

Date Created:	10/27/18
Drafted by:	Christine Jensen
Sponsors:	
Attachments:	

1 ..Title

2 AN ORDINANCE relating to permitting and zoning;
3 amending Ordinance 12196, Section 17, as amended, and
4 K.C.C. 20.20.100, Ordinance 3688, Section 202, as
5 amended, and K.C.C. 21A.06.072B, Ordinance 15051,
6 Section 7, as amended, and K.C.C. 21A.06.072C,
7 Ordinance 10870, Section 323, as amended, and K.C.C.
8 21A.06.1391, Ordinance 3688, Chapter 2 (part), as
9 amended, and K.C.C. 21A.25.020, Ordinance 3688, Section
10 303, as amended, and K.C.C. 21A.25.050, Ordinance
11 16985, Section 31, as amended, and K.C.C. 21A.25.100,
12 Ordinance 16985, Section 32, as amended, and K.C.C.
13 21A.25.110, Ordinance 16985, Section 39, as amended,
14 and K.C.C. 21A.25.160, and Ordinance 3688, Section 801,
15 as amended, and K.C.C. 21A.25.290.

16 ..Body

17 STATEMENT OF FACTS:

18 1. The Shoreline Management Act (SMA) requires King County to
19 develop and administer a Shoreline Master Program (SMP).

- 20 2. King County adopted a comprehensive SMP update as required by
21 RCW 90.58.080(2) via Ordinances 16985 and 17485, which was effective
22 as of January 28, 2013.
- 23 3. RCW 90.58.080(4) requires King County to periodically review and, if
24 necessary, revise the master program on or before June 30, 2019.
- 25 4. The review process is intended to bring the SMP into compliance with
26 requirements of the SMA or state rules that have been added or changed
27 since the last SMP amendment, ensure the SMP remains consistent with
28 amended comprehensive plans and regulations, and incorporate
29 amendments deemed necessary to reflect changed circumstances, new
30 information, or improved data.
- 31 5. King County developed a public participation program for this periodic
32 review in accordance with WAC 173-26-090(3)(a) to inform, involve and
33 encourage participation of interested persons and private entities, tribes,
34 and applicable agencies having interests and responsibilities relating to
35 shorelines.
- 36 6. King County has followed its adopted public participation program,
37 including development of a project website, providing a public review and
38 comment period and hosting public meetings.
- 39 7. King County used Ecology's checklist of legislative and rule
40 amendments to review amendments to chapter 90.58 RCW and
41 department guidelines that have occurred since the master program was

42 last amended, and determine if local amendments are needed to maintain
43 compliance in accordance with WAC 173-26-090(3)(b)(i).

44 8. King County reviewed changes to the comprehensive plan and
45 development regulations to determine if the shoreline master program
46 policies and regulations remain consistent with them in accordance with
47 WAC 173-26-090(3)(b)(ii).

48 9. King County considered whether to incorporate any amendments
49 needed to reflect changed circumstances, new information or improved
50 data in accordance with WAC 173-26-090(3)(b)(iii).

51 10. King County consulted with the Department of Ecology during the
52 drafting of the amendments. The County worked collaboratively with the
53 Department of Ecology to address local interests while ensuring proposed
54 amendments are consistent with the policy of RCW 90.58.020 and
55 applicable guidelines in accordance with WAC 173-26-104.

56 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

57 SECTION 1. The review and evaluation required by RCW 90.58.080(4) have
58 occurred, as described in the statement of facts in this ordinance. The elements of the
59 King County Shoreline Master Program (SMP) in Sections 2 through 11 of this ordinance
60 are hereby amended to read as set forth in this ordinance and are incorporated herein by
61 this reference. The remaining portions of the County's SMP is unchanged. King County
62 adopts these SMP revisions and finds the amended SMP consistent with the requirements
63 of RCW 90.58 and WAC 173-26, as they apply to these amendments.

Commented [JC1]: More Statements of Fact will be added once the Executive Branch completes its review process and transmits the proposed ordinance to the Council for consideration.

64 SECTION 2. Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100
65 are each hereby amended to read as follows:

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

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

75 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 |

76 C. The following periods shall be excluded from the times specified in

77 subsections A. ~~(and)~~, B. and H. of this section:

78 1. Any period during which the applicant has been requested by the department,
79 the examiner or the council to correct plans, perform required studies or provide
80 additional information, including road variances and variances required under K.C.C.
81 chapter 9.04. The period shall be calculated from the date of notice to the applicant of
82 the need for additional information until the earlier of the date the county advises the

Commented [JC2]: This was added language in Ordinance 18230 but not underlined as required by KCC 1.24.075. We're re-adding this language now in correct legislative format, consistent with previous legislative intent, to address this issue.

Commented [JC3]: See new Subsection H below re: state SMP checklist requirement for WSDOT projects.

83 applicant that the additional information satisfies the county's request or fourteen days
84 after the date the information has been provided. If the county determines that
85 corrections, studies or other information submitted by the applicant is insufficient, it shall
86 notify the applicant of the deficiencies and the procedures of this section shall apply as if
87 a new request for information had been made.

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

92 b. When granting a request for a deadline extension, the department shall give
93 consideration to the number of days between the department receiving the request for a
94 deadline extension and the department mailing its decision regarding that request;

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

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

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

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

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

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

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

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

115 2. Requires approval of a new fully contained community as provided in RCW
116 36.70A.350, master planned resort as provided in RCW 36.70A.360 or the siting of an
117 essential public facility as provided in RCW 36.70A.200; or

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

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

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

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

142 SECTION 3. Ordinance 3688, Section 202, as amended, and K.C.C. 21A.06.072B
143 are each hereby amended to read as follows:

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

149 SECTION 4. Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C
150 are each hereby amended to read as follows:

Commented [JC4]: The legislature adopted this 90-day target for local review of such 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 ensure that SMPs are implemented consistent with the state statute. The language here generally mirrors the RCW that encourages this 90-day target.

Commented [JC5]: Technical correction

Commented [JC6]: Required by state SMP Checklist (WAC 173-26-020(2) and WAC 173-26-241(3)(b))

151 Aquatic area:

152 A. Any nonwetland water feature including:

153 1. All shorelines of the state, rivers, streams, marine waters and bodies of open
154 water, such as lakes, ponds and reservoirs;

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

157 ~~3.)) Impoundments, such as a reservoir or pond, if any portion of the
158 contributing water is from an aquatic area listed in subsection A.1. of this section.~~

159 B. "Aquatic area" does not include water features where the source of
160 contributing water is entirely artificial, including, but not limited to, a ground water well.

161 C. Above-ground open water conveyance systems, such as a ditch, if any portion
162 of the contributing water is from either a wetland or from an aquatic area listed in
163 subsection A.1 of this section, or both.

164 SECTION 5. Ordinance 10870, Section 323, as amended, and K.C.C.
165 21A.06.1391 are each hereby amended to read as follows:

166 Wetland: an area that is not an aquatic area and that is inundated or saturated by
167 ground or surface water at a frequency and duration sufficient to support, and under
168 normal circumstances supports, a prevalence of vegetation typically adapted for life in
169 saturated soil conditions. For purposes of this definition:

170 A. Wetlands shall be delineated using the wetland delineation manual required by
171 ~~((RCW 36.70A.175))~~ WAC 173-22-035; and

Commented [JC7]: Moved to below, as the updated definition includes both nonwetland and/or wetland and Subsection A only applies to nonwetland waters.

Commented [JC8]: 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.

Commented [JC9]: 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 current RCW reference no longer applies here.

172 B. Except for artificial features intentionally made for the purpose of mitigation,
173 "wetland" does not include an artificial feature made from a nonwetland area, which may
174 include, but is not limited to:

- 175 1. A surface water conveyance for drainage or irrigation;
- 176 2. A grass-lined swale;
- 177 3. A canal;
- 178 4. A flow control facility;
- 179 5. A wastewater treatment facility;
- 180 6. A farm pond;
- 181 7. A wetpond;
- 182 8. Landscape amenities; or
- 183 9. A wetland created after July 1, 1990, that was unintentionally made as a
184 result of construction of a road, street or highway.

185 SECTION 6. Ordinance 3688, Chapter 2 (part), as amended, and K.C.C.
186 21A.25.020 are each hereby amended to read as follows:

187 The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-
188 26 ~~and 173-27~~ WAC apply within the shoreline jurisdiction. The definitions in chapter
189 90.58 RCW and chapters 173-26 ~~and 173-27~~ WAC apply if there is a conflict with the
190 definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code
191 shall apply where applicable and where not in conflict with the chapters of the RCW and
192 the WAC listed in this section. In addition, the following definitions apply to this chapter
193 unless the context clearly requires otherwise:

Commented [JC10]: Technical correction to reflect that the County currently uses definitions in both WAC 173-26 and 173-27

Commented [JC11]: 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.

194 A. "Development" means any development as defined in ((chapter 90.58 RCW))
195 WAC 173-27; and

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

201 SECTION 7. Ordinance 3688, Section 303, as amended, and K.C.C. 21A.25.050
202 are each hereby amended to read as follows:

- 203 A. The King County shoreline jurisdiction consists of:
- 204 1. All water areas of the state, as defined in RCW 90.58.030, including
205 reservoirs and associated wetlands, together with the lands underlying them, except for:
 - 206 a. lakes smaller than twenty acres and their associated wetlands; and
 - 207 b. segments of rivers and streams and their associated wetlands where the
208 mean annual flow is less than twenty cubic feet per second; and
 - 209 2.a. The shorelands that extend landward in all directions as measured on a
210 horizontal plane for two hundred feet from the ordinary high water mark of the
211 waterbodies identified in subsection A.1. of this section;
 - 212 b. the one hundred year floodplain; and
 - 213 c. all wetlands and river deltas associated with the streams, lakes and tidal
214 waters that are subject to chapter 90.58 RCW.

215 B. The shoreline jurisdiction does not include tribal reservation lands and lands
216 held in trust by the federal government for tribes. Nothing in the King County Shoreline

217 Master Program or action taken under that program shall affect any treaty right to which
218 the United States is a party.

219 C. The lakes and segments of rivers and streams constituting the King County
220 shoreline jurisdiction are set forth in Attachment K to Ordinance 17485. The King
221 County shoreline jurisdiction is shown on a map adopted in chapter 6 of the King County
222 Comprehensive Plan. If there is a discrepancy between the map and the criteria
223 established in subsection A. of this section, the criteria shall constitute the official King
224 County shoreline jurisdiction. The county shall update the Shoreline Master Program to
225 reflect the new designation within three years of the discovery of the discrepancy.

226 SECTION 8. Ordinance 16985, Section 31, as amended, and K.C.C. 21A.25.100
227 are each hereby amended to read as follows:

228 A. The shoreline use table in this section determines whether a specific use is
229 allowed within each of the shoreline environments. The shoreline environment is located
230 on the vertical column and the specific use is located on the horizontal row of the table.
231 The specific uses are grouped by the shoreline use categories in WAC 173-26-241. The
232 specific uses are defined by those uses in K.C.C. chapter 21A.08. The table should be
233 interpreted as follows:

234 1. If the cell is blank in the box at the intersection of the column and the row,
235 the use is prohibited in that shoreline environment;

236 2. If the letter "P" appears in the box at the intersection of the column and the
237 row, the use may be allowed within the shoreline environment;

Commented [JC12]: 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.

238 3. If the letter "C" appears in the box at the intersection of the column and the
239 row, the use may be allowed within the shoreline environment subject to the shoreline
240 conditional use review procedures specified in K.C.C. 21A.44.100.

241 4. If a number appears in the box at the intersection of the column and the row,
242 the use may be allowed subject to the appropriate review process in this section, the
243 general requirements of this chapter and the specific development conditions indicated
244 with the corresponding number in subsection C. of this section. If more than one number
245 appears after a letter, all numbers apply.

246 5. If more than one letter-number combination appears in the box at the
247 intersection of the column and the row, the use is allowed in accordance with each letter-
248 number combination.

249 6. A shoreline use may be allowed in the aquatic environment only if that
250 shoreline use is allowed in the adjacent shoreland environment.

251 7. This section does not authorize a land use that is not allowed by the
252 underlying zoning, but may add additional restrictions or conditions or prohibit specific
253 land uses within the shoreline jurisdiction. When there is a conflict between the
254 permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,
255 preference for shoreline uses shall first be given to water-dependent uses, then to water
256 related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction
257 must comply with all relevant county code provisions and with the King County
258 Shoreline Master Program.

259 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	H	R	R	C	R	F	N	A
	I	E	U	O	E	O	A	Q
	G	S	R	N	S	R	T	U
	H	I	A	S	O	E	U	A

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.	I N T E N S I T Y	D E N T I F I C A T I O N	L	E R V A N C Y	U R C E	S T R Y	R A L	T I C
Agriculture								
Agriculture (K.C.C. 21A.08.090)		P	P	P	P	P	P1	
Aquaculture								
((Aquaculture (fish and wildlife management, K.C.C. 21A.08.090)	P2	P2	P2	P2	P2	P2	P2	P2))
Non-native marine finfish aquaculture								
Commercial native salmon net pens	C2	C2	C2	C2	C2	C2		C2
Noncommercial native salmon net pens		P2	P2	P2				P2
Geoduck aquaculture		C2	C2	C2				C2
Other aquaculture (fish and wildlife management, K.C.C. 21A.08.090)	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

Commented [JC13]: Moved to below for clarity

Commented [JC14]: Prohibiting 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

Commented [JC15]: Technical clarification to reflect existing intent

Commented [JC16]: 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

Commented [JC17]: Geoduck aquaculture is required by state SMP checklist (WAC 173-26-241(3)(b)) to be a conditional use.

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	C26						
Regional land uses								
Regional uses except hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)	P30							

260 C. Development conditions:

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

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

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

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

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

278 e. In the natural shoreline environment and aquatic areas adjacent to the natural
 279 shoreline environment, limited to aquaculture activities that do not require structures,

280 facilities or mechanized harvest practices and that will not alter the natural character of
281 the site or alter natural systems or features.

282 f. Farm-raised geoduck aquaculture requires a shoreline substantial
283 development permit if a specific project or practice causes substantial interference with
284 normal public use of the surface waters.

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

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

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

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

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

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

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

Commented [JC18]: Required by state SMP checklist (WAC 173-26-241(3)(b)) re: recent changes in geoduck aquaculture regulations.

Commented [JC19]: Required by state SMP checklist (WAC 173-26-241(3)(b)) re: recent changes in geoduck aquaculture regulations.

- 303 (1) economic development for water-dependent uses;
- 304 (2) public access;
- 305 (3) water-oriented recreation;
- 306 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
- 307 habitat; and
- 308 (5) protection and restoration of historic properties.
- 309 6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.
- 310 Water-related business services uses are only allowed as part of a shoreline mixed-use
- 311 development and only if they support a water-dependent use. The water-related business
- 312 services uses must comprise less than one-half of the square footage of the structures or
- 313 the portion of the site within the shoreline jurisdiction.
- 314 7.a Water-dependent retail uses in K.C.C. 21A.08.050 are allowed.
- 315 b. Non-water-dependent retail uses in K.C.C. 21A.08.050 are only allowed as
- 316 part of a shoreline mixed-use development if the non-water-dependent retail use supports
- 317 a water-dependent use. Non-water-dependent uses must comprise less than one-half of
- 318 the square footage of the structures or the portion of the site within the shoreline
- 319 jurisdiction.
- 320 c. Non-water-oriented retail uses must provide a significant public benefit by
- 321 helping to achieve one or more of the following shoreline master program goals:
- 322 (1) economic development for water-dependent uses;
- 323 (2) public access;
- 324 (3) water-oriented recreation;

325 (4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife
326 habitat; and

327 (5) protection and restoration of historic properties.

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

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

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

339 b. Non-water-dependent government services in K.C.C. 21A.08.060 are only
340 allowed as part of a shoreline mixed-use development if the non-water-dependent
341 government use supports a water-dependent use. Non-water-dependent uses must
342 comprise less than one-half of the square footage of the structures or the portion of the
343 site within the shoreline jurisdiction. Only low-intensity water-dependent government
344 services are allowed in the Natural environment.

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

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

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

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

363 d. Cable crossings for telecommunications and power lines shall:

364 (1) be routed around or drilled below aquatic critical habitat or species;

365 (2) be installed in sites free of vegetation, as determined by physical or video
366 seabed survey;

367 (3) be buried, preferably using directional drilling, from the uplands to
368 waterward of the deepest documented occurrence of native aquatic vegetation; and

369 (4) use the best available technology;

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

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

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

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

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

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

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

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

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

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

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

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

396 c. shall be located, designed and constructed in a manner that ensures that there
397 are no significant adverse impacts to other shoreline resources and values.

398 d. restoration is required for all new manufacturing uses;

399 e. boat repair facilities are not permitted within the Maury Island Aquatic
400 Reserve, except as follows:

401 (1) engine repair or maintenance conducted within the engine space without
402 vessel haul-out;

403 (2) topside cleaning, detailing and bright work;

404 (3) electronics servicing and maintenance;

405 (4) marine sanitation device servicing and maintenance that does not require
406 haul-out;

407 (5) vessel rigging; and

408 (6) minor repairs or modifications to the vessel's superstructure and hull
409 above the waterline that do not exceed twenty-five percent of the vessel's surface area
410 above the waterline.

411 13. The water-dependent in-stream portion of a hydroelectric generation facility,
412 wastewater treatment facility and municipal water production are allowed, including the
413 upland supporting infrastructure, and shall provide for the protection and preservation, of

414 ecosystem-wide processes, ecological functions, and cultural resources, including, but not
415 limited to, fish and fish passage, wildlife and water resources, shoreline critical areas,
416 hydrogeological processes, and natural scenic vistas.

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

419 a. there is no feasible alternate location;

420 b. provision is made to protect and preserve ecosystem-wide processes,
421 ecological functions, and cultural resources, including, but not limited to, fish and fish
422 passage, wildlife and water resources, shoreline critical areas, hydrogeological processes,
423 and natural scenic vistas; and

424 c. the use complies with the standards in K.C.C. 21A.25.260.

425 15. Limited to in-stream infrastructure, such as bridges, and must consider the
426 priorities of the King County Shoreline Protection and Restoration Plan when designing
427 in-stream transportation facilities. In-stream structures shall provide for the protection
428 and preservation, of ecosystem-wide processes, ecological functions, and cultural
429 resources, including, but not limited to, fish and fish passage, wildlife and water
430 resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

431 16. Limited to hatchery and fish preserves.

432 17. Mineral uses:

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

434 b. must be dependent upon a shoreline location;

435 c. must avoid and mitigate adverse impacts to the shoreline environment

436 during the course of mining and reclamation to achieve no net loss of shoreline ecological

437 function. In determining whether there will be no net loss of shoreline ecological
438 function, the evaluation may be based on the final reclamation required for the site.
439 Preference shall be given to mining proposals that result in the creation, restoration, or
440 enhancement of habitat for priority species;

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

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

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

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

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

456 and

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

458 18. Only water-dependent recreational uses are allowed, except for public parks
459 and trails, in the High Intensity environment and must meet the standards in K.C.C.
460 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

461 19. Water-dependent and water-enjoyment recreational uses are allowed in the
462 Residential, Rural and Forestry environments and must meet the standards in K.C.C.
463 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

464 20. In the Conservancy environment, only the following recreation uses are
465 allowed and must meet the standards in K.C.C. 21A.25.140 for public access and K.C.C.
466 21A.25.150 for recreation:

- 467 a. parks; and
- 468 b. trails.

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

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

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

476 24. Residential accessory uses must meet the following standards:

- 477 a. docks, piers, moorage, buoys, floats or launching facilities must meet the
478 standards in K.C.C. 21A.25.180;

- 479 b. residential accessory structures located within the aquatic area buffer shall
480 be limited to a total footprint of one-hundred fifty square feet; and

481 c. accessory structures shall be sited to preserve visual access to the shoreline
482 to the maximum extent practical.

483 25. New highway and street construction is allowed only if there is no feasible
484 alternate location. Only low-intensity transportation infrastructure is allowed in the
485 Natural environment.

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

487 27. Only bed and breakfast guesthouses.

488 28. Only in a marina.

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

490 30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260.

491 SECTION 9. Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110

492 are each hereby amended to read as follows:

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

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

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

502 C. Aquaculture proposals that involve substantial substrate modification or
503 sedimentation through dredging, trenching, digging, mechanical clam harvesting or other

Commented [JC20]: Technical correction to reflect existing intent

504 similar mechanisms, shall not be permitted in areas where the proposal would adversely
505 impact critical saltwater habitats.

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

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

511 F. Aquaculture facilities shall be designed, located and managed to prevent the
512 spread of diseases to native aquatic life or the spread of new nonnative species.

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

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

- 522 1. subsistence salmon net pens operated by tribes with treaty fishing rights;
- 523 2. for the limited penned cultivation of wild salmon stocks during a limited
524 portion of their lifecycle to enhance restoration of native stocks; or
- 525 3. implemented as mitigation for a development activity.

Commented [JC21]: Technical clarification to reflect existing intent

Commented [JC22]: Technical clarification to reflect existing intent

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

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

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

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

547 M. New aquatic species that are not previously cultivated in Washington state
548 shall not be introduced into King County saltwaters or freshwaters without prior written

549 approval of the Director of the Washington state Department of Fish and Wildlife and the
550 Director of the Washington Department of Health. This prohibition does not apply to:
551 Pacific, Olympia, Kumomoto, Belon or Virginica oysters; Manila, Butter, or Littleneck
552 clams; or Geoduck clams.

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

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

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

569 Q. Aquaculture wastes shall be disposed of in a manner that will ensure strict
570 compliance with all applicable governmental waste disposal standards, including, but not
571 limited to, the Federal Clean Water Act, Section 401, and chapter 90.48 RCW, Water

572 Pollution Control. No garbage, wastes or debris shall be allowed to accumulate at the site
573 of any aquaculture operation.

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

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

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

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

592 3. Fish net pens shall not occupy more than two surface acres of water area,
593 excluding booming and anchoring requirements. Anchors that minimize disturbance to

Commented [JC23]: Expands King County's existing prohibition of all net pens (native and nonnative) from *Inner* Quartermaster Harbor to *all* of Quartermaster Harbor.

Commented [JC24]: Adds clarity on where the Quartermaster Harbor net pen prohibition applies

594 substrate, such as helical anchors, shall be employed. Such operations shall not use
595 chemicals or antibiotics;

596 4. Aquaculture proposals that include new or added net pens or rafts shall not be
597 located closer than one nautical mile to any other aquaculture facility that includes net
598 pens or rafts. The department may authorize a lesser distance if the applicant
599 demonstrates to the satisfaction of the department that the proposal will be consistent
600 with the environmental and aesthetic policies and objectives of this chapter and the
601 Shoreline Master Program. The applicant shall demonstrate to the satisfaction of the
602 department that the cumulative impacts of existing and proposed operations would not be
603 contrary to the policies and regulations of the program;

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

607 6. In the event of a significant fish kill at the site of a net pen facility, the (~~fin~~
608 ~~fish~~) finfish aquaculture operator shall submit a timely report to Public Health - Seattle-
609 King County, Environmental Health Division and the department stating the cause of
610 death and shall detail remedial actions to be implemented to prevent reoccurrence.

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

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

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

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

624 X. Commercial native salmon net pens shall be consistent with subsection S of
625 this section and shall meet the following criteria and requirements:

626 1. Each commercial native salmon net pen application shall provide a current,
627 peer-reviewed science review of environmental issues related to salmon net pen
628 aquaculture;

629 2. The department shall only approve a commercial native salmon net pen
630 application if the department determines the scientific review demonstrates that the
631 project construction and activities will achieve no net loss of ecological function in a
632 manner that has no significant adverse short-term impact and no documented adverse
633 long-term impact to applicable elements of the environment, including, but not limited to,
634 habitat for native salmonids, water quality, eel grass beds, other aquaculture, other native
635 species, the benthic community below the net pen or other environmental attributes;

636 3. The department's review shall:

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

Commented [JC25]: Clarifying that commercial native salmon net pens are still allowed (except for in Quartermaster per Sub-S above).

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

642 4. Commercial native salmon net pens shall be designed, constructed and
643 maintained to prevent escapement of fish in all foreseeable circumstances, including, but
644 not limited to, tide, wind and wave events of record, floating and submerged debris, and
645 tidal action;

646 5. Commercial native salmon net pens shall not be located:
647 a. within three hundred feet of an area containing eelgrass or a kelp bed;
648 b. within one thousand five hundred feet of an ordinary high water mark; or
649 c. in a designated Washington state Department of Natural Resources aquatic
650 reserve.

651 6. A commercial native salmon net pen may not be used to mitigate the impact
652 of a development proposal; and

653 7. The conditional use permit for commercial native salmon net pen must be
654 renewed every five years. An updated scientific review shall be conducted as part of the
655 renewal and shall include a new risk assessment and evaluation of the impact of the
656 operation of the native salmon net pen during the previous five years.

657 Y. All forms of non-native marine finfish aquaculture is prohibited.

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

659 SECTION 10. Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160

660 are each hereby amended to read as follows:

Commented [JC26]: Prohibiting non-native marine finfish aquaculture (such as Atlantic salmon net pens), consistent with recent state change

Commented [JC27]: Required by state SMP checklist – related to the requirements for aquaculture that would be subject to a CUP. The WAC includes other process and criteria requirements.

661 A. The shoreline modification table in this section determines whether a specific
662 shoreline modification is allowed within each of the shoreline environments. The
663 shoreline environment is located on the vertical column and the specific use is located on
664 the horizontal row of the table. The specific modifications are grouped by the shoreline
665 modification categories in WAC 173-26-231. The table should be interpreted as follows:

666 1. If the cell is blank in the box at the intersection of the column and the row,
667 the modification is prohibited in that shoreline environment;

668 2. If the letter "P" appears in the box at the intersection of the column and the
669 row, the modification may be allowed within the shoreline environment;

670 3. If the letter "C" appears in the box at the intersection of the column and the
671 row, the modification may be allowed within the shoreline environment subject to the
672 shoreline conditional use review procedures specified in K.C.C. 21A.44.100;

673 4. If a number appears in the box at the intersection of the column and the row,
674 the modification may be allowed subject to the appropriate review process indicated in
675 this section and the specific development conditions indicated with the corresponding
676 number immediately following the table, and only if the underlying zoning allows the
677 modification. If more than one number appears at the intersection of the column and
678 row, both numbers apply; and

679 5. If more than one letter-number combination appears in the box at the
680 intersection of the column and the row, the modification is allowed within that shoreline
681 environment subject to different sets of limitations or conditions depending on the review
682 process indicated by the letter, the specific development conditions indicated in the
683 development condition with the corresponding number immediately following the table.

684 6. A shoreline modification may be allowed in the aquatic environment only if
 685 that shoreline modification is allowed in the adjacent shoreland environment.

686 7. This section does not authorize a shoreline modification that is not allowed
 687 by the underlying zoning, but may add additional restrictions or conditions or prohibit
 688 specific modifications within the shoreline jurisdiction. All shoreline modifications in
 689 the shoreline jurisdiction must comply with all relevant county code provisions and with
 690 the King County Shoreline Master Program.

691 **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

692 **C. Development conditions.**

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

695 2.a. Flood protection facilities must be consistent with the standards in K.C.C.
696 chapter 21A.24, the King County Flood Hazard Management Plan adopted January 16,
697 2007, and the Integrated Stream Protection Guidelines (Washington state departments of
698 Fish and Wildlife, Ecology and Transportation, 2003). New structural flood hazard
699 protection measures are allowed in the shoreline jurisdiction only when the applicant
700 demonstrates by a scientific and engineering analysis that the structural measures are
701 necessary to protect existing development, that nonstructural measures are not feasible
702 and that the impact on ecological functions and priority species and habitats can be
703 successfully mitigated so as to assure no net loss of shoreline ecological functions. New
704 flood protection facilities designed as shoreline stabilization must meet the standards in
705 K.C.C. 21A.25.170.

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

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

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

716 b. A shoreline conditional use permit is required to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

757 6. Excavation, dredging and filling must meet the standards in K.C.C.
758 21A.25.190. A shoreline conditional use permit is required to dispose of dredged
759 material within shorelands or wetlands within a channel migration zone

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

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

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

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

778 SECTION 11. Ordinance 3688, Section 801, as amended, and K.C.C. 21A.25.290
779 are each hereby amended to read as follows:

780 A. Development within the shoreline jurisdiction, including preferred uses and
781 uses that are exempt from permit requirements, shall be undertaken only if that
782 development is consistent with the policies of RCW 90.58.020, chapter 173-26 WAC the

Commented [JC28]: Allowed 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.

783 King County shoreline master program and will not result in a net loss of shoreline
784 ecological functions or in a significant adverse impact to shoreline uses, resources and
785 values, such as navigation, recreation and public access. The proponent of a shoreline
786 development shall employ measures to mitigate adverse impacts on shoreline functions
787 and processes following the sequencing requirements of K.C.C. 21A.25.080.

788 B. A substantial development permit shall be required for all proposed uses and
789 modifications within the shoreline jurisdiction unless the proposal is specifically exempt
790 from the definition of substantial development in RCW 90.58.030 and WAC 173-27-040
791 or is exempted by RCW 90.58.140, WAC 173-27-044 or WAC 173-27-045. If a
792 proposal is exempt from the definition of substantial development, a written statement of
793 exemption is required for any proposed uses and modifications if:

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

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

801 D. As necessary to ensure consistency of the project with the shoreline master
802 program and this chapter, the department may attach conditions of approval to a
803 substantial development permit or a statement of exemption or to the approval of a
804 development proposal that does not require either.

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

Commented [JC29]: Required by state SMP checklist, which exempts the following from local government review under SMA:
•remedial hazardous substance cleanup actions,
•boatyard improvements to meet NPDES requirements, and
•certain WSDOT facility maintenance and safety improvements

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

- 808 a. be repetitive and part of a maintenance program or other similar program;
- 809 b. have the same or similar identifiable impacts, as determined by the
810 department, each time the activity is repeated at all sites covered by the programmatic
811 statement of exemption; and
- 812 c. be suitable to having standard conditions that will apply to any and all sites;

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

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

827 4. The department may require revisions, impose new conditions or otherwise
828 modify the programmatic statement of exemption or withdraw the programmatic

829 statement of exemption and require that the applicant apply for a standard statement of
830 exemption, if the department determines that:

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

833 b. The programmatic statement of exemption does not provide adequate
834 regulation of the activity;

835 c. The programmatic statement of exemption conditions or the manner in
836 which the conditions are implemented are not adequate to protect against the impacts
837 resulting from the activity; or

838 d. A site requires site-specific regulation; and

839 5. If an activity covered by a programmatic statement of exemption also
840 requires other county, state and federal approvals, to the extent feasible, the department
841 shall attempt to incorporate conditions that comply with those other approvals into the
842 programmatic statement of exemption.

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

845 1. The maintenance project is conducted in compliance with a hydraulic project
846 approval issued by the Washington Department of Fish and Wildlife pursuant to chapter
847 77.55 RCW;

848 2. The maintenance project complies with the King County agricultural drainage
849 assistance program as agreed to by the Washington Department of Fish and Wildlife, the
850 department of local services, permitting division, and the department of natural resources
851 and parks, and as reviewed by the Washington Department of Ecology;

852 3. The person performing the agricultural drainage maintenance and the land
853 owner has attended training provided by King County on the King County agricultural
854 drainage assistance program and the best management practices required under that
855 program;

856 4. The maintenance project complies with the requirements of K.C.C. chapter
857 16.82; and

858 5. The project is not subject to federal permitting related to the U.S. Army
859 Corps of Engineers Section 10 or Section 404 permits.

860 SECTION 12. In accordance with K.C.C. 20.12.200, the executive shall submit
861 this ordinance to the state Department of Ecology for its approval, as provided in RCW
862 90.58.090.

863 SECTION 13. This ordinance take effect within the shoreline jurisdiction
864 fourteen days after the state Department of Ecology provides written notice of final
865 action stating that the proposal is approved, in accordance with RCW 90.58.909. The
866 executive shall provide the written notice of final action to the clerk of the council.

867 SECTION 14. Severability. If any provision of this ordinance or its application
868 to any person or circumstance is held invalid, the remainder of the ordinance or the
869 application of the provision to other persons or circumstances is not affected.

870