



## Legislation Text

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Clerk 11/29/2018

AN ORDINANCE creating the Poverty Bay shellfish protection district;  
establishing the district's boundaries; establishing a shellfish protection program;  
and adding a new chapter to K.C.C. Title 2.

### STATEMENT OF FACTS:

1. The Washington state Department of Health regulates commercial shellfish beds consistent with the National Shellfish Sanitation Program.
2. The Washington state Department of Health collects a minimum of six water quality samples per year at defined nearshore marine water quality monitoring stations. The monitoring stations are labeled in Attachment A to this ordinance. The National Shellfish Sanitation Program standard for approved shellfish harvesting is a fecal coliform geometric mean not greater than fourteen organisms per one hundred milliliters with an estimated ninetieth percentile not greater than forty-three organisms per one hundred milliliters.
3. Due to the failure to meet the National Shellfish Sanitation Program standard at the Washington state Department of Health marine water quality monitoring stations at the mouth of Cold creek and at the mouth of Woodmont creek, on September 14, 2016, the Washington state Department of Health officially downgraded from approved to conditionally approved status the classification of 124.4 acres of commercial shellfish harvesting area in Poverty bay, which is located on Puget Sound in King County.
4. Due to the downgrade, RCW 90.72.045 requires the King County council to create a shellfish

protection district and establish a shellfish protection program to address the causes or suspected causes of pollution contributing to the water quality degradation that led to the downgrade.

Additionally, RCW 90.72.045 requires the council to initiate implementation of the shellfish protection program within sixty days after it is established.

5. The Washington state Department of Health determined that the degradation of Poverty bay water quality is primarily due to sources of fecal coliform.

6. Sources of fecal coliform including, but not limited to, stormwater conveying pet waste and agricultural runoff, and failing on-site sewage systems threaten public health and safety when shellfish harvested from Poverty bay is consumed.

7. King County convened a technical committee consisting of representatives of the cities of Des Moines, Federal Way, Kent and SeaTac, the Washington state Department of Health, Department of Ecology, Department of Natural Resources, Department of Transportation and Parks and Recreation Commission, Public Health - Seattle & King County, the Lakehaven and Midway sewer districts, the University of Washington and the Puyallup Tribe. The technical committee held several meetings in 2015, 2016 and 2017 to discuss the boundaries of the district, elements of the shellfish protection program and administration of the district. It reviewed five options based on monitoring data and watershed boundaries, and recommended the boundaries in Attachment A to this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 7 of this ordinance should constitute a new chapter in K.C.C. Title 2.

NEW SECTION. SECTION 2. The Poverty Bay shellfish protection district is hereby created in accordance with RCW 90.72.030 and RCW 90.72.045. The council shall constitute the governing body of the district and shall adopt a shellfish protection program with elements and activities to be effective within the district.

NEW SECTION. SECTION 3. The legal boundaries of the Poverty Bay shellfish protection district are in Attachment A to this ordinance.

NEW SECTION. SECTION 4. The purpose of the Poverty Bay shellfish protection district is to implement a shellfish protection program to address the causes or suspected causes of pollution resulting in water quality degradation that led to the Washington state Department of Health downgrade of the classification of the commercial shellfish harvesting area of Poverty bay. The Poverty Bay Shellfish Protection District Closure Response Plan, Attachment B to this ordinance, is hereby adopted as the shellfish protection program.

NEW SECTION. SECTION 5. The King County department of natural resources and parks shall be the lead agency for implementation of the Shellfish Protection District Closure Response Plan. The department shall coordinate with state agencies and affected cities, tribes, utility districts that have regulatory authority for any of the sources of nonpoint pollution covered by the Plan. and other appropriate entities with regulatory authority or activities within the boundary to implement the Poverty Bay Shellfish Protection District Closure Response Plan.

NEW SECTION. SECTION 6. Within one year of the effective date of this ordinance, and every year thereafter, the executive shall transmit a report about implementation of this chapter to the council. The report shall be prepared in cooperation with the entities listed in section 5 of this ordinance. It shall include a description of the status and progress of the shellfish protection program, a review of the legal boundaries of the district and, if applicable, a recommended adjustment to the legal boundaries. The report shall be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff to the planning, rural service and environment committee or its successor. The clerk of the council shall submit the report to the Washington state Department of Health once the council acknowledges receipt of the report.

NEW SECTION. SECTION 7. When the Washington state Department of Health has reclassified the affected commercial shellfish harvesting area of Poverty Bay to approved status, the department of natural

resources and parks shall prepare and transmit to the council a

proposed ordinance dissolving the Poverty Bay shellfish protection district and repealing this chapter.