

ATTACHMENT A: FINDINGS AND CONCLUSIONS FOR PROPOSED LOCALLY INITIATED AMENDMENT TO KING COUNTY'S SHORELINE MASTER PROGRAM

SMP submittal accepted April 21, 2021, Ordinance No. 19244; with Ordinance No. 19128 (August 14, 2020) and Ordinance No. 19146 (August 28, 2020) previously accepted in 2020

Prepared by Department of Ecology on October 4, 2021

Use of this Document: Ecology's *Findings and Conclusions* (Attachment A) provides the factual basis for the Department of Ecology's (Ecology) decision on King County's (County) proposed amendment to their Shoreline Master Program (SMP).

Brief Description of Proposed Amendment:

King County has submitted a locally initiated Shoreline Master Program (SMP) amendment to Ecology for review and approval.

FINDINGS OF FACT

Need for amendment

The original County SMP was approved by Ecology in 1978. The County's comprehensive SMP update, pursuant to RCW 90.58.080(2) was completed in January 2013. The County completed a Periodic Review of their Shoreline Master Program pursuant to RCW 90.58.080(4) in January 2020.

King County contains nearly 2,000 miles of marine, riverine, and lake shorelines. The King County SMP is an integrated land use document, as outlined in King County Code (KCC) 20.12.200, the SMP is located primarily within KCC 21A.25 but also includes portions of 21A.24, 20.18, 20.22, 20.24, 21A.32, 21A.44, and 21A.50.

The proposed amendments were locally initiated as part of the County's annual Comprehensive Plan and development regulations amendment packages. The amendments were completed as part of the County Councils regular consideration of legislation to make both substantive and technical changes to its land use and development regulations. The proposed amendment address changing local circumstances and new information, and are intended as minor adjustments to portions of King County's SMP.

SMP provisions to be changed by the amendment as proposed:

The County's amendment proposes several changes to their existing shoreline program. The changes pertain to the County's Comprehensive Plan update (King County Codes 21A.24.310, 21A.24.316, 21A.24.325, and 21A.25.050), floodplain development regulations (King County Code 21A.24.070), and a technical date change in King County Code 20.12.200 to ensure the most recent ordinances are incorporated into the SMP. Under Ordinance 19146 the County's Comprehensive Plan update includes minor revisions to critical areas codes, adds Lake Fenwick as a shoreline of the state, corrects where Kimball Creek becomes a shoreline of the state and revises some of the mapped Shoreline Environmental Designations. Mapping updates are associated with King County Parks Properties, Lake Washington/Newcastle, Vashon-Maury Island and Kimball Creek/Snoqualmie.

This submittal includes portions of three (3) separate local actions, Ordinance 19128, 19146, and 19244.

[Ordinance 19128](#) amending floodplain provisions in King County Code (KCC) section 21A.24.070 in response to an audit by the Federal Emergency Management Agency and to meet federal and state minimum floodplain management standards (Code of Federal Regulations Title 44 and Revised Code of Washington Title 86).

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[Ordinance 19146](#) identifies Sections 68, 69, 70 and 71 as well as Attachment A, E, and H as amendments to the County's SMP. The remaining portions of Ordinance 19146 are not related to the SMP. The following KCC sections are amended by the above referenced sections: 21A.24.310, 21A.24.316, 21A.24.325, and 21A.25.050. Revisions under KCC 21A.24.310 are regarding critical area assessment requirements, minimum buffers and consideration of sea level rise in steep slope hazard areas. Revisions under KCC 21A.24.316 pertain to critical aquifer recharge areas and specifically identify Vashon-Maury Island as the previously identified island surrounded by saltwater and identify critical aquifer recharge area, coastal high hazard area, and sea level rise protection standards that apply. Revisions under KCC 21A.24.325 are minor grammatical revisions in the wetland buffer section. Revisions under KCC 21A.25.050 incorporate mapping changes and revisions to the list of Shorelines of the State found in Attachment H of the ordinance.

Comprehensive Plan Chapter Six amendments are located in Attachment A of the ordinance, these amendments include a modification to Policy S-785 updating the 100-year floodplain reference to the new "coastal high hazard area (also known as the coastal 100-year floodplain)" and an update to the *Shorelines of the State Map* – Shoreline Jurisdiction SMP Environment Designations map.

Attachment E of the ordinance amends Shoreline Maps related to properties owned by King County Parks and property along Lake Washington near Newcastle, on Vashon-Maury Island and along Kimball Creek near Snoqualmie.

The King County Parks Property mapping revisions change the shoreline environment designations on 180 properties that were acquired and placed in King County Parks' inventory since the last major revision to shoreline designations. The changes: designate the Natural to King County Parks' properties classified as natural land/ecological sites and apply the Conservancy on the other Parks' sites classified as active, multiuse parks, forest sites, or regional trails. More than one upland shoreline designation may apply to each parcel. The proposed changes impact upland environment designations; existing aquatic designations on any given parcel would not change.

The mapping changes for Lake Washington near Newcastle designate previously unclassified parcels as: Residential on portions of 36 properties landward of the ordinary high water mark and the Conservancy on a portion of one property with all the areas waterward of the ordinary high water mark designated as Aquatic.

Mapping changes for the Vashon-Maury Island areas re-designate the shoreline environment designation from Natural to Rural on six properties on Vashon-Maury Island, which were previously incorrectly designated.

Mapping changes for the Kimball Creek area near Snoqualmie designate, previously unclassified parcels as: Residential on portions of properties landward of the ordinary high water mark and Aquatic on portions of properties waterward of the ordinary high water mark along Kimball Creek.

Attachment H of the ordinance updates the King County Shoreline Jurisdiction Streams and Lakes Segments list to add Lake Fenwick as a water of the state, correct the names of two other lakes, and correct the location (latitude and longitude coordinates) where Kimball Creek becomes a water of the state.

[Ordinance 19244](#) amending KCC section 20.12.200 to make a technical date change to ensure the most recent ordinances (19128 and 19146) are incorporated into the SMP.

Amendment History and Review Process:

Local SMP Amendment Process

The proposed SMP amendments are a combination of three (3) ordinances passed as part of the County's annual Comprehensive Plan, related regulation update process and updating the codes in compliance with FEMA regulations.

Ordinance 19128

The Federal Emergency Management Agency's (FEMA) conducted an audit of King County's flood regulations and maps in 2019 and requires King County Code to update Title 21A (Zoning) to meet federal and state minimum floodplain management standards (Code of Federal Regulations (CFR) Title 44 and Revised Code of Washington (RCW) Title 86). As an early step in adopting the most current Flood Insurance Rate Maps (FIRM), the proposed maps were presented to the Council in February 2020. This ordinance makes minor revisions to the flood hazard regulations that are incorporated by reference into the SMP.

Affidavits of publication provided by the County indicate notice of the hearing was published in the Seattle Times on June 5, 2020. The record shows that a public hearing regarding this SMP Amendment before the Metropolitan King County Council was held on July 7, 2020 at 1:00 pm. No comments were received in relation to SMP revisions. This ordinance was introduced on February 4, 2020 and passed by the Metropolitan King County Council on July 7, 2020 and approved by the County Executive on July 16, 2020.

Ordinance 19146

This ordinance was introduced as part of the County's annual Comprehensive Plan review and development regulations update process. The process began on January 1, 2019 with submittal of a Scope of Work to the Metropolitan King County Council. King County Motion 15329 adopted the scope on February 27, 2019 and serves as the foundation for the 2020 update. Ordinance 19146 was adopted as part of the County's Comprehensive Plan updates and includes minor revisions to critical areas codes, adds Lake Fenwick as a Shoreline of the state, corrects the location where Kimball Creek becomes a water of the state and revises some of the Shoreline Environmental Designations. Shoreline Environmental Designation amendments are associated with King County Parks Properties, Lake Washington/Newcastle, Vashon-Maury Island and Kimball Creek/Snoqualmie.

Affidavits of publication provided by the County indicate notice of the hearing was published in the Seattle Times on August 3, 2020, the Woodinville Weekly on August 6, 2020, and the Robinson Newspapers on August 7, 2020. The record shows that a public hearing regarding this SMP Amendment was held before the Metropolitan King County Council on June 9, 2020 at 1:00pm. The County produced a 473 page comment summary and response document associated with the entire Comprehensive Plan update. This ordinance was introduced on October 9, 2019, was passed by the Metropolitan King County Council on July 24, 2020, and approved by the County Executive on August 10, 2020.

Ordinance 19244

In September 2020, the Department of Ecology reviewed two ordinances, Ordinances 19128 and Ordinance 19146, pertaining to the Comprehensive Plan update and the floodplain development regulations. During the review of these ordinances, the Department of Ecology identified a correction needed to K.C.C. 20.12.200 to update a codified date which demonstrates the ordinance is incorporated into the SMP. Ordinance 19244 amends K.C.C. 20.12.200, a section of the Shoreline Master Program, to make a technical date change required by the Department of Ecology.

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Affidavits of publication provided by the County indicate notice of the hearing was published in the Seattle Times on February 4, 2021. The record shows that a public hearing regarding this SMP Amendment was held before the Metropolitan King County Council on March 9, 2021 at 1:00 pm. This ordinance was introduced on November 10, 2020 and passed by the Metropolitan King County Council on March 9, 2021 and approved by the County Executive on March 25, 2021.

Department of Ecology Review Process

The proposed SMP amendments contained in Ordinance 19128 were received by Ecology for state review on August 17, 2020. Ordinance 19146 was received on August 28, 2020, and Ordinance 19244 was received on April 7, 2021. The total submittal package was verified as complete on April 21, 2021. Notice of the state comment period was distributed to interested parties, from the state list and those identified by the County, on or before May 11, 2021, in compliance with the requirements of WAC 173-26-120.

The state comment period began on May 17, 2021 and continued through June 15, 2021. No public hearing was held during the state comment period.

During the state comment period, comments were received from the Snoqualmie Tribe, the Snoqualmie Valley Preservation Alliance and the Snoqualmie Valley Watershed Improvement District. Comments primarily focused on elements of ordinance 19128 that are not incorporated into the SMP including how the flood protection elevation applies to agricultural structures, the floodplain development permit process, agricultural wells in the floodway, where the FEMA floodway occurs, and asking questions pertaining to how the FEMA floodway is identified. The County responded directly to the Snoqualmie Tribe on June 16, 2021 to clarify where the FEMA floodway occurs and provided maps. On June 24, 2021, Ecology prepared a comment summary matrix and sent the matrix to the County to provide responses. On August 13, 2021, the County provided responses to all comments stating,

“This portion of the ordinance is not part of the County's SMP regulations that are subject Ecology's review and approval. As such, these code amendments, as approved by the King County Council, have been in effect since August 2020. King County will contact the commenter directly for any additional follow up.”

Ecology held a virtual meeting on June 22, 2021 with the Snoqualmie Valley Preservation Alliance and the Snoqualmie Valley Watershed Improvement District to discuss their questions and SMP policies and regulations that are pertinent to their work. Their questions were related to non-SMP floodplain regulations updates and therefore were redirected toward King County.

Consistency Review

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with applicable guidelines (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions).

Consistency with Amendment Criteria: The proposed amendment has also been reviewed for compliance with WAC 173-26-201(1)(c) of the SMP Guidelines. The proposed amendments will not foster uncoordinated and piecemeal development of the state's shorelines (WAC 173-26-201(1)(c)(i)). The amendment, as

conditioned, is consistent with all applicable policies and standards of the Act (WAC 173-26-201(1)(c)(ii)). All procedural rule requirements for public notice have been satisfied (WAC 173-26-201(c)(iii)). The master program guidelines analytical requirements and substantive standards have been satisfied, as applicable to the amendments. The amendments will not result in a net loss of shoreline ecological functions (WAC 173-26-201(1)(c)(iv)).

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form an issued Determination of Non-Significance for adoption of Ordinance 19146 dated June 8, 2020. A SEPA Determination of Non-Significance dated June 1, 2020 for adoption of ordinance 19128 and a SEPA determination of Non-Significance addendum dated October 26, 2020 was provided for ordinance 19244. Ecology did not comment on any of these actions.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's proposed SMP amendment, is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that those SMP segments relating to shorelines of statewide significance continue to provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-100 regarding public and agency involvement in the SMP amendment process, including conducting public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the proposed amendments satisfy the criteria for approval of WAC 173-26-201(1)(c).

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-100 and WAC 173-26-110.

Ecology concludes that we have complied with the state's procedural requirements for review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments to this SMP are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules. Ecology approval of the proposed amendments is effective 14 days from Ecology's final action approving the amendment.