

# Kitsap County Shoreline Master Program Periodic Review 2020-2021

## Recommended Changes for Consideration by the Board of County Commissioners

Date: June 2, 2021

### ATTACHMENT 6: Recommended changes for Consideration by the Board of County Commissioners (6.2.2021)

Required change by Department of Ecology based on Initial Determination

Recommended change by Department of Ecology based on Initial Determination

Recommended change by Department of Community Development for consistency

| Amendment Section   | Proposed Language   | Rationale  |
|---|---|--|
| KCC 22.100.110<br>Purpose and Intent                              | <p><b>22.100.110 Purpose and Intent</b></p> <p>The Kitsap County Comprehensive Plan explains that Kitsap County’s shorelines provide valuable habitat for fish and wildlife, economic diversity, and recreational opportunities used by all residences without exclusion. Kitsap County fully recognizes <del>the American Indian Point No Point Treaty</del> <u>tribal treaty rights</u> and <u>honoring usual and accustomed harvest areas.</u> <del>unusual and customary Tribal lands.</del> Shorelines play an important role in enhancing the quality of life for our county’s citizens. Therefore, the purpose of the master program is to guide the future development of the shorelines in Kitsap County in a manner consistent with the Shoreline Management Act of 1971, hereinafter the “Act.” The Act and this program comprise the basic state and county law regulating use of shorelines in the county.</p> | <p style="color: green;"><b>Department recommended change: Recognize tribal treaty rights</b></p> <p>Based on public comment, the Planning Commission recommended and voted to include language of inclusivity specifically to acknowledge tribal treaty rights in Kitsap County. The amendment includes edits to the SMP purpose and intent section KCC 22.100.110 to fully recognize and acknowledge tribal treaty rights and usual and accustomed harvest areas.</p> <p>The Department is recommending a minor edit to the Planning Commission’s proposed language to acknowledge all tribal treaty rights within Kitsap County.</p>  |
| Title 19<br>KCC 19.200.210(C)(6)<br>Exemptions for Small Wetlands | <p><b>19.200.210 Wetland identification and functional rating.</b></p> <p>...</p> <p>C. Exemptions for Small Wetlands. Category III wetlands that are less than one thousand square feet and Category IV wetlands that are less than four thousand square feet are exempt from the buffer provisions in this chapter when the following are met:</p> <ol style="list-style-type: none"> <li>1. They are isolated wetlands and not part of a wetland mosaic;</li> <li>2. They are not associated with riparian areas or their buffers;</li> <li>3. They are not associated with shorelines of the state or their associated buffers;</li> </ol>  | <p style="color: green;"><b>Department recommended change: Clarify and internal consistency language</b></p> <p>After review of Ecology’s 2016 Best Available Science on exempt wetlands and associated buffer guidance (<a href="https://apps.ecology.wa.gov/publications/documents/1606001.pdf">https://apps.ecology.wa.gov/publications/documents/1606001.pdf</a>), the Planning Commission voted to update the Exemptions for Small Wetlands in the Critical Areas Ordinance. After further review, the Department proposes a minor revision to KCC 19.200.210(C)(6) to ensure it meets 1) the intent of the periodic review of the SMP update of no net loss for lands within the SMP jurisdiction, 2) meets the intent of the Growth Management Act of use of best available science for Critical Areas Ordinances and 3) ensures internal consistency and predictability for applicants and reviewers by using one standard for exempt wetlands, whether it be it in the SMP or CAO jurisdiction.</p> |

| Amendment Section   | Proposed Language   | Rationale  |
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|   | <p>4. They do not contain a Class I fish and wildlife habitat conservation area, identified by the Washington Department of Fish and Wildlife;</p> <p>5. They do not contain federally listed species or their critical habitat; and</p> <p>6. A wetland report is prepared that identifies the specific wetland function affected or at risk and <del>the proposed</del> <u>provides</u> mitigation to replace the affected or lost wetland function, on a per function basis.</p>   | <p>The proposed clarifying correction is to remove the words “the proposed” and keep the word “provides” mitigation...</p>   |
| <p>KCC 22.150.570<br/>Definitions and</p> <p>KCC 22.600.175<br/>Shoreline Stabilization</p> | <p><b>22.150.570 Shoreline Stabilization.</b></p> <p>...</p> <p>“Hybrid” structures are a composite of both soft and hard elements and techniques along the length of the armoring. <del>If any portion of a proposed development contains a measure or measures related to those listed in Section 22.150.570(B), except hard measures necessary to protect the connection to existing hard stabilization on adjoining properties, and that measures of no more than 15 percent of the shoreline length proposed for development, the whole development must be considered a ‘hybrid’.</del> Generally, the harder the construction measure, the greater the impact on shoreline processes including sediment transport, geomorphology, and biological functions. Beach nourishment used for compensatory mitigation <del>goes</del> <u>does</u> not reclassify a project as a hybrid structure.</p> <p><b>22.600.175 Shoreline stabilization.</b></p> <p>A. Environment Designations Permit Requirements. Based on the type of shoreline modification proposed, the identified permit requirements shall apply for all designations:</p> <ol style="list-style-type: none"> <li>1. SDP for soft shoreline stabilization, unless otherwise exempt.</li> <li>2. Administrative CUP for hard shoreline stabilization.</li> <li>3. Administrative CUP for hybrid shoreline stabilization, unless the applicant can demonstrate the project meets the intent of soft shore as described in Ecology’s Soft Shoreline Stabilization SMP Planning and Implementation Guidance (Ecology Publication No. 14-06-009).</li> <li>4. <u>Restoration and enhancement projects, including hybrid projects requiring hard shoreline stabilization to accommodate transition to adjacent properties, that are authorized in writing by both the Shore Friendly Kitsap program and by</u></li> </ol> | <p><b>Ecology recommended change: add clarification for hybrid definition</b></p> <p>The Planning Commission made changes to these sections based on public comments they received. One of the comments by the Suquamish Tribe in their March 2, 2021 comment letter requested a change to the definition. Ecology has reviewed this comment and agrees that this change would improve implementation of the SMP.</p> <p>The Suquamish letter stated in part: “This currently reads that if any portion is hard, then the project shall be considered ‘hybrid’. The ‘any portion’ could be 90%, in which case the project would not likely meet the criteria for review as a hybrid structure under the proposed language in 22.600.175.” The County provided Ecology with revisions to address this concern and to improve implementation of regulations for hybrid projects. This recommended change incorporates the County’s input.</p> <p><b>Department recommended change: typo - replace “goes” with “does”</b></p> |

| Amendment Section             | Proposed Language  | Rationale  |
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|                               | <p><a href="#">the Washington State Department of Fish and Wildlife shall require an SDP, unless otherwise exempt.</a></p> <p>...</p> <p>D. Development Standards<br/>1 General regulations</p> <p>...</p> <p>[new] e. <a href="#">Hybrid shoreline structural stabilization projects, with the exception of restoration and enhancement projects, composed of hard shoreline stabilization that cumulatively covers greater than 15 percent of the total shoreline length parallel to the OHWM shall comply with hard shoreline stabilization projects requirements in this section.</a></p> <p>[re-letter subsequent subsections]</p>  |  |
| KCC 22.400.115 Critical Areas | <p><b>22.400.115 Critical Areas</b></p> <p>A. Incorporation of Title 19. The following sections of Title 19, Critical Areas Ordinance, dated XXXX, 2021, are incorporated herein by this reference, and provided in Chapter 22.800, Appendix E, for reference purposes only, except as supplemented or modified under subsections (B) through (EF) of this section:</p> <p>...</p> <p><b><u>F. Wetlands</u></b></p> <p><b><u>1. Exemptions for small wetlands in Section 19.200.210.C shall not apply.</u></b></p> <p><b><u>2. A wetland buffer may not be reduced through averaging more than twenty-five percent of the standard buffer width applied per Section 19.200.220.B.1. The fifty percent averaging reduction allowed in Section 19.200.220.B.1.e shall not apply.</u></b></p> <p><b><u>3. Administrative buffer reductions in Section 19.200.220.B.2.a-d shall not apply.</u></b></p> <p><b><u>4. Additional development standards for certain uses in Sections 19.200.225.C and G shall not apply.</u></b></p> | <p><b>Ecology required Change: Exclude some wetland provisions from the SMP.</b></p> <p>This section was approved to be stricken (with subsection G for fish and wildlife habitat conservation areas) because amendments to the CAO eliminated the need for adjustments in the SMP. However, upon Ecology review, Ecology requires further changes for consistency with: the requirement to “base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available” [WAC 173-26-201(2)(a)]; the requirement that protection of critical areas “assures no net loss of shoreline ecological functions” [WAC 173-26-221(2)(a)(ii)]; and the use preferences of RCW 90.57.020. The specific issues identified were:</p> <ol style="list-style-type: none"> <li>1. Local governments are required to achieve no net loss of ecological functions within their shoreline jurisdiction. Exemptions for small wetlands can result in a loss of wetland functions within shoreline jurisdiction. Ecology’s wetland guidance is that these type of exemptions are only appropriate outside of shoreline jurisdiction (see <a href="#">Bunten et al 2016</a>). Consistent with Ecology’s recommendations, the exemptions for small wetlands in Kitsap’s CAO may only be used if “[t]hey are not associated with shorelines of the state or their associated buffers” [19.200.210.C.3]. Because these provisions already cannot be used in shoreline jurisdiction, they should not be incorporated into the SMP.</li> <li>2. Kitsap’s CAO incorporated Ecology’s recommended buffer widths based on best available science (<a href="#">Granger et al. 2005</a>, <a href="#">Hruby 2013</a>, <a href="#">Bunten et al 2016</a>), and the SMP allows limited reductions of these buffers. From Ecology’s review of the best available science, buffers smaller than the identified widths would not provide adequate</li> </ol> |

| Amendment Section | Proposed Language | Rationale  |
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|                   |                   | <p>protection to wetland functions and values in the shoreline. Buffer averaging is a technique that can be used to site development on constrained sites while still protecting wetlands. However, protection of the wetland is only adequate if the buffer is reduced by no more than 25%. Allowing wetlands buffers to be reduced by more than 25% through buffer averaging could result in a loss of shoreline ecological function, and so is inconsistent with the requirement that critical area protections assure no net loss of ecological function in WAC 173-26-221(2)(a)(ii).</p> <p>3. Kitsap’s CAO incorporated Ecology’s recommended buffer widths based on best available science (<a href="#">Granger et al. 2005</a>, <a href="#">Hruby 2013</a>, <a href="#">Bunten et al 2016</a>), and the SMP allows limited reductions. From Ecology’s review of the best available science, buffers smaller than the identified widths would not provide adequate protection to wetland functions and values in the shoreline. Allowing buffer reductions without buffer averaging could thus result in impacts to the wetland and could result in a loss of shoreline ecological function. This is inconsistent with the requirement that critical area protections assure no net loss of ecological function in WAC 173-26-221(2)(a)(ii). Further, the CAO only allows these reductions through a CAO variance. CAO permitting provisions do not apply within shoreline jurisdiction [see RCW 90.58.610 &amp; RCW 36.70A.480(3)(d) for the relationship between CAOs and SMPs], so this reduction cannot be used in shoreline jurisdiction and so should not be incorporated into the SMP. If an applicant is experiencing an unnecessary hardship because of these standards, they may seek relief via a shoreline variance.</p> <p>4. Allowing new or expanded roads, and new or expanded utility corridors in wetlands and their buffers is inconsistent with the use preferences of the SMA in RCW 90.58.020 and WAC 173-26-201(2)(d). Protecting and restoring ecological functions is preferred over non-water oriented uses, such as transportation and utilities. Allowing new/expanded roads and utilities in wetlands and their buffers will negatively impact wetland function. Ecology has identified a limited list of activities that can occur in wetlands and their buffers with minimal impacts (<a href="#">Granger et al. 2005</a>, <a href="#">Bunten et al 2016</a>). This change is also necessary for consistency with the use matrix of the SMP in Table 22.600.105, which lists transportation and utilities as either conditional or prohibited in some environments. Repair and maintenance of existing structures may still occur pursuant to the SMP’s non-conforming structure provisions.</p> |

| Amendment Section           | Proposed Language  | Rationale  |
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| 22.400.120(B) Buffer Widths | <p><b>22.400.120 Vegetation conservation buffers.</b></p> <p>...</p> <p>B. Buffer widths.</p> <p>...</p> <p>3. Additional Standards for Applying the Reduced Standard Buffer within the Rural Conservancy and Natural Designations and Shorelines of Statewide Significance. Buffers may be reduced for single-family residences and water-oriented uses in the rural conservancy designation, natural designation, and shorelines <del>on of statewide significance for</del> Hood Canal only under the following circumstances:...</p>   | <p><b>Ecology recommended Change: Clarify which shorelines this section applies to</b></p> <p>The Planning Commission voted to make a change to this section in response to public comment requesting clarification which shorelines of statewide significance this section applies to. Ecology’s review suggests that the resulting wording could be confusing. Thus, further proposed changes are recommended so it is clear that this section applies to all rural conservancy and natural designations, as well as all shorelines on Hood Canal.</p>   |
| 22.400.120(C)(2)            | <p><b>22.400.120 Vegetation conservation buffers.</b></p> <p>...</p> <p>C. Constrained Lot and Infill Provisions.</p> <p>...</p> <p>2. Alternatives for Existing Development.</p> <p>...</p> <p>c. Expansion of Development below the Reduced Standard Buffer. Expansion of existing development below the reduced standard buffer <del>may only occur if approved through a shoreline variance pursuant to 22.550.100.E. may occur according to the following criteria. To reduce the procedural burden on applicants, in some cases the variance may be approved administratively as a Type II decision according to the criteria below and the variance criteria in Section 22.500.100.E:</del></p> <ul style="list-style-type: none"> <li>i. Expansion of development shall not occur further waterward of the existing structure, unless no other feasible option exists due to physical constraints of the property.</li> <li>ii. Any expansion below the reduced standard buffer shall require a shoreline mitigation plan (see Section 22.700.140).</li> <li>iii. Expansion within the outer twenty-five percent of the reduced standard buffer or within any portion of the buffer in the shoreline residential designation shall require a Type II administrative variance, <del>according to except under</del> the conditions of subsection (iv) below. Expansion within the waterward seventy-five percent of the reduced standard buffer shall require a Type III variance.</li> </ul> | <p><b>Ecology required Change: Clarify when a variance is required</b></p> <p>The Planning Commission approved updates to this section, but upon Ecology review, an additional change is necessary for consistency with WAC 173-27-170. Pursuant to WAC 173-27-170, “The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in <a href="#">RCW 90.58.020</a>.” [Emphasis added] Ecology’s rationale is that unlike for CUPs, local governments do not have discretion as to what development requires a variance and what development does not require a variance. Only proposals that are inconsistent with a bulk, dimensional, or performance standard of the SMP are required to obtain a shoreline variance. Ecology proposed language that they believe retains the County’s intent with this section, while also ensuring consistency with WAC 173-27-170..</p> <p><b>Ecology recommended change: Add clarity to distinctions Type II procedures.</b></p> <p>Ecology recommends minor revisions to provide better clarity for implementing these procedures.</p> |

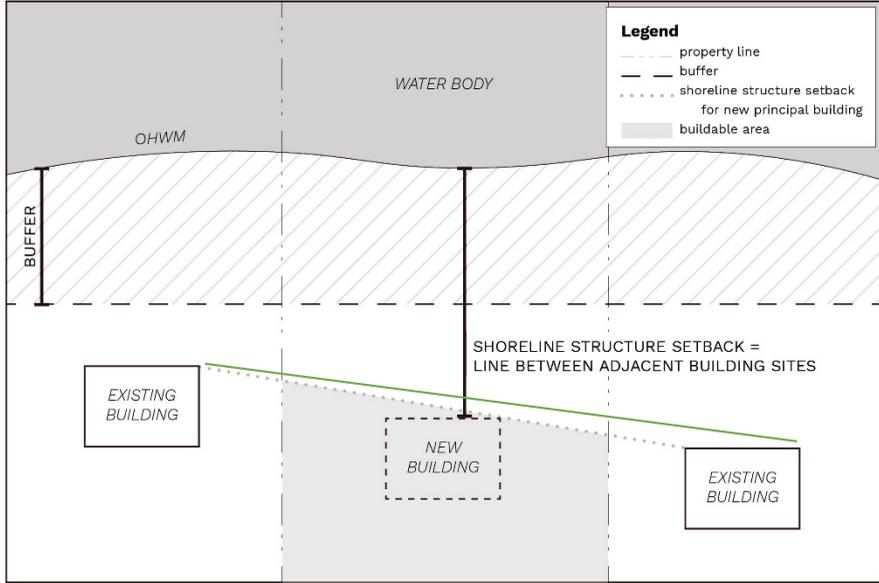
| Amendment Section  | Proposed Language   | Rationale   |
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|  | <p>iv. Expansion of a single-family residence below the reduced standard buffer may be allowed through <del>an</del> <a href="#">Type II</a> administrative variance for limited expansions of no more than 25% of the existing gross floor area or 625 square feet, whichever is less, if expanding into an existing legally cleared area and located no further waterward than the existing structure.</p>  |   |
| <p>22.400.120(D) Other Uses and Modifications in Vegetation Conservation Buffers</p> | <p><b>22.400.120 Vegetation conservation buffers.</b><br/> ...<br/> D. Other Uses and Modifications in Vegetation Conservation Buffers.<br/> 1. In order to accommodate water-oriented uses and modifications within the buffer, the following standards shall apply subject to shoreline permit review unless otherwise exempted:<br/> ...<br/> c. Beach Stairs. Beach stairs may be permitted, subject to the <del>permitting requirements of exemption provisions in</del> Section 22.500.100(C)(3). Beach stairs placed <del>below waterward of</del> the OHWM will normally require a <del>shoreline exemption from Kitsap County, and</del> a hydraulic project approval (HPA) from WDFW. <del>Beach stairs with stair towers shall require an SDP where exemption provisions are not met.</del><br/> i. Stair landings in the vegetation conservation buffer or <del>below waterward of the</del> OHWM must be composed of grating or other materials that allows a minimum of <del>40</del> <u>60</u> percent light to transmit through.<br/> ii. Viewing platforms associated with beach stairs shall comply with Section 22.400.120.D.1.b.<br/> iii. Stair landings <del>in the vegetation conservation buffer or below waterward of the</del> OHWM must comply with the provisions of <del>WAC 220-660-380 in saltwater areas or WAC 220-660-140 in freshwater areas. KCC 22.600.160(C).</del><br/> d. Trams. Trams may be permitted, subject to the <del>permitting requirements of exemption provisions in</del> Section 22.500.100(C)(3) <del>and are considered accessory or appurtenances to the upland use. Trams are not considered appurtenances under this section. Trams utilizing towers require an SDP where exemption provisions are not met.</del> They are prohibited in the Aquatic and Natural Shoreline Environment Designations. The following development standards apply:</p> | <p><b>Ecology required Change: Clarify permitting requirements for beach stairs and trams</b><br/> The Planning Commission voted to update requirements for beach stairs and trams and Ecology requires a further change for consistency with the permitting requirements of the SMA in RCW 90.58.140 and WAC 173-27. Ecology’ rationale is that all development proposals in the shoreline jurisdiction require an SDP unless the applicant can demonstrate that their proposal is consistent with one or more exemption in WAC 173-27-040. There are no exemptions for beach stairs or trams and so proposals for these structures will likely always need to obtain an SDP (except in the very unlikely case where the proposal does not exceed the cost threshold). The determination of whether a project requires an SDP or is exempt from an SDP is made during the permitting phase based on the facts of the proposal. Local governments cannot make this determination pre-emptively in the SMP. Accordingly, language is recommended to clarify this point.</p> <p><b>Ecology required Change: Do not consider trams to be appurtenances</b><br/> The Planning Commission voted to approve the addition of tram regulations and Ecology requires a change for consistency with WAC 173-27-040(2)(g) and KCC 22.150.130, which define and limit what structures and developments may be considered appurtenances to single family residences. Within the context of the SMA, appurtenances are those structures and developments that are “necessarily connected to the use and enjoyment of” the primary use [WAC 173-27-040(2)(g)] and that are landward of the ordinary high water mark. For single family residences, these include a specific list of structures, which does not include trams, but can also include other appurtenances identified by a jurisdiction in its SMP. The department agrees that trams should not be considered appurtenances. This change incorporates input from County staff on preferred wording.</p> <p><b>Ecology recommended Change: Clarify directions with regard to OHWM</b><br/> The OHWM is a horizontal boundary, not a vertical boundary, so structures are either waterward or landward of it. Further, stair landings should be above the elevation that corresponds to OHWM to minimize impacts to the aquatic environment. The intent of</p> |

| Amendment Section   | Proposed Language  | Rationale  |      |      |      |    |  |  |      |      |      |      |      |      |    |   |
|---|--|--|------|------|------|----|--|--|------|------|------|------|------|------|----|---|
|   |  | <p>this section is to require grating when stairs are proposed waterward of the OHWM. This change is recommended to improve implementation of this provision.</p> <p><b>Ecology recommended Change: Refer to the SMP's standards and not WDFW's rules &amp; limit only to overwater structures</b><br/>           Ecology understands that the addition of references to WAC 220-660 by the Planning Commission were in response to comments from WDFW. However, WAC 220-660 contains rules directing WDFW's review of HPAs and were developed for that purpose. If the SMP requires that projects be consistent with those rules, it could create a number of implementation challenges. As the County has already identified appropriate standards for overwater structures, Ecology recommends that this section refer to those standards instead of WDFW's rules. Ecology also recommends this reference (either to the WAC or the SMP overwater standards) only apply to stair landings that are overwater.</p> <p><b>Ecology recommended Change: Revise minimum light transmittance to 60%</b><br/>           The change to 40% light emission approved by the Planning Commission was requested by WDFW. While Ecology agrees that this will improve implementation, it notes that structures must obtain an HPA will need to achieve this level of light transmittance anyway, so matching the HPA requirements (60%) will likely reduce the number of design iterations applicants must go through.</p> |      |      |      |    |  |  |      |      |      |      |      |      |    |   |
| Table 22.600.105<br>Shoreline Use and<br>Modifications Matrix   | <p><b>Table 22.600.105 Shoreline Use and Modifications Matrix</b><br/>           ...</p> <table border="1" data-bbox="459 1031 1212 1101"> <tr> <td colspan="7">Shoreline Stabilization <del>(New/Repair and Maintenance)</del></td> </tr> <tr> <td>Hard</td> <td>C(A)</td> <td>C(A)</td> <td>C(A)</td> <td>C(A)</td> <td>C(A)</td> <td>18</td> </tr> </table> | Shoreline Stabilization <del>(New/Repair and Maintenance)</del>  |      |      |      |    |  |  | Hard | C(A) | C(A) | C(A) | C(A) | C(A) | 18 | <p><b>Ecology recommended Change: Remove language</b><br/>           This recommended change is for existing language in the SMP. The wording in the table subheading appears to require that repair and maintenance of hard shoreline stabilization obtain a shoreline conditional use permit. However, 22.600.175.A does not require this. If the County's intent is not to require CUPs for repair/maintenance of hard stabilization, then Ecology recommends the County strike this language to reduce confusion.</p> |
| Shoreline Stabilization <del>(New/Repair and Maintenance)</del> |  |  |      |      |      |    |  |  |      |      |      |      |      |      |    |   |
| Hard  | C(A)   | C(A)   | C(A) | C(A) | C(A) | 18 |  |  |      |      |      |      |      |      |    |   |
| 22.600.115(C)(3)<br>Additional standards<br>for net pens        | <p><b>22.600.115 Aquaculture.</b><br/>           ...<br/>           C. Development Standards.<br/>           ...</p>   | <p><b>Ecology recommended Change: Remove reference to RCW 77.125 and aquatic leases</b><br/>           The Planning Commission voted to approve changes to this section based on a consistency review with 2018 net pen provisions in state law. Ecology notes that RCW 77.125 is direction for WDFW and does not apply to the County. Ecology recommends the County not refer to it as this reference could be confusing when reviewing shoreline</p>   |      |      |      |    |  |  |      |      |      |      |      |      |    |   |

| Amendment Section  | Proposed Language   | Rationale   |
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|  | <p>3. Additional Standards for Net Pens. Fish net pens and rafts shall meet the following criteria:</p> <p>...</p> <p>h. <del>All marine finfish aquaculture programs shall comply with RCW 77.125 as amended.</del> New or expanded <del>leases of</del> nonnative marine finfish aquaculture <del>are is</del> prohibited.</p>  | <p>permits. Additionally, the County does not lease aquatic lands. If the County's intent is to prohibit nonnative marine finfish, then Ecology recommends re-writing as proposed. Note that the SMP is not required to have such a prohibition.</p>  |
| <p>22.600.170(A)<br/>Residential development – Environmental Designation Permit Requirements</p> | <p><b>22.600.170 Residential Development.</b></p> <p>A. Environmental Designations Permit Requirements.</p> <p>...</p> <p>3. Shoreline residential and high intensity:</p> <p>a. Primary single-family residences are exempt pursuant to criteria in Section 22.500.100(C);</p> <p>b. SDP if exemption criteria not met.</p> <p>c. SDP for multifamily units, accessory dwelling units, and</p> <p>d. <u>SDP for land segregation where complete application includes development within the shoreline jurisdiction.</u> <del>Where a subdivision per KCC Title 16 is within shoreline jurisdiction and does not meet the SDP exemption criteria, an SDP shall be required. If lot creation is entirely outside of shoreline jurisdiction per KCC Chapter 22.200, then no shoreline permit shall be required.</del></p> | <p><b>Ecology required Change: Do not require an SDP for subdivision by itself</b></p> <p>The Planning Commission voted to approve changes to this section, but Ecology requires a further change for consistency with the permitting requirements of the SMA in RCW 90.58.140 and WAC 173-27. The mere segregation of land without actual development, as defined in RCW 90.58.030(3)(a) and KCC 22.150.230, is not subject to the SMP. If, however, as part of the segregation “development” will occur within the shoreline jurisdiction, then the application for segregation will trigger SMP review. This language, with County input, is required to clarify this distinction.</p> <p><b>Ecology recommended change: Add clarity to subdivision provision</b></p> <p>The County provided language to replace the proposed language for sub-section d. Ecology agrees this will help with implementation and is consistent with the SMA and SMP Guidelines.</p> |
| <p>22.600.180(A)<br/>Transportation Environmental Designations Permit Requirements</p>           | <p><b>22.600.180 Transportation</b></p> <p>A. Environmental Designations Permit Requirements.</p> <p>...</p> <p>2. Rural conservancy and urban conservancy: <u>a CUP is required, except an SDP shall be required for development unless the proposal is</u> necessary to protect existing public roads within existing rights-of way.</p>  | <p><b>Ecology recommended change: Re-word for clarity</b></p> <p>The Planning Commission voted to approve changes to this section, and Ecology recommends further changes to clarify the apparent intent to allow certain transportation projects without a CUP if they are necessary for protecting existing public roads. Ecology's rationale is that adding language to say that an SDP shall be required is unnecessary and could be confusing.</p>   |

| Amendment Section                                      | Proposed Language  | Rationale  |                          |                  |          |         |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |
|--|--|--|--------------------------|------------------|----------|---------|----------|---------|----|--|----|--|--|---|--|----|--|---|--|---|--|--|--|
| Title 21<br>21.04.100 Review Authority Table           | <p><b>21.04.100 Review Authority Table</b></p> <p>...</p> <table border="1" data-bbox="459 245 1454 737"> <thead> <tr> <th></th> <th>Permit/Activity/Decision</th> <th>Review Authority</th> <th>Type I</th> <th>Type II</th> <th>Type III</th> <th>Type IV</th> </tr> </thead> <tbody> <tr> <td>13</td> <td>Shoreline Variance (<del>&gt;25%</del>) <u>(any variance for which an Administrative variance is not applicable)</u></td> <td>HE</td> <td></td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>14</td> <td><u>Administrative</u> Shoreline Variance <del>← 25% or within any portion of the reduced buffer in shoreline residential designation) (development or expansion requiring &lt;25% reduction of the reduced standard buffer or any amount of buffer reduction within the shoreline residential designation per 22.400.120(C))</del></td> <td>D</td> <td></td> <td>X</td> <td></td> <td></td> </tr> </tbody> </table> |  | Permit/Activity/Decision | Review Authority | Type I   | Type II | Type III | Type IV | 13 | Shoreline Variance ( <del>&gt;25%</del> ) <u>(any variance for which an Administrative variance is not applicable)</u> | HE |  |  | X |  | 14 | <u>Administrative</u> Shoreline Variance <del>← 25% or within any portion of the reduced buffer in shoreline residential designation) (development or expansion requiring &lt;25% reduction of the reduced standard buffer or any amount of buffer reduction within the shoreline residential designation per 22.400.120(C))</del> | D |  | X |  |  | <p><b>Ecology required Change: Clarify variance types</b></p> <p>The Planning Commission voted to approve the addition of the Type II shoreline variance to the table along with a short description of application. Ecology requires a further change for consistency with the permitting requirements of the SMA in RCW 90.58.100(5) and WAC 173-27-170. Ecology’s rationale is that an applicant may obtain a variance to any bulk, dimensional, or performance standard in the SMP provided the request is consistent with the variance criteria in WAC 173-27-170, but the County’s amendment to this section implies that only shoreline variances to buffer standards are possible. This change is necessary to ensure shoreline variances are implemented consistent with WAC 173-27. The language required includes County input.</p> |
|  | Permit/Activity/Decision   | Review Authority   | Type I                   | Type II          | Type III | Type IV |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |
| 13   | Shoreline Variance ( <del>&gt;25%</del> ) <u>(any variance for which an Administrative variance is not applicable)</u>   | HE   |                          |                  | X        |         |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |
| 14   | <u>Administrative</u> Shoreline Variance <del>← 25% or within any portion of the reduced buffer in shoreline residential designation) (development or expansion requiring &lt;25% reduction of the reduced standard buffer or any amount of buffer reduction within the shoreline residential designation per 22.400.120(C))</del>   | D  |                          | X                |          |         |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |
| Title 15<br>KCC 15.08.140<br>Floodway                  | <p><b>15.08.140 Floodway</b></p> <p>“Floodway” means <u>the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. <del>the area that has been established in effective federal emergency management flood insurance rate maps or floodway maps. The floodway does not include lands that can be reasonably expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state or a political subdivision of the state.</del></u></p>  | <p><b>Department recommended change based on Ecology’s Community Assistance Visit (CAV) meeting: do not change definition of “floodway” in Title 15</b></p> <p>For consistency among regulations, the department initially recommended changing the definition of “floodway” in KCC 15.08.140 to be consistent with the amended change to the same definition in the SMP. The Planning Commission voted to approve this change. Ecology, however, has pointed out that changing the definition within Title 15 could have implications to the National Flood Insurance Program. Until there is more time to review this potential implication, the Department now recommends not proceeding with the change and keeping the prior definition in KCC 15.08.140.</p> |                          |                  |          |         |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |
| KCC 22.400.120<br>(B)(2)(f)<br>Reduced Standard Buffer | <p><b>22.400.120 Vegetation conservation buffers</b></p> <p>...</p> <p>B. Buffer Widths</p> <p>...</p> <p>2. Reduced Standard Buffer</p> <p>...</p> <p>f. Shoreline jurisdictional freshwater streams and rivers: <u>two hundred feet</u>; buffers may be reduced pursuant to the standards in subsection (C) of this section.</p>   | <p><b>Department recommended change based on public comment to clarify reduced standard buffer for streams</b></p> <p>Based on public comment, the Department agrees that clarity is needed regarding reduced standard buffer for shoreline freshwater streams and rivers in section 22.400.120(B)(2)(f).</p>  |                          |                  |          |         |          |         |    |  |    |  |  |   |  |    |  |   |  |   |  |  |  |

| Amendment Section                     | Proposed Language  | Rationale   |
|---------------------------------------|--|---|
| KCC 22.400.135(A)(3)<br>View Blockage | <p><b>22.400.135 View Blockage</b></p> <p>...</p> <p>3. Adjacent Principal Buildings on Both Sides on a <del>Regular</del> <u>Linear</u> Shoreline. Where there are adjacent principal buildings on both sides of the proposed structure on a <del>regular</del> <u>linear</u> shoreline (<u>not along a peninsula or cove</u>), the shoreline structure setback line shall be determined by a <u>stringline setback</u> <del>line drawn between the building line of the adjacent principal buildings</del> <u>or the buffer and setback specified elsewhere in this program, whichever is greater.</u> <u>A stringline setback means a straight line drawn between the points on the primary structures having the greatest projection waterward. If one of the adjacent properties is developed landward of the vegetation conservation buffer and setback, the line shall not be drawn to that adjacent structure but be drawn to the point where the standard buffer meets the side property line of the lot to be improved.</u> See Figure 22.400.135(A)(3).</p> | <p><b>Department recommended change based on public comment to clarify view blockage section</b></p> <p>Based on public comment, the Department agrees that clarity is needed to specify that the shoreline setback line is going to be the greater of either the view line or shoreline buffer and setback. The removed strikeout provides this clarity.</p> |

| Amendment Section                             | Proposed Language   | Rationale   |
|---|---|---|
| <p>KCC 22.400.135(A)(3)<br/>View Blockage</p> | <p><b>Figure 22.400.135 (A)(3)</b></p>  <p>Figure 22.400.135(A)(3)<br/>Buffer and shoreline structure setback on a regular shoreline with adjacent primary structures on both sides.</p>  | <p><b>Department recommended change to clarify diagram</b></p> <p>The diagram shown in Figure 22.400.135(A)(3) approved by the Planning Commission represents a correction proposed by the Department to draw the shoreline structure setback line between the points on the primary structures having the greatest projection waterward, as shown in green line. After further review, the Department recommends removing this change and keeping the original shoreline structure setback line, as shown in the gray dotted line.</p> |
| <p>KCC 22.400.135(1)<br/>View Blockage</p>    | <p><b>22.400.135 View Blockage</b></p> <p>...</p> <p>1. No Adjacent Principal Buildings. Where there are no adjacent principal buildings, the shoreline structure setback line shall be the <u>standard vegetation conservation buffer</u> and setback specified in <u>Section 22.400.120 elsewhere in this program</u>. See Figure 22.400.135(A)(1).</p> | <p><b>Department recommended change for consistency</b></p> <p>After further review of the view blockage section, the Department is recommending a <del>strikeout</del> to the word “standard” to clarify that a vegetation conservation buffer described in section 22.400.120 may be standard or reduced.</p>   |