



## Legislation Text

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AN ORDINANCE declaring an six-month moratorium under RCW 90.58.590 on the establishment of commercial nonnative salmon net pen aquaculture facilities; directing the executive to develop a detailed work plan for remedying the issues and circumstances necessitating the moratorium; and declaring an emergency.

### SECTION 1. Findings:

A. King County's native salmon runs are among the Puget Sound region's most precious and irreplaceable natural resources.

B. The Shoreline Management Act of 1971, chapter 90.58 RCW, requires King County to review its Shoreline Master Program every eight years. The act requires King County to complete its next review and make any necessary revisions to its Shoreline Master Program on or before June 30, 2019.

C. The purpose of the review under the Shoreline Management Act is: to assure that the county's Shoreline Master Program complies with applicable law and guidelines in effect at the time of the review; and to assure consistency of the Shoreline Master Program with the King County Comprehensive Plan, county development regulations, and other local requirements.

D. Reviewing and making necessary revisions to the county's Shoreline Master Program is an extensive process, and the Washington state Department of Ecology offers counties seventy-five thousand dollars in grant funding to help cover the costs.

E. In a letter dated August 30, 2017, the Washington state Department of Ecology recommended steps for King County to begin preparing for the periodic review. The letter also encouraged King

County to combine any amendments to the Shoreline Master Program with the periodic review in order to address shoreline issues more efficiently.

F. A single Shoreline Master Plan amendment process also provides interested parties with more clarity on the scope of proposed changes and allows parties to comprehensively review proposed changes in the context of other proposed amendments.

G. King County is commencing the process of reviewing its Shoreline Master Program as required by the Shoreline Management Act.

H. Aquaculture is an historic, water-dependent use of Washington's shorelines. Aquaculture is the farming of fish, shellfish or other aquatic plants and animals, and has been part of the culture of the Pacific Northwest for thousands of years. Aquaculture also plays an important role in food production the Pacific Northwest.

I. 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 Atlantic salmon raised for market; and enhancement pens raising native salmon for release into the wild and eventual tribal, recreational, and commercial catch. Atlantic salmon is a nonnative salmon species in Washington.

J. Tribes have treaty rights covering native salmon species.

K. Commercial net pen aquaculture for raising nonnative species poses potential risks to native salmon and the region's work to restore native salmon runs in Puget Sound. Both the Washington state Department of Ecology and King County have a policy and regulatory role in net pen aquaculture to manage this shoreline use and ensure that commercial net pens for nonnative species do not put Pacific salmon recovery at risk.

L. Many native salmon species have become extinct or are in danger of extinction. 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 millions of dollars over many years to help restore native salmon species.

M. The policy, regulatory and scientific landscape for aquaculture continues to evolve with new scientific discoveries, advances in engineering and technology and competing shoreline uses.

N. Vashon and Maury Islands are unique in that they comprise all of the marine shoreline in unincorporated King County.

O. K.C.C. 21A.25.110 governs aquaculture in King County, including commercial net pen aquaculture.

P. In August 2017, a commercial net pen at Cooke Aquaculture's Cypress Island fish farm failed and released thousands of farmed Atlantic salmon into the Salish Sea between Anacortes and the San Juan islands. About one hundred thousand of the Atlantic salmon escaped and infiltrated waters all over Puget Sound and beyond. The failure has been called one of the worst fish farm disasters in state history.

Q. The escape of nonnative species may threaten native species, because nonnative species may act as predators, compete for food, or spread disease and parasites.

R. Strong currents may have contributed to the Cypress Island incident, but there are many unknowns, and numerous investigations and inspections are ongoing.

S. Following the Cypress Island fish farm failure, Cooke Aquaculture announced plans to transfer as many as one million Atlantic salmon smolts to a facility across from Bainbridge Island.

T. In light of the unknowns surrounding the Cypress Island failure, the fragile state of native salmon runs in King County and Puget Sound and the evolving policy, technology and scientific landscape related to commercial net pen aquaculture, King County must review aquaculture provisions in K.C. C. chapter 21A.25 as part of the periodic review of the Shoreline Master Program.

U. A review of K.C. C. chapter 21A.25 is essential to address any findings from the Cypress

Island investigation, scientific and technological and other developments since the last update, to consider current best practices for commercial net pen aquaculture facilities and operations and competing uses for King County's limited marine shorelines and to coordinate with the Washington state Department of Ecology, which administers the Shoreline Management Act and must approve amendments and updates to the county's Shoreline Master Program and implementing regulations.

V. Incorporating the information from the review, the process should also identify any appropriate amendments to ensure the protection of tribal treaty rights and King County's investment in native salmon recovery, balancing the needs of competing land uses for King County's limited shorelines, particularly those involving nonnative species.

W. The siting of any new commercial nonnative salmon net pen aquaculture operation along King County's limited marine shorelines before the review could threaten years of work and millions of dollars in investments to protect Puget Sound's native salmon species.

X. RCW 90.58.590 authorizes King County to adopt a moratorium to implement the Shoreline Management Act.

Y. It is necessary that this ordinance go into effect immediately in order to avoid the establishment of commercial nonnative net pen aquaculture facilities along King County's limited marine shoreline in the interval before executive signature.

SECTION 2. A. A six-month moratorium commencing upon the effective date of this ordinance is hereby declared on the establishment of commercial salmon net pen aquaculture facilities that contain salmon species not indigenous to Puget Sound or the introduction of any salmon species not indigenous to Puget Sound in any existing facility. All lawfully existing uses (including indigenous salmon net pens), structures or other development as of the effective date of this ordinance shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at

the time of the moratorium.

B. For the purposes of this section, "expansion" includes, but is not limited to, the introduction of any salmon species not native to Puget Sound in any existing facility. This ordinance does not preclude the expansion of net pen facilities with salmon species indigenous to Puget Sound.

SECTION 3. The King County council shall hold a hearing on the moratorium on January 8, 2018.

SECTION 4. The King County department of permitting and environmental review shall immediately notify the Washington state Department of Ecology of the moratorium adopted by this ordinance along with the time, place and date of the public hearing, consistent with RCW 90.58.590. The department of permitting and environmental review shall develop, in coordination with the department of natural resources and parks, a detailed work plan for remedying the issues and circumstances necessitating the moratorium. The work plan shall be completed within sixty days of the effective date of this ordinance and shall be transmitted to the council and made available for public review. A paper copy and an electronic copy of the proposed work plan shall be filed with the clerk of the council, who shall retain the paper copy and forward electronic copies to all councilmembers.

SECTION 5. The King County council finds as a fact and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.