

Summary of Proposed Ordinance relating to King County Shoreline Master Program 2019 Periodic Update

This summary fulfills Washington State Growth Management Act and King County Code (K.C.C.) 20.18.100 requirements for a “plain language summary.”

King County is performing a periodic review of its Shoreline Master Program (SMP), as required by the Washington State Shoreline Management Act. This Proposed Ordinance reflects proposed changes resulting from that review. The proposed changes include 1) updates to the code to be consistent with changes in state law, and 2) changes in regulations for net pens. The following is a summary of the changes in the Proposed Ordinance.

Ordinance Section	King County Code Section	Current Code	Proposed Change	Comment
1	n/a	n/a	Reflects adoption of 2019 amendments to the SMP	The State encourages adoption of such language.
2	K.C.C. 20.20.100	Requires the Department of Permitting and Environmental Review (Department) to issue its Type 3 or Type 4 permitting decisions within 150 days Exempts certain permitting decisions from normal permit review deadlines	Requires the Department of Permitting and Environmental Review to issue its Type 3 or Type 4 permitting decisions within 150 days Adds a new exemption from normal permit review deadlines; the new exemption directs that that the Department should make final determinations on certain WSDOT projects within 90 days	There is no change in the code language for Type 3 or Type 4 permitting decisions. The grey highlighted language for “Type 3 and Type 4” decisions was added to the code in Ordinance 18230 but not underlined as required by KCC 1.24.075. It is being re-added now in correct legislative format, consistent with previous legislative intent, to address this issue. The legislature adopted this 90-day target for local review of certain WSDOT permits (RCW 47.01.584 and WAC 173-27-125). Adding it to the code is not required – but it is encouraged by the state SMP checklist to help

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				ensure that SMPs are implemented consistent with the state statute. The language here generally mirrors the RCW that encourages this 90-day target.
3	21A.06.072B	Defines the term “aquaculture” to include the culture or farming of, among other things, fin fish and geoducks	Changes “fin fish” to “finfish” States that “aquaculture” does not include the harvest of wild geoduck associated with state managed wildstock geoduck fishery	Technical correction Required by state SMP checklist (WAC 173-26-020(2) and WAC 173-26-241(3)(b))
4	21A.06.072C	Defines the term “aquatic areas” as, among other things, nonwetland water features that include conveyance systems such as a ditch	Aquatic areas that include “conveyance systems” is changed to include both wetland and nonwetland water features, and only applies to above-ground systems	Definition is updated to include contributing water that might come from either aquatic areas listed in Subsection A.1 (nonwetland water) and/or wetlands. This change is proposed to address the need to appropriately regulate situations where a wetland overflows into an excavated ditch and to another area. The addition of “above-ground systems” is intended to exclude drain tiles from the “aquatic areas” definition.
5	21A.06.1391	Requires wetlands to be delineated using the wetland delineation manual required by RCW 36.70A.175	Requires wetlands to be delineated using the wetland delineation manual required by WAC 173-22-035	Required by state SMP checklist, which requires use of the approved federal wetland delineation manual and applicable regional supplements per WAC 173-22-035. This state change replaces the WAC re: the state delineation manual, which has since been repealed; as a result, the

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6	21A.25.020	<p>States that the definitions for the County’s shoreline jurisdiction are found in K.C.C. 21A.06, RCW 90.58 RCW and WAC 173-26; and that if there is a conflict with K.C.C. 21A.06, the definitions in RCW 90.58 RCW and WAC 173-26 apply</p> <p>Defines the term “development” as defined in RCW Chapter 90.58</p>	<p>Adds WAC 173-27 to the definitions that apply to the County’s shoreline jurisdiction</p> <p>Updates the definition of “development” to be as defined in WAC 173-27</p>	<p>current RCW reference no longer applies here.</p> <p>Technical correction to reflect that the County currently uses definitions in both WAC 173-26 and 173-27.</p> <p>Required by state SMP checklist to reflect new definition for development. The state definition for “development” now excludes dismantling or removing structures if there is no other associated development or re-development.</p>
7	21A.25.050	<ul style="list-style-type: none"> Adopts criteria for what King County’s shoreline jurisdiction consists of. States that a list of lakes, rivers, and streams constituting the shoreline jurisdiction is adopted in Attachment K to Ordinance 17485, and a map of the shoreline jurisdiction is adopted in Chapter 6 of the King County Comprehensive Plan. States that if there is a discrepancy between the map and the criteria, the criteria shall overrule 	<p>Adds a requirement that, if a discrepancy between the map and the criteria is discovered, the SMP will be updated within three years of the discovery</p>	<p>Required by the state SMP checklist (WAC 173-18-046 and 173-20-046) to ensure that the adopted list and map of shoreline jurisdiction stays current and consistent with the criteria.</p>
8	21A.25.100	<p>K.C.C. 21A.25.100.B is the table of permitted shoreline uses, which currently allows “aquaculture” as a permitted use subject to development condition #2</p> <p>K.C.C. 21A.25.100.C is the list of development conditions for the uses in the table, which currently includes development condition #2, which includes various conditions for various aquaculture uses</p>	<p>Changes the use table to reflect different types of aquaculture uses (all subject to development condition #2):</p> <ul style="list-style-type: none"> Creates a new prohibition of non-native marine finfish aquaculture Allows commercial native salmon net pens as a shoreline conditional use Allows noncommercial native salmon net pens as a permitted use Allows geoduck aquaculture as a shoreline conditional use Allows other aquaculture as a permitted use <p>Development condition #2 is amended to reflect that some farm-raised geoduck aquaculture requires a shoreline substantial development permit and that a</p>	<p>For the changes in the table:</p> <ul style="list-style-type: none"> Prohibits non-native marine finfish aquaculture (such as Atlantic salmon net pens), consistent with recent state change and to reflect the changes in Section 9 of this Proposed Ordinance. Technical clarification to reflect existing intent for

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			conditional use permit is required for new commercial geoduck aquaculture.	commercial native salmon net pens. <ul style="list-style-type: none"> • Technical clarification to reflect existing allowance for noncommercial salmon net pens, which is already allowed per 21A.25.110.H (which includes tribal rights). It is being added here for clarity and consistency now that we're prohibiting some finfish aquaculture in Section 9 of this Proposed Ordinance. • Geoduck aquaculture is required by state SMP checklist (WAC 173-26-241(3)(b)) to be a conditional use (it was previously addressed via the "aquaculture" use as a permitted use). • The existing "aquaculture" use in the table is clarified to be "other aquaculture" to reflect the addition of the specific aquaculture uses listed above. <p>The development condition changes are required by state SMP checklist (WAC 173-26-</p>

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9	21A.25.110	<p>Requires aquaculture that involves substantial substrate modification to result in an increase in habitat diversity</p> <p>Certain noncommercial salmon net pen facilities are allowed to be located in King County marine waters</p> <p>Fish net pens are prohibited in inner Quartermaster Harbor</p> <p>Commercial salmon net pens are allowed, subject to certain conditions</p>	<p>Adds "native" to "habitat diversity"</p> <p>Noncommercial salmon net pens are only allowed for "native" salmon, and states that the noncommercial net pens must be consistent with subsection S of this code section (which includes certain prohibitions on and standards for fish net pens)</p> <p>Fish net pens are prohibited in all of Quartermaster Harbor, and the geography of Quartermaster Harbor is defined</p> <p>Commercial salmon net pens are only allowed for "native" salmon, and states that the commercial net pens must be consistent with subsection S of this code section (which includes certain prohibitions on and standards for fish net pens)</p> <p>Adds a new prohibition on all non-native marine finfish aquaculture</p> <p>Adds a new requirement that geoduck aquaculture be consistent with WAC 173-26-241(3)(b)</p>	<p>241(3)(b)) re: recent changes in geoduck aquaculture regulations.</p> <p>Technical correction to reflect existing intent.</p> <p>Noncommercial salmon net pens include (currently and as proposed) subsistence salmon net pens operated by tribes with treaty fishing rights. These proposed changes reflects:</p> <ul style="list-style-type: none"> • That this allowance is now only for <i>native</i> salmon, consistent with the recent state changes re: non-native marine finfish aquaculture. • A technical clarification that all net pens (including noncommercial native salmon net pens) are currently prohibited in <i>inner</i> Quartermaster Harbor per subsection S (which is now also proposed to be prohibited in <i>all of</i> Quartermaster Harbor, per below). <p>Expands existing prohibition on all fish net pens (native and non-native, commercial and non-commercial) from <i>inner</i> Quartermaster Harbor to <i>all of</i></p>

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				<p>Quartermaster Harbor; and defines the geography of Quartermaster Harbor, for clarity on where the prohibition applies. This proposed change goes beyond the recent state changes re: non-native marine finfish aquaculture, as King County desires to ensure additional ecological protections throughout Quartermaster Harbor. This change is consistent with and advances the Executive's Clean Water and Healthy Habitat Agenda.</p> <p>These proposed changes for commercial salmon net pens reflects:</p> <ul style="list-style-type: none"> • That this allowance is now only for <i>native</i> salmon, consistent with the recent state changes re: non-native marine finfish aquaculture. • A technical clarification that all net pens (including commercial native salmon net pens) are currently prohibited in <i>inner</i> Quartermaster Harbor per subsection S (which is now also proposed to be prohibited in <i>all of</i>

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				<p>Quartermaster Harbor, per above).</p> <p>The new prohibition on non-native marine finfish aquaculture (such as Atlantic salmon net pens) is consistent with recent state changes.</p> <p>The geoduck change is required by state SMP checklist – related to the requirements for aquaculture that would be subject to a CUP (consistent with the change in Section 8 of this Proposed Ordinance). The WAC also includes other process and criteria requirements.</p>
10	21A.25.160	<p>K.C.C. 21A.25.160.B is the table of permitted shoreline modifications, which currently allows “habitat and natural systems enhancement projects” as a permitted modification subject to development condition #7</p> <p>K.C.C. 21A.25.160.C is the list of development conditions for the modifications in the table, which currently includes development condition #7 for habitat and natural systems enhancement projects, which allows for certain kinds of shoreline modifications</p>	Development condition #7 is expanded to allow the County to grant relief from SMP development standards for certain shoreline restoration projects within the Urban Growth Area (UGA)	Allowed (but not required) by state SMP checklist (RCW 90.58.580 and WAC 173-27-215) to provide some regulatory relief for shoreline restoration projects. This relief option is only allowed within the UGA, per state regulations.
11	21A.25.290	<p>Exemptions for shoreline substantial development permits include:</p> <ul style="list-style-type: none"> • Uses exempt from the definition of “substantial development” in RCW 90.58.030 and WAC 173-27-040 • Exemptions in RCW 90.58.140 	The exemptions for shoreline substantial development permits is expanded to also include exemptions in WAC 173-27-044 and 173-27-045	<p>Required by state SMP checklist, which exempts the following from local government review under the Shoreline Management Act:</p> <ul style="list-style-type: none"> • remedial hazardous substance cleanup actions,

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12	n/a	n/a	Directs the Executive to submit the adopted version of this ordinance to the Department of Ecology for approval	Required by RCW 90.58.090 and K.C.C. 20.12.200
13	n/a	n/a	States that the adopted version of this ordinance does not take effect until 14 days after Department of Ecology provides written notice of approval, and requires the Executive to provide written notice of this approval to the Clerk of the Council	Required by RCW 90.58.090 and K.C.C. 20.12.200
14	n/a	n/a	Severability	Standard severability language

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