



King County

Critical Areas King County Code Updates

**Supplemental Changes to
Proposed Ordinance 2023-0440**

2024 King County Comprehensive Plan

March 2024

Orientation:

Black text is existing, adopted code.

Underlined text is proposed text to be added. Text with ~~((strike throughs))~~ is existing text that is proposed to be removed.

Blue text reflects changes made as part of the Executive Recommended 2024 King County Comprehensive Plan (KCCP) Proposed Ordinance 2023-0440, transmitted in December 2023.

Red text shows Best Available Science-driven and critical areas-related changes, including changes to the 2024 KCCP Proposed Ordinance.

Text that is both ~~underlined and stricken~~ was originally proposed to be added in the 2024 KCCP Proposed Ordinance and is now proposed to be not added by the new critical areas changes.

Rationale for changes is included in comment boxes.

SECTION 1. Findings:

A. The last statutorily required comprehensive plan review and update mandated by the Washington state Growth Management Act ("the GMA") in RCW 36.70A.130 was met with the 2012 King County Comprehensive Plan in Ordinance 17485.

B. The Comprehensive Plan has been amended since 2012, including with adoption of the 2016 King County Comprehensive Plan, as amended.

C. The GMA requires King County to take action not later than December 31, 2024, to review and, if needed, revise its comprehensive plan and development regulations to ensure the plan and regulations comply with the requirements of the GMA. This ordinance adopts the 2024 King County Comprehensive Plan ("2024 update"), which is compliant with the GMA and completes this statutorily required review and update.

D. The GMA and King County Code requires that King County adopt development regulations that are consistent with and implement the Comprehensive Plan.

15 The changes to development regulations in this ordinance are needed to maintain
16 conformity with the Comprehensive Plan. They bear a substantial relationship to and are
17 necessary for the public health, safety, and general welfare of King County and its
18 residents.

19 E. The changes to zoning contained in this ordinance are needed to maintain
20 conformity with the Comprehensive Plan, as required by the GMA. As such, they bear a
21 substantial relationship to, and are necessary for, the public health, safety, and general
22 welfare of King County and its residents.

23 F. The Shoreline Management Act of 1971, chapter 90.58 RCW, requires King
24 County to develop and administer a shoreline master program. Ordinance 16985 and
25 Ordinance 17485 adopted a comprehensive update of King County's shoreline master
26 program as required by RCW 90.58.080(2). Ordinance 19034 adopted a periodic review
27 of King County's shoreline master program as required by RCW 90.58.080(4).

28 G. The changes included in this ordinance for the shoreline master program
29 constitute a locally initiated amendment allowed under WAC 173-26-090. Changes
30 include updates to shoreline policies and development regulations. Those changes are
31 required to be approved by the Washington state Department of Ecology before they
32 become effective.

33 H. The 2024 update was developed using early and continuous public
34 engagement, as required by the GMA and consistent with the scope of work for the
35 update, approved in 2022 via Motion 16142.

36 I. Ordinance 19384 directed the King County Growth Management Planning
37 Council ("the GMPC") to review the Four-to-One program in the Countywide Planning

Policies ("the CPPs"), Comprehensive Plan, and King County Code. The Four-to-One program Comprehensive Plan and King County Code amendments adopted in the 2024 update are substantially consistent with the GMPC recommendations for the program and the related changes in the CPPs.

J. Motion 16287 directed the executive to complete a code study related to expanded multifamily housing types in low- and medium-density urban residential zones, also known as "middle housing." As required by the motion, a draft of the code study was issued in June 2023 as part of the Public Review Draft of the 2024 update, and a final report and associated recommended King County Code changes were included in the transmittal of the 2024 update.

K. Vashon-Maury Island Community Service Area Subarea Plan ("the subarea plan") Workplan Action 1 adopted in Ordinance 18623, as amended, directs the executive to comprehensively review and update the property specific development conditions, which are also known as P-Suffixes, and special district overlays, which are also known as SDOs, on Vashon-Maury Island. Workplan Action 1 required a report and proposed ordinance to implement the recommendations in the report be transmitted to the Council for consideration by June 30, 2022. Due to the COVID-19 pandemic, the timeline for completing the final evaluation was delayed beyond the required date. In 2022, the scope of work for the 2024 update directed inclusion of the report and King County Code changes as part of the 2024 update. As required by the subarea plan and scope of work, the report and associated recommended King County Code changes were included in the transmittal of the 2024 update.

L. Ordinance 18623 adopted the Vashon Rural Town Affordable Housing Special District Overlay ("the overlay") and directed the executive to complete a series of written evaluations assessing the efficacy of the scope and standards of the overlay. As required by Ordinance 18623, preliminary evaluations were issued in 2018, 2019, and 2020. A draft of the fourth and final required evaluation of the Overlay was required to be completed within ninety days of the occurrence of one the following, whichever comes first: issuance of the first permit necessary for construction that would result in a cumulative total of one hundred twenty affordable housing units within the overlay; or four years after the effective date of Ordinance 18623. No permits have been issued up to now utilizing the overlay. Due to the COVID-19 pandemic, the timeline for completing the draft final evaluation was delayed beyond four years and ninety days of the effective date of Ordinance 18623, which would have been March 24, 2022. In 2022, the scope of work for the 2024 update directed inclusion of a report on the fourth and final evaluation and any recommended implementing zoning and King County Code changes as part of the 2024 update. As required by Ordinance 18623 and the scope of work, the report and implementing zoning and King County Code changes were included in the transmittal of the 2024 update.

M. The 2016 King County Comprehensive Plan, as amended, included Work Plan Action 17, which directed the executive to update the residential density incentive program in K.C.C. chapter 21A.34 in the 2024 update, as recommended by the related code study included in the transmittal of the 2020 update to the 2016 King County Comprehensive Plan. As required by Work Plan Action 17, this ordinance adopts updates to the residential density incentive program regulations, which repeals the

program and replaces it with updated regulations in the voluntary inclusionary housing program in K.C.C. chapter 21A.48.

N. The GMA requires counties to include the best available science (BAS) in developing policies and development regulations to protect the functions and values of critical areas; give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; ensure no net loss of ecological functions and values; and consider critical areas regulations as part of the comprehensive plan review and evaluation required by RCW 36.70A.130. As part of the development of the 2024 update, King County reviewed BAS and updated its critical areas policies and development regulations. In order to satisfy the no net loss requirement and achieve other GMA and Comprehensive Plan goals, King County is strengthening critical areas protections through the Comprehensive Plan policy updates, regulatory updates, land use designation and zoning requirements, and continued implementation of companion regulations and a broad array of nonregulatory programs. The February 2024 Best Available Science Review and Updates to Critical Areas Protections report documents the updated BAS, regulatory updates, and companion nonregulatory actions which protect and enhance critical area functions and values at the parcel and watershed scales. As required by GMA, where policies and development regulations depart from BAS, the report provides the rationale and identified potential risks to critical areas associated with the departures from BAS.

O. To protect critical aquifer recharge areas, in accordance with chapter 36.70A RCW, the following provisions of the King County Code are determined to protect critical aquifer recharge areas: K.C.C. chapters 9.04, 9.12, 9.14, 16.82, 21A.06, 21A.16,

Commented [CJ1]: Documents GMA requirements for BAS and critical areas and the associated proposed changes to critical areas policies and regulations

Commented [CJ2]: This was previously codified as K.C.C. 21A.24.314. This is more appropriate as a finding instead. K.C.C. 21A.24.314 is proposed to be repealed.

106 21A.22, and 21A.24 and K.C.C. 17.04.010. For the purposes of RCW 70A.355.030,
107 King County declares critical aquifer recharge areas to be environmentally sensitive
108 areas.

109 SECTION X. Ordinance 15053, Section 3, as amended, and K.C.C. 16.82.051
110 are hereby amended to read as follows:

111 A. For the purposes of this section, the definitions in K.C.C. chapter 21A.06
112 apply to the activities described in this section, if the terms are not defined in K.C.C.
113 16.82.020. Where definitions in K.C.C. 16.82.020 differ from the definitions in K.C.C.
114 chapter 21A.06, the definitions in K.C.C. 16.82.020 shall control.

Commented [CJ3]: To add clarity to change in transmitted ordinance, similar to other language elsewhere in the code.

Commented [PR4]: Added language about what happens when there's a conflict between definitions in different titles.

115 B. The ~~((following))~~ activities in subsection D. of this section are ~~((exempted))~~
116 exempted from the requirement of obtaining a clearing or grading permit ~~((before~~
117 ~~undertaking forest practices or clearing or grading activities,))~~ as long as those activities
118 conducted in critical areas are in compliance with the standards in this chapter and in K.C.C.
119 chapter 21A.24. ~~((In cases where an activity may be included in more than one activity~~
120 ~~category, the most specific description of the activity shall govern whether a permit is~~
121 ~~required. For activities involving more than one critical area, compliance with the~~
122 ~~conditions applicable to each critical area is required. Clearing and grading permits are~~
123 ~~required when a cell in this table is empty and for activities not listed on the table.))~~
124 Activities not requiring a clearing and grading permit may require other permits,
125 including, but not limited to, a floodplain development permit.

Commented [PR5]: Deleted because this is redundant to language saying a clearing and grading permit is needed.

Commented [PR6]: This language is proposed to be moved to subsection C.

126 C. Clearing and grading permit requirement exemptions shall be interpreted as
127 follows:

1. The use of "NP" in a cell means that a clearing or grading permit is not required if the listed conditions and any applicable conditions in K.C.C. chapter 21A.24 are met;

Commented [PR7]: Updated to clarify that the standards in K.C.C. 21A.24 still apply, and that an exemption from a permit does not mean exemption from code standards.

2. A number in a cell means the numbered condition in subsection E. of this section applies, and:

a. where a series of numbers separated by commas are in a cell, each of the numbered conditions for that activity applies; and

b. if more than one letter-number combination appears in a cell, the conditions of at least one letter-number combinations shall be met for a given exemption to apply;

Commented [PR8]: Added clarifying language.

3. In cases where an activity may be included in more than one activity category, the most-specific description of the activity shall govern whether a permit is required((:));

4. For activities involving more than one critical area, compliance with the conditions applicable to each critical area is required((:)); and

5. Clearing and grading permits are required when a cell in ~~((this))~~ the table in subsection D. of this section is empty and for activities not listed on the table. ~~((Activities not requiring a clearing and grading permit may require other permits, including, but not limited to, a floodplain development permit.))~~

D. Clearing and grading permit requirement exemptions:

Out of Critical Area ((Land) and Buffer	Coal Mine Hazard <u>Area</u>	Erosion Hazard <u>Area</u>	Flood Hazard <u>Area</u>	Channel Migration <u>Hazard</u> <u>Area</u>	Landslide Hazard <u>Area</u>	Seismic Hazard <u>Area</u>	Volcanic Hazard <u>Area</u>	Steep Slope Hazard <u>Area</u>	Critical Aquifer Recharge Area	Wetland and Buffer	Aquatic Area and <u>Buffer</u> <u>Riparian</u> <u>Area</u>	Wildlife Area and Buffer)) <u>Riparian</u> <u>Area</u>
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Commented [SK9]: "Area" added to column titles for consistency with 21A.06 definitions of critical areas.

Commented [PR10]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Conservation Area and Wildlife Habitat Network))													and Wildlife Habitat
ACTIVITY													
Grading and Clearing													
Grading	NP 1, 2	NP 1, 2	NP 1, 2				NP 1, 2	NP 1, 2		NP 1, 2			
Clearing	NP 3, NP 23, NP 24	NP 3	NP 3	NP 3			NP 3	NP 3		NP 3	NP 4 (NP 23)	NP 4	
Covering of garbage	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5	NP 5
Emergency tree removal	NP	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6	NP 6
Hazard tree removal	NP 25	NP 25	NP 25	NP 25			NP 25	NP 25		NP 25			
Removal of noxious weeds	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Removal of invasive vegetation	NP 7	NP 7	NP 7	NP 7	NP 7		NP 7	NP 7		NP 7	NP 8	NP 8	NP 8
Forest management activity	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9	NP 9
Emergency action	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10	NP 10
Roads													
Grading within the roadway	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11			NP 11
Clearing within the roadway	NP 12	NP 12	NP 12	NP 12	NP 12	NP 12	NP 12	NP 12	NP 12		NP 12	NP 12	NP 12
Maintenance of driveway or private access road	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13

Commented [PR11]: The existing structure of so many things falling under the label FWHCAs was deemed potentially confusing. The specificity here was added to limit confusion and to be clear that this column applied to specific things not already covered to the left, such as wetlands, riparian areas, and aquatic areas.

Commented [CJ12]: Given the proposed expanded wildfire clearing exemptions, DNR and DLS management decided to require a permit for clearing for fire safety in critical areas to provide a mechanism to confirm that mitigation required by code is being done.

Maintenance of bridge or culvert	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15	NP 13, 14, 15
((Construction of farm field access drive	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP 16	NP-16
Maintenance of farm field access drive	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP-17
Utilities													
Construction or maintenance of utility corridors or facility within the ((right-of-way)) <u>right of way</u>	NP 18	NP 19	NP 19	NP 19	NP 19	NP 19	NP 19	NP 19	NP 19	NP 18	NP 19	NP 19	NP 19
Construction or maintenance of utility corridors or facility outside of the ((right-of-way)) <u>right of way</u>	NP 1, 2, 3, <u>NP 27, NP 28</u>		NP 1, 2, 3				NP 1, 2, 3	NP 1, 2, 3		NP 1, 2, 3			
Maintenance of existing surface water conveyance system	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11
Maintenance of existing surface water flow control and surface water quality treatment facility	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11	NP 11
Maintenance or repair of flood protection facility	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20	NP 20
Maintenance or repair of existing instream structure	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP 11	NP 11	NP
Recreation areas													
Maintenance of outdoor public park facility, trail or	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13

Commented [PR13]: Construction of Farm Field Access Drive and Maintenance of Farm Field Access Drive were moved to the Agriculture section of the table, as more appropriate to the subject of the activity.

publicly improved recreation area													
Habitat and science projects													
Habitat <u>creation</u> , <u>reclamation</u> , restoration or enhancement project	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Drilling and testing for critical areas report <u>or</u> <u>monitoring and data collection</u>	NP 1, 2	NP 1, 2	NP 1, 2	NP 22	NP 22	NP 22	NP 1, 2	NP 1, 2	NP 22	NP 1, 2	NP 22	NP 22	NP 22
Agriculture													
Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Grazing livestock	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Construction and maintenance of livestock manure storage facility	NP 16	NP 16	NP 16	NP 16	NP 16		NP 16	NP 16		NP 16	NP 16	NP 16	
Maintenance or replacement of agricultural drainage	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15
Maintenance of agricultural waterway	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26	NP 26
Maintenance of farm pond, fish pond, livestock watering pond	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15	NP 15
<u>Construction of farm field access drive</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>	<u>NP 16</u>

Commented [PR14]: BAS review indicates that additional habitat improvement projects should be allowed under this umbrella.

Commented [PR15]: Allows research that includes data collection and monitoring activities not associated with critical area reports to be undertaken without a permit. This will allow installation of flow gauges in streams, for example.

Maintenance of farm field access drive	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17	NP 17
Other													
Excavation of cemetery grave in established and approved cemetery	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Maintenance of cemetery grave	NP	NP 13	NP 13	NP	NP 13	NP 13	NP	NP	NP 13	NP	NP 13	NP 13	NP 13
Maintenance of lawn, landscaping and gardening for personal consumption	NP	NP 13	NP 13	NP	NP 13	NP 13	NP	NP	NP 13	NP	NP 13	NP 13	NP 13
Maintenance of golf course	NP 13	NP 13	NP 13	NP 13	NP 13	NP 13	NP	NP	NP 13	NP 13	NP 13	NP 13	NP 13

Commented [PR16]: Construction of Farm Field Access Drive and Maintenance of Farm Field Access Drive were moved from Roads to the Agriculture section of the table, as more appropriate to the subject of the activity.

((C)) E. The following conditions apply:

1. Excavation less than five feet in vertical depth, or fill less than three feet in vertical depth that, cumulatively over time, does not involve more than one hundred cubic yards on a single site.

2. Grading that produces less than two thousand square feet of new impervious surface on a single site added after January 1, 2005, or that produces less than two thousand square feet of replaced impervious surface or less than two thousand square feet of new plus replaced impervious surface after October 30, 2008. For purposes of this subsection ((C)) E.2., "new impervious surface" and "replaced impervious surface" are defined in K.C.C. 9.04.020.

3. Cumulative clearing of less than seven thousand square feet on a single site since January 1, 2005, including, but not limited to, collection of firewood and removal of vegetation for fire safety. This exception shall not apply to development proposals:

a. regulated as a Class IV forest practice under chapter 76.09 RCW;

159 b. in a critical drainage areas established by administrative rules;
160 c. subject to clearing limits included in property-specific development
161 standards and special district overlays under K.C.C. chapter 21A.38; or
162 d. subject to urban growth area significant tree retention standards under
163 K.C.C. 16.82.156 and K.C.C. Title 21A((38.230)).
164 4. Not allowed within a wetland, aquatic area, or tree containing an active nest.
165 Otherwise, allowed for ((€))cutting firewood for personal use in accordance with a forest
166 management plan ((or rural stewardship plan)) approved under K.C.C. Title 21A. For the
167 purpose of this condition, personal use shall not include the sale or other commercial use
168 of the firewood.
169 5. Limited to material at any solid waste facility operated by King County.
170 6. Allowed to prevent imminent danger to persons or structures.
171 7. Cumulative clearing of less than seven thousand square feet annually or
172 conducted in accordance with an approved farm management plan~~((;))~~ or forest
173 management plan ((or rural stewardship plan)).
174 8. Cumulative clearing of less than seven thousand square feet and either:
175 a. conducted in accordance with a farm management plan~~((;))~~ or a forest
176 management plan ((or a rural stewardship plan)); or
177 b. limited to removal with hand labor.
178 9. When ~~((conducted))~~ conducted as a Class I, II, III₂ or IV-S forest practice as
179 defined in chapter 76.09 RCW and Title 222 WAC.
180 10. If done in compliance with K.C.C. 16.82.065.

Commented [PR17]: Added to maintain consistency with K.C.C. 21A.24.045.D.21.

Commented [PR18]: Proposed for removal because the County is not currently approving or administering rural stewardship plans.

Commented [PR19]: Proposed for removal because the County is not currently approving or administering rural stewardship plans.

Commented [PR20]: Proposed for removal because the County is not currently approving or administering rural stewardship plans.

181 11. Only when conducted by or at the direction of a government agency in
182 accordance with the regional road maintenance guidelines and K.C.C. 9.04.050, creates
183 less than two thousand square feet of new impervious surface on a single site added after
184 January 1, 2005, and is not within or does not directly discharge to an aquatic area or
185 wetland. For purposes of this subsection C.11., "new impervious surface" is defined in
186 K.C.C. 9.04.020.

187 12. Limited to clearing conducted by or at the direction of a government agency
188 or by a private utility that does not involve:

189 a. slope stabilization or vegetation removal on slopes; or

190 b. ditches that are used by ~~((salmonids))~~ fish.

191 13. In conjunction with normal and routine maintenance activities, if:

192 a. there is no alteration of a ditch or aquatic area that is used by ~~((salmonids))~~
193 fish:

194 b. the structure, condition or site maintained was constructed or created in
195 accordance with law; ~~((and))~~

196 c. the maintenance does not expand the roadway, lawn, landscaping, ditch,
197 culvert, or other improved area being maintained; and

198 d. the maintenance does not involve the use of herbicides or other hazardous
199 substances within critical areas or their buffers, except for the removal of noxious weeds
200 or invasive vegetation.

201 14. If a culvert is used by salmonids or conveys water used by ~~((salmonids))~~ fish
202 and there is no adopted farm management plan, the maintenance is limited to removal of
203 sediment and debris from the culvert and its inlet, invert, and outlet and the stabilization

Commented [PR21]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR22]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR23]: KCC 21A.24.045 criteria that should be applied when in a critical area to be exempt from a grading permit.

Commented [PR24]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

of the area within three feet of the culvert where the maintenance disturbed or damaged the bank or bed and does not involve the excavation of a new sediment trap adjacent to the inlet.

15. If used by salmonids, only in compliance with an adopted farm plan in accordance with K.C.C. Title 21A and only if the maintenance activity is inspected by:

- a. The King Conservation District;
- b. King County department of natural resources and parks;
- c. King County department of local services, permitting division; or
- d. Washington state Department of Fish and Wildlife.

16. Only on sites with agricultural activities uses if:

a. consistent with an adopted farm plan in accordance with K.C.C. Title 21A.

b. constructed using best management practices approved by the permitting division;

c. access is not greater than fourteen feet wide;

d. there is not another feasible location with less adverse impact on critical areas and buffers;

e. in compliance with the requirements for farmland dispersion within the King County Surface Water Design Manual;

f. located where it is least subject to risk from channel migration;

g. a floodplain development permit is obtained for any action within the floodplain; and

h. all other required state and federal permits have been obtained and actions are in compliance with these permits.

Commented [PR25]: In this instance, "salmonid" should be kept as is based on existing agreements between KC and WDFW around the ADAP program and how we classify stream types for those projects.

Commented [PR26]: The prior code was unclear and has led to challenges interpreting the code for King County and King Conservation District staff as well as farmers. The additional conditions were added to clarify what a Farm Field Access Road is and isn't in order to limit where and when this unmitigated impact on critical areas can occur. The conditions also clarify that 21A.24.045 conditions must be applied in order to be exempt from a permit, access drives over 14 ft wide require a permit, and non-commercial farms are not eligible for the exemption.

Commented [PR27]: Clarifying update.

227 17. Only if consistent with an adopted farm plan in accordance with K.C.C.
228 Title 21A.

229 18. In accordance with a ~~((franchise))~~ right-of-way construction permit.

230 19. Only within the roadway in accordance with a ~~((franchise))~~ right-of-way
231 construction permit.

232 20. When:

233 a. conducted by a public agency;

234 b. the height of the facility is not increased;

235 c. the linear length of the facility is not increased;

236 d. the footprint of the facility is not expanded waterward;

237 e. done in accordance with the Regional Road Maintenance Guidelines;

238 f. done in accordance with the adopted King County Flood Hazard

239 Management Plan and the Integrated Streambank Protection Guidelines (Washington
240 State Aquatic Habitat Guidelines Program, 2002); and

241 ~~((f))~~ g. monitoring is conducted for three years following maintenance or
242 repair and an annual report is submitted to the department.

243 21. Only if:

244 a. the activity is not part of a mitigation plan associated with another
245 development proposal or ~~((is not corrective action associated with a violation(((§))₂ and~~

246 ~~((b. the activity is sponsored or co-sponsored cosponsored by a public~~
247 ~~government agency that has natural resource management as its primary function or a~~
248 ~~federally recognized tribe, and the activity is))~~ limited to ~~((§))~~

249 ~~((H))~~ revegetation of the critical area and its buffer with native vegetation or
 250 the removal of noxious weeds or invasive vegetation using only hand labor; or
 251 b. the activity is sponsored or cosponsored by a government agency that has
 252 natural resource management as its primary function and is limited to:
 253 (1) revegetation of the critical area and its buffer with native vegetation or the
 254 removal of noxious weeds or invasive vegetation;
 255 (2) placement of weirs, log controls, spawning gravel, ~~((woody debris))~~ large
 256 wood, and other specific ~~((salmonid))~~ fish habitat improvements; and
 257 (3) hand labor except:
 258 (a) the use of riding mower or light mechanical cultivating equipment and
 259 herbicides or biological control methods when prescribed by the King County noxious
 260 weed control board for the removal of noxious weeds or invasive vegetation; or
 261 (b) the use of helicopters or cranes if they have no contact with or otherwise
 262 disturb the critical area or its buffer.

263 22. If done with hand equipment ~~((and))~~, does not involve any clearing, and
 264 equipment is not left in critical areas when the study is concluded.

265 23. Limited to ~~((removal of vegetation for forest fire prevention purposes in~~
 266 ~~accordance with best management practices approved by the King County fire marshal))~~
 267 tree and vegetation clearing for the purposes of wildfire preparedness, except tree and
 268 vegetation clearing subject to K.C.C. 16.82.156 or K.C.C. Title 21A or otherwise requiring a
 269 permit, including, but not limited to, alterations within critical areas, as follows:
 270 a. Within thirty feet of a residential structure containing habitable space, the
 271 following ~~is~~ are allowed:

Commented [PR28]: Moves the requirement for a public agency or tribe to be involved in these project to the provision regarding the placement of weirs, log controls, and if a riding lawn mower, helicopters or cranes are used. This change response to the DLS management request to add flexibility and ease of use for nonprofit, educational and multi-partner efforts in mitigation and restoration, without additional mitigation requirements. These groups can still do revegetation and noxious weed removal, but anything potential more impactful like placing weirs or using heavy equipment can still only be done by a public agency or tribe.

Commented [PR29]: "Large wood" is the correct current terminology.

Commented [PR30]: "Fish" is the should be used here to be consistent with BAS.

Commented [PR31]: Because the scope of the activity in this row of the table now includes drilling and testing for monitoring and data collection, this addition clarifies that equipment cannot be left behind in critical areas when the study is concluded.

(1) vegetation removal:

(a) within fifteen feet of the furthest attached exterior point of a residential structure containing habitable space or a deck;

(b) within ten feet of an installed above ground propane or liquefied petroleum gas tank; and

(c) underneath a tree crown to provide up to ten feet of clearance from the ground to remove ladder fuels; and

(2) removal and pruning of trees to provide:

(a) ten feet of clearance from the ground to remove ladder fuels, as long as pruning does not exceed one-third of tree height;

(b) fifteen feet of clearance over driveways for emergency vehicle access;

(c) eighteen feet between tree crowns; and

(d) ten feet between tree crowns and decks, chimneys, propane tanks, liquefied petroleum gas tanks, overhead communication cables, overhead electrical wires, or other structures; and

b All activities in subsection E.23.a. of this section are also allowed up to one hundred feet from a residential structure containing habitable space if the clearing is advised in a wildfire risk assessment conducted by a professional holding a wildfire risk assessment certification, or the activity is advised in a forest stewardship plan approved by the department of natural resources and parks that includes best management practices to reduce wildfire risk. ~~except that removal and pruning of trees to provide clearance between tree crowns is limited to providing:~~

Commented [CJ32]: Non-substantive wordsmithing suggestions to help the sentence read more clearly.

(1) twelve feet between tree crowns located more than thirty feet and up to sixty feet from a residential structure containing habitable space; and

(2) six feet between tree crowns located more than sixty feet and up to one hundred feet from a residential structure containing habitable space.

Commented [PR33]: Non-substantive wordsmithing suggestions to help the sentence read more clearly.

24. Limited to the removal of downed trees.

25. Except on properties that are:

a. subject to clearing limits included in property-specific development standards and special district overlays under K.C.C. chapter 21A.38; or

b. subject to urban growth area significant tree retention standards under K.C.C. 16.82.156.

26. Only if allowed under K.C.C. 21A.24.045.D.69. and if the maintenance activity is inspected by the:

a. King Conservation District;

b. department of natural resources and parks;

c. department of local services, permitting division; or

d. Washington state Department of Fish and Wildlife.

27. Pruning of trees to provide up to ten feet of clearance from overhead communication cables and electrical wire components of utility facilities, if:

a. all debris is removed following the pruning activity;

b. authorized by a right of way construction permit;

c. pruning activities around overhead electrical facilities do not extend fifteen feet beyond the right of way; and

d. any work is approved by the property owner.

28. Tree and vegetation clearing, except for overhead facilities in subsection E.27.
of this section, and except for tree and vegetation clearing subject to K.C.C. 16.82.156 or
K.C.C. Title 21A or otherwise requiring a permit, as follows:

a. Up to thirty feet measured horizontally from the utility facility structure, the
following is allowed:

(1) vegetation removal:

(a) within fifteen feet of the furthest attached exterior point of a structure; and

(b) underneath a tree crown to provide up to ten feet of clearance from the
ground to remove ladder fuels;

(2) removal and pruning of trees to provide:

(a) ten feet of clearance from the ground to remove ladder fuels, as long as
pruning does not exceed one-third of tree height;

(b) fifteen feet of clearance over driveways for emergency vehicle access;

(c) eighteen feet between tree crowns; and

(d) ten feet between tree crowns and structures; and

(3) the screening function of any landscaping planted to provide screening in
K.C.C. chapter 21A.16 is maintained; and

b. All of the activities in subsection E.28.a. of this section are also allowed up to
one hundred feet measured horizontally from the utility facility structure if such clearing
activity is advised in a wildfire risk assessment conducted by a professional holding a
wildfire risk assessment certification, or the activity is advised in a forest stewardship plan
approved by the department of natural resources and parks and that includes best

management practices to reduce wildfire risks, except that removal and pruning of trees to provide clearance between tree crowns is limited to providing:

(1) twelve feet between tree crowns, when more than thirty feet and up to sixty feet measured horizontally from a utility facility structure; and

(2) six feet between tree crowns, when more than sixty feet and up to one hundred feet measured horizontally from a utility facility structure.

SECTION X. Ordinance 3692, Section 2, as amended, and K.C.C. 20.12.200 are hereby amended to read as follows:

A. The King County shoreline master program consists of the following elements, enacted on or before ~~((March 25, 2021))~~ the date of enactment of this ordinance:

1. The King ~~((e))~~ County Comprehensive Plan chapter six;

2. K.C.C. chapter 21A.25;

3. The following sections of K.C.C. chapter 21A.24:

a. K.C.C. 21A.24.045;

b. K.C.C. 21A.24.051;

~~c. ((K.C.C. 21A.24.055;~~

~~d.))~~ K.C.C. 21A.24.070.A., D. and E.;

~~((e.))~~ d. K.C.C. 21A.24.125;

~~((f.))~~ e. K.C.C. 21A.24.130;

~~((g.))~~ f. K.C.C. 21A.24.133;

~~((h.))~~ g. K.C.C. 21A.24.200;

~~((i.))~~ h. K.C.C. 21A.24.210;

362 ~~((j-))~~ i. K.C.C. 21A.24.220;

363 ~~((k-))~~ j. K.C.C. 21A.24.275;

364 ~~((l-))~~ k. K.C.C. 21A.24.280;

365 ~~((m-))~~ l. K.C.C. 21A.24.290;

366 ~~((n-))~~ m. K.C.C. 21A.24.300;

367 ~~((o-))~~ n. K.C.C. 21A.24.310;

368 ~~((p-))~~ o. K.C.C. 21A.24.316

369 ~~((q-))~~ p. K.C.C. 21A.24.318;

370 ~~((r-))~~ q. K.C.C. 21A.24.325;

371 ~~((s-))~~ t. K.C.C. 21A.24.335;

372 ~~((t-))~~ s. K.C.C. 21A.24.340;

373 ~~((u-))~~ t. K.C.C. 21A.24.355;

374 ~~((v-))~~ u. K.C.C. 21A.24.358;

375 ~~((w-))~~ v. K.C.C. 21A.24.365;

376 ~~((x-))~~ w. K.C.C. 21A.24.380;

377 ~~((y-))~~ x. K.C.C. 21A.24.382;

378 ~~((z-))~~ y. K.C.C. 21A.24.386; and

379 ~~((aa-))~~ z. K.C.C. 21A.24.388;

380 4. The following:

381 a. K.C.C. 20.18.040;

382 b. K.C.C. 20.18.050;

383 c. K.C.C. 20.18.056;

384 d. K.C.C. 20.18.057;

385 e. K.C.C. 20.18.058;
386 f. K.C.C. 20.22.160;
387 g. K.C.C. 21A.32.045;
388 h. K.C.C. 21A.44.090;
389 i. K.C.C. 21A.44.100; and
390 j. K.C.C. 21A.50.030.

391 B. The shoreline management goals and policies constitute the official policy of
392 King County regarding areas of the county subject to shoreline ((management))
393 jurisdiction under chapter 90.58 RCW. As provided by WAC 173-26-191(2)(a), King
394 County's local administrative, enforcement, and permit review procedures shall conform
395 to chapter 90.58 RCW but shall not be a part of the shoreline master program.

Commented [CJ34]: for clarity, consistent with existing intent

396 C. Amendments to the shoreline master program do not apply to the shoreline
397 jurisdiction until approved by the Washington state Department of Ecology as provided
398 in RCW 90.58.090. The department of local services, permitting division, shall, within
399 ten days after the date of the Department of Ecology's approval, file a copy of the
400 Department of Ecology's approval, in the form of an electronic copy, with the clerk of the
401 council, who shall retain the original and provide electronic copies to all
402 councilmembers, the chief of staff, and the lead staff of the local services and land use
403 committee, or its successor.

404 SECTION X. Ordinance 10511, Section 7, as amended, and K.C.C. 20.36.100
405 are hereby amended to read as follows:

406 A. The definitions in this section apply throughout this section, as well as in
407 K.C.C. 20.36.040 and K.C.C. 20.30.190, unless the context clearly requires otherwise.

B. To be eligible for open space classification under the public benefit rating system, a property must contain one or more qualifying open space resources and have at least five points as determined under this section. The department shall review each application and recommend award of credit for current use of the property. In making the recommendation, the department shall utilize the point system described in subsections C. and D. of this section.

C. The following open space resources are each eligible for the points indicated:

1. Active trail linkage - fifteen or twenty-five points. "Active trail linkage" means land in private ownership through which the owner agrees to allow ~~((nonmotorized))~~ public passage for active transportation, as defined in section 11 of this ordinance, for the purpose of providing a connection between trails within the county's regional trails system and local or regional attractions or points of interest, for trail users including equestrians, pedestrians, bicyclists, and other users. "Local or regional attractions or points of interest" include other trails, parks, waterways, or other recreational and open space attractions, retail centers, arts and cultural facilities, transportation facilities, residential concentrations, or similar destinations. The linkage must be open to passage by the general public and the property owner shall enter into an agreement with the county consistent with applicable parks and recreation division policies to grant public access. To receive twenty-five points, the property owner shall enter into an agreement with the county regarding improvement of the trail, including trail pavement and maintenance. To receive fifteen points, the property owner shall agree to allow a soft-surface, nonpaved trail. The parks and recreation division is authorized to develop criteria for determining the highest priority linkages for which it will enter into agreements with property owners;

431 2. Aquifer protection area-five points. "Aquifer protection area" means property
432 that has a plant community in which native plants are dominant and that includes an area
433 designated as a critical aquifer recharge area under K.C.C. chapter 21A.24 or applicable
434 city critical aquifer recharge area regulations. At least fifty percent of the enrolling open
435 space area or a minimum of one acre of open space shall be designated as a critical
436 aquifer recharge area. If the enrolling open space area does not have a plant community
437 in which native plants are dominant, a plan for revegetation must be submitted and
438 approved by the department, and must be implemented according to the plan's proposed
439 schedule of activities;

440 3. Buffer to public or current use classified land - three points. "Buffer to public
441 or current use classified land" means land that has a plant community in which native
442 plants are dominant or has other natural features, such as streams or wetlands, and that is
443 abutting and provides a buffer to a publicly owned park, trail, or forest, to land legally
444 required to remain in a natural state, to a state or federal highway or to a property
445 participating in a current use taxation program under chapters 84.33 or 84.34 RCW. The
446 buffer must be at least fifty feet long and fifty feet in wide. Public roads may separate the
447 public land, or land in private ownership classified under chapters 84.33 or 84.34 RCW,
448 from the buffering land, if the entire buffer is at least as wide and long as the adjacent
449 section of the road easement. Landscaping or other nonnative vegetation may not
450 separate the public land or land enrolled under chapters 84.33 or 84.34 RCW from the
451 native vegetation buffer. The department may grant an exception to the native vegetation
452 requirement for property along parkways with historic designation, upon review and
453 recommendation of the historic preservation officer of King County or the local

jurisdiction in which the property is located. Eligibility for this exception does not extend to a property where plantings are required or existing plant communities are protected under local zoning codes, development mitigation requirements, or other local regulations;

4. Ecological enhancement land – eighteen points. "Ecological enhancement land" means open space lands undergoing recovery of significantly degraded or lost ecological function or processes. The following requirements shall be met:

a. A jurisdiction, natural resource agency, or appropriate organization has committed to sponsoring the ecological enhancement project, with secured funding in place before the application's public hearing;

b. The ecological enhancement project must include removing significant human-made structures, alterations, or impediments such as shoreline armoring, roads, culverts, and wetland fill that are detrimental to significant wildlife or salmonid habitat. The intent of the removal must be to reestablish natural function or processes to the project area;

c. The owner is responsible for providing and implementing an ecological enhancement plan for the proposed project. The approved enhancement plan must include at least a statement of purpose, detailed description of work to be done, site map of the project area, and specific timeline for the enhancement activities to be completed and must be approved by the department; and

d. The owner shall annually provide to the department a monitoring report detailing the enhancement efforts' success for five years following enrollment. The owner shall also provide any additional monitoring reports required by K.C.C. 20.36.190.

477 The monitoring report must describe the progress and success of the enhancement project
478 and must include photographs to document the success. Land receiving credit for this
479 category may not receive credit for the rural stewardship land or resource restoration
480 categories;

481 5. Equestrian-pedestrian-bicycle trail linkage - thirty-five points. "Equestrian-
482 pedestrian-bicycle trail linkage" means land in private ownership that the property owner
483 allows the public to use as an off-road trail linkage for equestrian, pedestrian, or other
484 ~~((nonmotorized))~~ [active transportation, as defined in section 11 of this ordinance](#) uses or
485 that provides a trail link from a public ~~((right-of-way))~~ [right of way](#) to a trail system. Use
486 of motorized vehicles is prohibited on trails receiving a tax reduction for this category,
487 except for maintenance or for medical, public safety, or police emergencies. Public
488 access is required only on that portion of the property containing the trail. The landowner
489 may impose reasonable restrictions on access that are mutually agreed to by the
490 landowner and the department, such as limiting use to daylight hours. To be eligible as
491 an equestrian-pedestrian-bicycle trail linkage, the owner shall provide a trail easement to
492 an appropriate public or private entity acceptable to the department. The easement shall
493 be recorded with the King County recorder's office or its successor. In addition to the
494 area covered by the trail easement, adjacent land used as pasture, barn, or stable area and
495 any corral or paddock may be included, if an approved and implemented farm
496 management plan is provided. Land necessary to provide a buffer from the trail to other
497 nonequestrian uses, land that contributes to the aesthetics of the trail, such as a forest, and
498 land set aside and marked for off road parking for trail users may also be included as land
499 eligible for current use taxation. Those portions of private roads, driveways, or sidewalks

open to the public for this purpose may also qualify. Fencing and gates are not allowed in the trail easement area, except those that are parallel to the trail or linkage;

6. Farm and agricultural conservation land - five points. "Farm and agricultural conservation land" means land previously classified as farm and agricultural land under RCW 84.34.020 that no longer meets the criteria of farm and agricultural land, or traditional farmland not classified under chapter 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses and has a high potential for returning to commercial agriculture. The property must be used for farm and agricultural activities or have a high probability of returning to agriculture and the property owner must commit to returning the property to farm or agricultural activities by implementing a farm management plan. An applicant must have an approved farm management plan in accordance with K.C.C. 21A.24.051 that is acceptable to the department and that is being implemented according to its proposed schedule of activities before receiving credit for this category. Farm and agricultural activities must occur on at least one acre of the property. Eligible land must be zoned to allow agricultural uses and be owned by the same owner or held under the same ownership. Land receiving credit for this category may not receive credit for the contiguous parcels under separate ownership category;

7. Forest stewardship land - five points. "Forest stewardship land" means property that is managed according to an approved forest stewardship plan and that is not enrolled in the designated forestland program under chapter 84.33 RCW. The property must contain at least four acres of contiguous forestland, which may include land undergoing reforestation, according to the approved plan. The owner shall have and

implement a forest stewardship plan approved by the department. The forest stewardship plan may emphasize forest retention, harvesting or a combination of both. Land receiving credit for this category may not receive credit for the resource restoration or rural stewardship land categories;

8. Historic landmark or archeological site: buffer to a designated site - three points. "Historic landmark or archaeological site: buffer to a designated site" means property adjacent to land constituting or containing a designated county or local historic landmark or archeological site, as determined by King County's historic preservation officer or by a manager of a certified local government program in the jurisdiction in which the property is located. A property must have a plant community in which native plants are dominant and provide a significant buffer for a designated landmark or archaeological site listed on the county or other certified local government list or register of historic places or landmarks. "Significant buffer" means land and plant communities that provide physical, visual, noise, or other barriers and separation from adverse effects to the historic resources due to adjacent land use;

9. Historic landmark or archeological site: designated site - five points. "Historic landmark or archaeological site: designated site" means land that constitutes or contains a historic landmark designated by King County or other certified local government program in the jurisdiction in which the property is located. Historic landmarks include buildings, structures, districts, or sites of significance in the county's historic or prehistoric heritage, such as Native American settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites, or traditional cultural properties. A property must be listed

on a county or other certified local government list or register of historic places or landmarks for which there is local regulatory protection. Eligible property may include property that contributes to the historic character within designated historic districts, as defined by the historic preservation officer of King County or other certified local government jurisdiction. The King County historic preservation officer shall make the determination on eligibility;

10. Historic landmark or archeological site: eligible site - three points.

"Historic landmark or archaeological site: eligible site" means land that constitutes or contains a historic property that has the potential of being designated by a certified local government jurisdiction, including buildings, structures, districts, or sites of significance in the county's historic or prehistoric heritage, such as Native American settlements, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites, or traditional cultural properties. To be eligible, the historic preservation officer of King County or other certified local government program in the jurisdiction in which the property is located shall determine the property meets the jurisdiction's criteria for designation and listing on the county or other local register of historic places or landmarks for which there is local regulatory protection. Eligible property may include contributing property within designated historic districts. Property listed ~~((on))~~ in the state or national Registers of Historic Places may qualify under this category;

11. Public recreation area - five points. "Public recreation area" means land devoted to providing active or passive recreation use or that complements or substitutes for recreation facilities characteristically provided by public agencies. Use of motorized

vehicles is prohibited, except for golf carts on golf courses, for maintenance or for medical, public safety, or police emergencies. The facilities must be open to the general public or to specific public user groups, such as youth, seniors ~~((citizens))~~, or people with disabilities. A property must be identified by the responsible agency within whose jurisdiction the property is located as meeting the definition of public recreation area. The property owner must use any best practices defined in K.C.C. chapter 21A.06. If a fee is charged for use, it must be comparable to the fee charged by a similar public facility;

12. Rural open space - five points. "Rural open space" means an area of ten or more contiguous acres of open space located outside of the urban growth area as identified in the King County Comprehensive Plan that:

- a. has a plant community in which native plants are dominant; or
- b. is former open farmland, woodlots, scrublands, or other lands that are in the process of being replanted with native vegetation and for which the property owner is implementing an approved farm management, ecological enhancement, forest stewardship, ~~((rural stewardship))~~ or resource restoration plan acceptable to the department;

13. ~~((Rural stewardship land - five points. "Rural stewardship land" means land zoned RA (rural area), A (agricultural) or F (forest), that has an implemented rural stewardship plan under K.C.C. chapter 21A.24 acceptable to the department. On RA-zoned properties, the approved rural stewardship plan must meet the goals and standards of K.C.C. 21A.24.055. On A- and F-zoned properties, credit for this category is allowed if the plan meets the goals of K.C.C. 21A.24.055. A rural stewardship plan includes, but~~

Commented [PR35]: Removed to reflect removal of Rural Stewardship Plans provisions from code, because the County is not currently approving or administering rural stewardship plans.

Commented [PR36]: Removed to reflect removal of Rural Stewardship Plans provisions from code, because the County is not currently approving or administering rural stewardship plans.

PBRS program staff were consulted about and agreed to this change.

~~is not limited to, identification of critical areas, location of structures and significant features, site specific best management practices, a schedule for implementation and a plan for monitoring as provided in K.C.C. 21A.24.055. To be eligible as rural stewardship land, the open space must be at least one acre and feature a plant community in which native plants are dominant or be in the process of native vegetation restoration, reforestation or enhancement. Land receiving credit for this category may not receive credit for the ecological enhancement land, resource restoration or forest stewardship land categories;~~

~~14.))~~ Scenic resource, viewpoint, or view corridor - five points.

a. "Scenic resource" means an area of natural or recognized cultural features visually significant to the aesthetic character of the county. The site must be significant to the identity of the local area, must be visible to a significant number of the general public from public rights-of-way, must be of sufficient size to substantially preserve the scenic resource value and must enroll at least ten acres of open space.

b. A "viewpoint" means a property that provides a view of an area visually significant to the aesthetic character of the county. A site must provide a view of a scenic natural or recognized cultural resource in King County or other visually significant area, must allow unlimited public access and must be identified by a permanent sign readily visible from a road or other public ~~((right-of-way))~~ right of way.

c. A "view corridor" means a property that contributes to the aesthetics of a recognized view corridor critical to maintaining a public view of a visually significant scenic natural or recognized cultural resource. The site must contain at least one acre of open space that contributes to a view corridor visible to the public and that provides

615 views of a scenic natural resource area or recognized cultural resource significant to the
616 local area. The King County historic preservation officer or officer of another certified
617 local government program in the jurisdiction in which the property is located must find
618 the recognized cultural areas to be significant and must find that the site contains
619 significant inventoried or designated historic properties. Eligibility is subject to
620 determination by the department or applicable jurisdiction;

621 ~~((15.))~~ 14. Significant plant or ecological site - five points. "Significant plant or
622 ecological site" means an area that meets the criteria for Element Occurrence established
623 under the Washington Natural Heritage Program authorized by chapter 79.70 RCW. An
624 Element Occurrence is a particular, on-the-ground observation of a rare species or
625 ecosystem. An eligible site must be listed as an Element Occurrence by the Washington
626 Natural Heritage Program or be identified as a property that meets the criteria for an
627 Element Occurrence. The identification must be confirmed by a qualified expert
628 acceptable to the department. The department shall notify the Washington Natural
629 Heritage Program of any verified Element Occurrence on an enrolling property.
630 Commercial nurseries, arboretums or other maintained garden sites with native or
631 nonnative plantings are ineligible for this category;

632 ~~((16.))~~ 15. Significant wildlife or ~~((salmonid))~~ fish habitat - five points.

633 a. "Significant wildlife or ~~((salmonid))~~ fish habitat" means:

634 (1) an area used by animal species listed as endangered, threatened, sensitive
635 or candidate by the Washington state Department of Fish and Wildlife or Department of
636 Natural Resources or used by species of local ~~((significance))~~ importance that are listed
637 by the King County Comprehensive Plan or a local jurisdiction;

Commented [PR37]: This sentence appeared to be missing a word, so this addition is recommended. This is not a BAS-related change, just a clean up comment.

Commented [PR38]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR39]: Updated to align with terminology used in the KCCP.

Commented [SK40]: Reflects renumbering of this section.

638 (2) an area where the species listed in subsection C. ~~((16.))~~15.a.(1) of this
639 section are potentially found with sufficient frequency for critical ecological processes,
640 such as reproduction, nesting, rearing, wintering, feeding, or resting, to occur;

641 (3) a site that meets the criteria for priority habitats as defined by the
642 Washington state Department of Fish and Wildlife and that is so listed by the King
643 County Comprehensive Plan or by the local jurisdiction in which the property is located;
644 or

645 (4) a site that meets criteria for a wildlife habitat conservation area as defined
646 by the department or a local jurisdiction.

647 b. To be eligible, the department, by its own determination or by expert
648 determination acceptable to the department, must verify that qualified species are present
649 on the property or that the land fulfills the functions described in subsection C.16.a. of
650 this section. To receive credit for ~~((salmonid))~~ fish habitat, the owner shall provide a
651 buffer at least fifteen percent greater in width than required by any applicable regulation.

Commented [PR41]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

652 Property consisting mainly of disturbed or fragmented open space determined by the
653 department as having minimal wildlife habitat significance is ineligible;

654 ~~((17.))~~ 16. Special animal site - three points. "Special animal site" means a site
655 that includes a wildlife habitat network identified by the King County Comprehensive
656 Plan or individual jurisdictions through the Growth Management Act, chapter 36.70A
657 RCW, or a biodiversity area and corridor identified by the Washington state Department
658 of Fish and Wildlife's priority habitats and species project as of the date of the
659 application. The property must be identified by King County or local or state jurisdiction
660 or by expert verification acceptable to the department or local jurisdiction. Property

661 consisting mainly of disturbed or fragmented open space determined by the department to
662 have minimal wildlife habitat significance is ineligible for this category;

663 ~~((48-))~~ 17. Surface water quality buffer - five, eight or ten total points. "Surface
664 water quality buffer" means an undisturbed area that has a plant community in which
665 native plants are dominant abutting a lake, pond, stream, shoreline, wetland, or marine
666 waters on or abutting the property, that provides buffers beyond that required by any
667 applicable regulation. To receive five points, the buffer must be at least fifty percent
668 wider than the buffer required by any applicable regulation. To receive eight points, the
669 buffer must be at least two times the required width. To receive ten points, the buffer
670 must be at least three times the required width. The qualifying buffer must be longer than
671 twenty-five feet and must be preserved from clearing or maintenance, unless this area is
672 part of a department-approved ecological enhancement, farm management, forest
673 stewardship, ~~((rural stewardship))~~ or resource restoration plan. Grazing use by livestock
674 on such land is prohibited;

675 ~~((49-))~~ 18. Urban open space - five points.

676 a. "Urban open space" means land located within the boundaries of a city or
677 within the urban growth area that has a plant community in which native plants are
678 dominant and that under the applicable zoning is eligible for more intensive development
679 or use. The enrolling area must be at least one acre, or be at least one-half acre if the land
680 meets one of the following criteria:

- 681 (1) the land conserves and enhances natural or scenic resources;
682 (2) the land protects streams or water supply;

Commented [PR42]: Removed to reflect removal of Rural Stewardship Plans provisions from code, because the County is not currently approving or administering rural stewardship plans.

683 (3) the land promotes conservation of soils, wetlands, beaches or tidal
684 marshes;

685 (4) the land enhances the value to the public of adjacent parks, forests,
686 wildlife preserves, nature reservations or sanctuaries, or other open space;

687 (5) the land enhances recreation opportunities for the general public; or

688 (6) the land preserves visual quality along highways, roads, and streets or
689 scenic vistas.

690 b. Owners of noncontiguous properties that together meet the minimum
691 acreage requirement may jointly apply under this category if each property is closer than
692 seventy-five feet to one other property in the application and if each property contains an
693 enrolling open space area at least as large as the minimum zoned lot size; and

694 ~~((20.))~~ 19. Watershed protection area - five points. "Watershed protection area"
695 means property contributing to the forest cover that provides run-off reduction and
696 groundwater protection. The property must consist of contiguous native forest or be in
697 the process of reforestation. The enrolling forested area must consist of additional forest
698 cover beyond that required by county or applicable local government regulation and must
699 be at least one acre or sixty-five percent of the property acreage, whichever is greater. If
700 reforestation or improvements to the forest health are necessary, the property owner shall
701 provide and implement an ecological enhancement, a forest stewardship, ~~or~~ resource
702 restoration ~~((or rural stewardship))~~ plan that addresses this need and is acceptable to the
703 department.

704 D. Property qualifying for an open space category in subsection C. of this section
705 may receive credit for additional points as follows:

Commented [PR43]: Removed to reflect removal of Rural Stewardship Plans provisions from code, because the County is not currently approving or administering rural stewardship plans.

706 1. Conservation easement or historic preservation easement - eighteen points.

707 "Conservation easement or historic preservation easement" means land on which an
708 easement is voluntarily placed that restricts, in perpetuity, further potential development
709 or other uses of the property. The easement must be approved by the department and be
710 recorded with the King County recorder's office or its successor. The easement must be
711 conveyed to the county or to an organization acceptable to the department, such as a land
712 trust or conservancy. Historic preservation easements must also be approved by the
713 historic preservation officer of King County or of the local government jurisdiction in
714 which the property is located. An easement required by zoning, subdivision, conditions
715 or other land use regulation is not eligible unless an additional substantive easement area
716 is provided beyond that otherwise required;

717 2. Contiguous parcels under separate ownership - two points.

718 a. "Contiguous parcels under separate ownership" means at least two or more
719 parcels under different ownership where either:

720 (1) the enrolling parcels and open space acreage abut each other without a
721 significant human-made barrier separating them; or

722 (2) the enrolling parcels do not abut each other, but abut a publicly owned
723 open space, without a significant human-made barrier separating the publicly owned open
724 space and the open space portion of the parcels seeking open space classification.

725 b. Award of this category requires a single application by multiple owners and
726 parcels with identical qualifying public benefit rating system resources. Only a single
727 application fee is required.

c. Contiguous parcels of land with the same qualifying public benefit rating system resources are eligible for treatment as a single parcel if open space classification is sought under the same application except as otherwise prohibited by the farm and agricultural conservation land category. Each parcel need not meet the minimum acreage requirements for a resource category so long as the total area of all enrolling land combined meets any required minimum acreage requirements. The owners of each parcel included in the application must agree to identical terms and conditions for enrollment in the program.

d. Individual parcels or portions of parcels may be withdrawn or removed from open space classification, consistent with all applicable rules and regulations. The continued eligibility of all parcels and associated acreage remaining in open space classification accepted under the same application is dependent upon the continued qualification for a resource category or categories.

e. Points are awarded for each participating owner above one owner and accrue to all owners of a single application. The withdrawal or removal of all enrolled acreage associated with an owner results in the loss of two points for each remaining owner;

3. Easement and access – thirty-five points. "Easement and access" means that the property has at least one qualifying open space resource, unlimited public access or limited public access due to resource sensitivity, and a conservation easement or historic preservation easement in perpetuity in a form and with conditions acceptable to the department. To be eligible, a property must receive credit for an open space category and for the conservation easement or historic easement in perpetuity category. The owner must agree to allow public access to the portion of the property designated for public

access in the easement. An easement required by zoning, subdivision, conditions, or other land use regulation is not eligible, unless there is additional easement area beyond that required. Credit for this category may not overlap with the equestrian-pedestrian-bicycle trail linkage;

4. Public access - points depend on type and frequency of access allowed.

"Public access " means the general public is allowed access on an ongoing basis for uses such as recreation, education, or training. Access must be allowed on the portion of the property that is designated for public access. The landowner may impose reasonable restrictions on access, such as limiting use to daylight hours, agreed to by the department. No physical barriers may limit reasonable public access or negatively affect an open space resource. A property owner shall demonstrate that the property is open to public access and is used by the public. The historic preservation officer of King County or a certified officer of another local government jurisdiction in which the property is located must approve the award of public access points for historic properties. The property owner may be required to furnish and maintain signage according to county specifications.

a. Unlimited public access - five points. Year-round access by the general public is allowed without special arrangements with the property owner.

b. Limited public access because of resource sensitivity - five points. Access may be reasonably limited by the property owner due to the sensitive nature of the resource, with access provided only to appropriate user groups. The access allowed should generally be for an educational, scientific, or research purpose and may require special arrangements with the owner.

c. Seasonally limited public access - three points. Access by the public is allowed only for part of the year due to seasonal conditions, as mutually agreed to by the landowner and the department.

d. Environmental education access - three points. The landowner enters into an agreement with a school, [with](#) an organization with 26 U.S.C. Sec. 501(c)(3) tax status, or, with the agreement of the department, [with](#) another community organization that allows membership by the general public to provide environmental education to its members or the public at large. The department must agree that the enrolled portion of the property has value for environmental education purposes.

e. None or members-only - zero points. No public access is allowed or the access is allowed only by members of the organization using or owning the land; and

5. Resource restoration – five points. "Resource restoration" means restoration of an enrolling area of property benefiting an area in an open space resource category. Emphasis is placed on the restoration of native vegetation associated with anadromous fish rearing habitat, riparian zones, migration corridors and wildlife, forest, stream, and wetland habitats. The owner shall provide and implement a restoration plan approved by the department. The plan may be developed in cooperation with a natural resource expert or agency. The approved restoration plan must, at a minimum, include a purpose statement, a description of restoration work to be done, a detailed site map of the area to be restored, a specific timeline for the restoration activities to be completed, and a monitoring schedule for the restoration project's first five years. Historic resource restoration must be approved by the King County historic preservation officer or officer of another certified local government in the jurisdiction in which the property is located

797 and must be accompanied by a long-term maintenance plan. The owner shall also
798 provide to the department a yearly monitoring report for at least five years following
799 enrollment in the public benefit rating system program. The report must describe the
800 progress and success of the restoration project and must include photographs to document
801 the success. Land receiving credit for this category may not receive credit for the
802 ecological enhancement land , or forest stewardship land ~~((or rural stewardship land))~~
803 categories.

Commented [CJ44]: Removed to reflect removal of Rural Stewardship Plans provisions from code, because the County is not currently approving or administering rural stewardship plans.

804 SECTION X. Ordinance 6949, Section 6, as amended, and K.C.C. 20.44.040 are
805 hereby amended to read as follows:

806 A. King County adopts the standards and procedures specified in WAC 197-11-
807 300 through 197-11-390 and 197-11-800 through 197-11-890 for determining categorical
808 exemptions and making threshold determinations subject to the following:

809 1. The following exempt threshold levels are hereby established in accordance
810 with WAC 197-11-800(1)(c) for the exemptions in WAC 197-11-800(1)(b):

811 a. The construction or location of any residential structures of twenty dwelling
812 units within the boundaries of an urban growth area, or of any residential structures of
813 eight dwelling units outside of the boundaries of an urban growth area;

814 b. The construction of a barn, loafing shed, farm equipment storage building,
815 produce storage or packing structure, or similar agricultural structure, covering thirty
816 thousand square feet on land zoned agricultural, or fifteen thousand square feet in all
817 other zones, and to be used only by the property owner or agent in the conduct of farming
818 the property. This exemption shall not apply to feed lots;

819 c. The construction of an office, school, commercial, recreational, service, or
820 storage building with twelve thousand square feet of gross floor area, and with associated
821 parking facilities designed for forty automobiles;

822 d. The construction of a parking lot designed for forty automobiles;

823 e. Any fill or excavation of five hundred cubic yards throughout the total
824 lifetime of the fill or excavation and any fill or excavation classified as a class I, II, or III
825 forest practice under RCW 76.09.050 or regulation thereunder: The categorical
826 exemption threshold shall be one hundred cubic yards for any fill or excavation that is in
827 an aquatic area, wetland, steep slope hazard area, alluvial fan hazard area, or landslide
828 hazard area. If the proposed action is to remove from or replace fill in an aquatic area,
829 wetland, steep slope hazard area, alluvial fan hazard area, or landslide hazard area to
830 correct a violation, the threshold shall be five hundred cubic yards.

831 2. The determination of whether a proposal is categorically exempt shall be
832 made by the county department that serves as lead agency for that proposal.

833 B. The mitigated DNS provision of WAC 197-11-350 shall be enforced as
834 follows:

835 1. If the department issues a mitigated DNS, conditions requiring compliance
836 with the mitigation measures which were specified in the application and environmental
837 checklist shall be deemed conditions of any decision or recommendation of approval of
838 the action.

839 2. If at any time the proposed mitigation measures are withdrawn or
840 substantially changed, the responsible official shall review the threshold determination
841 and, if necessary, may withdraw the mitigated DNS and issue a DS.

Commented [PR45]: Adding "hazard area" after steep slope in order to keep terminology use consistent throughout code. "Alluvial fan hazard area" is proposed to be added to maintain consistency with existing adopted code. "Landslide hazard area" currently encompasses "alluvial fan hazard area"; in the proposed CAO, alluvial fan hazard areas will be regulated as a separate type of geologically hazardous area. By naming them in this section, the proposed code keeps the same intent and standards as existing code.

Note that riparian areas were previously proposed to be added to this list because "BAS review indicates that riparian areas should be added to categorical exemption threshold now that they are considered a critical area that must be protected." I removed these references because I could not see a clear nexus between requiring SEPA review and greater protection--standards to protect riparian areas are also being added to K.C.C. 21A.24, which guards against potential significant environmental impact. It was not clear what value was added by naming riparian areas in this section.

842 SECTION X. Ordinance 6949, Section 10, as amended, and K.C.C. 20.44.080

843 are hereby amended to read as follows:

844 A. The procedures and standards of WAC 197-11-650 through 197-11-660
845 regarding substantive authority and mitigation, and WAC 197-11-158, regarding reliance
846 on existing plans, laws and regulations, are adopted.

847 B. For the purposes of RCW 43.21C.060 and WAC 197-11-660, the following
848 policies, plans, rules and regulations, and all amendments thereto, are designated as
849 potential bases for the exercise of King County's substantive authority under SEPA,
850 subject to RCW 43.21C.240 and subsection C of this section:

851 1. The policies of the state Environmental Policy Act, RCW 43.21C.020.

852 2. As specified in K.C.C. chapter 20.12, the King County Comprehensive Plan,
853 its addenda and revisions and ~~((community)) functional~~ and subarea plans ~~((and housing~~
854 ~~report, and as specified in K.C.C. chapter 20.14, surface water management program~~
855 ~~basin plans))~~.

856 3. The King County Zoning Code, as adopted in K.C.C. Title 21A.

857 4. The King County Agricultural Lands Policy, as adopted in K.C.C. Title 26.

858 5. The King County Landmarks Preservation Code, as adopted in K.C.C.
859 chapter 20.62.

860 6. The King County Shoreline Management Master Plan, as adopted in K.C.C.
861 Title 25.

862 7. The King County Surface Water Runoff Policy, as adopted in K.C.C. chapter
863 9.04, including the Covington Master Drainage Plan, as adopted in K.C.C. chapter 20.14.

864 8. The King County Road Standards, as adopted in K.C.C. chapter 14.42.

Commented [CJ46]: to reflect that there are no longer adopted community plans as of the 2022 Comp Plan update.

Commented [CJ47]: also adopted as elements of the Comprehensive Plan

Commented [CJ48]: old reference; now captured under "addenda" (Appendix B)

Commented [CJ49]: to reflect proposed repeal of basin plans

865 9. The Comprehensive Plan for Transportation adopted by Resolution No. 6617
866 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by
867 the county council in K.C.C. 28.01.030.

868 10. The Comprehensive Sewerage Disposal Plan adopted by Resolution No. 23
869 of the council of the Municipality of Metropolitan Seattle and readopted and ratified by
870 the county council in K.C.C. 28.01.030.

871 11. The rules and regulations for construction and use of local sewage facilities
872 set forth in K.C.C. chapters 28.81 through 28.84.

873 12. The rules and regulations on the consistency of sewer projects with local
874 land use plans and policies set forth in Ordinance 11034, as amended.

875 13. The rules and regulations for the disposal of industrial waste into the
876 sewerage system set forth in Ordinance 11034, as amended.

877 14. The Duwamish Clean Water Plan adopted by the council of the Municipality
878 of Metropolitan Seattle and readopted and ratified by the county council by Ordinance
879 11032, Section 28, as amended*.

880 15. The Washington Department of Ecology's Best Management Practices for
881 the Use of Municipal Sludge.

882 C. Within the urban growth area, substantive SEPA authority to condition or
883 deny new development proposals or other actions shall be used only in cases where
884 specific adverse environmental impacts are not addressed by regulations as set forth
885 below or unusual circumstances exist. In cases where the county has adopted the
886 following regulations to systematically avoid or mitigate adverse impacts, those standards
887 and regulations will normally constitute adequate mitigation of the impacts of new

888 development: K.C.C. chapter 9.04, Surface Water Runoff Policy, K.C.C. chapter 9.08,
889 Surface Water Management Program, K.C.C. chapter 9.12, Water Quality, K.C.C.
890 chapter 14.42, King County Road Standards, K.C.C. chapter 16.82, Clearing and
891 Grading, K.C.C. chapter 21A.12, Development Standards - Density and Dimensions,
892 K.C.C. chapter 21A.14, Development Standards - Design Requirements, K.C.C. chapter
893 21A.16, Development Standards - Landscaping and Water Use, K.C.C. chapter 21A.18,
894 Development Standards - Parking and Circulation, K.C.C. chapter 21A.20, Development
895 Standards - Signs, K.C.C. chapter 21A.22, Development Standards - Mineral Extraction,
896 K.C.C. chapter 21A.24, Critical Areas, K.C.C. chapter 21A.26, Development Standards -
897 Communication Facilities, K.C.C. chapter 21A.28, Development Standards - Adequacy
898 of Public Facilities and Services. Unusual circumstances related to a site or to a proposal,
899 as well as environmental impacts not mitigated by the regulations listed in this
900 subsection, will be subject to site-specific or project-specific SEPA mitigation.

901 This subsection shall not apply if the county's development regulations cited in
902 this subsection are amended after April 22, 1996, unless the amending ordinance contains
903 a finding, supported by documentation, that the requirements for environmental analysis,
904 protections and mitigation measures in this chapter, provide adequate analysis of and
905 mitigation for the specific adverse environmental impacts to which the requirements
906 apply.

907 D. Outside the urban growth area, in the course of project review, including any
908 required environmental analysis, the responsible official may determine that requirements
909 for environmental analysis, protection and mitigation measures in the county's
910 development regulations or comprehensive plans adopted under chapter 36.70A RCW

and in other applicable local, state or federal laws and rules provide adequate analysis and mitigation for specific adverse environmental impacts of the project, if the following criteria are met:

1. In the course of project review, the responsible official shall identify and consider the specific probable adverse environmental impacts of the proposed action and then make a determination whether these specific impacts are adequately addressed by the development regulations. If they are not, the responsible official shall apply mitigation consistent with the applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan or other local, state or federal rules or laws; and

2. The responsible official bases or conditions its approval on compliance with these requirements or mitigation measures.

E. Any decision to approve, deny or approve with conditions pursuant to RCW 43.21C.060 shall be contained in the responsible official's decision document. The written decision shall contain facts and conclusions based on the proposal's specific adverse environmental impacts, or lack thereof, as identified in an environmental checklist, EIS, threshold determination, other environmental document including an executive department's staff report and recommendation to a decision maker, or findings made pursuant to a public hearing authorized or required by law or ordinance. The decision document shall state the specific plan, policy or regulation that supports the SEPA decision and, if mitigation beyond existing development regulations is required, the specific adverse environmental impacts and the reasons why additional mitigation is needed to comply with SEPA.

F. This chapter shall not be construed as a limitation on the authority of King County to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

SECTION X. Ordinance 10870, Section 27, as amended, and K.C.C. 21A.04.060 are hereby amended to read as follows:

A. The purpose of the rural zone (RA) is to provide for an area-wide long-term rural character and to minimize land use conflicts with nearby agricultural or forest production districts or mineral extraction sites. These purposes are accomplished by:

1. Limiting residential densities and permitted uses to those that are compatible with rural character and nearby resource production districts and sites and are able to be adequately supported by rural service levels;

2. Allowing small scale farming and forestry activities and tourism and recreation uses that can be supported by rural service levels and that are compatible with rural character;

3. Increasing required setbacks to minimize conflicts with adjacent agriculture, forest, or mineral zones; and

4. Requiring tracts created through cluster development to be designated as permanent open space or as permanent resource use.

B. Use of this zone is appropriate in rural areas designated by the Comprehensive Plan as follows:

1. RA-2.5 in rural areas where the predominant lot pattern is below five acres in size for lots established ~~((prior to))~~ before the adoption of the 1994 Comprehensive Plan;

956 2. RA-5 in rural areas where ((~~the predominant lot pattern is five acres or greater~~
957 ~~but less than ten acres in size and the area is generally environmentally unconstrained~~));
958 a. The lands are more than a quarter mile from designated natural resource lands;
959 b. The lands are physically suitable for development with minimal:
960 ~~environmentally sensitive critical area~~ features as defined by county, state, or federal law;
961 ~~regionally significant resource areas;~~ or critical habitat as determined by legislatively
962 approved Watershed Resource Inventory Area plans; and
963 c. this residential density would not harm or diminish the surrounding area,
964 burden infrastructure, increase development pressure, and be inconsistent with the
965 development patterns promoted by the Comprehensive Plan;
966 3. RA-10 in rural areas ((~~where the predominant lot pattern is ten acres or greater~~
967 ~~but less than twenty acres in size. RA-10 is also applied on land that is generally~~
968 ~~environmentally constrained, as defined by county, state, or federal law, to protect critical~~
969 ~~habitat and regionally significant resource areas (RSRAs). The RA-10 zone is also applied~~
970 ~~to lands within one quarter mile of a forest or agricultural production district or an approved~~
971 ~~long term mineral extraction site.~~));
972 a.(1) The lands are adjacent to or within one quarter mile of designated natural
973 resource lands;
974 (2) The lands contain significant~~environmentally constrained critical~~ areas as
975 defined by county, state, or federal law,~~or regionally significant resource areas or~~
976 substantial critical habitat as determined by legislatively approved Watershed Resource
977 Inventory Area Plans; or

Commented [CJ50]: to use current terminology

Commented [CJ51]: to reflect repeal of basin plans

Commented [CJ52]: current terminology

Commented [CJ53]: to reflect repeal of basin plans

(3) A residential density of one home per five acres would harm or diminish the surrounding area, burden infrastructure, increase development pressure, or be inconsistent with the development patterns promoted by the Comprehensive Plan; and

b. On Vashon-Maury Island, RA-10 zoning shall be maintained on areas zoned RA-10 as of 1994 and on areas with a predominant lot size of ten acres or greater that are identified on the Areas Highly Susceptible to Groundwater Contamination map; and

4. RA-20 in Rural Forest Focus Districts designated by the King County Comprehensive Plan. This level of density should be considered when a larger parcel with a natural resource land designation is redesignated to Rural Area.

SECTION 53. Ordinance 10870, Section 29, as amended, and K.C.C. 21A.04.080 are hereby amended to read as follows:

A. The purpose of the urban residential zone (R) is to implement ~~((e))~~ Comprehensive ~~((p))~~ Plan goals and policies for housing quality, diversity, and affordability, and to efficiently use urban residential land, public services, and ~~((energy))~~ utilities. These purposes are accomplished by:

1. Providing, in the R-1 zone, predominantly single detached dwelling units at a relatively low density;

2. Providing, in the R-4 through R-8 zones, for a mix of ~~((predominantly))~~ single detached dwelling units, duplexes, triplexes, fourplexes, and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

~~((2-))~~ 3. Providing, in the R-12 through R-48 zones, for a mix of predominantly apartment and townhouse dwelling units, mixed-use, and other development types, with a variety of densities and sizes in locations appropriate for urban densities;

1001 ~~((3-))~~ 4. Allowing only those accessory and complementary nonresidential uses
1002 that are compatible with urban residential communities; and

1003 ~~((4-))~~ 5. Establishing density designations to facilitate advanced area-wide
1004 planning for public facilities and services, and to protect environmentally sensitive sites
1005 from over development.

1006 B. Use of this zone is appropriate in urban areas, activity centers, or Rural Towns
1007 designated by the Comprehensive Plan as follows:

1008 1. The R-1 zone;

1009 a. on or adjacent to lands with area-wide environmental constraints where
1010 development is required to cluster away from sensitive areas~~((;))~~;

1011 b. on lands designated as urban separators ~~((or))~~; wildlife habitat network ~~((where~~
1012 ~~development is required to cluster away from the axis of the corridor on))~~; or critical aquifer
1013 recharge areas~~((, and on))~~ or Regionally and Locally Significant Resource Areas

1014 ~~((RSRAs/LSRAs)))~~; or

1015 c. in well-established subdivisions of the same density~~((, which))~~ that are served
1016 at the time of development by public or private facilities and services adequate to support
1017 planned densities;

1018 2. The R-4 through R-8 zones on urban lands that are predominantly
1019 environmentally unconstrained and are served at the time of development, by adequate
1020 public sewers, water supply, roads, and other needed public facilities and services; and

1021 3. The R-12 through R-48 zones on lands in and next to Unincorporated Activity
1022 Centers, in Community or Neighborhood Business Centers, in mixed-use development, on
1023 small, scattered lots integrated into existing residential areas, or in Rural Towns, that are

Commented [CJ54]: to reflect repeal of basin plans

1024 served at the time of development by adequate public sewers, water supply, roads, and other
1025 needed public facilities and services.

1026 SECTION X. Ordinance 15051, Section 7, as amended, and K.C.C. 21A.06.072C
1027 are hereby amended to read as follows:

1028 A. Aquatic areas:

1029 1. Nonwetland water features including: all shorelines of the state, rivers,
1030 streams, marine waters, and bodies of open water, such as lakes, ponds and reservoirs;

1031 2. Impoundments, such as reservoirs or ponds, if any portion of the contributing
1032 water is from a nonwetland water feature listed in subsection A.1. of this section; ~~((and))~~

1033 3. Above-ground open water conveyance systems, such as pipd and non-pipd
1034 ditches, if any portion of the contributing water is:

1035 a. used by fish; or

1036 b. from either a wetland or a nonwetland water feature listed in subsection A.1.

1037 or A.2. of this section, or both; and

1038 4. Portions of the water features in subsections A.1, A.2, and A.3 of this section
1039 that are conveyed underground in pipes or culverts.

1040 B. "Aquatic areas" does not include water features where the source of
1041 contributing water is entirely artificial, including, but not limited to, ground water wells,
1042 and any irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage
1043 ditches that lie within the boundaries of, and are maintained by, a port district or an
1044 irrigation district or company.

1045 SECTION X. Ordinance 10870, Section 70, as amended, and K.C.C. 21A.06.122
1046 are hereby amended to read as follows:

Commented [PR55]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR56]: The change is being undertaken during BAS review to make sure riparian areas are appropriately protected. This definition, as adopted, does not line up with the stream definition. In the past, it has not been clear to DLS staff if ditches with salmon should be treated as an aquatic area or ignored/treated as a ditch. This proposed change provides clarity.

Commented [PR57]: Clarifies that aquatic areas do not cease to be jurisdictional where they are diverted underground.

Commented [PR58]: This language is taken from WAC 365-190-130, which says Fish and Wildlife Habitat Conservation Areas do not include these areas.

1047 Buffer: a designated area adjacent and contiguous to a ~~((steep slope or landslide~~
1048 ~~hazard area intended to protect slope stability, attenuation of surface water flows and~~
1049 ~~landslide hazards or a designated area contiguous to and intended to protect and be an~~
1050 ~~integral part of an aquatic area or wetland))~~ critical area that is intended to protect the
1051 functions and values of the critical area and reduce impacts from adjacent land uses.

Commented [PR59]: Wording updated to be more of a definition rather than description.

1052 SECTION X. Ordinance 10870, Section 80, as amended, and K.C.C. 21A.06.200
1053 are hereby amended to read as follows:

1054 Coal mine hazard area: an area directly underlain, adjacent to, or ((directly))
1055 affected by operative or abandoned subsurface coal mine workings such as adits, tunnels,
1056 drifts, or air shafts.

Commented [PR60]: Changes made for consistency with WAC 365-190-030(12) - Definition of mine hazard area.

1057 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1058 a new section to read as follows:

1059 Commercial production of agriculture products: agriculture conducted by an
1060 operator who has done one or more of the following:

1061 A. Filed IRS Schedule F for at least three years;

1062 B. Obtained and currently holds a United States Department of Agriculture
1063 Organic Certification producer certificate; or

1064 C. Enrolled and remains in good standing in Farm & Agriculture Current Use
1065 Taxation pursuant to chapter 84.34 RCW.

Commented [PR61]: New definition of Commercial agriculture proposed to be added to clarify which operations may receive certain allowances intended only for commercial operations (and not, for example, hobby farms). This definition is taken from a guidance memo issued by DLS Permitting in 2020, which was based on a recommendation co-developed by DLS Permitting and the DNRP Agriculture and Forestry Team.

1066 SECTION X. Ordinance 15051, Section 24, and K.C.C. 21A.06.254 are hereby
1067 amended to read as follows:

1068 Critical area: any area that is subject to natural hazards or a land feature that
1069 supports unique, fragile, or valuable natural resources including fish, wildlife, or other

Commented [RP62]: This definition proposes to include both 1) the five critical area types listed in WAC 365-190 *and* 2) the subtypes, because critical area structure has been a stumbling block for many, and keeping the entire structure visible under the definition for Critical Areas is the clearest solution for code users, particularly applicants.

WAC 365-190-020 is clear that the 5 types of critical areas listed are part of the minimum guidelines to assist the county in our responsibility to classify and designate critical areas.

1070 organisms or their habitats or such resources that carry, hold, or purify water in their
1071 natural state. "Critical area" includes the following areas:

1072 ~~A. ((Aquatic areas;~~
1073 ~~B. Coal mine hazard areas;~~
1074 ~~C.)) Critical aquifer recharge areas;~~
1075 ~~((D. Erosion hazard areas;~~
1076 ~~E. Flood hazard areas)) B. Frequently flooded areas, regulated as Flood Hazard~~
1077 ~~Areas;~~

1078 1. Floodplain;
1079 2. Special flood hazard area, as shown on the Flood Insurance Rate Maps;
1080 3. Zero-rise flood fringe;
1081 4. Zero-rise floodway;
1082 5. FEMA floodway; and
1083 6. Channel migration zones;
1084 ~~((F. Landslide hazard areas;~~
1085 ~~G. Seismic hazard areas;~~
1086 ~~H. Steep slope hazard areas;~~
1087 ~~I. Volcanic hazard areas;~~
1088 ~~J.)) C. Fish and wildlife habitat conservation areas;~~
1089 1. Aquatic areas;
1090 2. Riparian areas;
1091 3. Wildlife habitat conservation areas; and
1092 4. Wildlife habitat networks;

Commented [PR63]: In the comp plan, "frequently flooded area" is only referenced once, in direct reference to the GMA as a type of critical area the county is required to develop designations and regulations for. The term is not used in our existing flood code, or in other references to flood in KCC.

Instead, KCC regulates "Flood Hazard Areas". Sections that refer to regulated or distinct KC critical areas, like the allowed alterations table (KCC 21A.24.045) or alteration exceptions (KCC 21A.24.070) refer to "flood hazard area".

The existing definition of "flood hazard area" in KCC 21A.06.475 exceeds the minimum GMA requirements for "frequently flooded area". Nothing new is covered by including the term "frequently flooded area" either outside or within "flood hazard area".

This proposed wording change follows GMA terminology but immediately and unambiguously connects the term to the existing "flood hazard area", which is used widely. It also eliminates the list of what qualifies as a "flood hazard area" because regulations refer to "flood hazard area" directly, and because what the "flood hazard area" consists of is present in its definition.

1093 D. Geologically hazardous areas:

1094 1. Alluvial fan hazard areas;

1095 2. Channel migration zones;

1096 3. Coal mine hazard areas;

1097 4. Erosion hazard areas;

1098 5. Landslide hazard areas;

1099 6. Seismic hazard areas;

1100 7. Steep slope hazard areas;

1101 8. Tsunami hazard area; and

1102 9. Volcanic hazard areas; and

1103 E. Wetlands((;

1104 K. Wildlife habitat conservation areas; and

1105 L. Wildlife habitat networks)).

1106 SECTION 9. Ordinance 10870, Section 123, as amended, and K.C.C.

1107 21A.06.415 are hereby amended to read as follows:

1108 Erosion hazard area: ((~~an~~)) a geologically hazardous area underlain by soils that

1109 is subject to severe erosion when disturbed. ((~~These~~)) Those soils include, but are not

1110 limited to, those classified as having a severe to very severe erosion hazard according to

1111 the United States Department of Agriculture ((~~Soil~~)) Natural Resources Conservation

1112 Service, the 1990 Snoqualmie Pass Area Soil Survey, the 1973 King County Soils Survey

1113 or any subsequent revisions ((~~or addition by or~~)) to these sources. Soils classified as

1114 having a severe to very severe erosion hazard are ((such as)) any occurrence of River

Commented [PR64]: Channel migration zones are deliberately included in both Flood hazard areas (to remain consistent with the existing 21A.06.475) and Geologically hazardous areas (to be consistent with WAC 365-190-120).

Commented [PR65]: Clarifies that Erosion hazard areas are the type of Geologically hazardous area.

Commented [SK66]: Terms such as 'this' and 'these' are generally used in legislation for the legislation to refer to itself, as in 'this ordinance'. Sentence has been revised accordingly.

Commented [PR67]: Updated to reflect this agency's current name.

Commented [PR68]: Non-substantive, clarifying update allowing the existing sentence to be broken up into two sentences.

1115 Wash ("Rh") or Coastal Beaches ("Cb") and any of the following when they occur on
1116 slopes inclined at fifteen percent or more:

- 1117 A. The Alderwood gravelly sandy loam ("AgD");
1118 B. The Alderwood and Kitsap soils ("AkF");
1119 C. The Beausite gravelly sandy loam ("BeD" and "BeF");
1120 D. The Kitsap silt loam ("KpD");
1121 E. The Ovall gravelly loam ("OvD" and "OvF");
1122 F. The Ragnar fine sandy loam ("RaD"); and
1123 G. The Ragnar-Indianola Association ("RdE").

1124 SECTION X. Ordinance 15051, Section 41, as amended, and K.C.C. 21A.06.451
1125 are hereby amended to read as follows:

1126 Farm field access drive: a ~~((a)) paved or impervious ((surface constructed to~~
1127 ~~provide a fixed))~~ route or path used for moving livestock, produce, equipment, or
1128 supplies to and from farm fields and farm structures for agricultural activities on a
1129 property that is within an Agricultural Production District, enrolled in the Farmland
1130 Preservation Program, or zoned A.

Commented [PR69]: Reworded to streamline language.

1131 SECTION X. Ordinance 17539, Section 18, as amended, and K.C.C. 21A.06.497
1132 are hereby amended to read as follows:

1133 A. Floodplain development: any human-made change to improved or
1134 unimproved real estate in the floodplain, including, but not limited to, buildings or other
1135 structures, mining, dredging, filling, grading, paving, excavation, or drilling operations,
1136 storage of equipment or materials, subdivision or short subdivision of land, and removal
1137 of more than five percent of the native vegetation on the site.

Commented [PR70]: This change is associated with the BAS review of impacts to riparian areas and intends to limit how much riparian areas impacts are unmitigated by limiting what and where a farm field access drive is via the definition.

1138 B. Examples of human-made changes that are not considered "floodplain
1139 development" include:

1140 1. Routine maintenance of landscaping that does not involve grading,
1141 excavation, or filling;

1142 2. Removal of noxious weeds or invasive vegetation and replacement of
1143 nonnative vegetation with native vegetation;

1144 3. Removal of a hazard tree;

1145 4. Maintenance of the public road (~~((right of way))~~ right of way outside of the
1146 floodplain as shown on the Flood Insurance Rate Map, unless otherwise specified in
1147 K.C.C. Title 9 or the Surface Water Design Manual;~~((and))~~

1148 5. Agricultural activities with a low-impact on flood hazards, including tilling,
1149 discing, planting, seeding, harvesting, preparing soil, rotating crops, fertilizing, grazing,
1150 and related activity that does not include grading or fill; and

1151 6. Salmon recovery projects wholly outside of the special flood hazard area as
1152 shown on the Flood Insurance Rate Map.

1153 SECTION X. Ordinance 15051, Section 64, as amended, and K.C.C. 21A.06.578
1154 are hereby amended to read as follows:

1155 Habitat, fish: habitat that is used by (~~((anadromous or resident salmonids))~~ native
1156 fish species at any life stage at any time of the year, including (~~((potential habitat likely to~~
1157 ~~be used))~~ by anadromous or resident salmonids. (~~((("Fish habitat" includes habitat that is))~~
1158 It includes streams, wetlands, lakes, off-channel habitat, floodplain, tidal flats, and tidal
1159 channels. "Habitat, fish" also includes potential fish habitat that is ephemeral or
1160 upstream of, or landward of, human-made barriers that could be accessible to, and could

Commented [PR71]: The hyphens in "right of way" are proposed for removal, because according to page 42 of the KC Drafting Guide, "right of way" (without the hyphens), is the correct spelling when used as a noun.

Commented [PR72]: Suggested addition of "salmon recovery projects" as an example of a human-made changes that are not considered "floodplain development."

This has the effect of exempting salmon recovery projects outside of the FEMA floodplain from higher King County standards (the Surface Water Design Manual (SWDM) doesn't allow for a rise anywhere) while maintaining compliance with FEMA minimum standards. This language is intended to allow the same flexibility that roads, ag, and other projects listed have.

Note that this edit applies "outside of the floodplain as shown on a Flood Insurance Rate map." This language mirrors the language in subsection 4.

Commented [PR73]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR74]: Simplified language; this does not result in a substantive change.

1161 be used by, fish upon removal of the barriers. ~~((This includes off-channel habitat, flood~~
1162 ~~refuges, tidal flats, tidal channels, streams and wetlands.))~~

Commented [PR75]: Reordered wording to clarify the definition, and replaced "flood refuges" (which is not defined in code) with "floodplain", which is defined and captures the same meaning.

1163 SECTION X. K.C.C. 21A.06.1331, as amended by this ordinance, is hereby
1164 recodified as a new section in K.C.C. chapter 21A.06 to follow K.C.C. 21A.06.585.

1165 SECTION X. Ordinance 15051, Section 107, and K.C.C. 21A.06.1331 are hereby
1166 amended to read as follows:

1167

1168 ~~((Tree, hazard))~~ Hazardous tree: any tree with a structural defect, combination of
1169 defects or disease resulting in structural defect that, under the normal range of
1170 environmental conditions at the site, will result in the loss of a major structural
1171 component of that tree in a manner that will:

Commented [CJ76]: "Tree, hazard" has now been changed to "Hazard tree" for ease of location in code and to be consistent with the naming convention of "Significant tree". No change to the definition is proposed.

1172 A. Damage a residential structure or accessory structure, place of employment or
1173 public assembly, or approved parking for a residential structure or accessory structure or
1174 place of employment or public assembly;

1175 B. Damage an approved road or utility facility; or

1176 C. Prevent emergency access in the case of medical hardship.

1177 SECTION X. Ordinance 10870, Section 190, as amended, and K.C.C.
1178 21A.06.750 are hereby amended to read as follows:

1179 Mitigation: an action taken to compensate for unavoidable adverse impacts to the
1180 environment resulting from a development activity or alteration after all appropriate and
1181 practicable avoidance and minimization has been achieved.

Commented [CJ77]: The additions aim to improve code usability by noting that mitigation sequencing is also required both by the critical area code and SEPA, as well as mirror the Dept. of Ecology definition of compensatory mitigation. The additions also align better with the SEPA definition of mitigation in the WAC, which incorporates mitigation sequencing.

1182 SECTION X. Ordinance 10870, Section 243, as amended, and K.C.C.
1183 21A.06.1015 are hereby amended to read as follows:

1184 Salmonid: a member of the fish family Salmonidae, including, but not limited to:

1185 A. Chinook, coho, chum, sockeye, and pink salmon;

1186 B. Rainbow, steelhead, and cutthroat (~~((salmon, which are also known as))~~) trout;

1187 C. ~~((Brown trout;~~

1188 ~~D. Brook, b))~~ Bull trout, which is ~~((also known as))~~ a type of char, and Dolly

1189 Varden char;

1190 ~~((E.))~~ D. Kokanee; ~~((and~~

1191 ~~F.))~~ E. Pygmy whitefish; and

1192 F. Mountain whitefish.

1193 SECTION X. Ordinance 10870, Section 2880, as amended, and K.C.C.

1194 21A.06.1240 are hereby amended to read as follows:

1195 Stream: an aquatic area where surface water produces a channel, not including a

1196 wholly artificial channel~~((,))~~ unless ~~((#))~~ the artificial channel is:

1197 A. Used by ~~((salmonids))~~ fish; or

1198 B. Used to convey a stream or wetland that occurred naturally before

1199 construction of the artificial channel.

1200 SECTION X. Ordinance 10870, Section 314, as amended, and K.C.C.

1201 21A.06.1370 are hereby amended to read as follows:

1202 Volcanic hazard area: ~~((an))~~ a geologically hazardous area subject to pyroclastic

1203 flows, lava flows, debris avalanche, or inundation by debris flows, mudflows, lahars, or

1204 related flooding resulting from volcanic activity on Mount Rainier, delineated based on

1205 recurrence of an event equal in magnitude to the prehistoric Electron mudflow.

Commented [PR78]: Simplified language.

Commented [PR79]: Brown trout is a non-native species that should not be protected by King County.

Commented [PR80]: Brook trout is a non-native species that should not be protected by King County.

Commented [PR81]: Simplified language.

Commented [PR82]: Mountain whitefish are a native salmonid that should be protected. It was likely an oversight that they were not included in the existing code.

Commented [SK83]: Added to clarify that the subordinate phrase refers to artificial channels only.

Commented [PR84]: Change in terminology from "salmonid" to "fish" indicates that King County protects all fish species listed by WDFW, WDNR or King County species of local importance, not just salmonids.

Commented [PR85]: Some wetlands have been converted to streams through past practices. This code change clarifies that those areas function and are classified as streams now, and are not considered a 'wholly artificial channel'. This removes a potential area of confusion in code on how to address these issues, since the code was silent on this.

Commented [SK86]: Language expanded for consistency with WAC 365-190-030 and WAC 365-190-120(8)(a).

1206 SECTION X. Ordinance 10870, Section 321, and K.C.C. 21A.06.1405 are
1207 hereby amended to read as follows:

1208 Wetland functions: ~~((natural processes performed by wetlands including~~
1209 ~~functions which are important in facilitating food chain production, providing habitat for~~
1210 ~~nesting, rearing and resting sites for aquatic, terrestrial and avian species, maintaining the~~
1211 ~~availability and quality of water, acting as recharge and discharge areas for groundwater~~
1212 ~~aquifers and moderating surface and storm water flows, as well as performing other~~
1213 ~~functions including, but not limited to, those set forth in 33 CFR 320.4(b)(2), 1988)) the~~
1214 ~~physical, biological, chemical, and geologic interactions among different components of~~
1215 ~~the environment that occur within a wetland. Wetlands perform functions that are~~
1216 ~~grouped into three categories: functions that improve water quality, functions that change~~
1217 ~~the water regime in a watershed such as flood storage, and functions that provide habitat~~
1218 ~~for plants and animals.~~

1219 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1220 a new section to read as follows:

1221 Wetland values: wetland processes, characteristics, or attributes that are
1222 considered to benefit society.

1223 SECTION X. Ordinance 15051, Section 124, and K.C.C. 21A.06.1423 are
1224 hereby amended to read as follows:

1225 Wildlife habitat conservation area: ~~((an area for a species whose habitat the King~~
1226 ~~County Comprehensive Plan requires the county to protect that includes an active~~
1227 ~~breeding site and the area surrounding the breeding site that is necessary to protect~~
1228 ~~breeding activity)) areas that serve a critical role in sustaining needed habitats and species~~

Commented [PR87]: Revised definition for consistency with *Wetlands in Washington State Volume 1*.

Commented [PR88]: Added definition of "wetland values" to code, since wetland functions are already defined, and standards typically speak to "wetland functions and values".

Commented [SK89]: Terminology was updated to match state guidance for protection of fish and wildlife habitat conservation areas (FWHCAs), although DLS has chosen to retain the term WHCA for regulatory purposes.

1229 for the functional integrity of the ecosystem, and that, if altered, may reduce the
1230 likelihood that the species will persist over the long term. The areas may include, but are
1231 not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat
1232 elements including seasonal ranges, breeding habitat, winter range, riparian areas, aquatic
1233 areas including critical freshwater habitat areas and critical saltwater habitat areas,
1234 wildlife network and movement corridors, and areas with high relative population density
1235 or species richness. Wildlife habitat conservation areas do not include artificial water-
1236 carrying features or constructs, such as irrigation delivery systems, irrigation
1237 infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and
1238 are maintained by, a port district or an irrigation district or company.

1239 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1240 a new section to read as follows:

1241 Active nest: a nest or breeding site that is actively being used, built, or repaired
1242 by birds.

1243 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1244 a new section to read as follows:

1245 Alluvial fan: a fan-shaped deposit of sediment and organic debris formed where a
1246 stream flows or has flowed out of an upland onto a level plain or valley floor because of a
1247 sudden change in sediment transport capacity, such as a significant change in slope or
1248 confinement.

1249 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1250 a new section to read as follows:

Commented [PR90]: This term is used in existing code, but no definition yet exists. A definition is needed to clarify when the standards that use this term apply.

Commented [PR91]: Defined to add support for topic in new critical area. Alluvial Fan Hazard Areas (AFHA) are being added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830.

1251 Alluvial fan hazard area: any area on an alluvial fan that is susceptible to natural
1252 hazards such as episodic inundation, sedimentation, and erosional impacts. Alluvial fan
1253 hazard areas are a type of geologically hazard area.

Commented [PR92]: Defined since Alluvial Fan Hazard Areas (AFHA) are being added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830.

Commented [PR93]: Based on BAS on alluvial fans, new definition of new critical area gives context to actions occurring on an AFHA.

1254 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1255 a new section to read as follows:

1256 Climate-smart plants: native plant species currently or prehistorically found
1257 within the surrounding ecoregion that are predicted to maintain their abundance under
1258 climate change, as identified by the department of natural resources and parks.

Commented [PR94]: Existing code allows only native vegetation to be used for mitigation enhancement activities, but climate change is creating challenges for the future survival of native plants. Allowing climate-smart plants to be used for mitigation acknowledges that native plants may be adversely impacted by climate change and provide a wider variety of planting options that are still beneficial to the ecological community. Climate-smart is the standard term in the field of ecology, but a definition is needed to specify what it means in the context of the CAO.

1259 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1260 a new section to read as follows:

1261 Critical freshwater habitat: portions of streams, rivers, wetlands and lakes within
1262 shorelines of the state, and floodplains designated as shorelines of the state in the
1263 shoreline master program.

Commented [PR95]: The code uses the term critical freshwater habitats multiple times, but was missing a definition.

1264 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1265 a new section to read as follows:

1266 Debris flow: a moving mass of rock fragments, soil, and mud, with more than
1267 half of the particles being larger than sand size.

Commented [PR96]: New section to define hazard common hazard on Alluvial Fan Hazard Areas (AFHA). Added since AFHAs are being added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830

1268 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1269 a new section to read as follows:

1270 Ecological professional: a person having a degree in ecology, wildlife biology,
1271 fisheries, botany, soil science, environmental science, natural resource management, or a
1272 closely related field, and a minimum of five years of professional experience related to

1273 the subject ecological field. Professional certification in a relevant ecological field can be
1274 substituted for two years of work experience.

1275 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1276 a new section to read as follows:

1277 Fish and wildlife habitat conservation areas: areas that serve a critical role in
1278 sustaining needed habitats and species for the functional integrity of the ecosystem, and
1279 which, if altered, may reduce the likelihood that the species will persist over the long
1280 term. These areas may include, but are not limited to, rare or vulnerable ecological
1281 systems, communities, and habitat or habitat elements including seasonal ranges,
1282 breeding habitat including wildlife habitat conservation areas, riparian areas, aquatic
1283 areas including critical freshwater habitat areas and critical saltwater habitat areas,
1284 wildlife habitat network and movement corridors, and areas with high relative population
1285 density or species richness. Areas designated as fish and wildlife habitat conservation
1286 areas by the county are listed in Chapter 5 of the county's Comprehensive Plan.

1287 Fish and wildlife habitat conservation areas do not include artificial water-
1288 carrying features or constructs such as irrigation delivery systems, irrigation
1289 infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and
1290 are maintained by, a port district or an irrigation district or company.

1291 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1292 a new section to read as follows:

1293 Geologically hazardous area: an area susceptible to erosion, sliding, earthquake,
1294 or other geological events. Areas classified as a geologically hazardous area include one
1295 or more of the following:

Commented [PR97]: The existing code uses the terms "qualified biologist", "ecologist", and "qualified wetland professional" when one term could and should be used for consistency. "Ecological professional" is term already used in Permitting guidance.

No term was yet defined in 21A capturing this idea, so one is being added now.

Commented [CJ98]: This definition was added to provide an umbrella term to capture existing standards that fulfill the requirements of WAC 365-190-130 (which sets designation criteria for Fish and wildlife habitat conservation areas), and to more clearly show how the K.C.C. complies with state requirements to designate these areas. The second paragraph of the definition is called out as being a requirement by the Dept. of Commerce Checklist.

- 1296 A. Alluvial fan hazard areas;
1297 B. Channel migration zones;
1298 C. Coal mine hazard areas;
1299 D. Erosion hazard areas;
1300 E. Landslide hazard areas;
1301 F. Seismic hazard areas;
1302 G. Tsunami hazard areas; and
1303 H. Volcanic hazard areas.

1304 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06

1305 a new section to read as follows:

1306 Geological professional: a geotechnical engineer or geologist who has experience
1307 analyzing geologic, hydrologic, and ground water flow systems, and who has experience
1308 preparing reports for the relevant geological subdisciplines.

1309 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06

1310 a new section to read as follows:

1311 Grazing area buffer: A designated area contiguous to a wetland or aquatic area
1312 from which grazing livestock are excluded.

1313 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06

1314 a new section to read as follows:

1315 Notice of map amendment: a letter issued by the department of natural resources
1316 and parks indicating that the classification of a critical area has been changed from the
1317 classification shown on a critical areas map adopted by King County. The notice of map

Commented [PR99]: Definition added to clarify that types of critical areas regulated by the CAO fall under this term, and the show alignment with WAC 365-190-120.

Commented [PR100]: This term is used in the clarified standards for geological critical area report. It also explains the relationship between the terms "geotechnical engineer" and "geologist", which are already used and defined in existing code.

Commented [CJ101]: The existing K.C.C. uses the word "buffer" ambiguously, sometimes meaning critical area buffers, sometimes meaning grazing area buffers. This definition is proposed to be added to define grazing area buffers. Additionally, code standards are proposed to be clarified to say which apply to critical area buffers or riparian areas and which apply to grazing areas.

Commented [CJ102]: Added to complement proposed code standards that provide a pathway to document when a critical area has been reclassified or declassified. An example of this would be: If a site-specific study determines that a site mapped as being within a Category I CARA is actually within a different type of CARA, or not within a CARA at all, a notice of map amendment would memorialize this and provide an applicant with documentation.

1318 amendment may indicate that an area has been reclassified, declassified, or newly
1319 classified as a critical area.

1320 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1321 a new section to read as follows:

1322 **Revegetation:** the reestablishment of vegetation within an area that reflects
1323 historic natural conditions or native vegetation types that are well-suited to become
1324 established and thrive in the area.

1325 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1326 a new section to read as follows:

1327 **Riparian area:** a designated area contiguous to an aquatic area such as a stream,
1328 lake, estuary, or marine waters, that provides fish and wildlife habitat, protects adjacent
1329 aquatic fish and wildlife species and habitat, and protects water quality. Riparian areas
1330 reduce impacts from adjacent land uses through various physical, chemical, or biological
1331 processes.

1332 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1333 a new section to read as follows:

1334 **Species of local importance:** those species that have been designated by the
1335 county in the Comprehensive Plan to be of local concern due to their population status,
1336 sensitivity to habitat alteration, or that are game species.

1337 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
1338 a new section to read as follows:

1339 **Tsunami hazard area:** a geologically hazardous area susceptible to flooding,
1340 inundation, debris impact, or mass wasting as the result of a tsunami in areas including,

Commented [PR103]: To clarify what is meant when this term is used in code to indicate that ground must not be left bare after an alteration to protect from erosion.

Commented [PR104]: This term was added to generally replace the concept of aquatic area buffers from the previous CAO. Current BAS indicates that the areas adjacent to aquatic area buffers provide benefits beyond simply protecting the health of aquatic areas, for example for habitat value. Therefore, this term was updated using a synthesis of wording used in state guidance, and standards incorporating BAS are proposed.

Commented [PR105]: Added because no definition existed in code and how it was used was potentially confusing without this clarity.

1341 but not limited to, those areas shown on the Washington Geological Survey Digital Data
 1342 Series 22, version 2.0, December 2023, and V1-V30, VE, or V zones shown on the Flood
 1343 Insurance Rate Maps.

1344 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.06
 1345 a new section to read as follows:

1346 Wildlife lighting: measures applied to exterior lighting to reduce impacts to
 1347 wildlife.

1348 SECTION 103. Ordinance 10870, Section 331, as amended, and K.C.C.
 1349 21A.08.040 are hereby amended to read as follows:

1350 A. Recreational~~((/))~~ and cultural land uses.

Commented [PR106]: The CAO Update scope included adding standards for tsunami hazard areas, identified by BAS as needing protection. This definition is added to make clear where protective standards should apply.

Commented [BC107]: Wildlife lighting may not be an intuitive term for all, so should be defined (loosely, as it can vary between situations).

P-Permitted Use C-Conditional Use S-Special Use		RESOURCE			R U R A L	RESIDENTIAL			COMMERCIAL/INDUSTRIAL				
SIC #	SPECIFIC LAND USE	A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I
	PARK/RECREATION:												
*	Park	P1	P1	P1	P1	P1	P1	P1	P	P	P	P	P13
*	Trails	P	P	P	P	P	P	P	P	P	P	P	P
*	Campgrounds		P16 C16 a	P16	P16 C16 a	P16 C16 a							P16 C16 a
*	Destination Resorts		S ³⁰		S (18)) ³⁰	((C))					((C))		
*	Marina		C 3		C4	C4	C4	C4	P5	P	P	P	P
*	Recreational Vehicle Park		P19	P19	C2 and P19	C2 P19							

					18 P19								
*	Sports Club (17)				C4 and1 8	C4	C4	C4	C	P	P		
*	Ski Area		S		S18								
*	Recreational Camp		C		P24 C								
	AMUSEMENT/ENTERTAINMENT:												
*	Adult Entertainment Business									P6	P6	P6	
*	Theater									P	P	P	P25
783 3	Theater, Drive-in										C		
793	Bowling Center									P	P		P
*	Golf Facility				C7 and 18	P7	P7	P7					
799 9 (14)	Amusement and Recreation Services		P21	P21	P8 P21 C15 and 18	P8 P21 P22 C15	P8 P21 P22 C15	P8 P21 P22 C15	P21 P22	P	P	P21	P21
*	Indoor Paintball Range									P26	P26		P26
*	Outdoor Paintball Range				C27	C27							
*	Shooting Range		C9		C9 and1 8						C10		P10
*	Amusement Arcades									P	P		
799 6	Amusement Park										C		
*	Outdoor Performance Center		S		C12 S18		P20	P20			S		
	CULTURAL:												

823	Library				P11	P11 C	P11 C	P28	P	P	P	P	
841	Museum	C2 3	C23		P11	P11 C	P11 C	P28	P	P	P	P	P
842	Arboretum	P	P		P	P	P	P	P	P	P	P	
*	Conference Center				P29 C12	P29 C12	P29 C	P29 C	P	P	P	P	

B. Development conditions.

1. The following conditions and limitations shall apply, where appropriate:

a. No stadiums on sites less than ten acres;

b. Lighting for structures and fields shall be directed away from rural area and residential zones;

c. Structures or service yards shall maintain a minimum distance of fifty feet from property lines adjoining rural area and residential zones, except for fences and mesh backstops;

d. Facilities in the A zone shall be limited to trails and trailheads, including related accessory uses such as parking and sanitary facilities; and

e. Overnight camping is allowed only in an approved campground.

2. Recreational vehicle parks are subject to the following conditions and limitations:

a. The maximum length of stay of any vehicle shall not exceed one hundred eighty days during a three-hundred-sixty-five-day period;

b. The minimum distance between recreational vehicle pads shall be no less than ten feet; and

c. Sewage shall be disposed in a system approved by ~~((the))~~ [public health - Seattle\(\(-\)\)](#) & King County ~~((health department))~~.

1370 3. Limited to day moorage. The marina shall not create a need for off-site public
1371 services beyond those already available before the date of application.

1372 4. Not permitted in the RA-10 or RA-20 zones. Limited to recreation facilities
1373 subject to the following conditions and limitations:

1374 a. The bulk and scale shall be compatible with residential or rural character of the
1375 area;

1376 b. For sports clubs, the gross floor area shall not exceed ten thousand square feet
1377 unless the building is on the same site or adjacent to a site where a public facility is located
1378 or unless the building is a nonprofit facility located in the urban area; and

1379 c. Use is limited to residents of a specified residential development or to sports
1380 clubs providing supervised instructional or athletic programs.

1381 5. Limited to day moorage.

1382 6.a. Adult entertainment businesses shall be prohibited within three hundred thirty
1383 feet of any property zoned RA, UR₂ or R or containing schools, licensed daycare centers,
1384 public parks or trails, community centers, public libraries, or ~~((churches))~~ religious facilities.
1385 In addition, adult entertainment businesses shall not be located closer than three thousand
1386 feet to any other adult entertainment business. These distances shall be measured from the
1387 property line of the parcel or parcels proposed to contain the adult entertainment business to
1388 the property line of the parcels zoned RA, UR₂ or R or that contain the uses identified in this
1389 subsection B.6.a.

1390 b. Adult entertainment businesses shall not be permitted within an area likely to
1391 be annexed to a city subject to an executed interlocal agreement between King County and a

1392 city declaring that the city will provide opportunities for the location of adult businesses to
1393 serve the area. The areas include those identified in the maps attached to Ordinance 13546.

1394 7.a. Clubhouses, maintenance buildings, equipment storage areas, and driving
1395 range tees shall be at least fifty feet from rural area and residential zoned property lines.
1396 Lighting for practice greens and driving range ball impact areas shall be directed away from
1397 adjoining rural area and residential zones. Applications shall comply with adopted best
1398 management practices for golf course development. Within the RA zone, those facilities
1399 shall be permitted only in the RA-5 and RA-2.5 zones. Not permitted in designated rural
1400 forest focus areas~~((regionally significant resource areas, or locally significant resource~~
1401 ~~areas))~~. Ancillary facilities associated with a golf course are limited to practice putting
1402 greens, maintenance buildings, and other structures housing administrative offices or
1403 activities that provide convenience services to players. These convenience services are
1404 limited to a pro shop, food services, and dressing facilities and shall occupy a total of no
1405 more than ten thousand square feet. Furthermore, the residential density that is otherwise
1406 permitted by the zone shall not be used on other portions of the site through clustering or on
1407 other sites through the transfer of density provision. This residential density clustering or
1408 transfer limitation shall be reflected in a deed restriction that is recorded at the time
1409 applicable permits for the development of the golf course are issued; and

1410 b. In addition to ancillary facilities, an organizational hotel/lodging house shall be
1411 allowed as an accessory use, subject to the following:

1412 (1) only allowed in the R-1 zone;

1413 (2) only allowed with a privately owned golf facility that legally existed as of

1414 January 1, 2019;

Commented [CJ108]: to reflect repeal of basin plans

1415 (3) only allowed as an incidental or subordinate use to a principal golf facility
1416 use;

1417 (4) a maximum of twenty-four sleeping units is allowed; and

1418 (5) shall be connected to and served by public sewer.

1419 8. Limited to golf driving ranges, only as:

1420 a. accessory to golf courses; or

1421 b. accessory to a recreation or multiuse park.

1422 9.a. New structures and outdoor ranges shall maintain a minimum distance of fifty
1423 feet from property lines adjoining rural area and residential zones, but existing facilities shall
1424 be exempt.

1425 b. Ranges shall be designed to prevent stray or ricocheting projectiles, pellets, or
1426 arrows from leaving the property.

1427 c. Site plans shall include: safety features of the range; provisions for reducing
1428 sound produced on the firing line; elevations of the range showing target area, backdrops, or
1429 butts; and approximate locations of buildings on adjoining properties.

1430 d. Subject to the licensing provisions of K.C.C. Title 6.

1431 10.a. Only in an enclosed building, and subject to the licensing provisions of
1432 K.C.C. Title 6;

1433 b. Indoor ranges shall be designed and operated so as to provide a healthful
1434 environment for users and operators by:

1435 (1) installing ventilation systems that provide sufficient clean air in the user's
1436 breathing zone, and

1437 (2) adopting appropriate procedures and policies that monitor and control
1438 exposure time to airborne lead for individual users.

1439 11. Only as accessory to a park or in a building listed ~~((or))~~ in the National
1440 Register of Historic Places as an historic site or designated as a King County landmark
1441 subject to K.C.C. chapter 21A.32.

1442 12.a. Only as accessory to a nonresidential use established through a discretionary
1443 permit process, if the scale is limited to ensure compatibility with surrounding
1444 neighborhoods; and

1445 b. In the UR zone, only if the property is located within a designated
1446 unincorporated rural town.

1447 13. Subject to the following:

1448 a. The park shall abut an existing park on one or more sides, intervening roads
1449 notwithstanding;

1450 b. No bleachers or stadiums are permitted if the site is less than ten acres, and no
1451 public amusement devices for hire are permitted;

1452 c. Any lights provided to illuminate any building or recreational area shall be so
1453 arranged as to reflect the light away from any premises upon which a dwelling unit is
1454 located; and

1455 d. All buildings or structures or service yards on the site shall maintain a distance
1456 not less than fifty feet from any property line and from any public street.

1457 14.a. Excluding amusement and recreational uses classified elsewhere in this
1458 chapter.

1459 b. Fireworks display services, also known as public displays of fireworks, are
1460 allowed in all zones, subject to the requirements of K.C.C. chapter 17.11.

1461 15. For amusement and recreation services not otherwise provided for in this
1462 chapter:

1463 a. In the RA zones, not subject to regulation under K.C.C. Title 6 and only on
1464 sites at least five acres or larger;

1465 b. Retail sales are limited to incidental sales to patrons of the amusement or
1466 recreation service; and

1467 c. Does not involve the operation of motor vehicles or off-road vehicles,
1468 including, but not limited to, motorcycles and gocarts.

1469 16. Subject to the following conditions:

1470 a. The length of stay per party in campgrounds shall not exceed one hundred
1471 eighty days during a three-hundred-sixty-five-day period; and

1472 b. Only for campgrounds that are part of a proposed or existing county park, that
1473 are subject to review and public meetings through the department of natural resources and
1474 parks.

1475 17. Only for stand-alone sports clubs that are not part of a park.

1476 18. Subject to review and approval of conditions to comply with trail corridor
1477 provisions of K.C.C. chapter 21A.14 when located in an RA zone.

1478 19. Only as an accessory to a recreation or multiuse park.

1479 20. Only as an accessory to a recreation or multiuse park of at least twenty acres
1480 located within the urban growth area or on a site immediately adjacent to the urban growth

1481 area with the floor area of an individual outdoor performance center stage limited to three
1482 thousand square feet.

1483 21. Limited to rentals of sports and recreation equipment with a total floor area of
1484 no more than seven hundred fifty square feet and only as accessory to a park, or in the RA
1485 zones, to a recreation or multiuse park.

1486 22. Only as accessory to a large active recreation and multiuse park and limited to:

- 1487 a. water slides, wave pools, and associated water recreation facilities; and
- 1488 b. rentals of sports and recreation equipment.

1489 23. Limited to natural resource and heritage museums and only allowed in a farm
1490 or forestry structure, including, but not limited to, barns or sawmills, existing as of
1491 December 31, 2003.

1492 24. Use is permitted without a conditional use permit only when in compliance
1493 with all of the following conditions:

1494 a. The use is limited to camps for youths or for persons with special needs due to
1495 a disability, as defined by the American With Disabilities Act of 1990, or due to a medical
1496 condition and including training for leaders for those who use the camp;

1497 b. Active recreational activities shall not involve the use of motorized vehicles
1498 such as cross-country motorcycles or all-terrain vehicles or the use of firearms. The
1499 prohibition on motorized vehicles does not apply to such vehicles that may be necessary for
1500 operation and maintenance of the facility or to a client-specific vehicle used as a personal
1501 mobility device;

1502 c.(1) Except as provided in subsection B.24.c.(2)(b) of this section, the number of
1503 overnight campers, not including camp personnel, in a new camp shall not exceed:

1504 (a) one hundred and fifty for a camp between twenty and forty acres; or
1505 (b) for a camp greater than forty acres, but less than two hundred and fifty
1506 acres, the number of users allowed by the design capacity of a water system and on-site
1507 sewage disposal system approved by ~~((the department of))~~ public health~~((;))~~ - Seattle~~((/))~~ &
1508 King County, up to a maximum of three hundred and fifty; and
1509 (2) Existing camps shall be subject to the following:
1510 (a) For a camp established before August 11, 2005, with a conditional use
1511 permit and that is forty acres or larger, but less than one hundred and sixty acres, the number
1512 of overnight campers, not including camp personnel, may be up to one hundred ~~((and))~~ fifty
1513 campers over the limit established by subsection B.24.c.(1)(b) of this section.
1514 (b) For a camp established before August 11, 2005, with a conditional use
1515 permit and that is one hundred ~~((and))~~ sixty acres or larger, but less than two hundred acres,
1516 the number of overnight campers, not including camp personnel, may be up to three hundred
1517 ~~((and))~~ fifty campers over the limit established by subsection B.24.c.(1)(b) of this section.
1518 The camp may terminate operations at its existing site and establish a new camp if the area
1519 of the camp is greater than two hundred ~~((and))~~ fifty acres and the number of overnight
1520 campers, not including camp personnel, shall not exceed seven hundred.
1521 d. The length of stay for any individual overnight camper, not including camp
1522 personnel, shall not exceed ninety days during a three-hundred-sixty-five-day period;
1523 e. The camp facilities, such as a medical station, food service hall, and activity
1524 rooms, shall be of a scale to serve overnight camp users;
1525 f. The minimum size of parcel for such use shall be twenty acres;

1526 g. Except for any permanent caretaker residence, all new structures where camp
1527 users will be housed, fed, or assembled shall be no less than fifty feet from properties not
1528 related to the camp;

1529 h. In order to reduce the visual impacts of parking areas, sports and activity fields,
1530 or new structures where campers will be housed, fed, or assembled, the applicant shall
1531 provide a Type 3 landscape buffer no less than twenty feet wide between the nearest
1532 property line and such parking area, field, or structures, by retaining existing vegetation or
1533 augmenting as necessary to achieve the required level of screening;

1534 i. If the site is adjacent to an arterial roadway, access to the site shall be directly
1535 onto ~~((said))~~ the arterial unless direct access is unsafe due inadequate sight distance or
1536 extreme grade separation between the roadway and the site;

1537 j. If direct access to the site is via local access streets, transportation demand
1538 management measures, such as use of carpools, buses, or vans to bring in campers, shall be
1539 used to minimize traffic impacts;

1540 k. Any lights provided to illuminate any building or recreational area shall be so
1541 arranged as to reflect the light away from any adjacent property; and

1542 l. A community meeting shall be convened by the applicant before submittal of
1543 an application for permits to establish a camp, or to expand the number of camp users on an
1544 existing camp site as provided in subsection B.24.c.(2)(b) of this section. Notice of the
1545 meeting shall be provided at least two weeks in advance to all property owners within five
1546 hundred feet, or at least twenty of the nearest property owners, whichever is greater. The
1547 notice shall at a minimum contain a brief description of the project and the location, as well
1548 as ~~((s))~~ contact persons and numbers.

1549 25. Limited to theaters primarily for live productions located within a Rural Town
1550 designated by the King County Comprehensive Plan.

1551 26.a. Only in an enclosed building; and

1552 b. A copy of the current liability policy of not less than one million dollars for
1553 bodily injury or death shall be maintained in the department.

1554 27. Minimum standards for outdoor paintball recreation fields:

1555 a. The minimum site area is twenty-five acres;

1556 b. Structure shall be no closer than one hundred feet from any lot line adjacent to a
1557 rural area or residential zoned property;

1558 c. The area where paintballs are discharged shall be located more than three
1559 hundred feet of any lot line and more than five hundred feet from the lot line of any
1560 adjoining rural area or residential zoned property. The department may allow for a lesser
1561 setback if it determines through the conditional use permit review that the lesser setback in
1562 combination with other elements of the site design provides adequate protection to adjoining
1563 properties and rights-of-ways;

1564 d. A twenty-foot high nylon mesh screen shall be installed around all play areas
1565 and shall be removed at the end of each day when the play area is not being used. The
1566 department may allow for the height of the screen to be lowered to no less than ten feet if it
1567 determines through the conditional use permit review that the lower screen in combination
1568 with other elements of the site design provides adequate protection from discharged
1569 paintballs;

1570 e. All parking and spectator areas, structures, and play areas shall be screened
1571 from adjoining rural area or residential zoned property and public rights of way with Type 1
1572 landscaping at least ten feet wide;

1573 f. Any retail sales conducted on the property shall be accessory and incidental to
1574 the permitted activity and conducted only for the participants of the site;

1575 g. A plan of operations specifying days and hours of operation, number of
1576 participants and employees, types of equipment to be used by users of the site, safety
1577 procedures, type of compressed air fuel to be used on the site, and storage and maintenance
1578 procedures for the compressed air fuel shall be provided for review in conjunction with the
1579 conditional use permit application. All safety procedures shall be reviewed and approved by
1580 department of public safety before submittal of the conditional use permit application. All
1581 activities shall be in compliance with National Paintball League standards;

1582 h. The hours of operation shall be limited to Saturdays and Sundays and statutory
1583 holidays from 8:30 (~~(A.M.)~~) a.m. to 8:30 (~~(P.M.)~~) p.m., and further restricted as applicable
1584 to daylight hours;

1585 i. No more than one hundred paintball players shall be allowed on the site at any
1586 one time;

1587 j. No outdoor lights or amplified sounds shall be permitted;

1588 k. The facility shall have direct access to a road designated as a major collector
1589 (or higher) in the Comprehensive Plan unless the department determines through the
1590 conditional use permit review that the type and amount of traffic generated by the facility is
1591 such that it will not cause an undue impact on the neighbors or adversely affect safety of
1592 road usage;

1593 l. The facility shall be secured at the close of business each day;
1594 m. All equipment and objects used in the paintball activities shall be removed
1595 from the site within ninety days of the discontinuance of the paintball use; and
1596 n. A copy of the current liability policy of not less than one million dollars for
1597 bodily injury or death shall be submitted with the conditional use permit application and
1598 shall be maintained in the department.

1599 28. Before filing an application with the department, the applicant shall hold a
1600 community meeting in accordance with K.C.C. 20.20.035.

1601 29. Only as accessory to a recreation or multiuse park of least twenty acres located
1602 within the urban growth area or on a site immediately adjacent to the urban growth area or
1603 in a building listed ~~((on))~~ in the National Register of Historic Places as an historic site or
1604 designated as a King County landmark subject to K.C.C. chapter 21A.32.

1605 30.a. A community meeting consistent with K.C.C. 20.20.035 shall be convened
1606 by the applicant before submittal of an application for permits to establish a destination
1607 resort.

1608 b. Subject to review and approval of conditions to comply with trail corridor
1609 provisions of K.C.C. chapter 21A.14 when located in an RA zone.

1610 c. Except for trails, residential and recreational structures and facilities shall be
1611 setback at least one hundred feet from adjacent roadways and access easements; and at least
1612 three hundred feet from adjacent residential, rural area, or resource zoned properties.

1613 d. Outside the urban growth area:
1614 (1). The minimum site area is ten acres and must be at least five miles from the
1615 urban growth area boundary;

(2) the number of temporary lodging units shall not exceed two units per acre, up to one hundred units, and be proportionately scaled and limited based on developed site area, availability of recreation opportunities and distance to urban area zones allowing for temporary lodging;

(3) the site must be within ten miles of at least three off-site, outdoor resource-based recreation activities; and

(4) the destination resort shall provide at least two on-site outdoor resource-based recreation activities;

e. Applications must identify all aspects of the proposal, including residential, commercial, and recreational uses;

f. Accessory on-site uses shall be at a size and scale to serve primarily the guests of the resort;

g. When occurring in the forest zone, forest production district, or rural forest focus areas, the proposal must demonstrate that the predominate land area will remain viable for resource-based uses or preservation of forestry resources, or both; and

h. When occurring in the forest production district, only allowed if compatible with long-term forestry, protection of Indian tribal cultural resources, and other resource management goals of the Comprehensive Plan.

SECTION X. Ordinance 10870, Section 340, as amended, and K.C.C. 21A.12.030 are hereby amended to read as follows:

A. Densities and dimensions – residential and rural zones.

((RURAL))	<u>RURAL AREA</u>				<u>RESIDENTIAL</u>								
STANDARDS	RA-2.5	RA-5	RA-10	RA-20	UR	R-1 (17)	R-4	R-6	R-8	R-12	R-18	R-24	R-48

Base Density:	0.2	0.2	0.1	0.05	0.2	1	4	6	8	12	18	24	48
Dwelling Unit/Acre (15) (28)	du/a c	du/a c	du/ac	du/ac	du/ac (21)	du/ ac	du/ ac (6)	du/ac	du/ac	du/a c	du/a c	du/a c	du/ac
Maximum Density: Dwelling Unit/Acre (1)	0.4 du/a c (20)					1.5 du/ac (22)	6 du/ ac (22) 8 du/ ac (27) (34)	9 du/ac (22) 12 du/ac (27) (34)	12 du/ac (22) 16 du/ac (27) (34)	18 du/a c (27) (34)	27 du/a c (27) (34)	36 du/a c (27) (34)	72 du/ac (22) 96 du/ac (27) (34)
Minimum Density: (2)							85% (12) (18) (23)	85% (12) (18)	85% (12) (18)	80% (18)	75% (18)	70% (18)	65% (18)
Minimum Lot Area (13)	1.87 5 ac	3.75 ac	7.5 ac	15 ac			10,000 sf (31)						
Minimum Lot Width (3)	135 ft	135 ft	135 ft	135 ft	35 ft (7)	35 ft (7)	30 ft	30 ft	30 ft	30 ft	30ft	30 ft	30 ft
Minimum Street Setback (3)	30 ft (9)	30 ft (9)	30ft (9)	30 ft (9)	30 ft (7)	20 ft (7) (29)	10 ft (8) 20 ft (31)	10 ft (8)	10 ft (8)	10 ft (8) (30)	10 ft (8) (30)	10ft (8) (30)	10 ft (8) (30)
Minimum Interior Setback (3) (16)	5 ft (9)	10ft (9)	10 ft (9)	10 ft (9)	5 ft (7)	5 ft (7) (29)	5 ft 10 ft (31)	5 ft	5 ft	5 ft (10) (30) (33)	5 ft (10) (30) (33)	5 ft (10) (30) (33)	5 ft (10) (30) (33)
Base Height	40 ft	40 ft	40 ft	40 ft	35 ft	35 ft (29)	35 ft 25 ft (25a)	35 ft 25 ft (25a)	35 ft 25 ft (25a)	60 ft	60 ft	60 ft	60 ft

Maximum Height	75 ft (4)	75 ft (4)	75 ft (4)	75 ft (4)	75 ft (4)	75 ft (4) 35 ft (32)	30 ft (25b) 75 ft (4) 35 ft (32)	45 ft (14) 30 ft (25b) 75 ft (4) 35 ft (32)	45 ft (14) 30 ft (25b) 75 ft (4) 35 ft (32)	75 ft (4) 35 ft (32)	75 ft (4) 80 ft (14)	75 ft (4) 80 ft (14)	75 ft (4) 80 ft (14)
Maximum Impervious Surface: Percentage (5)	25 % (11) (19) (26)	20 % (11) (19) (26)	15% (11) (19) (24) (26)	12.5% (11) (19) (26)	30% (11) (26)	30% (11) (26)	55% (26)	70% (26)	75% (26)	85% (26) (30)	85% (26) (30)	85% (26) (30)	90% (26) (30)

B. Development conditions.

1. This maximum density may be achieved only through the application of:

- a. ~~((residential density incentives in accordance with K.C.C. chapter 21A.34 or))~~ transfers of development rights in accordance with K.C.C. chapter 21A.37, ~~((or any combination of density incentive or density transfer))~~ except for properties within the Skyway-West Hill or North Highline community service area subarea geographies; ((or))
- b. ~~((for properties within the Skyway West Hill or North Highline community service area subarea geographies, only as provided in the))~~ inclusionary housing regulations in accordance with K.C.C. chapter 21A.48;
- c. K.C.C. 21A.08.030.B.19.; or
- d. a one hundred and fifty percent bonus as allowed in subsection B.22.c. of this section.

2. Also see K.C.C. 21A.12.060.

3. These standards may be modified under the provisions for zero-lot-line and townhouse developments.

4.a. Portions of a structure may exceed the base height if one additional foot of street and interior setback is provided for each foot above the base height limit. The following restrictions apply:

(1) for netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges, the maximum height shall not exceed seventy-five feet, except for recreation or multiuse parks, where the maximum height shall not exceed one hundred twenty-five feet, unless a golf ball trajectory study requires a higher fence. All such netting, fencing and support structures are exempt from the additional interior setback requirement, regardless of whether located in a recreation or multiuse park;

(2) properties (~~within the Skyway West Hill or North Highline community service area subarea geographies~~) with inclusionary housing developed in accordance with K.C.C. chapter 21A.48 shall not increase height through this method; and

(3) for all other structures, the maximum height achieved through this method shall not exceed seventy-five feet.

b. Accessory dwelling units and accessory living quarters shall not exceed base heights, except that this requirement shall not apply to accessory dwelling units constructed wholly within an existing dwelling unit.

5. Applies to each individual lot. Impervious surface area standards for:

a. Regional uses shall be established at the time of permit review;

b. Nonresidential uses in rural area and residential zones shall comply with K.C.C. 21A.12.120 and 21A.12.220;

1674 c. Individual lots in the R-4 through R-6 zones that are less than nine thousand
1675 seventy-six square feet in area shall be subject to the applicable provisions of the nearest
1676 comparable R-6 or R-8 zone; and

1677 d. A lot may be increased beyond the total amount permitted in this chapter
1678 subject to approval of a conditional use permit.

1679 6. Mobile home parks shall be allowed a base density of six dwelling units per
1680 acre.

1681 7. The standards of the R-4 zone apply if a lot is less than fifteen thousand
1682 square feet in area.

1683 8. At least twenty linear feet of driveway shall be provided between any garage,
1684 carport, or other fenced parking area and the street property line. The linear distance
1685 shall be measured along the center line of the driveway from the access point to such
1686 garage, carport, or fenced area to the street property line.

1687 9.a. Residences shall have a setback of at least one hundred feet from any
1688 property line adjoining A, M, or F zones or existing extractive operations. However,
1689 residences on lots less than one hundred fifty feet in width adjoining A, M, or F zones or
1690 existing extractive operations shall have a setback from the rear property line equal to
1691 fifty percent of the lot width and a setback from the side property equal to twenty-five
1692 percent of the lot width.

1693 b. Except for residences along a property line adjoining A, M, or F zones or
1694 existing extractive operations, lots between one acre and two and one-half acres in size
1695 shall conform to the requirements of the R-1 zone and lots under one acre shall conform
1696 to the requirements of the R-4 zone.

1697 10.a. For developments consisting of three or more single-detached dwellings
1698 located on a single parcel, the setback shall be ten feet along any property line abutting
1699 R-1 through R-8, RA, and UR zones, except for structures in on-site play areas required
1700 in K.C.C. 21A.14.190, which shall have a setback of five feet.

1701 b. For townhouse and apartment development, the setback shall be twenty feet
1702 along any property line abutting R-1 through R-8, RA, and UR zones, except for
1703 structures in on-site play areas required in K.C.C. 21A.14.190, which shall have a setback
1704 of five feet, unless the townhouse or apartment development is adjacent to property upon
1705 which an existing townhouse or apartment development is located.

1706 11. Lots smaller than one-half acre in area shall comply with standards of the
1707 nearest comparable R-4 through R-8 zone. For lots that are one-half acre in area or
1708 larger, the maximum impervious surface area allowed shall be at least ten thousand
1709 square feet. On any lot over one acre in area, an additional five percent of the lot area
1710 may be used for buildings related to agricultural or forestry practices. For lots smaller
1711 than two acres but larger than one-half acre, an additional ten percent of the lot area may
1712 be used for structures that are determined to be medically necessary, if the applicant
1713 submits with the permit application a notarized affidavit, conforming with K.C.C.
1714 21A.32.170A.2.

1715 12. For purposes of calculating minimum density, the applicant may request that
1716 the minimum density factor be modified based upon the weighted average slope of the
1717 net buildable area of the site in accordance with K.C.C. 21A.12.087.

1718 13. The minimum lot area does not apply to lot clustering proposals as provided
1719 in K.C.C. chapter 21A.14, except in the Rural Town of Fall City between the effective

1720 5961 date of Ordinance 19690 and thirteen months after the effective date of Ordinance
1721 19690.

1722 14. This maximum height is only allowed as follows:

1723 a. in R-6 and R-8 zones, for a building with a footprint built on slopes
1724 exceeding a fifteen percent finished grade; and

1725 b. in R-18, R-24, and R-48 zones, only through application of:

1726 (1) ~~((for properties within the Skyway West Hill or North Highline~~
1727 ~~community service area subarea geographies, only if meeting the requirements of))~~
1728 inclusionary housing regulations in accordance with K.C.C. chapter 21A.48; or

1729 (2) ~~((for all other properties, using residential density incentives and))~~ transfer
1730 of ~~((density credits))~~ development rights in accordance with ~~((this title))~~ K.C.C. chapter
1731 21A.37, except for properties within the Skyway-West Hill or North Highline community
1732 service area subarea geographies.

1733 15. Density applies only to dwelling units and not to sleeping units.

1734 16. Vehicle access points from garages, carports, or fenced parking areas shall
1735 be set back from the property line on which a joint use driveway is located to provide a
1736 straight-line length of at least twenty-six feet as measured from the center line of the
1737 garage, carport, or fenced parking area, from the access point to the opposite side of the
1738 joint use driveway.

1739 17.a. All subdivisions and short subdivisions in the R-1 zone shall be required to
1740 be clustered if the property is located within or contains:

1741 (1) a ~~((floodplain))~~ flood hazard area;

1742 (2) a critical aquifer recharge area;

Commented [PR109]: Flood hazard area is a more inclusive term and would be the appropriate term to use here.

1743 (3) ~~((a regionally or locally significant resource area;~~
1744 ~~(4))~~ existing or planned public parks or trails, or connections to such
1745 facilities;

Commented [CJ110]: to reflect proposed repeal of basin plans, which is where regionally and locally significant resource areas are adopted

1746 (5) a riparian area of a ~~((category))~~ type S or F aquatic area ~~((or))~~;
1747 ~~(6)~~ a category I or II wetland;

Commented [PR111]: Fixed existing typo in code; there is no "category type".

1748 ~~((6))~~ ~~(7)~~ ~~((a steep slope))~~ a landslide hazard area; ~~((or))~~

1749 ~~((7))~~ ~~(8)~~ an urban separator or wildlife habitat network designated by the
1750 Comprehensive Plan ~~((or a community plan));~~

1751 ~~(9)~~ moderate or severe coal mine hazard areas;

1752 ~~(10)~~ alluvial fan hazard areas; or

1753 ~~(11)~~ steep slope hazard areas.

Commented [PR112]: Clustering in R-1 is intended to increase critical areas protection by focusing on promoting connectivity between tracts and surrounding natural areas. This standard should be applied to landslide hazard areas, coal mine hazard areas, steep slope hazard areas, alluvial fan hazard areas, and all are named here, since they are separately defined terms (*not* automatically included in the term LHA).

1754 b. The development shall be clustered away from critical areas or the axis of
1755 designated corridors such as urban separators or the wildlife habitat network to the extent
1756 possible and the open space shall be placed in a separate tract that includes at least fifty
1757 percent of the site. Open space tracts shall be permanent and shall be dedicated to a
1758 ~~((homeowners's))~~ homeowners association or other suitable organization, as determined
1759 by the director, and meet the requirements in K.C.C. 21A.14.040. On-site critical area
1760 and buffers and designated urban separators shall be placed within the open space tract to
1761 the extent possible. Passive recreation, with no development of recreational facilities,
1762 and natural-surface pedestrian and equestrian trails are acceptable uses within the open
1763 space tract.

1764 18. See K.C.C. 21A.12.085.

1765 19. All subdivisions and short subdivisions in R-1 and RA zones within the
1766 North Fork and Upper Issaquah Creek subbasins of the Issaquah Creek Basin (the North
1767 Fork and Upper Issaquah Creek subbasins are identified in the Issaquah Creek Basin and
1768 Nonpoint Action Plan) and the portion of the Grand Ridge subarea of the East
1769 Sammamish Community Planning Area that drains to Patterson Creek shall have a
1770 maximum impervious surface area of eight percent of the gross acreage of the plat.
1771 Distribution of the allowable impervious area among the platted lots shall be recorded on
1772 the face of the plat. Impervious surface of roads need not be counted towards the
1773 allowable impervious area. Where both lot- and plat-specific impervious limits apply, the
1774 more restrictive shall be required.

1775 20. This density may only be achieved on RA 2.5 zoned parcels receiving
1776 density from rural forest focus areas through a transfer of density credit ~~((pursuant to))~~
1777 under K.C.C. chapter 21A.37.

1778 21. Base density may be exceeded, if the property is located in a designated
1779 ~~((rural city-))~~Urban ~~((g))~~Growth ~~((a))~~Area for Cities in the Rural Area and each
1780 proposed lot contains an occupied legal residence that predates 1959.

1781 22.a. The maximum density is four dwelling units per acre for properties zoned
1782 R-4 when located in the Rural Town of Fall City.

1783 b. For properties within the Skyway-West Hill or North Highline community
1784 service area subarea geographies, only as provided in the inclusionary housing
1785 regulations in K.C.C. chapter 21A.48 or subsection B.22.c. of this section.

1786 c. In the R-1 through R-48 zones, for duplex, triplex, fourplex, or townhouse
1787 developments with nine or fewer units and when located within a half mile of high-

1788 [capacity or frequent transit as defined in the King County Countywide Planning Policies.](#)

1789 23. The subdivision or short subdivision of property within the Rural Town of
1790 Fall City is not required to meet with the minimum density requirements of this chapter.

1791 24. The impervious surface standards for the county fairground facility are
1792 established in the King County Fairgrounds Site Development Plan, Attachment A to
1793 Ordinance 14808, on file at the department of natural resources and parks and the
1794 department of local services, permitting division. Modifications to that standard may be
1795 allowed provided the square footage does not exceed the approved impervious surface
1796 square footage established in the King County Fairgrounds Site Development Plan
1797 Environmental Checklist, dated September 21, 1999, Attachment B to Ordinance 14808,
1798 by more than ten percent.

1799 25. For cottage housing developments only:

1800 a. The base height is twenty-five feet.

1801 b. Buildings that have pitched roofs with a minimum slope of six over twelve
1802 may achieve a maximum height of thirty feet at the ridge of the roof.

1803 26. Impervious surface does not include access easements serving neighboring
1804 property and driveways to the extent that they extend beyond the street setback due to
1805 location within an access panhandle or due to the application of King County Code
1806 requirements to locate features over which the applicant does not have control.

1807 27.a. For properties within the Skyway-West Hill or North Highline community
1808 service area subarea geographies, only in accordance with the inclusionary housing
1809 regulations in K.C.C. chapter 21A. 48.

1810 b. For all other properties, only:

1811 (1) in accordance with ~~((K.C.C. 21A.34.040.F.1.g., F.6.))~~ K.C.C. chapter
1812 21A.48; or

1813 (2) for a project using the transfer of development rights affordable housing
1814 pilot program in accordance with K.C.C. 21A.37.130.A.2., except for properties within
1815 the Skyway-West Hill or North Highline community service area subarea geographies.

1816 28. On a site zoned RA with a building listed ~~((on))~~ in the ~~((n))~~ National
1817 ~~((#))~~ Register of ~~((h))~~ Historic ~~((p))~~ Places, additional dwelling units in excess of the
1818 maximum density may be allowed under K.C.C. 21A.12.042.

1819 29. Height and setback requirements shall not apply to regional transit authority
1820 facilities.

1821 30. Properties within the North Highline community service area subarea
1822 geography shall meet the setback and Green Center requirements in K.C.C. chapter
1823 21A.XX (the new chapter created in section 8 of Ordinance 19687).

1824 31. Applies only in the Rural Town of Fall City between the effective date of
1825 Ordinance 19690 and thirteen months after the effective date of Ordinance 19690.

1826 32. For properties in Vashon Rural Town. Floors above two stories shall be
1827 setback at least an additional ten feet from the setbacks in this section.

1828 33. A safe parking site shall be setback at least ten feet from adjacent residential
1829 uses and R zoned properties.

1830 34. If served by public sewers, mobile home parks can have one additional unit
1831 per mobile home parking space or pad provided for the relocation of a mobile home that
1832 has been or will be displaced due to closure of a mobile home park in King County, up to
1833 the maximum density allowed for the zone.

1834 SECTION X. Ordinance 10870, Section 448, as amended, and K.C.C.

1835 21A.24.010 are hereby amended to read as follows:

1836 The purpose of this chapter is to implement the goals and policies of the Growth
1837 Management Act, chapter 36.70A RCW, Washington state Environmental Policy Act,
1838 chapter 43.21C RCW, and the King County Comprehensive Plan, which call for
1839 protection of the natural environment and the public health and safety by:

1840 A. Establishing development and alteration standards to protect functions and
1841 values of critical areas;

1842 B. Protecting members of the general public and public resources and facilities
1843 from injury, loss of life, property damage, or financial loss due to flooding, erosion,
1844 avalanche, landslides, tsunamis, alluvial fan hazards, seismic and volcanic events, soil
1845 subsidence, or steep slope failures;

1846 C. Protecting unique, fragile, and valuable elements of the environment
1847 including, but not limited to, fish and wildlife and their habitats, and maintaining and
1848 promoting countywide native biodiversity;

1849 D. Requiring avoidance, minimization, and mitigation of unavoidable impacts to
1850 critical areas ~~((, by regulating alterations in or near critical areas))~~ and their buffers;

1851 E. Preventing cumulative adverse environmental impacts on water availability,
1852 water quality, ground water, wetlands, and aquatic areas;

1853 F. Measuring the quantity and quality of wetland and aquatic area resources and
1854 preventing overall net loss of wetland and aquatic area functions;

1855 G. Protecting the public trust as to navigable waters, aquatic resources, and fish
1856 and wildlife and their habitat;

Commented [SK113]: Added since new tsunami and alluvial fan development standards have been added to code.

Commented [PR114]: Updated to incorporate concept of mitigation sequencing, for which there are standards in 21A.24.125.

Commented [SK115]: Revised for clarity, and to indicate that buffers are also protected areas.

1857 H. Meeting the requirements of the National Flood Insurance Program and
1858 maintaining King County as an eligible community for federal flood insurance benefits;

1859 I. Alerting members of the public including, but not limited to, appraisers,
1860 owners, potential buyers or lessees to the development limitations of critical areas; and

1861 J. Providing county officials with sufficient information ~~((to protect))~~ at the time
1862 of permit application submittal to determine whether proposed land uses, activities, or
1863 development could impact critical areas.

1864 SECTION X. Ordinance 10870, Section 449, as amended, and K.C.C.

1865 21A.24.020 are hereby amended to read as follows:

1866 A. This chapter applies to all land uses in King County, and all persons within
1867 county shall comply with this chapter.

1868 B. King County shall not approve any permit or otherwise issue any authorization
1869 to alter the condition of any land, water, or vegetation or to construct or alter any
1870 structure or improvement without first ensuring compliance with this chapter.

1871 C. Approval of a development proposal in accordance with this chapter does not
1872 discharge the obligation of the applicant to comply with this chapter.

1873 D. The extents of critical areas may overlap one another or may overlap natural
1874 resource land use designations. Where overlap occurs, all overlapping critical area
1875 designations and natural resource designations apply.

1876 E. When ~~((any other chapter))~~ another provision of the King County Code
1877 conflicts with this chapter or when the provisions of this chapter are in conflict, the
1878 provision that provides more protection to environmentally critical areas shall apply

Commented [PR116]: Clarification of existing language, confirming that information submitted in applications helps County staff protect critical areas. This wording also is intended to support implementation of SB 5290 (2023), which sets specific time limits for permit review. To meet this requirement, it will be crucial for staff to have sufficient information to review the permit at application. This added purpose language supports the goal of having sufficient information at application.

Commented [CJ117]: Provided for consistency with WAC 365-190-040(7) and (7)(a).

Commented [PR118]: Wording updated to be more precise.

Commented [PR119]: Clarifies that this is a code requirement.

1879 unless specifically provided otherwise in this chapter or unless the provision conflicts
1880 with federal or state laws or regulations.

1881 ~~((E-))~~ F. This chapter applies to all forest practices over which the county has
1882 jurisdiction under chapter 76.09 RCW and Title 222 WAC.

1883 SECTION X. Ordinance 15051, Section 137, as amended, and K.C.C.

1884 21A.24.045 are hereby amended to read as follows:

1885 A. Within the following ~~((seven))~~ critical areas and their buffers, all alterations
1886 are allowed if the alteration complies with the development standards, impact avoidance
1887 and mitigation requirements and other applicable requirements established in this chapter:

- 1888 1. Critical aquifer recharge areas;
- 1889 2. Coal mine hazard areas;
- 1890 3. Erosion hazard areas;
- 1891 4. Flood hazard areas, except in the severe channel migration hazard area;
- 1892 5. Landslide hazard areas under forty percent slope;
- 1893 6. Seismic hazard areas; ~~((and))~~
- 1894 7. Tsunami hazard areas; and
- 1895 8. Volcanic hazard areas.

1896 B. Within the following ~~((seven))~~ critical areas and their buffers, unless allowed
1897 as an alteration exception under K.C.C. 21A.24.070, only the alterations ~~((on))~~ in the
1898 table in subsection C. of this section are allowed if the alteration complies with
1899 conditions in subsection D. of this section and the development standards, impact
1900 avoidance and mitigation requirements and other applicable requirements established in
1901 this chapter:

Commented [SK120]: Tsunami hazard areas are now regulated in the CAO with development standards.

1902 1. Alluvial fan hazard areas;

1903 2. Aquatic areas;

1904 3. Severe channel migration hazard areas;

1905 ((2-)) 4. Landslide hazard areas over forty percent slope;

1906 ((3-)) 5. Riparian areas;

1907 6. Steep slope hazard areas;

1908 ((4-)) 7. Wetlands;

1909 ((5- Aquatic area;

1910 6-)) 8. Wildlife habitat conservation areas, including species and habitats

1911 designated in K.C.C. 21A.24.382; and

1912 ((7-)) 9. Wildlife habitat networks.

1913 C. In the following table where an activity is included in more than one activity

1914 category, the numbered conditions applicable to the most specific description of the

1915 activity governs. Where more than one numbered condition appears for a listed activity,

1916 each of the relevant conditions specified for that activity within the given critical area

1917 applies. For alterations involving more than one critical area, compliance with the

1918 conditions applicable to each critical area is required.

Commented [SK121]: Moved from below, to have an alphabetical list.

A= ((alternation)) alteration is	Landslide Hazard	Alluvial Fan	Steep Slope	Wetland and Buffer	Aquatic Area	Wildlife Habitat
allowed Numbers indicate applicable development condition in subsection D. of this section	Area Over 40% and Buffer	Hazard Area	Hazard Area and Buffer		((and Buffer)), Riparian Area, and Severe Channel Migration Hazard Area	Conservation Area and Wildlife Habitat Network
Structures						
Construction of new single				A 1	((A-2))	

Commented [SK122]: Error in existing code.

Commented [PR123]: Alluvial fan hazard areas were added to the allowed alterations table to provide a permitting pathway for a limited set of alterations that recognize existing developed uses, while limiting new development in general accordance with BAS, at management direction.

These changes as proposed protect public health and safety as required by WAC 365-196-830. They provide also provide necessary pathways since the option of permitting via Critical Area Alteration Exceptions was removed.

Commented [CJ124]: This allowance is a relic of the Sensitive Area Ordinance from the early 1990s, before there were much more protective requirements in both the CAO and the SMP. At the time, it was intended to provide better protection along some shoreline/lakefront properties before we had aquatic area buffers along lakes. Current buffer requirements require much more protections now. SFRs in these situations should be processed as alteration exceptions.

detached dwelling unit						
Construction of a new tree-supported structure				A 64	A 64	A 64
Construction of nonresidential structure		<u>A 3</u>		A 3	A 3	A 3, 4
Maintenance or repair of existing structure	A 5	<u>A 5, 6</u>	((A))	A	A	A 4
Expansion or replacement of existing structure	A 5, 7	<u>A 5, 6, 7</u>	A 5, 7	A 7, 8	A 6, 7, 8	<u>A 4, 7, 8</u>
Interior remodeling	A	<u>A</u>	A	A	A	A
Construction of new dock or pier				A 9	A 9, 10, 11	
Maintenance, repair or replacement of dock or pier				A 10	A 10, 11	A 4
Grading						
Grading		<u>A 13, 15</u>	A 13		A 14	A 4, 14
Construction of new slope stabilization	A 15	<u>A 15</u>	A 15	A 15	A 15	A 4, 15
Maintenance of existing slope stabilization	<u>A 15, 16</u>	<u>A 15</u>	A 13	A 17	A 16, 17	A 4
Mineral extraction	A		A			
Clearing						
Clearing	A 18	<u>A 18</u>	A 18	A 18, 20	A 14, 18, 20	A 4, 14, 18, 20
Cutting firewood		<u>A 18, 21</u>	A 21	A 21	A 21	A 4, 21
Vegetation management	A 19	<u>A 19</u>	A 19	A 19	A 19	A 4, 19
((Removal of vegetation for fire safety)) Tree and vegetation clearing for the purposes of wildfire preparedness	A 24	<u>A 22</u>	A 22	A 22	A 22	A 4, 22
Removal of noxious weeds or invasive vegetation	A 23	<u>A 23</u>	A 23	A 23	A 23	A 4, 23
Forest Practices						
Forest management activity	A	<u>A</u>	A	A	A	A 25

Commented [PR125]: Condition 8 was added to bring consistency across FWHCAs

Commented [PR126]: Applies same standards for maintenance of existing slope stabilization as apply to construction of new slope stabilization, which limits scope and minimizes impacts. Adding condition 15 also provides a pathway for proposed maintenance outside of roadways, which is what condition 16 appears to be intended for.

Commented [CJ127]: To match terminology in K.C.C Title 16

Roads						
Construction of new public road right-of-way structure on unimproved ((right-of-way)) right of way				A 26	A 26	
Construction of new road in a plat				A 26	A 26	
Maintenance of public road right-of-way structure	A 16	A 16	A 16	A 16	A 16	A 16, 27
Expansion beyond public road right-of way structure	A	A 26	A	A 26	A 26	
Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16	A 16, 27
Construction of driveway or private access road	A 28	A 28, 70	A 28	A 28	A 28	A 28
((Construction of farm field access drive	A 29		A 29	A 29	A 29	A 29)
Maintenance of driveway, private access road, ((farm field access drive)) or parking lot	A	A 17	A	A 17	A 17	A 17, 27
Construction of a bridge or culvert as part of a driveway or private access road	A 39	A 39, 70	A 39	A 39	A 39	A 39
Bridges or culverts						
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 27
Construction of a new bridge	A 16, 39	A 16, 39	A 16, 39	A 16, 39	A 16, 39	A 4, 16, 39
Replacement of bridge or culvert	A 16	A 16	A 16	A 16	A 16, 30	A 16, 27
Expansion of bridge or culvert	A 16, 17	A 16, 17, 31	A 16, 17	A 16, 17, 31	A 17, 31	A 4
Utilities and other infrastructure						

Commented [PR128]: This row was moved to the Ag section of the table to keep ag issues in one place and this is not a typical 'road' issue.

Commented [SK129]: Farm field access drive is now addressed in a separate row under Agriculture.

Construction of new utility corridor or utility facility	A 32, 33	A 32, 33, 34	A 32, 33, 34 35	A 32, 34	A 32, 34	A 27, 32, 35
Construction or maintenance of a hydroelectric ((generating)) generation facility	A 67	A 66, 67	A 67	A 66	A 66	A 4, 66
Construction of a new residential utility service distribution line	A 32, 33	A 32, 33, 60	A 32, 33	A 32, 60	A 32, 60	A 27, 32, 60
Maintenance, repair or replacement of utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 33	A 32, 34, 36	A 32, 34, 36	A 4, 32, 37
Construction of a new on-site sewage disposal system or well	(A 24)		(A 24)	A 63	A 63	
Maintenance or repair of existing well	A 37	A 37	A 37	A 37	A 37	A 4, 37
Maintenance, ((or)) repair, or replacement of existing on-site sewage disposal system	A 24	A 24, 37	A 24	A 24	A 24, 37	A 4, 24
Construction of new surface water conveyance system	A 32, 33	A 32, 33, 38	A 32, 33	A 32, 38	A 32, 38	A 4
Construction, maintenance or repair of in-water heat exchanger				A 68	A 68	
Maintenance, repair or replacement of existing surface water conveyance system	A 33	A 16, 33, 40, 41	A 33	A 16, 32, 38	A 16, 40, 41	A 4, 37
Construction of new surface water flow control or surface water quality treatment facility		A 32		A 32	A 32	A 4, 32
Maintenance or repair of	A 16	A 16	A 16	A 16	A 16	A 4, 16

Commented [PR130]: Updated to align with the term exactly as listed in 21A.06

Commented [PR131]: Condition 24 begins to "Allowed to repair or replace existing on site wastewater disposal systems..." indicating that this allowance is not meant to be used for new systems where no system existed before--only repair and replacement of existing systems. Therefore, this allowance and accompanying condition 24 are being moved to the Maintenance, repair, or replacement of existing on-site sewage disposal system" row.

Commented [PR133]: Condition 24 begins to "Allowed to repair or replace existing on site wastewater disposal systems..." indicating that this allowance is not meant to be used for new systems where no system existed before--only repair and replacement of existing systems. Therefore, this allowance and accompanying condition 24 are being moved to the Maintenance, repair, or replacement of existing on-site sewage disposal system" row.

Commented [PR134]: Condition 24 begins to "Allowed to repair or replace existing on site wastewater disposal systems..." indicating that this allowance is not meant to be used for new systems where no system existed before--only repair and replacement of existing systems. Therefore, this allowance and accompanying condition 24 are being moved to the Maintenance, repair, or replacement of existing on-site sewage disposal system" row.

Commented [PR135]: Adding condition 24 creates consistency across most critical areas and aligns with the row with Marine Recovery Areas condition #24

Commented [PR132]: Clarified to align with terms used in Condition 24.

Commented [PR136]: Requirement 16 should apply to all critical areas where this is allowed. BAS does not support less protective measures for WHCA/WHN for this alteration

existing surface water flow control or surface water quality treatment facility						
Construction of new flood protection facility		A 32, 42		A 42	A 42	A 27, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 33, 43	A 43	A 43	A 27, 43
Flood risk reduction gravel removal	A 61	A 61	A 61	A 61	A 61	A 61
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16	A 16, 44, 45	A 4, 16, 44, 45
Maintenance or repair of existing instream structure	A 16	A 16	A	A	A	A 4
Recreation						
Construction of new trail	A 46	A 46, 47	A 46	A 47	A 47	A 4, 47
Maintenance of outdoor public park facility, trail or publicly improved recreation area	A 48	A 48	A 48	A 48	A 48	A 4, 48
Habitat, education and science projects						
Habitat restoration, reclamation or enhancement project	A 49	A 49	A 49	A 49	A 49	A 4, 49
Scientific sampling for salmonids		A 50		A 50	A 50	A 50
Drilling and testing for critical areas reports, or for monitoring and data collection within critical areas	A 51	A 51	A 51	A 51, 52	A 51, 52	A 4
Environmental education project	A 62	A 62	A 62	A 62	A 62	A 62
Agriculture						

Commented [PR137]: Added term that refers to restoration activities related to mining, which should be subject to the same requirements as the other activities in this row.

Commented [PR138]: Added to clarify scope of allowance.

Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of a commercial fish farm				A 53, 54	A 53, 54	A, 53, 54
Construction or maintenance of livestock manure storage facility				A 53, 54, 55	A 53, 54, 56	A 53, 54
Construction of a livestock heavy use area				A 53, 54, 55	A 53, 54, 56	A 53, 54
Construction or maintenance of a farm pad				A 56	A 56	
Construction of agricultural drainage				A 57	A 57	A 4, 57
Maintenance or replacement of agricultural drainage	A 23, 58	A 23, 53, 54, 58	A 23, 58	A 23, 53, 54, 58	A 23, 53, 54, 58	A 4, 23, 53, 54, 58
Maintenance of agricultural waterway		A 69		A 69	A 69	
Construction or maintenance of farm pond, fish pond or livestock watering pond	((A 53))	A 53, 54	((A 53))	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of farm field access drive	A 29	A 29	A 29	A 29	A 29	A 29
Other						
Shoreline water dependent or shoreline water oriented use					A 65	
Excavation of cemetery graves in established and approved cemetery	A	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A	A

Commented [PR139]: Condition 55 speaks specifically to only being allowed in grazed or tilled wet meadows or their buffers, which are a type of wetland, and therefore it does not belong in this column.

Commented [PR140]: Condition 55 speaks specifically to only being allowed in grazed or tilled wet meadows or their buffers, which are a type of wetland, and therefore it does not belong in this column.

Commented [PR141]: Removed to address risk of water in ponds infiltrating on a steep slope and increasing the risks of landsliding. (This change is likely to affect only a small number of ponds, if any, as the condition 53 limits the usage to activities in continuous existence since January 1, 2005.)

Commented [PR142]: Removed to address risk of water in ponds infiltrating on a steep slope and increasing the risks of landsliding. (This change is likely to affect only a small number of ponds, if any, as the condition 53 limits the usage to activities in continuous existence since January 1, 2005.)

Commented [PR143]: Construction and maintenance were combined, and the conditions in 29 were updated as part of the riparian area BAS review to reduce ambiguity about where this condition applies as well as limit how/when KC allows an unmitigated impact to riparian areas and other critical areas.

Maintenance of lawn, landscaping or garden for personal consumption	A 59	<u>A 59</u>	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	<u>A 17</u>	A 17	A 17	A 17	A 4, 17

D. The following alteration conditions apply:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of subsection D.3. of this section.

2. ~~(((Only allowed in a buffer of a lake that is twenty acres or larger on a lot that was created before January 1, 2005, if:~~

~~a. at least seventy five percent of the lots abutting the shoreline of the lake or seventy five percent of the lake frontage, whichever constitutes the most developable lake frontage, has existing density of four dwelling units per acre or more;~~

~~b. the development proposal, including mitigation required by this chapter, will have the least adverse impact on the critical area;~~

~~c. existing native vegetation within the critical area buffer will remain undisturbed except as necessary to accommodate the development proposal and required building setbacks;~~

~~d. access is located to have the least adverse impact on the critical area and critical area buffer;~~

~~e. the site alteration is the minimum necessary to accommodate the development proposal and in no case in excess of five thousand square feet;~~

~~f. the alteration is no closer than:~~

~~(1) on a site with a shoreline environment designation of high intensity or residential, the greater of twenty five feet or the average of the setbacks on adjacent lots~~

Commented [CJ144]: This allowance is a relic of the Sensitive Area Ordinance from the early 1990s, before there were much more protective requirements in both the CAO and the SMP. At the time, it was intended to provide better protection along some shoreline/lakefront properties before we had aquatic area buffers along lakes. Current buffer requirements require much more protections now. SFRs in these situations should be processed as alteration exceptions.

1939 ~~on either side of the subject property, as measured from the ordinary high water mark of~~
1940 ~~the lake shoreline;~~

1941 ~~(2) on a site with a shoreline environment designation of rural, conservancy,~~
1942 ~~resource or forestry, the greater of fifty feet or the average of the setbacks on adjacent~~
1943 ~~lots on either side of the subject property, as measured from the ordinary high water~~
1944 ~~mark; and~~

1945 ~~(3) on a site with a shoreline environment designation of natural, the greater~~
1946 ~~of one hundred feet or the average of the setbacks on adjacent lots on either side of the~~
1947 ~~subject property, as measured from the ordinary high water mark; and~~

1948 ~~g. to the maximum extent practical, alterations are mitigated on the~~
1949 ~~development proposal site by enhancing or restoring remaining critical area buffers.))~~

1950 Repealed.

1951 3. Limited to nonresidential farm-structures in grazed or tilled wet meadows

1952 ~~((or)), wetland buffers ((of wetlands)), or ((aquatic)) riparian areas~~ where:

1953 a. the site is predominantly used for the practice of ~~((agriculture))~~ agricultural
1954 activities;

1955 b. the structure is in compliance with an approved farm management plan in
1956 accordance with K.C.C. 21A.24.051;

1957 c. the structure is either:

1958 (1) on or adjacent to existing nonresidential impervious surface areas,
1959 additional impervious surface area is not created waterward of any existing impervious
1960 surface areas and the area was not used for crop production;

Commented [CJ145]: This is just a language change that was caused by the change of aquatic buffers name to 'riparian area'. We could not refer to both as 'buffers' anymore, so the wording around wetlands was changed, but the content /intent is same.

Commented [CJ146]: updated to align with current defined terms in the code, which ensures this applies to commercial agriculture as intended

1961 (2) higher in elevation and no closer to the critical area than its existing
1962 position; or

1963 (3) at a location away from existing impervious surface areas that is
1964 determined to be the optimum site in the farm management plan;

1965 d. all best management practices associated with the structure specified in the
1966 farm management plan are installed and maintained;

1967 e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not
1968 require the development of a farm management plan if required best management
1969 practices are followed and the installation does not require clearing of critical areas or
1970 their buffers; and

1971 f. in an alluvial fan hazard area or a severe channel migration hazard area
1972 portion of a ~~((n-aquatic-buffer))~~ riparian area only if:

1973 (1) there is no feasible alternative location on-site;

1974 (2) the structure is located where it is least subject to risk from alluvial fan
1975 hazards or channel migration;

1976 (3) the structure is not used to house animals or store hazardous substances;
1977 and

1978 (4) the total footprint of all accessory structures within the severe channel
1979 migration hazard area will not exceed the greater of one thousand square feet or two
1980 percent of the severe channel migration hazard area on the site.

1981 4. No clearing, external construction, or other disturbance in a wildlife habitat
1982 conservation area is allowed during breeding seasons established under K.C.C.
1983 21A.24.382.

Commented [PR147]: Alluvial fan hazard areas were added to the allowed alterations table to provide a permitting pathway for a limited set of alterations that recognize existing developed uses, while limiting new development in general accordance with BAS, at management direction.

These changes as proposed protect public health and safety as required by WAC 365-196-830. They provide also provide necessary pathways since the option of permitting via Critical Area Alteration Exceptions was removed.

1984 5. Allowed for structures when:

1985 a. the landslide hazard, steep slope hazard, or alluvial fan hazard poses little or

1986 no risk of injury;

1987 b. the risks of ~~((landsliding is))~~ landslide hazards, steep slope hazards, or

1988 alluvial fan hazards are low; and

1989 c. there is not an expansion of the structure.

1990 6. Within an alluvial fan hazard area or a severe channel migration hazard area

1991 allowed for:

1992 a. existing legally established primary structures if:

1993 (1) there is not an increase of the footprint of any existing structure; and

1994 (2) there is not a substantial improvement as defined in K.C.C. 21A.06.1270;

1995 and

1996 b. existing legally established accessory structures if:

1997 (1) additions to the footprint will not make the total footprint of all existing

1998 structures more than one-thousand square feet; and

1999 (2) there is not an expansion of the footprint towards any source of alluvial

2000 fan hazard or channel migration hazard, unless the applicant demonstrates that the

2001 location is less subject to risk and has less impact on the critical area.

2002 7. Allowed only in ~~((grazed wet meadows or the))~~ a critical area, buffer or

2003 ~~((building))~~ critical area setback outside a severe channel migration hazard area if:

2004 a. the expansion or replacement does not increase the footprint of a

2005 nonresidential structure;

Commented [SK148]: LHAs, SSHAs and AFHAs each have their own column in the table. So, condition 5 has been revised to call out each HA here.

Commented [PR149]: Alluvial fan hazard areas were added to the allowed alterations table to provide a permitting pathway for a limited set of alterations that recognize existing developed uses, while limiting new development in general accordance with BAS, at management direction.

Commented [PR150]: Alluvial fan hazard areas were added to the allowed alterations table to provide a permitting pathway for a limited set of alterations that recognize existing developed uses, while limiting new development in general accordance with BAS, at management direction.

Commented [PR151]: "Grazed wet meadows" replaced with "critical area" to reflect that this is an existing allowed alteration for all critical area, as shown in the allowed alterations table (i.e., "7" appears in each cell in the "Expansion or replacement of existing structure" row. Permitting has interpreted this section to apply to all critical areas, buffers, and critical area setbacks--for example, if a legally established house built in a critical area burned down, Permitting would allow it to be replaced. The proposed language aligns with this practice.

2006 b.(1) for a legally established dwelling unit, the expansion or replacement,
2007 including any expansion of a legally established accessory structure allowed under this
2008 subsection B.7.b., does not increase the footprint of the dwelling unit and all other
2009 structures by more than one thousand square feet, not including any expansion of a
2010 drainfield made necessary by the expansion of the dwelling unit. To the maximum extent
2011 practical, the replacement or expansion of a drainfield in the buffer should be located
2012 within areas of existing lawn or landscaping, unless another location will have a lesser
2013 impact on the critical area and its buffer;

2014 (2) for a structure accessory to a dwelling unit, the expansion or replacement
2015 is located on or adjacent to existing impervious surface areas and does not result in a
2016 cumulative increase in the footprint of the accessory structure and the dwelling unit by
2017 more than one thousand square feet;

2018 (3) the location of the expansion has the least adverse impact on the critical
2019 area; and

2020 (4) a comparable area of degraded buffer area shall be enhanced through
2021 removal of nonnative plants and replacement with native vegetation in accordance with
2022 an approved ~~((landscaping))~~ mitigation plan;

2023 c. the structure was not established as the result of an alteration exception,
2024 variance, buffer averaging, or reasonable use exception;

2025 d. to the maximum extent practical, the expansion or replacement is not
2026 located closer to the critical area or within the relic of a channel that can be connected to
2027 an aquatic area; and

Commented [SK152]: "Landscaping" is what is required for aesthetic or buffering purposes in new development. Mitigation is the correct term for replacing or restoring buffer area.

2028 e. The expansion of a residential structure in ~~((the buffer of))~~ a riparian area
2029 adjacent to a Type S aquatic area that extends towards the ordinary high water mark
2030 requires a shoreline variance if:

Commented [PR153]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

- 2031 (1) the expansion is within thirty-five feet of the ordinary high water mark; or
2032 (2) the expansion is between thirty-five and fifty feet of the ordinary high
2033 water mark and the area of the expansion extending towards the ordinary high water mark
2034 is greater than three hundred square feet.

2035 8. Allowed upon another portion of an existing impervious surface outside a
2036 severe channel migration hazard area if:

2037 a. except as otherwise allowed under subsection D.7. of this section, the
2038 structure is not located closer to the critical area;

2039 b. except as otherwise allowed under subsection D.7. of this section, the
2040 existing impervious surface within the critical area or buffer is not expanded; and

2041 c. the degraded buffer area is enhanced through removal of nonnative plants
2042 and replacement with native vegetation in accordance with an approved ~~((landscaping))~~
2043 mitigation plan.

Commented [SK154]: "Landscaping" is what is required for aesthetic or buffering purposes in new development. Mitigation is the correct term for replacing or restoring buffer area.

2044 9. Limited to piers or seasonal floating docks in a category II, III, or IV wetland
2045 or its buffer or along a lake shoreline or ~~((its buffer))~~ the adjacent riparian area where:

Commented [PR155]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

2046 a. the vegetation where the alteration is proposed does not consist of dominant
2047 native wetland herbaceous or woody vegetation six feet in width or greater and the lack
2048 of this vegetation is not the result of any violation of law;

2049 b. the wetland or lake shoreline is not a salmonid spawning area;

2050 c. hazardous substances or toxic materials are not used; and

2051 d. if located in a freshwater lake, the pier or dock conforms to the standards for
2052 docks under K.C.C. 21A.25.180.

2053 10. Allowed on type N or O aquatic areas if hazardous substances or toxic
2054 materials are not used.

2055 11. Allowed on type S or F aquatic areas outside of the severe channel
2056 migration hazard area if in compliance with K.C.C. 21A.25.180.

2057 12. When located on a lake, must be in compliance with K.C.C. 21A.25.180.

2058 13. Limited to regrading and stabilizing of a slope formed as a result of a legal
2059 grading activity.

2060 14. The following are allowed in the severe channel migration hazard area if
2061 conducted more than ~~((one hundred sixty five))~~ two hundred feet from the ordinary high
2062 water mark in the rural area and natural resource lands and ~~((one hundred fifteen))~~ one-
2063 hundred eighty feet from the ordinary high water mark in the urban area:

2064 a. grading of up to fifty cubic yards on lot less than five acres; and

2065 b. clearing of up to one-thousand square feet or up to a cumulative thirty-five
2066 percent of the severe channel migration hazard area.

2067 15. Only where erosion or landsliding threaten a primary structure, utility
2068 facility, roadway, driveway, or public trails ~~((, aquatic area or wetland))~~ if, to the
2069 maximum extent practical, stabilization work does not disturb the slope and its vegetative
2070 cover and any associated critical areas.

2071 16. Allowed ~~((when))~~ for projects performed by, at the direction of, or
2072 authorized by a government agency in accordance with regional road construction and
2073 maintenance guidelines.

Commented [PR156]: Updated numbers indicate proposed changes in riparian area widths that are described in 21A.24.358.

Commented [PR157]: Limits scope of allowed alteration and keeps the condition consistent with the SMP.

Commented [PR158]: These terms should be removed, because under any usual circumstance, we don't need to protect aquatic areas, riparian areas, or wetlands from natural processes.

Commented [PR159]: More precise wording

2074 17. Allowed ~~((when))~~ for projects not performed under the direction of a
2075 government agency only if:

2076 a. the maintenance or expansion does not involve the use of herbicides,
2077 hazardous substances, sealants, or other liquid oily substances in aquatic areas ~~((;))~~ ~~of~~ ~~.~~
2078 riparian areas, wetlands, or their buffers; and

2079 b. when maintenance, expansion, or replacement of bridges or culverts
2080 involves water used by salmonids:

2081 (1) the work is in compliance with ditch standards in public rule; and

2082 (2) the maintenance of culverts is limited to removal of sediment and debris
2083 from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or
2084 damaged bank or channel immediately adjacent to the culvert and shall not involve the
2085 excavation of a new sediment trap adjacent to the inlet.

2086 18. Allowed for the removal of hazard trees and vegetation as necessary for
2087 surveying or testing purposes.

2088 19. The limited trimming, pruning, or removal of vegetation under a vegetation
2089 management plan approved by the department:

2090 a. in steep slope and landslide hazard areas, for the making and maintenance of
2091 view corridors; and

2092 b. in all critical areas for habitat enhancement, invasive species control, or
2093 forest management activities.

2094 20. Harvesting of plants and plant materials, such as plugs, stakes, seeds, or
2095 fruits, for restoration and enhancement projects is allowed.

2096 21. Cutting of firewood is subject to the following:

Commented [PR160]: More precise wording

Commented [PR161]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

2097 a. ~~not allowed~~ within a wildlife habitat conservation area, wetland, aquatic
2098 area, steep slope hazard area, or on a tree containing an active nest ((cutting firewood is
2099 not allowed));

2100 b. within a wildlife habitat network, cutting shall be in accordance with a
2101 management plan approved under K.C.C. 21A.24.386; and

2102 c. when firewood is for personal use, cutting is allowed within ((a)) critical
2103 areas and critical area buffers((, cutting shall be for personal use and)) when done in
2104 accordance with an approved forest management plan((or rural stewardship plan)).

2105 22. ~~((Allowed only in buffers if in accordance with best management practices~~
2106 ~~approved by the King County fire marshal)) K.C.C. chapter 16.82 Not allowed in~~
2107 wetlands, aquatic areas, wildlife habitat conservation areas, or severe channel migration
2108 hazard areas. Otherwise, allowed in critical areas and buffers within the wildland-urban
2109 interface and if in accordance with K.C.C. 16.82.051.E.23.

2110 23. Allowed as follows:

2111 a. if conducted in accordance with an approved forest management plan((;)) or
2112 farm management plan ((~~or rural stewardship plan~~)); or

2113 b. without an approved forest management plan((;)) or farm management plan
2114 ((~~or rural stewardship plan~~)), only if:

2115 (1) removal is undertaken with hand labor, including hand-held mechanical
2116 tools, unless the King County noxious weed control board otherwise prescribes the use of
2117 riding mowers, light mechanical cultivating equipment, or herbicides or biological
2118 control methods;

2119 (2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;

Commented [CJ162]: The cutting of firewood (except for personal use) has never been allowed in these critical areas, so code language was updated to say this explicitly.

Commented [SK163]: Rural stewardship plans have been removed from the code.

Commented [CJ164]: These Best Management Practices don't exist; the proposed approach is to set the requirements in the code instead. The language would create consistency with the related proposed Comp Plan changes in K.C.C. Title 16, which were informed by the National Fire Protection Association Firewise guidance.

Commented [PR165]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR166]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

2120 (3) the cleared area is revegetated with native vegetation and stabilized
2121 against erosion; and

2122 (4) herbicide use is in accordance with federal and state law~~((§))~~.

2123 24. Allowed to repair or replace existing on site wastewater disposal systems in
2124 accordance with the applicable public health standards within Marine Recovery Areas
2125 adopted by ~~((the p))~~ public ~~((H))~~health – Seattle & King County and:

2126 a. there is no alternative location available with less impact on the critical area;
2127 b. impacts to the critical area are minimized to the maximum extent
2128 practicable;

2129 c. the alterations will not subject the critical area to increased risk of landslide
2130 or erosion;

2131 d. vegetation removal is the minimum necessary to accommodate the septic
2132 system; and

2133 e. significant risk of personal injury is eliminated or minimized in the landslide
2134 hazard area.

2135 25. Only if in compliance with published Washington state Department of Fish
2136 and Wildlife and Washington state Department of Natural Resources Management
2137 standards for the species. If there are no published Washington state standards, only if in
2138 compliance with management standards determined by the county to be consistent with
2139 best available science.

2140 26. Allowed only if:

2141 a. there is not another feasible location with less adverse impact on the critical
2142 area and its buffer;

2143 b. the corridor is not located over habitat used for salmonid rearing or
2144 spawning or by a species listed as endangered or threatened by the state or federal
2145 government unless the department determines that there is no other feasible crossing
2146 site~~((-))~~ ;

2147 c. the corridor width is minimized to the maximum extent practical;

2148 d. the construction occurs during approved periods for instream work;

2149 e. the corridor will not change or diminish the overall aquatic area flow peaks,
2150 duration or volume or the flood storage capacity; and

2151 f. no new public ~~((right of way))~~ right of way is established within a severe
2152 channel migration hazard area.

2153 27. To the maximum extent practical, during breeding season established under
2154 K.C.C. 21A.24.382, land clearing machinery such as bulldozers, graders, or other heavy
2155 equipment are not operated within a wildlife habitat conservation area.

2156 28. Allowed only if:

2157 a. an alternative access is not available;

2158 b. impact to the critical area is minimized to the maximum extent practical
2159 including the use of walls to limit the amount of cut and fill necessary;

2160 c. the risk associated with landslides ~~((and))~~, erosion ~~((is))~~, steep slope hazard
2161 areas, and alluvial fan hazards, such as debris flows and floods, are minimized;

2162 d. access is located where it is least subject to risk from channel migration; and

2163 e. construction occurs during approved periods for instream work and low
2164 precipitation time periods.

Commented [PR167]: Expanded since alluvial fan hazard areas and steep slope hazard areas are now specifically regulated with development standards in code. The added language supports protecting public health and safety as required by WAC 365-196-830, consistent with BAS. Debris flows and floods are hazards that commonly occur on AFHAs and area added to provide context.

Commented [SK168]: Limiting construction to the standard construction season/low precipitation time period minimizes risk of erosion and sliding.

2165 29. Allowed ((Θ))only on sites currently involved in the practice of agricultural
2166 activities if:
2167 a. in compliance with a farm management plan in accordance with K.C.C.
2168 21A.24.051, and constructed using best management practices approved by the
2169 permitting division;
2170 b. there is not another feasible location with less adverse impact on critical
2171 areas and buffers;
2172 c. in compliance with the farmland dispersion requirements of the Surface
2173 Water Design Manual;
2174 d. access is located where it is least subject to risk from channel migration;
2175 e. a floodplain development permit is obtained for any action within the
2176 floodplain; and
2177 f. all other required state and federal permits have been obtained and actions
2178 are in compliance with these permits.

2179 30. Allowed only if:
2180 a. the new construction or replacement is made fish passable in accordance
2181 with the most recent Washington state Department of Fish and Wildlife manuals or with
2182 the National Marine and Fisheries Services guidelines for federally listed salmonid
2183 species; and
2184 b. the site is restored with appropriate native vegetation in accordance with an
2185 approved mitigation plan.

2186 31. Allowed if necessary to bring the bridge or culvert up to current standards
2187 and if:

Commented [PR169]: Condition 29 was updated as part of Riparian BAS review to reduce ambiguity about where this condition applies as well as limit how/when KC allows an unmitigated impact to riparian areas and other critical areas.

The DNRP Ag Permit team reviewed the proposed code language and was in general agreement with it. The team also concurred with the approach of developing BMPs to be approved by DLS Permitting and included in the Farm Plans that are written by KCD and approved by DNRP.

Commented [SK170]: Clarification to ensure that restoration is done according to approved plans.

2188 a. there is not another feasible alternative available with less impact on the

2189 aquatic area and ~~((its buffer)) adjacent riparian area~~; and

2190 b. to the maximum extent practical, the bridge or culvert is located to minimize

2191 impacts to the aquatic area and ~~((its buffers)) adjacent riparian area~~.

2192 32. Allowed in an existing roadway if conducted consistent with the regional
2193 road maintenance guidelines.

2194 33. Allowed outside the roadway if:

2195 a. the alterations will not subject the critical area to an increased risk of

2196 landslide, alluvial fan, or erosion hazards;

2197 b. vegetation removal is the minimum necessary to locate the utility or
2198 construct the corridor; and

2199 c. significant risk of personal injury is eliminated or minimized in the landslide
2200 or alluvial fan hazard area.

2201 34. Limited to the pipelines, cables, wires, and support structures of utility
2202 facilities within utility corridors if:

2203 a. there is no alternative location with less adverse impact on the critical area
2204 and critical area buffer;

2205 b. new utility corridors meet the all of the following to the maximum extent
2206 practical:

2207 (1) are not located over habitat used for salmonid rearing or spawning or by a
2208 species listed as endangered or threatened by the state or federal government unless the
2209 department determines that there is no other feasible crossing site;

2210 (2) the mean annual flow rate is less than twenty cubic feet per second; and

Commented [PR171]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR172]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR173]: Alluvial Fan Hazard Areas (AFHA) are being added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830.

Commented [PR174]: Alluvial Fan Hazard Areas (AFHA) are being added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830.

2211 (3) paralleling the channel or following a down-valley route near the channel
2212 is avoided;

2213 c. to the maximum extent practical utility corridors are located so that:

2214 (1) the width is the minimized;

2215 (2) the removal of trees greater than twelve inches diameter at breast height is
2216 minimized;

2217 (3) an additional, contiguous, and undisturbed critical area buffer, equal in
2218 area to the disturbed critical area buffer area including any allowed maintenance roads, is
2219 provided to protect the critical area;

2220 d. to the maximum extent practical, access for maintenance is at limited access
2221 points into the critical area buffer rather than by a parallel maintenance road. If a parallel
2222 maintenance road is necessary the following standards are met:

2223 (1) to the maximum extent practical the width of the maintenance road is
2224 minimized and in no event greater than fifteen feet; and

2225 (2) the location of the maintenance road is contiguous to the utility corridor
2226 on the side of the utility corridor farthest from the critical area;

2227 e. the utility corridor or facility will not adversely impact the overall critical
2228 area hydrology or diminish flood storage capacity;

2229 f. the construction occurs during approved periods for instream work;

2230 g. the utility corridor serves multiple purposes and properties to the maximum
2231 extent practical;

2232 h. bridges or other construction techniques that do not disturb the critical areas
2233 are used to the maximum extent practical;

2234 i. bored, drilled, or other trenchless crossing is laterally constructed at least
 2235 four feet below the maximum depth of scour for the base flood;

2236 j. bridge piers or abutments for bridge crossing are not placed within the
 2237 FEMA floodway or the ordinary high water mark;

2238 k. open trenching is only used during low flow periods or only within aquatic
 2239 areas when they are dry. The department may approve open trenching of type S or F
 2240 aquatic areas only if there is not a feasible alternative and equivalent or greater
 2241 environmental protection can be achieved; and

2242 l. minor communication facilities may collocate on existing utility facilities if:

2243 (1) no new transmission support structure is required; and

2244 (2) equipment cabinets are located on the transmission support structure.

2245 35. Allowed only for new utility facilities in existing utility corridors.

2246 36. Allowed for on-site private individual utility service connections or private
 2247 or public utilities if the disturbed area is not expanded and no hazardous substances,
 2248 pesticides or fertilizers are applied.

2249 37. Allowed if the disturbed area is not expanded, clearing is limited to the
 2250 maximum extent practical and no hazardous substances, pesticides, or fertilizers are
 2251 applied.

2252 38. Allowed if:

2253 a. conveying the surface water into the wetland buffer or ~~((aquatic area buffer))~~
 2254 riparian area, and discharging into the wetland buffer or ~~((aquatic area buffer))~~ riparian
 2255 area or at the wetland or aquatic area edge, has less adverse impact upon the wetland
 2256 ~~((or))~~, wetland buffer, aquatic area, or riparian area ~~((or wetland or aquatic area buffer))~~

2257 than if the surface water were discharged at the buffer~~((s))~~ or riparian area edge and
2258 allowed to naturally drain through the buffer or riparian area;

Commented [PR175]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

2259 b. the volume of discharge is minimized through application of low impact
2260 development and water quality measures identified in the King County Surface Water
2261 Design Manual;

2262 c. the conveyance and outfall are installed with hand equipment where
2263 feasible;

2264 d. the outfall shall include bioengineering techniques where feasible; and

2265 e. the outfall is designed to minimize adverse impacts to critical areas.

2266 39. Allowed only if:

2267 a. there is no feasible alternative with less impact on the critical area and its
2268 buffer;

2269 b. to the maximum extent practical, the bridge or culvert is located to minimize
2270 impacts to the critical area and its buffer;

2271 c. the bridge or culvert is not located over habitat used for salmonid rearing or
2272 spawning unless there is no other feasible crossing site;

2273 d. construction occurs during approved periods for in-stream work; and

2274 e. bridge piers or abutments for bridge crossings are not placed within the
2275 FEMA floodway, severe channel migration hazard area, or waterward of the ordinary
2276 high water mark.

2277 40. Allowed for an open, vegetated stormwater management conveyance system
2278 and outfall structure that simulates natural conditions if:

2279 a. fish habitat features necessary for feeding, cover and reproduction are
2280 included when appropriate;

2281 b. vegetation is maintained and added adjacent to all open channels and ponds,
2282 if necessary to prevent erosion, filter out sediments, or shade the water; and

2283 c. bioengineering techniques are used to the maximum extent practical.

2284 41. Allowed for a closed, tightlined conveyance system and outfall structure if:

2285 a. necessary to avoid erosion of slopes; and

2286 b. bioengineering techniques are used to the maximum extent practical.

2287 42. Allowed in a severe channel migration hazard area or ~~((an aquatic area~~
2288 ~~buffer)) a riparian area~~ to prevent bank erosion only:

2289 a. if consistent with the Integrated Streambank Protection Guidelines
2290 (Washington State Aquatic Habitat Guidelines Program, 2002) and if bioengineering
2291 techniques are used to the maximum extent practical, unless the applicant demonstrates
2292 that other methods provide equivalent structural stabilization and environmental function;

2293 b. based on a critical areas report, the department determines that the new
2294 flood protection facility will not cause significant impacts to upstream or downstream
2295 properties; and

2296 c. to prevent bank erosion for the protection of:

2297 (1) public roadways;

2298 (2) sole access routes in existence before February 16, 1995;

2299 (3) new primary dwelling units, accessory dwelling units, or accessory living
2300 quarters and residential accessory structures located outside the severe channel migration
2301 hazard area if:

Commented [PR176]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

2302 (a) the site is adjacent to or abutted by properties on both sides containing
2303 buildings or sole access routes protected by legal bank stabilization in existence before
2304 February 16, 1995. The buildings, sole access routes or bank stabilization must be
2305 located no more than six hundred feet apart as measured parallel to the migrating
2306 channel; and

2307 (b) the new primary dwelling units, accessory dwelling units, accessory
2308 living quarters, or residential accessory structures are located no closer to the aquatic area
2309 than existing primary dwelling units, accessory dwelling units, accessory living quarters,
2310 or residential accessory structures on abutting or adjacent properties; or

2311 (4) existing primary dwelling units, accessory dwelling units, accessory living
2312 quarters, or residential accessory structures if:

2313 (a) the structure was in existence before the adoption date of a King County
2314 Channel Migration Zone hazard map that applies to that channel, if such a map exists;

2315 (b) the structure is in imminent danger, as determined by a ~~((geologist,~~
2316 ~~engineering geologist or geotechnical engineer)) geological professional;~~

2317 (c) the applicant has demonstrated that the existing structure is at risk, and
2318 the structure and supporting infrastructure cannot be relocated on the lot further from the
2319 source of channel migration; and

2320 (d) nonstructural measures are not feasible.

2321 43. Applies to lawfully established existing structures if:

2322 a. the height of the facility is not increased, unless the facility is being replaced
2323 in a new alignment that is landward of the previous alignment and enhances aquatic area
2324 habitat and process;

Commented [PR177]: Updated to use new term that encompasses all existing terms, for simplification.

2325 b. the linear length of the facility is not increased, unless the facility is being
 2326 replaced in a new alignment that is landward of the previous alignment and enhances
 2327 aquatic area habitat and process;

2328 c. the footprint of the facility is not expanded waterward;

2329 d. consistent with the Integrated Streambank Protection Guidelines
 2330 (Washington State Aquatic Habitat Guidelines Program, 2002) and bioengineering
 2331 techniques are used to the maximum extent practical;

2332 e. the site is restored with appropriate native vegetation and erosion protection
 2333 materials according to an approved mitigation plan; and

2334 f. based on a critical areas report, the department determines that the
 2335 maintenance, repair, replacement, or construction will not cause significant impacts to
 2336 upstream or downstream properties.

2337 44. Allowed in type N and O aquatic areas if done in the least impacting way at
 2338 the least impacting time of year, in conformance with applicable best management
 2339 practices, and all affected instream and ~~((buffer))~~ riparian features are restored.

2340 45. Allowed in a type S or F water when such work is:

2341 a. included as part of a project to evaluate, restore, mitigate, or ((improve))
 2342 enhance habitat~~((; and))~~;

2343 b. sponsored or cosponsored by a ~~((public))~~ government agency or nonprofit
 2344 organization that has natural resource management as a function ~~((or by a federally~~
 2345 ~~recognized tribe))~~ or a higher education institution; and

2346 c. in compliance with the criteria of subsection D.49 of this section.

Commented [SK178]: Clarifies that restoration and mitigation must be done according to a County-approved plan.

Commented [PR179]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [SK180]: Clarification of terminology.

2347 46. Allowed as long as the trail is not constructed of impervious surfaces that
2348 will contribute to surface water run-off, unless the construction is necessary for soil
2349 stabilization or soil erosion prevention or unless the trail system is specifically designed
2350 and intended to be accessible to ~~((handicapped))~~ persons with disabilities.

Commented [PR181]: Updated terminology.

2351 47. ~~((Not allowed in a wildlife habitat conservation area. Otherwise,~~
2352 ~~a))~~ Allowed only in ~~((the buffer))~~ a: riparian area; ((or)) for crossing a category II, III, or
2353 IV wetland ~~((or)), its buffer, or~~ a type F, N, or O aquatic area~~((;))~~; or a wildlife habitat
2354 network, if:

Commented [PR182]: Wildlife habitat networks were previously left out by oversight.

2355 a. the trail surface is made of pervious materials, except that public
2356 multipurpose trails and public trails constructed for access by persons with disabilities
2357 may be made of impervious materials if they meet all the requirements in K.C.C. chapter
2358 9.12. A trail section that crosses a wetland or aquatic area shall be constructed as a raised
2359 boardwalk or bridge;

Commented [SK183]: Changes to this condition acknowledge that public trails are commonly located in riparian areas for water access, visual enjoyment, and connection to other recreational amenities.

Commented [SK184]: Acknowledges the County's responsibility to provide equitable access in addition to protecting critical areas.

2360 b. to the maximum extent practical, buffers, riparian areas, and wildlife habitat
2361 network areas are expanded equal to the width of the trail corridor including disturbed
2362 areas;

Commented [PR185]: Wildlife habitat networks were left out by oversight.

2363 c. there is not another feasible location with less adverse impact on the critical
2364 area and its buffer;

2365 d. the trail is not located over habitat used for salmonid rearing or spawning or
2366 by a species listed as endangered or threatened by the state or federal government unless
2367 the department determines that there is no other feasible crossing site;

2368 e. the trail width is minimized to the maximum extent practical. Private trails
2369 shall be limited to three feet in width;

Commented [PR186]: Private trail limit applied for clarity and consistency with shoreline code. Public trails do not have a specific limit.

2370 f. the construction occurs during approved periods for instream work; ~~((and))~~
2371 g. the trail corridor will not change or diminish the overall aquatic area flow
2372 peaks, duration or volume, or the flood storage capacity((-));
2373 h. the trail shall minimize impacts within a riparian area or wildlife habitat
2374 network by avoiding a route that parallels the stream channel to the maximum extent
2375 practical;
2376 i. trail maintenance or expansion does not involve the use of herbicides,
2377 hazardous substances, sealants, or other liquid oily substances, within aquatic areas,
2378 riparian areas, or wetlands or their buffers;
2379 j. the trail may be ~~((located across a critical area buffer))~~ allowed to cross a
2380 riparian area, wetland buffer, or wildlife habitat network for access to a viewing platform
2381 or to a permitted dock or pier; and
2382 ~~((i-A))~~ k. a private viewing platform may be allowed if it is:
2383 (1) located upland from the wetland edge or the ordinary high water mark of
2384 an aquatic area;
2385 (2) located where it will not be detrimental to the functions of the wetland or
2386 aquatic area and will have the least adverse environmental impact on the critical area or
2387 its buffer;
2388 (3) limited to fifty square feet in size;
2389 (4) constructed of materials that are nontoxic; and
2390 (5) on footings located outside of the wetland or aquatic area.
2391 48. Only if the maintenance:

Commented [PR187]: Refinements to avoid and minimize impacts to critical areas, and reordered to incorporate standards on the use of herbicides.

2392 a. does not involve the use of herbicides or other hazardous substances except
2393 for the removal of noxious weeds or invasive vegetation;
2394 b. when salmonids are present, the maintenance is in compliance with ditch
2395 standards in public rule; and
2396 c. does not involve any expansion of the roadway, lawn, landscaping, ditch,
2397 culvert, engineered slope, or other improved area being maintained.

2398 49. Limited to alterations to create, restore, reclaim, or enhance aquatic or
2399 wetland habitat forming processes or ~~((directly restore))~~ habitat functions and values,
2400 including access for construction, as follows:

2401 a. ~~((projects sponsored or cosponsored by a public agency that has natural~~
2402 ~~resource management as a primary function or by a federally recognized tribe;~~

2403 ~~b.))~~ creation, restoration, reclamation, and enhancement plans shall be
2404 prepared by an ~~((qualified biologist))~~ ecological professional; ~~((or~~

2405 ~~e. conducted in accordance with an approved forest management plan, farm~~
2406 ~~management plan or rural stewardship plan)) and~~

2407 b. the applicant provides an ecological critical area report that includes the
2408 following:

2409 (1) an assessment of existing pre-project critical areas and buffers, including
2410 areas and ecological functions provided by each;

2411 (2) an analysis of post-project critical areas and buffers that assesses the net
2412 change in areas and ecological functions from existing conditions to demonstrate a net
2413 gain in ecological functions;

Commented [SK188]: Clarifications of terminology.

Commented [PR189]: Updated to align with intro to condition 49.

Commented [PR190]: Existing code is missing words; this addition makes the clause grammatically correct.

Commented [PR191]: Updated to use current terminology.

Commented [PR192]: Expands who is allowed to do restoration and enhancement work as long as a critical area report prepared by an ecological professional is provided for review.

2414 (3) a mitigation plan for impacts to critical areas and buffers, unless the
2415 applicant demonstrates to the satisfaction of the department that the proposed project will
2416 provide a net ecological benefit and increase in functions over the existing conditions of
2417 the project area; and

2418 (4) a monitoring and reporting plan to demonstrate the gain in ecological
2419 functions.

2420 50. Allowed in accordance with a scientific sampling permit issued by
2421 Washington state Department of Fish and Wildlife or an incidental take permit issued
2422 under Section 10 of the Endangered Species Act.

2423 51. Allowed for the minimal clearing and grading, including site access,
2424 necessary to prepare critical area reports.

2425 52. The following are allowed if associated spoils are contained:

2426 a. data collection and research if carried out to the maximum extent practical
2427 by nonmechanical or hand-held equipment;

2428 b. survey monument placement;

2429 c. site exploration and gage installation if performed in accordance with state-
2430 approved sampling protocols and accomplished to the maximum extent practical by
2431 hand-held equipment ~~((and))~~; or

2432 d. similar work associated with an incidental take permit issued under Section
2433 10 of the Endangered Species Act or consultation under Section 7 of the Endangered
2434 Species Act.

2435 53. Limited to activities in continuous existence since January 1, 2005, with no
2436 expansion within the critical area or critical area buffer. "Continuous existence" includes

Commented [PR193]: The revisions here implement a DLS policy request that when a critical area restoration or enhancement project is correctly done, no additional mitigation should be required as a result of the work within a critical area.

2437 cyclical operations and managed periods of soil restoration, enhancement or other fallow
2438 states not exceeding seven years and associated with these horticultural and agricultural
2439 activities.

Commented [PR194]: Seven years was recommended by King Conservation District to clarify was is considered "a fallow state", which is distinct from "nonworking farmland". Adding a time limit is intended to be a non-substantive, clarifying change, consistent with current practice.

2440 54. Allowed for expansion of existing or new agricultural activities where:

2441 a. the site is predominantly-involved in the practice of ~~((agriculture))~~

2442 agricultural activities;

Commented [CJ195]: to align with current terminology and for clarity re: commercial agriculture

2443 b. there is no expansion into an area that:

2444 (1) has been cleared under a class I, II, III, IV-S₂ or nonconversion IV-G

2445 forest practice permit; or

2446 (2) ~~is ((more than ten thousand square feet with tree cover at a uniform~~
2447 ~~density more than ninety trees per acre and with the predominant mainstream diameter of~~
2448 ~~the trees at least four inches diameter at breast height)) a wetland or wetland buffer, or a~~
2449 ~~riparian area, which contains predominantly native forest overstory, shrub, or herbaceous~~
2450 ~~layer,~~ not including areas that are actively managed as agricultural crops for pulpwood,

Commented [PR196]: Changes resulting from BAS riparian/wetland review, to provide additional protection for trees and other vegetation within these critical areas

Previously, existing wetland buffers or riparian areas to be cleared for new/expanded ag activities if they were ~.25 acres or smaller with no restriction. BAS indicates that wetlands and riparian areas without high or moderate tree density still provide functions and values. This considered change would still allow impacts in certain circumstances but would require that better functioning critical areas (those with native vegetation) to not be destroyed.

2451 Christmas trees, or ornamental nursery stock;

2452 c. the activities are in compliance with an approved farm management plan in
2453 accordance with K.C.C. 21A.24.051; and

2454 d. all best management practices associated with the activities specified in the
2455 farm management plan are installed and maintained.

2456 55. Only allowed in grazed or tilled wet meadows or their buffers if:

2457 a. the facilities are designed to the standards of an approved farm management
2458 plan or livestock management plan and in accordance with K.C.C. 21A.24.051 ~~((or an~~

2459 ~~approved livestock management plan in accordance with K.C.C. chapter 21A.30))~~;

Commented [PR197]: Removed to correct an error in existing code. 21A.24.051 has required information that is not found in either a farm plan or a livestock plan.

2460 b. there is not a feasible alternative location available on the site; and
2461 c. the facilities are located close to the outside edge of the buffer to the
2462 maximum extent practical.

2463 56. Only allowed in:

2464 a.(1) a severe channel migration hazard area located outside of the
2465 shoreline~~((s))~~ jurisdiction area;

2466 (2) grazed or tilled wet meadow or wet meadow buffer; or

2467 (3) ~~((aquatic area buffer))~~ grazed or tilled riparian area; and only if:

2468 b.(1) the applicant demonstrates that adverse impacts to the critical area and
2469 critical area buffers have been minimized;

2470 (2) there is not another feasible location available on the site that is located
2471 outside of the critical area or critical area buffer;

2472 (3) the farm pad livestock manure storage facility, or livestock heavy use
2473 area is designed to the standards in an approved farm management plan in accordance
2474 with K.C.C. 21A.24.051; and

2475 (4) for proposals located in the severe channel migration hazard area, the
2476 farm pad ~~((or))~~ livestock manure storage facility, or livestock heavy use area is located
2477 where it is least subject to risk from channel migration.

2478 57. Allowed for new agricultural drainage in compliance with an approved farm
2479 management plan in accordance with K.C.C. 21A.24.051 and all best management
2480 practices associated with the activities specified in the farm management plan are
2481 installed and maintained.

Commented [PR198]: Riparian areas should have the same limitations as wetlands and buffers for this activity. Converting natural riparian areas would not align with NNL.

"Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR199]: BAS review indicates that these uses should also be added to the regulated farm uses in a farm management plan to prevent critical areas impacts.

Commented [PR200]: BAS review indicates that these uses should also be added to the regulated farm uses in a farm management plan to prevent critical areas impacts.

2482 58. If the agricultural drainage is used by salmonids, maintenance shall be in
2483 compliance with an approved farm management plan in accordance with K.C.C.
2484 21A.24.051.

2485 59. Allowed within existing landscaped areas or other previously disturbed
2486 areas.

2487 60. Allowed for residential utility service distribution lines to residential
2488 dwellings, including, but not limited to, well water conveyance, septic system
2489 conveyance, water service, sewer service, natural gas, electrical, cable, and telephone, if:
2490 a. there is no alternative location with less adverse impact on the critical area
2491 or the critical area buffer;

2492 b. the residential utility service distribution lines meet the all of the following,
2493 to the maximum extent practical:

2494 (1) are not located over habitat used for salmonid rearing or spawning or by a
2495 species listed as endangered or threatened by the state or federal government unless the
2496 department determines that there is no other feasible crossing site;

2497 (2) not located over a type S aquatic area;

2498 (3) paralleling the channel or following a down-valley route near the channel
2499 is avoided;

2500 (4) the width of clearing is minimized;

2501 (5) the removal of trees greater than twelve inches diameter at breast height is
2502 minimized;

2503 (6) an additional, contiguous and undisturbed critical area buffer, equal in
2504 area to the disturbed critical area buffer area is provided to protect the critical area;

2505 (7) access for maintenance is at limited access points into the critical area
2506 buffer.

2507 (8) the construction occurs during approved periods for instream work;

2508 (9) bored, drilled, or other trenchless crossing is encouraged, and shall be
2509 laterally constructed at least four feet below the maximum depth of scour for the base
2510 flood; and

2511 (10) open trenching across Type O or Type N aquatic areas is only used
2512 during low flow periods or only within aquatic areas when they are dry.

2513 61. Allowed if sponsored or cosponsored by the countywide flood control zone
2514 district, or the King County department of natural resources and parks, and the
2515 department determines that the project and its location:

- 2516 a. is the best flood risk reduction alternative practicable;
- 2517 b. is part of a comprehensive, long-term flood management strategy;
- 2518 c. is consistent with the King County Flood Hazard Management Plan policies;
- 2519 d. will have the least adverse impact on the ecological functions of the critical
2520 area or its buffer, including habitat for fish and wildlife that are identified for protection
2521 in the King County Comprehensive Plan; and
- 2522 e. has been subject to public notice in accordance with K.C.C. 20.44.060.

2523 62.a. Not allowed in wildlife habitat conservation areas;

2524 b. Only allowed if:

2525 (1) the project is sponsored or cosponsored by a public agency whose primary
2526 function deals with natural resources management;

Commented [PR201]: Allows King County Department of Natural Resources and Parks to conduct flood risk reduction gravel removal, in addition to the countywide flood control zone, who is already named in code. An example of gravel removal the department might engage in would be for a multi-benefit project that provides habitat and drainage benefits as well as reducing flood hazards within an alluvial fan hazard area.

2527 (2) the project is located on public land or on land that is owned by a
2528 nonprofit agency whose primary function deals with natural resources management;
2529 (3) there is not a feasible alternative location available on the site with less
2530 impact to the critical area or its associated buffer;
2531 (4) the aquatic area or wetland is not for salmonid rearing or spawning;
2532 (5) the project minimizes the footprint of structures and the number of access
2533 points to any critical areas; and
2534 (6) the project meets the following design criteria:
2535 (a) to the maximum extent practical size of platform shall not exceed one
2536 hundred square feet;
2537 (b) all construction materials for any structures, including the platform,
2538 pilings, exterior and interior walls, and roof, are constructed of nontoxic material, such as
2539 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,
2540 fiberglass, or cured concrete that the department determines will not have an adverse
2541 impact on water quality;
2542 (c) the exterior of any structures are sufficiently camouflaged using netting
2543 or equivalent to avoid any visual deterrent for wildlife species to the maximum extent
2544 practical. The camouflage shall be maintained to retain concealment effectiveness;
2545 (d) structures shall be located outside of the wetland or aquatic area
2546 landward of the Ordinary High Water Mark or open water component (if applicable) to
2547 the maximum extent practical on the site;
2548 (e) construction occurs during approved periods for work inside the
2549 Ordinary High Water Mark;

2550 (f) construction associated with bird blinds shall not occur from March 1
2551 through August 31, in order to avoid disturbance to birds during the breeding, nesting,
2552 and rearing seasons;

2553 (g) to the maximum extent practical, provide accessibility for persons with
2554 physical disabilities in accordance with the International Building Code;

2555 (h) trail access is designed in accordance with public rules adopted by the
2556 department;

2557 (i) existing native vegetation within the critical area will remain undisturbed
2558 except as necessary to accommodate the proposal. Only minimal hand clearing of
2559 vegetation is allowed; and

2560 (j) disturbed bare ground areas around the structure must be replanted with
2561 native vegetation approved by the department.

2562 63. Not allowed in the severe channel migration zone, there is no alternative
2563 location with less adverse impact on the critical area and buffer and clearing is minimized
2564 to the maximum extent practical.

2565 64. Only structures wholly or partially supported by a tree and used as accessory
2566 living quarters or for play and similar uses described in K.C.C. 16.02.240.1, subject to the
2567 following:

2568 a. not allowed in wildlife habitat conservation areas, wetlands, aquatic areas, or
2569 severe channel migration hazard areas;

2570 b. the structure's floor area shall not exceed two hundred square feet, excluding
2571 a narrow access stairway or landing leading to the structure;

Commented [PR202]: Clarifying changes to make the standard more precise. Based on conditions c. and d., tree structures were not intended to be allowed in wetlands or aquatic areas. Soils in these areas are not stable enough to support trees burdened with structures. Therefore "wetlands" and "aquatic areas" were added to a.

2572 c. the structure shall be located as far from ~~((the critical area))~~ wetlands or
2573 aquatic areas as practical, but in no case closer than seventy-five feet from ~~((the critical~~
2574 ~~area))~~ a wetland or an aquatic area;

2575 d. only one tree-supported structure within a critical area buffer or riparian area
2576 is allowed on a lot;

2577 e. all construction materials for the structure, including the platform, pilings,
2578 exterior and interior walls, and roof, shall be constructed of nontoxic material, such as
2579 nontreated wood, vinyl-coated wood, nongalvanized steel, plastic, plastic wood,
2580 fiberglass, or cured concrete that the department determines will not have an adverse
2581 impact on water quality;

2582 f. to the maximum extent practical, the exterior of the structure shall be
2583 camouflaged with natural wood and earth tone colors to limit visual impacts to wildlife
2584 and visibility from the critical area. The camouflage shall be maintained to retain
2585 concealment effectiveness;

2586 g. the structure must not adversely impact the long-term health and viability of
2587 the tree. The evaluation shall include, but not be limited to, the following:

2588 (1) the quantity of supporting anchors and connection points to attach the tree
2589 house to the tree shall be the minimum necessary to adequately support the structure;

2590 (2) the attachments shall be constructed using the best available tree anchor
2591 bolt technology; and

2592 (3) an ISA Certified Arborist shall evaluate the tree proposed for placement
2593 of the tree house and shall submit a report discussing how the tree's long-term health and
2594 viability will not be negatively impacted by the tree house or associated infrastructure;

Commented [PR203]: Need to specify these critical areas, since WHNs and riparian areas are also critical areas but allow tree-supported structures.

2595 h. exterior lighting shall meet the following criteria:

2596 (1) limited to the minimum quantity of lights necessary to meet the building

2597 code requirements to allow for safe exiting of the structure and stairway; and

2598 (2) exterior lights shall be fully shielded and shall direct light downward, in

2599 an attempt to minimize impacts to the nighttime environment;

2600 i. unless otherwise approved by the department, all external construction shall

2601 be limited to September 1 through March 1 in order to avoid disturbance to wildlife

2602 species during typical breeding, nesting and rearing seasons;

2603 j. trail access to the structure shall be designed in accordance with trail

2604 standards under subsection D.47. of this section;

2605 k. to the maximum extent practical, existing native vegetation shall be left

2606 undisturbed. Only minimal hand clearing of vegetation is allowed; and

2607 l. vegetated areas within the critical area buffer or riparian area that are

2608 temporarily impacted by construction of the structure shall be restored by planting native

2609 vegetation according to a ~~((vegetation management))~~ mitigation plan approved by the

2610 department.

2611 65. Shoreline water dependent and shoreline water oriented uses are allowed in

2612 ~~((the aquatic area and aquatic area buffer of))~~ a Type S aquatic area and adjacent riparian

2613 area if consistent with K.C.C. chapter 21A.25, chapter 90.58 RCW and the King County

2614 Comprehensive Plan.

2615 66. Only hydroelectric ~~((generating))~~ generation facilities meeting the

2616 requirements of K.C.C. 21A.08.100B.14., and only as follows:

Commented [PR204]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [SK205]: Vegetation management and mitigation are not the same things. Restoration of an impacted buffer or riparian area is mitigation.

Commented [PR206]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR207]: Updated to match terminology in 21A.06.620

2617 a. there is not another feasible location within the aquatic area with less adverse
2618 impact on the critical area and its buffer;

2619 b. the facility and corridor is not located over habitat used for salmonid rearing
2620 or spawning or by a species listed as endangered or threatened by the state or federal
2621 government unless the department determines that there is no other feasible location;

2622 c. the facility is not located in Category I wetlands or Category II wetlands with
2623 a habitat score of ~~((8))~~ eight points or greater;

2624 d. the corridor width is minimized to the maximum extent practical;

2625 e. paralleling the channel or following a down-valley route within ~~((an aquatic~~
2626 ~~area-buffer))~~ a riparian area is avoided to the maximum extent practical;

2627 f. the construction occurs during approved periods for instream work;

2628 g. the facility and corridor will not change or adversely impact the overall
2629 aquatic area flow peaks, duration, or volume or the flood storage capacity;

2630 h. the facility and corridor is not located within a severe channel migration
2631 hazard area;

2632 i. to the maximum extent practical, buildings will be located outside the
2633 wetland buffer or riparian area and away from the wetland or aquatic area ~~((or wetland))~~;

2634 j. to the maximum extent practical, access for maintenance is at limited access
2635 points into the critical area or buffer rather than by a parallel maintenance road. If a
2636 parallel maintenance road is necessary the following standards are met:

2637 (1) to the maximum extent practical the width of the maintenance road is
2638 minimized and in no event greater than fifteen feet; and

Commented [PR208]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR209]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

2639 (2) the location of the maintenance road is contiguous to the utility corridor
2640 on the side of the utility corridor farthest from the critical area;

2641 k. the facility does not pose an unreasonable threat to the public health, safety,
2642 or welfare on or off the development proposal site and is consistent with the general
2643 purposes of this chapter and the public interest; and

2644 l. the facility connects to or is an alteration to a public roadway, public trail, a
2645 utility corridor or utility facility, or other infrastructure owned or operated by a public
2646 utility.

2647 67. Only hydroelectric ~~((generating))~~ generation facilities meeting the
2648 requirements of K.C.C. 21A.08.100.B.14, and only as follows:

2649 a. there is not another feasible location with less adverse impact on the critical
2650 area and its buffer;

2651 b. the alterations will not subject the critical area to an increased risk of
2652 landslide or erosion;

2653 c. the corridor width is minimized to the maximum extent practical;

2654 d. vegetation removal is the minimum necessary to locate the utility or
2655 construct the corridor;

2656 e. the facility and corridor do not pose an unreasonable threat to the public
2657 health, safety, or welfare on or off the development proposal site and is consistent with
2658 the general purposes of this chapter, and the public interest and significant risk of
2659 personal injury is eliminated or minimized in the landslide hazard area; and

Commented [PR210]: Updated to match terminology in
21A.06.620

2660 f. the facility connects to or is an alteration to a public roadway, public trail, a
2661 utility corridor or utility facility or other infrastructure owned or operated by a public
2662 utility.

2663 68. Only for a single detached dwelling unit on a lake twenty acres or larger and
2664 only as follows:

2665 a. the heat exchanger must be a closed loop system that does not draw water
2666 from or discharge to the lake;

2667 b. the lake bed shall not be disturbed, except as required by the county or a
2668 state or federal agency to mitigate for impacts of the heat exchanger;

2669 c. the in-water portion of system is only allowed where water depth exceeds
2670 six feet; and

2671 d. system structural support for the heat exchanger piping shall be attached to
2672 an existing dock or pier or be attached to a new structure that meets the requirements of
2673 K.C.C. 21A.25.180.

2674 69. Only for maintenance of agricultural waterways if:

2675 a. the purpose of the maintenance project is to improve agricultural production
2676 on a site predominantly engaged in the practice of agriculture;

2677 b. the maintenance project is conducted in compliance with a hydraulic project
2678 approval issued by the Washington state Department of Fish and Wildlife ((pursuant to))
2679 [in accordance with](#) chapter 77.55 RCW;

2680 c. the maintenance project complies with the King County agricultural
2681 drainage assistance program as agreed to by the Washington state Department of Fish and
2682 Wildlife, the department of local services, permitting division, and the department of

2683 natural resources and parks, and as reviewed by the Washington state Department of
2684 Ecology;

2685 d. the person performing the maintenance and the land owner have attended
2686 training provided by King County on the King County agricultural drainage assistance
2687 program and the best management practices required under that program; and

2688 e. the maintenance project complies with K.C.C. chapter 16.82.

2689 70. Only allowed within in an alluvial fan hazard area, and overlapping critical
2690 areas if:

2691 a. in response to an emergency event where channel avulsion or migration is
2692 imminent or has occurred as a result of a pulse of in-channel sediment or debris
2693 deposition;

2694 b. to prevent an imminent threat to:

2695 (1) public roadways, utilities, and other infrastructure;

2696 (2) sole access driveways and roads;

2697 (3) primary dwelling units, accessory dwelling units, or accessory living
2698 quarters and residential accessory structures; or

2699 (4) agricultural activities structures necessary to store equipment, produce, or
2700 livestock;

2701 c. conducted under an approved emergency authorization request per K.C.C.
2702 16.82.065;

2703 d. the emergency work is completed within 30 days of receiving a written
2704 emergency authorization;

Commented [PR211]: The intent behind this provision is for the conditional alteration to fall within the exemptions in KCC 16.82.065 for KC emergency, WAC 173-27-040(2)(d) for substantial development permit exemption for emergency, and WAC 197-11-880 for SEPA exemption for emergency.

2705 e. the emergency work is the minimum necessary bank stabilization, sediment
2706 removal, or repair of existing infrastructure to mitigate the imminent threat;
2707 f. proposed in-stream work is minimized or results in the least adverse impact
2708 in the short term to the ecological functions and values of the critical areas present,
2709 including special consideration for fish or fish eggs in the project area;
2710 g. downstream sediment runoff and turbidity is minimized and does not exceed
2711 the impact of the emergency event;
2712 h. the applicant provides sufficient notice of work to the department for a
2713 department representative to be present at the site during work activities, if the
2714 department determines that observation is necessary;
2715 i. as part of the permitting process following the emergency authorization, the
2716 applicant proposes compensatory mitigation and additional alterations as necessary to:
2717 (1) mitigate any adverse ecological impacts of the emergency actions;
2718 (2) minimize the risk of alluvial fan hazards that could result in the necessity
2719 of future emergency actions to the maximum extent practical; and
2720 (3) minimize to the maximum extent practical the frequency and magnitude
2721 of future adverse ecological impacts that may result from future hazard mitigation
2722 activities; and
2723 j. nonemergency work required under the subsequent permit occurs during
2724 approved periods for in-stream work and conforms to all other standards in this chapter.

2725 SECTION X. Ordinance 15051, Section 138, as amended, and K.C.C.

2726 21A.24.051 are hereby amended to read as follows:

Commented [PR212]: Establishes a permitting pathway for emergency work in alluvial fan hazard areas and sets standards to protect ecological functions and values. Currently, there is no permitting pathway for this type of work, meaning that property owners cannot legally do this work and the impacts of any work done in violation of code go unmitigated. Management has reviewed and approved of these changes.

2727 A. The alterations identified in K.C.C. 21A.24.045 for agricultural activities are
2728 allowed to expand within ~~((the buffers of))~~ wetland~~((s))~~ buffers, ~~((aquatic areas))~~ riparian
2729 areas, and wildlife habitat conservation areas; when an agricultural activity is currently
2730 occurring on the site and the alteration is in compliance with an approved farm
2731 management plan in accordance with this section or, for livestock activities, a farm
2732 management plan in accordance with K.C.C. chapter 21A.30.

Commented [SK213]: Cleaned up awkward language.

Commented [PR214]: Terminology updated; reflects the activities currently allowed in this critical areas under a farm plan.

2733 B. This section does not modify any requirement that the property owner obtain
2734 permits for activities covered by the farm management plan.

2735 C. The department of natural resources and parks or its designee shall serve as
2736 the single point of contact for King County in providing information on farm
2737 management plans for purposes of this title. The department of natural resources and
2738 parks shall adopt a public rule governing the development of farm management plans.
2739 The rule may provide for different types of farms management plans related to different
2740 kinds of agricultural activities, including, but not limited to the best management
2741 practices for livestock management, livestock crossing, livestock heavy use areas,
2742 horticulture management, site development, farm pads, farm field access roads and
2743 agricultural drainage.

2744 D. The property owner or applicant may develop the farm management plan as
2745 part of a program offered or approved by King County. A property owner or applicant
2746 seeking to use the process to allow alterations in critical area buffers shall develop a farm
2747 management plan based on the following goals, which are listed in order of priority:

Commented [PR215]: Moved from subsection F at council recommendation.

2748 1. To maintain the productive agricultural land base and economic viability of
2749 agriculture on the site;

2750 2. To maintain, restore, or enhance critical areas to the maximum extent
2751 practical in accordance with the site specific goals of the landowner;
2752 3. To the maximum extent practical in accordance with the site specific goals of
2753 the landowner, maintain and enhance natural hydrologic systems on the site;
2754 4. To use federal, state, and local best management practices and best available
2755 science for farm management to achieve the goals of the farm management plan; and
2756 5. To monitor the effectiveness of best management practices and implement
2757 additional practices through adaptive management to achieve the goals of the farm
2758 management plan.

2759 E. If a part or all of the site is located within the shoreline jurisdiction, the farm
2760 management plan shall:

2761 1. Consider and be consistent with the goals of the shoreline management act
2762 and the policies of the King County shoreline master program;
2763 2. Consider the priorities of the King County shoreline protection and
2764 restoration plan; and
2765 3. Ensure no net loss of shoreline ecological functions and critical area functions
2766 and values.

2767 F. ~~((The property owner or applicant may develop the farm management plan as~~
2768 ~~part of a program offered or approved by King County.))~~ The plan shall include, but is
2769 not limited to, the following elements:
2770 1. A site inventory identifying critical areas, structures, cleared and forested
2771 areas, and other significant features on the site;

Commented [SK216]: The County is required by the GMA to ensure NNL of critical area functions and values.

Commented [PR217]: Moved this provision to subsection D, since it does not relate to the rest of subsection F.

2772 2. Site-specific performance standards and best management practices to
2773 maintain, restore, or enhance critical areas and their buffers and maintain and enhance
2774 native vegetation on the site including the best management practices for the installation
2775 and maintenance of farm field access drives and agricultural drainages;

2776 3. A plan for future changes to any existing structures or for any changes to the
2777 landscape that involve clearing or grading;

2778 4. A plan for implementation of performance standards and best management
2779 practices;

2780 5. A plan for monitoring the effectiveness of measures taken to protect critical
2781 areas and their buffers and to modify the farm management plan if adverse impacts occur.

2782 G. If applicable, a farm management plan shall include documentation of
2783 compliance with flood compensatory storage and flood conveyance in accordance with
2784 K.C.C. 21A.24.240.

2785 H. A farm management plan is not effective until approved by the county.

2786 Before approval, the county may conduct a site inspection, ~~((which may be through a~~
2787 ~~program offered or approved by King County,))~~ to verify that the plan is reasonably
2788 likely to accomplish the goals in subsection D. of this section and consistent with
2789 subsection E. of this section.

2790 I. Once approved, activities carried out in compliance with the approved farm
2791 management plan shall be deemed in compliance with this chapter. In the event of a
2792 potential code enforcement action, the department of local services, permitting division,
2793 shall first inform the department of natural resources and parks of the activity. Before
2794 taking code enforcement action, the department of local services, permitting division,

Commented [PR218]: Removed, because it is duplicative to the previous sentence.

2795 shall consult with the department of natural resources and parks and the King
2796 Conservation District to determine whether the activity is consistent with the farm
2797 management plan.

2798 SECTION X. Ordinance 15051, Section 140, as amended, and K.C.C.

2799 21A.24.061 are hereby amended to read as follows:

2800 A. The King County council recognizes that ~~((rural stewardship plans and))~~ farm
2801 management plans are key elements of this chapter that provide flexibility to rural area
2802 ~~and natural resource land~~ residents to establish and maintain a rural lifestyle that includes
2803 activities such as farming ~~((and forestry))~~, while maintaining and enhancing rural
2804 character and environmental quality.

2805 B. The department of natural resources and parks and department of local
2806 services shall adopt public rules to implement K.C.C. 21A.24.045 and 21A.24.051
2807 ~~((relating to rural stewardship plans and farm management plans))~~, consistent with the
2808 provisions of this section. The rules shall not ~~((compromise))~~ conflict with the King
2809 Conservation District's mandate or standards for farm management planning.

2810 C. County departments or approved agencies shall provide technical assistance
2811 and resources to landowners to assist them in preparing the plans. The technical
2812 assistance shall include, but is not limited to, web-based information, instructional
2813 manuals and classroom workshops. When possible, the assistance shall be provided at
2814 little or no cost to landowners. In addition, the department of natural resources and parks
2815 shall develop, in consultation as necessary with the department of local services,
2816 permitting division, and the King Conservation District, and make available to the public,
2817 model farm management ~~((forest management and rural stewardship))~~ plans illustrating

Commented [PR219]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [CJ220]: to match comp plan/GMA geographies

Commented [CJ221]: Since the original intent of the code--that the forestry reference is associated with RSP--forestry should be deleted here and in Sub C below. References to forestry removed from subsections A and C.

Commented [PR222]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR223]: Non-substantive wording change.

Commented [PR224]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

2818 examples of plan application content, drawings and site plans, to assist landowners in
2819 their development of site-specific plans for their property.

2820 D. The department of natural resources and parks is the primary county agency
2821 responsible for ~~((rural stewardship plans and))~~ farm management plans that are filed with
2822 the county under this chapter. The department of natural resources and parks shall
2823 consult with the department of local services, permitting division, in carrying out its
2824 responsibilities under this chapter relating to ~~((rural stewardship plans))~~ and farm
2825 management plans. The department of natural resources and parks, the department of
2826 local services, permitting division, and the King Conservation District may enter into
2827 agreements to carry out the provisions of this chapter relating to ~~((rural stewardship plans~~
2828 ~~and))~~ farm management plans.

2829 E. The department of natural resources and parks and department of local
2830 services, permitting division, shall monitor and evaluate the effectiveness of ~~((rural~~
2831 ~~stewardship and))~~ farm management plans in meeting the goals and objectives of those
2832 plans established in this chapter.

2833 SECTION X. Ordinance 10870, Section 454, as amended, and K.C.C.
2834 21A.24.070 are hereby amended to read as follows:

2835 A. The director may approve exceptions to allow alterations to critical areas,
2836 critical area buffers, and critical area setbacks, except for ~~((flood hazard areas,))~~ alluvial
2837 fan hazard areas, and severe channel hazard migration areas, not otherwise allowed by
2838 this chapter as follows:

Commented [PR225]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR226]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [CJ227]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR228]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR229]: Updated to provide more precise wording.

Commented [CJ230]: This wording should be removed. It was a holdover from a previous version that nested Flood Hazard Areas under Frequently flooded areas, but it is not needed now.

Commented [PR231]: Added to clarify that the critical area alteration exception process cannot be used to develop within these areas. It could be interpreted that severe channel migration hazard areas are excluded here as a subset of flood hazard areas. However, the definition of flood hazard area also includes aquatic areas, wetlands, and moderate CMZs which have all been eligible for CAAE/RUE permits. Permitting's interpretation of this exception is that it refers to dev standards for flood specifically. By that logic, if an applicant applied to build in a wetland, they could seek an exception for relief from the wetland development standards, but not flood development standards.

The critical area alteration exception process cannot be used to develop within alluvial fan hazard areas consistent with policy direction regarding development within these areas.

2839 1. Except as otherwise provided in subsection A.2. of this section, for linear
2840 alterations, the director may approve alterations to critical areas, critical area buffers, and
2841 critical area setbacks only when all of the following criteria are met:

2842 a. there is no feasible alternative to the development proposal with less adverse
2843 impact on the critical area;

2844 b. the proposal minimizes the adverse impact on critical areas to the maximum
2845 extent practical;

2846 c. the approval does not require the modification of a critical area development
2847 standard established by this chapter;

2848 d. the development proposal does not pose an unreasonable threat to the public
2849 health, safety, or welfare on or off the development proposal site and is consistent with
2850 the general purposes of this chapter and the public interest;

2851 e. the linear alteration:

2852 (1) connects to or is an alteration to a public roadway, regional light rail
2853 transit line, public trail, a utility corridor or utility facility or other public infrastructure
2854 owned or operated by a public utility; or

2855 (2) is required to overcome limitations due to gravity;

2856 2. In order to accommodate the siting of a regional light rail transit facility
2857 under RCW 36.70A.200, the director may approve alterations to critical areas, critical
2858 area buffers, and critical area setbacks not otherwise allowed by this chapter and may
2859 impose reasonable conditions to minimize the impact of the light rail transit facility on
2860 the critical area and its buffer; and

2861 3. Except as otherwise provided in subsection A.3.h. of this section, ((F))for
2862 nonlinear alterations the director may approve exceptions to allow alterations to critical
2863 areas except aquatic areas, wildlife habitat conservation areas, and wetlands, ~~((unless~~
2864 ~~otherwise allowed under subsection A.3.h. of this section, aquatic areas and wildlife~~
2865 ~~habitat conservation areas,))~~ and may approve alterations to critical area buffers and
2866 critical area setbacks, when all of the following criteria are met:

2867 a. there is no feasible alternative to the development proposal with less adverse
2868 impact on the critical area;

2869 b. the alteration is the minimum necessary to accommodate the development
2870 proposal;

2871 c. the approval does not require the modification of a critical area development
2872 standard established by this chapter;

2873 d. the development proposal does not pose an unreasonable threat to the public
2874 health, safety, or welfare on or off the development proposal site and is consistent with
2875 the general purposes of this chapter and the public interest;

2876 e. for dwelling units, no more than five thousand square feet or ten percent of
2877 the site, whichever is greater, may be disturbed by structures, ~~((building)) critical area~~
2878 setbacks or other land alteration, including grading, utility installations, and maintained
2879 yard and landscaping, but not including the area used for a driveway or for an on-site
2880 sewage disposal system. When the site disturbance is within a critical area buffer, the
2881 ~~((building)) critical area~~ setback line shall be measured from the ~~((building)) outermost~~
2882 edge of the structure footprint to the edge of the approved site disturbance;

Commented [SK232]: Paragraph revised for greater clarity.

Commented [PR233]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [PR234]: Updated wording to specify that landscaping refers to yards and maintained areas, so to not discourage restoration or increased canopy cover.

Commented [PR235]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [PR236]: The definition of building "footprint" excludes all uncovered decks, but critical area setbacks should be measured from decks that meet the definition of structure, as well as from retaining walls, in order to allow critical area setbacks to fulfill their purpose of protecting critical area buffers and critical areas from impact.

2883 f. to the maximum extent practical, access is designed and located to have the
2884 least adverse impact on the critical area and critical area buffer;

2885 g. the critical area is not ~~((used as a))~~ potential salmonid spawning ~~((area))~~
2886 habitat; and

2887 h. the director may approve an alteration in a category II, III, and IV wetland
2888 for development of a public school facility.

2889 B. The director may approve a reasonable use exception to allow alterations to
2890 critical areas, critical area buffers, and critical area setbacks, except for regulated flood
2891 hazard areas under 21A.24.230, alluvial fan hazard areas, and severe channel hazard
2892 migration hazard areas, if the application of this chapter would deny all reasonable use of
2893 the property as follows:

2894 1. If the critical area, critical area buffer, or critical area setback is outside of the
2895 shoreline jurisdiction, the applicant may apply for a reasonable use exception under this
2896 subsection without first having applied for an alteration exception under this section if the
2897 requested reasonable use exception includes relief from development standards for which
2898 an alteration exception cannot be granted under this section. The director shall determine
2899 that all of the following criteria are met:

2900 a. there is no other reasonable use with less adverse impact on the critical area;

2901 b. development proposal does not pose an unreasonable threat to the public
2902 health, safety, or welfare on or off the development proposal site and is consistent with
2903 the general purposes of this chapter and the public interest;

2904 c. any authorized alteration to the critical area or critical area buffer is the
2905 minimum necessary to allow for reasonable use of the property; and

Commented [PR237]: Clarifying that the width and shape are as important as location

Commented [PR238]: Updated to expand protection to areas with the right conditions for salmon spawning, even if spawning has not yet been documented. Other portions of fish life cycles are more adaptable to alterations and can be evaluated on a project-by-project basis.

Commented [PR239]: Reworded to distinguish the provisions of subsection B from the Critical Area Alteration standards in subsection A.

2906 d. for dwelling units, no more than five thousand square feet or ten percent of
2907 the site, whichever is greater, may be disturbed by structures, ~~((building)) critical area~~
2908 setbacks or other land alteration, including grading, utility installations, and ~~maintained~~
2909 ~~yard and~~ landscaping but not including the area used for a driveway or for an on-site
2910 sewage disposal system; and

2911 2. If the critical area, critical area buffer, or critical area setback is located
2912 within the shoreline jurisdiction, the request for a reasonable use exception shall be
2913 considered a request for a shoreline variance under K.C.C. 21A.44.090.

2914 C. For the purpose of this section:

2915 1. "Linear~~(())~~ alteration" means infrastructure that supports development that
2916 is linear in nature and includes public and private roadways, public trails, private
2917 driveways, railroads, regional light rail transit, hydroelectric ~~((generating)) generation~~
2918 facilities, utility corridors, and utility facilities; and

2919 2. For purposes of subsections A. and B. of this section, areas located within
2920 the shoreline jurisdiction that are below the ordinary high water mark shall not be
2921 included in calculating the site area.

2922 D. ~~((Alteration-e))~~ Exceptions approved under this section shall meet the
2923 mitigation requirements of this chapter.

2924 E. An applicant for an ~~((alteration))~~ exception shall submit a critical area report,
2925 as required by K.C.C. 21A.24.110.

2926 ~~F. An exception shall not be approved if the inability of the applicant to derive~~
2927 ~~reasonable use of the property is the result of actions by the current or prior property~~
2928 ~~owner.~~

Commented [PR240]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 from those required in 21A.12.

Commented [PR241]: Updated wording to specify that landscaping refers to yards and maintained areas, so to not discourage restoration or increased canopy cover.

Commented [PR242]: Updated location of quotation marks to be around the term actually being defined here ("linear alteration").

Commented [PR243]: Updated to match terminology in 21A.06.620, which is "hydroelectric generation facilities", here and elsewhere where "generating" was found.

Commented [PR244]: Since language was added to subsections A and B to name the exception types, "Alterations" in front of "exceptions" is not longer necessary.

Commented [PR245]: Since language was added to subsections A and B to name the exception types, "Alterations" in front of "exceptions" is not longer necessary.

Commented [PR246]: Updated to make it clear that an applicant cannot create the need for an exception (and thereby get around critical area code requirements) by creating a constrained site. An example would be an applicant who uses the BLA process to create a lot entirely constrained by critical areas, then claims they need an RUE. Case law has confirmed one cannot use an exception when they created the conditions necessitating the exception.

2929 SECTION X. Ordinance 10870, Section 456, as amended, and K.C.C.
 2930 21A.24.090 are hereby amended to read as follows:

2931 ~~((If a development proposal site contains or is within a critical area, the applicant~~
 2932 ~~shall submit an affidavit which declares whether))~~ An applicant for a permit for a
 2933 development proposal, or a critical area designation under K.C.C. 21A.24.500, shall
 2934 provide the following:

2935 A. Disclosure of critical areas on the development proposal site or sites,
 2936 including any mapped or identifiable critical areas within the distance equal to the largest
 2937 potential required critical area buffer applicable to the development proposal; and

2938 B. An affidavit indicating whether:

2939 1. The applicant has knowledge of any illegal alteration to any or all critical
 2940 areas or critical area buffers on the development proposal site or sites; and

2941 ~~((B-))~~ 2. The applicant previously has been found in violation of this chapter for
 2942 any property in King County, in accordance with K.C.C. Title 23. If the applicant
 2943 previously has been found in violation, the applicant shall declare whether the violation
 2944 has been corrected to the satisfaction of King County.

2945 SECTION X. K.C.C. 21A.24.500, as amended by this ordinance, is hereby
 2946 recodified as a new section in K.C.C. chapter 21A.24 to follow K.C.C. 21A.24.090.

2947 SECTION X. Ordinance 14187, Section 1, as amended, and K.C.C. 21A.24.500
 2948 are hereby amended to read as follows:

2949 A.1. A property owner or the property owner's agent may request a critical area
 2950 designation for a site consisting of part or all of a ~~((site))~~ parcel, without seeking a permit

Commented [PR247]: Revisions to this section were made to require applicants to provide full disclosure regarding the presence of critical areas and buffers on development proposal sites, and any illegal alterations to those areas. Updates also clarify that the applicant must indicate whether they have been found in violation of critical area alteration for any property in the county, not just the subject property, to ensure that violations are corrected before new development entitlements are obtained.

An affidavit is not proposed to be required for disclosure of critical areas in subsection A because: 1) an applicant may not have complete information, especially about buffers on offsite properties; 2) critical areas can change over time, and a survey done a few years ago may no longer be accurate; and 3) surveys are prepared by a third party and an applicant should not be required to submit affidavits about the information contained in them. So while the information in subsection A must be disclosed and will be reviewed by staff, an affidavit is not required.

In subsection B., however, the applicant is providing information about their own personal knowledge and activities, and an affidavit is appropriate.

Commented [PR248]: Added because an illegal alteration of critical area buffer would still be a violation of the code and would need to be rectified.

Commented [PR249]: This addition clarifies meaning of "found in violation of this chapter", which is ambiguous and could refer to either 1) violations on the subject property or 2) violations on any property. The interpretation that this means "for any property in King County" is consistent with existing guidance provided by DLS Permitting ([Affidavit Concerning Critical Areas Compliance, 2019_04_26 \(kingcounty.gov\)](#)).

Commented [PR250]: The section on critical area designations is proposed to be recodified to be between sections on disclosure of critical areas and critical area reviews, which related most closely to CADs.

2951 for a development proposal, by filing with the department a written application for a
2952 critical area designation on a form provided by the department.

2953 2. If the request is for review of a site which consists of only a portion of a
2954 ((site)) parcel, the application shall include a map identifying the portion of the ((site))
2955 parcel for which the designation is sought. The designation shall not apply to any
2956 portions of the parcel other than those identified as the site in the application and
2957 reviewed by the department.

2958 ~~((2. The designation may include an evaluation or interpretation of the~~
2959 ~~applicability of critical area buffers and other critical area standards to a future~~
2960 ~~development proposal.)) 3. The department may require that the application include a~~
2961 ~~critical area report or reports prepared in accordance with KCC 21A.24.110.~~

2962 B. In preparing the critical area designation, the department shall perform a
2963 critical area review to ((:

2964 ~~1. Determine whether any critical area exists on the site and confirm its type,~~
2965 ~~location, boundaries and classification;~~

2966 ~~2. Determine whether a critical area report is required to identify and~~
2967 ~~characterize the location, boundaries and classification of the critical area;~~

2968 ~~3. Evaluate the critical area report, if required; and~~

2969 ~~4.) evaluate, determine, and ((D)) document the existence, location, and~~
2970 ~~classification of any critical area on the site.~~

2971 C. ~~((If required by the department, the applicant for a critical area designation~~
2972 ~~shall prepare and submit to the department the critical area report required by subsection~~
2973 ~~B.2. of this section. For sites zoned for single detached dwelling units involving~~

Commented [PR251]: Locally defines "site" pertaining to a CAD, which is unique in that "site" is normally associated with a development proposal (see K.C.C. 21.06.1170) but a CAD is not.

This streamlines the language to not require "all or part of a site" in the remainder of the section, which is a clumsy, slightly oxymoronic term.

Commented [PR252]: Disclaimer, since a CAD may be made for only a portion of a parcel or development site. This makes it clear that just because a CAD verifies the location of critical areas on one portion of a parcel, for which the CAD was requested, this would not mean that the County is verifying that the remainder of the parcel is free of critical areas.

Commented [SK253]: Specifies the information that may be required for the County to prepare a CAD.

Commented [PR254]: This information is provided as a courtesy to the applicant regardless of whether it is requested to assist in preparation of a development proposal. Including the language here could be read to imply that discussion of critical area standards is a vested determination, which is not, and cannot be prior to reviewing a specific development proposal.

Commented [SK255]: Redundant to revised language above.

Commented [PR256]: CADs are only effective for the critical areas on the site. They may include offsite areas but these are not part of the vesting.

Commented [SK257]: Redundant to revised language above.

2974 ~~wetlands or aquatic areas, the applicant may elect to have the department conduct the~~
 2975 ~~special study in accordance with K.C.C. Title 27;~~
 2976 ~~D.)~~) The department shall ~~((make the determination of))~~ issue a critical area
 2977 designation in writing within one hundred twenty days after the application for a critical
 2978 area designation is complete, as provided in K.C.C. 20.20.050. The periods in K.C.C.
 2979 20.20.100.A.1. through 5. are excluded from the one-hundred-twenty-day period. ~~((If the~~
 2980 ~~determination applies to less than an entire site, t))~~The determination shall clearly
 2981 identify the portion of the site to which the determination applies.
 2982 ~~((E.1.))~~ D. The written determination made under this section is final and
 2983 effective for five years as to the existence, location, classification of any critical area
 2984 ~~((and critical area buffers))~~ on the site, unless:
 2985 ~~((a.))~~ 1. ~~((t))~~There is a change in site conditions;
 2986 ~~((b.))~~ 2. New or additional information becomes available that conflicts with or
 2987 invalidates information that formed the basis of the department's determination,
 2988 including, but not limited to, discovery of an unpermitted critical area alteration, or the
 2989 adoption of revised methods for critical area classification; or
 2990 3. ~~((a.))~~ A county, state, or federal agency adopts critical area maps that conflict
 2991 with the department's written determination.
 2992 ~~((2. As part of its review of a complete application for a permit or approval, the~~
 2993 ~~department shall establish whether the written determination is still effective.~~
 2994 ~~F. If the department designates critical areas on a site under this section, the~~
 2995 ~~applicant for a development proposal on that site shall submit proof that a critical area~~
 2996 ~~notice has been filed as required by K.C.C. 21A.24.170. Except as provided in this~~

Commented [CJ258]: This appears to be an out-of-date reference. There is no mention of a "special study" in Title 27; "sensitive area special studies" used to be in the old Title 21, but were repealed.

Commented [PR259]: Changed to "issue" to have a clear date to start the clock. The issue date could be different from the determination date to account for things like payment of fees before issuance.

Commented [PR260]: Redundant language, which doesn't add any information to the standard.

Commented [PR261]: Removing for internal consistency in this section. The determinations which qualify as a Type 1 decision in a CAD are the existence, location, and classification of any critical area on the site.

Critical area buffers and other standards given in code vary in code depending on the nature of a development proposal and cannot be vested prior to review of a specific development proposal.

Standard CAD practice is to discuss and even show buffers in the written determination as a courtesy to the applicant in preparing a development proposal (including health department permit review), but the buffers shown are preliminary and may change during review of a development proposal. Examples include variable buffer sizing due to intensity of proposed land use, buffer reduction due to mitigation of hazard, and buffer averaging.

Commented [PR262]: Added examples to this provision to help clarify what is intended.

Commented [SK263]: The County adopts critical area maps such as the CARA designation map.

Commented [PR264]: This sentence is redundant to 21A.24.170.

2997 ~~subsection, the department's determination under this section is final. If the department~~
2998 ~~relies on a critical area designation made under this section during its review of an~~
2999 ~~application for a permit or other approval of a development proposal and the permit or~~
3000 ~~other approval is subject to an administrative appeal, any appeal of the designation shall~~
3001 ~~be consolidated with and is subject to the same appeal process as the underlying~~
3002 ~~development proposal. If the King County hearing examiner makes the county's final~~
3003 ~~decision with regard to the permit or other approval type for the underlying development~~
3004 ~~proposal, the hearing examiner's decision constitutes the county's final decision on the~~
3005 ~~designation. If the King County council, acting as a quasi-judicial body, makes the~~
3006 ~~county's final decision with regard to the permit or other approval type for the underlying~~
3007 ~~development proposal, the King County council's decision constitutes the county's final~~
3008 ~~decision on the designation.))~~

3009 SECTION X. Ordinance 10870, Section 457, as amended, and K.C.C.

3010 21A.24.100 are hereby amended to read as follows:

3011 A. Before any clearing, grading, or site preparation, the department shall perform
3012 a critical area review for any development proposal permit application or other request
3013 for permission to alter a site to determine ~~((whether there is))~~:

3014 1. ~~The existence, location, and classification of any((A)) critical areas~~ on the
3015 ~~((development proposal))~~ site;

3016 2. ~~((An active breeding site of a protected species on the development proposal~~
3017 ~~site; or~~

3018 3. ~~A critical area or active breeding site of a protected species that has been~~
3019 ~~mapped, identified within three hundred feet of the applicant's property, or that is visible~~

Commented [PR265]: CADs are now a Type 1 decision in KCC 20.20.020, so the appeal period and process for a CAD is given under LUPA, and this section is no longer needed to explain appeal process.

Commented [PR266]: Revised for great clarity and usability.

Commented [PR267]: Unnecessary extra words.

Commented [PR268]: Unnecessary extra words--the lead-in language in subsection A says this section pertains to development proposals.

3020 ~~from the boundaries of the site.))~~ The existence, location, and classification of any
3021 critical areas within three hundred feet of the site that can be identified by use of
3022 available data and methods including, but not limited to, visual observations from right of
3023 way or property with right of entry, mapping, aerial imagery, critical area determinations
3024 for other permits, and available critical area reports;

3025 3. The boundaries of any critical area buffers and critical area setbacks that
3026 apply to the site for critical areas on or within three hundred feet of the site, consistent
3027 with the standards and regulations of this chapter; and

3028 4. Compliance with all other standards and regulations of this chapter.

3029 B. As part of the critical area review, the department shall review ~~((the critical~~
3030 ~~area reports and determine))~~ whether:

3031 1. ~~((There has been an accurate identification of all critical areas))~~ Critical area
3032 designation or designations for the site are effective pursuant to K.C.C. 21A.24.500;

3033 2. ~~((An alteration will occur to a critical area or a critical area buffer))~~ Critical
3034 area report or reports are required with the application under K.C.C. 21A.24.110;

3035 3. ~~((The development proposal is consistent with this chapter))~~ Critical areas
3036 have been accurately identified, delineated, and classified within the application
3037 documents;

3038 4. Critical area buffers and critical area setbacks have been accurately applied to
3039 the site and delineated on application documents;

3040 5. The proposed alterations follow the avoidance, minimization, and mitigation
3041 priority sequence in K.C.C. 21A.24.125 ~~((has been followed))~~ to avoid impacts to critical
3042 areas and critical area buffers; and

Commented [PR269]: Subsection A outlines what a critical area review produces that is appealable (e.g. existence, location, and classification of any critical areas etc.) This subsection expands on the determinations made under a critical area designation, therefore parallels and coordinates with the CAD section.

3043 ~~((5-))~~ 6. Any proposed ((M))mitigation measures required to compensate for
3044 unavoidable adverse impacts to critical areas ~~((is required and whether the mitigation and~~
3045 ~~monitoring plans and bonding measures proposed by the applicant are sufficient to~~
3046 ~~protect the general public health, safety and welfare,))~~ or buffers are in compliance with
3047 K.C.C. 21A.24.130 and all other applicable mitigation requirements of this chapter; and
3048 7. The proposed alterations are consistent with the goals, purposes, objectives,
3049 and requirements of this chapter.

Commented [PR270]: Redundant to references and catch-all phrase at end of list.

Commented [PR271]: Subsection B outlines the steps that need to be taken to reach the conclusions of a determination.

3050 C. If a development proposal does not involve any site disturbance, clearing, or
3051 grading and only requires a permit or approval under K.C.C. chapter 16.04 or 17.04,
3052 critical area review is not required, unless the development proposal is located within a:

- 3053 1. Flood hazard area;
3054 2. Critical aquifer recharge area; or
3055 3. Landslide hazard area, steep slope hazard area, seismic hazard area, or coal
3056 mine hazard area and the proposed development will cause additional loads on the
3057 foundation, such as by expanding the habitable square footage of the structure or by
3058 adding or changing structural features that change the load bearing characteristics of the
3059 structure.

Commented [PR272]: The same slope stability issue from loading foundations that applies to LHA applies to SSHA, and therefore should be listed here.

3060 D. The determinations made under critical area review of a development proposal
3061 permit application shall be consolidated with and are subject to the same appeal process
3062 as the underlying development proposal, with the exception of any determinations made
3063 under an effective critical area designation under K.C.C. 21A.24.500 that are classified as
3064 an independent decision under K.C.C. 20.20.020.

Commented [PR273]: Moves language from critical area designation section to this section. This language clarifies that a critical area review done as part of a development proposal are appealed with the development proposal, and a critical area review done as part of the critical area designation are appealable consistent with the procedures in Title 20 (LUPA+Type 1 decision).

3065 SECTION X. Ordinance 10870, Section 458, as amended, and K.C.C.

3066 21A.24.110 are hereby amended to read as follows:

3067 A. An applicant for a development proposal that requires critical area review

3068 under K.C.C. 21A.24.100 or K.C.C. 21A.24.500 shall submit a critical area report or

3069 reports at a level of detail determined by the department to adequately evaluate the

3070 proposal and all probable impacts in accordance with the ecological or geological critical

3071 area report criteria of this chapter, as applicable.

3072 B. The applicant may combine a critical area report with any studies required by

3073 other laws and regulations.

3074 C. If the development proposal will affect only a part of the development

3075 proposal site, the department may limit the scope of the required critical area report to

3076 include only that part of the site that is affected by the development proposal.

3077 D.1. Floodplain development that was not assessed through the King County

3078 Programmatic Habitat Assessment prepared for the National Flood Insurance program

3079 and the Endangered Species Act shall include an assessment of the impact of the

3080 alteration on water quality and aquatic and riparian habitat. The assessment shall be:

3081 a. ~~((A))~~ a Biological Evaluation or Biological Assessment that has received

3082 concurrence from the United States Fish and Wildlife Service or the National Marine

3083 Fisheries Service, pursuant to Section 7 of the Endangered Species Act;

3084 b. ~~((D))~~ documentation that the activity fits within a Habitat Conservation Plan

3085 approved pursuant to Section 10 of the Endangered Species Act;

3086 c. ~~((D))~~ documentation that the activity fits within Section 4(d) of the

3087 Endangered Species Act;

Commented [PR274]: Critical areas review occurs under both .100 (permit with development proposal) and .500 (CAD without development proposal). In both cases, the Department requires critical area reports to make determinations in regards to critical areas.

Commented [PR275]: Acknowledging that a site with multiple types of critical areas on site might require multiple reports, e.g. a geological critical areas report and an ecological critical areas report.

Commented [PR276]: Updated to clarify that "level" meant "level of detail".

Commented [PR277]: Connects to relevant criteria for evaluating impacts. These referenced sections also specify report content requirements and what type of professional must prepare them.

3088 d. ~~((A))~~an assessment prepared in accordance with Regional Guidance for
3089 Floodplain Habitat Assessment and Mitigation, FEMA Region X, ~~((2010))~~ April 2011.
3090 The assessment shall determine if the project would adversely affect any one or more of
3091 the following:

3092 (1) the primary constituent elements identified when a species is listed as
3093 threatened or endangered;

3094 (2) Essential Fish Habitat designated by the National Marine Fisheries
3095 Service;

3096 (3) fish and wildlife habitat conservation areas;

3097 (4) vegetation communities and habitat structures;

3098 (5) water quality;

3099 (6) water quantity, including flood and low flow depths, volumes and
3100 velocities;

3101 (7) the river or stream channel's natural planform pattern and migration
3102 process;

3103 (8) spawning substrate, if applicable; and

3104 (9) floodplain refugia, if applicable.

3105 2. The department ~~((must))~~ shall require a project with adverse effects on
3106 critical areas or critical area buffers to comply with the impact avoidance, minimization,
3107 and mitigation requirements of K.C.C. 21A.24.125 and 21A.24.130, and to achieve no
3108 net loss of critical area functions and values.

Commented [SK278]: Edits made for clarification.

Commented [SK279]: The GMA requires the County to achieve NNL of critical area functions and values.

3109 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.24
3110 a new section to read as follows:

3111 A. An applicant for a development proposal that requires geological critical area
3112 review under K.C.C. 21A.24.100 shall submit a geological critical area report at a level
3113 of detail determined by the department to adequately evaluate the proposal and all
3114 probable impacts.

3115 B. The geological critical area report shall address all areas of the proposed
3116 development site and geologically hazardous areas within three hundred feet of the site or
3117 that have the potential to affect or be affected by the proposal.

3118 C. The geological critical area report shall be prepared, stamped, and signed by a
3119 geological professional.

3120 D. The geological critical area report shall contain the following information as
3121 relevant to the geologically hazardous area or areas applicable to the site and
3122 development proposal:

3123 1. A description of site conditions that includes:

- 3124 a. existing development including structures, impervious surfaces, wells, drain
3125 fields, drain field reserve areas, roads, easements, and utilities on the site;
3126 b. the extent and type of existing vegetative cover;
3127 c. a description of the ground surface inclination in percent gradient; and
3128 d. the location or evidence of any springs, seeps, or other expressions of
3129 groundwater;

3130 2. A evaluation of the geological conditions of the site that includes:

- 3131 a. references to mapped geological soil and bedrock units, seismic faults,
3132 landslides, alluvial fans, potential liquefaction zones, channel migration zones, and
3133 historic coal mines;

Commented [PR280]: Section added based on BAS review of alluvial fans. Sub A of this new section modeled after Sub A. of 21A.24.110 Critical area report requirement.

Language also supports regulation to protect public health and safety as required by WAC 365-196-830 and protecting ecological functions.

Commented [BS281]: Document is consistent now with edits on this topic. No references to geotechnical report.

Commented [PR282]: Subsection B language connects proposed developments to the surrounding area. This supports regulation to protect public health and safety as required by WAC 365-196-830 and protecting ecological functions.

An example of this would be a creek above a slope; the creek could have the potential to affect the proposal, and the proposal may have the potential to affect areas outside the proposed development site.

Commented [BS283]: Document is consistent now with edits on this topic. No references to geotechnical report.

Commented [PR284]: Added requirement for a licensed geological professional to not just stamp and sign, but to also prepare information, ensuring qualified review and reporting.

Commented [PR285]: Updated to clearly state the requirements for a report to improve submittals and permitting review process.

Commented [PR286]: Subsection D.1. added to require information on natural features that provides context for potential risks, aiding development review.

3134 b. available geotechnical reports, well logs, or other data sources within the
3135 vicinity of the site;
3136 c. geomorphological features of the site visible through site inspection, aerial
3137 photography, LiDAR imagery, or topographic contours;
3138 d. on-site soil explorations of sufficient location, distribution, and depth to
3139 adequately characterize the subsurface conditions of the site;
3140 e. engineering properties of the subsurface soils or bedrock or both on the site
3141 and adjacent properties; and
3142 f. identification of all existing fill areas;

3143 3. A hazard analysis and finding of risks associated with relevant geologic
3144 hazards and the potential impacts to public safety, the hazard area, and the subject
3145 property including, but not limited to:
3146 a. slope stability analyses;
3147 b. liquefaction hazard analyses;
3148 c. debris runout analyses;
3149 d. channel migration analyses;
3150 e. analysis of erosion rates, slope recession rates, and potential impacts to
3151 existing or proposed development from waves or currents, stream meandering, or other
3152 erosional forces to determine the recommended solution for bank or shoreline
3153 stabilization; and

3154 f. any other information or analysis required by K.C.C. 21A.25.170 for
3155 development proposals located within the shoreline jurisdiction;

3156 4. An evaluation of proposed development which includes:

Commented [PR287]: Subsection D.2. added to require information that informs potential risks from or to the Geologically hazardous area. Language added in code strengthens permitting review process and provides clear and concise direction to applicants on what is required in report.

Commented [PR288]: Subsection D.3 added require types of analyses to inform on potential risks from or to Geologically hazardous areas by or to the proposed development. Proposed development can decrease slope stability on contiguous properties or affect onsite development or ecological functions, and this subsection requires applicants to explain these risks.

3157 a. the location and extent of all proposed development activity;

3158 b. the proposed method of drainage and locations of all existing and proposed

3159 surface and subsurface drainage facilities and patterns, including infiltration testing or

3160 other geological review specifics as required by the King County Surface Water Design

3161 Manual;

3162 c. the locations and methods for temporary and permanent erosion control;

3163 d. recommendations for structure siting limitations, including buffers and

3164 setbacks, in accordance with the development standards of geologically hazardous areas

3165 in this chapter;

3166 e. recommendations for engineering mitigation of hazards, as necessary; and

3167 f. recommendations for vegetation management to mitigate hazards, as

3168 necessary;

3169 5. A determination stating whether the proposed alterations minimize risks to

3170 people and development on and off the site in accordance with the development standards

3171 of this chapter, and rationale to support the determination based on the presented data,

3172 analyses, and scientific and engineering practice;

3173 6. A site plan that includes:

3174 a. the topography with vertical contour intervals of five feet or less unless the

3175 underlying project permit requires a lesser interval;

3176 b. significant geologic contacts, landslides, or downslope soil movement on

3177 and within three hundred feet of the site;

3178 c. all identified geologically hazardous areas, buffers, and critical area

3179 setbacks;

Commented [PR289]: Subsection D.4. added to provide to require an explanation of how identified risks will be addressed, supporting protection of ecological functions and public health and safety.

Commented [PR290]: Subsection D.5. added to enable regulation to minimize risk to public health and safety (as required by WAC 365-196-830) related to evaluating proposed alterations and provided data, strengthening the permitting review process. This includes a requirement that the geological professional produce a "determination stating whether the proposed alterations minimizes risks...". The geological professional needs to provide enough information to offer a data-supported conclusion.

This standard addresses the reports the County receives where potential hazards are identified, but not addressed. Many geotechnical reports staff review appear to use omission to seek to limit liability by not discussing whether the hazard is safe. For Permitting geological review to be able to approve a project with geohazards, they need to review a report by a geological professional who has determined the development proposal is safe, and staff need enough data supporting to make the same determination as well. This is not a predetermination—it's the only way permits work. It's analogous to requiring site plans to be stamped by an engineer; we are not forcing an engineer to conclude the project is safe, but the only way a permit can move forward is if the design engineer does conclude it's safe and is willing to stamp it, and Permitting reviewers agree with that conclusion.

3180 d. exploration locations;

3181 e. locations of proposed development and clearing limits, if known; and

3182 f. transects of any provided cross-sections;

3183 7. subsurface exploration logs, test logs and results, and other data sources used

3184 in the analyses; and

3185 8. Any other information determined by the department to be necessary to

3186 determine compliance with this chapter including, but not limited to, the use of LiDAR,

3187 technical reports, soil field or laboratory testing, studies or documents related to geologic

3188 hazards, and models for estimating how far landslide materials will travel.

3189 E. The department shall require a project with adverse effects to comply with the

3190 impact avoidance, minimization, and mitigation requirements of K.C.C. 21A.24.125 and

3191 21A.24.130.

3192 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.24

3193 a new section to read as follows:

3194 A. An applicant for a development proposal that requires ecological critical area

3195 review under K.C.C. 21A.24.100 shall submit an ecological critical area report or reports

3196 at a level of detail determined by the department to adequately evaluate the proposal for

3197 all probable impacts and the mitigation required to compensate for unavoidable impacts

3198 to ensure no net loss of ecological functions and values.

3199 B. The ecological critical area report shall address all areas of the proposed

3200 development site and ecological critical areas within three hundred feet of the site or that

3201 have the potential to affect or be affected by the proposal. Ecological critical areas

3202 include wetlands and all fish and wildlife habitat conservation areas.

Commented [PR291]: "If known" is included here because geological critical area reports that are prepared in advance of a development proposal (e.g., for a CAD not associated with a development permit) would not have this level of detail yet. Applicants typically obtain a geological critical area report early in the feasibility phase of a project, prepared in order to explore site conditions before designing the development and designating clearing limits. Development plans might change by the time they reach the application phase for a building permit in response to information learned from these early critical area reports. Therefore that information would not be known for this type of CAD, and therefore is not required for every report.

Commented [PR292]: Subsection D.6 added to require information related to evaluating proposed development site conditions and clearly showing physical features in geographic correlation to each other which is needed to understand site-specific risks, strengthening permit review.

Commented [PR293]: Subsection D.7. added to require source data so that Permitting reviewers can double check geological professionals' analysis and conclusions, confirming that the conclusions reached in the report are accurate and meet code standards.

Commented [PR294]: Subsection D.8. added to provide authority to ask for data that might be needed to confirm compliance with code standards, in case the requirements listed above are insufficient for a given site.

Commented [PR295]: Subsection E added to confirm that information required by K.C.C. 21A.24.125 and 21A.24.130 needs to be included in geological critical area reports.

Commented [PR296]: Acknowledges that it's acceptable if not everything is in one single report. For example, it is common for a mitigation plan to be separate from the critical area identification report and from an arborist report.

Commented [PR297]: These standards are being added to be more clear/transparent as to what Permitting needs to be in an ecological critical areas report and likely should have been in code prior. This mirrors the geological critical areas report section.

Commented [PR298]: This lays out the distance from the proposed action that information needs to be provided, and it lays out which Critical Areas are covered by this type of report.

3203 C. The ecological critical area report shall be prepared and signed by an
3204 ecological professional.

3205 D. The ecological critical area report shall contain the following information as
3206 applicable to the site and development proposal:

3207 1. A wetland, aquatic area, and riparian area delineation report that includes:

3208 a. identification of wetlands and delineation of their boundaries in accordance
3209 with the approved federal wetland delineation manual and applicable regional supplement
3210 as set forth in WAC 173-22-035, including completed data forms and data point locations
3211 to demonstrate the presence or absence of wetland conditions;

3212 b. rating of wetlands in accordance with the Washington State Wetland Rating
3213 System for Western Washington, Washington State Department of Ecology publication
3214 number 14-06-029, published 2014, including completed rating forms;

3215 c. identification of aquatic areas and delineation of their ordinary high-water
3216 marks in accordance with K.C.C. 21A.06.825;

3217 d. typing of aquatic areas consistent with K.C.C. 21A.24.355;

3218 e. identification of severe channel migration hazard zones and floodplains; and

3219 f. determination of applicable wetland buffers and riparian areas in accordance
3220 with K.C.C. chapter 21A.24;

3221 2. A wildlife study and habitat assessment that identifies any known nests or
3222 breeding sites of and potential habitat for any federal or state listed endangered,
3223 threatened, sensitive, or candidate species or King County species of local importance,
3224 and delineates any known wildlife habitat conservation areas and wildlife habitat
3225 networks;

Commented [PR299]: This makes it clear that someone drafting a critical area report must have qualifications to do so. There is a new definition for environmental professional that this references. This should reduce the instances of DLS getting inappropriate or incomplete critical area reports, which should reduce overall review times.

Commented [PR300]: Clarifies which methods and documentation for wetland delineation we require proponents to use, which supports clear, consistent application of code standards.

Commented [PR301]: Subsection D1b clarifies that Ecology's wetland rating system must be used, which is important for getting information in the right format from applicants.

Commented [PR302]: Clarifies that applicants show where and what kind of ecological critical areas are present.

Commented [PR303]: While these are not within the ecological critical area umbrella, this information is requested because they are important to aquatic area typing and the delineation of riparian areas and shoreline jurisdiction

Commented [PR304]: This lays out the requirement to describe the appropriate wetland buffers or riparian areas in the CA so that reviewers can confirm compliance with these standards.

Commented [PR305]: This spells out which wildlife and habitats the proponent needs to account for within the critical area report.

3226 3. A description of existing onsite and adjacent site conditions that includes:
3227 a. existing development including, but not limited to, structures, roads,
3228 impervious surfaces, utilities, clearing, grading, and easements, and whether any existing
3229 development is not legally established;
3230 b. the extent and dominant species composition of existing vegetative cover;
3231 c. Existing hydrologic characteristics of any wetland or aquatic areas,
3232 including sources of hydrology;
3233 d. functions and values of all critical areas found; and
3234 e. location, species, and diameter at breast height of all trees within the
3235 proposed clearing limits and within striking distance of the development. The
3236 department may require tree locations to be surveyed;
3237 4. If unavoidable impacts to critical areas or buffers are proposed, an impact
3238 analysis that includes:
3239 a. written justification to demonstrate that the avoidance criteria in K.C.C.
3240 21A.24.125 are applied to the proposed development, including an analysis of considered
3241 alternatives, such as changing the location, size, shape, or orientation of the development;
3242 b. calculation of square footage of direct permanent impacts to each critical
3243 area and buffer;
3244 c. calculation of square footage of temporary impacts to each critical area and
3245 buffer, and determination if any ecological functions are expected to take longer than one
3246 year to be restored;

Commented [PR306]: This section describes what site specific features (e.g. impervious surfaces, vegetation type and condition) need to be described within the CAR. These existing features and conditions are necessary to evaluate what will be impacted and if the proposed mitigation is appropriate.

3247 d. calculation of indirect impacts to wetlands in accordance with Wetland
3248 Mitigation in Washington State, Part 1, Agency Report and Guidance, Version 2,
3249 Washington State Department of Ecology;

3250 e. description of vegetation, habitat, functions, and values of each critical area
3251 that will be lost or modified due to the proposed impacts;

3252 f. an analysis demonstrating that the hydrology of remaining wetlands on or
3253 adjacent to the site will not be substantially impacted by the project, using the wetland
3254 hydrology protection guidelines in the King County Surface Water Design Manual; and

3255 g. a tree risk assessment prepared by an arborist certified by the International
3256 Society for Arboriculture for any hazard trees proposed for removal within critical areas
3257 or buffers;

3258 5. A mitigation plan to compensate for any unavoidable adverse impacts to
3259 critical areas or buffers that includes;

3260 a. evaluation of on-site potential for enhancement, rehabilitation, restoration,
3261 or creation of critical areas and buffers for which mitigation is required;

3262 b. description of on-site mitigation activities proposed and justification that
3263 impacts will be adequately offset to ensure no net loss of critical area functions and
3264 values, including use of the Credit-Debit Method as applicable for wetland impacts in
3265 accordance with Calculating Credits and Debits of Compensatory Mitigation in Wetland
3266 of Western Washington: Final Report, Washington State Department of Ecology, or
3267 subsequent updates;

Commented [PR307]: Subsection D.4 lays out what analysis and documentation an applicant needs to undertake if they are proposing to impact a critical area or its buffer. This information allows DLS to understand if the applicant has followed appropriate mitigation sequencing and evaluate how much compensatory mitigation is likely needed.

3268 c. calculation of square footage of mitigation required for permanent or long
3269 term temporary impacts, based on the ratios specified within chapter K.C.C. chapter
3270 21A.24;
3271 d. calculation of square footage of restoration required for temporary impacts
3272 where ecological functions are expected to be restored within one year;
3273 e. depiction of proposed mitigation and restoration areas and example of
3274 planting plan, including irrigation if applicable;
3275 f. plan for installation of wildlife lighting;
3276 g. depiction of wildlife-passable fencing and permanent critical area signs at
3277 the edges of critical areas, buffers, and disturbed areas, as applicable; and
3278 h. justification for and description of any proposed off-site mitigation,
3279 including location, methods, quantities, and demonstration that equivalent or greater
3280 ecological functions will be achieved;

3281 6. A monitoring plan that includes:

3282 a. monitoring schedule of at least three years, unless otherwise directed by the
3283 department;
3284 b. success criteria for mitigation activities to meet at the end of each
3285 monitoring year;
3286 c. monitoring methods sufficient to determine if success criteria are being met
3287 throughout the mitigation area;
3288 d. maintenance plans to ensure success criteria are met; and
3289 e. contingency plans in the event that mitigation fails to meet success criteria;

3290 7. A site plan depicting:

Commented [PR308]: Subsection D.5 spells out KC's expectations for an applicants compensatory mitigation plan. It helps set up the sequence of desired mitigation--on site first, off site, etc.

The plan allows Permitting staff to understand if proposed measures offset the impacts created by the actions and if the proposed mitigation is likely to be successful.

Commented [PR309]: Subsection D.6 describes expectations of a mitigation monitoring plan including the timeline and how success criteria are incorporated and addressed.

3291 a. mapped extents of all on-site critical areas and estimated extents of off-site
3292 critical areas;
3293 b. extents of all buffers applied in accordance with K.C.C. chapter 21A.24;
3294 c. Critical area setback line applied in accordance with K.C.C. 21A.24.200;
3295 d. Existing and proposed alterations, including but not limited to structures,
3296 impervious surfaces, utilities, clearing, nonnative landscaping, and grading; and
3297 e. All property lines, setbacks, and easements; and
3298 8. Any other information determined by the department to be necessary to
3299 determine compliance with this chapter.

Commented [PR310]: Subsection D.7 describes the details that should be included in a site plan for a critical area report, which shows information graphically that is needed to confirm compliance with code standards.

3300 SECTION X. Ordinance 10870, Section 460, as amended, and K.C.C.

3301 21A.24.130 are hereby amended to read as follows:

3302 A. If mitigation is required under this chapter to compensate for adverse impacts,

3303 ~~((unless otherwise provided, an applicant shall:~~

3304 ~~1. Mitigate adverse impacts to:~~

3305 ~~a. critical areas and their buffers; and~~

3306 ~~b. the development proposal as a result of the proposed alterations on or near~~
3307 ~~the critical areas; and~~

3308 ~~2. Monitor the performance of any required mitigation.))~~ the mitigation shall be
3309 designed to:

3310 1. Achieve no net loss of critical area ecological functions for each proposed
3311 development; and

3312 2. Not result in an adverse impact on other critical area functions.

Commented [PR312]: Updated to align with no net loss requirement in WAC. Existing language speaks to mitigating adverse impacts, but this isn't quite what present-day state law says. The proposed language is more precise and complies with state law.

3313 B. When mitigation measures are appropriate under the avoidance, minimization,
3314 and mitigation priority sequence in K.C.C. 21A.24.125, preferential consideration shall
3315 be given to measures that replace the impacted functions directly and in the immediate
3316 vicinity of the impact. The department may approve alternative mitigation within the
3317 watershed if the mitigation addresses limiting factors or identified critical needs for
3318 critical area resource conservation based on watershed or comprehensive resource
3319 management plans applicable to the area of impact. The department shall require
3320 appropriate safeguards, terms, or conditions as necessary to ensure no net loss of critical
3321 area ecological functions as conditions of approval for mitigation measures, which may
3322 include conservation easements, financial guarantees, and performance monitoring.

3323 C. The department shall not approve a development proposal until mitigation and
3324 monitoring plans are in place to mitigate for alterations to critical areas and buffers and
3325 financial guarantees have been posted in accordance with K.C.C. Title 27A.

3326 ((C)) D. Whenever mitigation is required, an applicant shall submit a critical
3327 area report ~~((that includes:~~

3328 1. An analysis of potential impacts;

3329 2. A mitigation plan that meets the specific mitigation requirements in this
3330 chapter for each critical area impacted; and

3331 3. A monitoring plan that includes:

3332 a. a demonstration of compliance with this title;

3333 b. a contingency plan in the event of a failure of mitigation or of unforeseen
3334 impacts if:

Commented [PR313]: While this section is about compensatory mitigation, it ties back to the mitigation sequencing requirements in 21A.24.125, affirming that applicants cannot jump ahead in the sequence and create impacts and mitigate them; they still must avoid and minimize impacts, then these mitigation standards come into play.

Commented [PR314]: Many on-site mitigation areas are impacted after the monitoring period is over and the bond is released. It has become clear to Permitting staff that measures are necessary in many cases to provide an additional protections against this.

Commented [PR315]: This introduces the preference for onsite mitigation earlier and provides more clarification about how the county will evaluate mitigation proposals. It also clarifies that the County shall require safeguards for both on- and off-site mitigation and lists some of the options available to ensure protection to make the County's authority to use these more explicit.

Commented [PR316]: Clarifies that relevant provisions in Title 27A must be met at this stage in development.

3335 ~~(1) the department determines that failure of the mitigation would result in a~~
3336 ~~significant impact on the critical area or buffer; or~~
3337 ~~(2) the mitigation involves the creation of a wetland; and~~
3338 ~~e. a monitoring schedule that may extend throughout the impact of the activity~~
3339 ~~or, for hazard areas, for as long as the hazard exists.~~

3340 ~~D.))~~ in accordance with this chapter.

3341 E. Mitigation shall not be implemented until after the department approves the
3342 mitigation and monitoring plan~~s~~. The applicant shall notify the department when
3343 mitigation is installed and monitoring is commenced and shall provide King County with
3344 reasonable access to the mitigation for the purpose of inspections during any monitoring
3345 period.

3346 ~~((E.))~~ F. If monitoring reveals a significant deviation from predicted impact or a
3347 failure of mitigation requirements, the applicant shall implement an approved
3348 contingency plan. The contingency plan constitutes new mitigation and is subject to all
3349 mitigation requirements, including a revised monitoring plan and revised financial
3350 guarantee requirements.

3351 SECTION X. Ordinance 15051, Section 151, as amended, and K.C.C.
3352 21A.24.133 are hereby amended to read as follows:

3353 A. To the maximum extent practical, and after application of the avoidance,
3354 minimization, and mitigation priority sequence in K.C.C. 21A.24.125, an applicant shall
3355 mitigate adverse impacts to a wetland or its buffer, aquatic area, riparian area, wildlife
3356 habitat conservation area, or wildlife habitat network, on or contiguous to the

Commented [PR317]: This list of items has been moved to the ecological and geological critical area report sections, which are now the sections that list report content requirements.

Commented [PR318]: Making plural to match other subsections.

Commented [PR319]: Updated to add more accurate terminology, since the plans and financial guarantees will need to have been revised to respond to the deviation in impact.

Commented [PR320]: Updated to reference 21A.24.125, which is where mitigation sequencing is discussed, to make it clear that an applicant cannot simply apply this section without the context of mitigation sequencing and cause impacts.

Commented [SK321]: Riparian areas (formerly aquatic area buffers) are now stand-alone critical areas that must be protected.

Commented [PR322]: Added wetland buffers and riparian areas to this list since mitigation is required for buffer impacts, and it would keep the code internally consistent to clarify that mitigation should also occur on-site.

Commented [PR323]: Wildlife habitat conservation area and wildlife habitat network should remain as-is here. Both fall within the GMA umbrella term FWHCA, but FWHCA as an organizational term does not have its own development standards in KCC, and therefore mitigation would not be required for FWHCAs specifically.

3357 development site. The department may approve mitigation that is off the development
3358 site if an applicant demonstrates that:

3359 1. It is not practical to mitigate on or contiguous to the development proposal
3360 site; and

3361 2. The off-site mitigation will achieve equivalent or greater hydrological, water
3362 quality, and wetland, riparian area, or aquatic area habitat functions.

3363 B. When off-site mitigation is authorized, the department shall give priority to
3364 locations within the same drainage subbasin as the development proposal site that meet
3365 the following:

3366 1. Mitigation banking sites and resource mitigation reserves as authorized by
3367 this chapter;

3368 2. Private mitigation sites that are established in compliance with the
3369 requirements of this chapter and approved by the department; and

3370 3. Public mitigation sites that have been ranked in a process that has been
3371 supported by ecological assessments, including wetland and aquatic areas established as
3372 priorities for mitigation in King County (~~basin plans or other~~) watershed plans.

3373 C. The department ~~((may))~~ shall require documentation that the mitigation site
3374 has been permanently preserved from future development or alteration that would be
3375 inconsistent with the functions of the mitigation. The documentation may include, but is
3376 not limited to, a conservation easement or other agreement between the applicant and
3377 owner of the mitigation site. King County may enter into agreements or become a party
3378 to any easement or other agreement necessary to ensure that the site continues to exist in
3379 its mitigated condition.

Commented [PR324]: Riparian areas are being added to this provision because they are now a type of FWHCA being protected in part because of their habitat function, consistent with BAS. They are no longer *only* buffers to aquatic areas, designated to protect the aquatic area.

Commented [SK325]: Revision from "may" to "shall" requires proof that mitigation has been permanently preserved in an appropriate manner. It is unclear why this was not required with original code, since allowing development or alteration of a mitigation site inconsistent with the functions of the mitigation is not acceptable management practice.

3380 D. The department shall maintain a list of sites available for use for off-site
3381 mitigation projects.

3382 E.1. The department and the department of natural resources and parks have
3383 ~~((develop))~~ developed a program to allow the payment of a fee in lieu of providing
3384 mitigation on a development site. The program addresses:

3385 a. when the payment of a fee is allowed considering the availability of a site in
3386 geographic proximity with comparable hydrologic and biological functions and potential
3387 for future habitat fragmentation and degradation; and

3388 b. the use of the fees for mitigation on public or private sites that have been
3389 ranked according to ecological criteria through one or more programs that have included
3390 a public process.

3391 2. The in lieu fee mitigation program shall submit a report by May 1 in the first
3392 year of the biennial budget cycle, filed in the form of a paper original and an electronic
3393 copy with the clerk of the council, who shall retain the original and provide an electronic
3394 copy to all councilmembers, the council chief of staff, and the lead staff for the
3395 transportation, economy, and environment committee or its successor. The report should
3396 address the following:

3397 a. information on the amount and source of revenues received by the program;

3398 b. a description and rationale for projects selected for funding;

3399 c. an accounting of budgeted and actual expenditures made; and

3400 d. the status of all projects approved in the previous five years, and anticipated
3401 completion date for those projects, if not yet complete.

3402 SECTION X. Ordinance 15051, Section 152, as amended, and K.C.C.

3403 21A.24.137 are hereby amended to read as follows:

3404 The department may approve mitigation to compensate for the adverse impacts of
3405 a development proposal to critical areas through ~~((and through use of an in lieu fee
3406 program, or in lieu fee program))~~ the King County mitigation reserves program.

3407 SECTION X. Ordinance 10870, Section 464, as amended, and K.C.C.

3408 21A.24.170 are hereby amended to read as follows:

3409 A. Except as otherwise provided in subsection ~~((of))~~ C. of this section, the owner
3410 of any property containing critical areas or buffers on which a development proposal is
3411 submitted or any property on which mitigation is established as a result of development
3412 shall file a notice on title approved by King County with the records and licensing
3413 services division. The notice shall inform the public of:

- 3414 1. The presence of critical areas or buffers or mitigation sites on the property;
3415 2. The application of this chapter to the property; ~~((and))~~
3416 3. The possible existence of limitations on actions in or affecting the critical
3417 areas or buffers or the fact that mitigation sites may exist; and

3418 4. The existence of approved wetland buffer or riparian area averaging plans on
3419 the property.

3420 B. The applicant for a development proposal shall submit proof that the notice
3421 required by this section has been filed for public record before King County approves any
3422 development proposal for the property or, in the case of subdivisions, short subdivisions,
3423 and binding site plans, at or before recording of the subdivision, short subdivision, or
3424 binding site plan.

Commented [PR326]: Removed to correct error in existing code. ("*Reviser's note: Language did not appear in Ordinance 17539 but was not struck through.")

Commented [SK327]: Clarifies that the required notice is a notice on title.

Commented [PR328]: Added to allow prospective property buyers to know if the buffers or riparian areas have been modified from their standard application, as it affects where they may be able to alter the property. Without documents associated with the title, this information is only available within permitting documents and most people won't know to ask about it.

3425 C. The notice required under subsection A. of this section is not required if:

3426 1. The property is a public ~~((right of way))~~ right of way or the site of a

3427 permanent public facility;

3428 2. The development proposal does not require ~~((sensitive))~~ critical area review

3429 under K.C.C. 21A.24.100.C.; or

3430 3. The property only contains a critical aquifer recharge area or an erosion

3431 hazard area.

3432 D. Notices on title shall run with the land regardless of ownership, use, or land

3433 division. However, a property owner may apply to the county to have a notice on title

3434 removed or amended, under either of the following circumstances:

3435 1. The department, as part of a critical areas review of a permit application,

3436 determines the information contained in an existing notice on title is no longer accurate

3437 because information about a critical area has changed, such as in its type or location; or

3438 2. An ordinance adopted an updated critical areas map indicating a

3439 reclassification or declassification of the critical area on the subject property.

3440 SECTION X. Ordinance 10870, Section 465, as amended, and K.C.C.

3441 21A.24.180 are hereby amended to read as follows:

3442 A. The applicant shall establish critical area tracts to delineate and protect

3443 ~~((those))~~ critical areas and buffers, including on-site mitigation areas for critical areas,

3444 listed ~~((below))~~ in subsection A.1 through 6. of this section, in development proposals for

3445 subdivisions, short subdivisions, or binding site plans and shall record the tracts on all

3446 documents of title of record for all affected lots:

3447 1. ~~((AHH))~~ Landslide hazard areas and buffers that are one acre or more in size;

Commented [PR329]: The hyphens in "right of way" are proposed for removal, because according to page 42 of the KC Drafting Guide, "right of way" (without the hyphens), is the correct spelling when used as a noun.

Commented [PR330]: Updating outdated term to current terminology.

Commented [PR331]: Erosion hazard areas are very extensive and relatively inconsequential to development. The administrative burden of filing the notice on title for EHA only or EHA+CARA sites does not provide a substantial advisory benefit to potential buyers.

Commented [SK332]: This section provides a process for landowners to amend or update an existing notice on title.

Commented [PR333]: If there is a determination the applicant seeks to have recorded in a notice on title, they could still *elect* to have it recorded (even though this is not *required* under C.3); this provision allows that recorded information to be removed or amended if new information becomes available.

Commented [SK334]: Clarifies that mitigation areas for critical areas that are impacted by development must be protected in the same manner as the original critical areas.

3448 2. ~~((All-s))~~ Steep slope hazard areas and buffers that are one acre or more in size;

3449 3. ~~((All-w))~~ Wetlands and buffers; ~~((and))~~

3450 4. ~~((All-a))~~ Aquatic areas ~~((and buffers))~~;

3451 5. Riparian areas;

3452 6. Alluvial fan hazard areas that are one acre or more in size; and

3453 7. Wildlife habitat networks.

3454 B. A critical area tract established under subsection A. of this section shall be

3455 either:

3456 1. ~~((h))~~ Held in an undivided interest by each owner of a building lot within the

3457 development with this ownership interest passing with the ownership of the lot~~((s))~~; or

3458 2. ~~((s))~~ Shall be held by an incorporated homeowner's association or other legal

3459 entity that ensures the ownership, maintenance, and protection of the tract.

3460 C. The long-term management goals for critical area tracts established under

3461 subsection A. of this section are to protect and enhance critical area functions and values,

3462 including, but not limited to, providing fish and wildlife habitat and protecting the public

3463 from geologic hazards and increased stormwater runoff. The specific management

3464 strategy for each tract shall be clearly defined before preliminary approval of the

3465 subdivision or binding site plan.

3466 D. For an off-site critical area mitigation area, the applicant shall place the

3467 mitigation area in a critical area tract in accordance with subsection A. of this section, or

3468 in a perpetual conservation tract or easement as approved by the director.

3469 E. In lieu of the requirements of subsections A. and D. of this section, the director

3470 may allow an applicant to include critical areas in resource tracts established under

Commented [PR335]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR336]: AFHA added to reflect that they are defined as a type of Geologically Hazardous Area now, and no longer under the umbrella of Landslide Hazard Areas. Given their unsuitability for new buildable lots, they should be included in this list of areas that should be kept in a tract.

Commented [PR337]: Added because it appears to have been left out as an oversight, given that WHN development standards mention tracts multiple times.

Commented [SK338]: Provides options for protecting off-site mitigation areas that reflect their varying circumstances - some may be on private property, some may be owned by a conservation group, some may be on public property, etc.

3471 K.C.C. 21A.14.040.B.7. The resource tract management plan shall clearly state that the
3472 purpose of the resource portion is for resource management and the purpose of the
3473 designated critical areas is for critical area protection and enhancement and protecting the
3474 public from geologic hazards and increased stormwater runoff.

3475 E. Site plans submitted as part of building permits, clearing and grading permits,
3476 or other development permits shall include and delineate:

3477 1. ~~((All-f))~~Flood hazard areas, as determined by King County in accordance
3478 with K.C.C. 21A.24.230;

3479 2. Landslide, volcanic, ~~tsunami~~, coal mine, and steep slope, ~~and alluvial fan~~
3480 hazard areas;

3481 3. Aquatic areas, ~~riparian areas~~, and wetlands;

3482 4. Wildlife habitat conservation areas and the wildlife habitat network;

3483 5. ~~Critical area ((B))~~buffers; and

3484 6. ~~((Building)) Critical area~~ setbacks as required by K.C.C. 21A.24.200.

3485 F. If only a part of the development site has been mapped, the part of the site that
3486 has not been mapped shall be clearly identified and labeled on the site plans.

3487 SECTION X. Ordinance 10870, Section 467, as amended, and K.C.C.
3488 21A.24.200 are hereby amended to read as follows:

3489 Unless otherwise provided, an applicant shall set ~~((buildings and other))~~ structures
3490 back a ~~minimum~~ distance of fifteen feet from the edges of all critical area buffers, or
3491 from the edges of all critical areas ~~((:))~~ if no buffers are required. When the site
3492 disturbance is within a critical area ~~or~~ buffer, the ~~((building)) critical area~~ setback line
3493 shall be measured from the ~~((building)) outermost edge of the structure~~ footprint to the

Commented [PR339]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS. These areas should be shown on site plans.

Commented [SK340]: Clarification.

Commented [PR341]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [PR342]: These specific items are listed because the intent is to not require some critical areas that are extensive and not particularly relevant to siting or clearing limits to be shown on plans. Adding areas like erosion hazard areas, CARAs, and seismic hazards to site plans often makes plans more cluttered and illegible with no advantage.

Commented [SK343]: "Structures" is a more expansive term than "buildings". All buildings are structures, but not all structures are buildings, as noted in the exceptions below.

Commented [PR344]: Wording updated to provide the flexibility to provide a larger critical area setback.

Commented [PR345]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [CJ346]: To match similar language in a previous section.

3494 edge of the approved site disturbance. The following are allowed in the ~~((building))~~

3495 critical area setback area:

3496 A. Landscaping;

3497 B. Uncovered decks less than eighteen inches above grade;

3498 C. Building overhangs if the overhangs do not extend more than eighteen inches
3499 into the setback area;

3500 D. Impervious ground surfaces, such as driveways and patios, but the
3501 improvements are required to meet any special drainage provisions specified in public

3502 rules adopted for ~~((the various))~~ critical areas and the King County Surface Water Design

3503 Manual;

3504 E. Utility service connections as long as the excavation for installation avoids
3505 impacts to the critical area or buffer; and

3506 F. Minor encroachments if adequate protection of the buffer will be maintained.

3507 SECTION X. Ordinance 15051, Section 158, as amended, and K.C.C.

3508 21A.24.205 are hereby amended to read as follows:

3509 Based upon a geological critical area report containing a coal mine hazard

3510 assessment prepared in accordance with this chapter, the department shall classify coal
3511 mine hazard areas as follows:

3512 A. Declassified coal mine areas are those areas where the risk of catastrophic
3513 collapse is not significant and that the hazard assessment report has determined do not
3514 require special engineering or architectural recommendations to prevent significant risks
3515 of property damage. Declassified coal mine areas typically include, but are not limited

Commented [PR347]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [PR348]: Revised for consistency with zoning/building requirements re encroachment into setbacks, and to allow for additional area to build and maintain "uncovered decks less than eighteen inches". Low decks function more like a patio but high decks typically require a construction/maintenance perimeter like a house would, therefore they are being added here.

Commented [PR349]: Proposed for removal because "various critical areas" is not a term that has been used before.

Commented [PR350]: Added because the SWDM contains standards for drainage.

Commented [PR351]: Updated because avoidance of critical area--not just buffers--should also be in this provision.

Commented [PR352]: Updated to use current, more precise terminology.

3516 to, areas underlain or directly affected by coal mines at depths of more than three hundred
3517 feet as measured from the surface;

3518 B. Moderate coal mine hazard areas are those areas that pose significant risks of
3519 property damage that can be mitigated by implementing special engineering or
3520 architectural recommendations. Moderate coal mine hazard areas typically include, but
3521 are not limited to, areas underlain or directly affected by abandoned coal mine workings
3522 from a depth of zero, which is the surface of the land, to three hundred feet or with
3523 overburden-cover-to-seam thickness ratios of less than ten to one depending on the
3524 inclination of the seam; and

3525 C. Severe coal mine hazard areas are those areas that pose a significant risk of
3526 catastrophic ground surface collapse. Severe coal mine hazard areas typically include,
3527 but are not limited to, areas characterized by unmitigated openings such as entries,
3528 portals, adits, mine shafts, air shafts, timber shafts, sinkholes, improperly filled sinkholes,
3529 and other areas of past or significant probability for catastrophic ground surface collapse;
3530 or areas characterized by, overland surfaces underlain or directly affected by abandoned
3531 coal mine workings from a depth of zero, which is the surface of the land, to one hundred
3532 fifty feet.

3533 SECTION X. Ordinance 19128, Section 18, as amended, and K.C.C. 21A.24.223
3534 are hereby amended to read as follows:

3535 The purpose of K.C.C. 21A.24.224 through K.C.C. 21A.24.272 is to promote
3536 public health, safety, and general welfare, and to minimize public and private losses due
3537 to flooding in flood hazard areas, while recognizing the value of habitat restoration,
3538 through provisions designed to:

Commented [PR353]: The edits in this section align the flood code with state-mandated updates to our Best Available Science and County efforts to achieve no net loss of critical area functions and values.

3539 A. Protect human life and health;
3540 B. Minimize the expenditure of public money for costly flood-control projects;
3541 C. Minimize the need for rescue and relief efforts that are associated with
3542 flooding and generally undertaken at the expense of the general public;
3543 D. Minimize prolonged business interruptions;
3544 E. Minimize damage to public infrastructure, buildings, and utilities, such as;
3545 water and gas mains; electric, telephone, and sewer lines; and streets and bridges located
3546 in flood hazard areas;
3547 F. Help maintain a stable tax base by providing for the sound use and
3548 development of flood hazard areas so as to minimize blight areas caused by flooding;
3549 G. Notify potential buyers that the property is in a special flood hazard area;
3550 H. Notify those who occupy flood hazard areas that they assume responsibility
3551 for their actions;~~((and))~~
3552 I. Participate in and maintain eligibility for flood insurance and disaster relief;
3553 and
3554 J. Preserve and restore the natural and beneficial functions of floodplains.
3555 SECTION X. Ordinance 19128, Section 19, as amended, and K.C.C. 21A.24.224
3556 are hereby amended to read as follows:
3557 The definitions in K.C.C. chapter 21A.06 and the following definitions apply to
3558 K.C.C. 21A.24.223 through K.C.C. 21A.24.272. Where definitions in this section differ
3559 from the definitions in K.C.C. chapter 21A.06, the following definitions shall control:

3560 A. Accessory building: a nonresidential building on the same site as a principal
3561 building, the use of which is subordinate and incidental to the use of the principal
3562 building;

3563 B. Agricultural building: a nonresidential building used exclusively in
3564 connection with the production, harvesting, storage, raising or drying of agricultural
3565 products or aquatic animals or plants;

3566 C. Area of shallow flooding: an area designated as AO or AH Zone on the Flood
3567 Insurance Rate Map with a one percent or greater annual chance of flooding to an
3568 average depth of one to three feet, where a clearly defined channel does not exist, the
3569 path of flooding is unpredictable and velocity flow may be evident. Such flooding is
3570 characterized by ponding or sheet flow;

3571 D. Basement: any area of a building having its floor subgrade, which means
3572 below ground level, on all sides;

3573 E. Building: a walled and roofed structure that is principally above ground,
3574 including gas or liquid storage tanks and manufactured homes;

3575 F. Highest adjacent grade: the highest natural elevation of the ground surface
3576 before construction next to the proposed walls of a building;

3577 G. Lowest floor: the lowest floor of the lowest enclosed area, including the
3578 basement. An unfinished or flood-resistant enclosure, usable solely for parking of
3579 vehicles, building access or storage in an area other than a basement, is not considered a
3580 building's lowest floor, but only if the enclosure meets the design requirements of K.C.C.
3581 21A.24.240;

3582 H. Nonresidential building: any building that is not a residential building;

3583 I. Recreational vehicle: a vehicle that is:

3584 1. Built on a single chassis;

3585 2. Four hundred square feet or less when measured at the largest horizontal

3586 projection;

3587 3. Designed to be self-propelled or permanently towable by a light duty truck;

3588 and

3589 4. Designed primarily not for use as a permanent dwelling unit but as a

3590 temporary living quarters for recreational camping, travel or seasonal use;

3591 J. Residential building: a building used for overnight human occupancy, except

3592 for a hospital;

3593 K. Salmon recovery project: A project whose primary purpose is to promote

3594 recovery of salmonids and their habitats by restoring riparian areas, degraded fish habitat,

3595 fish passage, or the physical, chemical or biological processes that create and sustain fish

3596 habitat. Salmon recovery projects must meet at least one of the following five criteria:

3597 1. Qualify for streamlined state permitting under the Fish Habitat Enhancement

3598 Projects program in accordance with RCW 77.55.181, or the Habitat Restoration Pilot

3599 Program in accordance with RCW 77.55.480;

3600 2. Qualify for streamlined Clean Water Act Section 404 permitting under

3601 Nationwide Permit 27 from the US Army Corps of Engineers;

3602 3. Qualify for streamlined Endangered Species Act consultation using Limit 8,

3603 or a National Marine Fisheries Service or United States Fish and Wildlife Service

3604 programmatic consultation for restoration actions such as the Fish Passage and

3605 Restoration Programmatic Consultation (WCR-2017-7216);

3606 4. Be funded in whole or part by the King County Mitigation Reserve Program;
3607 or
3608 5. Be identified in the Puget Sound Salmon Recovery Plan, or the Four Year
3609 Work Plan of a Water Resource Inventory Area that has been approved by the Puget
3610 Sound Partnership.

3611 L. Start of construction: includes substantial improvement, and means the date
3612 the building permit was issued, but only if the actual start of construction, repair,
3613 reconstruction, rehabilitation, addition, placement, or other improvement was within one
3614 hundred eighty days of the permit issuance date. "The actual start of construction" means
3615 either the first placement of permanent construction of a building on a site, such as the
3616 pouring of slab or footings, the installation of piles, the construction of columns or any
3617 work beyond the stage of excavation or the placement of a manufactured home on a
3618 foundation. Permanent construction does not include: land preparation, such as clearing,
3619 grading and filling; the installation of streets or walkways; excavation for a basement,
3620 footings, piers or foundations or the erection of temporary forms; or the installation on
3621 the property of accessory buildings, such as garages or sheds not occupied as dwelling
3622 units or not part of the main building. For a substantial improvement, "the actual start of
3623 construction" means the first alteration of any wall, ceiling, floor, or other structural part
3624 of a building, whether or not that alteration affects the external dimensions of the
3625 building;

3626 ~~((L))~~ M. Substantial damage: damage of any origin sustained by a building
3627 whereby the cost of restoring the building to before its damaged condition would equal or
3628 exceed fifty percent of the market value of the building before the damage occurred;

Commented [PR354]: This new definition for "salmon recovery project." lists 5 federal, state, and regionally-recognized project types that have established criteria. Salmon recovery projects are not proposed to be exempt from King County floodplain development permits in the SFHA. Rather, this exempts salmon recovery projects from some higher King County floodplain development requirements that exceed FEMA minimum standards.

3629 ~~((M))~~ N. Substantial improvement:

3630 1. Any maintenance, repair, structural modification, reconstruction, addition, or

3631 other improvement of a building, the cost of which equals or exceeds fifty percent of the

3632 market value of the building either:

3633 a. before the start of construction; or

3634 b. if the building has been damaged and is being restored, before the damage

3635 occurred;

3636 2. Includes buildings that have incurred substantial damage regardless of the

3637 actual repair work performed; and

3638 3. Does not include:

3639 a. improvement of a building to correct existing violations of state or local

3640 health, sanitary, or safety code specifications that have been identified by the local code

3641 enforcement official and that are the minimum necessary to ensure safe living conditions;

3642 or

3643 b. alteration of a building listed on the national Register of Historic Places or a

3644 state or local inventory of historic resources, but only if the alteration will not preclude

3645 the building's continued designation as a historic building;

3646 ~~((N))~~ O. Utility: an on-site system providing service to a building or structure.

3647 Utilities may be public or private and include, but are not limited to, sewer, gas,

3648 electrical, water systems, heating, ventilation, plumbing, air conditioning equipment, and

3649 ductwork; and

3650 ~~((Θ))~~ P. Water surface elevation: the height, in relation to the North American
3651 Vertical Datum, which is also known as NAVD, of 1988, or other datum, of floods of
3652 various magnitudes and frequencies in the floodplains of coastal or riverine areas.

3653 SECTION X. Ordinance 10870, Section 471, as amended, and K.C.C.
3654 21A.24.240 are hereby amended to read as follows:

3655 The following development standards apply to floodplain development and
3656 alterations on sites within the zero-rise flood fringe:

3657 A.1. Floodplain development and alterations shall not reduce the effective base
3658 flood storage volume of the floodplain. Floodplain development shall provide
3659 compensatory storage if grading or other activity displaces any effective flood storage
3660 volume.

3661 2. Compensatory storage is not required for:

3662 a. grading or fill placed within the foundation of an existing residential
3663 building to bring the interior foundation grade to the same level as the lowest adjacent
3664 exterior grade~~((:))~~ ; or

3665 b. salmon recovery projects.

3666 3. Compensatory storage shall:

3667 ~~((+))~~ a. ~~((P))~~ provide equivalent volume at equivalent elevations to that which
3668 is being displaced. For this purpose, equivalent elevations means having similar
3669 relationship to ordinary high water and to the best available ten-year, fifty-year, and one-
3670 hundred-year water surface profiles. relationship to ordinary high water and to the best
3671 available ten-year the one-hundred-year surface profiles is less than one foot, equivalent

3672 elevations means having similar relationships to ordinary high water and to the best
3673 available ten-year and one-hundred-year water surface profiles;
3674 ~~((2-))~~ b. ~~((H))~~hydraulically connect to the source of flooding;
3675 ~~((3-))~~ c. ~~((P))~~provide compensatory storage in the same construction season as
3676 when the displacement of flood storage volume occurs and before the flood season begins
3677 on September 30 for that year;
3678 ~~((4-))~~ d. ~~((O))~~occur on the site. The director may approve equivalent
3679 compensatory storage off the site if legal arrangements, acceptable to the department, are
3680 made to ensure that the effective compensatory storage volume will be preserved over
3681 time; and
3682 ~~((5-))~~ 4. The director may approve ~~((e))~~ off-site compensatory storage through
3683 a compensatory storage bank managed by the department of natural resources and parks;
3684 B. A structural engineer shall design and certify all elevated buildings and submit
3685 the design to the department;
3686 C. A civil engineer shall prepare a base flood depth and base flood velocity
3687 analysis and submit the analysis to the department. A base flood depth and base flood
3688 velocity analysis is not required for agricultural buildings or salmon recovery projects.
3689 Floodplain development and alterations are not allowed if the base flood depth exceeds
3690 three feet and the base flood velocity exceeds three feet per second, except for the
3691 following projects:
3692 1. Agricultural structures and farm pads;
3693 2. Roads and bridges;
3694 3. Utilities;

3695 4. Surface water flow control or surface water conveyance systems;
3696 5. Public park structures; ~~((and))~~
3697 6. Flood hazard mitigation projects, such as, but not limited to construction,
3698 repair, or replacement of flood protection facilities or for building elevations or
3699 relocations; ~~and~~
3700 7. Salmon recovery projects;
3701 D. Subdivisions, short subdivisions, ~~((urban planned developments))~~ and binding
3702 site plans should be consistent with the need to minimize flood damage within the flood
3703 hazard area and shall meet the following requirements:
3704 1. New building lots shall include five thousand square feet or more of buildable
3705 land outside the zero-rise floodway;
3706 2. All public infrastructure and utilities such as sewer, gas, electrical, and water
3707 systems are consistent with subsection J. of this section;
3708 3. A civil engineer shall prepare detailed base flood elevations in accordance
3709 with FEMA guidelines for all new lots;
3710 4. A development proposal shall provide adequate drainage in accordance with
3711 the King County Surface Water Design Manual to reduce exposure to flood damage; and
3712 5. The face of the recorded subdivision, short subdivision, ~~((urban planned~~
3713 ~~development))~~ or binding site plan shall include the following for all lots:
3714 a. setback areas restricting structures to designated buildable areas;
3715 b. base flood data and sources and flood hazard notes including, but not
3716 limited to, base flood elevation, required flood protection elevations, the boundaries of

Commented [PR355]: It is important to exempt salmon recovery projects from compensatory storage requirements. These provisions can limit the effectiveness of restoration and fish passage projects by restricting cut and fill in degraded channel and floodplain areas. This edit provides needed flexibility in the implementation of effective restoration projects while keeping our code in line with federal requirements.

For the edits in Subsection C.7 (base flood depth and velocity analysis), though the provision provides better protections for development, it is not appropriate for projects that must be located in rivers and streams, such as salmon recovery projects.

3717 the floodplain and the zero-rise floodway, if determined, and channel migration zone
3718 boundaries, if determined; and

3719 c. include the following notice:

3720 "Lots and buildings located within flood hazard areas may be inaccessible by
3721 emergency vehicles during flood events. Residents and property owners should take
3722 appropriate advance precautions.";

3723 E. New, substantially improved, or converted residential buildings and flood
3724 mitigation home elevations shall meet the following standards:

3725 1. Elevate the lowest floor, including basement, to or above the flood protection
3726 elevation;

3727 2. Fully enclosed areas below the lowest floor and below the flood protection
3728 elevation, including crawlspaces or attached garages, shall be designed to automatically
3729 equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of
3730 floodwaters. Designs for meeting this requirement must either be certified by a registered
3731 professional engineer or architect or meet or exceed the following:

3732 a. a minimum of two openings having a net total area of no less than one
3733 square inch for every one square foot of enclosed space shall be provided. The openings
3734 shall be located on at least two opposite-side walls in the direction of flow;

3735 b. the bottom of all openings shall not be higher than one foot above the
3736 adjacent grade;

3737 c. openings may be equipped with screens, louvers, valves, or other coverings
3738 or devices, but only if they allow the automatic entry and exit of floodwaters; and

3739 d. if a building has more than one enclosed area, each area must have openings
3740 to allow floodwaters to automatically enter and exit;

3741 3. Fully enclosed areas below the lowest floor meeting the criteria in subsection
3742 E.2. of this section shall not have all sides of the building below grade;

3743 4. Fully enclosed areas below the lowest floor shall be used solely for the
3744 parking of vehicles, building access or limited storage of readily removable items;

3745 5. Use materials and methods that are resistant to and minimize flood damage;
3746 and

3747 6. Elevate or dry floodproof all building utilities to or above the flood protection
3748 elevation;

3749 F. New, substantially improved, or converted nonresidential buildings and flood
3750 mitigation elevations of existing nonresidential buildings shall meet the following
3751 standards:

3752 1. Elevate the lowest floor to or above the flood protection elevation, except as
3753 otherwise provided in subsection G. of this section, or dry floodproof the building and
3754 building utilities to or above the flood protection elevation. The applicant shall provide
3755 certification by a civil or structural engineer that the dry floodproofing methods are
3756 adequate to withstand the flood-depths, pressures, velocities, impacts, uplift forces, and
3757 other factors associated with the base flood. After construction, the engineer shall certify
3758 that the permitted work conforms to the approved plans and specifications;

3759 2. Use materials and methods that are resistant to and minimize flood damage;

3760 3. For nonresidential buildings that have not been dry floodproofed, design fully
3761 enclosed areas below the lowest floor and below the flood protection elevation, including

3762 crawlspaces or attached garages, to automatically equalize hydrostatic flood forces on
3763 exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this
3764 requirement must either be certified by a registered professional engineer or architect or
3765 meet or exceed the following:

3766 a. a minimum of two openings having a net total area of no less than one
3767 square inch for every one square foot of enclosed space shall be provided. The openings
3768 shall be located on at least two opposite-side walls in the direction of flow;

3769 b. the bottom of all openings shall not be higher than one foot above adjacent
3770 grade;

3771 c. openings may be equipped with screens, louvers, valves, or other coverings
3772 or devices, but only if they allow the automatic entry and exit of floodwaters; and

3773 d. if a building has more than one enclosed area, each area shall have openings
3774 to allow floodwaters to automatically enter and exit;

3775 4. Not have all sides of the building below grade for fully enclosed areas below
3776 the lowest floor meeting the criteria in subsection F.3. of this section;

3777 5. Fully enclosed areas below the lowest floor shall be used solely for the
3778 parking of vehicles, building access or limited storage of readily removable items; and

3779 6. Elevate or dry floodproof all building utilities to or above the flood protection
3780 elevation;

3781 G. New, substantially improved, or converted accessory buildings may have the
3782 lowest floor below the flood protection elevation, but only if the building complies with
3783 the following:

3784 1. The building shall not be used for human habitation;

3785 2. The use of the building shall be limited to parking of vehicles or limited
3786 storage of readily removable items;

3787 3. The floor area shall not exceed four hundred square feet;

3788 4. The building should be constructed with materials and practices to minimize
3789 flood damage;

3790 5. The building shall be built of and have flood-resistant materials for portions
3791 below the flood protection elevation;

3792 6. The building shall be designed to automatically equalize hydrostatic flood
3793 forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for
3794 meeting this requirement must either be certified by a registered professional engineer or
3795 architect or must meet or exceed the following:

3796 a. a minimum of two openings having a net total area of no less than one
3797 square inch for every one square foot of enclosed space shall be provided. The openings
3798 shall be located on at least two opposite-side walls in the direction of flow;

3799 b. the bottom of all openings shall not be higher than one foot above adjacent
3800 grade; and

3801 c. openings may be equipped with screens, louvers, valves, or other coverings
3802 or devices, but only if they allow the automatic entry and exit of floodwaters;

3803 7. Building utilities shall not be installed except electrical fixtures, which must
3804 be elevated or dry floodproofed to or above the flood protection elevation; and

3805 8. The building shall be constructed and placed on the site so as to offer the
3806 minimum resistance to the flow of floodwaters;

3807 H. Anchor all new or substantially improved buildings to prevent flotation,
3808 collapse, or lateral movement of the building. The department shall approve the method
3809 used to anchor the building;

3810 I.1. Newly sited ~~((manufactured))~~ mobile homes and substantial improvements of
3811 existing ~~((manufactured))~~ mobile homes shall meet the standards in subsections E. and H. of
3812 this section and shall be installed using methods and practices that minimize flood damage;

3813 2. All ~~((manufactured))~~ mobile homes within a new mobile home park or
3814 expansion of an existing mobile home park must meet the requirements of this subsection I.;

3815 3. In a new or existing mobile home park located in a flood hazard area, no
3816 buildings other than mobile homes are allowed;

3817 J.1. New and replacement public infrastructure utilities including, but not limited
3818 to, sewage treatment and storage facilities, shall be elevated or dry floodproofed to or
3819 above the flood protection elevation~~((§))~~.

3820 2. New on-site sewage disposal systems should be located outside of the
3821 floodplain. When there is insufficient area outside the floodplain, new on-site sewage
3822 disposal systems are allowed only in the zero-rise flood fringe. On-site sewage disposal
3823 systems in the zero-rise flood fringe shall be designated and located to avoid:

- 3824 a. impairment to the system during flooding; and
3825 b. contamination from the system during flooding~~((§))~~.

3826 3. Design all new and replacement water supply systems to minimize or
3827 eliminate infiltration of floodwaters into the system~~((§))~~.

3828 4. ~~((a))~~ Above-ground utility transmission lines are allowed only for the
3829 transport of nonhazardous substances or electricity~~((§))~~.

3830 5. Underground utility transmission lines transporting hazardous substances
3831 shall be buried at a minimum depth of four feet below the maximum depth of scour for
3832 the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy
3833 so that any potential for flotation or upward migration is eliminated(~~(; and)~~).

3834 6. New water wells shall be located where not subject to ponding and not in the
3835 FEMA floodway. The well shall be protected to the flood protection elevation and shall
3836 be protected from any surface or subsurface drainage capable of impairing the quality of
3837 the groundwater supply, in accordance with WAC 173-160-171;

3838 K. Critical facilities are allowed within the zero-rise flood fringe only when a
3839 feasible alternative site is not available and the following standards are met, in addition to
3840 the other applicable standards in this section:

3841 1. Elevate the lowest floor to the five-hundred year floodplain elevation or three
3842 or more feet above the base flood elevation, whichever is higher;

3843 2. Dry floodproof and seal buildings to ensure that hazardous substances are not
3844 displaced by or released into floodwaters; and

3845 3. Elevate access routes to or above the base flood elevation from the critical
3846 facility to the nearest maintained public street or roadway;

3847 L. New construction or expansion of existing farm pads is allowed only on a site
3848 with existing agriculture if emergency flood relief is required for the protection of
3849 livestock or assets or for operations that must continue during flood events as follows:

3850 1. A farm pad is allowed only if there is no other suitable holding area on the
3851 site outside the floodplain;

3852 2. Construct the farm pad to the standards in an approved farm management
3853 plan prepared in accordance with K.C.C. 21A.24.051 and K.C.C. chapter 21A.30;
3854 3. The farm pad proposal shall demonstrate compliance with the following:
3855 a. flood storage compensation consistent with subsection A. of this section;
3856 b. siting and sizing that do not increase base flood elevations consistent with
3857 K.C.C. 21A.24.250.B. or, if any portion of the farm pad is located in the FEMA
3858 floodway, siting and sizing that do not increase base flood elevations consistent with
3859 K.C.C. 21A.24.260.B.;
3860 c. siting that is located in the area least subject to risk from floodwaters; and
3861 d. an alternatives analysis demonstrating adverse impacts to wetlands, wetland
3862 buffers, and ~~((aquatic area buffers))~~ riparian areas have ~~((been minimized))~~ followed
3863 avoidance, minimization, and mitigation sequencing outlined by K.C.C. 21A.24.125;
3864 4. The farm pad is constructed to base flood elevation plus one foot. An
3865 elevation report shall be completed after construction to demonstrate compliance with
3866 this elevation requirement;
3867 5.a. The farm pad should be sized as is necessary for the protection of livestock
3868 and assets and operations that must continue during flood events;
3869 b. for farm pads larger than two thousand square feet of finished usable
3870 surface, a site specific evaluation of agricultural operations must demonstrate the need for
3871 the size of the pad; and
3872 c. for farm pads larger than ten thousand square feet, an area-wide analysis
3873 must demonstrate that sufficient flood storage is available for reasonably foreseeable
3874 future land use needs in the vicinity;

Commented [PR356]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR357]: Updated to reference 21A.24.125 to make it clear that the alternatives analysis must incorporate avoidance and minimization before impacts needing mitigation can be created.

3875 6. If there are multiple areas on a site that meet all of the applicable criteria, the
3876 farm pad should be located as far as practical from the interior property lines;

3877 7. Agricultural buildings are allowed on a farm pad as shelter for livestock or
3878 other farm animals, greenhouses for plant starts to be used on the property, milking
3879 parlors, storage of farm vehicles and agricultural equipment, and shelter for farm
3880 products including, but not limited to, feed, seeds, flower bulbs, and hay and farm
3881 operations that must continue during a flood event. Agricultural buildings allowed on a
3882 farm pad shall not be used for retail operations or any residential or public use; and

3883 8. The property owner shall file with the department of executive services,
3884 records and licensing services division, a notice approved by the department that restricts
3885 the use of the farm pad to nonresidential agricultural uses. The notice shall run with the
3886 land. The applicant shall submit to the department proof that the notice was filed before
3887 the department approves any permit for the construction of the farm pad;

3888 M. New or expanded livestock manure storage facilities are only allowed as
3889 follows:

3890 1. There is not a feasible alternative area on the site outside the floodplain;

3891 2. The livestock manure storage facility is constructed to the standards in an
3892 approved farm management plan prepared in accordance with K.C.C. 21A.24.051 and
3893 K.C.C. chapter 21A.30. The farm management plan shall demonstrate compliance with
3894 the following:

3895 a. flood storage compensation consistent with subsection A. of this section;

3896 b. siting and sizing that do not increase base flood elevations consistent with
3897 K.C.C. 21A.24.250.B. or, if the liquid manure storage facility is located in the FEMA

3898 floodway, siting, and sizing that do not increase base flood elevations consistent with
3899 K.C.C. 21A.24.260.B.;

3900 c. dry floodproofing the liquid manure storage facility to one foot above the
3901 base flood elevation; and

3902 d. siting that is located in the area least subject to risk from floodwaters;

3903 N. Recreational vehicles must be on site for fewer than one hundred eighty
3904 consecutive days or be fully licensed and ready for highway use, which means on their
3905 wheels or jacking system, attached to the site only by quick-disconnect-type utilities and
3906 security devices and have no permanently attached additions; and

3907 O. Any alteration or relocation of a watercourse shall comply with the following
3908 standards, in addition to the other applicable standards in this title:

3909 1. In riverine situations, ~~((T))~~ the department shall notify adjacent communities
3910 and the Washington state Department of Ecology before any alteration or relocation of a
3911 watercourse proposed by the applicant, and shall submit ~~((evidence))~~ copies of the
3912 notification~~s~~ to the Federal Emergency Management Agency within six months; and

3913 2. The applicant shall ensure that the flood-carrying capacity is maintained, or
3914 submit to the department with the Floodplain Development Permit application a
3915 certification by a professional engineer that the project has been designed to retain its
3916 flood carrying capacity without periodic maintenance.

3917 SECTION X. Ordinance 10870, Section 472, as amended, and K.C.C.

3918 21A.24.250 are hereby amended to read as follows:

3919 The following development standards apply to floodplain development and
3920 alterations on sites within the zero-rise floodway:

Commented [PR358]: This term is in federal code 44 CFR § 60.3 (b)(6) - Flood plain management criteria for flood-prone areas. All edits to this section are intended to align KCC with this federal code section.

Commented [PR359]: This section references 44 CFR 65.6(a)(13), and is intended to align KCC with this federal code section.

3921 A. The development standards that apply to the zero-rise flood fringe also apply
3922 to the zero-rise floodway. The more restrictive requirements shall apply where there is a
3923 conflict;

3924 B. Floodplain development shall not increase the base flood elevation. The
3925 applicant shall perform an analysis to demonstrate that there will be no increase in the
3926 base flood elevation in accordance with Section 4.4.2 of the King County Surface Water
3927 Design Manual. The director may make an exception for salmon recovery projects that
3928 do not increase the base flood elevation in the zero-rise floodway by more than one foot,
3929 or if appropriate legal documents are prepared and recorded in which all property owners
3930 affected by the increased flood elevations consent to the impacts on their property;

3931 C. If post and piling foundation construction techniques are used to elevate a
3932 building and the area underneath is not enclosed, blocked or otherwise obstructed, the
3933 following are presumed to produce no increase in the base flood elevation and a critical
3934 areas report is not required to establish this fact:

3935 1. ~~((N))~~ new residential buildings outside the FEMA floodway on lots in
3936 existence before November 27, 1990, that contain less than five thousand square feet of
3937 buildable land outside the zero-rise floodway if the total building footprint of all existing
3938 and proposed buildings on the lot does not exceed two-thousand square feet;

3939 2. ~~((S))~~ substantial improvements of existing residential buildings in the zero-
3940 rise floodway, but outside the FEMA floodway, if the footprint is not increased; or

3941 3. ~~((S))~~ substantial improvements of existing residential buildings that meet the
3942 standards for new residential buildings and building utilities in K.C.C. 21A.24.240.E.;

Commented [PR360]: This change would allow for more flexible treatment of habitat restoration projects while exceeding federal minimum requirements for NFIP.

FEMA code allows for up to one foot rise in the zero-rise floodway outside of the FEMA regulatory floodway.

3943 D. When post or piling foundation construction techniques are not used, a critical
3944 areas report is required in accordance with K.C.C. 21A.24.110 demonstrating that the
3945 proposal will not increase the base flood elevation;

3946 E. During the flood season from September 30 to May 1 the following are not
3947 allowed in the zero-rise floodway;

3948 1. Temporary seasonal shelters, such as tents, awnings, and greenhouses, except
3949 for those used for agricultural activities and domestic household use; and

3950 2. Staging or stockpiling of equipment, materials or substances that the director
3951 determines may be hazardous to the public health, safety, or welfare except for those used
3952 for agricultural activities and domestic household use;

3953 F. New, substantially improved or converted residential buildings and accessory
3954 buildings to a residential use shall be located:

3955 1. Outside the FEMA floodway;

3956 2. Only on lots in existence before November 27, 1990, that contain less than
3957 five thousand square feet of buildable land outside the zero-rise floodway; and

3958 3. To the maximum extent practical, the farthest distance from the channel,
3959 unless the applicant can demonstrate that an alternative location is less subject to risk;

3960 G. New and replacement infrastructure or utilities are only allowed if:

3961 1. The department determines that a feasible alternative site is not available; and

3962 2. A waiver is granted by the Seattle-King County department of public health
3963 for new on-site sewage disposal facilities;

3964 H. Critical facilities, except for those listed in subsection I. of this section are not
3965 allowed within the zero-rise floodway; and

Commented [PR361]: Fixes previous drafting error. (*Reviser's
note: Added but not underlined in Ordinance 19128)

3966 I. Structures that are dependent upon the zero-rise floodway are allowed in the
3967 zero-rise floodway if the development proposal is approved by all agencies with
3968 jurisdiction and meets the development standards for the zero-rise floodway. These
3969 structures may include, but are not limited to:

3970 1. Dams or diversions for water supply, flood control, hydroelectric production,
3971 irrigation, or fisheries enhancement;

3972 2. Flood damage reduction facilities, such as levees, revetments, and pumping
3973 stations;

3974 3. Stream bank stabilization structures only if a feasible alternative does not
3975 exist for protecting structures, public roadways, flood protection facilities, or sole access
3976 routes. Bank stabilization projects must be consistent with the Integrated Streambank
3977 Protection Guidelines (Washington State Aquatic Habitat Guidelines Program, 2002) and
3978 use bioengineering techniques to the maximum extent practical. An applicant may use
3979 alternative methods to the guidelines if the applicant demonstrates that the alternative
3980 methods provide equivalent or better structural stabilization, ecological and hydrological
3981 functions, and salmonid habitat;

3982 4. Surface water conveyance facilities;

3983 5. Boat launches and related recreation structures;

3984 6. Bridge piers and abutments; and

3985 7. Approved aquatic area or wetland restoration projects including, but not

3986 limited to, fisheries enhancement projects and salmon recovery projects.

3987 SECTION X. Ordinance 10870, Section 473, as amended, and K.C.C.

3988 21A.24.260 are hereby amended to read as follows:

Commented [PR362]: Provides clarity that salmon recovery projects are included in this category of approved projects.

3989 The following development standards apply to floodplain development and
3990 alterations on sites within the FEMA floodway:

3991 A. The development standards that apply to the zero-rise floodway also apply to
3992 the FEMA floodway. The more restrictive standards apply where there is a conflict;

3993 B. Floodplain development shall not increase the base flood elevation. A civil
3994 engineer shall certify, through hydrologic and hydraulic analyses performed in
3995 accordance with standard engineering practice, that any proposed floodplain development
3996 would not result in any increase in flood levels during the occurrence of the base flood
3997 discharge;

3998 C. New, substantially improved or converted residential buildings are prohibited
3999 in the FEMA floodway, except those buildings meeting the provisions of subsections F.
4000 or G. of this section. A residential building cannot be constructed on fill placed within
4001 the FEMA floodway;

4002 D. New nonresidential buildings are prohibited within the FEMA floodway,
4003 except for agricultural buildings within an agricultural production district that meet
4004 applicable compensatory storage and conveyance standards;

4005 E. New livestock manure storage facilities for liquid and slurry manure are
4006 prohibited in the FEMA floodway. Existing livestock manure storage facilities may be
4007 repaired or enlarged as necessary to comply with the standards in the farm's nutrient
4008 management plan;

4009 F. Maintenance, repair, replacement, or improvement of an existing residential
4010 building located within the agricultural production district on property that is zoned
4011 agriculture (A) is allowed in the FEMA floodway if the building meets the standards for

4012 residential buildings and building utilities in K.C.C. 21A.24.240 and also meets the
4013 following requirements:

- 4014 1. The existing residential building was legally established;
- 4015 2. The viability of the farm is dependent upon a residential building within close
4016 proximity to agricultural structures; and
- 4017 3. Replacing an existing residential building within the FEMA floodway is only
4018 allowed if:
 - 4019 a. there is not sufficient buildable area on the site outside the FEMA floodway
4020 for the replacement;
 - 4021 b. the replacement residential building is not located in an area that increases
4022 the flood hazard in water depth, velocity, or erosion;
 - 4023 c. the building footprint of the existing residential building is not increased;
4024 and
 - 4025 d. the existing building, including the foundation, is completely removed
4026 within ninety days of receiving a certificate of occupancy, or temporary certificate of
4027 occupancy, whichever occurs first, for the replacement building;

4028 G. Maintenance, repair, or replacement of a substantially damaged existing
4029 residential building, other than a residential building located within the agricultural
4030 production district on property that is zoned agricultural (A), is allowed in the FEMA
4031 floodway if the building meets the standards for existing residential buildings and
4032 building utilities in K.C.C. 21A.24.240 and also meets the following requirements:

- 4033 1. The Washington state Department of Ecology has assessed the flood
4034 characteristics of the site and determined:

4035 a. base flood depths will not exceed three feet;
4036 b. base flood velocities will not exceed three feet per second;
4037 c. there is no evidence of flood-related erosion, as determined by location of
4038 the project site in relationship to mapped channel migration zones or, if the site is not
4039 mapped, evidence of overflow channels and bank erosion; and
4040 d. a flood warning system or emergency plan is in operation;
4041 2. The Washington state Department of Ecology has prepared a report of
4042 findings and recommendations to the department that determines the repair or
4043 replacement will not result in an increased risk of harm to life based on the characteristics
4044 of the site;
4045 3. The department has reviewed the Washington state Department of Ecology
4046 report and concurs that the development proposal is consistent with the findings and
4047 recommendations in the report;
4048 4. The development proposal is consistent with the findings and
4049 recommendations of the Washington state Department of Ecology report;
4050 5. The existing residential building was legally established; and
4051 6. Replacing an existing residential building within the FEMA floodway is only
4052 allowed if:
4053 a. there is not sufficient buildable area on the site outside the FEMA floodway;
4054 b. the replacement building is a residential building built as a substitute for a
4055 previously existing residential building of equivalent use and size; and

4056 c. the existing residential building, including the foundation, is removed within
4057 ninety days of receiving a certificate of occupancy, or temporary certificate of occupancy,
4058 whichever occurs first, for the replacement building;

4059 H. Maintenance or repair of a building that is identified as a historic resource, as
4060 defined in K.C.C. 21A.06.597, is allowed in the FEMA floodway if the building and
4061 building utilities meet the standards of K.C.C. 21A.24.240 for residential or
4062 nonresidential buildings, as appropriate; ~~((and))~~

4063 I. Water wells shall be located outside of the FEMA floodway; and

4064 J. Salmon recovery projects may increase the base flood elevation if all of the
4065 following conditions are met:

4066 1. The rise does not impact insurable structures;

4067 2. The rise does not increase public safety risk;

4068 3. The project complies with 44 CFR 65.12 and the applicant obtains a
4069 Conditional Letter of Map Revision from FEMA before the issuance of a Floodplain
4070 Development Permit;

4071 4. The applicant submits a request for a Letter of Map Revision from FEMA
4072 within six months after project completion and subsequently obtains a Letter of Map
4073 Revision; and

4074 5. The project complies with all applicable flood hazard reduction provisions in
4075 K.C.C. 21A.24.223 through K.C.C. 21A.24.272.

4076 SECTION X. Ordinance 11621, Section 75, as amended, and K.C.C. 21A.24.275
4077 are hereby amended to read as follows:

Commented [PR363]: These edits allow salmon recovery projects to raise water surface elevations in the FEMA floodway as long as they comply with federal minimum requirements in 44CFR 60.3 and 65.12.

4078 The following development standards apply to development proposal and
4079 alterations on sites within channel migration zones that have been mapped and adopted
4080 by public rule:

4081 A. The development standards that apply to the ~~((aquatic area buffers))~~ riparian
4082 areas in K.C.C. 21A.24.365 also apply to the severe channel migration zone and the
4083 portion of the moderate channel migration zone that is within the ~~((aquatic area buffer))~~
4084 riparian area. The more-restrictive standards apply where there is a conflict;

4085 B. Only the alterations identified in K.C.C. 21A.24.045 are allowed within a
4086 severe channel migration hazard area; and

4087 C. The following standards apply to development proposals and alterations
4088 within the moderate channel migration hazard area:

4089 1. Maintenance, repair, or expansion of any use or structure is allowed if the
4090 existing structure's footprint is not expanded towards any source of channel migration
4091 hazard, unless the applicant can demonstrate that the location is the least subject to risk;

4092 2. New primary dwelling units, accessory dwelling units, or accessory living
4093 quarters, and required infrastructure, are allowed if:

4094 a. the structure is located on a separate lot in existence on or before February
4095 16, 1995;

4096 b. a feasible alternative location outside of the channel migration hazard area is
4097 not available on-site; and

4098 c. to the maximum extent practical, the structure and supporting infrastructure
4099 is located the farthest distance from any source of channel migration hazard, unless the
4100 applicant can demonstrate that an alternative location is:

Commented [PR364]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4101 (1) the least subject to risk; or
4102 (2) within the outer third of the moderate channel migration hazard area as
4103 measured perpendicular to the channel;
4104 3. New accessory structures are allowed if:
4105 a. a feasible alternative location is not available on-site; and
4106 b. to the maximum extent practical, the structure is located the farthest distance
4107 from the migrating channel; and
4108 4. The subdivision of property is allowed within the portion of a moderate
4109 channel migration hazard area located outside ~~((an aquatic area buffer))~~ a riparian area if:
4110 a. All lots contain five-thousand square feet or more of buildable land outside
4111 of the moderate channel migration hazard area;
4112 b. Access to all lots does not cross the moderate channel migration hazard
4113 area; and
4114 c. All infrastructure is located outside the moderate channel migration hazard
4115 area except that an on-site septic system is allowed in the moderate channel migration
4116 hazard area if:
4117 (1) a feasible alternative location is not available on-site; and
4118 (2) to the maximum extent practical, the septic system is located the farthest
4119 distance from the migrating channel.

4120 SECTION X. Ordinance 10870, Section 475, as amended, and K.C.C.

4121 21A.24.280 are hereby amended to read as follows:

4122 The following development standards apply to development proposals and
4123 alterations on sites containing landslide hazard areas:

Commented [PR365]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4124 A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the
4125 alterations identified in K.C.C. 21A.24.045 are allowed within a landslide hazard area
4126 with a slope of forty percent or greater;

4127 B.1. A buffer is required from all edges of the landslide hazard area. To
4128 eliminate or minimize the risk of property damage or injury resulting from landslides
4129 caused in whole or part by the development, the department shall determine the size of
4130 the buffer based upon a geological critical area report ~~((prepared by a geotechnical
4131 engineer or geologist))~~.

4132 2. If a critical area report is not submitted to or required by the department, the
4133 minimum buffer is fifty feet.

4134 3. If the landslide hazard area has a vertical rise of more than two-hundred feet,
4135 the department may increase the minimum ~~((building)) critical area~~ setback in K. C. C.
4136 21A.24.200 to one-hundred feet.

4137 4. For development permits associated with single detached dwelling units only,
4138 the department may waive the geological critical area report and authorize buffer
4139 reductions if the department determines that the reduction will adequately protect the
4140 proposed development and the critical area;

4141 C. Unless otherwise provided in K.C.C. 21A.24.045 or as a necessary part of an
4142 allowed alteration, removal of any vegetation from a landslide hazard area or buffer is
4143 prohibited;

4144 D. All alterations shall minimize disturbance to the landslide hazard area, slope
4145 and vegetation unless necessary for slope stabilization; and

Commented [SK366]: A new code section has been proposed for geological critical area report requirements, which include qualifications for the geological professionals who prepare the report.

Commented [PR367]: Replaces old term with new term.

Commented [SK368]: Clarifies that a CAR may not be required by the department for all development proposals.

Commented [PR369]: "Building setback" changed to "critical area setback" to distinguish the two concepts and prevent confusion between the setbacks required in 21A.24.200 and 21A.12.

Commented [PR370]: This clarifies when a report is required with a minor restructuring for clarity and to better parallel the steep slope structure in KCC 21A.24.310.B.

This section is useful for clarifying Department authority to alter buffers without requiring a report when we can conclude the alteration will provide adequate protection without a report as a relief to property owners. We have interpreted this subsection to apply to grading permits and additions/accessory structures as well as the dwelling unit itself, so the language was clarified here.

4146 E. Alterations in a landslide hazard area located on a slope less than forty percent
4147 are allowed if:

4148 1. The proposed alteration will not decrease slope stability on contiguous
4149 properties; and

4150 2. The risk of property damage or injury resulting from landsliding is eliminated
4151 or minimized.

4152 SECTION X. Ordinance 10870, Section 476, as amended, and K.C.C.

4153 21A.24.290 are hereby amended to read as follows:

4154 The following development standards apply to development proposals and
4155 alterations on sites containing seismic hazard areas:

4156 A. The department may approve alterations to seismic hazard areas only if:

4157 1. The geological critical area report containing an evaluation of site-specific
4158 subsurface conditions shows that the proposed development site is not located in a
4159 seismic hazard area; or

4160 2. The applicant implements appropriate engineering design based on the best
4161 available engineering and geological practices that either eliminates or minimizes the risk
4162 of structural damage or injury resulting from seismically induced settlement or soil
4163 liquefaction; and

4164 B. The department may waive or reduce engineering study and design
4165 requirements for alterations in seismic hazard areas for:

4166 1. Mobile homes;

4167 2. Additions or alterations that do not increase occupancy or significantly affect
4168 the risk of structural damage or injury; and

4169 3. One story buildings with less than two-thousand-five hundred((s)) square feet
4170 of floor area or roof area, whichever is greater, and that are not dwelling units or used as
4171 places of employment or public assembly

4172 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.24
4173 a new section to read as follows:

4174 The following development standards apply to development proposals and
4175 alterations on sites containing an alluvial fan hazard area:

4176 A. Only the alterations identified in K.C.C. 21A.24.045 are allowed within
4177 alluvial fan hazard areas;

4178 B. A geological critical area report is required for development proposals that are
4179 on an alluvial fan or within fifty feet of an alluvial fan;

4180 C. Proposed alterations shall not increase the risk of inundation, sedimentation,
4181 channel migration, or erosion on adjacent properties;

4182 D. The risk of property damage or injury on the subject property from inundation,
4183 sedimentation, channel migration, or erosion as a result of a proposed alteration shall be
4184 eliminated or minimized; and

4185 E. The proposed alterations shall not increase the frequency or magnitude of
4186 sediment management activities or in-stream channel work that could impact fish habitat
4187 or passage.

4188 NEW SECTION. SECTION X. There is hereby added to K.C.C. chapter 21A.24
4189 a new section to read as follows:

4190 A. This section applies to development proposals on parcels that are within a
4191 tsunami hazard area.

Commented [PR371]: Grammar fix

Commented [PR372]: New section on Alluvial Fan Hazard Areas (AFHA) added to critical areas to enable regulation to protect public health and safety as required by WAC 365-196-830.

These standards are derived from the standards for other geological hazards like landslide hazards, with terminology added to reflect the alluvial fan-specific hazards that need to be addressed. The standards follow the typical geohazard regulatory approach to (C) avoid encumbering neighboring sites and (D) develop where risks to people and property are "eliminated or minimized" (existing terminology). In (E), because alluvial fans are highly constrained between immovable development and active, hazardous geological processes, variable stream locations, and stream function impacting fish and specifically salmonid passage and spawning, we require new (immovable) development to demonstrate how it won't worsen the situation and require more in-stream work to keep the development safe from avulsing streams. If this standard cannot be met, we cannot meet impact avoidance criteria and achieve no net loss of critical area function.

Commented [PR373]: Subsection A. added based on BAS on alluvial fans, new critical area for AFHA required a new section. Subsection A modeled after all other parallel critical area Subsection A sections.

Commented [PR374]: 50 feet has been the distance applied to steep slope hazard areas and landslide hazard areas. Applying them here is the default that most closely matches existing code.

Geohazards can impact areas beyond 50 feet with runout zones (see Oso), but in practice, the geological critical area reports consultants prepare have limited utility in describing this type of probabilistic risk, and encumbering these widespread, low probability areas is politically unpopular. Therefore, this standard might be a compromise between cost/encumbrance/utility and potential risk, but a more detailed analysis of this standard is outside the scope of this round of BAS.

Commented [PR375]: Subsection B. added based on BAS on alluvial fans, new critical area for AFHA required a new section. This section is analogous to other geologically hazardous area sections. Potential seismic hazards require a geological CAR to determine if a hazard is present at the site (KCC 21A.24.290.A.1). Steep slope and landslide hazard areas require a geological CAR, unless the proposed development is outside a default 50-foot buffer (see, for example, KCC 21A.24.280.B).

Commented [PR376]: Subsection C added based on BAS on alluvial fans, new critical area for AFHA required a new section. Sub C modeled after 21A.24.280 Landslide hazard areas and supported by BAS review of other jurisdictions code.

Commented [PR377]: Subsection D. Added based on BAS on alluvial fans, new critical area for AFHA required a new section. Sub D modeled after 21A.24.280 Landslide hazard areas and supported by BAS review of other jurisdictions code.

Commented [PR378]: Subsection E added based on BAS on alluvial fans, new critical area for AFHA required a new section. Sub E modeled after 21A.24.280 Landslide hazard areas and supported by BAS review of other jurisdictions code.

Commented [PR379]: The tsunami hazard area standards incorporate the Dept. of Commerce guidance by promoting an avoidance-first approach and by requiring development to be outside of harm's way if feasible, before it can be allowed in the tsunami hazard area. Tsunamis arrive unpredictably and can be extremely forceful, and engineering is limited in its ability to mitigate harm. Therefore, local governments typically regulate by promoting avoidance as the first and preferred option. New critical facilities also are required to take an avoidance first approach, but these ha...

4192 B. New and substantially improved residential buildings within a tsunami hazard
4193 area shall be designed to provide protection from inundation and debris impact according
4194 to the projected hazard level. The projected hazard level shall be determined by the
4195 county based on Washington Department of Natural Resources tsunami inundation maps,
4196 areas on the Flood Insurance Rate Maps indicated as Zones V1-V30, VE, or V, and
4197 relevant requirements of the building code in K.C.C. Title 16.

4198 C. Except for buildings that support water-oriented uses, new buildings shall be
4199 located on portions of the parcel or parcels under contiguous ownership that are not
4200 within the tsunami hazard area, if feasible. If no portion of the parcel or parcels under
4201 contiguous ownership are located outside the tsunami hazard area, or if the portion
4202 outside the tsunami hazard area is not feasible for new building purposes, new buildings
4203 shall be located on the parcel or parcels as far from the tsunami hazard area as feasible.

4204 D. New critical facilities shall not be constructed in a tsunami hazard area if there
4205 is a feasible alternative location outside the tsunami hazard area that would serve the
4206 intended service area or service population. If allowed in the tsunami hazard area, the
4207 critical facility shall be designed to minimize the risk and danger to the public health and
4208 safety to the maximum extent practicable, which may include, but is not limited to,
4209 preparation of a tsunami evacuation plan.

4210 SECTION X. Ordinance 10870, Section 478, as amended, and K.C.C.
4211 21A.24.310 are hereby amended to read as follows:

4212 The following development standards apply to development proposals and
4213 alterations on sites containing steep slope hazard areas:

Commented [PR380]: "Buildings" is used deliberately here (rather than "structures"). Buildings are often occupied by people and should be protected from tsunamis. Structures include things like retaining walls or bulkheads and do not need the same level of protection.

4214 A. Except as provided in subsection D. of this section, unless allowed as an
4215 alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C.
4216 21A.24.045 are allowed within a steep slope hazard area;

4217 B. A buffer is required from all edges of the steep slope hazard area. To
4218 eliminate or minimize the risk of property damage or injury resulting from slope
4219 instability, landsliding or erosion caused in whole or part by the development, the
4220 department shall determine the size of the buffer based upon a geological critical area
4221 report prepared by a ~~((geotechnical engineer or geologist))~~ geological professional. The
4222 department of local services shall adopt a public rule to implement this subsection,
4223 including implementing the requirements for development and review of a geological
4224 critical area report.

4225 1. For new structures and substantial improvements to existing structures on
4226 sites where any portion of the steep slope hazard area extends into the coastal high hazard
4227 area or sea level rise risk area:

4228 a. The geological critical area report shall include an assessment of current and
4229 future risks of sea level rise conditions anticipated to occur over the next fifty years and a
4230 recommended buffer;

4231 b. If a geological critical area report is not submitted to the department, the
4232 minimum buffer shall be seventy-five feet;

4233 2. For all other development not identified in subsection B.1. of this section:

4234 a. If a geological critical area report is not submitted to the department, the
4235 minimum buffer shall be fifty feet; and

Commented [PR381]: Updates language to use current terminology.

Commented [PR382]: Simplifies language to use the umbrella term that includes both "geotechnical engineer" and "geologist".

Commented [PR383]: Updates language to use current terminology.

Commented [PR384]: Updates language to use current terminology.

Commented [PR385]: Updates language to use current terminology.

Commented [PR386]: Updates language to use current terminology.

4236 b. For ~~((building))~~ development permits ~~((for))~~ associated with single detached
4237 dwelling units only, the department may waive the special study requirement and
4238 authorize buffer reductions if the department determines that the reduction will
4239 adequately protect the proposed development and the geological critical area;

Commented [PR387]: To clarify and align with current staff interpretation that this subsection applies to grading permits and additions/accessory structures as well as the dwelling unit itself. This change also aligns with the new addition in .280.

4240 C. Unless otherwise provided in K.C.C. 21A.24.045 or as a necessary part of an
4241 allowed alteration, removal of any vegetation from a steep slope hazard area or buffer is
4242 prohibited; and

4243 D. All alterations are allowed in the following circumstance:

4244 1. slopes ~~((which))~~ that are forty percent or steeper with a vertical elevation
4245 change of up to twenty feet, if no adverse impact will result from the exemption based on
4246 King County's review of and concurrence with a soils report prepared by a ~~((geologist or
4247 geotechnical engineer))~~ geological professional; and

Commented [PR389]: Updates to fix grammar.

4248 2. The approved regrading of any slope which was created through previous
4249 legal grading activities. Any slope which remains forty percent or steeper following site
4250 development shall be subject to all requirements for steep slopes.

Commented [PR390]: Simplifies language to use the umbrella term that includes both "geotechnical engineer" and "geologist".

4251 SECTION X. Ordinance 11481, Section 2, as amended, and K.C.C. 21A.24.311
4252 are hereby amended to read as follows:

4253 The map entitled King County Critical Aquifer Recharge Areas, included in
4254 Attachment H to Ordinance 17485, is hereby adopted as the designation of critical aquifer
4255 recharge areas in King County in accordance with RCW 36.70A.170, unless a
4256 designation is modified by notices of map amendment prepared according to K.C.C.
4257 21A.24.312, in which case the notice of map amendment shall supersede the map.

Commented [SK391]: Corresponds to previous changes for CARA mapping and notices of map amendment.

4258 SECTION X. Ordinance 15051, Section 173, as amended, and K.C.C.

4259 21A.24.312 are hereby amended to read as follows:

4260 A. Upon application supported by a critical areas report that includes a
4261 hydrogeologic site evaluation, the department, in consultation with the department of
4262 natural resources and parks, may determine that an area that is or is not classified as a
4263 critical aquifer recharge area on the map adopted under K.C.C. 21A.24.311:

4264 ~~((A-))~~ 1. Does not meet the criteria for a critical aquifer recharge area and
4265 declassify that area if it is classified as a critical aquifer recharge area;

4266 ~~((B-))~~ 2. Has the wrong critical aquifer recharge area classification and
4267 determine the correct classification; or

4268 ~~((C-))~~ 3. Has not been classified as a critical aquifer recharge area and should be
4269 so classified based on the standards of K.C.C. 21A.24.313.

4270 B. Upon reclassification or declassification, a notice of map amendment for the
4271 affected parcel or parcels shall be sent from the department to the property owner, the
4272 property owner's representative if applicable, the department of natural resources and
4273 parks, and the county assessor.

Commented [PR392]: Procedural update to ensure that information is conveyed to the correct parties.

4274 SECTION X. Ordinance 15051, Section 174, as amended, and K.C.C.

4275 21A.24.313 are hereby amended to read as follows:

4276 Critical aquifer recharge areas are categorized as follows:

4277 A. Category I critical aquifer recharge areas include ~~((those mapped))~~ areas

4278 mapped as "high vulnerability" that King County has determined are:

Commented [SK393]: Added for consistency with WAC 265-190-100(3), which requires local jurisdictions to classify CARAs according to the aquifer vulnerability.

4279 1. Highly susceptible to groundwater contamination and that are located within
4280 a sole source aquifer or a wellhead protection area; or

4281 2. In an area where hydrogeologic mapping or a numerical flow transport model
4282 in a Washington department of health approved wellhead protection plan demonstrate
4283 that the area is within the one year time of travel to a wellhead for a Group A water
4284 system;

4285 B. Category II critical aquifer recharge areas include ~~((those mapped))~~ areas
4286 mapped as "high vulnerability" that King County has determined:

4287 1. Have a medium susceptibility to ground water contamination and are located
4288 in a sole source aquifer or a wellhead protection area; or

4289 2. Are highly susceptible to groundwater contamination and are not located in a
4290 sole source aquifer or wellhead protection area; and

4291 C. Category III critical aquifer recharge areas include ~~((those mapped))~~ areas

4292 mapped as "medium vulnerability" that King County has determined have low
4293 susceptibility to groundwater contamination and are located over an aquifer underlying
4294 an island that is surrounded by saltwater.

4295 SECTION X. Ordinance 15051, Section 179, as amended, and K.C.C.

4296 21A.24.316 are hereby amended to read as follows:

4297 The following development standards apply to development proposals and
4298 alterations on sites containing critical aquifer recharge areas:

4299 A. Except as otherwise provided in subsection H. of this section, the following
4300 new development proposals and alterations are not allowed on a site located in a category
4301 I critical aquifer recharge area:

4302 1. Transmission pipelines carrying petroleum or petroleum products;

4303 2. Sand and gravel, and hard rock mining unless:

Commented [PR394]: Added for consistency with WAC 265-190-100(3), which requires local jurisdictions to classify CARAs according to the aquifer vulnerability.

Commented [PR395]: Added for consistency with WAC 265-190-100(3), which requires local jurisdictions to classify CARAs according to the aquifer vulnerability.

CARA III only refers to Vashon-Maury Island - an island surrounded by salt water. All of Vashon-Maury Island is a sole source area; an important drinking water protection area. The island aquifer system is unique and all drinking water sources depend on local recharge. While the susceptibility is 'low', the overall sole source nature of the island's drinking water sources is an important component of the decision why CARA III is medium vulnerability.

4304 a. the site has mineral zoning as of January 1, 2005; or
4305 b. mining is a permitted use on the site and the critical aquifer recharge area
4306 was mapped after the date a complete application for mineral extraction on the site was
4307 filed with the department;
4308 3. Mining of any type below the upper surface of the saturated ground water that
4309 could be used for potable water supply;
4310 4. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;
4311 5. Hydrocarbon extraction;
4312 6. Commercial wood treatment facilities on permeable surfaces;
4313 7. Underground storage tanks, including tanks that are exempt from the
4314 requirements of chapter 173-360A WAC, with hazardous substances, as defined in
4315 chapter ~~((70-105))~~ 70A.300 RCW, that do not comply with standards of chapter 173-
4316 360A WAC and K.C.C. Title 17;
4317 8. Above-ground storage tanks for hazardous substances, as defined in chapter
4318 ~~((70-105))~~ 70A.300 RCW, unless protected with primary and secondary containment
4319 areas and a spill protection plan;
4320 9. Golf courses;
4321 10. Cemeteries;
4322 11. Wrecking yards;
4323 12. Landfills for hazardous waste, municipal solid waste, or special waste, as
4324 defined in K.C.C. chapter 10.04; and
4325 13. On lots smaller than one acre, an on-site septic system, unless:

Commented [PR396]: Added a more specific code reference--chapter 173-360A WAC, which refers to underground storage tanks, should be cited here.

Commented [PR397]: This code section no longer exists; all references to RCW 70.105 now updated to 70A.300

Commented [PR398]: RCW 70.105 was recodified as 70A.300

4326 a. the system is approved by the Washington state Department of Health and
4327 has been listed by the Washington ~~((S))~~state Department of Health as meeting treatment
4328 standard N as provided in WAC chapter 426-272A; or

4329 b. the Seattle-King County department of public health determines that the
4330 systems required under subsection A.13.a. of this section will not function on the site.

4331 B. Except as otherwise provided in subsection H. of this section, the following
4332 new development proposals and alterations are not allowed on a site located in a category
4333 II critical aquifer recharge area:

4334 1. Mining of any type below the upper surface of the saturated ground water that
4335 could be used for potable water supply;

4336 2. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;

4337 3. Hydrocarbon extraction;

4338 4. Commercial wood treatment facilities located on permeable surfaces;

4339 5.a. Underground storage tanks with hazardous substances, as defined in chapter
4340 70.105 RCW, that do not comply with requirements of chapter 173-360A WAC and
4341 K.C.C. Title 17, ~~((E))~~except for a category II critical aquifer recharge area ~~((located over~~
4342 ~~an aquifer underlying an island that is surrounded by saltwater, underground storage~~
4343 ~~tanks with hazardous substances, as defined in chapter 70.105 RCW, that do not meet the~~
4344 ~~requirements of chapter 173-360 WAC and K.C.C. Title 17)) delineated on Vashon-~~
4345 Maury Island; and

4346 b. For a category II critical aquifer recharge area ~~((located over an aquifer~~
4347 ~~underlying an island that is surrounded by saltwater)) delineated on Vashon-Maury~~
4348 Island, underground storage tanks, including underground storage tanks exempt from the

Commented [PR399]: Updated to say "Vashon-Maury Island" since this is what this geographic descriptor refers to, and because this term is used further down.

4349 requirements of chapter 173-360 WAC, with hazardous substances, as defined in
4350 chapter 70.105 RCW, that do not comply with the standards in chapter 173-360 WAC
4351 and K.C.C. Title 17;

Commented [PR400]: 173-360 WAC was repealed and replaced with 173-360A WAC.

Commented [PR401]: 173-360 WAC was repealed and replaced with 173-360A WAC.

4352 6. Above-ground storage tanks for hazardous substances, as defined in chapter
4353 70.105 RCW, unless protected with primary and secondary containment areas and a spill
4354 protection plan;

4355 7. Wrecking yards;

4356 8. Landfills for hazardous waste, municipal solid waste, or special waste, as
4357 defined in K.C.C. chapter 10.04; and

4358 9. On lots smaller than one acre, an on-site septic systems, unless:

4359 a. the system is approved by the Washington state Department of Health and
4360 has been listed by the Washington state Department of Health as meeting treatment
4361 standard N as provided in ~~((WAC))~~ chapter 426-272A WAC; or

4362 b. the Seattle-King County department of public health determines that the
4363 systems required under subsection B.9.a. of this section will not function on the site.

4364 C. Except as otherwise provided in subsection H. of this section, the following
4365 new development proposals and alterations are not allowed on a site located in a category
4366 III critical aquifer recharge area:

4367 1. Disposal of radioactive wastes, as defined in chapter 43.200 RCW;

4368 2. Hydrocarbon extraction;

4369 3. Commercial wood treatment facilities located on permeable surfaces;

4370 4. Underground storage tanks, including tanks exempt from the requirements of

4371 chapter 173-360 WAC, with hazardous substances, as defined in chapter ~~((70.105))~~

Commented [PR402]: 173-360 WAC was repealed and replaced with 173-360A WAC.

4372 ~~70A.300~~ RCW, that do not comply with the requirements of chapter 173-360~~A~~ WAC and
4373 K.C.C. Title 17;

4374 5. Above ground storage tanks for hazardous substances, as defined in chapter
4375 70.105 RCW, unless protected with primary and secondary containment areas and a spill
4376 protection plan;

4377 6. Wrecking yards; and

4378 7. Landfills for hazardous waste, municipal solid waste, or special waste, as
4379 defined in K.C.C. chapter 10.04.

4380 D. The following standards apply to development proposals and alterations that
4381 are substantial improvements on a site located in a critical aquifer recharge area:

4382 1. The owner of an underground storage tank, including a tank that is exempt
4383 from the requirements of chapter 173-~~360A~~ WAC, in a category I or III critical aquifer
4384 recharge area or a category II critical aquifer recharge area located over an aquifer
4385 underlying Vashon-Maury Island shall either bring the tank into compliance with the
4386 standards of chapter 173-~~360A~~ WAC and K.C.C. Title 17 or properly decommission or
4387 remove the tank; and

4388 2. The owner of an underground storage tank in a category II critical aquifer
4389 recharge area not located on located over an aquifer underlying Vashon-Maury Island
4390 shall bring the tank into compliance with the standards of chapter 173-360~~A~~ WAC and
4391 K.C.C. Title 17 or shall properly decommission or remove the tank.

4392 E. In any critical aquifer recharge area, the property owner shall properly
4393 decommission an abandoned well.

Commented [PR403]: RCW 70.105 was recodified as 70A.300

Commented [PR404]: 173-360 WAC was repealed and replaced with 173-360A WAC.

Commented [PR405]: 173-360 WAC was repealed and replaced with 173-360A WAC.

Commented [PR406]: 173-360 WAC was repealed and replaced with 173-360A WAC.

Commented [PR407]: 173-360 WAC was repealed and replaced with 173-360A WAC.

4394 F. On a site located in a critical aquifer recharge area within the urban growth
4395 area, a development proposal for new residential development, including, but not limited
4396 to, a subdivision, short subdivision, or dwelling unit, shall incorporate best management
4397 practices included in the King County Surface Water Design Manual into the site design
4398 in order to infiltrate stormwater runoff to the maximum extent practical.

4399 G. For critical aquifer recharge areas on Vashon-Maury Island:

4400 1. No new groundwater wells are permitted within a coastal high hazard area. A
4401 rainwater catchment system may be used as an alternative water supply source for a
4402 single family residence if the requirements of ~~((K.C.C.))~~ King County board of health
4403 code BOH 13.04.070 are met;

4404 2. All new groundwater wells within a sea level rise risk area shall include a
4405 surface seal that prevents risks of saltwater contamination caused by sea level rise
4406 conditions anticipated to occur over the next fifty years; and

4407 3. The owner of a new well located within the sea level rise risk area shall test
4408 the well for chloride levels using testing protocols approved by the Washington state
4409 Department of Health. The owner shall report the results of the test to Seattle-King
4410 County department of public health and to the department of natural resources and parks.
4411 If the test results indicate saltwater intrusion is likely to occur, the department of natural
4412 resources and parks, in consultation with ~~((Seattle-King County department of))~~ public
4413 health - Seattle & King County, shall recommend appropriate measures in addition to the
4414 minimum requirements of this title to prevent saltwater intrusion.

4415 H. On a site greater than twenty acres, the department may approve a
4416 development proposal otherwise prohibited by subsections A., B., and C. of this section

Commented [SK408]: Corrects error in existing code - reference is to the wrong code (Board of Health code vs. KCC).

4417 if the applicant demonstrates through a critical area report that the development proposal
4418 is located outside the critical aquifer recharge area and that the development proposal will
4419 not cause a significant ~~((adverse environmental))~~ impact to the critical aquifer recharge
4420 area.

Commented [PR409]: This phrase is used in SEPA standards, so could create confusion here. It would seem that the intent was to say "significant impact" without meaning to invoke SEPA, since SEPA rules are in Title 20, so "significant impact" is proposed instead.

4421 I. The provisions relating to underground storage tanks in subsections A. through
4422 D. of this section apply only when the proposed regulation of underground storage tanks
4423 has been submitted to and approved by the Washington state department of ecology, in
4424 accordance with ~~((90.76.040))~~ 70A.355.030 RCW and WAC ~~((173-360-530))~~ 173-360A-
4425 0130.

Commented [PR410]: RCW 90.76.040 has been recodified as 70A.355.030

Commented [PR411]: 173-360 WAC was repealed and replaced with 173-360A WAC.

4426 SECTION X. Ordinance 15051, Section 183, as amended, and K.C.C.
4427 21A.24.318 are hereby amended to read as follows:

4428 A. Identification of wetlands and delineation of their boundaries shall be done in
4429 accordance with the approved federal wetland delineation manual and applicable regional
4430 supplement as set forth in WAC 173-22-035.

4431 B. Wetlands shall be rated into category I, category II, category III, and category
4432 IV based on the adopted Washington State Wetland Rating System for Western
4433 Washington, Washington state Department of Ecology publication number 14-06-029,
4434 published October 2014.

4435 C. Wetland rating categories shall not recognize illegal modifications.

4436 SECTION X. Ordinance 15051, Section 185, as amended, and K.C.C.
4437 21A.24.325 are hereby amended to read as follows:

4438 A. Except as otherwise provided in this section, buffers shall be provided from
4439 the wetland edge as follows:

4440 1. The buffers shown on the following table apply unless modified in

4441 accordance with subsections B., C., D., and E. of this section:

WETLAND CATEGORY AND CHARACTERISTICS	INTENSITY OF IMPACT OF ADJACENT LAND USE		
	HIGH IMPACT	MODERATE IMPACT	LOW IMPACT
Category I			
Wetlands of High Conservation Value	((250)) 300 feet	((190)) 225 feet	((125)) 150 feet
Bog	((250)) 300 feet	((190)) 225 feet	((125)) 150 feet
Estuarine	((200)) 300 feet	((150)) 225 feet	((100)) 150 feet
Coastal Lagoon	((200)) 300 feet	((150)) 225 feet	((100)) 150 feet
Forested	Buffer width to be based on score for habitat functions or water quality functions		
Habitat score from 8 to 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from 6 to 7 points (moderate level of function)	150 feet	110 feet	75 feet

Commented [PR412]: Changes are required to better protect the County's Category 1 wetlands, which are rare and offer functions/values that are extremely difficult to replace. Modest (5'-10') increases are recommended for Category IV wetlands. Dept. of Ecology values are based on assumption that we 1) treat commercial agriculture as high-impact and 2) that buffers are well vegetated. We don't do 1 and 2 is not something we can effectively implement, which in part drives changes to Cat IV values. Changes will provide limited additional protection to wildlife and water quality.

The BAS report provides a detailed explanation of the reasoning and methodology behind the proposed wetland buffer revisions.

Category I wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
Category II			
Estuarine	150 feet	110 feet	75 feet
Habitat score from 8 to 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from 6 to 7 points (moderate level of function)	150 feet	110 feet	75 feet
Category II wetlands not meeting any of the criteria above	100 feet	75 feet	50 feet
Category III			
Habitat score from 8 to 9 points (high level of function)	300 feet	225 feet	150 feet
Habitat score from 6 to 7 points (moderate level of function)	150 feet	110 feet	75 feet
Category III wetlands not meeting any of the criteria above	80 feet	60 feet	40 feet
Category IV	((50)) <u>60</u> feet	((40)) <u>45</u> feet	((25)) <u>35</u> feet

4442 2. For purposes of this subsection A., unless the director determines a lesser

4443 level of impact is appropriate based on information provided by the applicant, the

4444 intensity of impact of the adjacent land use is determined as follows:

4445 a. High impact includes:

4446 (1) sites zoned commercial or industrial;
4447 (2) commercial, institutional, or industrial use on a site regardless of the
4448 zoning classification;
4449 (3) nonresidential use on a site zoned for residential use;
4450 (4) high-intensity active recreation use on a site regardless of zoning, such as
4451 golf courses, ball fields, and similar use;
4452 (5) all sites within the Urban Growth Area;~~((-or-))~~
4453 (6) Residential zoning greater than one dwelling unit per acre;
4454 (7) railroads; or
4455 (8) federal and state highways, including on-ramps and exits, state routes, and
4456 other roads associated with high-impact land uses;
4457 b. Moderate impact includes:
4458 (1) residential uses on sites zoned residential one dwelling unit per acre or
4459 less;
4460 (2) residential use on a site zoned rural area, agriculture, or forestry;
4461 (3) agricultural uses without an approved farm management plan;
4462 (4) utility corridors or ~~((right-of-way))~~ right of way shared by several utilities,
4463 including maintenance roads; or
4464 (5) moderate-intensity active recreation or open space use, such as paved
4465 trails, parks with biking, jogging and similar use; and
4466 c. Low impact includes:
4467 (1) forestry use on a site regardless of zoning classification;

Commented [PR413]: Added highways and other high use roads to the list, since these are other types of high-impact uses.

Commented [PR414]: The hyphens in "right of way" are proposed for removal, which is the correct spelling when the term is used as a noun.

4468 (2) passive recreation uses, such as unpaved trails, nature viewing areas,
4469 fishing and camping areas, and other similar uses that do not require permanent
4470 structures, on a site regardless of zoning;

4471 (3) agricultural uses carried out in accordance with an approved farm
4472 management plan and in accordance with K.C.C. 21A.24.045.D.53. and K.C.C.
4473 21A.24.045.D.54.; or

4474 (4) utility corridors without a maintenance road and little or no vegetation
4475 maintenance.

4476 B. The department may approve a modification of the minimum buffer width
4477 required by this section by averaging the buffer width if:

4478 1. The department determines that:

4479 a. the buffer averaging will improve wetland protection if the wetland has
4480 significant differences in characteristics that effect habitat functions, such as a wetland
4481 with a forested component adjacent to a degraded emergent component or a "dual-rated"
4482 wetland with a Category I area adjacent to a lower-rated area; or

4483 b. averaging includes the corridors of a wetland complex; and

4484 2. The resulting buffer meets the following standards:

4485 a. the total area of the buffer after averaging is equivalent to or greater than the
4486 area of the buffer before averaging;

4487 b. the additional buffer is contiguous with the standard buffer;

4488 c. the buffer at its narrowest point is never less than ~~((either))~~ seventy-five
4489 percent of the required width ~~((or seventy five feet for Category I and II, fifty feet for~~
4490 ~~Category III, and twenty five feet for Category IV, whichever is greater))~~;

Commented [SK415]: BAS wetland review determined that buffers below 75% of standard width are not sufficiently protective to meet the NNL requirement.

4491 d. the averaged buffer will not result in degradation of wetland functions and
4492 values as demonstrated by an ecological critical area report from an ecological ~~((qualified~~
4493 ~~wetland))~~ professional; ~~((and))~~

Commented [PR416]: Updated to current terminology.

4494 e. the buffer is increased adjacent to the higher functioning area of habitat or
4495 more sensitive portion of the wetland and decreased adjacent to the lower-functioning or
4496 less-sensitive portion as demonstrated by a critical area report from a qualified wetland
4497 professional;

4498 f. buffer averaging cannot be combined with other buffer reductions or
4499 modifications allowed in this title; and

4500 g. indirect impacts are assessed and mitigated.

Commented [CJ417]: Requested by Ecology to meet BAS.

4501 C. Wetland buffer widths shall also be subject to modifications under the
4502 following special circumstances:

Commented [SK418]: Buffer averaging and buffer reductions provided in code are designed to be used as standalone measures for flexibility and to accommodate specific site conditions. When used together, they could result in unplanned adverse, unmitigated impacts from buffers that do not meet minimum standards for NNL.

4503 1. For wetlands containing documented habitat for endangered, threatened, or
4504 species of local importance, the following shall apply:

4505 a. the department shall establish the appropriate buffer, based on a habitat
4506 assessment, to ensure that the buffer provides adequate protection for the sensitive
4507 species; and

4508 b. the department may apply the buffer reduction rules in subsection C. ~~((6))~~ 5.
4509 of this section and the buffer averaging rules in subsection B. of this section;

Commented [PR419]: A subsection relating to rural stewardship plans was deleted below, resulting in renumbering. 5 is now the correct subsection number.

4510 2. For a wetland buffer that includes a steep slope hazard area or landslide
4511 hazard area, the buffer width is the greater of:

4512 a. the buffer width required by the wetland's category in this section; or

b. the buffer width required by the wetland's category in this section, extended upslope towards the top of the landslide or steep slope hazard area, as measured perpendicular to topographic contours, up to a maximum total width of twice the wetland buffer width otherwise required;

Commented [PR420]: Revision to limit the wetland buffer size when the buffer includes landslide or steep slope hazard areas. This resolves the potential problem of having a wetland that is located below a large slope having an extremely large extended buffer, consistent with management direction. Also see 21A.24.358.

3. For a wetland complex located outside the Urban Growth Area established by the King County Comprehensive Plan or located within the Urban Growth Area in a basin designated as "high" on the Basin and Shoreline Conditions Map, which is included as Attachment A to Ordinance 15051, the buffer width is determined as follows:

a. the buffer width for each individual wetland in the complex is the same width as the buffer width required for the category of wetland;

b. if the buffer of a wetland within the complex does not touch or overlap with at least one other wetland buffer in the complex, a corridor is required from the buffer of that wetland to one other wetland buffer in the complex considering the following factors:

(1) the corridor is designed to support maintaining viable wildlife species that are commonly recognized to exclusively or partially use wetlands and wetland buffers during a critical life cycle stage, such as breeding, rearing, or feeding;

(2) the corridor minimizes fragmentation of the wetlands;

(3) higher category wetlands are connected through corridors before lower category wetlands; and

(4) the corridor width is a least twenty-five percent of the length of the corridor, but no less than twenty-five feet in width; and

(5) shorter corridors are preferred over longer corridors;

4536 c. wetlands in a complex that are connected by an aquatic area that flows
4537 between the wetlands are not required to be connected through a corridor;
4538 d. the department may exclude a wetland from the wetland complex if the
4539 applicant demonstrates that the wetland is unlikely to provide habitat for wildlife species
4540 that are commonly recognized to exclusively or partially use wetlands and wetland
4541 buffers during a critical life cycle stage, such as breeding, rearing, or feeding; and
4542 e. the alterations allowed in a wetland buffer in K.C.C. 21A.24.045 are
4543 allowed in corridors subject to the same conditions and requirements as wetland buffers
4544 as long as the alteration is designed so as not to disrupt wildlife movement through the
4545 corridor;

4546 4. Where a legally established public roadway transects a wetland buffer, the
4547 department may approve a modification of the minimum required buffer width to the
4548 edge of the roadway if:

4549 a. the part of the buffer on the other side of the roadway sought to be reduced:

4550 ~~((a-)) (1) does not provide additional protection of ((the proposed development~~
4551 ~~or the)) wetland functions and values from the proposed development;~~ and

4552 ~~((b-)) (2) provides insignificant biological, geological, or hydrological buffer~~
4553 functions relating to the other portion of the buffer adjacent to the wetland; and

4554 b. the applicant provides a written evaluation that includes:

4555 (1) an assessment of the functions that the regulatory buffer provides on the
4556 other side of the roadway for wildlife habitat, water quality, and water quantity;

Commented [SK421]: Clarifies that this provision is not intended to apply to private roads, driveways, or farm field access drives.

Commented [PR422]: Reordered wording to be more precise.

4557 (2) an evaluation of how the roadway will functionally disconnect the
 4558 regulatory buffer from providing wildlife habitat, water quality, and water quantity
 4559 functions;

4560 (3) documentation of whether the roadway will create a complete barrier to
 4561 each function and if the interruption will affect the entirety of the buffer; and

4562 (4) a description of the vegetative composition, hydrologic regime,
 4563 topography, and any development on both sides of the roadway; and

4564 5. ((If the site has an approved rural stewardship plan under K.C.C. 21A.24.055,
 4565 the buffer widths shall be established under the rural stewardship plan and shall not
 4566 exceed the standard for a low impact land use, unless the department determines that a
 4567 larger buffer is necessary to achieve no net loss of wetland ecological function; and

4568 6. The buffer widths required for proposed land uses with)) For proposed
 4569 residential land uses within the Urban Growth Area that have high intensity impacts to
 4570 wetlands, the buffer widths can be reduced to those required for moderate intensity
 4571 impacts ((under the following conditions)) if:

4572 a. all of the following measures to minimize impacts of the proposed land uses
 4573 are applied:

4574 (1) plant an area of dense, native vegetation within the edge of the remaining
 4575 buffer that is equal to or greater than the area by which the buffer was reduced;

4576 (2) install wildlife lighting, and direct all light away from the wetland;

4577 (3) install wildlife-passable fencing at the edge of the wetland buffer;

4578 (4) attach critical area signs to wildlife-passable fencing every fifty to
 4579 seventy-five linear feet;

Commented [SK423]: These new requirements are intended to describe, assess and justify the applicant's proposal for an interrupted buffer, consistent with BAS.

Commented [PR424]: Removed to reflect removal of Rural Stewardship Plans provisions from code, which is being proposed to be removed from code because the County no longer approves or administers them.

Commented [PR425]: Added to specify that where this condition can be applied, as the intent of this reduction allowance is to prioritize housing development in urban areas, following current policy direction.

4580 (5) submit an integrated pest and weed management plan. Pesticides,
 4581 herbicides, and fungicides are not allowed to be used in the wetland or buffer; and
 4582 (6) demonstrate how each of the following meets the Core Requirements in
 4583 the King County Surface Water Design Manual:
 4584 (a) stormwater runoff;
 4585 (b) change in water regime; and
 4586 (c) dust control; and
 4587 ((a-)) b. ((F))for wetlands that score moderate or high for habitat, which means
 4588 six points or higher, ((the width of the buffer can be reduced if both of the following
 4589 criteria are met:
 4590 (1) A)) a relatively undisturbed vegetated corridor at least one-hundred feet
 4591 wide is protected between the wetland and ((any other Priority Habitats as defined by the
 4592 Washington state Department of Fish and Wildlife in the priority habitat and species list))
 4593 a legally-protected, relatively undisturbed and vegetated area. The corridor must be
 4594 protected for the entire distance between the wetland and the ((priority habitat)) legally-
 4595 protected vegetated area and ((legally)) recorded via a conservation easement.((; and
 4596 (2) Measures to minimize the impacts of different land uses on wetlands as
 4597 identified in subsection C.6.b. of this section are applied; and
 4598 b. For wetlands that score low for habitat, which means less than six points, the
 4599 buffer width can be reduced to that required for moderate intensity impacts by applying
 4600 measures to minimize impacts of the proposed land uses, as follows:

Disturbance	Measures to minimize impacts
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Commented [PR426]: Updated to align with Dept. of Ecology guidance when buffers are reduced. Limiting this to priority habitats is too narrow because many developments won't be near priority habitats. Establishing a corridor to any protected natural area provides similar benefits.

Commented [PR427]: Removed because it is redundant to "legally-protected".

Commented [PR428]: King County wetland buffer code is a combination of guidance from the Dept. of Ecology (Wetland Guidance for CAO Updates) that bases buffers on category and development intensity but allows for reductions in certain cases that align with the planning priority of encouraging housing development in urban areas. Current guidance includes a table of potential impact reduction measures to be implemented on a case-by-case basis, which is difficult to implement. The new list here is composed of measures that should be consistently implementable and that meaningfully reduce impacts.

Commented [PR429]: The content of this table has been reformatted as a list in this section. Permitting staff thought a list here would be the clearest way of outlining the requirements (similar to how the conditions in 21A.24.045 are outlined).

Lights	Direct lights away from wetland.
Noise	Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional ten-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic runoff	Route all new untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use low impact intensity development techniques identified in the King County Surface Water Design Manual.
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and human disturbance	Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion. Place wetland and its buffer in a separate tract or protect with a conservation easement.

Dust	Use best management practices to control dust.))
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D. The department may approve a modification to the buffers established in subsection A. of this section if the wetland was created or its characterization was upgraded as part of a voluntary enhancement or restoration project.

E. If the site is located within the shoreline jurisdiction, the department shall determine that a proposal to reduce wetland buffers under this section will result in no net loss of shoreline ecological functions or wetland functions and values.

SECTION X. Ordinance 15051, Section 187, as amended, and K.C.C. 21A.24.335 are hereby amended to read as follows:

The following development standards apply to development proposals and alterations on site containing wetlands or their buffers:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed in wetlands and wetland buffers;

B. ~~((The applicant))~~ Applicants may include climate-smart plants in mitigation or restoration projects that have been approved by King County, but shall not otherwise introduce any plant or wildlife that is not indigenous to the Puget Sound lowland into any wetland or wetland buffer unless authorized by a state or federal permit or approval; and

~~C. ((A category IV wetland less than two thousand five hundred square feet that is not part of a wetland complex may be altered in accordance with an approved mitigation plan by relocating the wetland into a new wetland, with equivalent or greater functions, or into an existing wetland at the ratios specified in K.C.C. 21A.24.340 based on the type of mitigation measures proposed; and~~

Commented [SK430]: Wetland critical areas in the shoreline jurisdiction must also be protected under the County's SMP.

Commented [PR431]: Climate change impacts are making native plants vulnerable to disease and die-offs. King County is expanding the list of allowable plant species for use in restoration and mitigation projects to improve the success rate of wetland restoration and mitigation work and to improve wetland resilience in the face of climate change. King County will produce a technical report in early 2024 that lists King County DNR's approved "climate-smart plants" for inclusion in permitted projects.

Commented [CJ432]: This is proposed for removal from the KCCP as part of the CAO package, with the following rationale, and should be removed from the code too for the same reason:

BAS is clear that small wetlands especially in urban areas are important. The research indicates that a broader approach to protecting wildlife such as mammals, birds and amphibians is needed, as buffers alone may not prevent the populations of many species from declining. Wetlands located in urban areas are generally less common and are more impacted by adjacent light and noise pollution, often contain non-native and invasive plant species, and lack intact vegetated corridors or habitat patches connecting adjacent habitat. Conserving wetland habitats, habitat patches, and vegetated corridors networks in urban areas and throughout the watershed is critical for certain species and provides refuge from drought and increasing temperatures due to climate change.

4622 ~~D-))~~ Alterations to category I wetlands containing bogs or fens are limited to
4623 K.C.C. 21A.24.045, D.20. and D.52.

4624 SECTION X. Ordinance 10870, Section 481, as amended, and K.C.C.
4625 21A.24.340 are hereby amended to read as follows:

4626 In addition to the requirements in ((K.C.C. 21A.24.125 and 21A.24.130)) this
4627 chapter, the following applies to mitigation to compensate for ((the)) adverse impacts
4628 ((associated with an alteration)) to a wetland or wetland buffer:

Commented [PR433]: Simplified cross reference in order to ensure consistency with all mitigation-related provisions of the CAO, not just the two that speak to mitigation sequencing and compensatory mitigation.

4629 A. Mitigation measures must achieve equivalent or greater wetland functions,
4630 including, but not limited to:

- 4631 1. Habitat complexity, connectivity, and other biological functions; and
4632 2. Seasonal hydrological dynamics, as provided in the King County Surface
4633 Water Design Manual;

4634 B. The following ratios of area of mitigation to area of ((alteration)) impacts
4635 apply to mitigation measures for permanent alterations:

Commented [PR434]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

4636 1. For ((alterations)) impacts to a wetland buffer, a ratio of ((one to one; and))
4637 one-to-one on-site, and two-to-one off-site;

Commented [PR435]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

4638 2. For ((alterations)) direct impacts to a wetland that result in permanent, direct
4639 loss of wetland;

Commented [PR436]: Clarified that the ratio should be higher for off-site mitigation, consistent with BAS.

Commented [PR437]: Clarifying language.

Category and type of wetland	Wetland reestablishment or creation	Wetland rehabilitation	1:1 Wetland reestablishment or wetland creation (R/C) and wetland enhancement (E)	Wetland enhancement only

Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
Category III	2:1	4:1	1:1 R/C and ((2:1)) <u>4:1</u> E	8:1
Category II estuarine	Case-by-case	((4:1)) <u>6:1</u> rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
All other Category II	3:1	((8:1)) <u>6:1</u>	1:1 R/C and ((4:1)) <u>8:1</u> E	12:1
Category I forested	6:1	12:1	1:1 R/C and ((40:1)) <u>16:1</u> E	Case-by-case
All other Category I	4:1	8:1	1:1 R/C and ((6:1)) <u>12:1</u> E	Case-by-case
Category I wetlands of high conservation value	Not allowed	((6:1)) <u>8:1</u> rehabilitation of a wetland of high conservation value	((Case-by-case)) <u>Not allowed</u>	Case-by-case

Commented [PR438]: Updated to align with Ecology's moderate risk guidance for combination compensation ratios. Updated ratios reduce risk that wetland mitigation ratios would result in a net loss of wetland functions and values.

Commented [PR439]: Updated to match Dept. of Ecology mitigation guidance

Commented [PR440]: Updated to match Dept. of Ecology mitigation guidance

Commented [PR441]: While the Dept. of Ecology does not specify a combination ratio for forested wetlands specifically, the other combination ratios prescribe 2/3 of the enhancement only ratios, so this was extrapolated from Ecology's 24:1 enhancement ratio for forested category I wetlands.

Update is necessary to reduce risk that mitigation ratios would result in net loss of wetland functions and values. Some risk still exists with updated values, but generally aligns with Ecology's moderate risk guidance.

Commented [PR442]: Updated to align with ratio provided in table 6B-2 in Wetland Mitigation in Washington State Part 1

Commented [PR443]: Updated language to "not allowed" in accordance with joint agency mitigation guidance (Ecology, Corps, EPA) noting that Cat I coastal lagoons and bogs are not considered possible for R/C.

Category I coastal lagoon	Not allowed	((6)) 8:1 rehabilitation of a coastal lagoon	((Case-by-case)) Not allowed	Case-by-case
Category I bog	Not allowed	((6)) 8:1 rehabilitation of a bog	((Case-by-case)) Not allowed	Case-by-case
Category I estuarine	Case-by-case	((6)) 8:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case

Commented [PR444]: Updated to match Dept. of Ecology mitigation guidance

Commented [PR445]: Updated language to "not allowed" in accordance with joint agency mitigation guidance (Ecology, Corps, EPA) noting that Cat I coastal lagoons and bogs are not considered possible for R/C.

Commented [PR446]: Updated language to "not allowed" in accordance with joint agency mitigation guidance (Ecology, Corps, EPA) noting that Cat I coastal lagoons and bogs are not considered possible for R/C.

Commented [PR447]: Updated to match Dept. of Ecology mitigation guidance

3. For indirect impacts to a wetland, one half of the ratio of area of mitigation to area of impact required by subsection B.2. of this section.

Commented [PR448]: Ecology guidance recommends indirect impacts be mitigated at half the ratios of direct impacts; added clause for clarity.

C. The following ratios of area of mitigation to area of ~~((alteration))~~ impact apply to mitigation measures for temporary ~~((alterations))~~ impacts where wetlands will not be impacted by permanent fill material or removal of old growth or mature trees, but where impacted functions are expected to take longer than one year to be restored:

Commented [PR449]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

Wetland category	Permanent conversion of forested and shrub wetlands into emergent wetlands			Mitigation for temporal loss of forested and shrub wetlands when the impacted wetlands will be revegetated to forest or shrub communities		
	Enhancement	Rehabilitation	Creation or restoration	Enhancement	Rehabilitation	Creation or restoration

Category I	((6)) 8:1	4.5:1	3:1	((3)) 4:1	2:1	1.5:1
Category II	((3)) 6:1	((2)) 3:1	1.5:1	((1.5)) 3:1	1.5:1	.75:1
Category III	((2)) 4:1	((1.5)) 2:1	1:1	((1)) 2:1	((.75)) 1:1	.5:1
Category IV	((1.5)) 3:1	1.5:1	.75:1	((Not applicable)) 1.5:1	((Not applicable)) .75:1	((Not applicable)) .25:1

Commented [PR450]: Mitigation ratios revised to be consistent with Dept. of Ecology guidance.

D. The department may increase the mitigation ratios provided in subsections B.

and C. of this section under the following circumstances:

1. The department determines there is uncertainty as to the probable success of the proposed restoration or creation;

2. A significant period of time will elapse between the impact caused by the development proposal and the establishment of wetland functions at the mitigation site;

3. The proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

4. The alteration causing the impact was ~~((an))~~ unauthorized ~~((impact))~~.

Commented [PR452]: Simplifying word. "Alteration" is the subject of the sentence, therefore it doesn't make sense to call it an "impact"

~~E. ((The department may decrease the mitigation ratios provided in subsections B. and C. of this section under the following circumstances:~~

Commented [PR453]: For section E., BAS does not support reduced mitigation ratios and does not align with NNL requirement.

~~1. The applicant demonstrates by documentation submitted by a qualified wetland specialist that the proposed mitigation actions have a very high likelihood of success based on hydrologic data and prior experience;~~

4660 ~~2. The applicant demonstrates by documentation by a qualified wetland~~
4661 ~~specialist that the proposed actions for compensation will provide functions and values~~
4662 ~~that are significantly greater than the wetland being impacted;~~

4663 ~~3. The applicant demonstrates that the proposed actions for mitigation have been~~
4664 ~~conducted in advance of the impact caused by the development proposal and that the~~
4665 ~~actions are successful; or~~

4666 ~~4. In wetlands where several wetland hydrogeomorphic classes, including, but~~
4667 ~~not limited to depressional, slope, riverine and flow through, are found within one~~
4668 ~~delineated boundary, the department may decrease the ratios if:~~

4669 ~~a. impacts to the wetland are all within an area that has a different~~
4670 ~~hydrogeomorphic class from the one used to establish the category;~~

4671 ~~b. the category of the area with a different class is lower than that of the entire~~
4672 ~~wetland; and~~

4673 ~~c. the applicant provides adequate hydrologic and geomorphic data to establish~~
4674 ~~that the boundary between the hydrogeomorphic classes lies outside of the footprint of~~
4675 ~~the impacts.~~

4676 ~~F. For temporary alterations to a wetland or its buffer that are predominately~~
4677 ~~woody vegetation, the department may require mitigation in addition to restoration of the~~
4678 ~~altered wetland or buffer.~~

4679 ~~G.))~~ Mitigation of an alteration to a buffer of a wetland that occurs along an
4680 aquatic area lake shoreline in accordance with an allowed alteration under this chapter
4681 shall include, but is not limited to, on-site revegetation, maintenance, and other
4682 restoration of the buffer or setback area to the maximum extent practical.

4683 SECTION X. Ordinance 15051, Section 192, as amended, and K.C.C.

4684 21A.24.355 are hereby amended to read as follows:

4685 A. Aquatic areas are categorized or "typed" as follows:

4686 1. Type S waters include all aquatic areas inventoried as "shorelines of the state"
4687 under King County's ~~((S))~~ shoreline ~~((M))~~ master ~~((P))~~ program, K.C.C. chapter 21A.25, in
4688 accordance with chapter 90.58 RCW;

4689 2. Type F waters include all segments of aquatic areas that are not type S waters
4690 and that contain fish or fish habitat, including waters diverted for use by a federal, state,
4691 or tribal fish hatchery from the point of diversion for one-thousand-five-hundred feet or
4692 the entire tributary if the tributary is highly significant for protection of downstream
4693 water quality~~((;))~~ . Type F waters, which may be ephemeral, may be classified by:

4694 a. the presence of fish;

4695 b. a stream segment with a defined channel of two feet or greater bank full
4696 width and a gradient less than twenty percent; or

4697 c. any stream located within the one hundred year floodplain of a Type S or F
4698 aquatic area.

4699 3. Type N waters include all segments of aquatic areas that are not type S or F
4700 waters and that are physically connected to type S or F waters by ~~((an above-ground))~~ a
4701 channel or piped system, stream, or wetland; and

4702 4. Type O waters include all segments of aquatic areas that are not type S, F, or
4703 N waters and that are not physically connected to type S, F, or N waters by a ~~((an above-~~
4704 ~~ground))~~ channel or piped system, ~~((pipe or culvert,))~~ stream, or wetland, and which
4705 infiltrate water into the ground.

Commented [PR454]: Provides more clarity and specificity about how a Type F water is classified. These changes move existing items spelled out in a Public Rule into the code so that all the text and conditions are in one place.

Commented [PR455]: For Type N waters, the 'above ground' part of the definition previously caused confusion among applicants, who would be led to think that if the channel were in a culvert (which is underground) that it wouldn't qualify as a type N. This was not the intent of the definition. Thus the 'above ground' part is proposed for deletion as it didn't help and clarified that type N can be piped. This should help limit confusion.

Commented [SK456]: Clarifies that Type O waters are infiltrating waters that do not leave a site and/or that do not connect with other surface or subsurface waters.

4706 B. For the purposes of the water types in subsection A. of this section, ~~((an~~
4707 ~~above-ground))~~ a channel system is considered to be present if the one-hundred year
4708 floodplains of both the contributing and receiving waters are connected.

4709 ~~((C. The department may determine that an area upstream of a legal human made~~
4710 ~~barrier is not fish habitat considering the following factors:~~

4711 ~~1. The human made barrier is located beneath public infrastructure that is~~
4712 ~~unlikely to be replaced and it is not feasible to remove the barrier without removing the~~
4713 ~~public infrastructure;~~

4714 ~~2. The human made barrier is in the Urban Growth Area established by the~~
4715 ~~King County Comprehensive Plan and is located beneath one or more dwelling units and~~
4716 ~~it is not feasible to remove the barrier without removing the dwelling unit;~~

4717 ~~3. The human made barrier is located in a subbasin that is not designated "high"~~
4718 ~~on the Basin and Shoreline Conditions Map which is included as Attachment A to~~
4719 ~~Ordinance 15051**; or~~

4720 ~~4. The human made barrier is not identified for removal by a public agency or~~
4721 ~~in an adopted watershed plan.))~~

4722 SECTION X. Ordinance 15051, Section 193, as amended, and K.C.C.
4723 21A.24.358 are hereby amended to read as follows:

4724 A. ~~((Aquatic area buffers))~~ Riparian areas shall be measured as follows:

4725 1. From the ordinary high water mark of the adjacent aquatic area, or from the
4726 top of bank if the ordinary high water mark cannot be identified;

4727 2. If the adjacent aquatic area is located within a mapped severe channel
4728 migration hazard area, the ~~((aquatic area buffer))~~ riparian area width shall be ~~((the greater~~

Commented [PR457]: This language was out of date. It did not match how the co-managers (WDFW and tribes) interpret fish habitat or state level fish passage requirements. The language does not match BAS as to what is fish habitat and is instead based on a financial rationale as a reason to not do something. In addition, it does not match the County's fish passage program classification of fish habitat.

Commented [KJ458]: Clarifies what the ordinary high water mark pertains to.

Commented [PR459]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4729 ~~of the aquatic area buffer width as))~~ measured ~~((consistent with subsection A.1. of this~~
4730 ~~section or))~~ from the outer edge of the severe channel migration hazard area; ~~((and))~~

4731 3. If the ~~((aquatic area buffer))~~ riparian area includes a steep slope hazard area
4732 or a landslide hazard area, the ~~((aquatic area buffer))~~ riparian area width is the greater of
4733 ~~((either))~~:

4734 a. the ~~((aquatic area buffer))~~ riparian area width as required in this section ~~((or~~
4735 ~~the top of the hazard area))~~; or

4736 b. the riparian area width as required in this section, extended upslope towards
4737 the top of the landslide or steep slope hazard area, as measured perpendicular to
4738 topographic contours, up to a maximum total width of twice the riparian area width
4739 otherwise required;

4740 4. If the adjacent aquatic area is located within an alluvial fan, the riparian area
4741 width is the greater of:

4742 a. the riparian area width as defined in this section; or
4743 b. the extent of the alluvial fan hazard area; and

4744 5. If the adjacent aquatic area is conveyed underground, the riparian area width
4745 is measured only from the above-ground portion of the aquatic area. The riparian area
4746 extends in all directions from the point at which the aquatic area enters or exits the
4747 underground conveyance system.

4748 B. Within the Urban Growth Area, ~~((aquatic area buffers))~~ riparian area widths
4749 shall be as follows:

4750 ~~((1. A type S or F aquatic area buffer is one hundred fifteen feet.~~

Commented [PR460]: Updated to provide Channel Migration Zones with riparian area coverage for extended protection as a critical area. This provides clarification, as prior language could be read two different ways. The code now matches 2004 BAS documentation and intent as well as more closely aligns with current riparian BAS.

Commented [PR461]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR462]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR463]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [KJ464]: Clarifies the dimension of riparian areas.

Commented [PR465]: Proposed for removal because this text is now duplicated by 4.b. below.

Commented [PR466]: Revision to limit the riparian area size when the buffer includes landslide or steep slope hazard areas. This resolves the potential problem of having a riparian area that is located below a large slope having an extremely large extended buffer, consistent with management direction. Also see 21A.24.325.

Commented [PR467]: Clarifies that a riparian area from an aquatic area outside of the fan doesn't extend all the way across the fan. This is informed by BAS review for alluvial fans, to establish development standards including requirements for overlapping CA buffers. New conditions on Alluvial Fan Hazard Areas (AFHAs) were added to enable new regulation to protect public health and safety as required by WAC 365-196-830.

Commented [PR468]: Added to clarify that aquatic area jurisdiction doesn't end where it goes underground, and clarifies that the riparian areas are only measured from above-ground portions, but extend all the way around the pipe entrance, not just laterally. These changes bring the code into alignment with current practice.

Commented [PR469]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4751 ~~2. A type S or F aquatic area buffer in a basin or shoreline designated as "high"~~
 4752 ~~on the Basin and Shoreline Conditions Map is one hundred sixty five feet.~~
 4753 ~~3. A type N aquatic area buffer is sixty five feet; and~~
 4754 ~~4. A type O aquatic area buffer is twenty five feet.))~~

<u>Adjacent Aquatic Area Type</u>	<u>Riparian Area Width</u>
<u>S or F in basin or shoreline designated as "high" on the Basin and Shoreline Conditions Map</u>	<u>200 feet</u>
<u>All other S or F</u>	<u>180 feet</u>
<u>N</u>	<u>100 feet</u>
<u>O</u>	<u>50 feet</u>

4755 C. Outside the Urban Growth Area, ~~((aquatic area buffers))~~ riparian areas shall be
 4756 as follows:

4757 ~~((1. A type S or F aquatic area buffer is one hundred sixty five feet;~~
 4758 ~~2. A type N aquatic area buffer is sixty five feet; and~~
 4759 ~~3. A type O aquatic area buffer is twenty five feet.))~~

<u>Adjacent Aquatic Area Type</u>	<u>Riparian Area Width</u>
<u>S or F</u>	<u>200 feet</u>
<u>N</u>	<u>100 feet</u>
<u>O</u>	<u>50 feet</u>

4760 D. ~~((Within the Bear Creek drainage basin a type N aquatic area buffer in a~~
 4761 ~~designated regionally significant resource area is one hundred feet.))~~

Commented [PR470]: This list was converted to a table for ease of use by both Permitting staff and the public.

Commented [PR471]: The proposed riparian area widths are based on the Best Available Science (BAS) together with policy direction to fulfill the GMA goal that development be encouraged in urban areas.

BAS recommends that riparian area widths be based on the average maximum height of the tallest dominant trees that are 200 years or more in age. While trees of this age range in height, depending on the tree species, King County's 2024 BAS review determined 200 feet to be a suitable width for riparian area protections.

Commented [PR472]: Riparian area widths for shorelines and fish-bearing aquatic areas inside of the Urban Growth Area are proposed to be 180 feet. This width reflects the lower end of the distribution of 200-year-old tree heights in unincorporated King County. King County's decision to maintain a relatively lower level of protection for riparian areas inside the Urban Growth Area supports the County's ability to satisfy the Growth Management Act goal that development be encouraged in urban areas.

Commented [PR473]: Guidance from WDFW recommends that the width of riparian areas should be a minimum of 100 feet to be protective of water quality and pollutant removal benefits. In addition to water quality benefits, a considerable portion of several other riparian functions are also achieved within 100 feet, including large wood recruitment, litter fall, and bank erosion resistance associated with tree roots. 100 feet is an increase over existing code, improving alignment with BAS, but departs from the 200-foot BAS recommendation to balance with Growth Management Act goals of encouraging development in urban areas, maintaining agriculture, and supporting a timely and predictable permitting process.

Commented [PR474]: The County is updating riparian area widths for other aquatic areas both inside and outside of the Urban Growth Area to 50 feet. Type O aquatic areas do not have a surface connection to Type S, F, or N aquatic areas and primarily infiltrate into the ground. These aquatic areas are infrequently encountered and represent a small minority of aquatic areas in King County. The increase of Type O riparian areas to 50 feet improves alignment with BAS, but departs from the 200-foot BAS recommendation to

Commented [PR475]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR476]: This list was converted to a table for ease of use by both Permitting staff and the public.

Commented [PR477]: The proposed riparian area widths are based on the Best Available Science (BAS) together with policy direction to fulfill the GMA goal that development be encouraged in urban areas.

Commented [PR478]: Guidance from WDFW recommends that the width of riparian areas should be a minimum of 100 feet to be protective of water quality and pollutant removal benefits. In addition to water quality benefits, a considerable portion of several other riparian functions are also achieved within 100 feet, including

Commented [PR479]: The County is updating riparian area widths for other aquatic areas both inside and outside of the Urban Growth Area to 50 feet. Type O aquatic areas do not have a surface connection to Type S, F, or N aquatic areas and primarily infiltrate into the ground. These aquatic areas are infrequently encountered

Commented [PR480]: Now that the riparian area width is proposed to be 100 feet for all Type N aquatic areas, this standard specifying a 100-foot buffer for the Bear Creek drainage basin is redundant.

4762 ~~E.)~~ The department may approve a modification of ~~((buffer widths if))~~ a riparian
4763 area width required by this section by averaging the riparian area width, if the resulting
4764 riparian area meets the following standards:

4765 1. ~~(a. The department determines that through buffer averaging the ecological~~
4766 ~~structure and function of the resulting buffer is equivalent to or greater than the structure~~
4767 ~~and function before averaging and meets the following standards:~~

4768 (1) the total area of the buffer is not reduced;

4769 (2) the buffer area is contiguous; and

4770 (3) averaging does not result in the reduction of the minimum buffer for the
4771 buffer area waterward of the top of the associated steep slopes or for a severe channel
4772 migration hazard area;

4773 b. the applicant demonstrates that the buffer cannot provide certain functions
4774 because of soils, geology or topography, in which case the department shall establish a
4775 buffers width that protects the remaining ecological functions that the buffer can provide;

4776 e. the site is zoned RA and is subject to an approved rural stewardship plan. In
4777 modifying the buffers, the department shall consider factors such as, the basin and
4778 shoreline condition, the location of the site within the basin and shoreline, the buffer
4779 condition and the amount of clearing;

4780 d. a legally established roadway transects an aquatic area buffer, the roadway
4781 edge closest to aquatic area shall be the extent of the buffer, if the part of the buffer on
4782 the other side of the roadway provides insignificant biological or hydrological function in
4783 relation to the portion of the buffer adjacent to the aquatic area; or

Commented [PR481]: Added to preserve the flexibility provided in existing code that allows aquatic area buffer averaging. An analogous riparian area averaging section has been added.

4784 ~~e. the aquatic area is created or its type is changed as a result of enhancement~~
4785 ~~or restoration projects that are not mitigation for a development proposal or alteration;~~
4786 ~~and~~

4787 ~~2. If the site is located within the shoreline jurisdiction, that no net loss of~~
4788 ~~shoreline ecological functions will result when considering projects that combine reduced~~
4789 ~~buffers and habitat restoration.))~~ The total land area amount of the riparian area after
4790 averaging is equivalent to or greater than the total land area amount of the riparian area
4791 before averaging;

Commented [PR482]: This removed text is replaced with standards immediately following this subsection.

4792 2. The additional riparian area is contiguous with the standard riparian area;

Commented [PR483]: Clarifies how riparian area averaging must be implemented spatially.

4793 3. The riparian area at its narrowest point is never less than seventy-five percent
4794 of the standard required width;

Commented [PR484]: Reduction below 75% of the riparian area width required by code would result in a significant reduction of riparian area functions and therefore is not allowed.

4795 4. The width of the riparian area is increased adjacent to the higher functioning
4796 habitat or more sensitive portion of the adjacent aquatic area, and decreased adjacent to
4797 the lower functioning or less sensitive portion, as demonstrated by a critical area report
4798 from a qualified professional;

Commented [PR485]: Clarifies that averaging must prioritize protecting higher functioning portions of the riparian area

4799 5. No net loss of riparian area or adjacent aquatic area functions and values will
4800 occur as a result of the averaging, as demonstrated by a critical area report from a
4801 qualified professional;

4802 6. Where the riparian area includes a steep slope, landslide, or alluvial fan
4803 hazard area, the width of the riparian area is not reduced waterward of the extent of the
4804 hazard area;

Commented [PR486]: Ensures subsection A.3. is still applied

4805 7. If the site is located within the shoreline jurisdiction, no net loss of shoreline
4806 ecological functions will result; and

Commented [PR487]: Incorporates SMP provisions

4807 8. Riparian area averaging cannot be combined with any other riparian area
4808 width modifications.

4809 SECTION X. Ordinance 15051, Section 195, as amended, and K.C.C.
4810 21A.24.365 are hereby amended to read as follows:

4811 The following development standards apply to development proposals and
4812 alterations on sites containing aquatic areas or ~~((their buffers))~~ riparian areas:

4813 A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the
4814 alterations identified in K.C.C. 21A.24.045 are allowed in aquatic areas and ~~((aquatic~~
4815 ~~area buffers))~~ riparian areas;

4816 B. Grading for allowed alterations in ~~((aquatic area buffers))~~ riparian areas is
4817 only allowed from May 1 to October 1. This period may be modified when the
4818 department determines it is necessary along marine shorelines to protect critical forage
4819 fish and salmonid migration or as provided in K.C.C. 16.82.095;

4820 C. The moisture-holding capacity of the topsoil layer on all areas of the site not
4821 covered by impervious surfaces should be maintained by:

- 4822 1. Minimizing soil compaction, or
4823 2. Reestablishing natural soil structure and the capacity to infiltrate;

4824 D. New structures within an ~~((aquatic area buffer))~~ riparian area should be sited
4825 to avoid the creation of future hazard trees and to minimize the impact on groundwater
4826 movement;~~((and))~~

4827 E. To the maximum extent practical:

- 4828 1. The soil duff layer should not be disturbed, but if disturbed, should be
4829 redistributed to other areas of the project site where feasible;

Commented [PR488]: Averaging and other modification provisions are designed to be used as standalone measures for flexibility and to accommodate specific site conditions. When used together, they could result in unplanned adverse, unmitigated impacts from riparian areas that do not meet minimum standards for NNL.

Commented [PR489]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR490]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR491]: This instance of 'salmonid' should stay as is.

Commented [PR492]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4830 2. A spatial connection should be provided between vegetation within and
4831 outside the ~~((aquatic area buffer)) riparian area~~ to prevent creation of wind throw hazards;
4832 and

Commented [PR493]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4833 3. Hazard trees should be retained in ~~((aquatic area buffers)) riparian areas~~, and
4834 either topped or pushed over toward the aquatic area; ~~((and))~~

Commented [PR494]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4835 F. Applicants may include climate-smart plants in mitigation or restoration
4836 projects that have been approved by King County, but shall not otherwise introduce any
4837 plant or wildlife that is not indigenous to the Puget Sound lowland into any aquatic area
4838 or riparian area unless authorized by a state or federal permit or approval; and

4839 G. If a restoration, enhancement or mitigation project proposes to place large
4840 ~~((woody debris)) wood~~ waterward of the ordinary high water mark of a Type S aquatic
4841 area, the applicant shall consider the potential for recreational hazards in project design.

Commented [PR495]: Climate change impacts are making native plants vulnerable to disease and die-offs. King County is expanding the list of allowable plant species for use in restoration and mitigation projects to improve the success rate of wetland restoration and mitigation work and to improve wetland resilience in the face of climate change. King County will produce a technical report in early 2024 that lists King County DNR's approved "climate-smart plants" for inclusion in permitted projects. Climate-smart plants acknowledge that native plants may be adversely impacted by climate change and provide a wider variety of planting options that are still beneficial to the ecological community. Aquatic and riparian areas must also be protected from invasive species to achieve NNL.

4842 SECTION X. Ordinance 10870, Section 485, as amended, and K.C.C.
4843 21A.24.380 are hereby amended to read as follows:

Commented [PR496]: "Large wood" is the correct current terminology.

4844 In addition ~~to~~ the requirements in ~~((K.C.C. 21A.24.130, 21A.24.125 and~~
4845 ~~21A.24.133)) this chapter~~, the following applies to mitigation to compensate for the
4846 adverse impacts associated with an alteration to an aquatic area or ~~((aquatic area buffer))~~
4847 riparian area:

Commented [SK497]: Error in existing code.

Commented [PR498]: Updated to say "this chapter" because it expands the reference to ensure all provisions relating to mitigation are included.

4848 A. Mitigation measures ~~((must)) shall~~ achieve equivalent or greater aquatic ~~or~~
4849 riparian area functions than prealteration conditions including, but not limited to:

Commented [PR499]: Updated to standard code language when something is required.

4850 1. Habitat complexity, connectivity, and other biological and ecological
4851 functions;

Commented [KJ500]: Clarifies that mitigation includes both riparian area functions and aquatic area functions.

Commented [KJ501]: Clarifies baseline conditions to evaluate "equivalent or greater aquatic or riparian area function"

4852 2. Seasonal hydrological dynamics~~((;))~~ and water storage capacity ~~((and water~~
4853 ~~quality))~~; ~~((and))~~

4854 3. ~~((Geomorphic and habitat processes and functions))~~ Shade and temperature
4855 control, pollution removal, water purification, and other water quality functions; and
4856 4. Natural erosion and sediment delivery, nutrient and detritus delivery, natural
4857 bank stabilization, sources and recruitment of large wood, cover for aquatic and terrestrial
4858 animals, terrestrial-based aquatic prey resources, and other geomorphic and habitat
4859 processes and functions;

4860 B. To the maximum extent practical, permanent ~~((alterations))~~ impacts that
4861 require mitigation that includes restoration or enhancement of the altered aquatic area,
4862 ~~((aquatic area buffer))~~ adjacent riparian area, or another aquatic area or ~~((aquatic area~~
4863 ~~buffer must consider))~~ riparian area, shall document in a mitigation plan how the
4864 following design factors~~((;))~~ will be addressed as applicable to the function being
4865 mitigated:

4866 1. The natural channel or shoreline reach dimensions including its depth, width,
4867 length, and gradient;

4868 2. The horizontal alignment and sinuosity;

4869 3. The channel bed, marine intertidal area, sea bed, or lake bottom with identical
4870 or similar substrate and similar erosion and sediment transport dynamics;

4871 4. Bank ~~((and buffer))~~ configuration and erosion and sedimentation rates;
4872 ~~((and))~~

Commented [SK502]: Moved to line below for better subject organization.

Commented [SK503]: These are important measurements of water quality functions which must be maintained for>NNL.

Commented [SK504]: Expanded language provides greater specificity about what comprises geomorphic and habitat process and functions.

Commented [PR505]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

Commented [SK506]: Clarifies that not all alterations will require mitigation that includes restoration or enhancement.

Commented [KJ507]: Clarifies that required mitigation pertains to both aquatic areas and riparian areas.

Commented [PR508]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [SK509]: Alterations that do require mitigation including restoration/enhancement must provide a mitigation plan.

Commented [SK510]: This area is also part of the aquatic/riparian ecosystem.

Commented [SK511]: The riparian area is no longer considered a buffer.

4873 5. Similar native vegetation species composition, diversity, size, and densities in
4874 the ~~((channel, sea bed or lake bottom and on the))~~ adjacent riparian ~~((bank or buffer))~~
4875 area with similar configuration, spatial arrangement, and solar aspect;

4876 6. Similar slope and elevation; and

4877 7. Similar soil conditions, including moisture, saturation, and organic content;

4878 C. Mitigation to compensate for adverse impacts to aquatic areas shall meet the
4879 following standards:

4880 1. Not located upstream of a barrier to fish passage; and

4881 2. ~~((Is equal or greater in biological function; and~~

4882 ~~3-))~~ To the maximum extent practical is:

4883 a. located on the site of the alteration or within one-half mile of the site and in

4884 the same aquatic area reach at a ~~((4:1))~~ 2:1 ratio of area of mitigation to area of

4885 ~~((alteration))~~ impact; or

4886 ~~((4-Is))~~ b. if unable to be located on or within one-half mile of the site,

4887 located in the same aquatic area drainage subbasin or marine shoreline and attains the

4888 following ratios of area of functional mitigation to area of ~~((alteration))~~ impact:

4889 ~~((a-))~~ (1) a 3:1 ratio for a type S or F aquatic area; and

4890 ~~((b-))~~ (2) a 2:1 ratio for a type N or O aquatic area;

4891 D. For purposes of subsection C. of this section, a mitigation measure is in the

4892 same aquatic area reach if the length of aquatic area ~~((shoreline))~~ or adjacent riparian area

4893 meets the following criteria:

4894 1. Similar geomorphic conditions including slope, soil, aspect, and substrate;

Commented [SK512]: Clarifies what vegetation should be protected.

Commented [KJ513]: The composition of vegetation species influences riparian area functions.

Commented [KJ514]: Removed to clarify that vegetation design factors pertain to riparian areas.

Commented [PR515]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [SK516]: Clarifies that the existing vegetated aquatic environment should be replicated as closely as possible, for habitat benefits and for likelihood of successful vegetation establishment.

Commented [SK517]: Clarifies that the existing vegetated riparian environment should be replicated as closely as possible, for habitat benefits and for likelihood of successful vegetation establishment.

Commented [KJ518]: Clarifies which areas pertain to impacts and compensatory mitigation.

Commented [SK519]: Redundant to D.3. and 4. below.

Commented [KJ520]: Increased aquatic area mitigation ratio helps to account for uncertainty in mitigation success.

Commented [PR521]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

Commented [PR522]: Provides context for when the requirement for being located in the same aquatic area drainage would apply.

Commented [PR523]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

Commented [PR524]: Reworded to avoid saying "shoreline", as using this term could cause confusion, implying that Shoreline Master Program standards are being referenced.

4895 2. Similar processes including erosion and transport of sediment and ~~((woody~~
 4896 ~~debris)) large wood;~~
 4897 3. Equivalent or better biological conditions, including presence of and habitat
 4898 for invertebrates, fish, wildlife, and vegetation; and
 4899 4. Equivalent or better biological functions, including fish and wildlife mating,
 4900 reproduction, rearing, migration, and refuge; ~~((or))~~ and
 4901 5. For tributary streams, a distance of no more than one-half mile from the main
 4902 stem;

Commented [PR525]: "Large wood" is the correct current terminology.

Commented [SK526]: Clarifies that biological conditions include both species being protected and their habitat.

Commented [SK527]: Clarifies what is being protected.

Commented [SK528]: Clarification.

4903 E.1. ((The department may reduce the mitigation ratios in subsection C. of this
 4904 section to 2:1 ratio for a type S or F aquatic area and 1.5:1 ratio for a type N or O aquatic
 4905 area if the applicant provides a scientifically rigorous mitigation monitoring program that
 4906 includes the following elements:

4907 1. Monitoring methods that ensure that the mitigation meets the approved
 4908 performance standards identified by the department;
 4909 2. Financing or funding guarantees for the duration of the monitoring program;
 4910 and

4911 3. Experienced, qualified staff to perform the monitoring)) On-site mitigation in
 4912 riparian areas shall use the ratios of area of mitigation to area of impact in subsection E.2.
 4913 of this section, unless the department establishes an alternative mitigation ratio with
 4914 supplemental actions in accordance with subsection F. of this section.

Commented [PR529]: This deletion is based on BAS review of riparian areas. This existing condition was not based on BAS as it allowed a loss of ecological function and did not meet the new NNL approach. It reduced mitigation ratios if the applicant has a robust monitoring plan, yet a monitoring plan does not change the need to offset the impacts of the development proposal. A monitoring plan may reduce some of the uncertainty associated with mitigation such that what is planted is more likely to survive, but the overall amount that was replaced would lead to net loss.

Commented [SK530]: BAS riparian review established mitigation ratios consistent with NNL requirements.

Commented [KJ531]: Clarifies that area-based compensatory mitigation is based on the following table or alternative ratios included in subsection F can be used if agreed to by the department.

4915 2. Ratios of area of mitigation to area of impact for on-site mitigation.

<u>Adjacent Aquatic Area Type</u>	<u>On-site Compensatory Mitigation Ratio</u>
<u>Shoreline (S)</u>	<u>3:1</u>
<u>Fish (F)</u>	<u>3:1</u>
<u>Non-fish-bearing (N)</u>	<u>3:1</u>
<u>Other (O)</u>	<u>2:1;</u>

Commented [KJ532]: Clarifies which aquatic area type a specific riparian area mitigation ratio pertains to.

Commented [KJ533]: Ratios account for replacement of lost or impacted area, time lags between project impacts and mitigation maturity, and uncertainty in mitigation success. Ratios are different for type O aquatic areas than type S, F, and N because type O are disconnected from other aquatic areas and provide fewer riparian area functions.

F.1 The department may approve an alternative on-site riparian area mitigation ratio to subsection E. of this section when the following requirements of subsection F.2. of this section are met.

2. Required actions for alternative on-site riparian area mitigation ratio.

<u>Adjacent Aquatic Area Type</u>	<u>Trees and Shrubs</u>	<u>Non-woody Vegetation or No Vegetated Cover</u>
<u>Shoreline (S)</u>	<u>2:1 ratio with at least one primary action or three secondary actions</u>	<u>1:1 ratio with at least two secondary actions</u>
<u>Fish (F)</u>		
<u>Non-fish-bearing (N)</u>		
<u>O</u>	<u>1:1 ratio with at least one primary action or two secondary actions</u>	<u>1:1 ratio with at least one secondary action</u>

Commented [KJ536]: Reduced riparian area compensatory mitigation ratio (3:1 reduced to 1:1) is offset with two required secondary actions. Compensatory mitigation is reduced more than for trees and shrubs and only requires secondary actions because areas with non-woody vegetation or no vegetation provide fewer riparian area and aquatic area functions.

Commented [KJ535]: Reduced riparian area compensatory mitigation ratio (3:1 reduced to 2:1) is offset with a required primary or three secondary actions. Differences in the number of required actions are because primary actions provide more and greater aquatic and riparian area functions than secondary actions.

Commented [KJ537]: Reduced riparian area compensatory mitigation ratio (2:1 reduced to 1:1) is offset with a required primary action or two secondary actions. The ratio and number of secondary actions are different for type O aquatic areas than type S, F, and N because type O are disconnected from other aquatic areas and provide fewer riparian area functions. Differences in the number of required actions are because primary actions provide more and greater aquatic and riparian area functions than secondary actions.

Commented [KJ538]: Clarifies primary actions that offset reduced compensatory mitigation requirements.

3. Primary actions:

4922 a. Placing large wood in adjacent aquatic areas, if not associated with shoreline
4923 stabilization or flood protection facilities;
4924 b. Removing a fish passage barrier, if not required by the development permit;
4925 c. Removing an aquatic area transportation crossing, such as roads, bridges, or
4926 trails, and revegetating as appropriate. Utility crossings are not included under this
4927 action, unless their removal is part of an integrated transportation crossing removal
4928 project;
4929 d. Removing shoreline armoring, revetments, or levees; or
4930 e. Other similar actions as determined by the department.
4931 4. Secondary actions:
4932 a. Planting native trees and shrubs in areas of riparian area addition lacking
4933 native vegetation that are adjacent to and contiguous with existing riparian areas, within
4934 an area equal to one-half of the area of impact. This action cannot be applied where the
4935 riparian area addition requires enhancement to achieve equal function to the impact area;
4936 b. Placing large wood in riparian areas or an adjacent floodplain;
4937 c. Treating or removing invasive and noxious plant species within an
4938 additional area equal to one-half of the area of impact and replanting with native species
4939 as necessary to prevent regrowth of noxious species. This action may only be applied if
4940 at least one other secondary action is also implemented;
4941 d. Installing wildlife snags or similar wildlife nesting or rearing habitat;
4942 e. Removing floodplain fill and replanting with native vegetation as
4943 appropriate; or
4944 f. Other similar actions as determined by the department;

Commented [KJ539]: All primary actions provide improvements to riparian and aquatic area functions, which offset reduced compensatory mitigation ratio requirements. Primary actions provide relatively more and greater aquatic and riparian area functions than secondary actions.

Commented [KJ540]: Clarifies secondary actions that offset reduced compensatory mitigation requirements.

4945 G.1. If unable to be located on or within one-half mile of the site, off-site
 4946 mitigation for riparian areas in the same aquatic area drainage sub-basin, may be accepted
 4947 by the department and shall be in a mitigation banking site, resource mitigation reserve,
 4948 or conservation easement if on private property. Off-site mitigation shall use the ratios of
 4949 area of mitigation to area of impact in subsection G.2. of this section.

Commented [KJ541]: Clarifies where off-site compensatory mitigation can occur, the role of the department, and appropriate mitigation programs and agreements.

4950 2. Off-site ratios of area of mitigation to area of impact:

<u>Adjacent Aquatic Area Type</u>	<u>Off-site Compensatory Mitigation Ratio</u>
<u>Shoreline (S)</u>	<u>4:1</u>
<u>Fish (F)</u>	<u>4:1</u>
<u>Non-fish-bearing (N)</u>	<u>4:1</u>
<u>Other (O)</u>	<u>3:1; and</u>

Commented [KJ542]: Clarifies which aquatic area type a specific riparian area mitigation ratio pertains to.

Commented [KJ543]: Ratios account for replacement of lost or impacted area, time lags between project impacts and mitigation maturity, uncertainty in mitigation success, and uncertainty that off-site areas will be similar to the impacted area. Ratios are different for type O aquatic areas than type S, F, and N because type O are disconnected from other aquatic areas and provide fewer riparian area functions.

4951 H. For rectifying an illegal alteration to any type of aquatic area or ~~((its buffer))~~
 4952 riparian area, mitigation measures ~~((must meet the following standards))~~ shall:

Commented [PR544]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

4953 1. For an aquatic area, be ~~((L))~~ located on the site of the illegal alteration at a

Commented [KJ545]: Removed to provide clarity and brevity.

4954 ~~((1+1))~~ 2:1 ratio of area of mitigation to area of ~~((alteration))~~ impact;

Commented [PR546]: "Impact" is a more accurate term to use in this standard and follows guidance from the Dept. of Ecology. Mitigation is tied to the impacts caused by alterations, not the alterations themselves.

2. For a riparian area, be located on the site of the illegal alteration at a 3:1 ratio of area of mitigation to area of impact for adjacent type S, F, and N aquatic areas, and 2:1 ratio for adjacent type O aquatic areas; and

Commented [KJ547]: Clarifies the riparian area compensatory mitigation ratio and adjacent aquatic area types for rectifying illegal alteration.

3. To the maximum extent practical, replicates the natural prealteration configuration at its natural prealteration location including the factors in subsection B. of this section(~~(; and~~

~~G. The department may modify the requirements in this section if the applicant demonstrates that, with respect to each aquatic area function, greater functions can be obtained in the affected hydrologic unit that the department may determine to be the drainage subbasin through alternative mitigation measures;~~

Commented [KJ548]: Removed to provide clarity. Department determination of offsite mitigation requirements included in previous subsection G.

~~H. For temporary alterations to an aquatic area or its buffer that is predominately woody vegetation, the department may require mitigation in addition to restoration of the altered aquatic area or buffer)).~~

SECTION X. Ordinance 15051, Section 198, as amended, and K.C.C. 21A.24.382 are hereby amended to read as follows:

The following development standards apply to development proposals and alterations on sites containing wildlife habitat conservation areas:

A. Unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed within a wildlife habitat conservation area;

B. For a bald eagle:

1. The wildlife habitat conservation area is an area with a four-hundred-foot radius from an active nest;

4978 2. Between March 15 and April 30, alterations are not allowed within eight
4979 hundred feet of the nest; and

4980 ~~((2))~~ 3. Between January 1 and August 31, land clearing machinery, such as
4981 bulldozers, graders, or other heavy equipment, may not be operated within eight hundred
4982 feet of the nest;

Commented [SK549]: Error in existing code.

4983 C. For a great blue heron:

4984 1. The wildlife habitat conservation area is an area with an eight-hundred-
4985 twenty-foot radius from the rookery. The department may increase the radius up to an
4986 additional one-hundred sixty-four feet if the department determines that the population of
4987 the rookery is declining; and

4988 2. Between January 1 and July 31, clearing or grading are not allowed within
4989 nine-hundred-twenty-four feet of the rookery;

4990 D. For a marbled murrelet, the wildlife habitat conservation area is an area with a
4991 one-half-mile radius around an active nest;

4992 E. For a northern goshawk, the wildlife habitat conservation area is an area with a
4993 one-thousand-five-hundred-foot radius around an active nest located outside of the urban
4994 growth area;

4995 F. For an osprey:

4996 1. The wildlife habitat conservation area is an area with a two-hundred-thirty-
4997 foot radius around an active nest; and

4998 2. Between April 1 and September 30, alterations are not allowed within six-
4999 hundred-sixty feet of the nest;

5000 G. For a peregrine falcon:

5001 1. The wildlife habitat conservation area is an area extending for a distance of
5002 one-thousand feet of an eyrie on a cliff face, the area immediately above the eyrie on the
5003 rim of the cliff, and the area immediately below the cliff;

5004 2. Between March 1 and June 30, land-clearing activities that result in loud
5005 noises, such as from blasting, chainsaws, or heavy machinery, are not allowed within
5006 one-half mile of the eyrie; and

5007 3. New power lines may not be constructed within one-thousand feet of the
5008 eyrie;

5009 H. For a spotted owl, the wildlife habitat conservation area is an area with a
5010 three-thousand-seven-hundred-foot radius from an active nest;

5011 I. For a Townsend's big-eared bat:

5012 1. Between June 1 and October 1, the wildlife habitat conservation area is an
5013 area with a four-hundred-fifty-foot radius from the entrance to a cave or mine, located
5014 outside of the urban area, with an active nursery colony

5015 2. Between November 1 and March 31, the wildlife habitat conservation area is
5016 an area with a four-hundred-fifty-foot radius around the entrance to a cave or mine
5017 located outside the urban growth area serving as a winter hibernacula;

5018 3. Between March 1 and November 30, a building, bridge, tunnel, or other
5019 structure used solely for day or night roosting may not be altered or destroyed;

5020 4. Between May 1 and September 15, the entrance into a cave or mine that is
5021 protected because of bat presence is protected from human entry; and

5022 5. A gate across the entrance to a cave or mine that is protected because of bat
5023 presence must be designed to allow bats to enter and exit the cave or mine;

J. For a Vaux's swift:

1. The wildlife habitat conservation area is an area with a three-hundred-foot radius around an active nest located outside of the urban growth area((s)); and

2. Between April 1 and October 31, clearing, grading, or outdoor construction is not allowed within four hundred feet of an active or potential nest tree. The applicant may use a species survey to demonstrate that the potential nest tree does not contain an active nest; and

K. The department shall require protection of an active breeding site of any federal or state listed endangered, threatened, sensitive, and candidate species or King County species of local importance not listed in subsections B. through J. of this section. If the Washington state Department of Fish and Wildlife has adopted management recommendations for a species covered by this subsection, the department shall follow those management recommendations. If management recommendations have not been adopted, the department shall base protection decisions on best available science.

SECTION X. Ordinance 15051, Section 204, as amended, and K.C.C.

21A.24.388 are hereby amended to read as follows:

In addition to the requirements in K.C.C. 21A.24.130, 21A.24.125 and 21A.24.133, the following applies to mitigation to compensate for the adverse impacts associated with wildlife habitat conservation areas and wildlife habitat networks:

A. Mitigation to compensate for the adverse impacts to a wildlife habitat conservation area must prevent disturbance of each protected species. On-site mitigation may include management practices, such as timing of the disturbance. Off-site mitigation is limited to sites that will enhance the wildlife habitat conservation area;

5047 B. Mitigation to compensate for the adverse impacts to the wildlife habitat
5048 network must achieve equivalent or greater biologic functions including, but not limited
5049 to, habitat complexity and connectivity functions. Specific mitigation requirements for
5050 impacts to the wildlife habitat network shall:

5051 1. Expand or enhance the wildlife network as close to the location of impact as
5052 feasible; and

5053 2. Attain the following ratios of area of mitigation to area of alteration:

5054 a. for mitigation on site:

5055 (1) 1.5:1 ratio for rectifying an illegal alteration to a wildlife habitat network;

5056 and

5057 (2) 1.5:1 ratio for enhancement or restoration; and

5058 b. for mitigation off-site:

5059 (1) 2:1 ratio for rectifying an illegal alteration to a wildlife habitat network;

5060 and

5061 (2) 3:1 ratio for enhancement or restoration;

5062 C. For temporary alterations, the department may require rectification, restoration
5063 or enhancement of the altered wildlife habitat network;

5064 D. The department may increase the width of the wildlife habitat network to
5065 mitigate for risks to habitat functions;

5066 E. To the maximum extent practical, mitigation projects involving wildlife
5067 habitat network restoration should provide replication of the site's prealteration natural
5068 environment including:

5069 1. Soil type, conditions and physical features;

Commented [PR550]: Increased mitigation ration for rectifying code violations specifically to guard against an uncertain success rate.

5070 2. Vegetation diversity and density; and
5071 3. Biologic and habitat functions; and
5072 F. The department may modify the requirements in this section if the applicant
5073 demonstrates that greater wildlife habitat functions will be obtained in the same wildlife
5074 habitat conservation area or wildlife habitat network through alternative mitigation
5075 measures.

5076 SECTION X. Ordinance 13274, Section 5, as amended, and K.C.C. 21A.37.030
5077 are hereby amended to read as follows:

5078 A. Receiving sites shall be:

5079 1. King County unincorporated urban sites, except as limited in subsection D. of
5080 this section [or as provided elsewhere in this Title](#), zoned R-4 through R-48, NB, CB, RB₂ or
5081 O, or any combination thereof. The sites may also be within potential annexation areas
5082 established under the countywide planning policies; or

5083 2. Cities where new growth is or will be encouraged under the Growth
5084 Management Act and the countywide planning policies and where facilities and services
5085 exist or where public investments in facilities and services will be made, or

5086 3. RA-2.5 zoned parcels, except as limited in subsection E. of this section, that
5087 meet the criteria listed in this subsection A.3. may receive development rights transferred
5088 from rural forest focus areas, and accordingly may be subdivided and developed at a
5089 maximum density of one dwelling per two and one-half acres. Increased density allowed
5090 through the designation of rural receiving areas:

5091 a. must be eligible to be served by domestic Group A public water service;

5092 b. must be located within one-quarter mile of an existing predominant pattern of
5093 rural lots smaller than five acres in size;

5094 c. must not adversely impact ~~((regionally or locally significant resource areas or))~~
5095 critical areas;

5096 d. must not require public services and facilities to be extended to create or
5097 encourage a new pattern of smaller lots;

5098 e. must not be located within rural forest focus areas; and

5099 f. must not be located on Vashon Island or Maury Island.

5100 B. Except as provided in this chapter, development of an unincorporated King
5101 County receiving site shall remain subject to all zoning code provisions for the base zone,
5102 except TDR receiving site developments shall comply with dimensional standards of the
5103 zone with a base density most closely comparable to the total approved density of the TDR
5104 receiving site development.

5105 C. Except as otherwise provided in this title, ((A))an unincorporated King County
5106 receiving site may accept development rights from one or more sending sites, as follows:

5107 1. ~~((For short subdivisions, u))~~Up to the maximum density permitted under K.C.C.
5108 21A.12.030 and 21A.12.040; and

5109 2. For formal subdivisions, only ~~((as authorized in a subarea study that includes a~~
5110 ~~comprehensive analysis of the impacts of receiving development rights))~~ if the hearing
5111 examiner finds that the additional density from use of TDRs at the proposed subdivision
5112 does not create unmitigated impacts beyond those created by development at base density.

5113 D. Property located within the outer boundaries of the Noise Remedy Areas as
5114 identified by the Seattle-Tacoma International Airport may not accept development rights.

Commented [CJ551]: To reflect repeal of basin plans

5115 E. Property located within the shoreline jurisdiction or located on Vashon Island or
5116 Maury Island may not accept development rights.

5117 SECTION X. Ordinance 16985, Section 31, as amended, and K.C.C. 21A.25.100
5118 are hereby amended to read as follows:

5119 A. The shoreline use table in this section determines whether a specific use is
5120 allowed within each of the shoreline environments. The shoreline environment is located
5121 on the vertical column and the specific use is located on the horizontal row of the table.
5122 The specific uses are grouped by the shoreline use categories in WAC 173-26-241. The
5123 specific uses are defined by those uses in K.C.C. chapter 21A.08. The table should be
5124 interpreted as follows:

5125 1. If the cell is blank in the box at the intersection of the column and the row,
5126 the use is prohibited in that shoreline environment;

5127 2. If the letter "P" appears in the box at the intersection of the column and the
5128 row, the use may be allowed within the shoreline environment;

5129 3. If the letter "C" appears in the box at the intersection of the column and the
5130 row, the use may be allowed within the shoreline environment subject to the shoreline
5131 conditional use review procedures specified in K.C.C. 21A.44.100.

5132 4. If a number appears in the box at the intersection of the column and the row,
5133 the use may be allowed subject to the appropriate review process in this section, the
5134 general requirements of this chapter and the specific development conditions indicated
5135 with the corresponding number in subsection C. of this section. If more than one number
5136 appears after a letter, all numbers apply.

5137 5. If more than one letter-number combination appears in the box at the
 5138 intersection of the column and the row, the use is allowed in accordance with each letter-
 5139 number combination.

5140 6. A shoreline use may be allowed in the aquatic environment only if that
 5141 shoreline use is allowed in the adjacent shoreland environment.

5142 7. This section does not authorize a land use that is not allowed by the
 5143 underlying zoning, but may add additional restrictions or conditions or prohibit specific
 5144 land uses within the shoreline jurisdiction. When there is a conflict between the
 5145 permitted land uses in K.C.C. chapter 21A.08 and shoreline uses in this section,
 5146 preference for shoreline uses shall first be given to water-dependent uses, then to water
 5147 related uses and finally to water enjoyment uses. All uses in the shoreline jurisdiction
 5148 must comply with all relevant county code provisions and with the King County
 5149 ((S))shoreline ((M))master ((P))program.

5150 B. Shoreline uses

P - Permitted Use C - Shoreline Conditional Use Blank - Prohibited. ((Shoreline uses are allowed only if the underlying zoning allows the use. Shoreline uses are allowed in the aquatic environment only if the adjacent upland environment allows the use.))	High Intensity	Residential	Rural	Conservancy	Resource	Forestry	Natural	Aquatic
Agriculture								
Agriculture (K.C.C. 21A.08.090)		P	P	P	P	P	P1	

Commented [PR552]: Proposed to be deleted because this information is repeated in subsections 6 and 7 above.

Aquaculture (fish and wildlife management K.C.C. 21A.08.090)								
Nonnative marine finfish aquaculture								
Commercial salmon net pens								
Noncommercial native salmon net pens	P2	P2	P2	P2	P2	P2	P2	P2
Native non-salmonid finfish net pens		C2	C2	C2				C2
Geoduck aquaculture	C2	C2	C2	C2	C2	C2	C2	C2
Aquaculture, not otherwise listed	P2	P2	P2	P2	P2	P2	P2	P2
Boating Facilities								
Marinas (K.C.C. 21A.08.040)	C3	C3	C3					C3
Commercial Development								
General services (K.C.C. 21A.08.050)	P4	P5	P5					
Business services, except SIC Industry No. 1611, automotive parking and off-street required parking lot (K.C.C. 21A.08.060)	P6							
Retail (K.C.C. 21A.08.070)	P7	P8						
Government Services								
Government services except commuter parking lot, utility facility, and private stormwater management facility (K.C.C. 21A.08.060)	P9	P9	P9	P9	P9	P9	P9	C10
Forest Practices								
Forestry (K.C.C. 21A.08.090)		P11	P11	P11	P11	P11	C11	

Commented [PR553]: This instance of "salmon" should remain and not be changed to "fish"

Commented [PR554]: This instance of "salmon" should remain and not be changed to "fish"

Commented [PR555]: A note on "salmon" vs. "salmonid": For salmon net pens, the phrase is a generic phrase for a type of aquaculture. During updates to the aquaculture code in 2019, "salmonid" was not used in the table due to the common phrasing of the type of aquaculture. "Salmonid" was used in most other places since the code defines 'salmonid' and doesn't have a definition for 'salmon'. If it becomes necessary to clean up the aquaculture phrasing for some reason, "salmonid" should be used—it is what is defined in code and the intent was to limit all commercial forms of salmonids (e.g., trout species as well as salmon).

Commented [PR556]: This instance of "salmonid" should remain and not be changed to "fish"

Industry								
Manufacturing (K.C.C. 21A.08.080)	P12							
In-stream structural uses								
Hydroelectric generation facility, wastewater treatment facility, and municipal water production (K.C.C. 21A.08.100)	C13	C13	C13			C13		C13
In-stream utility facilities (K.C.C. 21A.08.060)	P14	P14	P14	P14	P14	P14	P14	C14
In-stream transportation portion of SIC 1611 highway and street construction (K.C.C. 21A.08.060)								C15
In-stream fish and wildlife management, except aquaculture (K.C.C. 21A.08.090)								C16
Mining								
Mineral uses (K.C.C. 21A.08.090)					C17	C17		C17
Recreational Development								
Recreational ((P)) and cultural except for marinas and docks and piers (K.C.C. 21A.08.040)	P18	P19	P19	P20		P19	P21	C
Residential Development								
Single detached dwelling units (K.C.C. 21A.08.030)		P	P	P	P	C22	C22	
<u>Duplex, triplex, fourplex,</u> ((P)) townhouse, apartment, mobile home park, cottage housing (K.C.C. 21A.08.030)	P23	P			P			

Group residences (K.C.C. 21A.08.030)	P23	P						
Accessory uses (K.C.C. 21A.08.030)	P24	P24	P24	P24	P24	C22 and 24	C22 and 24	
Temporary lodging (K.C.C. 21A.08.030)	P23	P27	P27	C27	C27			
Live-aboards	P28	P28	P28					P28
Transportation and parking								
Transportation facilities	P29	P29	P29	C29	P29	P29	C29	C29
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	P26	P26	P26	P26	P26	P26	C26
Regional land uses								
Regional uses except hydroelectric generation facility, wastewater treatment facility, and municipal water production (K.C.C. 21A.08.100)	P30							

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.

5156 2.a. The supporting infrastructure for aquaculture may be located landward of
5157 the aquaculture operation, subject to the limitations of K.C.C. Title 21A.

5158 b. The aquaculture operation must meet the standards in K.C.C. 21A.25.110.

5159 c. In aquatic areas adjacent to the residential shoreline environment, net pen
5160 facilities shall be located no closer than one thousand five hundred feet from the ordinary
5161 high water mark of this environment, unless the department allows a specific lesser
5162 distance that it determines is appropriate based upon a visual impact analysis. Other
5163 types of floating culture facilities may be located within one thousand five hundred feet
5164 of the ordinary high water mark if supported by a visual impact analysis.

5165 d. In aquatic areas adjacent to the rural shoreline environment, net pen
5166 facilities shall be located no closer than one thousand five hundred feet from the ordinary
5167 high water mark of this environment, unless the department allows a specific lesser
5168 distance that it determines is appropriate based upon a visual impact analysis.

5169 e. In the natural shoreline environment and aquatic areas adjacent to the natural
5170 shoreline environment, commercial net pens are prohibited and other aquaculture
5171 activities are limited to activities that do not require structures, facilities, or mechanized
5172 harvest practices and that will not alter the natural systems, features, or character of the
5173 site.

5174 f. Farm-raised geoduck aquaculture requires a shoreline substantial
5175 development permit if a specific project or practice causes substantial interference with
5176 normal public use of the surface waters.

5177 g. A conditional use permit is required for new commercial geoduck
5178 aquaculture only, consistent with WAC 173-26-241(3)(b). All subsequent cycles of
5179 planting and harvest shall not require a new conditional permit.

5180 3.a. New marinas are not allowed along the east shore of Maury Island, from
5181 Piner Point to Point Robinson.

5182 b. Marinas must meet the standards in K.C.C. 21A.25.120.

5183 4. Water dependent general services land uses in K.C.C. 21A.08.050 are
5184 allowed. Non-water dependent general services land uses in K.C.C. 21A.08.050 are only
5185 allowed on sites that are not contiguous with the ordinary high water mark or on sites that
5186 do not have an easement that provides direct access to the water.

5187 5.a. Water-dependent general services land uses in K.C.C. 21A.08.050 are
5188 allowed.

5189 b. Non-water-dependent general services land uses in K.C.C. 21A.08.050 are
5190 only allowed as part of a shoreline mixed-use development that includes water-dependent
5191 uses.

5192 c. Non-water-oriented general services land uses must provide a significant
5193 public benefit by helping to achieve one or more of the following shoreline master
5194 program goals:

5195 (1) economic development for water-dependent uses;
5196 (2) public access;
5197 (3) water-oriented recreation;
5198 (4) conservation of critical areas, scenic vistas, aesthetics, or fish and wildlife
5199 habitat; and

5200 (5) protection and restoration of historic properties.

5201 6. Water-dependent business services uses in K.C.C. 21A.08.050 are allowed.

5202 Water-related business services uses are only allowed as part of a shoreline mixed-use

5203 development and only if they support a water-dependent use. The water-related business

5204 services uses must comprise less than one-half of the square footage of the structures or

5205 the portion of the site within the shoreline jurisdiction.

5206 7.a. Water-dependent retail uses in K.C.C. 21A.08.050 are allowed.

5207 b. Non-water-dependent retail uses in K.C.C. 21A.08.050 are only allowed as

5208 part of a shoreline mixed-use development if the non-water-dependent retail use supports

5209 a water-dependent use. Non-water-dependent uses must comprise less than one-half of

5210 the square footage of the structures or the portion of the site within the shoreline

5211 jurisdiction.

5212 c. Non-water-oriented retail uses must provide a significant public benefit by

5213 helping to achieve one or more of the following shoreline master program goals:

5214 (1) economic development for water-dependent uses;

5215 (2) public access;

5216 (3) water-oriented recreation;

5217 (4) conservation of critical areas, scenic vistas, aesthetics, or fish and wildlife

5218 habitat; and

5219 (5) protection and restoration of historic properties.

5220 8. Water-dependent retail uses in K.C.C. 21A.08.050 are allowed. Non-water-

5221 dependent retail uses in K.C.C. 21A.08.050 are only allowed if the retail use provides a

5222 significant public benefit by helping to achieve one or more of the following shoreline
5223 master program goals:

- 5224 a. economic development for water-dependent uses;
- 5225 b. public access;
- 5226 c. water-oriented recreation;
- 5227 d. conservation of critical areas, scenic vistas, aesthetics, or fish and wildlife
5228 habitat; and
- 5229 e. protection and restoration of historic properties.

5230 9.a. Water-dependent government services in K.C.C. 21A.08.060 are allowed.

5231 b. Non-water-dependent government services in K.C.C. 21A.08.060 are only
5232 allowed as part of a shoreline mixed-use development if the non-water-dependent
5233 government use supports a water-dependent use. Non-water-dependent uses must
5234 comprise less than one-half of the square footage of the structures or the portion of the
5235 site within the shoreline jurisdiction. Only low-intensity water-dependent government
5236 services are allowed in the Natural environment.

5237 10. The following standards apply to government services uses within the
5238 Aquatic environment:

- 5239 a. Stormwater and sewage outfalls are allowed if upland treatment and
5240 infiltration to groundwater, streams, or wetlands is not feasible and there is no impact on
5241 critical saltwater habitats, salmon migratory habitat, and the nearshore zone. However,
5242 stormwater and sewage outfalls are not allowed in the Maury Island Aquatic Reserve,
5243 except from Piner Point to Point Robinson;

Commented [PR557]: This instance of "salmon" should remain and not be changed to "fish"

5244 b. Water intakes shall not be located near fish spawning, migratory, or rearing
5245 areas. Water intakes must adhere to Washington state Department of Fish and Wildlife
5246 fish screening criteria. To the maximum extent practical, intakes should be placed at
5247 least thirty feet below the ordinary high water mark;

5248 c. Desalinization facilities shall not be located near fish spawning, migratory,
5249 or rearing areas. Intakes should generally be placed deeper than thirty feet below the
5250 ordinary high water mark and must adhere to Washington state Department Fish and
5251 Wildlife fish screening criteria. Discharge of desalination wastewater or concentrated
5252 mineral is not allowed in the Maury Island Aquatic Reserve, except that outside the Inner
5253 and Outer Harbormaster Harbor, discharge may be considered if there is no impact on
5254 critical saltwater habitats, salmon migratory habitat, and the nearshore zone;

Commented [PR558]: This instance of "salmon" should remain
and not be changed to "fish"

5255 d. Cable crossings for telecommunications and power lines shall:

5256 (1) be routed around or drilled below aquatic critical habitat or species;

5257 (2) be installed in sites free of vegetation, as determined by physical or video
5258 seabed survey;

5259 (3) be buried, preferably using directional drilling, from the uplands to
5260 waterward of the deepest documented occurrence of native aquatic vegetation; and

5261 (4) use the best available technology;

5262 e. Oil, gas, water, and other pipelines shall meet the same standards as cable
5263 crossings and in addition:

5264 (1) pipelines must be directionally drilled to depths of seventy feet or one half
5265 mile from the ordinary high water mark; and

5266 (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((+));

5290 d. restoration is required for all new manufacturing uses; [and](#)
5291 e. boat repair facilities are not permitted within the Maury Island Aquatic
5292 Reserve, except as follows:
5293 (1) engine repair or maintenance conducted within the engine space without
5294 vessel haul-out;
5295 (2) topside cleaning, detailing, [and](#) bright work;
5296 (3) electronics servicing and maintenance;
5297 (4) marine sanitation device servicing and maintenance that does not require
5298 haul-out;
5299 (5) vessel rigging; and
5300 (6) minor repairs or modifications to the vessel's superstructure and hull
5301 above the waterline that do not exceed twenty-five percent of the vessel's surface area
5302 above the waterline.
5303 13. The water-dependent in-stream portion of a hydroelectric generation facility,
5304 wastewater treatment facility and municipal water production are allowed, including the
5305 upland supporting infrastructure, and shall provide for the protection and preservation, of
5306 ecosystem-wide processes, ecological functions, and cultural resources, including, but not
5307 limited to, fish and fish passage, wildlife and water resources, shoreline critical areas,
5308 hydrogeological processes, and natural scenic vistas.
5309 14. New in-stream portions of utility facilities may be located within the
5310 shoreline jurisdiction if:
5311 a. there is no feasible alternate location;

5312 b. provision is made to protect and preserve ecosystem-wide processes,
5313 ecological functions, and cultural resources, including, but not limited to, fish and fish
5314 passage, wildlife and water resources, shoreline critical areas, hydrogeological processes,
5315 and natural scenic vistas; and

5316 c. the use complies with the standards in K.C.C. 21A.25.260.

5317 15. Limited to in-stream infrastructure, such as bridges, and must consider the
5318 priorities of the King County Shoreline Protection and Restoration Plan when designing
5319 in-stream transportation facilities. In-stream structures shall provide for the protection
5320 and preservation, of ecosystem-wide processes, ecological functions, and cultural
5321 resources, including, but not limited to, fish and fish passage, wildlife and water
5322 resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

5323 16. Limited to hatchery and fish preserves.

5324 17. Mineral uses:

5325 a. must meet the standards in K.C.C. chapter 21A.22;

5326 b. must be dependent upon a shoreline location;

5327 c. must avoid and mitigate adverse impacts to the shoreline environment
5328 during the course of mining and reclamation to achieve no net loss of shoreline ecological
5329 function. In determining whether there will be no net loss of shoreline ecological
5330 function, the evaluation may be based on the final reclamation required for the site.

5331 Preference shall be given to mining proposals that result in the creation, restoration, or
5332 enhancement of habitat for priority species;

5333 d. must provide for reclamation of disturbed shoreline areas to achieve
5334 appropriate ecological functions consistent with the setting;

5335 e. may be allowed within the active channel of a river only as follows:

5336 (1) removal of specified quantities of sand and gravel or other materials at
5337 specific locations will not adversely affect the natural processes of gravel transportation
5338 for the river system as a whole;

5339 (2) the mining and any associated permitted activities will not have
5340 significant adverse impacts to habitat for priority species nor cause a net loss of
5341 ecological functions of the shoreline; and

5342 (3) if no review has been previously conducted under this subsection C.17.e.,
5343 ~~((prior to))~~ before renewing, extending, or reauthorizing gravel bar and other in-channel
5344 mining operations in locations where they have previously been conducted, the
5345 department shall require compliance with this subsection C.17.e. If there has been prior
5346 review, the department shall review previous determinations comparable to the
5347 requirements of this section C.17.e. to ensure compliance with this subsection under
5348 current site conditions; and

5349 f. Must comply with K.C.C. 21A.25.190.

5350 18. Only water-dependent recreational uses are allowed, except for public parks
5351 and trails, in the High Intensity environment and must meet the standards in K.C.C.
5352 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

5353 19. Water-dependent and water-enjoyment recreational uses are allowed in the
5354 Residential, Rural, and Forestry environments and must meet the standards in K.C.C.
5355 21A.25.140 for public access and K.C.C. 21A.25.150 for recreation.

5356 20. In the Conservancy environment, only the following recreation uses are
5357 allowed and must meet the standards in K.C.C. 21A.25.140 for public access and K.C.C.
5358 21A.25.150 for recreation:

- 5359 a. parks; and
- 5360 b. trails.

5361 21. In the Natural environment, only passive and low-impact recreational uses
5362 are allowed.

5363 22. Single detached dwelling units must be located outside of the ~~((aquatic area~~
5364 ~~buffer)) riparian area~~ and set back from the ordinary high water mark to the maximum
5365 extent practical.

Commented [PR559]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

5366 23. Only allowed as part of a water-dependent shoreline mixed-use development
5367 where water-dependent uses comprise more than half of the square footage of the
5368 structures on the portion of the site within the shoreline jurisdiction.

5369 24. Residential accessory uses must meet the following standards:

5370 a. docks, piers, moorage, buoys, floats, or launching facilities must meet the
5371 standards in K.C.C. 21A.25.180;

5372 b. residential accessory structures located within the ~~((aquatic area buffer))~~
5373 ~~riparian area~~ shall be limited to a total footprint of one-hundred fifty square feet; and

Commented [PR560]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

5374 c. accessory structures shall be sited to preserve visual access to the shoreline
5375 to the maximum extent practical.

5376 25. New highway and street construction is allowed only if there is no feasible
5377 alternate location. Only low-intensity transportation infrastructure is allowed in the
5378 Natural environment.

5379 26. Utility facilities are subject to the standards in K.C.C. 21A.25.260.

5380 27. Only bed and breakfast guesthouses.

5381 28. Only in a marina.

5382 29. Transportation facilities are subject to the standards in K.C.C. 21A.25.280.

5383 30. Only solid waste transfer stations and subject to K.C.C. 21A.25.260.

5384 SECTION X. Ordinance 16985, Section 32, as amended, and K.C.C. 21A.25.110

5385 are hereby amended to read as follows:

5386 An applicant for an aquaculture facility must use the sequential measures in
5387 K.C.C. 21A.25.080. The following standards apply to aquaculture:

5388 A. Unless the applicant demonstrates that the substrate modification will result in
5389 an increase in native habitat diversity, aquaculture that involves little or no substrate
5390 modification shall be given preference over aquaculture that involves substantial
5391 substrate modification and the degree of proposed substrate modification shall be limited
5392 to the maximum extent practical.

5393 B. The installation of submerged structures, intertidal structures, and floating
5394 structures shall be limited to the maximum extent practical.

5395 C. Aquaculture proposals that involve substantial substrate modification or
5396 sedimentation through dredging, trenching, digging, mechanical clam harvesting, or other
5397 similar mechanisms, shall not be permitted in areas where the proposal would adversely
5398 impact critical saltwater or critical freshwater habitats.

5399 D. Aquaculture activities that after implementation of mitigation measures would
5400 have a significant adverse impact on natural, dynamic shoreline processes or that would
5401 result in a net loss of shoreline ecological functions shall be prohibited.

Commented [PR561]: Critical freshwater habitats are a FWPCA and are required to be protected per WAC 173-26-221. It is unclear why the County only listed critical saltwater habitat in the current code, but including critical freshwater habitats in this update resolves the omission. This also matches the definition of aquaculture in 21A.06.072B, which includes both marine and fresh waters.

5402 E. Aquaculture should not be located in areas that will result in significant
5403 conflicts with navigation or other water-dependent uses.

5404 F. Aquaculture facilities shall be designed, located, and managed to prevent the
5405 spread of diseases to native aquatic life or the spread of new nonnative species.

5406 G. Aquaculture practices shall be designed to minimize use of artificial chemical
5407 substances and shall use chemical compounds that are least persistent and have the least
5408 impact on plants and animals. Herbicides and pesticides shall be used only in
5409 conformance with state and federal standards and to the minimum extent needed for the
5410 health of the aquaculture activity.

5411 H. Noncommercial native salmon net pen facilities that involve minimal
5412 supplemental feeding and limited use of chemicals or antibiotics as provided in
5413 subsection G. of this section may be located in King County marine waters if they are
5414 consistent with subsections S. and Y. of this section and are:

5415 1. Native salmon net pens operated by tribes with treaty fishing rights;

5416 2. For the limited penned cultivation of wild salmon stocks during a limited
5417 portion of their lifecycle to enhance restoration of native stocks; or

5418 3. For rearing to adulthood in order to harvest eggs as part of a captive brood
5419 stock recovery program for endangered species.

5420 I. If uncertainty exists regarding potential impacts of a proposed aquaculture
5421 activity and for all experimental aquaculture activities, unless otherwise provided for, the
5422 department may require baseline and periodic operational monitoring by a county-
5423 approved consultant, at the applicant's expense, and shall continue until adequate
5424 information is available to determine the success of the project and the magnitude of any

Commented [PR562]: This instance of "salmon" should remain and not be changed to "fish"

Commented [PR563]: This instance of "salmon" should remain and not be changed to "fish"

5425 probable significant adverse environmental impacts. Permits for such activities shall
5426 include specific performance measures and provisions for adjustment or termination of
5427 the project at any time if monitoring indicates significant, adverse environmental impacts
5428 that cannot be adequately mitigated.

5429 J. Aquaculture developments approved on an experimental basis shall not exceed
5430 five acres in area, except land-based projects and anchorage for floating systems, and
5431 three years in duration. The department may issue a new permit to continue an
5432 experimental project as many times as it determines is necessary and appropriate.

5433 K. The department may require aquaculture operations to carry liability insurance
5434 in an amount commensurate with the risk of injury or damage to any person or property
5435 as a result of the project. Insurance requirements shall not be required to duplicate
5436 requirements of other agencies.

5437 L. If aquaculture activities are authorized to use public facilities, such as boat
5438 launches or docks, King County may require the applicant to pay a portion of the cost of
5439 maintenance and any required improvements commensurate with the use of those
5440 facilities.

5441 M. New aquatic species that are not previously cultivated in Washington state
5442 shall not be introduced into King County saltwaters or freshwaters without prior written
5443 approval of the Director of the Washington state Department of Fish and Wildlife and the
5444 Director of the Washington Department of Health. This prohibition does not apply to:
5445 Pacific, Olympia, Kumomoto, Belon, or Virginica oysters; Manila, Butter, or Littleneck
5446 clams; or Geoduck clams.

5447 N. Unless otherwise provided in the shoreline permit issued by the department,
5448 repeated introduction of an approved organism after harvest in the same location shall
5449 require approval by the county only at the time the initial aquaculture use permit is
5450 issued. Introduction, for purposes of this section, shall mean the placing of any aquatic
5451 organism in any area within the waters of King County regardless of whether it is a native
5452 or resident organism within the county and regardless of whether it is being transferred
5453 from within or without the waters of King County.

5454 O. For aquaculture projects, over-water structures shall be allowed only if
5455 necessary for the immediate and regular operation of the facility. Over-water structures
5456 shall be limited to the ~~(())~~ storage of necessary tools and apparatus in containers of not
5457 more than three feet in height, as measured from the surface of the raft or dock.

Commented [PR564]: Grammar fix--no comma needed here.

5458 P. Except for the sorting or culling of the cultured organism after harvest and the
5459 washing or removal of surface materials or organisms before or after harvest, no
5460 processing of any aquaculture product shall occur in or over the water unless specifically
5461 approved by permit. All other processing and processing facilities shall be located
5462 landward of the ordinary high water mark.

5463 Q. Aquaculture wastes shall be disposed of in a manner that will ensure strict
5464 compliance with all applicable governmental waste disposal standards, including, but not
5465 limited to, the Federal Clean Water Act, Section 401, and chapter 90.48 RCW, Water
5466 Pollution Control. No garbage, wastes, or debris shall be allowed to accumulate at the
5467 site of any aquaculture operation.

5468 R. Unless approved in writing by the National Marine Fisheries Service or the
5469 U.S. Fish and Wildlife Service, predator control shall not involve the killing or

5470 harassment of birds or mammals. Approved controls include, but are not limited to,
5471 double netting for seals, overhead netting for birds and three-foot high fencing or netting
5472 for otters. The use of other nonlethal, nonabusive predator control measures shall be
5473 contingent upon receipt of written approval from the National Marine Fisheries Service
5474 or the U.S. Fish and Wildlife Service, as required.

5475 S. Finfish net pens and rafts shall meet the following criteria in addition to the
5476 other applicable regulations of this section:

5477 1. Finfish net pens shall not be located in Quartermaster Harbor. For the
5478 purposes of this subsection, "Quartermaster Harbor" means the area of Puget Sound north
5479 of a straight line drawn from the southwest tip of Maury Island, which is Piner Point, to
5480 the southeast tip of Vashon Island, which is Neill Point;

5481 2. Finfish net pens shall meet, at a minimum, state approved administrative
5482 guidelines for the management of net pen cultures. In the event there is a conflict in
5483 requirements, the more restrictive requirement shall prevail;

5484 3. Finfish net pens shall not occupy more than two surface acres of water area,
5485 excluding booming and anchoring requirements. Anchors that minimize disturbance to
5486 substrate, such as helical anchors, shall be employed. Such operations shall not use
5487 chemicals or antibiotics;

5488 4. Aquaculture proposals that include new or added net pens or rafts shall not be
5489 located closer than one nautical mile to any other aquaculture facility that includes net
5490 pens or rafts. The department may authorize a lesser distance if the applicant
5491 demonstrates to the satisfaction of the department that the proposal will be consistent
5492 with the environmental and aesthetic policies and objectives of this chapter and the

Commented [SK565]: Error in existing code.

Commented [PR566]: "Maury" should not be added in this case, as the code is being very specific and not generalizing the two islands into one name. Neill Point is part of Vashon and is not associated with Maury Island.

5493 shoreline master program. The applicant shall demonstrate to the satisfaction of the
5494 department that the cumulative impacts of existing and proposed operations would not be
5495 contrary to the policies and regulations of the program;

5496 5. Net cleaning activities shall be conducted on a frequent enough basis so as
5497 not to violate state water quality standards. When feasible, the cleaning of nets and other
5498 apparatus shall be accomplished by air drying, spray washing, or hand washing; and

5499 6. In the event of a significant fish kill at the site of a net pen facility, the finfish
5500 aquaculture operator shall submit a timely report to public health – Seattle & King
5501 County, environmental health division, and the department stating the cause of death and
5502 shall detail remedial actions to be implemented to prevent reoccurrence.

5503 T. All floating and submerged aquaculture structures and facilities in navigable
5504 waters shall be marked in accordance with United States Coast Guard requirements.

5505 U. The rights of treaty tribes to aquatic resources within their usual and
5506 accustomed areas shall be addressed through direct coordination between the applicant
5507 and the affected tribes through the permit review process.

5508 V. Aquaculture structures and equipment shall be of sound construction and shall
5509 be so maintained. Abandoned or unsafe structures and equipment shall be removed or
5510 repaired promptly by the owner. Where any structure might constitute a potential hazard
5511 to the public in the future, the department shall require the posting of a bond
5512 commensurate with the cost of removal or repair. The department may abate an
5513 abandoned or unsafe structure in accordance with K.C.C. Title 23.

5514 W. Aquaculture shall not be approved where it will adversely impact eelgrass and
5515 macroalgae.

5516 X. Commercial salmon net pens and nonnative marine finfish aquaculture are
5517 prohibited.

Commented [PR567]: This instance of "salmon" should remain and not be changed to "fish"

5518 Y. Finfish net pens shall be consistent with the applicable aquaculture regulations
5519 in this section and shall meet the following criteria and requirements:

5520 1. Each finfish net pen application shall provide a current, peer-reviewed
5521 science review of environmental issues related to finfish net pen aquaculture;

5522 2. The department shall only approve a finfish net pen application if the
5523 department determines the scientific review demonstrates:

5524 a. that the project construction and activities will achieve no net loss of
5525 ecological function in a manner that has no significant adverse short-term impact and no
5526 documented adverse long-term impact to applicable elements of the environment,

5527 including, but not limited to, habitat for native salmonids, water quality, critical saltwater
5528 or freshwater habitat, eel grass beds, other aquaculture, other native species, the benthic
5529 community below the net pen, or other environmental attributes; and

Commented [PR568]: This instance of "salmonid" should remain and not be changed to "fish"

5530 b. that the finfish net pen does not involve significant risk of cumulative
5531 adverse effects, including, but not limited to, risk of interbreeding with wild salmon or
5532 reduction of genetic fitness of wild stocks, parasite or disease transmission, or other
5533 adverse effects on native species or threatened or endangered species and their habitats;

Commented [PR569]: Critical saltwater and freshwater habitats are FWHCAs and are required to be protected per WAC 173-26-221. Subsection Y is not about salmon specifically and does not explicitly say standards are limited to marine areas. While it would be unlikely that there would be a finfish net pen proposal for a lake (i.e., outside a marine area), it is possible. Therefore, critical saltwater and freshwater habitats are being added here just in case, in order to maintain protection for FWHCAs.

5534 3. The department's review shall:

5535 a. include an assessment of the risk to endangered species, non-endangered
5536 species, and other biota that could be affected by the finfish net pen; and

Commented [PR570]: This instance of "salmon" should remain and not be changed to "fish"

5537 b. evaluate and model water quality impacts utilizing current information,
5538 technology, and assessment models. The project proponent shall be financially
5539 responsible for this water quality assessment;

5540 4. Finfish net pens shall be designed, constructed, and maintained to prevent
5541 escapement of fish in all foreseeable circumstances, including, but not limited to, tide,
5542 wind and wave events of record, floating and submerged debris, and tidal action;

5543 5. Finfish net pens shall not be located:

5544 a. within three hundred feet of an area containing eelgrass or a kelp bed;

5545 b. within one thousand five hundred feet of an ordinary high water mark; or

5546 c. in a designated Washington state Department of Natural Resources aquatic
5547 reserve;

5548 6. A finfish net pen may not be used to mitigate the impact of a development
5549 proposal; and

5550 7. For finfish net pens that are not noncommercial native salmon net pens, the
5551 conditional use permit for the net pen must be renewed every five years. An updated
5552 scientific review shall be conducted as part of the renewal and shall include a new risk
5553 assessment and evaluation of the impact of the operation of the finfish net pen during the
5554 previous five years.

5555 Z. Geoduck aquaculture shall be consistent with WAC 173-26-241(3)(b).

5556 SECTION X. Ordinance 3688, Section 415, as amended, and K.C.C. 21A.25.150
5557 are hereby amended to read as follows:

5558 Recreational development must meet the following standards:

5559 A. The recreational development must be permitted in the underlying zone;

Commented [PR571]: This instance of "salmon" should remain
and not be changed to "fish"

5560 B. Recreational uses in the Natural environment must be water-oriented;

5561 C. Swimming areas shall be separated from boat launch areas and marinas, to the
5562 maximum extent practical;

5563 D. The development of underwater sites for sport diving shall not:

5564 1. Take place at depths of greater than eighty feet;

5565 2. Constitute a navigational hazard; and

5566 3. Be located in areas where the normal waterborne traffic would constitute a
5567 hazard to those people who may use such a site;

5568 E. The construction of swimming facilities, docks, piers, moorages, buoys, floats,
5569 and launching facilities below the ordinary high water mark shall be governed by the
5570 regulations relating to docks, piers, moorage, buoys, floats, or launching facility
5571 construction in K.C.C. 21A.25.180;

5572 F. Public boat launching facilities or marinas shall be governed by K.C.C.
5573 21A.25.120;

5574 G. Campgrounds in the Natural environment shall meet the following conditions:

5575 1. Campsites shall be located outside the shoreline jurisdiction if possible, and if
5576 not, be located outside of critical areas buffers;

5577 2. Restrooms and parking shall be located outside the shoreline jurisdiction; and

5578 3. Removal of vegetation shall be limited to the maximum extent practical;

5579 H. Public contact with unique and fragile areas shall be permitted where it is
5580 possible without destroying the natural character of the area;

5581 I. Water viewing, nature study, recording, and viewing shall be accommodated
5582 by open space, platforms, benches, or shelter, consistent with public safety and security;

5583 J. Public recreation shall be provided on county-owned lands consistent with this
5584 chapter unless the director determines public recreation is not compatible with other uses
5585 on the site or will create a public safety risk; and

5586 K. To the maximum extent practical, proposals for non water oriented active
5587 recreation facilities shall be located outside of the shoreline jurisdiction and shall not be
5588 permitted where the non water oriented active recreation facility would have an adverse
5589 impact on critical saltwater or critical freshwater habitats.

Commented [PR572]: Critical freshwater habitats are a FWHCA and are required to be protected per WAC 173-26-221.

5590 SECTION X. Ordinance 16985, Section 39, as amended, and K.C.C. 21A.25.160
5591 are hereby amended to read as follows:

5592 A. The shoreline modification table in this section determines whether a specific
5593 shoreline modification is allowed within each of the shoreline environments. The
5594 shoreline environment is located on the vertical column and the specific use is located on
5595 the horizontal row of the table. The specific modifications are grouped by the shoreline
5596 modification categories in WAC 173-26-231. The table should be interpreted as follows:

5597 1. If the cell is blank in the box at the intersection of the column and the row,
5598 the modification is prohibited in that shoreline environment;

5599 2. If the letter "P" appears in the box at the intersection of the column and the
5600 row, the modification may be allowed within the shoreline environment;

5601 3. If the letter "C" appears in the box at the intersection of the column and the
5602 row, the modification may be allowed within the shoreline environment subject to the
5603 shoreline conditional use review procedures specified in K.C.C. 21A.44.100;

5604 4. If a number appears in the box at the intersection of the column and the row,
5605 the modification may be allowed subject to the appropriate review process indicated in

5606 this section and the specific development conditions indicated with the corresponding
 5607 number immediately following the table, and only if the underlying zoning allows the
 5608 modification. If more than one number appears at the intersection of the column and
 5609 row, both numbers apply;

5610 5. If more than one letter-number combination appears in the box at the
 5611 intersection of the column and the row, the modification is allowed within that shoreline
 5612 environment subject to different sets of limitations or conditions depending on the review
 5613 process indicated by the letter, the specific development conditions indicated in the
 5614 development condition with the corresponding number immediately following the table;

5615 6. A shoreline modification may be allowed in the aquatic environment only if
 5616 that shoreline modification is allowed in the adjacent shoreland environment; and

5617 7. This section does not authorize a shoreline modification that is not allowed
 5618 by the underlying zoning, but may add additional restrictions or conditions or prohibit
 5619 specific modifications within the shoreline jurisdiction. All shoreline modifications in
 5620 the shoreline jurisdiction must comply with all relevant county code provisions and with
 5621 the King County shoreline master program.

5622 B. Shoreline modifications.

	High Intens ity	Residenti al	Rur al	Conserva ncy	Resour ce	Fores try	Natur al	Aquat ic
Shoreline stabilization								

Shoreline stabilization, not including flood protection facilities	P1	P1	P1	C1	P1	C1		P1 C1
Flood protection facilities	P2	P2	P2	P2	P2		P2	P2
Piers and docks								
Docks, piers, moorage, buoys, floats, or launching facilities	P3	P3	P3	C3	C3	C3		P3 C3
Fill								
Filling	P4 C4	P4 C4	P4 C4	P4 C4	P4 C4	C4	C4	P4 C4
Breakwaters, jetties, groins, and weirs								
Breakwaters, jetties, groins, and weirs	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5	P5 C5
Dredging and dredge material disposal								

Excavation, dredging, dredge material disposal	P6 C6	P6 C6	P6 C6	P6 C6	P6 C6	C6	C6	P6 C6
Shoreline habitat and natural systems enhancement projects								
Habitat and natural systems enhancement projects	P7	P7	P7	P7	P7	P7	P7	P7
Vegetation management								
Removal of existing intact native vegetation	P8	P8	P8	P9	P8	P8	P9	P9

C. Development conditions.

1. New [and replacement](#) 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))~~ as adopted in K.C.C. chapter 20.12, and the Integrated Stream Protection

Commented [CJ573]: to reflect most recent adopted version

5629 Guidelines (Washington state departments of Fish and Wildlife, Ecology and
5630 Transportation, 2003). New structural flood hazard protection measures are allowed in
5631 the shoreline jurisdiction only when the applicant demonstrates by a scientific and
5632 engineering analysis that the structural measures are necessary to protect existing
5633 development, that nonstructural measures are not feasible and that the impact on
5634 ecological functions and priority species and habitats can be successfully mitigated so as
5635 to assure no net loss of shoreline ecological functions. New flood protection facilities
5636 designed as shoreline stabilization must meet the standards in K.C.C. 21A.25.170.

5637 b. Relocation, replacement, or expansion of existing flood control facilities
5638 within the Natural environment are permitted, subject to the requirements of the King

5639 ~~((e))~~County Flood Hazard ~~((Reduction))~~ Management Plan and consistent with the

5640 Washington State Aquatic Guidelines Program's Integrated Streambank Protection
5641 Guidelines and bioengineering techniques used to the maximum extent practical. New
5642 facilities would only be permitted consistent with an approved watershed resources
5643 inventory area (WRIA) salmon recovery plan under chapter 77.85 RCW.

5644 3. Docks, piers, moorage, buoys, floats, or launching facilities must meet the
5645 standards in K.C.C. 21A.25.180;

5646 4.a. Filling must meet the standards in K.C.C. 21A.25.190.

5647 b. A shoreline conditional use permit is required to:

5648 (1) Place fill waterward of the ordinary high water mark for any use except
5649 ecological restoration or for the maintenance and repair of flood protection facilities; and

5650 (2) Dispose of dredged material within shorelands or wetlands within a
5651 channel migration zone;

Commented [PR574]: Updated to be consistent with the current adopted name of this document.

Commented [PR575]: This instance of "salmon" should remain and not be changed to "fish"

5652 c. Fill shall not be placed in critical saltwater or critical freshwater habitats

5653 except when all of the following conditions are met:

5654 (1) the public's need for the proposal is clearly demonstrated and the proposal
5655 is consistent with protection of the public trust, as embodied in RCW 90.58.020;

5656 (2) avoidance of impacts to critical saltwater or critical freshwater habitats by
5657 an alternative alignment or location is not feasible or would result in unreasonable and
5658 disproportionate cost to accomplish the same general purpose;

5659 (3) the project including any required mitigation, will result in no net loss of
5660 ecological functions associated with critical saltwater or critical freshwater habitats; and

5661 (4) the project is consistent with the state's interest in resource protection and
5662 species recovery((:)); and

5663 d. In a channel migration zone, any filling shall protect shoreline ecological
5664 functions, including channel migration.

5665 5.a. Breakwaters, jetties, groins, and weirs:

5666 (1) are only allowed where necessary to support water dependent uses, public
5667 access, approved shoreline stabilization, or other public uses, as determined by the
5668 director;

5669 (2) are not allowed in the Maury Island Aquatic Reserve except as part of a
5670 habitat restoration project or as an alternative to construction of a shoreline stabilization
5671 structure;

5672 (3) shall not intrude into or over critical saltwater or critical freshwater
5673 habitats except when all of the following conditions are met:

Commented [PR576]: Critical freshwater habitats are a FWHCA and are required to be protected per WAC 173-26-221.

Commented [SK577]: See previous comment.

Commented [SK578]: See previous comment.

5674 (a) the public's need for the structure is clearly demonstrated and the
5675 proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
5676 (b) avoidance of impacts to critical saltwater or critical freshwater habitats
5677 by an alternative alignment or location is not feasible or would result in unreasonable and
5678 disproportionate cost to accomplish the same general purpose;
5679 (c) the project including any required mitigation, will result in no net loss of
5680 ecological functions associated with critical saltwater or critical freshwater habitats; and
5681 (d) the project is consistent with the state's interest in resource protection
5682 and species recovery.

5683 b. Groins are only allowed as part of a restoration project sponsored or
5684 cosponsored by a public agency that has natural resource management as a primary
5685 function.

5686 c. A conditional shoreline use permit is required, except for structures installed
5687 to protect or restore shoreline ecological functions.

5688 6. Excavation, dredging, and filling must meet the standards in K.C.C.
5689 21A.25.190. A shoreline conditional use permit is required to dispose of dredged
5690 material within shorelands or wetlands within a channel migration zone.

5691 7.a. If the department determines the primary purpose is restoration of the
5692 natural character and ecological functions of the shoreline, a shoreline habitat and natural
5693 systems enhancement project may include shoreline modification of vegetation, removal
5694 of nonnative or invasive plants, and shoreline stabilization, including the installation of
5695 large ~~((woody debris))~~ wood, dredging, and filling. Mitigation actions identified through
5696 biological assessments required by the National Marine Fisheries Services and applied to

Commented [PR579]: "Large wood" is the correct current terminology.

5697 flood hazard mitigation projects may include shoreline modifications of vegetation,
5698 removal of nonnative or invasive plants, and shoreline stabilization, including the
5699 installation of ~~large ((woody debris))~~ wood, dredging, and filling.

Commented [PR580]: "Large wood" is the correct current terminology.

5700 b. Within the ~~((U))urban ((G))growth ((A))area~~, the county may grant relief
5701 from shoreline master program development standards and use regulations resulting from
5702 shoreline restoration projects consistent with criteria and procedures in WAC 173-27-
5703 215.

5704 c. A restoration and enhancement plan shall be prepared by an ecological
5705 professional. The plan shall include a critical areas functional analysis that evaluates the
5706 existing conditions and the post-project ecological and increase in functions to be
5707 achieved by the project.

Commented [PR581]: Plans should be prepared by someone qualified to ensure ecological compatibility and greater chance of success

5708 d. An applicant for a shoreline habitat and natural systems enhancement
5709 project shall demonstrate to the satisfaction of the department that the proposed project
5710 will provide a net ecological benefit and increase in functions over the existing ecological
5711 and functional conditions of the habitat project area. If this requirement is satisfied,
5712 additional mitigation or restoration beyond the proposed habitat enhancement project
5713 itself may not be required. The applicant may be required to comply with the post-
5714 project monitoring and reporting conditions in K.C.C. 21A.24.130.

Commented [SK582]: Condition d. is intended to address the April 21, 2023 Permitting Guidance Memo by Jim Chan - to resolve issues of code seemingly requiring habitat restoration projects to require additional mitigation on top of that provided by the restoration project. This issue is also addressed in 21A.24.045 condition 49b for mutual consistency between the CAO and SMP.

5715 8. Within the critical area and critical area buffer, vegetation removal is subject
5716 to K.C.C. chapter 21A.24.

5717 9. Except for forest practices conducted under K.C.C. 21A.25.130, existing
5718 native vegetation located outside of the critical area and critical area buffer shall be

5719 retained to the maximum extent practical. Within the critical area and critical area buffer,
5720 vegetation removal is subject to K.C.C. chapter 21A.24.

5721 SECTION X. Ordinance 16985, Section 46, as amended, and K.C.C. 21A.25.210
5722 are hereby amended to read as follows:

5723 The expansion of a dwelling unit or residential accessory structure located in the
5724 shoreline jurisdiction, if allowed under K.C.C. 21A.24.045, ~~((is subject to the following:~~

5725 ~~A.)) shall require a shoreline variance ((I))~~if the proposed expansion will result in
5726 a total cumulative expansion of the dwelling unit and accessory structures of more than
5727 one thousand square feet~~((, a shoreline variance is required; and~~

5728 ~~B. If the site has an approved rural stewardship plan under K.C.C. 21A.24.055,~~
5729 ~~the expansion is not allowed)).~~

5730 SECTION X. Ordinance 11168, Section 36 as amended, and K.C.C. 21A.30.045
5731 are hereby amended to read as follows:

5732 A. To achieve the maximum density allowances using a livestock management
5733 component of a farm management plan, the plan must meet the following criteria:

5734 1. The plan is developed as part of a program authorized or approved by King
5735 County. Certified Washington state Department of Ecology nutrient management plans
5736 that are consistent with all of the criteria of this section may substitute for a livestock
5737 management component of a farm management plan for commercial dairy farms.
5738 Commercial dairy farms that do not have approved nutrient management plans must meet
5739 the requirements of K.C.C 21A.30.060;

Commented [SK583]: Combined for clarity after deletion of subsection B.

Commented [SK584]: KCC 21A.24.055 has been proposed for repeal.

5740 2. The plan includes site-specific management measures for minimizing
5741 nonpoint pollution from agricultural activities and for managing wetland and aquatic
5742 areas including, but not limited to:

- 5743 a. livestock watering;
- 5744 b. grazing and pasture management;
- 5745 c. confinement area management;
- 5746 d. manure management; and
- 5747 e. exclusion of animals from aquatic areas ~~((and their buffers))~~, riparian areas,
5748 and wetlands and their buffers with the exception of grazed wet meadows.

5749 3. The plan is implemented within a timeframe established in the plan and
5750 maintained so that nonpoint pollution attributable to livestock-keeping is minimized; and

5751 4. A monitoring plan may be required as part of the livestock management
5752 component of a farm management plan to demonstrate that there is no significant impact
5753 to water quality and ~~((salmonid fisheries))~~ fish habitat. Monitoring results shall be
5754 available to the King County agriculture program.

5755 B. The livestock management component of a farm management plan shall, at a
5756 minimum:

- 5757 1. ~~((Generally-s))~~ Seek to achieve a ~~((twenty five foot buffer of))~~; forty-foot-
5758 wide grazing area buffer including diverse, mature vegetation between grazing areas and
5759 the ordinary high water mark of all type S and F aquatic areas and the wetland edge of
5760 any category I, II, or III wetland with the exception of grazed wet meadows ~~((using~~
5761 ~~buffer averaging where necessary to accommodate existing structures))~~; and thirty-five-
5762 foot-wide grazing area buffer including diverse, mature vegetation between grazing areas

Commented [PR585]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

Commented [PR586]: Change in terminology from "salmonid" to "fish" indicates that KC protects all fish species listed by WDFW, WDNR or KC species of local significance, not just salmonids.

Commented [PR587]: Updated to distinguish between buffers from CAs and buffers for grazing, with correct terms applied throughout. Addresses council comment in 21A.30.060.B.3

Commented [PR588]: Increased width provides greater protection of wetland buffer riparian area functions while limiting the reduction of the amount of farmable lands.

Commented [PR589]: Removed because buffer averaging cannot be utilized to accommodate existing structures, it is only used as part of a proposal for new development. An applicant could not use buffer averaging provisions to increase a grazing area.

Commented [PR590]: Updated to distinguish between buffers from CAs and buffers for grazing, with correct terms applied throughout. Addresses council comment in 21A.30.060.B.3

5763 ~~and the ordinary high water mark of all type N aquatic areas; and~~ twenty-foot-wide buffer
 5764 ~~including diverse, mature vegetation between grazing areas and the wetland edge of any~~
 5765 ~~category IV wetlands other than grazed wet meadows.~~ The livestock management
 5766 component of a farm management plan~~((s))~~ may vary the width of the grazing area buffer
 5767 ~~((of an aquatic area or wetland))~~, and the time and duration of animal exclusion
 5768 throughout the year, according to guidelines agreed upon by King County and the King
 5769 Conservation District. The guidelines may support a different grazing area buffer width
 5770 based on both the nature of the farm operation and the function and sensitivity of the
 5771 aquatic area or wetland. The plan must include best management practices that avoid
 5772 having manure accumulate in or within ten feet of type ~~((N or))~~ O waters. ~~((Forested~~
 5773 ~~lands being cleared))~~ Clearing of lands for grazing ~~((areas))~~ shall comply with the
 5774 riparian area widths and critical area buffers and their applicable regulations in K.C.C.
 5775 chapter 21A.24;
 5776 2. ~~((Assure))~~ Ensure that drainage ditches on the site do not channel animal
 5777 waste to aquatic areas and wetlands;
 5778 3. Achieve an additional twenty~~((-foot buffer))~~ feet of diverse, mature
 5779 vegetation downslope of any confinement areas within two hundred feet of type S₂
 5780 ~~((and))~~ F, or N waters. This requirement may be waived for existing confinement areas
 5781 on lots of two and one-half acres or less in size if:
 5782 a. a minimum buffer of ~~((twenty-five))~~ forty feet of diverse, mature vegetation
 5783 is achieved;

Commented [PR591]: Increased width provides greater protection of wetland buffer riparian area functions while limiting the reduction of the amount of farmable lands.

Commented [PR592]: Category IV wetlands are included at end of the sentence because they may connect to other wetlands and aquatic areas and should therefore receive similar protections from grazing, but in an area smaller than the standard buffer.

Commented [PR593]: Updated to distinguish between buffers from CAs and buffers for grazing, with correct terms applied throughout. Addresses council comment in 21A.30.060.B.3

Commented [PR594]: Type N removed here because they are now addressed earlier in this subsection.

Commented [PR595]: Consolidates clearing conditions. It is not necessary to specify "forested" because proposed updates protect all predominantly native vegetation.

Commented [PR596]: This reference to riparian areas should stay, because this sentence is speaking to new activities subject to KCC 21A.24.

Commented [PR597]: Clarifying that this section does not exempt any activities on grazed areas from 21A.24.

Commented [PR598]: Clarifies that the additional 20 feet could be anywhere downslope, it does not have to be adjacent to critical area.

Commented [PR599]: "buffer" should remain here, not be changed to riparian area.

Commented [SK600]: Updated for consistency with B.1 above.

5784 b. manure within the confinement area is removed daily during the winter
5785 season from October 15 to April 15, and stored in accordance with K.C.C.
5786 21A.30.060.D.; and

5787 c. additional best management practices, as recommended by the King
5788 Conservation District, are implemented and maintained; and

5789 4. Include a schedule for implementation.

5790 C. Any deviation from the manure management standards must be addressed in a
5791 livestock management component of a farm management plan.

5792 D. A copy of the final plans shall be submitted to the department of natural
5793 resources and parks within sixty days of completion.

5794 E. The farm management plan approved by the department of natural resources
5795 and parks may be appealed to the hearing examiner in accordance with K.C.C. 20.22.040
5796 and 20.22.080. Appeals may be filed only by the property owner or four members of the
5797 King County agriculture commission. Any farm management plan not appealed shall
5798 constitute prima facie evidence of compliance with the regulatory provisions of K.C.C.
5799 9.12.035.

5800 F. Properties operating subject to an existing livestock management farm plan
5801 developed based on the standards in effect before the effective date of this ordinance,
5802 shall be deemed to have satisfied the standards of this section.

5803 SECTION X. Ordinance 10870, Section 534, as amended, and K.C.C.

5804 21A.30.060 are hereby amended to read as follows:

5805 Property owners with farms containing either large livestock at densities greater
5806 than one animal unit per two acres, or small livestock at densities greater than five

Commented [PR601]: Clarifies farms with existing plans based on current standards can continue as they currently are, addressing a concern voiced by the DNRP Ag team. Properties getting new farm plans will have to comply with the new standards.

5807 animals per acre, or both, are not required to follow a~~((H))~~ livestock management plan if
5808 the owners adhere to the management standards in subsections A. through G. of this
5809 section. This section applies only if farm practices do not result in violation of any
5810 federal, state, or local water quality standards.

5811 A. To minimize livestock access to aquatic areas, property owners shall utilize
5812 the following livestock watering options:

5813 1. The preferred option, which is a domestic water supply, stock watering pond,
5814 roof runoff collection system, or approved pumped supply from the aquatic areas so that
5815 livestock are not required to enter aquatic areas for their water supply.

5816 2. Livestock access to type S, ~~((and))~~ F, and N waters~~((;))~~ ~~((including their~~
5817 ~~buffers))~~ and riparian areas shall be limited to crossing and watering points that have
5818 been addressed by a crossing or watering point plan designed to Natural Resource
5819 Conservation Services or King Conservation District specifications that prevent free
5820 access along the length of the aquatic areas.

5821 a. Fencing shall be used as necessary to prevent livestock access to type S~~((~~
5822 ~~and))~~, F, and N waters.

5823 b. Bridges may be used, in accordance with K.C.C. chapter 21A.24, in lieu of
5824 crossings. Piers and abutments shall not be placed within the ordinary high water mark
5825 or top-of-bank, whichever is greater. Bridges shall be designed to allow free flow of
5826 flood waters and shall not diminish flood carrying capacity. These bridges may be placed
5827 without a county building permit, but the permit waiver shall not constitute any
5828 assumption of liability by the county with regard to such bridge or its placement. The

Commented [PR602]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

5829 waiver of county building permit requirements does not constitute a waiver from other
5830 required agency permits.

5831 B. 1. Existing grazing areas not addressed by K.C.C. chapter 21A.24 shall
5832 maintain a ~~((vegetative buffer of fifty feet))~~ fifty-foot-wide grazing area buffer from the
5833 wetland edge of a category I, II, ~~((or))~~ III, or IV wetland, except those wetlands meeting
5834 the definition of grazed wet meadows, or the ordinary high water mark of a type S₂ ~~((or))~~
5835 F, or N water, and a twenty-five-foot-wide grazing area buffer from the wetland edge of a
5836 category IV wetland except those wetlands meeting the definition of grazed wet
5837 meadows.

5838 2. ~~((Forested-1))~~ Lands being cleared for grazing areas shall comply with the
5839 riparian area widths and critical area buffers and their applicable regulations in K.C.C.
5840 chapter 21A.24.

5841 3. The grazing area buffer may be reduced to twenty-five feet where a twenty-
5842 five-foot buffer of diverse, mature vegetation already exists. This buffer reduction may
5843 not be used when ~~((forested))~~ lands are being cleared for grazing areas.

5844 4. Fencing shall be used to establish and maintain the grazing area buffer unless
5845 the buffer is otherwise impenetrable to livestock.

5846 5. Fencing installed in accordance with the ~~((1990 Sensitive Area Ordinance~~
5847 ~~before February 14, 1994))~~ standards in effect before January 1, 2005, at setbacks other
5848 than those specified in subsection B. ~~((1. and 2.))~~ of this section shall be deemed to
5849 constitute compliance with those requirements.

Commented [SK603]: Corrected terminology.

Commented [PR604]: Category IV wetlands will receive a smaller grazing area buffer than the other categories, but should be similarly protected from the impacts of livestock due to their importance for wildlife and water quality. Many Cat IV wetlands will be grazed wet meadows and be exempt here, but those that were not converted to pasture are likely to have substantial hydroperiods and/or woody vegetation.

Commented [PR605]: Corrected terminology and added type N. Type N waters flow into fish bearing streams. Provides greater protection of riparian area functions while limiting the reduction of the amount of farmable land.

Commented [PR606]: Category IV wetlands may connect to other wetlands or aquatic areas and therefore should have similar protections from grazing, but smaller than the standard buffer.

Commented [SK607]: Mirroring language in 21A.30.045.B.1.

Commented [PR608]: Updated to make it clearer that grazing must still comply with all of 21A.24, including that grazing may not expand into standard buffers or riparian areas that have predominantly native vegetation.

Commented [PR609]: Making language consistent with existing term used in this section, and to distinguish between buffers from CAs and buffers for grazing, with correct terms applied throughout. Addresses council comment in 21A.30.060.B.3.

Commented [PR610]: Clarifies farms with existing fences in compliance with current standards can continue as they are.

Commented [PR611]: As B.3 should also apply; changing to B for simplicity.

5850 6. Grazing areas within two hundred feet of a type S ~~((or))~~ F, or N water or
5851 category I, II, ~~((or))~~ III, or IV wetland shall not be plowed during the rainy season from
5852 October 1 through April 30.

5853 7. Grazing areas may extend to the property line, provided that type S, ~~((or))~~ F,
5854 or N waters and category I, II ~~((and))~~ III, and IV wetlands that are located adjacent to the
5855 property line are ~~((buffered))~~ protected in accordance with subsection B.1., 2., or 3. of
5856 this section.

5857 C.1. In addition to the buffers in subsection B. ~~((1. and 2.))~~ of this section,
5858 confinement areas located within two hundred feet of any type S ~~((or))~~ F, or N waters or
5859 category I, II, or III, or IV wetlands with the exception of grazed wet meadows shall:

5860 a. have a twenty-foot-wide vegetative filter strip downhill from the
5861 confinement area, consisting of heavy grasses or other ground cover with high stem
5862 density and that may also include tree cover;

5863 b. not be located in the ~~((buffer of))~~ a riparian area adjacent to any type S
5864 ~~((or))~~ F, or N water or any wetland buffer required by the critical areas ordinance in
5865 effect at the time the confinement area is built, or within fifty feet of the wetland edge of
5866 any category I, II, or III, or IV wetland, or the ordinary high water mark of any type S
5867 ~~((or))~~ F, or N water. Fencing shall be used to establish and maintain the buffer except
5868 where existing natural vegetation is sufficient to exclude livestock from the buffer.

5869 ~~((Existing confinement areas that do not meet these requirements shall be modified as
5870 necessary to provide the buffers specified in this section within five years of January 1,
5871 2005, though the footprint of existing buildings need not be so modified))~~; and

Commented [PR612]: As B.3 should also apply; changing to B for simplicity.

Commented [PR613]: Updated to distinguish between buffers from critical areas and buffers for grazing, with correct terms applied throughout. 3

Commented [PR614]: This sentence is no longer needed. It refers to an old standard that was to have been met by 2010.

5872 c. have roof drains of any buildings in the confinement area diverted away
5873 from the confinement area.

5874 2. Confinement areas may extend to the property line, if aquatic areas and
5875 wetlands adjacent to the property line are buffered in accordance with ~~((K.C.C. this))~~
5876 subsection C. of this section.

Commented [SK615]: Corrects error in existing code.

5877 D.1. Manure storage areas shall be managed as follows:

5878 a. Surface flows and roof runoff shall be diverted away from manure storage
5879 areas;

5880 b. All manure stockpiled within two hundred feet uphill of any the ordinary
5881 high water mark of a type S ~~((☒))~~, F, or N water or the edge of a category I, II ~~((☒))~~, III,
5882 or IV wetland shall either be covered in a manner that excludes precipitation and allows
5883 free flow of air to minimize fire danger or be placed in an uncovered concrete bunker or
5884 manure lagoon or held for pickup in a dumpster, vehicle or other facility designed to
5885 prevent leachate from reaching any aquatic area or wetland. Concrete bunkers shall be
5886 monitored quarterly for the first two years after installation, then annually unless
5887 problems were identified in the first two years, in which case quarterly monitoring shall
5888 continue and appropriate adjustments shall be made;

5889 c. Manure shall not be stored in any ~~((aquatic area buffer))~~ riparian area or
5890 wetland buffer, with the exception of grazed or tilled wet meadows unless there is no
5891 other alternative on the property. Manure shall be stored in a location that avoids having
5892 runoff from the manure enter aquatic areas or wetlands. Manure piles shall not be closer
5893 than one hundred feet uphill from:

Commented [PR616]: Updated to distinguish between buffers from CAs and buffers for grazing, with correct terms applied throughout. Addresses council comment in 21A.30.060.B.3

5894 (1) any wetland edge excluding grazed or tilled wet meadows;

5895 (2) the ordinary high water mark of any aquatic area; or
5896 (3) any ditch to which the topography would generally direct runoff from the
5897 manure; and

5898 d. The location may be reduced to no closer than fifty feet if the manure pile is
5899 part of an active compost system that is located on an impervious surface to prevent
5900 contact with the soil and includes a leachate containment system.

5901 2. Manure shall be spread on fields only during the growing season, and not on
5902 saturated or frozen fields.

5903 E. For purposes of this section, "buffer maintenance" means allowing vegetation
5904 in the grazing area buffer that provides shade for the aquatic area or acts as a filter for
5905 storm water entering the aquatic area, other than noxious weeds, to grow to its mature
5906 height, though grasses in the buffer may be mowed but not grazed. Grading in the buffer
5907 is allowed only for establishment of watering and crossing points, or for other activities
5908 permitted in accordance with K.C.C. chapter 21A.24, with the appropriate permits.

5909 F. Properties that have existing fencing already installed at distances other than
5910 those specified in these standards, and for which livestock management farm plans have
5911 been developed based on the existing fencing locations, shall be deemed to be in
5912 compliance with the fencing requirements of these standards ~~((: Properties with or
5913 without a livestock management component of a farm management plan that complied
5914 with the fencing requirements in effect before January 1, 2005, shall have five years from
5915 January 1, 2005, to meet the fencing requirements for aquatic areas that were exempt
5916 from fencing under ordinances in effect before January 1, 2005)), as long as approved
5917 fencing is present for all Type S and F aquatic areas.~~

Commented [PR617]: Removes forward-looking requirement from 2005 that expired in 2010.

5918 G. Buffer areas shall not be subject to public access, use or dedication by reason
5919 of the establishment of such buffers.

5920 SECTION X. Ordinance 15051, Section 228, and K.C.C. 21A.50.035 are hereby
5921 amended to read as follows:

5922 A. A person who alters a critical area or buffer in violation of law shall undertake
5923 corrective work in compliance with this chapter and K.C.C. ~~((chapter 23.08))~~ Title 23.
5924 When feasible, corrective work shall include restoration of the critical area and buffer.
5925 Corrective work shall be subject to all permits or approvals required for the type of work
5926 undertaken. In addition, the violator shall be subject to all fees associated with
5927 investigation of the violation and the need for corrective work.

5928 B. When a wetland or buffer is altered in violation of this title, restoration of the
5929 wetland and buffer shall comply with the restoration standards in K.C.C. 21A.24.340.

5930 C. When an aquatic area ~~((or buffer))~~ or riparian area is altered in violation of
5931 this title, restoration of the ~~((stream and buffer))~~ aquatic area or riparian area shall
5932 comply with the restoration standards in K.C.C. 21A.24.380.

5933 D. All corrective work shall be completed within the time specified in the
5934 corrective work plan, but in no case later than one year from the date the corrective work
5935 plan is approved by the department, unless the director authorizes a longer period. The
5936 violator shall notify the department when restoration measures are installed and
5937 monitoring is commenced.

5938 E. Any failure to satisfy corrective work requirements established by law or
5939 condition including, but not limited to, the failure to provide a monitoring report within
5940 thirty days after it is due or comply with other provisions of an approved corrective work

Commented [SK618]: Corrects error in existing code (there is no chapter 23.08).

Commented [PR619]: "Aquatic Area Buffer" updated to "Riparian Area" throughout in order to better align with terms currently used in BAS.

5941 plan shall constitute a default, and the department may demand payment of any financial
5942 guarantees or require other action authorized by K.C.C. Title 27A or other applicable
5943 law.

5944 F. Reasonable access to the corrective work site shall be provided to King
5945 County for the purpose of inspections during any monitoring period.

5946 SECTION X. The following are hereby repealed:

5947 A. Ordinance 15051, Section 139, as amended, and K.C.C. 21A.24.055;

5948 B. Ordinance 17539, Section 47, as amended, and K.C.C. 21A.24.072;

5949 C. Ordinance 10870, Section 461, as amended, and K.C.C. 21A.24.140;

5950 D. Ordinance 11481, Sections 3 and 5, as amended, and K.C.C. 21A.24.314;

5951 E. Ordinance 15051, Section 189, as amended, and K.C.C. 21A.24.342; and

5952 F. Ordinance 15051, Section 234, as amended, and K.C.C. 21A.24.550.

Commented [SK620]: Rural stewardship plans - These plans are not currently approved or administered by the County.

Commented [PR621]: Proposed for removal because the alteration exception - alternative program has been defunded.

Commented [SK622]: Financial guarantees - Requirements for financial guarantees have been expanded in 21A.24.130, making this section unnecessary.

Commented [PR623]: "Critical aquifer recharge areas - King County Code provisions adopted - Washington state underground tank provisions implemented" proposed for removal because this section was more appropriate as a finding rather than codified. This section has been added as a finding in this ordinance.

Commented [SK624]: Wetlands - agreement to modify mitigation ratios. During BAS wetland review, it was determined that the requirements of this section did not meet NNL requirements.

Commented [PR625]: This is rarely, if ever used, there are no resources to implement it, and there is a risk that administration of the procedures listed here could cause a lack of clarity regarding vesting.