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Title:	AN ORDINANCE relating to comprehensive planning and shoreline environment regulations; amending Ordinance 263, Article 2, Section 1, as amended, and K.C.C. 20.12.010, Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200, Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100, Ordinance 3688, Section 202, as amended, and K.C.C. 21A.06.072B, Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C, Ordinance 16985, Section 89, and K.C.C. 21A.06.1081, Ordinance 15051, Section 97, and K.C.C. 21A.06.1082, Ordinance 16985, Section 92, and K.C.C. 21A.06.1082B, Ordinance 3688, Section 248, as amended, and K.C.C. 21A.06.1082D, Ordinance 3688, Section 249, as amended, and K.C.C. 21A.06.1083A, Ordinance 3688, Section 255, as amended, and K.C.C. 21A.06.1268, Ordinance 10870, Section 323, as amended, and K.C.C. 21A.06.1391, Ordinance 10870, Section 319, as amended, and K.C.C. 21A.06.1395, Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045, Ordinance 15051, Section 139, as amended, and K.C.C. 21A.24.055, Ordinance 15051, Section 183, and K.C.C. 21A.24.318, Ordinance 15051, Section 185, as amended, and K.C.C. 21A.24.325, Ordinance 10870, Section 481, as amended, and K.C.C. 21A.24.340, Ordinance 15051, Section 192, as amended, and K.C.C. 21A.24.355, 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 16985, Section 31, as amended, and K.C.C. 21A.25.100, Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110, Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160, Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290 and Ordinance 3688, Section 805, as amended, and K.C.C. 21A.44.100, repealing Ordinance 3688, Section 246, as amended, and K.C.C. 21A.06.1083 and Ordinance 18767, Section 11, and adding new sections to K.C.C. chapter 21A.06.		
Sponsors:	Dave Upthegrove		
Indexes:	Comprehensive Plan, Shoreline Management		
Code sections:	20.12.010 -, 20.12.200 -, 20.20.100 -, 21A.06.072B -, 21A.06.072C -, 21A.06.1391 -, 21A.24.045 -, 21A.24.055 -, 21A.24.318 -, 21A.24.325 -, 21A.24.340 -, 21A.25.020 - *, 21A.25.050 - *, 21A.25.100 - *, 21A.25.110 -, 21A.25.160 - *, 21A.25.290 - *		
Attachments:	1. Ordinance 19034.pdf, 2. 2019-0143 legislative review form, 3. A. 2019 Shoreline Master Program Periodic Review, Amendments to Chapter 6 of the 2016 King County Comprehensive Plan, dated July 2, 2019, 4. A. 2019 Shoreline Master Program Periodic Update, 5. 2019-0143 transmittal letter, 6. 2019-0143 Commerce Acknowledgement Letter 2019 SMP, 7. 2019-0143 fiscal note, 8. 2019-0143 I-207 Analysis 2019 Shoreline Master Program Periodic Update, 9. 2019-0143 Notice of Intent to Adopt Amendment, 10. 2019-0143 Periodic Review Checklist, 11. 2019-0143 Public Advertising 2019 SMP, 12. 2019-0143 Public Engagement Summary 2019 SMP, 13. 2019-0143 Public Notice Of Intent To Amend 2019 SMP, 14. 2019-0143 Public Participation Plan 2019 SMP, 15. 2019-0143 regulatory note checklist of criteria, 16. 2019-0143 Summary of Proposed Ordinance relating to King County Shoreline Master Program 2019 Periodic Update, 17. 2019-0143 Staff Report, 18. 2019-0143_ATT7_SMP Public Review Schedule, 19. 2019-0143_SR_dated_06042019_SMP_Periodic_Review, 20. 2019-0143_ATT5_Conceptual Striker, 21. 2019-0143_SR_dated_07022019_2019_SMP_Periodic_Review, 22. 2019-0143_ATT5_S1_Striker_clean, 23. 2019-0143_ATT6_Striker_track_changes, 24. 2019-0143_ATT6A_KCCP, 25. 2019-0143_ATT7_AMD1_wetlands, 26. 2019-0143_ATT8_T1_Title_amendment, 27. 2019-0143_RevisedSR_2019_SMP_Periodic_Review, 28. 2019-0143 8-21-2019 Amendments, 29. Affidavit of Publication - Seattle Times, 30. 2019-0143 Affidavit of Publication, 31. 2019-0143 Amendments 6 & 7 12-4-2019, 32. Acknowledge-Letter-2019-		

S-1086, 33. 2019-0143 Affidavit of Publication 1-03-20 Seattle Times, 34. AppAsSubLtr, 35. AttAFinCon, 36. FW King County SMP Submittal.msg, 37. Ecology-SMP-Approval-Ords-18767-18791-19034

Date	Ver.	Action By	Action	Result
12/4/2019	2	Metropolitan King County Council	Hearing held/closed and passed as amended	Pass
10/30/2019	2	Metropolitan King County Council	Deferred	
8/21/2019	2	Metropolitan King County Council	Amended	
7/2/2019	1	Mobility and Environment Committee	Recommended Do Pass Substitute	Pass
6/4/2019	1	Mobility and Environment Committee	Deferred	
5/7/2019	1	Mobility and Environment Committee	Deferred	
5/1/2019	1	Metropolitan King County Council	Introduced and Referred	

Clerk 12/05/2019

AN ORDINANCE relating to comprehensive planning and shoreline environment regulations; amending Ordinance 263, Article 2, Section 1, as amended, and K.C.C. 20.12.010, Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200, Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100, Ordinance 3688, Section 202, as amended, and K.C.C. 21A.06.072B, Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C, Ordinance 16985, Section 89, and K.C.C. 21A.06.1081, Ordinance 15051, Section 97, and K.C.C. 21A.06.1082, Ordinance 16985, Section 92, and K.C.C. 21A.06.1082B, Ordinance 3688, Section 248, as amended, and K.C.C. 21A.06.1082D, Ordinance 3688, Section 249, as amended, and K.C.C. 21A.06.1083A, Ordinance 3688, Section 255, as amended, and K.C.C. 21A.06.1268, Ordinance 10870, Section 323, as amended, and K.C.C. 21A.06.1391, Ordinance 10870, Section 319, as amended, and K.C.C. 21A.06.1395, Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045, Ordinance 15051, Section 139, as amended, and K.C.C. 21A.24.055, Ordinance 15051, Section 183, and K.C.C. 21A.24.318, Ordinance 15051, Section 185, as amended, and K.C.C. 21A.24.325, Ordinance 10870,

Section 481, as amended, and K.C.C. 21A.24.340, Ordinance 15051, Section 192, as amended, and K.C.C. 21A.24.355, 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 16985, Section 31, as amended, and K.C.C. 21A.25.100, Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110, Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160, Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290 and Ordinance 3688, Section 805, as amended, and K.C.C. 21A.44.100, repealing Ordinance 3688, Section 246, as amended, and K.C.C. 21A.06.1083 and Ordinance 18767, Section 11, and adding new sections to K.C.C. chapter 21A.06.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

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

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

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

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

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

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

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

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

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

dollars over many years to help restore native salmon species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. While aquaculture is an historic, water-dependent use of Washington's shorelines, the state Department of Ecology's Shoreline Master Program Handbook lists only three references to guide local

jurisdictions in how to regulate finfish net pens, all of which predate the Endangered Species Act listings of southern Puget Sound resident orcas, Puget Sound Chinook salmon and Puget Sound steelhead as threatened. The state Department of Ecology acknowledges in the handbook that interim net pen guidelines from the 1980s are out of date and caution should be used if relying on them.

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

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

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

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

X. King County developed a public participation program for the 2019 SMP periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons

and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. King County has followed its adopted public participation program, including development of a project website, providing a public review and comment period and hosting public meetings.

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

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

SECTION 2. The review and evaluation required by RCW 90.58.080(4) have occurred, as described in the findings of this ordinance. The elements of the King County shoreline master program ("SMP") in sections 5 and 23 through 36 of this ordinance and in Attachment A to this ordinance are hereby amended to read as set forth in this ordinance and are incorporated herein by this reference. The remaining portions of the county's SMP is unchanged. King County adopts these SMP revisions and finds the amended SMP consistent with the requirements of chapter 90.58 RCW and chapter 173-26 WAC, as they apply to these amendments.

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

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

A. Under the King County Charter, the state Constitution and the Washington state Growth Management Act, chapter 36.70A RCW, King County adopted the 1994 King County Comprehensive Plan via Ordinance 11575 and declared it to be the Comprehensive Plan for King County until amended, repealed or superseded. The Comprehensive Plan has been reviewed and amended multiple times since its adoption in

1994. Amendments to the 1994 Comprehensive Plan to-date are currently reflected in the 2016 King County Comprehensive Plan, as adopted in Ordinance 18427 and as amended by Ordinance 18623 ~~((and))~~, Ordinance 18810 and this ordinance. The Comprehensive Plan shall be the principal planning document for the orderly physical development of the county and shall be used to guide subarea plans, functional plans, provision of public facilities and services, review of proposed incorporations and annexations, development regulations and land development decisions.

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

1. The King county Comprehensive Plan chapter six;
2. K.C.C. chapter 21A.25;
3. The following sections of K.C.C. chapter 21A.24:
 - 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.))~~ l. K.C.C. 21A.24.280;
 - ~~((q.))~~ m. K.C.C. 21A.24.290;
 - ~~((r.))~~ n. K.C.C. 21A.24.300;
 - ~~((s.))~~ o. K.C.C. 21A.24.310;
 - ~~((t.))~~ p. K.C.C. 21A.24.316;
 - ~~((u.))~~ q. K.C.C. 21A.24.318;
 - r. K.C.C. 21A.24.325;
 - ~~((v.))~~ s. K.C.C. 21A.24.335;
 - ~~((w.))~~ t. K.C.C. 21A.24.340;
 - ~~((x.))~~ u. K.C.C. 21A.24.355;
 - v. K.C.C. 21A.24.358;
 - ~~((y.))~~ w. K.C.C. 21A.24.365;
 - ~~((z.))~~ x. K.C.C. 21A.24.380;
 - ~~((aa.))~~ y. K.C.C. 21A.24.382;
 - ~~((bb.))~~ z. K.C.C. 21A.24.386;
 - ~~((cc.))~~ aa. 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 ~~((e))~~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))~~ local services, permitting division, 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))~~ mobility and environment committee, or its successor.

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

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

the office of the hearing examiner.

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

2. The following periods apply to the type of land use permit indicated:

- | | | |
|----|--|---------|
| a. | New residential building permits | 90 days |
| b. | Residential remodels | 40 days |
| c. | Residential appurtenances, such as decks and garages | 15 days |
| d. | Residential appurtenances, such as decks and garages that require substantial review | 40 days |
| e. | Clearing and grading | 90 days |
| f. | Department of public health review | 40 days |
| g. | Type 1 temporary use permit for a homeless encampment | 30 days |
| h. | Type 2 temporary use permit for a homeless encampment | 40 days |

C. The following periods shall be excluded from the times specified in subsections A.~~((and))~~, B. and

H. of this section:

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

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

b. When granting a request for a deadline extension, the department shall give consideration to the number of days between the department receiving the request for a deadline extension and the department

mailing its decision regarding that request;

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

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

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

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

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

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

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

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

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

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

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

the notice of a Type 1 or Type 2 decision or a Type 3 or Type 4 recommendation.

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

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

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

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

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

A. Aquatic areas:

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

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

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

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

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

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

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 21A.06 a new section to read as follows:

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

NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 21A.06 a new section to read as follows:

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

NEW SECTION. SECTION 11. There is hereby added to K.C.C. chapter 21A.06 a new section to read as follows:

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

NEW SECTION. SECTION 12. There is hereby added to K.C.C. chapter 21A.06 a new section to read as follows:

Noncommercial native salmon net pens: underwater net facilities used for the raising of salmonid

species indigenous to the Puget Sound region for the purposes of species recovery and restoration, or tribal or recreational catch.

SECTION 13. Ordinance 16985, Section 89, as amended, and K.C.C. 21A.06.1081 are hereby amended to read as follows:

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

~~A. The one hundred year floodplain;~~

~~B. All associated wetlands; and~~

~~C. All river deltas))~~ A. Lands extending landward two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark;

B. Floodways and contiguous floodplain areas landward two hundred feet from such floodways;

C. All wetlands and river deltas associated with streams, lakes and tidal waters; and

D. The one-hundred-year floodplain.

SECTION 14. Ordinance 15051, Section 97, as amended, and K.C.C. 21A.06.1082 are hereby amended to read as follows:

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

A. Shorelines of statewide significance;

B. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

C. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

SECTION 15. Ordinance 16985, Section 92, as amended, and K.C.C. 21A.06.1082B are hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

Substantial development: any development that requires a shoreline ((management)) substantial development permit, as defined in ((RCW 90.58.030(3)(e))) WAC 173-27-040.

SECTION 21. Ordinance 10870, Section 323, as amended, and K.C.C. 21A.06.1391 are hereby amended to read as follows:

Wetland:

A. ((a))An area that is ((not an aquatic area and that is)) inundated or saturated by ground or surface

water at a frequency and duration sufficient to support, and under normal circumstances does support((s)), a prevalence of vegetation typically adapted for life in saturated soil conditions. ~~((For purposes of this definition:~~

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

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

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

1. ~~((A-s))~~Surface water conveyances for drainage or irrigation;
2. ~~((A-g))~~Grass-lined swales;
3. ~~((A-e))~~Canals;
4. ~~((A-d))~~Detention facilities such as flow control ((facility)) facilities or wetponds;
5. ~~((A-w))~~Wastewater treatment ((facility)) facilities;
6. ~~((A-f))~~Farm ponds;
7. ~~((A-wetpond~~;
- 8.)) Landscape amenities; or
9. ~~((A))~~ Those wetlands created after July 1, 1990, that ~~((was))~~ were unintentionally ~~((made))~~ created as a result of the construction of a road, street or highway.

SECTION 22. Ordinance 10870, Section 319, as amended, and K.C.C. 21A.06.1395 are hereby amended to read as follows:

Wetland edge: the line delineating the outer edge of a wetland, consistent with the wetland delineation manual required by ~~((RCW 36.70A.175))~~ RCW 90.58.380.

SECTION 23. Ordinance 15051, Section 137, as amended, and K.C.C. 21A.24.045 are 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.

A= alternation is allowed Numbers indicate applicable development condition in subsection D. of this section	Landslide Hazard Over 40% and Buffer	Steep Slope Hazard and Buffer	Wetland and Buffer	Aquatic Area and Buffer and Severe Channel Migration	Wildlife Habitat Conservation Area and Wildlife Habitat Network
Structures					
Construction of new single detached dwelling unit			A 1	A 2	
Construction of a new tree-supported structure			A 64	A 64	A 64
Construction of nonresidential structure			A 3	A 3	A 3, 4
Maintenance or repair of existing structure	A 5	A	A	A	A 4
Expansion or replacement of existing structure	A 5, 7	A 5, 7	A 7, 8	A 6, 7, 8	A 4, 7
Interior remodeling	A	A	A	A	A
Construction of new dock or pier			A 9	A 9, 10, 11	
Maintenance, repair or replacement of dock or pier			A 12	A 10, 11	A 4
Grading					
Grading		A 13		A 14	A 4, 14
Construction of new slope stabilization	A 15	A 15	A 15	A 15	A 4, 15
Maintenance of existing slope stabilization	A 16	A 13	A 17	A 16, 17	A 4
Mineral extraction	A	A			
Clearing					
Clearing	A 18	A 18	A 18, 20	A 14, 18, 20	A 4, 14, 18, 20
Cutting firewood		A 21	A 21	A 21	A 4, 21
Vegetation management	A 19	A 19	A 19	A 19	A 4, 19
Removal of vegetation for fire safety	A 22	A 22	A 22	A 22	A 4, 22
Removal of noxious weeds or invasive vegetation	A 23	A 23	A 23	A 23	A 4, 23
Forest Practices					
Forest management activity	A	A	A	A	A 25
Roads					
Construction of new public road right-of-way structure on unimproved right-of-way			A 26	A 26	
Construction of new road in a plat			A 26	A 26	
Maintenance of public road right-of-way structure	A 16	A 16	A 16	A 16	A 16, 27
Expansion beyond public road right-of-way structure	A	A	A 26	A 26	
Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16, 27

Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29
Maintenance of driveway, private access road, farm field access drive or parking lot	A	A	A 17	A 17	A 17, 27
Construction of a bridge or culvert as part of a driveway or private access road	A 39	A 39	A 39	A 39	A 39
Bridges or culverts					
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 27
Construction of a new bridge	A 16, 39	A 16, 39	A 16, 39	A 16, 39	A 4, 16, 39
Replacement of bridge or culvert	A 16	A 16	A 16	A 16, 30	A 16, 27
Expansion of bridge or culvert	A 16, 17	A 16, 17	A 16, 17, 31	A 17, 31	A 4
Utilities and other infrastructure					
Construction of new utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34	A 32, 34	A 27, 32, 35
Construction or maintenance of a hydroelectric generating facility	A 67	A 67	A 66	A 66	A 4, 66
Construction of a new residential utility service distribution line	A 32, 33	A 32, 33	A 32, 60	A 32, 60	A 27, 32, 60
Maintenance, repair or replacement of utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34, 36	A 32, 34, 36	A 4, 32, 37
Construction of a new on-site sewage disposal system or well	A 24	A 24	A 63	A 63	
Maintenance or repair of existing well	A 37	A 37	A 37	A 37	A 4, 37
Maintenance or repair of on-site sewage disposal system	A	A	A	A 37	A 4
Construction of new surface water conveyance system	A 32, 33	A 32, 33	A 32, 38	A 32, 38	A 4
Construction, maintenance or repair of in-water heat exchanger			A 68	A 68	
Maintenance, repair or replacement of existing surface water conveyance system	A 33	A 33	A 16, 32, 38	A 16, 40, 41	A 4, 37
Construction of new surface water flow control or surface water quality treatment facility			A 32	A 32	A 4, 32
Maintenance or repair of existing surface water flow control or surface water quality treatment facility	A 16	A 16	A 16	A 16	A 4
Construction of new flood protection facility			A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Flood risk reduction gravel removal	A 61	A 61	A 61	A 61	A 61
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing instream structure	A 16	A	A	A	A 4
Recreation					
Construction of new trail	A 46	A 46	A 47	A 47	A 4, 47
Maintenance of outdoor public park facility, trail or publicly improved recreation area	A 48	A 48	A 48	A 48	A 4, 48
Habitat, education and science projects					
Habitat restoration or enhancement project	A 49	A 49	A 49	A 49	A 4, 49
Scientific sampling for salmonids			A 50	A 50	A 50

Drilling and testing for critical areas report	A 51	A 51	A 51, 52	A 51, 52	A 4
Environmental education project	A 62	A 62	A 62	A 62	A 62
Agriculture					
Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of a commercial fish farm			A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of livestock manure storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction of a livestock heavy use area			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of a farm pad			A 56	A 56	
Construction of agricultural drainage			A 57	A 57	A 4, 57
Maintenance or replacement of agricultural drainage	A 23, 58	A 23, 58	A 23, 53, 54, 58	A 23, 53, 54, 58	A 4, 23, 53, 54, 58
Maintenance of agricultural waterway			A 69	A 69	
Construction or maintenance of farm pond, fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Other					
Shoreline water dependent or shoreline water oriented use				A 65	
Excavation of cemetery graves in established and approved cemetery	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A
Maintenance of lawn, landscaping or garden for personal consumption	A 59	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	A 17	A 17	A 17	A 4, 17

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 five thousand square feet;
- f. the alteration is no closer than:

(1) on a 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)) Public Health - Seattle & King County 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 buffers.

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:

(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:

a.(1) a severe channel migration hazard area located outside of the shorelines jurisdiction area((5));

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

(3) aquatic area buffer; and only if:

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

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

((e-)) (3) 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-)) (4) 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

l. 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)) of 8 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 local services, permitting division, 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 24. Ordinance 15051, Section 139, as amended, and K.C.C. 21A.24.055 are hereby amended to read as follows:

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

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

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

1. The existing condition of the drainage basin or marine shoreline as designated on the Basin and Shoreline Conditions Map;
2. The existing condition of wetland and aquatic area buffers;
3. The existing condition of wetland functions based on the adopted Washington State Wetland Rating System for Western Washington, Washington state ((d))Department of ((e))Ecology publication number ((04-06-025, published August 2004)) 14-06-029, published October 2014;
4. The location of the site in the drainage basin;
5. The percentage of impervious surfaces and clearing on the site; and
6. Any existing development on the site that was approved as a result of a variance or alteration exception that allowed development within a critical area or critical area buffer. If the existing development

was approved through a variance or alteration exception, the rural stewardship plan shall demonstrate that the plan will result in enhancing the functions and values of critical areas located on the site as if the development approved through the variance or alteration exception had not occurred.

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

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

1. To the maximum extent practical, to avoid impacts to critical areas and, if applicable, to the shoreline jurisdiction;
2. To avoid impacts to the higher quality wetland or aquatic area or the more protected fish or wildlife species, if there is a potential to affect more than one category of wetland or aquatic area or more than one species of native fish or wildlife;
3. To maintain or enhance the natural hydrologic systems on the site to the maximum extent practical;
4. To maintain, restore or enhance native vegetation;
5. To maintain, restore or enhance the function and value of critical areas or critical area buffers located on the site;
6. To minimize habitat fragmentation and enhance corridors between wetlands, riparian corridors, wildlife habitat conservation areas and other priority habitats;
7. To minimize the impacts of development over time by implementing best management practices and meeting performance standards during the life of the development; and
8. To monitor the effectiveness of the stewardship practices and implement additional practices through adaptive management to maintain, restore or enhance critical area functions when necessary.

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

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

2. Consider the priorities of the King County Shoreline Protection and Restoration Plan; and
3. Ensure no net loss of shoreline ecological functions.

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

1. Critical areas designation under K.C.C. 21A.24.500;
2. Identification of structures, cleared and forested areas and other significant features on the site;
3. Location of wetlands and aquatic areas and their buffers, and wildlife habitat;
4. Analysis of impacts of planned changes to any existing structures, for other changes to the site that involve clearing or grading or for new development;
5. Site-specific best management practices that mitigate impacts of development and that protect and enhance the ecological values and functions of the site;
6. A schedule for implementation of the elements of the rural stewardship plan; and
7. A plan for monitoring the effectiveness of measures approved under the rural stewardship plan and to modify if adverse impacts occur.

H. A rural stewardship plan may be developed as part of a program offered or approved by King County and shall include a site inspection by the county to verify that the plan is reasonably likely to accomplish the goals in subsection E. of this section to protect water quality, reduce flooding and erosion, maintain, restore or enhance the function and value of critical areas and their buffers and maintain or enhance native vegetation on the site of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The following mitigation measures may be used by an applicant to obtain a reduced buffer width under subsection A.1. of this section:

Disturbance	Measures to minimize impacts	Activities that may cause the disturbance
Lights	Direct lights away from wetland	Parking lots, warehouses, manufacturing, high density residential
Noise	Place activity that generates noise away from the wetland.	manufacturing, high density residential
Toxic runoff	Route all new untreated runoff away from wetland, or Covenants limiting use of pesticides within 150 ft of wetland, or Implement integrated pest management program	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces using low impact development measures identified in the King County Surface Water Design Manual	Any impermeable surface, lawns, tilling
Pets and Human disturbance	Privacy fencing or landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets	Residential areas
Dust	BMP's for dust	Tilled fields
Degraded buffer condition	Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for a three year period after completion to assure at least 80% survival of plantings	All activities potentially requiring buffers

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

1. The buffers shown on the following table apply unless modified in accordance with subsections ((

~~C. and D.)) B., C., D. and E. of this section:~~

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LA		
	HIGH IMPACT	MODERATE IMPACT	LOW IMPACT
Category I			
((Category I wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet
Natural Heritage Wetlands)) Wetlands of High Conservation Value	250 feet	190 feet	125 feet

Bog	250 feet	190 feet	125 feet
Estuarine	200 feet	150 feet	100 feet
Coastal Lagoon	200 feet	150 feet	100 feet
Forested	Buffer width to be based on score for habitat function water quality functions		
Habitat score from ((34)) 8 to ((36)) 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from ((20)) 6 to ((30)) 7 points (moderate level of function)	150 feet ((plus 4 feet for each habitat point above 20))	110 feet ((plus 4 feet for each habitat point above 20))	75 feet ((plus 7 feet for each habitat point above 20))
Category I wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
Category II			
((Category II wetlands not meeting any of the criteria below	100 feet	75 feet	50 feet))
Estuarine	150 feet	110 feet	75 feet
((Interdunal	150 feet	110 feet	75 feet))
Habitat score from ((34)) 8 to ((36)) 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from ((20)) 6 to ((30)) 7 points (moderate level of function)	150 feet ((plus 4 feet for each habitat point above 20))	110 feet ((plus 4 feet for each habitat point above 20))	75 feet ((plus 7 feet for each habitat point above 20))
Category II wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
Category III			
((Category III wetlands not meeting any of the criteria below	80 feet	60 feet	40 feet))
Habitat score from 8 to 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from ((20)) 6 to ((28)) 7 points (moderate level of function)	150 feet	110 feet	75 feet
Category III wetlands not meeting any of the criteria above	80 feet	60 feet	40 feet
Category IV	50 feet	40 feet	25 feet

2. For purposes of this subsection ((B.)) A., unless the director determines a lesser level of impact is appropriate based on information provided by the applicant, the intensity of impact of the adjacent land use is determined as follows:

a. ((h)) High impact includes:

- (1) sites zoned commercial or industrial;
- (2) commercial, institutional or industrial use on a site regardless of the zoning designation;
- (3) nonresidential use on a site zoned for residential use;
- (4) high-intensity active recreation use on a site regardless of zoning, such as golf courses, ball fields and similar use;
- (5) all sites within the Urban Growth Area; or
- (6) Residential zoning greater than one dwelling unit per acre;

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

- (1) residential uses on sites zoned ~~((rural))~~ residential one dwelling unit per acre or less;
- (2) residential use on a site zoned rural area, agriculture or forestry; ~~((or))~~
- (3) agricultural uses without an approved farm management plan;
- (4) utility corridors or right-of-way shared by several utilities, including maintenance roads; or
- (5) moderate-intensity active recreation or open space use, such as paved trails, parks with biking,

jogging and similar use; and

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

- (1) forestry use on a site regardless of zoning designation;
- (2) passive recreation uses, such as unpaved trails, nature viewing areas, fishing and camping areas,

and other similar uses that do not require permanent structures, on a site regardless of zoning; ~~((or))~~

(3) agricultural uses carried out in accordance with an approved farm management plan and in
accordance with K.C.C. 21A.24.045.D.53. and K.C.C. 21A.24.045.D.54.; or

- (4) utility corridors without a maintenance road and little or no vegetation maintenance.

~~((C-))~~ B. The department may approve a modification of the minimum buffer width required by this section by averaging the buffer width if:

1. The department determines that:

a. the ~~((ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging))~~ buffer averaging will improve wetland protection if the wetland has significant differences in characteristics that affect habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area; or

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

2. The resulting buffer meets the following standards:

- a. the total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;
 - b. the additional buffer is contiguous with the standard buffer; ~~((and))~~
 - c. ~~((if the buffer width averaging allows a structure or landscaped area to intrude into the area that was buffer area before averaging, the resulting landscaped area shall extend no more than fifteen feet from the edge of the structure's footprint toward the reduced buffer))~~ the buffer at its narrowest point is never less than either seventy-five percent of the required width or seventy-five feet for Category I and II, fifty feet for Category III, and twenty-five feet for Category IV, whichever is greater;
 - d. the averaged buffer will not result in degradation of wetland functions and values as demonstrated by a critical areas report from a qualified wetland professional; and
 - e. the buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
- ~~((D-))~~ C. Wetland buffer widths shall also be subject to modifications under the following special circumstances:
1. For wetlands containing documented habitat for endangered, threatened or species of local importance, the following shall apply:
 - a. the department shall establish the appropriate buffer, based on a habitat assessment, to ensure that the buffer provides adequate protection for the sensitive species; and
 - b. the department may apply the buffer ~~((increase rules in subsection A.2. of this section, the buffer))~~ reduction rules in subsection ~~((A.3-))~~ C.6. of this section and the buffer averaging rules in subsection ~~((C-))~~ B. of this section;
 2. For a wetland buffer that includes a steep slope hazard area or landslide hazard area, the buffer width is the greater of the buffer width required by the wetland's category in this section or the top of the hazard

area; ~~((and))~~

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

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

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

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

(2) the corridor minimizes fragmentation of the wetlands;

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

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

(5) shorter corridors are preferred over longer corridors;

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

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

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

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

- a. does not provide additional protection of the proposed development or the wetland; and
- b. provides insignificant biological, geological or hydrological buffer functions relating to the other portion of the buffer adjacent to the wetland; ~~((and))~~

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

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

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

(1) A relatively undisturbed vegetated corridor at least one-hundred feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington state Department of Fish and Wildlife in the priority habitat and species list. The corridor must be protected for the entire distance between the wetland and the priority habitat and legally recorded via a conservation easement; and

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

b. For wetlands that score low for habitat, which means less than six points, the buffer width can be

reduced to that required for moderate intensity impacts by applying measures to minimize impacts of the proposed land uses, as follows:

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

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

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

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

In addition to the requirements in K.C.C. 21A.24.125 and 21A.24.130, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to a wetland or wetland buffer:

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

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

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

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

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

C. The following ratios of area of mitigation to area of alteration apply to mitigation measures for temporary alterations where wetlands will not be impacted by permanent fill material:

Wetland category	Permanent conversion of forested and shrub wetlands in wetlands			Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated shrub communities		
	Enhancement	Rehabilitation	Creation or restoration	Enhancement	Rehabilitation	Creation or restoration
Category I	6:1	4.5:1	3:1	3:1	2:1	1.5:1
Category II	3:1	2:1	1.5:1	1.5:1	1:1	.75:1
Category III	2:1	1.5:1	1:1	1:1	.75:1	.5:1
Category IV	1.5:1	1:1	.75:1	Not applicable	Not applicable	Not applicable

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

1. The department determines there is uncertainty as to the probable success of the proposed restoration or creation;
2. A significant period of time will elapse between the impact caused by the development proposal and

the establishment of wetland functions at the mitigation site;

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 28. Ordinance 15051, Section 192, as amended, and K.C.C. 21A.24.355 are hereby amended to read as follows:

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

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

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

3. Type N waters include all segments of aquatic areas that are not type S or F waters and that are physically connected to type S or F waters by an above-ground channel system, stream or wetland; and

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

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

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

1. The human-made barrier is located beneath public infrastructure that is unlikely to be replaced and it is not feasible to remove the barrier without removing the public infrastructure;
2. The human-made barrier is in the Urban Growth Area established by the King County Comprehensive Plan and is located beneath one or more dwelling units and it is not feasible to remove the barrier without removing the dwelling unit;
3. The human-made barrier is located in a subbasin that is not designated "high" on the Basin and Shoreline Conditions Map which is included as Attachment A to Ordinance 15051; or
4. The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan.

SECTION 29. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C. 21A.25.020 are hereby amended to read as follows:

The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-26 and 173-27 WAC apply within the shoreline jurisdiction. The definitions in chapter 90.58 RCW and chapters 173-26 and 173-27 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))~~ 173-27 WAC; 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 30. Ordinance 3688, Section 303, as amended, and K.C.C. 21A.25.050 are hereby amended to read as follows:

A. The requirements of the shoreline master program apply to all uses and development occurring within the shoreline jurisdiction. 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;~~

~~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;~~

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

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 ((S))shoreline ((M))master ((P))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. The county shall update the shoreline master program to reflect the new designation within three years of the discovery of the discrepancy.

SECTION 31. Ordinance 16985, Section 31, as amended, and K.C.C. 21A.25.100 are hereby amended

to read as follows:

A. The shoreline use table in this section determines whether a specific use 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 uses are grouped by the shoreline use categories in WAC 173-26-241. The specific uses are defined by those uses in K.C.C. chapter 21A.08. 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 use 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 use 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 use 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 use may be allowed subject to the appropriate review process in this section, the general requirements of this chapter and the specific development conditions indicated with the corresponding number in subsection C. of this section. If more than one number appears after a letter, all numbers apply.
5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed in accordance with each letter-number combination.
6. A shoreline use may be allowed in the aquatic environment only if that shoreline use is allowed in the adjacent shoreland environment.
7. This section does not authorize a land use that is not allowed by the underlying zoning, but may add additional restrictions or conditions or prohibit specific land uses within the shoreline jurisdiction. When there is a conflict between the permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,

preference for shoreline uses shall first be given to water-dependent uses, then to water related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction must comply with all relevant county code provisions and with the King County ((S))shoreline ((M))master ((P))program.

B. Shoreline uses

((KEY P- Permitted Use. C- Shoreline Conditional Use. Blank - Prohibited. Shoreline uses are allowed only if the underlying zoning allows the use. Shoreline uses are allowed in the aquatic environment only if the adjacent upland environment allows the use)) P - Permitted Use C - Shoreline Conditional Use Blank - Prohibited. Shoreline uses are allowed only if the underlying zoning allows the use. Shoreline uses are allowed in the aquatic environment only if the adjacent upland environment allows the use.	((HIGH INTENSITY)) High Intensity	((RESIDENTIAL)) Residential	((RURAL)) Rural	((CONSERVANCY)) Conservancy	((RESOURCE)) Resource	((FORESTRY)) Forestry	((NATURAL)) Natural	((AQUATIC)) Aquatic
Agriculture								
Agriculture (K.C.C. 21A.08.090)		P	P	P	P	P	P1	
Aquaculture (fish and wildlife management K.C.C. 21A.08.090)								
((Aquaculture (fish and wildlife management, K.C.C. 21A.08.090)	P2	P2	P2	P2	P2	P2	P2	P2))
Nonnative marine finfish aquaculture								
Commercial salmon net pens	((C2	C2	C2	C2	C2	C2		C2))
Noncommercial native salmon net pens	P2	P2	P2	P2	P2	P2	P2	P2
Native non-salmonid finfish net pens		C2	C2	C2				C2
Geoduck aquaculture	C2	C2	C2	C2	C2	C2	C2	C2
Aquaculture, not otherwise listed	P2	P2	P2	P2	P2	P2	P2	P2
Boating Facilities								
Marinas (K.C.C. 21A.08.040)	C3	C3	C3					C3
Commercial Development								
General services (K.C.C. 21A.08.050)	P4	P5	P5					
Business services, except SIC Industry No. 1611, automotive parking and off-street required parking lot (K.C.C. 21A.08.060)	P6							
Retail (K.C.C. 21A.08.070)	P7	P8						
Government Services								

Government services except commuter parking lot, utility facility and private stormwater management facility (K.C.C. 21A.08.060)	P9	P9	P9	P9	P9	P9	P9	C10
Forest Practices								
Forestry (K.C.C. 21A.08.090)		P11	P11	P11	P11	P11	C11	
Industry								
Manufacturing (K.C.C. 21A.08.080)	P12							
In-stream structural uses								
Hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)	C13	C13	C13			C13		C13
In-stream utility facilities (K.C.C. 21A.08.060)	P14	P14	P14	P14	P14	P14	P14	C14
In-stream transportation portion of SIC 1611 highway and street construction (K.C.C. 21A.08.060)								C15
In-stream fish and wildlife management, except aquaculture (K.C.C. 21A.08.090)								C16
Mining								
Mineral uses (K.C.C. 21A.08.090)					C17	C17		C17
Recreational Development								
Recreational/cultural except for marinas and docks and piers (K.C.C. 21A.08.040)	P18	P19	P19	P20		P19	P21	C
Residential Development								
Single detached dwelling units (K.C.C. 21A.08.030)		P	P	P	P	C22	C22	
Townhouse, apartment, mobile home park, cottage housing (K.C.C. 21A.08.030)	P23	P			P			
Group residences (K.C.C. 21A.08.030)	P23	P						
Accessory uses (K.C.C. 21A.08.030)	P24	P24	P24	P24	P24	C22 and 24	C22 and 24	
Temporary lodging (K.C.C. 21A.08.030)	P23	P27	P27	C27	C27			
Live-aboards	P28	P28	P28					P28
Transportation and parking								
Transportation facilities	P29	P29	P29	C29	P29	P29	C29	C29
Commuter parking lot (K.C.C. 21A.08.060)								
Automotive parking (K.C.C. 21A.08.060)								
Off-street required parking lot (K.C.C. 21A.08.060)								
Utilities								
Utility facility (K.C.C. 21A.08.060)	P26	P26	P26	P26	P26	P26	P26	C26
Regional land uses								

Regional uses except hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)	P30							
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C. Development conditions:

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

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

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

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

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

e. In the natural shoreline environment and aquatic areas adjacent to the natural shoreline environment, commercial net pens are prohibited and other aquaculture activities are limited to ((aquaculture)) activities that do not require structures, facilities or mechanized harvest practices and that will not alter the natural systems, features or character of the site ((or alter natural systems or features)).

f. Farm-raised geoduck aquaculture requires a shoreline substantial development permit if a specific

project or practice causes substantial interference with normal public use of the surface waters.

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

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

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

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

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

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

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

- (1) economic development for water-dependent uses;
- (2) public access;
- (3) water-oriented recreation;
- (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife habitat; and
- (5) protection and restoration of historic properties.

6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed. Water-related business services uses are only allowed as part of a shoreline mixed-use development and only if they support a water-dependent use. The water-related business services uses must comprise less than one-half of the square footage

of the structures or the portion of the site within the shoreline jurisdiction.

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

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

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

- (1) economic development for water-dependent uses;
- (2) public access;
- (3) water-oriented recreation;
- (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife habitat; and
- (5) protection and restoration of historic properties.

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

- a. economic development for water-dependent uses;
- b. public access;
- c. water-oriented recreation;
- d. conservation of critical areas, scenic vistas, aesthetics or fish and wildlife habitat; and
- e. protection and restoration of historic properties.

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

b. Non-water-dependent government services in K.C.C. 21A.08.060 are only allowed as part of a shoreline mixed-use development if the non-water-dependent government use supports a water-dependent use.

Non-water-dependent uses must comprise less than one-half of the square footage of the structures or the portion of the site within the shoreline jurisdiction. Only low-intensity water-dependent government services are allowed in the Natural environment.

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

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

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

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

d. Cable crossings for telecommunications and power lines shall:

- (1) be routed around or drilled below aquatic critical habitat or species;
- (2) be installed in sites free of vegetation, as determined by physical or video seabed survey;
- (3) be buried, preferably using directional drilling, from the uplands to waterward of the deepest documented occurrence of native aquatic vegetation; and
- (4) use the best available technology;

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

addition:

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

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

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

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

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

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

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

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

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

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

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

c. shall be located, designed and constructed in a manner that ensures that there are no significant

adverse impacts to other shoreline resources and values.

- d. restoration is required for all new manufacturing uses;
- e. boat repair facilities are not permitted within the Maury Island Aquatic Reserve, except as follows:
 - (1) engine repair or maintenance conducted within the engine space without vessel haul-out;
 - (2) topside cleaning, detailing and bright work;
 - (3) electronics servicing and maintenance;
 - (4) marine sanitation device servicing and maintenance that does not require haul-out;
 - (5) vessel rigging; and
 - (6) minor repairs or modifications to the vessel's superstructure and hull above the waterline that do

not exceed twenty-five percent of the vessel's surface area above the waterline.

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

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

- a. there is no feasible alternate location;
- b. provision is made to protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas; and
- c. the use complies with the standards in K.C.C. 21A.25.260.

15. Limited to in-stream infrastructure, such as bridges, and must consider the priorities of the King County Shoreline Protection and Restoration Plan when designing in-stream transportation facilities. In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions,

and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

16. Limited to hatchery and fish preserves.

17. Mineral uses:

a. must meet the standards in K.C.C. chapter 21A.22;

b. must be dependent upon a shoreline location;

c. must avoid and mitigate adverse impacts to the shoreline environment during the course of mining and reclamation to achieve no net loss of shoreline ecological function. In determining whether there will be no net loss of shoreline ecological function, the evaluation may be based on the final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species;

d. must provide for reclamation of disturbed shoreline areas to achieve appropriate ecological functions consistent with the setting;

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

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

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

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

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

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

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

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

- a. parks; and
- b. trails.

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

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

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

24. Residential accessory uses must meet the following standards:

- a. docks, piers, moorage, buoys, floats or launching facilities must meet the standards in K.C.C. 21A.25.180;
- b. residential accessory structures located within the aquatic area buffer shall be limited to a total footprint of one-hundred fifty square feet; and
- c. accessory structures shall be sited to preserve visual access to the shoreline to the maximum extent practical.

25. New highway and street construction is allowed only if there is no feasible alternate location.

Only low-intensity transportation infrastructure is allowed in the Natural environment.

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

27. Only bed and breakfast guesthouses.

28. Only in a marina.

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

30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260. SECTION 32. Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110 are hereby amended to read as follows:

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

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

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

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

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

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

F. Aquaculture facilities shall be designed, located and managed to prevent the spread of diseases to

native aquatic life or the spread of new nonnative species.

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

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

1. ~~((subsistence))~~ Native salmon net pens operated by tribes with treaty fishing rights;
2. ~~((£))~~ For the limited penned cultivation of wild salmon stocks during a limited portion of their lifecycle to enhance restoration of native stocks; or
3. ~~((implemented as mitigation for a development activity))~~ For rearing to adulthood in order to harvest eggs as part of a captive brood stock recovery program for endangered species.

I. If uncertainty exists regarding potential impacts of a proposed aquaculture activity and for all experimental aquaculture activities, unless otherwise provided for, the department may require baseline and periodic operational monitoring by a county-approved consultant, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

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

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

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

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

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

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

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

located landward of the ordinary high water mark.

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

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

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

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

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

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

4. Aquaculture proposals that include new or added net pens or rafts shall not be located closer than one nautical mile to any other aquaculture facility that includes net pens or rafts. The department may authorize a lesser distance if the applicant demonstrates to the satisfaction of the department that the proposal will be consistent with the environmental and aesthetic policies and objectives of this chapter and the ~~((S))~~s horeline ~~((M))~~master ~~((P))~~program. The applicant shall demonstrate to the satisfaction of the department that the cumulative impacts of existing and proposed operations would not be contrary to the policies and regulations of the program;

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

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

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

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

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

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

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

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

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

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

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

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

3. The department's review shall:

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

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

4. ((~~Commercial salmon~~)) Finfish net pens shall be designed, constructed and maintained to prevent escapement of fish in all foreseeable circumstances, including, but not limited to, tide, wind and wave events of

record, floating and submerged debris, and tidal action;

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

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

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

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

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

SECTION 33. Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160 are 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~~((-))~~; and

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 ~~((S))~~shoreline ~~((M))~~master ~~((P))~~program.

B. Shoreline modifications.

	High Intensity	Residential	Rural	Conservancy	Resource	Forestry	Natural	Aquatic
Shoreline stabilization								
Shoreline stabilization, not including flood protection facilities	P1	P1	P1	C1	P1	C1		P1 C1
Flood protection facilities	P2	P2	P2	P2	P2		P2	P2
Piers and docks								
Docks, piers, moorage, buoys, floats or launching facilities	P3	P3	P3	C3	C3	C3		P3 C3
Fill								
Filling	P4 C4	P4 C4	P4 C4	P4 C4	P4 C4	C4	C4	P4 C4

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

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

(4) ~~((F))~~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.a. 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.

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

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 34. Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290 are 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 and 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, WAC 173-27-044 or WAC 173-27-045. 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. The proposed use or modification will occur waterward of the ordinary high water mark, ((E))e
xcept 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 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. ((F))the programmatic statement of exemption or activities authorized under the statement of exemption no longer comply with law;
- b. ((F))the programmatic statement of exemption does not provide adequate regulation of the activity;
- c. ((F))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))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 state Department of Fish and Wildlife pursuant to chapter 77.55 RCW;
2. 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 local services, permitting division, and the department of natural resources and parks, and as reviewed by the Washington state 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;
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 35. Ordinance 3688, Section 805, as amended, and K.C.C. 21A.44.100 are 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.25.100 and 21A.25.160 as shoreline conditional uses only if the applicant demonstrates that the review criteria of WAC 173-27-160 have been met.

B. A shoreline conditional use may be granted by the department for uses not ~~((identified))~~ classified as conditional uses in K.C.C. 21A.25.100 and 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 that proof shall be grounds for denial of the application.

SECTION 36. Ordinance 18767, Section 11, is hereby repealed.

SECTION 37. The executive shall submit sections 5 and 23 through 36 of this ordinance to the state Department of Ecology for its approval, as provided in RCW 90.58.090.

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

SECTION 39. **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.