AN ORDINANCE relating to permitting and zoning;
amending Ordinance 12196, Section 17, as amended, and
K.C.C. 20.20.100, Ordinance 3688, Section 202, as
amended, and K.C.C. 21A.06.072B, Ordinance 15051,
Section 7, as amended, and K.C.C. 21A.06.072C,
Ordinance 10870, Section 323, as amended, and K.C.C.
21A.06.1391, Ordinance 3688, Chapter 2 (part), as
amended, and K.C.C. 21A.25.020, Ordinance 3688, Section
303, as amended, and K.C.C. 21A.25.050, Ordinance
16985, Section 31, as amended, and K.C.C. 21A.25.100,
Ordinance 16985, Section 32, as amended, and K.C.C.
21A.25.110, Ordinance 16985, Section 39, as amended,
and K.C.C. 21A.25.160, and Ordinance 3688, Section 801,

STATEMENT OF FACTS:
1. The Shoreline Management Act (SMA) requires King County to
develop and administer a Shoreline Master Program (SMP).
2. King County adopted a comprehensive SMP update as required by RCW 90.58.080(2) via Ordinances 16985 and 17485, which was effective as of January 28, 2013.

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

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

5. King County developed a public participation program for this periodic review in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines.

6. King County has followed its adopted public participation program, including development of a project website, providing a public review and comment period and hosting public meetings.

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

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

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

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The review and evaluation required by RCW 90.58.080(4) have occurred, as described in the statement of facts in this ordinance. The elements of the King County Shoreline Master Program (SMP) in Sections 2 through 11 of this ordinance are hereby amended to read as set forth in this ordinance and are incorporated herein by this reference. The remaining portions of the County’s SMP is unchanged. King County adopts these SMP revisions and finds the amended SMP consistent with the requirements of 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.
SECTION 2. Ordinance 12196, Section 17, as amended, and K.C.C. 20.20.100

are each hereby amended to read as follows:

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

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

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

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

C. The following periods shall be excluded from the times specified in subsections A., B., and H. of this section:

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

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

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

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

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

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

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

5. Any time extension mutually agreed upon by the applicant and the department; and
6. Any time during which there is an outstanding fee balance that is sixty days or more past due.

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

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

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

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

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

F. The time limits established in this section may be exceeded on more complex projects. If the department is unable to issue its Type 1 or Type 2 decision or its Type 3 or Type 4 recommendation within the time limits established by this section, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of a Type 1 or Type 2 decision or a Type 3 or Type 4 recommendation.
G. The department shall require that all plats, short plats, building permits, clearing and grading permits, conditional use permits, special use permits, site development permits, shoreline substantial development permits, binding site plans, urban planned development permits or fully contained community permits issued for development activities on or within five hundred feet of designated agricultural lands, forest lands or mineral resource lands contain a notice that the subject property is within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.

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

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

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

SECTION 4. Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C 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)(c))
Aquatic area:
A. Any nonwetland water feature including:
   1. All shorelines of the state, rivers, streams, marine waters and bodies of open water, such as lakes, ponds and reservoirs;
   2. ((Conveyance systems, such as a ditch, if any portion of the contributing water is from an aquatic area listed in subsection A.1. of this section));
   3. Impoundments, such as a reservoir or pond, if any portion of the contributing water is from an aquatic area listed in subsection A.1. of this section.
B. "Aquatic area" does not include water features where the source of contributing water is entirely artificial, including, but not limited to, a ground water well.
C. Above-ground open water conveyance systems, such as a ditch, if any portion of the contributing water is from either a wetland or from an aquatic area listed in subsection A.1 of this section, or both.

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

Wetland: an area that is not an aquatic area and that is inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and under normal circumstances supports, a prevalence of vegetation typically adapted for life in saturated soil conditions. For purposes of this definition:
A. Wetlands shall be delineated using the wetland delineation manual required by ((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.
B. Except for artificial features intentionally made for the purpose of mitigation, "wetland" does not include an artificial feature made from a nonwetland area, which may include, but is not limited to:

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

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

The definitions in K.C.C. chapter 21A.06, chapter 90.58 RCW and chapters 173-26 and 173-27 WAC apply within the shoreline jurisdiction. The definitions in chapter 90.58 RCW and chapters 173-26 and 173-27 WAC apply if there is a conflict with the definitions in K.C.C. chapter 21A.06. Other definition sections of the King County Code shall apply where applicable and where not in conflict with the chapters of the RCW and the WAC listed in this section. In addition, the following definitions apply to this chapter unless the context clearly requires otherwise:
A. "Development" means any development as defined in (chapter 90.58 RCW) WAC 173-27]; and

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

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

A. The King County shoreline jurisdiction consists of:

1. All water areas of the state, as defined in RCW 90.58.030, including reservoirs and associated wetlands, together with the lands underlying them, except for:
   a. lakes smaller than twenty acres and their associated wetlands; and
   b. segments of rivers and streams and their associated wetlands where the mean annual flow is less than twenty cubic feet per second; and

2. a. The shorelands that extend landward in all directions as measured on a horizontal plane for two hundred feet from the ordinary high water mark of the waterbodies identified in subsection A.1. of this section;
   b. the one hundred year floodplain; and
   c. all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to chapter 90.58 RCW.

B. The shoreline jurisdiction does not include tribal reservation lands and lands held in trust by the federal government for tribes. Nothing in the King County Shoreline
Master Program or action taken under that program shall affect any treaty right to which the United States is a party.

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

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

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

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

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

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

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

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

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

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

B. Shoreline uses

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<tr>
<th>KEY</th>
<th>Permitted Use</th>
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<th>Shoreline Conditional Use</th>
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uses are allowed in the aquatic environment only if the adjacent upland environment allows the use. 

**Permitted Use**

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.

### Agriculture (K.C.C. 21A.08.090)

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### Aquaculture

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</table>
- **Commercial native salmon**
- **Noncommercial native salmon**
- **Geoduck aquaculture (K.C.C. 21A.08.050)**
- **Other aquaculture (fish and wildlife management, K.C.C. 21A.08.090)**

### Boating Facilities

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### Commercial Development

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- **General services (K.C.C. 21A.08.050)**
- **Business services, except SIC Industry No. 1611, automotive parking and off-street required parking lot (K.C.C. 21A.08.060)**
- **Retail (K.C.C. 21A.08.070)**

### Government Services

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- **Government services except commuter parking lot, utility facility and private stormwater management facility (K.C.C. 21A.08.060)**

### Forest Practices

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### Industry

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- **Manufacturing (K.C.C. 21A.08.080)**
- **In-stream structural uses**
- **Hydroelectric generation facility, wastewater treatment facility and municipal water production (K.C.C. 21A.08.100)**
- **In-stream utility facilities (K.C.C. 21A.08.060)**
- **In-stream transportation portion of SIC Industry No. 1611 highway and street construction (K.C.C. 21A.08.060)**
- **In-stream fish and wildlife management, except aquaculture (K.C.C. 21A.08.090)**

### Mining

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- **Mineral uses (K.C.C. 21A.08.090)**

### Recreational Development

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- **Recreational/club except for marinas and docks and piers (K.C.C. 21A.08.060)**

### Residential Development

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</table>
- **Single detached dwelling units (K.C.C. 21A.08.030)**
- **Townhouse, apartment, mobile home park, cottage housing (K.C.C. 21A.08.030)**
- **Group residences (K.C.C. 21A.08.030)**
- **Accessory uses (K.C.C. 21A.08.030)**
- **Temporary lodging (K.C.C. 21A.08.030)**
- **Live-aboards (K.C.C. 21A.08.030)**

### Transportation and parking

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</table>
- **Transportation facilities**

**Commented [JC13]:** Moved 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

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

C. Development conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

  c. Non-water-oriented general services land uses must provide a significant
public benefit by helping to achieve one or more of the following shoreline master
program goals:
(1) economic development for water-dependent uses;
(2) public access;
(3) water-oriented recreation;
(4) conservation of critical areas, scenic vistas, aesthetics or fish and wildlife habitat; and
(5) protection and restoration of historic properties.

6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.

Water-related business services uses are only allowed as part of a shoreline mixed-use development and only if they support a water-dependent use. The water-related business services uses must comprise less than one-half of the square footage of the structures or the portion of the site within the shoreline jurisdiction.

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

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

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

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

(5) protection and restoration of historic properties.

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

a. economic development for water-dependent uses;

b. public access;

c. water-oriented recreation;

d. conservation of critical areas, scenic vistas, aesthetics or fish and wildlife habitat; and

e. protection and restoration of historic properties.

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

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

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

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

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

d. Cable crossings for telecommunications and power lines shall:

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

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

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

(4) use the best available technology;
e. Oil, gas, water and other pipelines shall meet the same standards as cable crossings and in addition:
   (1) pipelines must be directionally drilled to depths of seventy feet or one half mile from the ordinary high water mark; and
   (2) use the best available technology for operation and maintenance;

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

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

12. Manufacturing uses in the shoreline environment must give preference first to water-dependent manufacturing uses and second to water-related manufacturing uses:
   a. Non-water-oriented manufacturing uses are allowed only:
      (1) as part of a shoreline mixed-use development that includes a water-dependent use, but only if the water-dependent use comprises over fifty percent of the floor area or portion of the site within the shoreline jurisdiction;
      (2) on sites where navigability is severely limited; or
      (3) on sites that are not contiguous with the ordinary high water mark or on sites that do not have an easement that provides direct access to the water; and
(4) all non-water-oriented manufacturing uses must also provide a significant public benefit, such as ecological restoration, environmental clean-up, historic preservation or water-dependent public education;

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

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

d. restoration is required for all new manufacturing uses;

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

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

(2) topside cleaning, detailing and bright work;

(3) electronics servicing and maintenance;

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

(5) vessel rigging; and

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

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

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

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

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

16. Limited to hatchery and fish preserves.

17. Mineral uses:

   a. must meet the standards in K.C.C. chapter 21A.22;
   b. must be dependent upon a shoreline location;
   c. must avoid and mitigate adverse impacts to the shoreline environment
during the course of mining and reclamation to achieve no net loss of shoreline ecological
function. In determining whether there will be no net loss of shoreline ecological function, the evaluation may be based on the final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species;

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

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

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

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

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

and

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


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

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

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

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

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

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


27. Only bed and breakfast guesthouses.

28. Only in a marina.

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


SECTION 9. Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110 are each hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

1. subsistence salmon net pens operated by tribes with treaty fishing rights;
2. for the limited penned cultivation of wild salmon stocks during a limited portion of their lifecycle to enhance restoration of native stocks; or
3. implemented as mitigation for a development activity.
I. If uncertainty exists regarding potential impacts of a proposed aquaculture activity and for all experimental aquaculture activities, unless otherwise provided for, the department may require baseline and periodic operational monitoring by a county-approved consultant, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

U. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribes through the permit review process.
V. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the department shall require the posting of a bond commensurate with the cost of removal or repair. The department may abate an abandoned or unsafe structure in accordance with K.C.C. Title 23.

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

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

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

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

3. The department's review shall:
   a. include an assessment of the risk to endangered species, non-endangered species, and other biota that could be affected by the net pen; and

Commented [JC25]: Clarifying that commercial native salmon net pens are still allowed (except for in Quartermaster per Sub-S above).
b. evaluate and model water quality impacts utilizing current information, technology, and assessment models. The project proponent shall be financially responsible for this water quality assessment;

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

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

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

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

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

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

SECTION 10. Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160 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.
A. The shoreline modification table in this section determines whether a specific shoreline modification is allowed within each of the shoreline environments. The shoreline environment is located on the vertical column and the specific use is located on the horizontal row of the table. The specific modifications are grouped by the shoreline modification categories in WAC 173-26-231. The table should be interpreted as follows:

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

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

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

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

5. If more than one letter-number combination appears in the box at the intersection of the column and the row, the modification is allowed within that shoreline environment subject to different sets of limitations or conditions depending on the review process indicated by the letter, the specific development conditions indicated in the development condition with the corresponding number immediately following the table.
6. A shoreline modification may be allowed in the aquatic environment only if that shoreline modification is allowed in the adjacent shoreland environment.

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

B. Shoreline modifications.

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<th>High Intensity</th>
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<th>Conservancy</th>
<th>Resource</th>
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C. Development conditions.

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

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

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


b. A shoreline conditional use permit is required to:
(1) Place fill waterward of the ordinary high water mark for any use except ecological restoration or for the maintenance and repair of flood protection facilities; and

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

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

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

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

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

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

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

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

(1) are only allowed where necessary to support water dependent uses, public access, approved shoreline stabilization or other public uses, as determined by the director;
(2) are not allowed in the Maury Island Aquatic Reserve except as part of a habitat restoration project or as an alternative to construction of a shoreline stabilization structure;

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

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

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

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

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

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

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

6. Excavation, dredging and filling must meet the standards in K.C.C. 21A.25.190. A shoreline conditional use permit is required to dispose of dredged material within shorelands or wetlands within a channel migration zone
If the department determines the primary purpose is restoration of the natural character and ecological functions of the shoreline, a shoreline habitat and natural systems enhancement project may include shoreline modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, including the installation of large woody debris, dredging and filling. Mitigation actions identified through biological assessments required by the National Marine Fisheries Services and applied to flood hazard mitigation projects may include shoreline modifications of vegetation, removal of nonnative or invasive plants, shoreline stabilization, including the installation of large woody debris, dredging and filling.

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

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

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

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

A. Development within the shoreline jurisdiction, including preferred uses and uses that are exempt from permit requirements, shall be undertaken only if that development is consistent with the policies of RCW 90.58.020, chapter 173-26 WAC 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.
King County shoreline master program and will not result in a net loss of shoreline ecological functions or in a significant adverse impact to shoreline uses, resources and values, such as navigation, recreation and public access. The proponent of a shoreline development shall employ measures to mitigate adverse impacts on shoreline functions and processes following the sequencing requirements of K.C.C. 21A.25.080.

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

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

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

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

E. The department may issue a programmatic statement of exemption as follows:
1. For an activity for which a statement of exemption is required, the activity shall:

a. be repetitive and part of a maintenance program or other similar program;

b. have the same or similar identifiable impacts, as determined by the department, each time the activity is repeated at all sites covered by the programmatic statement of exemption; and
c. be suitable to having standard conditions that will apply to any and all sites;

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

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

4. The department may require revisions, impose new conditions or otherwise modify the programmatic statement of exemption or withdraw the programmatic
statement of exemption and require that the applicant apply for a standard statement of
exemption, if the department determines that:

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

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

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

d. A site requires site-specific regulation; and

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

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

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

2. The maintenance project complies with the King County agricultural drainage
assistance program as agreed to by the Washington Department of Fish and Wildlife, the
department of local services, permitting division, and the department of natural resources
and parks, and as reviewed by the Washington Department of Ecology;
3. The person performing the agricultural drainage maintenance and the land owner has attended training provided by King County on the King County agricultural drainage assistance program and the best management practices required under that program;

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

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

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

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

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