aquatic area flow peaks, duration or volume or the flood storage capacity;

h. the facility and corridor is not located within a severe channel migration hazard area;

i. to the maximum extent practical, buildings will be located outside the buffer and away from the

aquatic area or wetland;

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

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

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

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

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

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

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

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

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

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

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

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

utility facility or other infrastructure owned or operated by a public utility.

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

- a. the heat exchanger must be a closed loop system that does not draw water from or discharge to the lake;
- b. the lake bed shall not be disturbed, except as required by the county or a state or federal agency to mitigate for impacts of the heat exchanger;
- c. the in-water portion of system is only allowed where water depth exceeds six feet; and
- d. system structural support for the heat exchanger piping shall be attached to an existing dock or pier or be attached to a new structure that meets the requirements of K.C.C. 21A.25.180.

69. Only for maintenance of agricultural waterways if:

- a. the purpose of the maintenance project is to improve agricultural production on a site predominately engaged in the practice of agriculture;
- b. the maintenance project is conducted in compliance with a hydraulic project approval issued by the Washington state Department of Fish and Wildlife pursuant to chapter 77.55 RCW;
- c. the maintenance project complies with the King County agricultural drainage assistance program as agreed to by the Washington state Department of Fish and Wildlife, the department of permitting and environmental review and the department of natural resources and parks, and as reviewed by the Washington state Department of Ecology;
- d. the person performing the maintenance and the land owner have attended training provided by King County on the King County agricultural drainage assistance program and the best management practices required under that program; and
- e. the maintenance project complies with K.C.C. chapter 16.82.

SECTION 8. Ordinance 10870, Section 454, as amended, and K.C.C. 21A.24.070 are each hereby amended to read as follows:

A. The director may approve alterations to critical areas, critical area buffers and critical area setbacks not otherwise allowed by this chapter as follows:

1. Except as otherwise provided in subsection A.2. of this section, for linear alterations, the director may approve alterations to critical areas, critical area buffers and critical area setbacks only when all of the following criteria are met:

a. there is no feasible alternative to the development proposal with less adverse impact on the critical area;

b. the proposal minimizes the adverse impact on critical areas to the maximum extent practical;

c. the approval does not require the modification of a critical area development standard established by this chapter;

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

e. the linear alteration:

(1) connects to or is an alteration to a public roadway, regional light rail transit line, public trail, a utility corridor or utility facility or other public infrastructure owned or operated by a public utility; or

(2) is required to overcome limitations due to gravity;

2. In order to accommodate the siting of a regional light rail transit facility under RCW 36.70A.200, the director may approve alterations to critical areas, critical area buffers and critical area setbacks not otherwise allowed by this chapter and may impose reasonable conditions to minimize the impact of the light rail transit facility on the critical area and its buffer; and

3. For nonlinear alterations the director may approve alterations to critical areas except wetlands, unless otherwise allowed under subsection ~~((A.2.h.))~~ A.3.h. of this section, aquatic areas and wildlife habitat conservation areas, and alterations to critical area buffers and critical area setbacks, when all of the following

criteria are met:

- a. there is no feasible alternative to the development proposal with less adverse impact on the critical area;
- b. the alteration is the minimum necessary to accommodate the development proposal;
- c. the approval does not require the modification of a critical area development standard established by this chapter, except as set forth in subsection ~~((A.2.i))~~ A.3.i. of this section;
- d. the development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;
- e. for dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, building setbacks or other land alteration, including grading, utility installations and landscaping, but not including the area used for a driveway or for an on-site sewage disposal system. When the site disturbance is within a critical area buffer, the building setback line shall be measured from the building footprint to the edge of the approved site disturbance;
- f. to the maximum extent practical, access is located to have the least adverse impact on the critical area and critical area buffer;
- g. the critical area is not used as a salmonid spawning area;
- h. the director may approve an alteration in a category II, III and IV wetland for development of a public school facility; and
- i. the director may approve an alteration to the elevation or dry flood proofing standards in K.C.C. 21A.24.240.F.1. or 21A.24.240.F.2. for nonresidential agricultural accessory buildings that equal or exceed a maximum assessed value of sixty-five thousand dollars if the development proposal meets the criteria in subsection ~~((A.2.))~~ A.3. of this section and the standards in K.C.C. 21A.24.240.F.4. through 21A.24.240.G.

B. The director may approve alterations to critical areas, critical area buffers and critical area setbacks

if the application of this chapter would deny all reasonable use of the property as follow:

1. If the critical area, critical area buffer or critical area setback is outside of the shoreline jurisdiction, the applicant may apply for a reasonable use exception under this subsection without first having applied for an alteration exception under this section if the requested reasonable use exception includes relief from development standards for which an alteration exception cannot be granted under this section. The director shall determine that all of the following criteria are met:

- a. there is no other reasonable use with less adverse impact on the critical area;
- b. development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;
- c. any authorized alteration to the critical area or critical area buffer is the minimum necessary to allow for reasonable use of the property; and
- d. for dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, building setbacks or other land alteration, including grading, utility installations and landscaping but not including the area used for a driveway or for an on-site sewage disposal system; and

2. If the critical area, critical area buffer or critical area setback is located within the shoreline jurisdiction, the request for a reasonable use exception shall be considered a request for a shoreline variance under K.C.C. 21A.44.090.

C. For the purpose of this section:

1. "Linear" alteration means infrastructure that supports development that is linear in nature and includes public and private roadways, public trails, private driveways, railroads, regional light rail transit, hydroelectric generating facilities, utility corridors and utility facilities; and
2. For purposes of subsections A. and B. of this section, areas located within the shoreline jurisdiction

that are below the ordinary high water mark shall not be included in calculating the site area.

D. Alteration exceptions approved under this section shall meet the mitigation requirements of this chapter.

E. An applicant for an alteration exception shall submit a critical area report, as required by K.C.C. 21A.24.110.

SECTION 9. Ordinance 10870, Section 467, as amended, and K.C.C. 21A.24.200 are each hereby amended to read as follows:

Unless otherwise provided, an applicant shall set buildings and other structures back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. When the site disturbance is within a critical area buffer, the building setback line shall be measured from the building footprint to the edge of the approved site disturbance. The following are allowed in the building setback area:

- A. Landscaping;
- B. Uncovered decks;
- C. Building overhangs if the overhangs do not extend more than eighteen inches into the setback area;
- D. Impervious ground surfaces, such as driveways and patios, but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas;
- E. Utility service connections as long as the excavation for installation avoids impacts to the buffer; and
- F. Minor encroachments if adequate protection of the buffer will be maintained.

SECTION 10. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C. 21A.25.020 are each hereby amended to read as follows:

The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapter 173-26 WAC apply within the shoreline jurisdiction. The definitions in chapter 90.58 RCW and chapter 173-26 WAC apply if there is a conflict with the definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code shall

apply where applicable and where not in conflict with the chapters of the RCW and the WAC listed in this section. In addition, the following definitions apply to this chapter unless the context clearly requires otherwise:

A. "Development" means any development as defined in chapter 90.58 RCW~~((-));~~ and

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

SECTION 11. Ordinance 3688, Section 303, as amended, and K.C.C. 21A.25.050 are each hereby amended to read as follows:

A. The King County shoreline jurisdiction consists of:

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

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

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

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

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

c. all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to chapter 90.58 RCW.

B. The shoreline jurisdiction does not include tribal reservation lands and lands held in trust by the federal government for tribes. Nothing in the King County Shoreline Master Program or action taken under

that program shall affect any treaty right to which the United States is a party.

C. The lakes and segments of rivers and streams constituting the King County shoreline jurisdiction are set forth in Attachment K((-)) to Ordinance 17485. The King County shoreline jurisdiction is shown on a map adopted in chapter ((5)) 6 of the King County Comprehensive Plan. If there is a discrepancy between the map and the criteria established in subsection A. of this section, the criteria shall constitute the official King County shoreline jurisdiction.

SECTION 12. Ordinance 3688, Section 302, as amended, and K.C.C. 21A.25.060 are each hereby amended to read as follows:

A. In order to accomplish the goals, policies and regulations of the King County shoreline master program, the following shoreline environment designations have been established:

1. High Intensity shoreline;
2. Residential shoreline;
3. Rural shoreline;
4. Conservancy shoreline;
5. Resource shoreline;
6. Forestry shoreline;
7. Natural shoreline; and
8. Aquatic.

B. The shoreline environment designations are included on a map in chapter ((5)) 6 of the King County Comprehensive Plan. If there is a discrepancy between the map and the criteria established in chapter ((5)) 6 of the King County Comprehensive Plan for shoreline environment designations, the criteria shall constitute the official King County shoreline environment designation. Any parcel of land included within the shoreline jurisdiction without a shoreline environment designation shall be considered within the Conservancy environment.

C. The purpose of each shoreline environment designation is defined as follows:

1. The purpose of the High Intensity shoreline is to provide for high intensity water-oriented commercial and industrial uses;
2. The purpose of the Residential shoreline is to accommodate residential and commercial uses on a scale appropriate with urban residential zones;
3. The purpose of the Rural shoreline is to accommodate land uses normally associated with rural area levels of development while providing appropriate public access and recreational uses to the maximum extent practicable;
4. The purpose of the Conservancy shoreline is to conserve areas that are a high priority for restoration, include valuable historic properties or provide recreational opportunities;
5. The purpose of the Resource shoreline is to allow for mining and agricultural uses on lands that are designated under the Growth Management Act as agricultural land of long term commercial significance or mineral resource lands;
6. The purpose of the Forestry shoreline is to allow for forestry uses;
7. The purpose of the Natural shoreline is to protect those shoreline areas that are relatively free of human influence or have high ecological quality. This designation allows only very low intensity uses in order to maintain the existing high levels of ecological process and function; and
8. The Aquatic environment is to protect, restore and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

SECTION 13. Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160 are each hereby amended to read as follows:

A. The shoreline modification table in this section determines whether a specific shoreline modification is allowed within each of the shoreline environments. The shoreline environment is located on the vertical column and the specific use is located on the horizontal row of the table. The specific modifications are

grouped by the shoreline modification categories in WAC 173-26-231. The table should be interpreted as follows:

1. If the cell is blank in the box at the intersection of the column and the row, the modification is prohibited in that shoreline environment;
2. If the letter "P" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment;
3. If the letter "C" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in K.C.C. 21A.44.100;
4. If a number appears in the box at the intersection of the column and the row, the modification may be allowed subject to the appropriate review process indicated in this section and the specific development conditions indicated with the corresponding number immediately following the table, and only if the underlying zoning allows the modification. If more than one number appears at the intersection of the column and row, both numbers apply; and
5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that shoreline environment subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number immediately following the table.
6. A shoreline modification may be allowed in the aquatic environment only if that shoreline modification is allowed in the adjacent shoreland environment.
7. This section does not authorize a shoreline modification that is not allowed by the underlying zoning, but may add additional restrictions or conditions or prohibit specific modifications within the shoreline jurisdiction. All shoreline modifications in the shoreline jurisdiction must comply with all relevant county code provisions and with the King County Shoreline Master Program.

B. Shoreline modifications.

| ((KEY P- Permitted Modification. C- Shoreline Conditional Use Required. Blank- Prohibited. Shoreline modifications are allowed only if the underlying zoning allows the modification. Shoreline modifications are allowed in the aquatic environment only if the adjacent upland environment allows the modification)) | HIGH INTENSITY | RESIDENTIAL | RURAL | CONSERVANCY | RESOURCE | FORESTRY | NATURAL | AQUATIC |
|---|-----------------------|--------------------|--------------|--------------------|-----------------|-----------------|----------------|----------------|
| | <u>High Intensity</u> | <u>Residential</u> | <u>Rural</u> | <u>Conservancy</u> | <u>Resource</u> | <u>Forestry</u> | <u>Natural</u> | <u>Aquatic</u> |
| 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 | | <u>P2</u> | 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 |
| ((Beach and dunes management)) | | | | | | | | |
| ((Not applicable in King County)) | | | | | | | | |
| 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 |

C. Development conditions.

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

2.a. Flood protection facilities must be consistent with the standards in K.C.C. chapter 21A.24, the

King County Flood Hazard Management Plan adopted January 16, 2007, and the Integrated Stream Protection Guidelines (Washington state departments of Fish and Wildlife, Ecology and Transportation, 2003). New structural flood hazard protection measures are allowed in the shoreline jurisdiction only when the applicant demonstrates by a scientific and engineering analysis that the structural measures are necessary to protect existing development, that nonstructural measures are not feasible and that the impact on ecological functions

and priority species and habitats can be successfully mitigated so as to assure no net loss of shoreline ecological functions. New flood protection facilities designed as shoreline stabilization must meet the standards in K.C.C. 21A.25.170.

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

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

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

b. A shoreline conditional use permit is required to:

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

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

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

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

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

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

(4) The project is consistent with the state's interest in resource protection and species recovery.

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

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

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

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

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

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

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

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

(d) the project is consistent with the state's interest in resource protection and species recovery.

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

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

6. Excavation, dredging and filling must meet the standards in K.C.C. 21A.25.190. A shoreline conditional use permit is required to dispose of dredged material within shorelands or wetlands within a channel migration zone

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

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

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

SECTION 14. Ordinance 3688, Section 409(4), as amended, and K.C.C. 21A.25.180 are each hereby amended to read as follows:

Any dock, pier, moorage pile or buoy, float or launching facility authorized by this chapter shall be subject to the following conditions:

A. Docks, piers, moorage piles or buoys, floats or launching facilities are allowed only for water dependent uses or for public access and shall be limited to the minimize size necessary to support the use. New private boat launch ramps are not allowed;

B. Any dock, pier, moorage pile or buoy, float or launching facility proposal on marine waters:

1. Must include an evaluation of the nearshore environment and the potential impact of the facility on that environment; and

2. Avoid impacts to critical saltwater habitats unless an alternative alignment or location is not feasible;

C. In the High Intensity, Residential, Rural and Conservancy environments, the following standards apply:

1. Only one dock, pier, moorage pile or buoy, float or launching facility may be allowed for a single detached residential lot and only if the applicant demonstrates there is no feasible practical alternative;
2. For subdivisions or short subdivisions or for multiunit dwelling unit development proposals:
 - a. Only one joint use dock, pier, float or launching facility is allowed; and
 - b. One moorage pile or buoy if a dock, pier, float or launching facility is allowed or two moorage piles or buoys if a dock, pier, float or launching facility is not allowed;
3. Only one dock, pier, moorage pile or buoy, float or launching facility is allowed for each commercial or industrial use; and
4. Multiuser recreational boating facilities serving more than four single detached residences shall comply with K.C.C. 21A.25.120((-));

D. In the Conservancy environment, a dock, pier, moorage pile or buoy, float or launching facility for a commercial or manufacturing use must be located at least two hundred fifty feet from another dock or pier;

E. In the Resource and Forestry Shoreline environments, only one dock, pier, moorage pile or buoy, float or launching facility is permitted and only as an accessory use to a residential use or to support a resource or forestry use;

F. In the Natural environment, a dock, pier, moorage pile or buoy, float or launching facility is prohibited;

G. In freshwater lakes:

1. A new pier, dock or moorage pile for residential uses shall meet the following requirements:
-

| New Pier, Dock or Moorage Piles | | | Dimensional and Design Standards |
|---------------------------------|---|-----|---|
| a. | Maximum Area surface coverage including all attached float decking, ramps and fingers | (1) | 480 square feet for single dwelling unit; |
| | | (2) | 700 square feet for joint-use facility used by 2 dwelling units; |
| | | (3) | 1000 square feet for joint-use facility used by 3 or more dwelling units; |
| | | (4) | These area limitations shall include platform lifts; |
| | | (5) | 150 square feet for float for a single dwelling unit; and |

| | | | | |
|----|--|-----|---|---|
| | | (6) | Where a pier cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 10 feet measured below ordinary high water, an additional 4 square feet of area may be added for each additional foot of pier length needed to reach 10 feet of water depth at the landward end of the pier, provided that all other area dimensions, such as maximum width and length, have been minimized. | |
| b. | Maximum Length for piers, docks, fingers and attached floats | (1) | (A) | On Lake Washington piers or docks extending adjacent piers or not have an adverse effect |
| | | | (B) | On all other freshwater bodies of water from the point where the water depth is less than ordinary high water |
| | | (2) | 26 feet for piers; and | |

| | | | |
|----|---------------|-----|---|
| | | (3) | 20 feet for fingers and float decking attached to a pier |
| c. | Maximum Width | (1) | 4 feet for pier or dock walkway or ramp; |
| | | (2) | 6 feet for ells; |
| | | (3) | 2 feet for fingers; |
| | | (4) | 6 feet for float decking attached to a pier, must contain a minimum of 2 feet of grating down the center of the entire float; and |
| | | (5) | For piers or docks with no ells or fingers, the most waterward 26-foot section of the walkway may be 6 feet wide. |

| | | | |
|----|---|-----|--|
| d. | Height of piers diving boards | (1) | Minimum of 1.5 feet above ordinary high water to bottom of pier stringers, except the floating section of a dock and float decking attached to a pier; |
| | | (2) | Maximum of 3 feet above deck surface for diving boards or similar features; |
| | | (3) | Maximum of 3 feet above deck for safety railing, which shall be an open framework. |
| e. | Minimum Water Depth for float decking attached to a pier | (1) | Must be in water with depths of 10 feet or greater at the landward end of the float |
| | | (2) | Must be in water with depths of 9 feet or greater at the landward end of the ell or finger |

| | | | |
|----|---|-----|--|
| f. | Decking for piers, docks, walkways, platform lifts, and fingers | (1) | If float tubs for docks preclude use of fully grated decking material, then a minimum of 2 feet of grating down the center of the entire float shall be provided |
| | | (2) | Piers, docks, and platform lifts must be fully grated or contain other materials that allow a minimum of fifty percent light transmittance through the material |
| g. | Location of ell fingers and deck platforms | (1) | Within 30 feet of the OHWM, only the pier walkway or ramp is allowed |
| | | (2) | No closer than 30 feet waterward of the OHWM, measured perpendicular to the OHWM |

| | | | |
|----|---------------------------|---|--|
| h. | Pilings and Moorage Piles | (1) | Pilings or moorage piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds. |
| | | (2) | First set of pilings or moorage piles located no closer than 18 feet from OHWM |
| | | (3) | Moorage piles shall not be any farther waterward than the end of the pier or dock |
| i. | Mitigation | Plantings or other mitigation as provided in subsection L. of this section. | |

2. On Lake Washington and Lake Sammamish, the department may approve the following modifications to a new pier proposal that deviates from the dimensional standards of subsection G.1. of this section if both the U.S. Army Corps of Engineers and Washington state Department of Fish and Wildlife have approved an alternate project design. In addition, the following requirements and all other applicable provisions in this chapter shall be met:

| | | |
|--|--|--------------|
| | Administrative Approval for Alternative Design of New Pier or Dock | Requirements |
|--|--|--------------|

| | | | |
|----|-----------------------------------|---|--|
| a. | State and Federal Agency Approval | U.S. Army Corps of Engineers, and the Washington state Department of Fish and Wildlife have approved proposal | |
| b. | Maximum Area | No larger than authorized through state and federal approval | |
| c. | Maximum Width | (1) | Except as provided for in this section, the width of a pier and all connected structures shall not exceed the width noted in subsection (2). |
| | | (2) | 4 feet for portions of the pier less than 30 feet of the C |
| d. | Minimum Water Depth | No shallower than authorized through state and federal approval | |

3.a. A replacement of an existing pier or dock shall meet the following requirements:

| Replacement of Existing Pier or Dock | Requirements |
|--------------------------------------|--------------|
|--------------------------------------|--------------|

| | | | |
|-----|---|---|--|
| (1) | Replacement of entire existing pier or dock, including piles OR more than fifty percent of the pier-support piles and more than fifty percent of the decking or decking substructure (e.g. stringers) | Must meet the dimensional decking and design standards for new piers as described in subsection G.1. of this section, except the department may approve an alternative design described in subsection G.3.b. of this section. | |
| (2) | Mitigation | (a) | Existing skirting be replaced. |
| | | (b) | Existing in-water other than existing 30 feet of the O authorized shore shall be removed |

b. On Lake Washington and Lake Sammamish, the department may approve the following modifications to a pier replacement proposal that deviates from the dimensional standards of subsection G.1. of this section, if both the U.S. Army Corps of Engineers and Washington state Department of Fish and Wildlife have approved an alternate project design. With submittal of a building permit, the applicant shall provide documentation that the U.S. Army Corps of Engineers, and the Washington state Department of Fish and Wildlife have approved the alternative proposal design. In addition, the following requirements and all other applicable provisions in this chapter shall be met;

| Administrative Approval for Alternative Design of Replacement Pier or Dock | | Requirements |
|--|-----------------------------------|--|
| (1) | State and Federal Agency Approval | U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife have approved project |
| (2) | Maximum Area | No larger than existing pier or that allowed under subsection G.1. of this section, whichever is greater |
| (3) | Maximum Length | 26 feet for fingers and float decking attached to a pier. Otherwise, the pier and all components shall meet the standards noted in subsection G.1. of this section |
| (4) | Maximum Width | (a) 4 feet for walkway or ramp located within 30 feet of the OHWM; otherwise, 6 feet for walkways (b) 8 feet for piers and float decking attached to a pier |
| | | (c) For piers with no piers or fingers, the most waterward 26 foot section of the walkway may be 8 feet wide |
| | | (d) Otherwise, the pier and all components shall meet the standards noted in subsection G.1. of this section |
| (5) | Minimum Water Depth | No shallower than authorized through state and federal approval |

4. Proposals involving the addition to or enlargement of existing piers or docks must comply with the requirements in the following table. These provisions shall not be used in combination with the provisions for new or replacement piers in subsection G.1. or G.3. of this section.

| Addition to Existing Pier or Dock | | Requirements | |
|-----------------------------------|-------------------------|--------------|---|
| a. | Addition or enlargement | (1) | Must demonstrate that there is no net loss of shoreline |
| | | (2) | Must demonstrate that there is less impact on the shoreline |

| | | | |
|----|---|--|---|
| b. | Dimensional standards | Enlarged portions must comply with the new pier or dock standards for length and width, height, water depth, location, decking and pilings and for materials as described in subsection G.1. of this section. | |
| c. | Decking for piers, docks walkways, ells and fingers | Must convert an area of decking within 30 feet of the OHWM to grated decking equivalent in size to the additional surface coverage. Grated or other materials must allow a minimum of fifty percent light transmittance through the material | |
| d. | Mitigation | (1) | Existing skirti |
| | | (2) | Existing in-wa feet of the OH shoreline stab piers, shall be addition |

5.a. Repair proposals that replace only decking or decking substructure and less than fifty percent of the existing pier-support piles must comply with the following regulations:

| | | | |
|---------------------------------------|---|--|--|
| Minor Repair of Existing Pier or Dock | | Requirements | |
| (1) | Replacement piling or moorage piles | (a) | Must use materials as described in (3) of this section |
| | | (b) | Must minimize the size of piling and maximize the spacing between piles as allowed by site-specific engineering considerations |
| (2) | Replacement of 50 percent or more of the deck or substructure | Must replace any solid decking surface of the pier or dock located within 30 feet of the OHWM with a grated surface material that allows a minimum of fifty percent light transmittance through the material | |

b. Other repairs to existing legally established moorage facilities where the nature of the repair is not described in this subsection shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock would make a proposed repair exceed the threshold for a replacement pier established in subsection G.3. of this section, the repair proposal shall be reviewed under subsection G.1. of this section for a new pier or dock, except as described in

subsection G.3.b. of this section for administrative approval of alternative design((-));

H. Boatlifts, personal watercraft lifts, boatlift canopies and moorage piles may be permitted as an accessory to piers and docks, subject to the following regulations:

| | Boatlift, Personal Watercraft Lift, Boat Canopy and Moorage Piles | Requirements | |
|----|---|--------------|---|
| 1. | Location | a. | Boat lifts shall be feasible and safe, l |
| | | b. | Boat lifts are not p Environmental Ac |
| | | c. | The bottom of a b boatlift to the max the canopy must b water, and the top feet above an asso |
| | | d. | Moorage piles sha or any farther wat |
| 2. | Maximum Number | a. | 1 free-standing or |
| | | b. | 1 personal watercra dwelling unit |
| | | c. | 1 boatlift canopy p |
| 3. | Canopy Materials | a. | Must be made of t |
| | | b. | Must not be const |
| 4. | Fill for Boatlift | a. | Maximum of 2 cu boatlift, subject to |
| | | b. | May only be used anchoring devices |
| | | c. | Must be clean |
| | | d. | Must consist of ro |
| | | e. | Must only be used |
| | | f. | Minimum amount |

I. Moorage buoys shall meet the following conditions:

1. Buoys shall not impede navigation;

2. The use of buoys for moorage of recreational and commercial vessels is preferred over pilings or float structures;

3. Buoys shall be located and managed in a manner that minimizes impacts to eelgrass and other aquatic vegetation;

4. Preference should be given mid-line float or all-rope line systems that have the least impact on marine vegetation;

5. New buoys that would result in a closure of local shellfish beds for future harvest shall be prohibited; and

6. No more than four buoys per acre are allowed((:));

J.1. A boat lift, dock, pier, moorage pile or buoy, float, launching facility or other overwater structure or device shall meet the following setback requirements:

a. All piers, docks, boatlifts and moorage piles for detached dwelling unit use shall comply with the following location standards:

| New Pier, Dock, Boatlift and Moorage Pile or Buoy | | Minimum Setback Standards |
|---|--|---|
| (1) | Side property lines | 15 feet |
| (2) | Another moorage structure on the subject property excluding adjacent moorage structure that does not have required side property setback | 25 feet, except that this standard shall not apply to moorage piles |
| (3) | Outlet of an aquatic stream including piped stream | Maximum distance feasible while meeting other required setback standards established under this section |
| (4) | Public park | Outside of the urban growth area, 25 feet |

b. Joint-use structures may abut property lines when the property owners sharing the moorage facility have mutually agreed to the structure location in a contract recorded with the King County division of records and elections to run with the properties. A copy of the contract must accompany an application for a building permit or a shoreline permit.

2. An overwater structure may abut property lines for the common use of adjacent property owners

K. On marine shorelines, a new, repaired, or replaced pier, dock or float for residential uses shall meet

the following requirements:

| Pier, Dock or Float on Marine Waters | | | Dimensional and Design Standards |
|--------------------------------------|--|----|---|
| 1. | Maximum Area: surface coverage, including all attached float decking and ramps | a. | 480 square feet for single |
| | | b. | 700 square feet for joint |
| | | c. | 1000 square feet for joint units; |
| | | d. | These area limitations |
| | | e. | 240 square feet for float |
| 2. | Maximum Width | a. | 4 feet for pier or dock |
| | | b. | 6 feet for pier or dock |
| | | c. | 4 feet for ramp connect |
| 3. | Floats | a. | For a single-use structure and the float length must be installed on at |
| | | b. | For a joint-use structure and the float length must be installed on at |
| | | c. | To the maximum extent length in the north-sou |
| | | d. | If the float is removed mean high/higher water approved location; |
| | | e. | Flotation for the float shell, such as polystyrene coatings, that prevents into the water and is not radiation or abrasion caused by waterborne debris; |
| | | f. | Flotation components of the float, not under the |

| | | | |
|----|---|----|--|
| | | g. | If the float is positioned may be installed to accommodate to tidal fluctuations. They exceed 6 feet in width |
| 4. | Float stops | a. | To suspend the float at impacting option is to installing float stops (see The stops must be able to tidal elevations; |
| | | b. | If float stops attached to explained in the application stub pilings can be installed |
| | | c. | Float feet attached to the under these circumstances the grains are at least 2 from the upper one foot feet below mean high water are at least 4 mm in size upper one foot of substrate |
| | | d. | For repair or replacement contains mostly gravel includes other improvements as the removal of creosote grating; and |
| | | e. | Floats can be held in place screw or "duckbill" anchors support/stub pilings as maximum of 4 pilings (see or "duckbill" anchors (see (2) For a joint-use float or "duckbill" anchors (see (3) If anchors and anchors shall not rest on the substrate where a helical screw anchor applicant submits a rating be used and the department department approved a block, may be permitted |
| 5. | Decking for piers, docks walkways, platform lifts, elevators and fingers | a. | Grating must not be covered any stored items, such as sheds, carpet, boards or |
| | | b. | Grating shall be kept clear impede light transmission |

| | | | |
|----|-------------------------------|--|---|
| | | c, | Piers, docks, and platf other materials that all transmittance through |
| | | d. | Grating openings shall direction to the extent should be oriented to n |
| | | e. | Overwater structures s as possible. Grating ne and |
| | | f. | The area of floating bo structure shall be inclu |
| 6. | Pier or dock configuration | Only straight line piers or docks are allowed. Ells, fingers or "T" shaped docks and piers are not allowed. | |
| 7. | Pilings and Moorage Piles | a. | Pilings or moorage pile pentachlorophenol, cre comparably toxic comp |
| | | b. | Replacement or propos plastic or untreated or abrasion and subsequ shall incorporate desig of the different compo tidal elevations; |
| | | c. | New piling associated feet apart lengthwise a structure itself is less th than 20 feet in length, structure. Piles in fora least 40 feet apart; |
| | | d. | If the project includes should be either partial top, fully extracted, or piling are fully extracte with clean, appropriate used to remove piling; |

| | | | |
|----|------------|---|---|
| | | e. | A maximum of two moorages shall be permitted to accommodate the moorage floats; and |
| | | f. | Dolphins are not permitted |
| 8. | Mitigation | Plantings or other mitigation as provided in subsection L. of this section((7)); | |

L. New, expanded, replacement or repaired piers, docks, floats, boatlifts, boat canopies and moorage piles or buoys shall comply with the following:

1. Existing habitat features, such as large and small woody debris and substrate material, shall be retained and new or expanded moorage facilities placed to avoid disturbance of such features;
2. Invasive weeds, such as milfoil, may be removed as provided in K.C.C. chapter 21A.24; and
3. In order to mitigate the impacts of new or expanded moorage facilities, the applicant shall plant site-appropriate emergent vegetation and a buffer of vegetation a minimum of ten feet wide along the entire length of the lot immediately landward of ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots, such as willow species. Such planting shall be monitored for a period of five years consistent with a monitoring plan approved in accordance with K.C.C. chapter 21A.24. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent beach use of the shoreline critical area;

M. Except as otherwise provided for covered boat lifts under subsection H. of this section, covered docks or piers, covered moorages(~~((7))~~) and covered floats(~~(, and other covered structures)~~) are not permitted waterward of the ordinary high water mark; and

N. No dwelling unit may be constructed on a dock or pier. A water related or water enjoyment use may

be allowed on a dock, pier or other over-water structure only as part of a mixed-use development and only if accessory to and in support of a water-dependent use.

SECTION 15. Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290 are each hereby amended to read as follows:

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

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

1. WAC 173-27-050 applies; or
2. Except for the maintenance of agricultural drainage that is not used by salmonids or as otherwise provided in subsection F. of this section, the proposed use or modification will occur (~~(at or below)~~) waterward of the ordinary high water mark.

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

D. As necessary to ensure consistency of the project with the shoreline master program and this chapter,

the department may attach conditions of approval to a substantial development permit or a statement of exemption or to the approval of a development proposal that does not require either.

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

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

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

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

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

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

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

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

a. The programmatic statement of exemption or activities authorized under the statement of exemption no longer comply with law;

- b. The programmatic statement of exemption does not provide adequate regulation of the activity;
 - c. The programmatic statement of exemption conditions or the manner in which the conditions are implemented are not adequate to protect against the impacts resulting from the activity; or
 - d. A site requires site-specific regulation; and
5. If an activity covered by a programmatic statement of exemption also requires other county, state and federal approvals, to the extent feasible, the department shall attempt to incorporate conditions that comply with those other approvals into the programmatic statement of exemption.

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

- 1. The maintenance project is conducted in compliance with a hydraulic project approval issued by the Washington Department of Fish and Wildlife pursuant to ~~((RCW))~~ chapter 77.55 RCW;
- 2. The maintenance project complies with the King County agricultural drainage assistance program as agreed to by the Washington Department of Fish and Wildlife, the department of permitting and environmental review and the department of natural resources and parks, and as reviewed by the Washington Department of Ecology;
- 3. The person performing the agricultural drainage maintenance and the land owner has attended training provided by King County on the King County agricultural drainage assistance program and the best management practices required under that program; ~~((and))~~
- 4. The maintenance project complies with the requirements of K.C.C. chapter 16.82; and
- 5. The project is not subject to federal permitting related to the U.S. Army Corps of Engineers Section 10 or Section 404 permits.

SECTION 16. Ordinance 3688, Section 802, as amended, and K.C.C. 21A.25.300 are each hereby amended to read as follows:

In the case of development subject to the permit requirements of this chapter, applicants may need to

obtain other permits and comply with other nonshoreline King County regulations. King County shall not issue any other permit for such development until such time as approval has been granted under this chapter. Any development subsequently authorized by King County shall be subject to the same terms and conditions that apply to the development authorized under this chapter.

SECTION 17. Ordinance 3688, Section 806, as amended, and K.C.C. 21A.25.310 are each hereby amended to read as follows:

The review of applications for the expansion, modification, reestablishment or replacement of a nonconforming use or development shall be in accordance with K.C.C. chapter 21A.32.

SECTION 18. Ordinance 3688, Section 805, as amended, and K.C.C. 21A.44.100 are each hereby amended to read as follows:

A. A shoreline conditional use shall be granted by the department for conditional uses identified in K.C.C. ~~((21A.25.130))~~ 21A.25.100 and ~~((21A.25.170))~~ 21A.25.160 as shoreline conditional uses only if the applicant demonstrates that(~~(:~~

- ~~1. T))~~the review criteria of WAC 173-27-160 have been met(~~(; and~~
- ~~2. The use will promote or not interfere with public use of surface waters)).~~

B. A shoreline conditional use may be granted by the department for uses not identified as conditional uses in K.C.C. ~~((21A.25.110))~~ 21A.25.100 and ~~((21A.25.170))~~ 21A.25.160 only if the applicant demonstrates that:

1. The criteria in subsection A. of this section have been met;
2. The use is not specifically prohibited in the shoreline environment;
3. The use clearly requires specific site location on the shoreline not provided for under the shoreline master program; and
4. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the K.C.C. chapter 21A.25.

C. The burden of proving that a proposed shoreline conditional use meets the criteria enumerated in this section shall be on the applicant. Absence of ~~((such))~~ that proof shall be grounds for denial of the application.

SECTION 19. Ordinance 16985, Section 4, as amended, and K.C.C. 20.12.205 are each hereby repealed.

SECTION 20. In accordance with section 1 of this ordinance and K.C.C. 20.12.200, the executive shall submit this ordinance to the state Department of Ecology for its approval of the standards as provided in RCW 90.58.090.

SECTION 21. This ordinance takes effect within the shoreline jurisdiction fourteen days after the 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.

SECTION 22. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.