



Legislation Text

File #: 2018-0310, **Version:** 1

Clerk 7-6-18

AN ORDINANCE renewing and extending a moratorium under RCW 90.58.590
on the establishment of commercial nonnative salmon net pen aquaculture
facilities.

SECTION 1. Findings:

A. King County's native salmon runs are among the Puget Sound region's most precious and irreplaceable natural resources.

B. The Shoreline Management Act of 1971, chapter 90.58 RCW, requires King County to review its shoreline master program every eight years. The act requires King County to complete its next review and make any necessary revisions to its shoreline master program on or before June 30, 2019.

C. The purpose of the review under the Shoreline Management Act is: to assure that the county's shoreline master program complies with applicable law and guidelines in effect at the time of the review; and to assure consistency of the shoreline master program with the King County Comprehensive Plan, county development regulations and other local requirements.

D. Reviewing and making necessary revisions to the county's shoreline master program is an extensive process, and the Washington state Department of Ecology offers counties seventy-five thousand dollars in grant funding to help cover the costs.

E. In a letter dated August 30, 2017, the Washington state Department of Ecology recommended steps for King County to begin preparing for the periodic review. The letter also encouraged King County to combine any amendments to the shoreline master program with the periodic review in order to address

shoreline issues more efficiently.

F. A single Shoreline Master Plan amendment process also provides interested parties with more clarity on the scope of proposed changes and allows parties to comprehensively review proposed changes in the context of other proposed amendments.

G. King County has started the process of reviewing its shoreline master program as required by the Shoreline Management Act.

H. Aquaculture is an historic, water-dependent use of Washington's shorelines. Aquaculture is the farming of fish, shellfish or other aquatic plants and animals, and has been part of the culture of the Pacific Northwest for thousands of years. Aquaculture also plays an important role in food production the Pacific Northwest.

I. Net pen aquaculture is the practice of raising fish in an underwater net that serves as a pen. Two main types of net pen aquaculture exist in Washington: commercial pens containing Atlantic salmon raised for market; and enhancement pens raising native salmon for release into the wild and eventual tribal, recreational, and commercial catch. Atlantic salmon is a nonnative salmon species in Washington.

J. Tribes have treaty rights covering native salmon species.

K. Commercial net pen aquaculture for raising nonnative species poses potential risks to native salmon and the region's work to restore native salmon runs in Puget Sound. Both the Washington state Department of Ecology and King County have a policy and regulatory role in net pen aquaculture to manage this shoreline use and ensure that commercial net pens for nonnative species do not put Pacific salmon recovery at risk.

L. Many native salmon species have become extinct or are in danger of extinction. To reverse this trend and to help preserve one of the unique and most precious attributes of our region, King County, area tribes, the state, the region and the federal government have collectively invested millions of dollars over many years to help restore native salmon species.

M. The policy, regulatory and scientific landscape for aquaculture continues to evolve with new

scientific discoveries, advances in engineering and technology and competing shoreline uses.

N. Vashon and Maury Islands are unique in that they comprise all of the marine shoreline in unincorporated King County.

O. K.C.C. 21A.25.110 governs aquaculture in King County, including commercial net pen aquaculture.

P. In August 2017, a commercial net pen at Cooke Aquaculture's Cypress Island fish farm failed and released thousands of farmed Atlantic salmon into the Salish Sea between Anacortes and the San Juan islands. About one hundred thousand of the Atlantic salmon escaped and infiltrated waters all over Puget Sound and beyond. The failure has been called one of the worst fish farm disasters in state history.

Q. The escape of nonnative species may threaten native species, because nonnative species may act as predators, compete for food, or spread disease and parasites.

R. Following a multi-agency investigation, Washington state officials concluded that Cooke Aquaculture was responsible for the failure, including "significant violations of Washington's water quality laws." The Washington state Department of Ecology fined Cooke Aquaculture for those violations, and the Commissioner of Public Lands concluded, "The collapse was not the result of natural causes" and that "Cooke's disregard caused this disaster and recklessly put our state's aquatic ecosystem at risk." The 2017 Cypress Island Atlantic Salmon Net Pen Failure: An Investigation and Review, conducted by the state of Washington and dated January 31, 2018, is hereby incorporated by this reference as part of the findings supporting the renewal of the moratorium.

S. Following the Cypress Island fish farm failure, Cooke Aquaculture announced plans to transfer as many as one million Atlantic salmon smolts to a facility across from Bainbridge Island.

T. In light of the results of the state investigation, the fragile state of native salmon runs in King County and Puget Sound and the evolving policy, technology and scientific landscape related to commercial net pen aquaculture, King County must review aquaculture provisions in K.C. C. chapter 21A.25 as part of the periodic review of the shoreline master program.

U. A review of K.C. C. chapter 21A.25 is essential to address the findings from the Cypress Island investigation, scientific and technological and other developments since the last update, to consider current best practices for commercial net pen aquaculture facilities and operations and competing uses for King County's limited marine shorelines and to coordinate with the Washington state Department of Ecology, which administers the Shoreline Management Act and must approve amendments and updates to the county's shoreline master program and implementing regulations.

V. Incorporating the information from the review, the process should also identify any appropriate amendments to ensure the protection of tribal treaty rights and King County's investment in native salmon recovery, balancing the needs of competing land uses for King County's limited shorelines, particularly those involving nonnative species.

W. The siting of any new commercial nonnative salmon net pen aquaculture operation along King County's limited marine shorelines before the review could threaten years of work and millions of dollars in investments to protect Puget Sound's native salmon species.

X. On November, 27, 2017, pursuant to RCW 90.58.590, the County council passed Ordinance 18617 as an emergency, declaring a six-month moratorium on the establishment of commercial salmon net pen aquaculture facilities that contain salmon species not indigenous to Puget Sound or the introduction of any salmon species not indigenous to Puget Sound in any existing facility.

Y. Following the adoption of the moratorium, the executive transmitted the required work plan for addressing and remedying the issues and circumstances necessitating the moratorium.

Z. The detailed work plan indicates that significant work is required to address the issues and that completing the work will take more than six months.

AA. RCW 90.58.590 authorizes two six-month extensions of the original moratorium, and on May 29, 2018, the council extended the original moratorium for six months in accordance with the statute.

BB. The results of the detailed work plan will help inform recommendations and potential policy

changes; to ensure sufficient time to complete and evaluate this work, an additional extension of the moratorium is needed.

SECTION 2. A. The moratorium declared under Ordinance 18617 and renewed and extended by Ordinance 18736 on the establishment or expansion of commercial salmon net pen aquaculture facilities that contain salmon species not indigenous to Puget Sound is hereby renewed and extended for an additional six months. The moratorium under this ordinance includes, without limitation, a prohibition on the acceptance of any permit applications involving those facilities. All lawfully existing uses, including indigenous salmon net pens, and all lawfully existing structures or other development as of the effective date of this ordinance shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

B. For the purposes of this section, "expansion" includes, but is not limited to, the introduction of any salmon species not native to Puget Sound in any existing facility.

This ordinance does not preclude the expansion of net pen facilities with salmon species indigenous to Puget Sound.